

Minutes
Jefferson County Zoning Board of Appeals

1 Meeting Date: April 28, 2016

2 Meeting Location: Charles Town Library Conference Room
3 200 East Washington Street, Charles Town West Virginia

4 Board members present: Tyler Quynn, Chair; Jeffrey Bannon, Vice Chair; Matt Knott, Christy Huddle
5 Ted Schiltz and Craig Foster, Alternate and Jeff Bresee, Alternate.

6 Absent members: None.

7 Staff members present: Jennifer M. Brockman, Acting Zoning Administrator/Director of Planning and
8 Zoning; Lydia Lehman, Assistant Prosecuting Attorney; Jennilee Hartman,
9 Zoning Clerk.

10

11 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

12 Mr. Bannon motioned to commence the meeting at 2:05 PM. Mr. Quynn called for a vote, which
13 carried unanimously.

14 Mr. Quynn explained to how the meeting will be conducted to the public. Ms. Hartmann swore in
15 members of the public who indicated they would be providing testimony

16 1. Approval of the minutes from the February 25, 2016 and March 24, 2016 meeting.

17 The following corrections were requested of the February 25, 2016:

18 a) Page 2, Line 18, add to after moved.

19 Ms. Huddle moved to approve the February 25, 2016 minutes as amended. Mr. Quynn
20 called for a vote, which carried four (4) in support and one (1) abstention (as an Alternate
21 Mr. Bresee did not participate at this meeting).

22 The Board postponed action on the March 24, 2016 minutes and instructed Staff to review the
23 meeting recording to determine how the meeting adjourned.

24 2. Swearing in of members of the public intending to provide testimony.

25 Ms. Hartman swore in members of the public who indicated they would be providing testimony.

26 3. Variance from Sections 4.11A.2, 4.11E and Appendix B to eliminate the landscaping, parking,
27 drive aisle and building setback requirements for the interior lot line between Lots 2 & 3; and,
28 to reduce the landscape buffer along the side of Lot 3 and the rear of Lots 2 and 3. Owner:
29 Decker Holding, LLC. Applicant: Kubic Enterprises. Location: Lots 2 and 3, Burr Business
30 Park, James Burr Blvd. District: 02; Map: 1; Parcels: 102 & 103; Total Size: 9.15 ac; Zone: IC;
31 File: ZV16-07.

32 Kristin Stolipher, consultant with Gordon, was present to address the Board. Ms. Brockman
33 presented her staff report to the Board. Ms. Stolipher explained the nature of the request,
34 highlighting the fact that the property has a natural buffer due to the location of the expansive
35 storm water management area. Ms. Stolipher noted that the properties to the rear of the subject
36 parcel were not privately owned or for sale and contained a storm water management pond.
37 Ms. Stolipher stated that the owner would also like to reduce the landscaping requirement
38 along the remaining side property line. This area was not included in the application under
39 consideration at this time. Mr. Quynn opened the public hearing. Mr. John Risenweber,
40 Director of the Jefferson County development Authority (JCDA), spoke in favor of the request

1 as presented. Mr. Risenweber informed the Board that the JCDA would be requesting a
2 variance to reduce the landscape and setback requirements for all parcels in the Burr/
3 Bardane Industrial Park. Mr. Quynn closed the public hearing. Ms. Huddle suggested that
4 staff review the landscaping buffer requirements as they do not appear to promote the health of
5 the plantings.

6 The Board determined a deliberative session was unnecessary. Ms. Huddle moved to approve
7 the variance as noted in the agenda. Mr. Quynn called for a vote, which carried unanimously.

- 8 4. Variance from Section 5.7B to reduce the rear setback from 50' to 35' for the construction
9 of 40' x 60' garage. Owner : Christopher & Victoria Dudash. Location: 444 Cattail Run Rd.,
10 Charles Town. District: 02; Map: 19; Parcel: 17.10; Size: 3 ac; Zone: R; File: ZV16-08.

11 Christopher Dudash was present to address the Board. Ms. Brockman presented her staff report
12 to the Board. Ms. Brockman explained that there is a 20,000 square foot septic reserve area on
13 the adjacent property closest to the property line impacted by the variance request and that this
14 area would serve as a buffer from the proposed garage. Mr. Dudash explained the nature of his
15 request to the Board and confirmed the location of the proposed garage. Mr. Quynn inquired
16 about the use of the garage as a home business. Mr. Dudash clarified that the structure would be
17 used as a private garage; however, in the future it may be utilized for his business. Mr. Dudash
18 understood that the use of the garage for a business would require additional processing through
19 the Planning and Zoning Department. Mr. Quynn opened the public hearing. There was no
20 public comment. Mr. Quynn closed the public hearing.

