

Minutes
Jefferson County Board of Zoning Appeals
Thursday, March 21, 2013

The Jefferson County Board of Zoning Appeals met on Thursday, March 21, 2013. The meeting was held in the Charles Town Library Conference Room, located at 200 East Washington Street, in the City of 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 Brockman, Director of Planning and Zoning; Steve Barney, Zoning Administrator; Stephen Groh, Assistant Prosecuting Attorney; and JT Redmon, Office Manager.

Ms. Huddle motioned to commence the meeting. Mr. Quynn seconded the motion, which carried unanimously. Mr. Bresee called the meeting to order at 3:02 p.m.

1. Approval of the minutes from the February 21, 2013 meeting.

Ms. Huddle motioned to approve the minutes. Mr. Kelly seconded the motion. The following edits were requested:

- a) Page 1, item 1, line 2, change the word *minutes* to *motion*
- b) Page 1, item 3, paragraph 2, line 4, add semicolon after *constructed* and comma after *however*
- c) Page 3, item 5, line 2, remove the *s* from the word *Orders*

Mr. Bresee called for a vote which carried unanimously.

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

Mr. Barney swore in the individuals who indicated they would be giving testimony.

Mr. Bresee explained to the public how the meeting would be conducted.

3. Variance request by applicant, Mission Tabernacle Church, represented by Pastor Bobby Roadcap, from Sections 4.11.A, 4.11.H, 5.7.B and 11.1, for a reduction of setback distances, to waive landscape buffer and street tree requirements and to reduce required parking spaces to allow for an addition to an existing Church. Property location: 446 Mission Road, Harpers Ferry, West Virginia. District: Charles Town (02); Map: 21A; Parcel: 9.2; Zoned: Rural; Size: .814 acres; File: #ZV13-03.

Scott McNutt presented the request to the Board. Pastor Robert Roadcap was also present.

Mr. McNutt explained that the church would like to build an addition where a deck currently extends off of the existing facility. Several existing parking spaces would potentially need to be removed per the Department of Highways permit process. Mr. Kelly asked the applicant if the church would be willing to remove an existing shed to add the required parking. The applicant stated that this could be done if necessary. Attorney Groh requested clarification on how much parking the church needed. Mr. Barney stated that the church needed up to 31 spaces currently and confirmed with the pastor that the paved area between the current deck and the sheds could be striped for parking if necessary. Once the addition is completed, the site would be short approximately 4 parking spaces.

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

Director Brockman introduced newly hired Project/Office Manager, JT Redmon.

4. Variance request by applicant, Pete Kubic, Burr SK, LLC, from Sections 4.11.A and 5.6.D.5 for a reduction of the required parking and access drive setbacks, from 10' to 0', and a reduction of the required landscape buffer between two commercial uses, from 10' to 0', for two newly created parcels. Property location: 120 Commerce Circle, Kearneysville, West Virginia. District: Charles Town (02); Map: 1; Parcel: 71; Zoned: Industrial-Commercial; Size: 9.06 acres; File: #ZV13-10.

Kristen Stolipher, Gordon Associates, presented the request to the Board. Pete Kubic was present as well. Ms. Stolipher explained that Lot 18 in Burr Industrial Park was proposed to be subdivided into three separate lots. The new lot lines will create non-conformity with the setback regulations. Thus, the applicant is requesting a variance from the requirements. Mr. Barney reviewed the lot's unique characteristics and updated the Board regarding the conditions of approval associated with recent Planning Commission approval of waivers for the proposed subdivision. Ms. Huddle questioned the applicant regarding the ease and flow of truck access. Ms. Stolipher explained that the access on site would be shared access.

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

5. Variance request by applicants, Rocco and Marie Cipriano, from Section 4.3.H to allow replacement of a nonconforming above-ground swimming pool, destroyed by a storm in 2012. Property location: 26 Tall Oak Court, Charles Town, West Virginia. District: Charles Town (02); Map: 11B; Parcel: 116; Zoned: Residential-Growth; Size: 22,255 sq. ft.; File: #ZV13-11.

Rocco Cipriano presented the request to the Board. Marie Cipriano was present as well. Mr. Cipriano explained that a pool existing in his back yard since 1986 was damaged during a June 2012 storm. The replacement pool would not be permitted under the current regulations.

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

6. Request withdrawn by applicant. Variance request by applicant, Matt Bernazzoli, from Section 4.3.H to allow for replacement of a nonconforming shed destroyed by a storm in 2012. Property location: 664 Carter Avenue, Harpers Ferry, West Virginia. District: Harpers Ferry (04); Map: 3A; Parcel: 3; Zoned: Rural; Size: 0.62; File: #ZV13-12.

This request was withdrawn by the applicant.

7. Variance request by applicant, Peter Corum (Twin Oaks Subdivision, LLC), from Section 4.10 and Section 11.1 to waive Site Plan and Parking Requirements for a 1,200 sq. ft. tent structure to be used for a Farm Market. Property location: 3988 Kearneysville Pike, Shepherdstown, West Virginia. District: Shepherdstown (09); Map: 13; Parcels: 26.1, 26.2, 26.3, 26.4; Zoned: Rural; Size: 13.69 acres combined; File: #ZV13-13.

