

Minutes  
Jefferson County Board of Zoning Appeals  
Thursday, January 17, 2013

The Jefferson County Board of Zoning Appeals met on Thursday, January 17, 2013. The meeting was held in the Charles Town Library meeting room located at 200 East Washington Street, at the side entrance of Samuel Street in Charles Town, West Virginia. Unless otherwise noted, all requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

Board members Jeff Bresee, Chairman; Christy Huddle, Vice Chair; Tyler Quynn and Ed Kelly were present. Staff members present were: Jennifer M. Brockman, Director of Planning and Zoning; Steve Barney, Zoning Administrator; Stephen Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

Ms. Huddle motioned to commence the meeting. Mr. Quynn seconded the motion, which carried unanimously. Mr. Bresee called the meeting to order at 3:11 p.m.

1) Election of Officers.

Ms. Huddle nominated Jeff Bresee as Chair. Mr. Kelly seconded the nomination. Mr. Bresee called for other nominations for Chair. There were none. Mr. Bresee called for a vote which carried 3 in support. Mr. Bresee abstained from voting because he was the recipient of the nomination.

Mr. Kelly nominated Christy Huddle for Vice Chair. Mr. Quynn seconded the nomination. Mr. Bresee called for a vote which carried unanimously.

2) Approval of the 2013 Board of Zoning Appeals Meeting Schedule. Ms. Huddle motioned to approve the schedule as proposed. Mr. Quynn seconded the motion, which carried unanimously.

3) Approval of the minutes from the December 20, 2012 meeting.

Ms. Huddle motioned to approve the minutes. Mr. Kelly seconded the minutes. Ms. Huddle suggested the following edits:

a) Page 1, Item #2, line 2, change the word *that* to *who*.

b) Page 1, Item #3, paragraph 2, line 2, change the word *complete* to *completed*.

Mr. Bresee called for a vote which carried unanimously.

4) Swearing in of members of the public intending to provide testimony.

Ms. Hartman swore in the individuals who indicated they would be giving testimony.

5) Variance request by Grant Wetmore, applicant, on behalf of the Bank of Charles Town, property owner, regarding the creation of internal lot lines and their corresponding setbacks for 340 Business Center (04-34) found in Section 4.11-1, with more specific references located in the following Sections:

- i. Section 4.11(A): requires a 10' landscape buffer between commercial uses – requesting a reduction from 10' to 0'
- ii. Section 5.6(D)2: requires a 25'/50' building setback (depending on the resulting lot size) between commercial lots – requesting a reduction to a minimum of 18'
- iii. Section 5.6(D)5: requires a 10' setback for driveways, parking areas and internal access drives – requesting a reduction from 10' to 0'

Property location: 99 Cary Lu Circle, Harpers Ferry, WV. District: Harpers Ferry (04); Map: 11; Parcel: 7; Zoned: Residential-Light Industrial-Commercial; Size: 7.97 acres; File: #ZV12-34.

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Michael Shepp from Appalachian Surveys presented a brief history of the project to the Board. Mr. Shepp explained that if the variances were granted then the Community Impact Statement that had been previously prepared for this project would be revised and the proposed subdivision would be reviewed by the Planning Commission for final plat approval. Mr. Shepp addressed questions from Ms. Huddle by stating that U.S. Route 340 is a controlled access highway and that the applicant will not be seeking access to it; that he concurred with Staff's condition of interconnectivity between the subdivided lots; and that each lot owner will be responsible for the landscaping that is required on their own lot. Mr. Bresee clarified that these variance requests are for the internal setbacks only. Mr. Groh questioned how the existing bond would be affected by this subdivision. Mr. Shepp stated that this has yet to be determined. Mr. Groh and Mr. Quynn asked questions related to stormwater management. Mr. Shepp explained that the drainage calculations were not within his scope of work at this time and that the lots had individual access to the existing stormwater pond.

