

Minutes

Jefferson County Board of Zoning Appeals
Thursday, June 21, 2012

The Jefferson County Board of Zoning Appeals met on Thursday, June 21, 2012. The meeting was held in the Charles Town Library meeting room located at 200 East Washington Street, at the side entrance on Samuel Street in Charles Town, West Virginia. Board members, Jeff Bresee, Chairman; Christy Huddle, Vice Chair; Tyler Quynn and Ed Kelly were present. Staff members present were: Jennifer Brockman, Director of Planning and Zoning; Steve Barney, Zoning Administrator and Jennilee Hartman, Zoning Clerk.

Ms. Huddle motioned to commence the meeting. Mr. Quynn seconded the motion, which carried unanimously. Mr. Bresee called the meeting to order at 3:05 p.m.

1. Approval of the minutes from the May 17, 2012 meeting.

Mr. Kelly motioned to approve the minutes. Ms. Huddle seconded the motion. The following corrections were requested:

- a) Page 1, Item #1, change the date of the minutes approval to April 19, 2012.
- b) Page 1, Item #1, second line, second sentence, change so that it reads, "Mr. Quynn seconded the motion. Ms. Huddle suggested the following corrections:".
- c) Page 1, Item #3, add to the end of the second paragraph, "Mr. Bresee called for public comment. There was no public comment."
- d) Page 3, Item #7, fourth paragraph, first line, change Board to Board's.

Mr. Bresee called for a vote which carried unanimously.

2. Swearing in of members of the public intending to provide testimony.

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

3. Variance request by property owners, Josh and Jessica Powell, from Section 5.4(B) of the Zoning and Land Development Ordinance for a reduction of the rear setback distance from 20' to 12' to allow for the construction of a 16' x 20' deck. Property location: Windmill Crossing Subdivision, 204 Monte Carlo Way, Charles Town, West Virginia. District: Charles Town (02); Map: 9C; Parcel: 26; Zoned: Residential-Light Industrial-Commercial; Size: 0459 acres; File: #ZV12-20.

Mr. Powell, applicant, presented his request to the Board explaining that there was a utility easement behind his property. Mr. Bresee called for public comment. There was no public comment.

4. Variance request by property owners, William and Kristin Friend, from Section 9.7 of the Zoning and Land Development Ordinance, for a reduction of the rear setback distance from 50' to 20' to allow for the construction of a 30' x 40' building. Property location: 498 Old Middleway Road, Kearneysville, West Virginia. District: Middleway (07); Map: 22; Parcel: 33.20; Zoned: Rural; Size: 4 acres; File: #ZV12-21.

Mr. Friend, applicant, presented his request to the Board, explaining that if he were to build the structure within the required setbacks it would block his neighbor's garden from the sun. Mr. Friend referenced a letter of support from Harold and Betty Poston, the adjacent property owners to the rear. Mr. Bresee called for public comment. There was no public comment.

5. Variance request by Fred Gates on behalf of property owner, Roderick Planes, LLC from Section 3.2(g) to allow for an extension of the Aspen Greens Subdivision's Conditional Use Permit (Z02-06). The applicant is requesting an extension from July 1, 2012 until December 1, 2013. Property location: Northeasterly of the intersection of Old Country Club Road with Flowing Springs Road. District: Charles Town (02); Map: 4; Parcel: 19; Zoned: Rural; Size: 110 acres; File: #ZV12-22.

This request was withdrawn at the applicant's request. Mr. Barney explained that a new interpretation of the definition of "commencement" with regard to the expiration of conditional use permits for subdivisions.

6. Issuance of the Conditional Use Permit for the Proposed Renovation and Addition to Existing Sheetz Convenience Store. The project is to consist of increasing the existing 4,222 square foot convenience store with a 1,941 square foot addition by remodeling the interior and exterior of the structure. The applicant also seeks to reconfigure a portion of the existing canopy and install/replace existing signage. Property location: 51 Flowing Springs Road, Charles Town, West Virginia. District: Charles Town (2); Map: 8; Parcel: 11.5; Zoned: Residential-Light Industrial-Commercial; Size: 2.781 acres; File: #CP12-04.

Rick Turner with Diamond Z Engineering provided the Board with a brief overview of the project, referencing exhibits detailing the addition and signage. Mr. Turner stated that no variances would be necessary as the proposed addition would be entirely within the required setbacks. The Board discussed possible parking and delivery issues. The Board also expressed concern regarding the smaller secondary entrance from Flowing Springs Road. Ms. Huddle suggested the applicant investigate the possibility of erecting a sign prohibiting left turns from Flowing Springs Road.