21 The Board determined a deliberative session was unnecessary. Mr. Bresee moved to approve
22 the variance as requested. Mr. Quynn called for a vote, which carried unanimously.

- 23 5. Variance from Section 5.4B to reduce the rear setback from 20' to 10' to construct a deck.
24 Owner: Yin Xu. Applicant: Brick Street Construction. Location: Beallair Subdivision,
25 33 Louisa Beall Ln., Charles Town. District: 04; Map: 10A; Parcel: 2; Size: .217 ac; Zone:
26 RG; File: ZV16-09.

27 Tim Martin, representative for Brickstreet Construction, was present to address the Board.
28 Ms. Brockman presented her staff report to the Board stating that the subject parcel was
29 adjacent to a vacant historic structure and the subdivision's open space, which included a
30 floodplain. Ms. Brockman noted that due to the existing lands uses and buffers that the
31 proposed deck would not negatively impact the development. Mr. Martin explained the
32 nature of the request to the Board. Mr. Quynn opened the public hearing. There was no
33 public comment. Mr. Quynn closed the public hearing.

34 The Board determined a deliberative session was unnecessary. Mr. Knott moved to approve
35 the variance as requested. Mr. Quynn called for a vote, which carried unanimously.

- 36 6. Director's Report. Mr. Quynn moved to go into deliberative session to confer with
37 Ms. Lehman on the Board's role in providing comments on proposed Zoning Ordinance text
38 amendments regarding the LESA/CUP process. Mr. Bannon seconded the motion, which
39 carried unanimously. Ms. Brockman and Ms. Lehman requested the Board state that they
40 would be reviewing agenda item #7, Legal Update, in deliberative session. Mr. Bannon
41 withdrew his second from Mr. Quynn's motion to go into deliberative session. Mr. Quynn
42 called for a vote to withdraw the second, which carried unanimously. Mr. Bannon moved to

- 1 go into deliberative session at 2:55 p.m. to discuss the Board's role in providing comments
2 on proposed text amendments and to discuss Legal Update. Mr. Quynn called for a vote,
3 which carried unanimously.
- 4 Ms. Huddle moved to come out of deliberative session at 3:18. Mr. Quynn called for a vote,
5 which carried unanimously.
- 6 Ms. Lehman stated she would research the Board's question regarding their ability to comment
7 on text amendments and would email her findings to the Board. Ms. Lehman stated that
8 should she find it is appropriate for the Board to make comments that they would request the
9 public comment period be postponed [extended] to allow them time to do so.
- 10 Ms. Brockman provided the Board with an update on the following:
- 11 a) LESA/Conditional Use and Cluster Subdivision Provision Modifications: Planning
12 Commission Public Hearing (05/17/16). Possible BZA comments and input.
 - 13 b) Additional Pending Zoning Ordinance and Subdivision Regulation Amendments:
 - 14 i. Campgrounds: County Commission Work Session (05/05/16 1:30 pm)
 - 15 ii. Mass Events Ordinance (#ZTA14-02): County Commission Public Hearing
16 postponed until Summer 2016
 - 17 c) Pending amendments: Historic Resource Demolition and Adaptive Reuse: collaborating
18 with staff on a draft text amendment; HLC Board initiating draft text amendment – in
19 collaboration with staff; Parking Standards; Landscape Standards; Signage
 - 20 d) Upcoming BZA meeting: 05/26/16
- 21 Ms. Brockman informed the Board that she did not have any new information regarding the
22 Department reorganization.
- 23 7. Legal Update. Ms. Lehman reviewed the following with the Board in deliberative
24 session. No action was taken.
- 25 a) Whistling Farms Bed & Breakfast Litigation CA # 15-C-209.
 - 26 b) William Neufeld Pending Litigation CA #14-C-394.
 - 27 c) Shenandoah Air Conditioning & Heating Inc. Pending Litigation CA #15-P-73. None.
- 28 8. Discussion with possible deliberative session and signing of draft findings/decisions.
29 Meeting Date: 01/28/16 meetings. (*see agenda for full item description*)
- 30 a) Variance request from Sec. 4.11A.2, 4.11E and App. B to remove the side and rear
31 landscape/screening buffer for a private, commercial warehouse/garage. Owner:
32 Daniel McGinn. None.
- 33 Mr. Knott moved to adjourn the meeting at 3:22 p.m. Mr. Quynn called for a vote, which carried
34 unanimously.