Mr. Barney described the existing characteristics of the property to the Board. Mr. Barney read possible conditions of approval from his staff report and offered a third, which was that the variances be limited to internal lot lines only. Mr. Barney advised that the Board should take action on each variance request individually.

Mr. Shepp addressed the Board stating that a physical constraint on the property that was not mentioned is an existing high voltage power line that, if the site were to be reconfigured, would be located above a drive aisle, which Mr. Shepp believed to be a poor design idea.

Mr. Bresee called for public comment. There was no public comment.

- 6) Variance request by Peter Corum, applicant, on behalf of Twin Oaks Subdivision, LLC and Ed Slonaker, property owners, regarding existing internal lot lines and the required setbacks for Morgan's Grove Market (S12-06) found in Section 4.11-1, with more specific reference located in the following Sections:
- i. Section 4.11(A) - Providing a landscape buffer along the side and rear yards from 10' to 0'
  - ii. Section 5.6(D) - The following are Yard Requirements for an approved commercial use:
    1. Front yard building setbacks from 25' to 0'
    2. Side yard building setbacks from 50' to 0'
    3. Rear yard building setbacks from 50' to 0'
    4. Parking, Driveway and Internal Access Drive Front Setbacks 15' to 0'
    5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks 10' to 0'

Fred Blackmer presented the request to the Board, stating that he believed that while the requests appear similar to the previous applicants' requests, the difference was that this project is not in response to a subdivision. Mr. Blackmer provided a handout to the Board which contained various definitions. Mr. Blackmer first read the definition of *Site* from the Jefferson County Subdivision and Land Development Regulations, Appendix B, Division 4.0, Stormwater Management and Erosion & Sediment Control and explained how he believed it applied to their project. Mr. Blackmer presented the definition of Setback from the Jefferson County Zoning and Land Development Ordinance. Mr. Groh made comments regarding the merging of existing property lines, recording easements, and business agreements in the event that one of the lots is foreclosed on so that the common theme of the project is maintained. Mr. Blackmer and Peter Corum addressed his concerns.

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Ms. Huddle explained that, in other jurisdictions for which she had worked, the internal lot line did not apply to commercial developments like this project and that she understood the problems facing the applicant when it came to merging the property when having separate mortgages. Mr. Barney stated that other jurisdictions do have language that supports this type of development; however, the County's current ordinances do not take this into consideration.

Mr. Barney presented an email submitted by Mike Austin in which he expressed his desire to clarify that the requests were for internal lot lines only. Mr. Barney stated that he agreed with Mr. Groh in that parcel 26.4 would not benefit from the requested variances as development is restricted to the area west of the power easement. Mr. Blackmer argued that parcel 26.4 was part of the approved Conditional Use Permit and therefore is part of the site plan; and so, for simplicity, the applicant is requesting a variance for all parcels related to the project.

Mr. Quynn asked questions related to the phasing of the project. Mr. Blackmer addressed his questions, stating that the project would be phased and that parking would cross over property lines.

Mr. Bresee called for public comment. Ann Spurgas and Joe Spurgas, neighbors, spoke in opposition to the request, expressing their concern that an individual lot could be purchased by another entity and then the development will not be completed.

Mr. Kelly asked what would prevent the project from disintegrating if an individual lot were to be sold. Mr. Groh suggested making a common interest agreement a condition of approval.

Ms. Huddle motioned to go into deliberative session at 4:09 p.m. Mr. Kelly seconded the motion, which carried unanimously.

Ms. Huddle motioned to come out of deliberative session at 4:24 p.m. Mr. Quynn seconded the motion, which carried unanimously.

5) Variance request by Grant Wetmore, applicant, on behalf of the Bank of Charles Town, property owner, regarding the creation of internal lot lines and their corresponding setbacks for 340 Business Center (04-34) found in Section 4.11-1, with more specific references located in the following Sections:

- i. Section 4.11(A): requires a 10' landscape buffer between commercial uses – requesting a reduction from 10' to 0'

Mr. Kelly motioned to approve the aforementioned variance request with the following conditions: (1) It applies only to the development shown on site plan file S05-09; (2) The subdivision plat shall include easements to allow access between the three lots; and, (3) This variance is limited to the internal lot lines only. Mr. Quynn seconded the motion, which carried unanimously.