Ms. Huddle motioned to go into deliberative session at 3:36 p.m. Mr. Quynn seconded the motion, which carried unanimously.

Ms. Huddle motioned to come out of deliberative session at 3:52 p.m. Mr. Quynn seconded the motion, which carried unanimously.

Board of Zoning Appeals Rulings

3. Variance request by property owners, Josh and Jessica Powell, from Section 5.4(B) of the Zoning and Land Development Ordinance for a reduction of the rear setback distance from 20' to 12' to allow for the construction of a 16' x 20' deck.

Mr. Kelly motioned to approve the above referenced request. Ms. Huddle seconded the motion, which carried unanimously.

4. Variance request by property owners, William and Kristin Friend, from Section 9.7 of the Zoning and Land Development Ordinance, for a reduction of the rear setback distance from 50' to 20' to allow for the construction of a 30' x 40' building.

Mr. Kelly motioned to approve the above referenced request. Ms. Huddle seconded the motion, which carried three in support and one opposed (Mr. Quynn).

5. Variance request by Fred Gates on behalf of property owner, Roderick Planes, LLC from Section 3.2(g) to allow for an extension of the Aspen Greens Subdivision's Conditional Use Permit (Z02-06). The applicant is requesting an extension from July 1, 2012 until December 1, 2013.

This request was withdrawn at the applicant's request.

6. Issuance of the Conditional Use Permit for the Proposed Renovation and Addition to Existing Sheetz Convenience Store. The project is to consist of increasing the existing 4,222 square foot convenience store with a 1,941 square foot addition by remodeling the interior and exterior of the structure. The applicant also seeks to reconfigure a portion of the existing canopy and install/replace existing signage.

Mr. Quynn motioned to issue the Conditional Use Permit for the Proposed Renovation and Addition to Existing Sheetz Convenience Store provided that all previous conditions from the two prior CUPs (Z96-04 and Z97-07) remain in effect; except for Condition #3. Ms. Huddle seconded the motion. Mr. Kelly called for a point of order to clarify that Condition #3 was being removed due to the fact that it was moot. Mr. Quynn concurred.

By reference the conditions were as follows:

1. Prohibiting the sale of pornographic magazines such as Playboy and Penthouse from the magazine rack accessible to the public. Such sales will be kept behind the counter;
2. Compliance with the Court Order concerning stormwater management conveyance across Route 17; A monetary contribution towards the installation of a traffic signal if one is deemed necessary on Route 17. The amount will be based on a pro-rated share to be determined by usage through a traffic study;
3. Any future change in use or expansion processing through the Jefferson County Planning & Zoning Commission to update this certificate; and. all other applicable County regulations being followed.

Mr. Bresee called for a vote which carried unanimously.

7. Director's Report. Ms. Brockman updated the Board on the status of the upcoming new stormwater management regulations. Ms. Brockman informed the Board of the County Commission's vote to extend project expiration dates, and noted that any subdivision that processed under the old subdivision ordinance would still have to conform to the new stormwater management regulations

with regard to the Chesapeake Bay standards. Additionally the Board was informed of the status of the proposed new zoning district and impact fee amendments.

8. Legal Update.
9. Signing of written decisions from prior Board of Zoning Appeals meetings.
 - a. Public hearing and action on the Conditional Use Permit application submitted by Twin Oaks Subdivision, LLC for the Morgan's Grove Market to establish "an agricultural based economic empowerment zone." Intended uses are to consist of, but are not limited to, a Food Hub, General Merchandise (retail), Professional/Business Offices, Community Amenities, and other associated uses. Property location: 3988 Kearneysville Pike, Shepherdstown, West Virginia. District: Shepherdstown (09); Map: 13; Parcels: 26.1, 26.2, 26.3, 26.4; Zoned: Rural; Size: 13.69 acres; File: #CP12-01. (BZA meeting date 04/19/12). Signed.
 - b. Request by Linda M. Gutsell to reopen a hearing pursuant to Section 5.8 of the Board of Zoning Appeals (BZA) Rules of Procedure, regarding the April 19, 2012 BZA approval of a Conditional Use Permit application submitted by Twin Oaks Subdivision, LLC for the Morgan's Grove Market, file #CP12-01. (BZA meeting date: 05/17/12). Signed.
10. Correspondence. None.

Ms. Huddle motioned to adjourn the meeting at 4:18 p.m. Mr. Kelly seconded the motion, which carried unanimously.

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