

## Minutes

Jefferson County Board of Zoning Appeals  
Thursday, September 15, 2011

The Jefferson County Board of Zoning Appeals met on Thursday, September 15, 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, Christy Huddle and Jon Brusco were present. Staff members present were: Steve Barney, Zoning Administrator; Steve Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

Tiffany Hine, Ed Kelly and Tyler Quynn were absent with notification.

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

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

1. Approval of the Minutes from the August 18, 2011 meeting.

Ms. Huddle motioned to approve the August 18, 2011 minutes with the following corrections noted by staff:

- a. Page 1, Item 1, second paragraph, third line, add quotations around “Ms. Hine” and delete the words “as used.”
- b. Page 2, Item 3, first paragraph, first line change “or” to “of.”
- c. Page 2, Item 5, first paragraph, third line, change the semicolon to a comma.
- d. Page 2, Item 5, second paragraph, beginning at line 5, delete the words “in order.”
- e. