

Minutes  
Jefferson County Board of Zoning Appeals

- 1 Meeting Date: January 12, 2017
- 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, Ted Schiltz,  
5 and Jeff Bresee
- 6 Absent members: None
- 7 Staff members present: Alexandra Beaulieu, Zoning Administrator; Lydia Lehman, Assistant  
8 Prosecuting Attorney; and, Jennilee Hartman, Zoning Clerk
- 9 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.
- 10 Mr. Schiltz moved to call the meeting to order at 2:00 p.m. The motion carried unanimously.
- 11 Mr. Quynn explained to the public how the meeting would be conducted.
- 12 Ms. Hartman swore in members of the public who indicated they would be providing testimony.
- 13 1. Election of Officers for 2017.
- 14 Mr. Bannon nominated Mr. Quynn as Chair. Mr. Bresee seconded the motion. Hearing no other  
15 nominations, Mr. Quynn called for a vote, which carried unanimously. Mr. Quynn accepted the  
16 nomination.
- 17 Mr. Bresee nominated Mr. Bannon as Vice Chair. Mr. Schiltz seconded the motion. Hearing no  
18 other nominations, Mr. Quynn called for a vote, which carried unanimously. Mr. Bannon  
19 accepted the nomination.
- 20 2. Approval of the December 23, 2016 meeting minutes.
- 21 Mr. Bannon moved to approve the December 23, 2016 minutes. The motion carried four (4) in  
22 support and one (1) abstention (Mr. Schiltz did not attend this meeting).
- 23 3. Appeal of the Zoning Administrator's determination by Thomas Hayden, President of the  
24 Runnymede Homeowners Association, to permit Lisa and James Boyer to operate a dog kennel  
25 (#ZC16-37) located at 5404 Kabletown Road, Charles Town. District: Kabletown (06); Map: 5;  
26 Parcel: 7.10. The parcel will be approximately 57 – 59 acres after the applicant processes the  
27 required lot line adjustment (merger) from their adjoining property. Property is zoned Rural.
- 28 Ms. Beaulieu explained the history of the Boyer's zoning certificate application, cited the  
29 definition of Kennel and noted that a Kennel is listed as a principal permitted use in the Rural  
30 District in Appendix C of the Zoning Ordinance. Ms. Beaulieu referenced an aerial photograph  
31 from her staff report which showed that the proposed dog kennel appeared to meet the required  
32 500' distance requirement (as found in Section 8.4 of the Zoning Ordinance). Mr. Schiltz asked  
33 Ms. Beaulieu how the dog kennel would meet the noise restrictions required for cottage industry  
34 operations. Ms. Beaulieu stated that the applicant agreed to conform to the applicable noise  
35 standards and stated that all kennels would be located indoors. Mr. Bannon asked Ms. Lehman  
36 if the Board could overturn the zoning administrator's determination regarding a principal  
37 permitted use. Ms. Lehman advised against such a ruling.
- 38 Mr. Thomas Hayden represented the appeal on behalf of the Runnymede Homeowners  
39 Association. Mr. Hayden expressed the HOA's concern regarding the proposed kennel.  
40 Mr. Hayden asked if a principal permitted use was a fixed determination or if the land use was  
41 open for discussion. Ms. Lehman explained that a permitted land use is permitted outright.

1 Mr. Hayden reiterated Mr. Schiltz' comments regarding the noise restrictions found in Section 4A  
2 of the Zoning Ordinance for cottage industries. Mr. Hayden relayed to the Board his various  
3 experiences with kennels and noted that they had allowed the dogs to relieve themselves at will,  
4 which would permit the dogs to have access to the outdoors, thus allowing for the potential for  
5 noise. Mr. Quynn informed Mr. Hayden that the purpose of the appeal was to argue why or how  
6 the determination made by the zoning administrator was incorrect based on the Zoning Ordinance  
7 regulations. Mr. Quynn clarified that the appeal was limited to whether the kennel was a  
8 permitted land use, not, if the land use is appropriate in the proposed location. Mr. Hayden  
9 acknowledged Mr. Quynn's review of the appeal process and thanked the Board for their time.

