

Minutes

Jefferson County Board of Zoning Appeals
Thursday, August 18, 2011

The Jefferson County Board of Zoning Appeals met on Thursday, August 18, 2011. 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, Tyler Quynn, Ed Kelly, Christy Huddle and Jon Brusco were present. Staff members present were: Jennifer Brockman, Director of Planning; Steve Barney, Zoning Administrator; Steve Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

Tiffany Hine was absent with notification.

Ms. Huddle motioned to commence the meeting. Mr. Quynn seconded the motion, which carried unanimously. Mr. Bresee called the meeting to order at 3:00 p.m.

1. Approval of the Minutes from the May 19, 2011 and July 21, 2011 meetings.

Ms. Huddle motioned to approve the May 19, 2011 minutes. Mr. Quynn seconded the motion. Ms. Huddle questioned the use of the term 'electrical' on the last line of Page 3. Mr. Barney stated it should have been "power." Mr. Quynn pointed out that "Ms. Hine" was used twice on page 5, of Item 2, in paragraph 2. Ms. Hartman stated she would review her notes and correct the error. The May 19, 2011 minutes were approved, pending corrections, by Ms. Huddle, Mr. Bresee and Mr. Quynn. Mr. Brusco and Mr. Kelly abstained from voting because they were absent from the May 19, 2011 meeting.

Mr. Brusco motioned to approve the July 21, 2011 minutes. Mr. Kelly seconded the motion, which carried along with Mr. Bresee's vote. Ms. Huddle and Mr. Quynn abstained from voting because they were absent from the July 21, 2011 meeting.

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

2. Variance request by property owners, Faheem and Liliana Ramadan, from Section 5.4(b) for a reduction of the rear setback distance from 20' to 13' to allow for the construction of a freestanding deck. Property location: Deerfield Village Subdivision, 53 Mossy Oak Court, Shepherdstown, West Virginia. (District: Shepherdstown- 09; Map 14B; Parcel 27; Size: 0.267 acres; Zoned: Rural; File: #ZV11-19).

Ms. Ramadan was present to address the Board. The Board had questions about the structural components of a freestanding deck. Mr. Bresee called for public comment. There was no public comment. Mr. Barney noted that there is a utility and open space area behind the applicant property. Ms. Ramadan provided three letters of support from her neighbors.

3. Variance request by property owner, John D. Lowe, III ET AL from Section 9.5(b) to retain a 10' high deer fence within a required yard. Property location: West side of Alt. Rte. 45 Connector Road, Shepherdstown, West Virginia. (District: Shepherdstown-09; Map 8; Parcel 6; Size: 10.5 acres; Zoned: RG; File: #ZV11-21).

Mr. Philip Lowe, owner and operator of Potomac Nursery, was present to address the Board. Mr. Lowe explained that he had replaced a fence that had previously been in the same location. Mr. Lowe stated that the USDA paid for some of the cost of the fence, and that he had gotten permission from the bordering property owners to install the fence. Mr. Lowe stated he was not aware that a permit was needed for the fence. Mr. Lowe provided the Board with a petition signed by adjacent property owners in support of the fence. Mr. Lowe stated the fence is at least 20' or more from the property line. Mr. Lowe confirmed that the purpose of the fence is to exclude deer, and that the fence serves its purpose. The Board discussed agricultural uses. Mr. Bresee called for public comment. Judy Moore spoke from a previously submitted letter on behalf of Linda O'Brien, Christine Palank, Maureen Small and Leslie Williams. Ms. Moore stated they did not object to the fence; rather, that their concern was over the fact that the applicant did not apply for a permit prior to building the fence and that the applicant did not provide a survey showing the property boundary lines. Ms. Huddle explained that a survey is not required as part of the application process.

4. Variance request by Fellowship Bible Church (represented by Richard Beddow, Property Manager) from Section 4.10 to allow installation of one additional modular classroom without the requirement of a Site Plan. Property location: 160 Daniel Road; Charles Town, West Virginia. (District: Charles Town - 02; Map: 3; Parcel: 4.5; Size: 50 acres; Zoned: Rural; File: #ZV11-22).

Mr. Beddow was present to address the Board. Mr. Beddow stated the church's building committee projected that they would be building the permanent structure of the church within 2 years. Mr. Bresee called for public comment. There was no public comment. Mr. Barney added that this request would be an increase of 284 square feet above the previously approved variance request.

