

Minutes
Jefferson County Board of Zoning Appeals

1 Meeting Date: November 12, 2020
2 Meeting Location: By order of the Chair, the Board of Zoning Appeals meeting was held
3 virtually via ZOOM.
4 Board Members Present: Jeffrey Bannon, Chair; Tyler Quynn, Vice Chair; Leeds Corbin,
5 Matt McKinney, and Mikala Shremshock, Alternate
6 Board Members Absent: Deirdre Catterton (with notice)
7 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran,
8 Assistant Prosecuting Attorney; and Jennilee Hartman, Zoning Clerk
9 All requests were pursuant to the Jefferson County Zoning and Land Development Ordinance.

10 Mr. Quynn moved to called the meeting to order at 2:00 pm. Mr. Bannon called for a vote, which
11 carried unanimously.

12 As Ms. Catterton was absent, Ms. Shremshock participated in the meeting as a voting member.

13 **Approval of Minutes: October 22, 2020**

14 Mr. Bannon acknowledged the following edit noted by staff:

15 a) Page 1, Line 6: Deirdre Catterton and Matt McKinney **were** present for the meeting.

16 Mr. Corbin moved to approve the October 22, 2020 meeting minutes as amended. Mr. Bannon
17 called for a vote, which carried four (4) in support and one (1) abstention (Ms. Shremshock was not
18 present for this meeting).

19 **Public Oath**

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

21 **ITEM #1 FILE #: 20-8-CUP**

22 Request: Request by River Chase Wedding Venue for a Conditional Use Permit to operate a
23 Special Event Facility. The proposal consist of hosting up to 15 wedding receptions
24 and other special events per year. The applicant is proposing a maximum of 150
25 grass parking spaces.

26 Owner: Nancy Stevens

27 Applicant: Charles Stevens, River Chase Wedding Venue

28 Parcel Info: 1122 Duncan Rd, Harpers Ferry, WV. Parcel ID: 09001100100000; Size: 6 acres;
29 Zoning District: Rural

30 Mr. Charles Stevens was present to address the Board. Ms. Beaulieu reviewed the criteria for a
31 conditional use permit from her staff report. Mr. Stevens explained the nature of the request. Mr.
32 Stevens provided an overview of his existing Bed and Breakfast operation. Mr. Stevens
33 acknowledged that his current approval allowed up to four events per year and stated that he hosted
34 six events, two of which he believed did not meet the criteria for an event as the additional events
35 were personal in nature and did not receive payment. Mr. Stevens also clarified his current proposal
36 would be for a maximum of 75 cars per event.

37 Ms. Beaulieu confirmed that Mr. Stevens obtained approval to operate a Bed and Breakfast in 2017
38 (PC File #ZC17-34). Ms. Beaulieu stated that under the Bed and Breakfast provisions found in
39 Article 8, Mr. Stevens was permitted to host up to four events per year.

40 Mr. Bannon opened the public hearing. Mr. Robert Commisso, Ms. Anita Trotter-Cox, and Mr. Fred
41 Wilcoxon, neighbors from the Dolly's Woods Subdivision, spoke in opposition to the request. The
42 neighbors expressed concerns regarding the increased traffic on narrow roads, the frequency of the

1 proposed events in a residential area, decreased property values, and the excessive noise from the
2 current Bed and Breakfast operations. The neighbors also expressed concern that the applicant may
3 not abide by the conditions of the conditional use permit as he already exceeded the permitted
4 number of events under the Bed and Breakfast approval. The neighbors also noted that they
5 believed the required public notice placard had not been adequately posted.

6 In rebuttal, Mr. Stevens provided an overview of a typical event contract, stating that the music had
7 to go down to 65 decibels at 10:00 p.m. He acknowledged that he misunderstood the requirements
8 and would comply with the requirements for future events*. Mr. Stevens stated that he spoke with a
9 nearby neighbor, Ms. Meadows, who stated that she did not object to the music and didn't think it
10 was a nuisance. He also stated that he spoke to his adjoining neighbor who said they believed the
11 business increased their property values. Mr. Stevens stated he reached out to another adjoining
12 neighbor, Bill Seiders, and he has never heard from him. Mr. Stevens stated that the required public
13 notice placard had been posted on time; however, during the posting period he had relocated it to a
14 more visible location.

15 Ms. Beaulieu provided an overview of Section 8.14 for Special Event Facilities and noted that Mr.
16 Stevens' property did not currently meet the requirements for an agricultural event facility;
17 however, should he obtain the Farm Use Status from the Assessor's Office, an agricultural event
18 facility would be permitted by right. Ms. Beaulieu confirmed that she had been unable to conduct a
19 site visit to confirm if the public notice placard had been sufficiently posted.

20 Mr. Stevens addressed several questions from Board members.

21 Mr. Quynn moved to go into deliberative session at 3:13 pm. Mr. Bannon called for a vote, which
22 carried unanimously.

23 Mr. Quynn moved to come out of deliberative session at 3:38 pm. Mr. Bannon called for a vote,
24 which carried unanimously.

25 Mr. Quynn moved to continue the request until the December 10, 2020 meeting due to concerns
26 related to compliance with the public notice requirements. Mr. Quynn stated the site is to be
27 reposted and that Staff is to verify that the placard is posted. Mr. Quynn clarified that the intent of
28 continuing the public hearing is to provide new members of the public the opportunity to provide
29 testimony and that repetitive testimony will not be permitted. Mr. Bannon called for a vote, which
30 carried unanimously.

