

Minutes
Jefferson County Board of Zoning Appeals
Thursday, May 22, 2014

1 The Jefferson County Board of Zoning Appeals met on Thursday, May 22, 2014 at 2:00 p.m..
2 The meeting was held at 200 East Washington Street, Charles Town, West Virginia, in the
3 Conference Room of the Old Charles Town Library. Unless otherwise noted, all requests are
4 pursuant to the Jefferson County Zoning and Land Development Ordinance.

5

6 Board members present: Jeffrey Bannon, Vice Chair; Christy Huddle, Matt Knott and Ted Schiltz,
7 Alternate. Staff present: Jennifer M. Brockman, Acting Zoning Administrator/Director of Planning
8 and Zoning; Stephen Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.
9 Tyler Quynn, Chair, was absent with notification.

10

11 Ms. Hartman swore in the individuals who indicated they would be giving testimony.

12

13 Ms. Huddle motioned to commence the meeting at 2:05 p.m. Mr. Knott seconded the motion,
14 which carried unanimously.

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16 1. Approval of the minutes from the April 24, 2014 meeting.

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18 Ms. Huddle motioned to approve April 24, 2014 minutes. Mr. Schiltz seconded the motion,
19 which carried 3 for and 1 abstention (Mr. Knott was not present at the April 24, 2014 meeting).

20

21 2. Swearing in of the public intending to provide testimony. Ms. Hartman swore in the
22 individuals who indicated they would be giving testimony at the beginning of the meeting.

23

24 3. Action on the Conditional Use Permit for Middleway Market. The applicant is proposing to
25 lift the nonconforming status from the following existing uses by granting said uses permanent
26 legal status: convenience store, which includes incidental propane service, ABC off-premises
27 packaged alcohol sales, video lottery/game room area & ABC on-premises alcohol service,
28 office/storage area, counter & deli service. The applicant is also seeking to expand and/or add
29 the following: increase the buildable area from 4,841.75 sq. ft. to 6,000 sq. ft.; to include a
30 residential rental unit, to expand from counter & deli service to a restaurant service with
31 alcohol sales and delivery service; and, to permit gas pumps either on-site or in conjunction
32 with a partnership agreement with an adjacent neighbor. Owner: Jefferson Reality, LLC.
33 Location: 4843 Middleway Pike, Kearneysville, WV 25430. District: Middleway (07);
34 Map 19A; Parcels: 14 & 14.16; Size: 1.70 ac; Zone: Rural; File: CP14-01.

35

36 Ms. Brockman outlined the request for the Board and gave a brief history of the property.
37 Ms. Brockman explained that there had been no public comment at the Compatibility
38 Assessment Meeting held on May 2, 2014, and therefore, another public hearing before the
39 Board was not required. Ms. Brockman presented additional information from her staff report
40 to the Board, which included pictures of the Market, parking lot and access and a list of the
41 existing conditions associated with previous Board approvals. Mr. Antonio Colandrea addressed
42 the Board's questions by explaining that the intent of the request was to keep his options open
43 for future growth. Mr. Colandrea also answered questions regarding the adequacy of parking.
44 Ms. Brockman assured the Board that any change in use or expansion of the store would require
45 a new review of the parking requirements for the site. The Board had concerns regarding the
46 lack of information depicted on the sketch submitted with the application; specifically, the
47 possible location of the future gas pumps and the potential Market expansion area.

1 Mr. Colandrea reiterated that the intent of the request was to have a variety of uses available to
2 him; however, it was not his immediate goal to develop all of the uses listed. As the item was
3 not open for public comment, Mr. Bannon concluded BZA member discussion on this item.
4

- 5 4. Variance request by applicant, Peter Wilkins, from Section 5.4B to reduce the rear setback
6 from 30' to 20' for a 10' x 28' deck to include a 10' x 12' covered & screened porch. Owner:
7 Christopher Wilkins. Location: Colonial Hills Subdivision, Phase I, Lot D16, 167 Starkeys
8 Landing, Shepherdstown, WV. District: Shepherdstown (09); Map 8D; Parcel: 16; Size: .22 ac;
9 Zone: Residential Growth; File: ZV14-03.

