

Minutes
Jefferson County Board of Zoning Appeals

- 1 Meeting Date: December 10, 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; Leeds Corbin, Matt McKinney, and Mikala
5 Shremshock, Alternate
6 Board Members Absent: Tyler Quynn, Vice Chair and 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. Corbin moved to call the meeting to order at 2:04 pm. Mr. Bannon called for a vote, which
11 carried unanimously.

12 As two members of the Board were absent, Ms. Shremshock participated in the meeting as a voting
13 member.

14 **Approval of Minutes: November 12, 2020**

15 Mr. Corbin moved to approve the November 12, 2020 meeting minutes. Mr. Bannon requested the
16 following edit:

17 1) Page 1, line 6, note that Ms. Catterton had given notice of her absence.

18 Mr. Corbin amended his motion to include the suggested edit. Mr. Bannon called for a vote, which
19 carried unanimously.

20 **Public Oath**

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

22 Mr. Bannon rearranged the agenda so that the Board would hear Items 2, 3, and 4 prior to Item 1.

23 **ITEM #2 FILE #: 20-38-ZV**

24 Request: Variance from Section 9.7 to reduce the side setback from 15' to 10' and the rear
25 setback from 50' to 13' for a 12' x 20' accessory structure (shed).

26 Owner: Deirdre Eychner-Raduns

27 Applicant: Same

28 Parcel Info: Meadowlands Subdivision, Section 2, Lot 23, 647 New Meadow Dr., Kearneysville, WV
29 Parcel ID: 07002000340000; Size: 2.51 acres; Zoning District: Rural

30 Ms. Deirdre Raduns was present to address the Board. Ms. Beaulieu provided an overview of her
31 staff report. Ms. Beulieu informed the Board that the applicant provided a letter of support from a
32 neighboring property owner with her application.

33 Ms. Raduns explained the nature of her request to the Board.

34 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the
35 public hearing

36 Mr. Corbin moved to approve the requested variance with the condition that the applicant was bound
37 by her testimony. Mr. Bannon called for a vote, which carried unanimously.

38 **ITEM #3 FILE #: 20-39-ZV**

39 Request: Variance from Section 9.7 to reduce the front setback from 20' to 16' and the rear
40 setback from 12' to 7' for a 16' x 18' addition to the existing house.

1 Owner: Scott and Margie Brown

2 Applicant: Dana Shorb

3 Parcel Info: Briar Patch Subdivision, Lot 6 / 45 Briar Patch Lane, Harpers Ferry, WV

4 Parcel ID: 04000200260000; Size: 4,816 sf; Zoning District: Rural

5 Mr. Scott Brown was present to address the Board. Ms. Beaulieu provided an overview of her staff
6 report.

7 Mr. Corbin inquired as to whether the property was served by a septic system or a sewer.

8 Ms. Beaulieu deferred to the applicant to confirm. Mr. Brown stated that the property was served
9 by a shared community septic system. Mr. Greg Harlensky, neighboring property owner, affirmed
10 Mr. Brown's response.

11 Mr. Brown explained the nature of his request to the Board.

12 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the
13 public hearing.

14 Mr. Corbin inquired as to whether the Health Department had approved an additional bedroom for
15 the existing septic. Ms. Beaulieu noted that the Health Department approval would be required
16 when the building permit application is submitted.

17 Mr. McKinney moved to approve the requested variance. Mr. Bannon called for a vote, which
18 carried unanimously.

19 **ITEM #4 FILE #: 20-40-ZV**

20 Request: Variance from Section 4B.7J.2.a to increase the height restriction from 100' to 150'
21 for a proposed telecommunications tower.

22 Owner: Potomac Edison Company

23 Applicant: John Melham, Melham Associates, PC

24 Parcel Info: 1320 Old Country Club Rd, Charles Town, WV

25 Parcel ID: 04001000030005; Size: 3.67 ac; Zoning District: Residential Growth

26 Mr. Luke Thomas with Jackson Kelly law firm, Richard Marquis with First Energy, John Melham
27 with Melham Associates, and Robert Heath with Robert J. Heath were present to address the
28 Board. Ms. Beaulieu provided an overview of her staff report, noting that applicant had represented
29 that the tower would support Potomac Edison operations for internal use only. Ms. Beaulieu further
30 stated that while essential utilities were exempt from the provisions of the Zoning Ordinance,
31 telecommunications towers which are subject to FCC regulations are not exempt.

