

Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: August 23, 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; Matt Knott and Deirdre Catterton
5 Members absent: Jeffrey Bannon, Vice Chair with notification
6 Staff members present: Jennifer Brockman, Acting Zoning Administrator; Nathan Cochran,
7 Assistant Prosecuting Attorney; and, Jennilee Hartman, Zoning Clerk

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

9 Mr. Quynn explained to the public how the meeting would be conducted. Mr. Knott moved to call
10 the meeting to order at 2:07 pm, which carried unanimously.

11 1. Approval of Minutes – August 9, 2018. Ms. Catterton moved to approve the minutes. The
12 following edits were requested:

13 a) Page 1, line 11, change the word *were* to *was*.

14 Mr. Quynn called for a vote on the revised minutes, which carried unanimously.

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

16 Mr. Quynn rearranged the order of the agenda, shifting Item #3 Cynthia Rider to the end of the agenda.

17 3. Public Hearing. Variance from Appendix B to reduce the side setbacks for a 16' x 24' addition to
18 an existing church. Northern boundary line reduction from 50' to 38'. Southern boundary line
19 reduction from 50' to 26'. Property Owner: Kearneysville Community Baptist Church. Property
20 Location: 500 Stubbs Road, Kearneysville, WV. Tax District: Middleway (07); Tax Map: 3B;
21 Parcel: 43; Size: 88' x 240'; Zone: Village File: ZV18-11.

22 Pastor Diana Ferguson Smallman was present to address the Board. Ms. Brockman presented her
23 staff report to the Board stating that the creation of the lot and the erection of the church predated
24 County subdivision and zoning standards. Ms. Brockman explained that the applicant understood
25 their property line to be in a different location than the one identified in a 1998 zoning variance
26 request. Ms. Brockman noted that there was a letter of support from the surrounding property
27 owner. Pastor Smallman explained the nature of the request stating that the addition would not
28 extend any further than the existing wheelchair ramp. Mr. Quynn opened the public hearing.
29 There was no public comment. Mr. Quynn closed the public hearing. Mr. Knott moved to approve
30 the variance as requested. Ms. Catterton seconded the motion, which carried unanimously.

31 4. Public Hearing. Variance from Appendix A to reduce the front setback from 20' to 2' to
32 construct a 20' x 17' addition on to an existing home. Property Owner: Marion and Barbara
33 Barrow. Property Location: 142 King Street, Kearneysville, WV. Tax District: Middleway (07);
34 Tax Map: 22A; Parcel: 28; Size: .74 ac; Zone: Village File: ZV18-12.

35 Mr. Marion Barrow was present to address the Board. Ms. Brockman presented her staff report
36 to the Board stating that the creation of the lot and the erection of the single family dwelling
37 predated County subdivision and zoning standards. Ms. Brockman noted that the dwelling was
38 currently vacant. Mr. Barrow explained the nature of the request to the Board stating that he and
39 his wife would prefer to have their bed and bathroom accommodations located on the main floor
40 of the home. Mr. Quynn opened the public hearing. There was no public comment. Mr. Quynn
41 closed the public hearing. Ms. Catterton moved to approve the variance as requested, which
42 carried unanimously.

1 5. Postponed from the August 9, 2018 meeting. Public Hearing. Variance from Section 5.7D.3 to
2 allocate two of the remaining development rights to the newly created non-residue lot in the
3 proposed Rider Minor Subdivision. Property Owner: Cynthia B. Rider. Property Location:
4 195 Vance Road, Shepherdstown, WV. Tax District: Shepherdstown (09); Tax Map: 9; Parcel 22;
5 Size: 100.36 acres; Zone: Rural. File: ZV18-09.

6 Ms. Cynthia Rider was present to address the Board. Ms. Brockman presented her staff report
7 to the Board noting that the request was for the applicant to be permitted to allocate two (2) of
8 her development rights to a lot that she wished to create via the minor subdivision process.
9 Ms. Brockman noted that should these two lots subdivide in the future that they should not be
10 permitted to retain the “residue” designation as is typically required in Section 5.7D.3 of the
11 Ordinance. Ms. Rider clarified that it was not her intent to allocate two (2) development rights
12 to the proposed lot; however, she wished to allocate only one (1) development right with a
13 specific condition regarding who could receive the lot. The Board explained that they could not
14 place or enforce restrictions of that nature. Discussion regarding the size of the lot and the
15 potential for an additional lot for wildlife/historical preservation ensued. Mr. Quynn opened the
16 public hearing. Mr. Bill Carrigan, neighbor, expressed concern regarding the number of
17 development rights Lot 1 would actually retain; the type of covenants that would be imposed
18 on Lot 1; and, the water run-off issues that have occurred since the installation of Ms. Rider’s
19 driveway on Trough Road. Mr. Quynn closed the public hearing.

20 Ms. Rider responded to Mr. Carrigan’s concerns stating that the proposed lot would not be
21 adjacent to his land. Ms. Rider also noted that the installed driveway was approved by the
22 Department of Highways and that the water run-off issues were unavoidable due to the
23 increased amount of rain the area had received.

24 Mr. Knott moved to go into deliberation session at 2:51 p.m., which carried unanimously.
25 Mr. Knott moved to come out of deliberative session at 3:08 p.m., which carried unanimously.

26 Mr. Knott moved to approve the applicant’s modified request to allocate only one (1) development
27 right to the newly created non-residue lot in the proposed Rider Minor Subdivision, which will be
28 noted on the newly created plat. Mr. Quynn called for a vote, which carried unanimously.

29 6. Legal Update

30 a. Possible executive session on the following pending lawsuits. None.

31 b. Discussion with possible deliberative session and sign of draft Findings/Decisions
32 Meeting: June 28, 2018

33 i. Appeal of the Zoning Administrator’s Determination regarding the applicability of
34 Section 4.4C pertaining to the proposed Magnolia Springs Subdivision and the Belvedere
35 House which is listed on the National Register of Historic Places. File: AP18-01.

36 Mr. Cochran stated for the record that he had been recused from writing the Order.

37 Mr. Knott moved to approve the Findings of Fact and Conclusions of Law drafted by the
38 Board. Ms. Catterton seconded the motion, which carried unanimously.

39 ii. Variance from Section 4.11B and Appendix B. Property Owner: Universal Forest
40 Products Eastern Division Inc. Property Location: 249 16th Ave., Ranson, WV. Tax
41 District: Charles Town (02); Tax Map: 7; Parcel: 11.6 (A & B); Size 30 ac; Zone:
42 Industrial Commercial. File: ZV18-10.

43 Mr. Quynn signed the Findings as presented.

1 7. Zoning Administrator's Report

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

4 Ms. Brockman informed the Board of a proposed Zoning Ordinance text amendment for Pet and
5 Livestock Crematoriums. Ms. Brockman stated the next regularly meeting would be September
6 27, 2018. Mr. Quynn requested a letter of service for Mr. Knott.

7 As this meeting would be Mr. Knott's last meeting as a Member, Mr. Quynn thanked Mr. Knott for
8 his service on the Board of Zoning Appeals.

9 Mr. Knott moved to adjourn the meeting at 3:14 pm. Mr. Quynn called for a vote, which carried
10 unanimously.