10
11 Ms. Brockman presented her staff report to the Board. Mr. Peter Wilkins was present to answer
12 the Board's questions. Mr. Mark Grace, contractor for the applicant, presented the request and
13 answered a question regarding the height of the deck. Mr. Bannon called for public comment.
14 There was no public comment.
15

16 Ms. Huddle stated that she believed it was unnecessary for the Board to deliberate on this item.
17 The Board concurred. Mr. Knott motioned to approve the variance request. Ms. Huddle
18 seconded the motion, which carried unanimously.
19

- 20 5. Variance request by owner, Gary Rodis, from Section 5.4B to reduce the rear setback from
21 20' to 12' to install an irregularly shaped pool. Location: Eastland Subdivision, Section III-B,
22 Lot 85, 875 Eastland Dr., Charles Town, WV. District: Charles Town (02); Map 16; Parcel: 108;
23 Size: 1.273 ac; Zone: Residential Growth; File: ZV14-04.
24

25 Ms. Brockman presented her staff report to the Board. Mr. Gary Rodis presented his request
26 to the Board explaining his rationale for the additional concrete around the in ground pool.
27 Mr. Bannon called for public comment. There was no public comment.
28

- 29 6. A request by applicant, ABS Enterprises, to change a nonconforming use per Section 4.3C to
30 allow for the addition of a 5,000 sq. ft. fresh bakery to zoning certificate application #ZC14-13;
31 and, to include heavy equipment and leasing, auto repair and recycling as approved uses to zoning
32 certificate application #ZC14-15. Owner: OBF Properties LLC. Location: 1059 Box Factory Rd.,
33 Summit Point, WV. District: Middleway (07); Map 27; Parcel: 11; Size: 7.2 ac; Zone: Rural.
34

35 Ms. Brockman presented her staff report to the Board by providing the history of the property
36 and citing her reasons for not issuing the zoning certificate for a change in nonconforming use,
37 as requested by the applicant. Ms. Brockman also reviewed the existing and proposed
38 conditions should the Board chose to approve the applicant's request. Mr. Fred Bishopp,
39 representative for the request, explained that the previous tenant, Chris Hensen, recently
40 vacated the site and a new distributor was interested in utilizing a number of the structures for
41 their mini-mart operations, which included refrigerated and fresh bakery items. Mr. Bishopp
42 stated that the potential purchaser was also interested in being able to rent out the remaining
43 structures on the property for additional income. Mr. Bishopp further stated that there had
44 been no interested parties at this time and that the request was only to expand the list of
45 potential leasing options. The Board had questions regarding traffic and impact on the existing
46 residential community. Ms. Brockman stated that Box Factory Road was a rural road and

1 appeared to have minimal traffic. Ms. Brockman also mentioned that there was an existing,
2 nonconforming saw/lumber mill currently operating across the street from the subject parcel.
3 Mr. Bannon called for public comment. There was no public comment.
4

5 Ms. Huddle motioned to go into deliberative session at 3:03 p.m. Mr. Knott seconded the motion,
6 which carried unanimously. Ms. Huddle motioned to come out of deliberative session at 3:39 p.m.
7 Mr. Schiltz seconded the motioned, which carried unanimously.
8

9 **Board of Zoning Appeals Rulings**

10

11 3. Action on the Conditional Use Permit for Middleway Market. The applicant is proposing to
12 lift the nonconforming status from the following existing uses by granting said uses permanent
13 legal status: convenience store, which includes incidental propane service, ABC off-premises
14 packaged alcohol sales, video lottery/game room area & ABC on-premises alcohol service,
15 office/storage area, counter & deli service. The applicant is also seeking to expand and/or add
16 the following: increase the buildable area from 4,841.75 sq. ft. to 6,000 sq. ft.; to include a
17 residential rental unit, to expand from counter & deli service to a restaurant service with
18 alcohol sales and delivery service; and, to permit gas pumps either on-site or in conjunction
19 with a partnership agreement with an adjacent neighbor. Owner: Jefferson Reality, LLC.
20

21 Ms. Huddle motioned to grant the request to change Middleway Market from a nonconforming
22 use to a Conditional Use Permit for the following uses: a convenience store, which includes
23 incidental propane service, ABC off-premises packaged alcohol sales, ABC on-premises alcohol
24 service, office/storage area, counter & deli service and to allow an expansion of the buildable
25 area from 4,841.75 sq. ft. to 6,000 sq. ft.; and inclusion of a residential rental unit, to expand
26 from counter & deli service to a restaurant service with alcohol sales and delivery service.
27 Ms. Huddle noted that this approval shall not include the video lottery/game room area and that
28 the requested gas pumps either on-site or in conjunction with a partnership agreement with an
29 adjacent neighbor is not approved. Ms. Huddle clarified that the video lottery/game room area
30 shall remain a nonconforming use. Mr. Knott seconded the motion, which carried unanimously.
31

