

Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: February 22, 2018
- 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; Deirdre Catterton
- 5 Members absent: Jeff Bresee and Matt Knott (with notification)
- 6 Staff members present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, Assistant
7 Prosecuting Attorney; and, Jennilee Hartman, Zoning Clerk
- 8 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.
- 9 Mr. Bannon moved to call the meeting to order at 2:00 pm, which carried unanimously. Mr. Quynn
10 explained to the public how the meeting would be conducted.
- 11 1. Election of Officers. Postponed until March 22, 2018.
- 12 2. Approval of Minutes – December 14, 2017. Mr. Bannon moved to approve the minutes with no
13 corrections. Mr. Quynn seconded the motion, which carried unanimously.
- 14 Ms. Hartman swore in members of the public who indicated they would be providing testimony.
- 15 3. Public Hearing. Variance request from Appendix B to reduce the front setback from 40’ to 9’ to
16 construct the exterior stairs; and, to reduce the front setback from 40’ to 14’ for the construction
17 of the proposed Jefferson County Convention and Visitors Bureau building expansion. Property
18 Owner: Jefferson County Commission. Applicant: Jefferson County Convention and Visitors
19 Bureau (JCCVB). Location: 37 Washington Ct. Harpers Ferry. Tax District: Harpers Ferry (04);
20 Tax Map: 7; Parcel: 33; Size: .64 ac; Zone: Rural; File: ZV18-01.
- 21 Ms. Annette Gavin-Bates, with the Jefferson County Convention and Visitors Bureau, and
22 Michael Mills, with the Mills Group, were present to address the Board. Ms. Beaulieu presented
23 her staff report to the Board. Ms. Beaulieu highlighted the fact that the applicant had previously
24 been before the Board and that the redesign necessitated additional variances. Ms. Gavin-Bates
25 and Mr. Mills explained the nature of the request. Mr. Bannon noted that there did not appear to
26 be any buildable area should the required setbacks be applied. Mr. Quynn opened the public
27 hearing. There was no public comment. Mr. Quynn closed the public hearing.
- 28 Mr. Bannon moved to approve the variance as requested with the condition that the applicants
29 were bound by their testimony, which carried unanimously.
- 30 4. Public Hearing. Variance request from Section 4.11A.1 & Appendix B to allow a 50’ unscreened
31 buffer along the boundary lines for the proposed site for the purpose of constructing three (3)
32 mobile unit classrooms as part of the approved Vocational and/or Training Facility for Adults.
33 Property Owner: SPARC LLC. Applicant: Ryan Perks with Gordon. Property Location: 201
34 Motorsports Park Circle, Summit Point. Tax District: Kabletown (06); Tax Map: 17; Parcel: 2;
35 Size: ~415 ac; Zone: Rural; File: ZV18-02.
- 36 Mr. Ryan Perks, with Gordon, was present to address the Board. Ms. Beaulieu presented her
37 staff report to the Board. Mr. Perks explained the nature of the request. Mr. Perks reviewed all
38 of the adjacent land uses, noting that the nearest residential lot was approximately 750’ from the
39 proposed location of the mobile units. Mr. Quynn opened the public hearing. There was no
40 public comment. Mr. Quynn closed the public hearing.

1 Ms. Catterton moved to approve the variance as requested with the condition that the applicant
2 was bound by his testimony. Mr. Bannon seconded the motion, which carried unanimously.

3 5. Public Hearing. Variance request from Section 5.7D.3 to subdivide more than (three) 3 lots within
4 a five (5) year timeframe. Applicant is proposing to subdivide a total of five (5) lots via the minor
5 subdivision process. Owner: Steven Knott & Margret Ogg. Applicant: David Lutman. Location:
6 Southwest intersection of River Rd & Knott Rd. District: Shepherdstown (09); Map: 11; Parcel:
7 13; Size: 37 ac; Zone: Rural; File: ZV18-03.

8 Mr. David Lutman, applicant, and Mr. Paul Raco, with P.J. Raco Consulting LLC, were present
9 to address the Board. Ms. Beaulieu presented her staff report to the Board, providing clarification
10 of the request. Ms. Beaulieu briefly explained the differences between processing under Section
11 5.7D.2 and Section 5.7D.3.