31 **Mr. Stevens referenced the requirements found in the Noise Ordinance enforced by the Sheriff's*
32 *Department, which is to decrease noise levels to 65 dB between the hours of 10:00 p.m. and 6:00*
33 *a.m.; however, the Zoning Ordinance requires that noise levels be reduced to 50 dB between 6:00*
34 *p.m. and 7:00 a.m.*

35 **ITEM #2 FILE #: 20-35-ZV**

36 Request: Variance from Section 5.4B (Zoning Ordinance, as amended 01/10/2002) to reduce
37 the rear setback from 20' to 11' for a 10' x 20' deck.

38 Owner: Waverly and Sharon Paige

39 Applicant: Same

40 Parcel Info: Robelei Estates Subdivision, Lot 24, 14 Stiles Way, Charles Town, WV.

41 Parcel ID: 02000700790000; Size: .14 acres; Zoning District: Residential-Light

42 Industrial-Commercial

1 Mr. Waverly Paige was present to address the Board. Ms. Beaulieu provided an overview of her
2 staff report. Mr. Paige explained the nature of the request and stated he had letters of support from
3 his immediate neighbors. Mr. Paige stated he would submit the letters for the record.

4 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the
5 public hearing.

6 Mr. Bannon moved to approve the variance as requested. Mr. Bannon called for a vote, which
7 carried unanimously.

8 **ITEM #3 FILE #: 20-36-ZV**

9 Request: Variance from Section 9.7 to reduce the north side setback from 25' to 6' for a 14' x
10 28' accessory structure.

11 Owner: Howard Herbert

12 Applicant: Same

13 Parcel Info: Brentwood Subdivision, Lot 36, 60 Brentwood Dr., Harpers Ferry, WV.

14 Parcel ID: 04000600090006; Size: 1.18 acres; Zoning District: Rural

15 Mr. Howard Herbert was present to address the Board. Ms. Beaulieu provided an overview of her
16 staff report. Mr. Herbert explained the nature of the request and stated he had submitted letters of
17 support from his immediate neighbors.

18 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the
19 public hearing.

20 Mr. McKinney moved to approve the variance as requested. Mr. Bannon called for a vote, which
21 carried unanimously.

22 Mr. Quynn temporarily excused himself from the meeting at 3:58 p.m.

23 **ITEM #4 FILE #: 20-37-ZV**

24 Request: Variance from Section 5.4B and Section 9.6C (Zoning Ordinance, as amended 10-
25 04-1990) to allow an in ground pool within the required front yard and to reduce the
26 front setback from 25' to 5'. The dimensions for the proposed pool and surrounding
27 concrete area are 42' x 20'.

28 Owner: Kevin Hanigan and Tina Sinnett

29 Applicant: Same

30 Parcel Info: Carriage Park Subdivision, Lot 17, 33 Jenny Lind Dr., Charles Town, WV

31 Parcel ID: 04009C00170000; Size: .95 acres; Zoning District: Residential Growth

32 Mr. Kevin Hanigan and Ms. Tina Sinnett were present to address the Board. Ms. Beaulieu provided
33 an overview of her staff report, noting that Rider Road is a 30' access easement that crosses over
34 the subject parcel. Mr. Hanigan and Ms. Sinnett explained the nature of the request, noting that the
35 entire pool would be within the existing fence, which is located on the edge of the Rider Road
36 easement. Ms. Sinnett confirmed that their property line is located along the edge of Rider Road.

37 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the
38 public hearing.

39 Mr. Corbin moved to approve the variance as requested, noting that the applicants are bound by
40 their testimony. Mr. Bannon called for a vote, which carried unanimously (4-0).

41 Mr. Quynn returned to the meeting at 4:08 p.m.

1 **Zoning Administrator’s Report**

2 a) Monthly Zoning Certificate Activity Report. The Report was included in the mailed packet.

3 b) 2021 Board of Zoning Appeals Meeting Schedule. Mr. Corbin moved to approve the 2020
4 meeting schedule as presented. Mr. Bannon called for a vote, which carried unanimously.

5 Ms. Beaulieu updated the Board on the status of the following amendments: Commercial Cemeteries
6 (ZTA20-01); and the change in classification for Drive-Through Restaurants in the Residential-Light
7 Industrial-Commercial zoning district (ZTA20-02).

8 Ms. Beaulieu welcomed Ms. Mikala Shremshock as the Board’s new alternate member.

9 Ms. Beaulieu stated that the next Board meeting would be on December 10, 2020.

10 **Rules of Procedure** – discussion with possible action to amend the Rules of Procedure to create a
11 process to allow for a summary approval by unanimous consent for variance applications where no
12 one has filed written opposition and no one but the applicant appears to testify.

13 The Board briefly discussed the purpose of a summary approval. The Board agreed to postpone
14 this item until their December 10, 2020 meeting.

15 **Legal Update**

16 a) Possible executive session on the following pending lawsuits. Mr. Cochran noted that a
17 new lawsuit had been filed pertaining to the recently approved Solar Energy Facilities
18 (ZTA19-03) text amendment.

19 b) Discussion with possible deliberative session and signing of draft Findings/Decisions.

20 **Meeting: October 22, 2020**

21 1. Variance from Section 10.4B.3. Owner: HDW, LLC. File: 20-32-ZV.

22 2. Variance from Section 4.6B.2. Owner: HDW, LLC. File: 20-33-ZV.

23 Mr. Bannon stated he would sign the Findings and deliver them to the Office.

24 Mr. Quynn moved to adjourn the meeting at 4:18 pm. Mr. Bannon called for a vote, which carried
25 unanimously.