Fred Blackmer presented the request to the Board. Peter Corum was present as well, and spoke briefly towards the end of the presentation. Mr. Blackmer explained that the Morgan's Grove Farm Market is in its third year of existence. Separately, the proposed development known as Morgan's Grove Market has an approved Conditional Use Permit, and the project is currently proceeding through the Site Plan process. The project is projected to soon begin the initial phases of development and the applicant would like to continue to operate the farm market during this phase. Grading the site will remove the impervious surfaces that are currently used to meet the parking requirements for the market. The applicant's intent is for market patrons to park in the grass.

Ms. Huddle asked Mr. Blackmer his opinion regarding Staff's recommended conditions of approval. Mr. Blackmer stated that the suggested condition of a "van-accessible parking space, and an accessible route between the parking space and the market, both meeting ADA standards" negated the intent of removing the impervious area because ADA standards require paving. Otherwise, he would be amenable to the conditions and meeting them so far as they do not impose additional time delays on the project.

Mr. Barney provided a brief history of the site, existing and proposed land uses, and information regarding recent Planning Commission decisions regarding on the project. He clarified the reasons for the suggested conditions of approval and offered to assist the applicant in determining if there were temporary provisions available for the ADA requirements.

Mr. Bresee called for public comment. Ann Spurgas, resident of Ledge Lowe Estates located across Shepherdstown Pike from the project, stated that she was concerned with the traffic flow and utilization of the proposed private driveway access. Additionally, she suggested that the variance be temporary and last only during the duration of the summer farmer's market. She asked that any new variance be limited and in no way change any of the previously approved conditions on the property and its usage. Joe Spurgas also spoke, stating he was concerned with the traffic flow and safety of utilizing a private driveway access for a public use. He believed the area was too narrow and felt that parking needed to be delineated. Mr. Spurgas was concerned that access to the market through the construction area would be dangerous for the large amount of people that would attend.

Mr. Blackmer responded to the public concerns.

Mr. Kelly motioned to go into deliberative session at 4:16 p.m. Ms. Huddle seconded the motion, which carried unanimously.

Ms. Huddle motioned to come out of deliberative session at 4:37 p.m. Mr. Kelly seconded the motion, which carried unanimously.

Board of Zoning Appeals Rulings

3. Variance request by applicant, Mission Tabernacle Church, represented by Pastor Bobby Roadcap, from Sections 4.11.A, 4.11.H, 5.7.B and 11.1, for a reduction of setback distances, to waive landscape buffer and street tree requirements and to reduce required parking spaces to allow for an addition to an existing Church.

Mr. Kelly moved to approve the variance request with the condition that a minimum of 20 parking spaces be maintained. Mr. Quynn seconded the motion, which carried unanimously.

4. Variance request by applicant, Pete Kubic, Burr SK, LLC, from Sections 4.11.A and 5.6.D.5 for a reduction of the required parking and access drive setbacks, from 10' to 0', and a reduction of the required landscape buffer between two commercial uses, from 10' to 0', for two newly created parcels.

Mr. Quynn moved to approve the variance with the following conditions:

- 1) The reductions apply only to internal lot lines; and
- 2) The subdivision plat for the development shall include easements to allow access between the three lots.

Mr. Kelly seconded the motion, which carried unanimously.

5. Variance request by applicants, Rocco and Marie Cipriano, from Section 4.3.H to allow replacement of a nonconforming above-ground swimming pool, destroyed by a storm in 2012.

Ms. Huddle moved to approve the variance with the condition that it be limited to the replacement of a swimming pool. Mr. Kelly seconded the motion, which carried unanimously.

7. Variance request by applicant, Peter Corum (Twin Oaks Subdivision, LLC), from Section 4.10 and Section 11.1 to waive Site Plan and Parking Requirements for a 1,200 sq. ft. tent structure to be used for a Farm Market.

Ms. Huddle moved to approve the variance with the following conditions:

- 1) The variance expires November 1, 2013;
- 2) A new zoning certificate is required prior to initiation of the land use;
- 3) An informal sketch plan be submitted showing locations of proposed access drives, parking areas, structures, space designated for vendors, and grading activity areas to the Planning and Zoning Department; and
- 4) A van-accessible parking space and accessible route between the parking space and the market meeting the minimum ADA requirements for a temporary use.

Mr. Quynn seconded the motion, which carried unanimously.

8. Director's Report.

Director Brockman announced to the Board that Alex Beaulieu was hired to fill the vacant Planning Clerk position and is scheduled to begin April 22nd. She updated the Board on the Comprehensive Plan process. Lunch and Learn educational sessions and community workshops have been held and have generated a good turnout. Director Brockman reminded the Board about the upcoming Ethics and Robert's Rules of Order training and her attendance at the National APA Conference being held April 12th through the 18th. She will be absent from the April BZA meeting.

9. Legal Update. None.

10. Signing of written decisions from prior Board of Zoning Appeals meetings.

Mr. Bresee signed the Findings of Fact for case number ZV12-35.

11. Correspondence. None.

Ms. Huddle motioned to adjourn the meeting at 4:53 p.m. Mr. Kelly 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. These minutes were prepared by Jennifer Snyder, Temporary Planning Clerk.