12 Mr. Raco provided the Board with paper copies of a PowerPoint presentation. Mr. Raco
13 explained that Mr. Lutman intentionally designed the subdivision to be in keeping with the
14 surrounding properties. Mr. Raco pointed out that the residue parcel meets the 50% open space
15 size criteria. Drawing the Board's attention to an expanded view of a tax map, Mr. Raco argued
16 that adhering to the design of a cluster development would detract from the rural character of
17 the area, which consisted primarily of large lot residential developments. Mr. Raco addressed
18 each of the zoning variance criteria. Mr. Raco explained that the Division of Highways, the
19 Department of Health, and the Department of Engineering, Planning, and Zoning would have
20 to approve the plans prior to recordation. Mr. Raco noted that Mr. Lutman would no longer
21 utilize any further subdivision rights under the "1 per 10", "1 per 15", or "2 lots and a residue"
22 provisions should the Board grant the request. Mr. Bannon asked which standard of the major
23 subdivision process the applicant believed was too onerous to process under. Mr. Raco stated it
24 was a lengthy process and costly. Mr. Raco explained that the applicant would most likely seek
25 waivers from various road standards, which would result in a design similar to the plat
26 currently before the Board.

27 Mr. Quynn opened the public hearing. Kevin Bohrer, Paul Marshall, Edwin Hall, Peter Milcetic,
28 and Diana de Bello, surrounding property owners, spoke in opposition to the request. The
29 neighbors were concerned about the negative traffic impact additional homes would bring. They
30 noted that the five year provision helps slow growth to retain the rural character of the area. The
31 neighbors stated they would prefer a cluster development which would result in the preservation
32 of farmland. Mr. Quynn closed the public hearing.

33 In rebuttal Mr. Raco answered Mr. Bannon's question regarding the text amendments pertaining
34 to the cluster provision. Mr. Raco provided information from the 2014 Comprehensive Plan,
35 which suggested that cluster developments process as a minor subdivision. Mr. Lutman argued
36 that the proposed lots were in keeping with the rural character of the area noting that they
37 ranged from five, ten, to twelve acres in size. Mr. Raco reaffirmed the applicant's offer that
38 should the Board approve the variance that the applicant would be agreeable to a condition that
39 a note be placed on the final plat that states the applicant would not further subdivide under
40 Section 5.7D to process 2 lots and a residue every five (5) years or an additional cluster lot.
41 Mr. Raco addressed traffic safety concerns by stating that the Division of Highways would have
42 to grant approval.

43 Mr. Bannon moved to go into deliberative session at 3:16 pm. Ms. Catterton seconded the
44 motion, which carried unanimously.

- 1 Mr. Bannon motioned to come out of deliberative session at 3:51 pm, which carried unanimously.
- 2 Mr. Quynn moved to approve the variance as requested with the following conditions,
- 3 a. The plan put forward is very similar to the one the Board received as part of the variance
- 4 request;
- 5 b. The applicant is bound by their testimony;
- 6 c. There will be no more than five (5) lots and that there will be no further subdivision of this
- 7 property in the future; and that a note stating this restriction be placed on the final plat.
- 8 Ms. Catteron seconded the motion, which carried unanimously.
- 9 6. Zoning Administrator's Report
- 10 a. Monthly Zoning Certificate Activity Report. This report was provided to the Board in their
- 11 mailed packet.
- 12 Ms. Beaulieu updated the Board on the status of the pending text amendments and reminded the
- 13 Board that the next meeting would be on March 22, 2018.
- 14 7. Legal Update
- 15 a. Possible executive session on the following pending lawsuits. None.
- 16 b. Discussion with possible deliberative session and signing of draft findings/decisions.
- 17 Meeting December 14, 2017.
- 18 i. Special Exception for an outdoor advertising sign for Grace Episcopal Church.
- 19 Property Owner: Karen Ashby-Bowers & Larry Bowers. File: SE17-01.
- 20 ii. Variance from Sections 10.4F & G for signage for Grace Episcopal Church.
- 21 Property Owner: Karen Ashby-Bowers & Larry Bowers. File: SE17-18.
- 22 iii. Variance from Sec. 5.7(b). Property Owner: Brian and Angela Wilt. File: ZV17-19
- 23 iv. Variance from Sec. 4.11A.1 & App. B. Property Owner: SPARC. File: ZV17-20.
- 24 v. Variance from Sec. 9.7. Property Owner: Alicia McCormick. File: ZV17-21.
- 25 vi. Request for a CUP for Starbuck's. Property Owner: Kentland Foundation, Inc.
- 26 File: CUP17-06.
- 27 Mr. Cochran provided the draft Findings to Mr. Quynn to review and sign.
- 28 Mr. Bannon moved to adjourn the meeting at 4:11 pm. Mr. Quynn called for a vote, which carried
- 29 unanimously.