- ii. Section 5.6(D)2: requires a 25'/50' building setback (depending on the resulting lot size) between commercial lots – requesting a reduction to a minimum of 18'

Mr. Kelly motioned to approve the aforementioned variance request with the following conditions: (1) It applies only to the development shown on site plan file S05-09; (2) The subdivision plat shall include easements to allow access between the three lots; and, (3) This variance is limited to the internal lot lines only. Ms. Huddle seconded the motion, which carried unanimously.

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- iii. Section 5.6(D)5: requires a 10' setback for driveways, parking areas and internal access drives – requesting a reduction from 10' to 0'

Mr. Kelly motioned to approve the aforementioned variance request with the following conditions: (1) It applies only to the development shown on site plan file S05-09; (2) The subdivision plat shall include easements to allow access between the three lots; and, (3) This variance is limited to the internal lot lines only. Ms. Huddle seconded the motion, which carried unanimously.

- 6) Variance request by Peter Corum, applicant, on behalf of Twin Oaks Subdivision, LLC and Ed Slonaker, property owners, regarding existing internal lot lines and the required setbacks for Morgan's Grove Market (S12-06) found in Section 4.11-1, with more specific reference located in the following Sections:

- i. Section 4.11(A) - Providing a landscape buffer along the side and rear yards from 10' to 0'

Ms. Huddle motion to approve the aforementioned variance request with the following conditions: (a) The variance is limited to the approved development application associated with the Morgan's Grove Market Conditional Use Permit (#CP12-01); (b) Site plan #S12-06 shall reflect recorded easements to allow access between the affected lots; (c) No buildings shall cross lot lines; and, (d) The variance applies to the internal lot lines only. Mr. Quynn seconded the motion, which carried unanimously.

- ii. Section 5.6(D) - The following are Yard Requirements for an approved commercial use:

1. Front yard building setbacks from 25' to 0'
2. Side yard building setbacks from 50' to 0'
3. Rear yard building setbacks from 50' to 0'
4. Parking, Driveway and Internal Access Drive Front Setbacks 15' to 0'
5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks 10' to 0'

Ms. Huddle motion to approve the aforementioned variance request with the following conditions: (a) The variance is limited to approved development application associated with the Morgan's Grove Market Conditional Use Permit (#CP12-01); (b) Site plan #S12-06 shall reflect recorded easements to allow access between the affected lots; (c) No buildings shall cross lot lines; and, (d) The variance applies to the internal lot lines only. Mr. Kelly seconded the motion, which carried unanimously.

- 7) Director's Report

Ms. Brockman informed the Board of the following:

- The County Commission's decision to appoint two new members to the Steering Committee for the Envision Jefferson 2035 Comprehensive Plan;
- The series of informational meetings to be held each Wednesday from 12:00 – 1:00 p.m. (called "Lunch and Learn") on a variety of topics which will be broadcast through the County's webcast system and archived on the website;
- The upcoming Comprehensive Plan Public Workshops to be held at three locations;
- The status of rezoning petitions from Lowe Products Inc and Aitcheson;

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Additionally, Mr. Barney informed the Board of the three additional waivers that the Morgan's Grove Market project sought from the Planning Commission at their January 8, 2013 meeting. Ms. Brockman also mentioned that the County Commission will be advertising for the BZA vacancies.

8) Legal Update. None.

9) Signing of written decisions from prior Board of Zoning Appeals meetings. None.

10) Correspondence. None.

Ms. Huddle motioned to adjourn the meeting at 4:45 p.m. Mr. Quynn seconded the motion, which carried unanimously.

An audio transcript of this meeting can be found at the Department of Zoning and on the Department's website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org). These minutes were prepared by Jennilee Hartman, Zoning Clerk.