10 Mr. Paul Raco, consultant for Lisa and James Boyer, was present to address the Board. Mr. Raco  
11 explained the kennel's entrance would be from Kabletown Road and not Mt. Hammond Road,  
12 which is utilized by the Runnymede Subdivision. Mr. Raco noted that by processing as a cottage  
13 industry the proposed structure would be restricted in size. Mr. Raco stated the structure's walls  
14 and roof would be built with sound proofing materials. Mr. Raco noted that the property is a  
15 working farm and that Ms. Boyer has historically taken care of animals. Ms. Lisa Boyer,  
16 applicant, explained to the Board that she would walk the dogs as needed and that they would not  
17 be free to roam outdoors, which would potentially alleviate any concern for frequent noise.

18 Mr. Bannon motioned to deny the appeal by Mr. Hayden on behalf of the Runnymede  
19 Subdivision Homeowners Association based upon the fact that the appellant had not met the  
20 burden of proof. Mr. Knott seconded the motion, which carried unanimously.

- 21 4. Variance request by Kristen Stolipher with Gordon, on behalf of CTSS, LLC, property owner,  
22 from Section 4.11A.2 and Appendix B: To eliminate the required four (4) foot west side & rear  
23 property line parking setbacks and the 10 foot west side & rear property line landscape buffers;  
24 and, from Section 8.9A.10: To eliminate the required 50' landscape buffer when located within  
25 ½ mile of a controlled access highway. Location: 107 Keyes Ferry Rd., Charles Town WV.  
26 District: Charles Town (02); Map: 9; Parcel: 8.1; Size: 2.81 ac (current) .5 ac (proposed);  
27 Zone: Residential-Light Industrial-Commercial; File: ZV16-27.

28 Ms. Kristen Stolipher was present to address the Board. Ms. Beaulieu provided the Board with a  
29 brief overview from the staff report and addressed questions from the Board. Ms. Stolipher  
30 explained the nature of the request to the Board and addressed their questions. Mr. Quynn  
31 opened the public hearing. There was no public comment. Mr. Quynn closed the public hearing.  
32 Mr. Knott moved to approve the above referenced request and stated that the applicant was  
33 bound by their testimony. Mr. Bresee seconded the motion, which carried unanimously.

- 34 5. Variance from Section 5.7(b) to reduce the side setback from 12' to 10' to construct a 12' x 20'  
35 attached garage. Owners: Alex Arneson and Christina Firaben. Location: Briar Run Subdivision,  
36 Lot 2, 26 Bugs Court, Ranson, WV. District: Charles Town (02); Map: 4E; Parcel: 2; Size: .33 ac;  
37 Zone: Rural; File: ZV16-28.

38 Mr. Brett Markee, contractor with Triple T Construction & Plumbing, LLC, was present to  
39 address the Board. Ms. Beaulieu provided the Board with a brief overview from the staff report.  
40 Mr. Quynn opened the public hearing. There was no public comment. Mr. Quynn closed the  
41 public hearing. Mr. Schiltz moved to approve the above referenced request and stated that the  
42 applicant was bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

1 6. Zoning Administrator's Report

2 a. Monthly Zoning Certificate Activity Report. This report was provided to the Board in the  
3 mailed packet.

4 Ms. Beaulieu updated the Board on the status of the outstanding text amendments.

5 7. Legal Update

6 a. Possible executive session on the follow pending lawsuits: None.

7 b. Discussion with possible deliberative session and signing of draft findings/decisions.  
8 Meeting December 8, 2016:

9 i. Request by David and Laura Humphreys for an 18 month extension of the approved  
10 CUP for Whispering Wind Farms Bed and Breakfast (expiring on 02/02/17).  
11 File: CP15-02.

12 ii. Variance from Sec. 9.7 to reduce the rear setback from 50' to 5' to allow for the  
13 construction of a new home outside of the floodway/floodplain areas. Owner:  
14 Michael and Lori De Celie. File: ZV16-25.

15 iii. Request for a Special Exception to operate a Rural Reception / Event Facility.  
16 Owners: Anna and Jacob Binkley. File: SE16-01.

17 Ms. Lehman provided the Board with a draft copy of the Findings for each request. Mr. Quynn  
18 will sign the Findings once the suggested edits are completed.

19 Mr. Schiltz moved to adjourn the meeting at 2:58 p.m. Mr. Quynn called for a vote, which  
20 carried unanimously.