32 Mr. Thomas stated that the selected location was identified as the only location that would not
33 interfere with the operations of the existing substation and explained that the height increase was
34 necessary in order to perform the necessary functions to support Potomac Edison. Mr. Thomas
35 further explained the nature of the request to the Board. Mr. Marquis, Mr. Heath, and Mr. Melham
36 addressed questions by the Board.

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 requested variance with the condition that the applicants are
40 bound by their testimony. Mr. Bannon called for a vote, which carried unanimously.

41

1 **ITEM #1 FILE #: 20-8-CUP– continued from the 11/12/2020 meeting**

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

6 Owner: Nancy Stevens

7 Applicant: Charles Stevens, River Chase Wedding Venue

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

10 Mr. Charles Stevens was present to address the Board. Mr. Bannon noted that this item was a
11 continuation of the public hearing from the November 12, 2020 meeting. Ms. Beaulieu did not
12 repeat her staff report.

13 Mr. Bannon opened the public hearing. Ms. Denise Leith, Mr. Robert Commisso, and Mr. Bill
14 Kanwisher, neighboring property owners, spoke in opposition to the request. The neighbors
15 expressed concerns regarding the increased traffic on narrow roads and excessive noise.

16 Mr. Stevens spoke in rebuttal to the neighbors' concerns, including those that were submitted in
17 writing (included in the packet). Mr. Stevens acknowledged that there may be an increased risk of
18 traffic concerns, but argued this data is unknown. Mr. Stevens informed the Board that he purchased
19 a sound meter to ensure compliance with the noise restrictions. Mr. Steven noted that he filled in the
20 sinkholes on his property and attempted to route the water runoff into an existing pond. Mr. Stevens
21 also noted that he has a \$6 million dollar insurance policy for the event facility.

22 Mr. Bannon moved to go into deliberative session at 3:14 pm. Mr. Corbin seconded the motion.
23 Mr. Bannon called for a vote, which carried unanimously.

24 Mr. Bannon moved to come out of deliberative session at 3:38 pm. Mr. Corbin seconded the
25 motion. Mr. Bannon called for a vote, which carried unanimously.

26 Mr. McKinney moved to approve the requested conditional use permit with the condition that the
27 applicant is bound by his testimony. Mr. Bannon moved to amend the motion to include three
28 conditions: 1) that all music be limited to acoustic only with no amplification; 2) that the cars are
29 limited to 50 cars; and, 3) that the events be limited to eight (8) events. Mr. Bannon called for a vote
30 on the amendment, which failed two (2) in support and two (2) in opposition (Mr. McKinney and
31 Ms. Shremshock). Mr. McKinney clarified his original motion to note that the event was limited to
32 75 cars. Mr. Corbin also requested a friendly amendment to clarify that the events be limited to 15
33 total events per year. Mr. McKinney agreed to the clarification. Mr. Bannon called for a vote of the
34 original motion, including the clarifications, which carried three (3) in support and one (1) opposed
35 (Mr. Bannon).

36 **Zoning Administrator's Report**

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

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

41 Ms. Beaulieu stated that the next Board meeting would be on January 28, 2021.

1 With regard to the upcoming Election of Officers on the January agenda, Mr. Bannon announced
2 that he was no longer interested in presiding over the meetings. Mr. Bannon also stated that he
3 intends to resign from the Board prior to his term expiring once a replacement is available.

4 **Rules of Procedure** – discussion with possible action to amend the Rules of Procedure to create a
5 process to allow for a summary approval by unanimous consent for variance applications where no
6 one has filed written opposition and no one but the applicant appears to testify. Continued from
7 11/12/2020 meeting.

8 Mr. Cochran stated that he agreed with Mr. Bannon’s proposal provided the four criteria are
9 addressed as part of the motion. Mr. Bannon referred to the proposed motion sheet that would
10 address the criteria. Mr. Bannon clarified that the summary approval would be contingent upon
11 unanimous consent of the Board. The Board was amiable to the proposal. Mr. Bannon stated he
12 would work with Staff to complete the proposed motion sheet and would bring the draft to the
13 January meeting.

14 **Legal Update**

15 a) Possible executive session on the following pending lawsuits. Mr. Cochran noted that there
16 was a pending lawsuit regarding the recently approved Solar Energy Facilities (ZTA19-03)
17 text amendment.

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

19 **Meeting: October 22, 2020**

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

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

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

23 Mr. Corbin moved to adjourn the meeting at 3:52 pm. Mr. Bannon called for a vote, which carried
24 unanimously.