5. Variance request by property owner, Glenn S. Cogle, from Section 8.2 to allow a seventy year old barn, rebuilt without permit, to remain sited on the original foundation. Property location: 157 Cogles Fields Lane, Harpers Ferry, WV. (District: Charles Town - 02; Map 20-1; Parcels 48 & 48.5; Sizes: .65 & 19.67 acres; Zoned: Rural; File: #ZV11-23).

Mr. Glenn Cogle was present and provided a handout to the Board. Mr. Glenn Cogle explained the previous barn became dilapidated over time and eventually severely damaged due to a heavy snowfall. Mr. Glenn Cogle stated he used some remnants of the old barn to construct the new barn on the existing foundation. Mr. Glenn Cogle further stated that he did not believe he needed a permit since he did not change the use of the barn and did not change the location of the barn. Patty Cogle, property owner, explained to the Board that they built the barn in the same location to be in keeping with the 1977 deed which granted permission to other members of the family to have access to the barn. She stated that, had they built the barn solely on their own property the barn could not have been used by the other family members. Mr. Bresee called for public comment. Mr. Gary Cogle spoke in opposition to the request. Mr. Gary Cogle argued that the barn sitting in the right-of-way hinders the sale of the property. Mr. Gary Cogle further argued that Glenn Cogle is a contractor in Jefferson County and therefore knew about the permitting process. Mr. Barney clarified that the majority of the barn is located on the

applicant's property. A portion of the barn is located on a private access easement. The Board discussed the term nonconforming use.

6. Variance request by property owner, Tessa Yvonne Reed, from Section 5.4(b) for a reduction of the rear setback distance from 20' to 16' to allow for the addition of steps to an existing deck. Property location: Windmill Crossing Subdivision, 73 Don Quixote Drive, Charles Town, West Virginia. (District: Charles Town – 02; Map: 9C; Parcel: 134; Size: .345 ac; Zoned: Residential-Light Industrial-Commercial; File: #ZV11-24).

Ms. Reed was present to address the Board. Ms. Reed confirmed the deck would be entirely within the backyard. Mr. Bresee called for public comment. There was no public comment.

7. Variance request by property owners, George R. and Dixie A. Wolfe, from Section 9.7 for a reduction of the side setback distance from 20' to 4' to allow for the construction of an open carport. Property location: 1424 Summit Point Road; Summit Point, WV. (District: Middleway – 07; Map: 28; Parcel: 10.1; Size: 2.5 acres; Zoned: Rural; File #ZV11-26).

Mr. Wolfe was present to address the Board. Mr. Bresee called for public comment. There was no public comment. Mr. Barney noted that a paved driveway exists where the carport is proposed. Mr. Barney also stated there are a significant number of trees on the other side of the home that may have to be removed if the carport were to be located there instead of the applicant's requested location.

Mr. Brusco motioned to go into deliberative session at 4:17 p.m. Ms. Huddle seconded the motion, which carried unanimously.

Ms. Huddle motioned to come out of deliberative session 4:27 p.m. Mr. Brusco seconded the motion, which carried unanimously.

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2. Variance request by property owners, Faheem and Liliana Ramadan, from Section 5.4(b) for a reduction of the rear setback distance from 20' to 13' to allow for the construction of a freestanding deck.

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

3. Variance request by property owner, John D. Lowe, III ET AL from Section 9.5(b) to retain a 10' high deer fence within a required yard.

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

4. Variance request by Fellowship Bible Church (represented by Richard Beddow, Property Manager) from Section 4.10 to allow installation of one additional modular classroom without the requirement of a Site Plan.

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

5. Variance request by property owner, Glenn S. Cogle, from Section 8.2 to allow a seventy year old barn, rebuilt without permit, to remain sited on the original foundation.

Mr. Quynn motioned to approve the above referenced request on the basis that the barn was built on the original foundation. Mr. Brusco seconded the motion, which carried unanimously.

6. Variance request by property owner, Tessa Yvonne Reed, from Section 5.4(b) for a reduction of the rear setback distance from 20' to 16' to allow for the addition of steps to an existing deck.

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

7. Variance request by property owners, George R. and Dixie A. Wolfe, from Section 9.7 for a reduction of the side setback distance from 20' to 4' to allow for the construction of an open carport.

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

8. Legal Update. None.

9. Vote on written decisions from prior Board of Zoning Appeals meetings. None.

Ms. Brockman informed the Board of the upcoming text amendments to the Zoning Ordinance.

10. Correspondence. Leslie Williams email received July 25, 2011 regarding previous Lowe Products variance ZV11-10. The Board discussed the email.

Mr. Kelly motioned to adjourn the meeting at 4:43 p.m. Mr. Brusco seconded the motion, which carried unanimously.

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