32 4. Variance request by applicant, Peter Wilkins, from Section 5.4B to reduce the rear setback
33 from 30' to 20' for a 10' x 28' deck to include a 10' x 12' covered & screened porch.
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35 The Board took action on this item immediately following the applicant's testimony. The Board
36 did not deliberate on this Item. The action previously taken for Item #4 prior to deliberation was,
37 "*Mr. Knott motioned to approve the variance request. Ms. Huddle seconded the motion, which*
38 *carried unanimously.*"
39

40 5. Variance request by owner, Gary Rodis, from Section 5.4B to reduce the rear setback from
41 20' to 12' to install an irregularly shaped pool.
42

43 Mr. Knott motioned to approve the above referenced variance request. Ms. Huddle seconded
44 the motion, which carried unanimously.
45

1 6. A request by applicant, ABS Enterprises, to change a nonconforming use per Section 4.3C
2 to allow for the addition of a 5,000 sq. ft. fresh bakery to zoning certificate application
3 #ZC14-13; and, to include heavy equipment and leasing, auto repair and recycling as
4 approved uses to zoning certificate application #ZC14-15. Owner: OBF Properties LLC.

5 Ms. Huddle motioned to approve the above referenced request with the following conditions:

- 6 1. The applicant is bound by the testimony given;
- 7 2. No storage or warehousing of any toxic or hazardous material will be permitted;
- 8 3. Exterior storage of inoperable equipment or recyclables is limited to an area of less than
9 one quarter acre;
- 10 4. Any waste oils and related maintenance fluids shall be properly disposed of off-site;
- 11 5. No smelting will be permitted; and,
- 12 6. A sketch plan shall be submitted prior to the business opening, depicting adequate
13 employee parking, the circulation pattern for construction equipment and the permitted
14 storage areas. Note that no customer parking is permitted on unpaved parking areas.
15 If customers are expected on premises, a Site Plan depicting required paved parking and
16 ADA compliant spaces shall be required.

17 Mr. Schiltz seconded the motioned, which carried unanimously.
18

19 7. Discussion on the proposed amendments to the Board of Zoning Appeals Rules of Procedure,
20 Effective July 21, 2011, (Draft 2). Mr. Groh provided the Board with a revised draft of the
21 ROP. Mr. Bannon stated he would like to defer this item until Mr. Quynn could take part in
22 the discussion. Mr. Groh gave his opinion on who he believed the term Intervenor applied to
23 and read from the revised ROP. Discussion also ensued regarding the appeal process;
24 however, no action was taken. This item was deferred until the next meeting.
25

26 8. Director's Report. Ms. Brockman updated the Board on possible upcoming Ethics training,
27 the status of the Comprehensive Plan update (Envision Jefferson 2035) and associated meeting
28 dates, announced that the newly revised Zoning Ordinance will be available by the next BZA
29 meeting and stated copies would be provided to the BZA members upon request and informed
30 them of the latest developments regarding the Shepherdstown Growth Management Boundary.
31

32 9. Legal Update.
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34 10. Signing of written decisions from prior Board of Zoning Appeals meetings.

- 35 a. Action on the Conditional Use Permit (CUP) for Sustainable Solutions, LLC.
36 The applicant is proposing to use the existing expired nonconforming use of
37 commercial buildings for the operation of a business that helps private landowners,
38 state & federal agencies and non-profits manage their land for ecological, economic
39 and social returns. The business would include a 12' x 12' company office within
40 Building A (as shown on Figure 1. Site Map). The remaining portion of Building A
41 and Buildings B and C would be used as shop space for storage, maintenance and
42 repair of company equipment and vehicles. Two alternate sign locations were
43 proposed a) on the existing canopy; or, b) on Building A. Additional landscaping in
44 the form of native trees, shrubs and flowers were also proposed. Property owner:

1 Steve Wandless. Purchaser/Developer: James Remuzzi. Location: 4419 Kearneysville
2 Pk., Shepherdstown, WV. District: Shepherdstown (09); Map 8; Parcel: 9.3; Zone:
3 Residential Growth; Size: 1.79 ac; File: CP13-01. Meeting Date: 3/27/14. Ms. Huddle
4 signed the amended Findings that Mr. Groh provided.

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6 Ms. Huddle motioned to adjourn the meeting at 4:20 p.m. Mr. Schiltz seconded the motion, which
7 carried unanimously.

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9 An audio transcript of this meeting can be found at the Department of Zoning and on the
10 Department's website at www.jeffersoncountywv.org. These minutes were prepared by
11 Jennilee Hartman, Zoning Clerk.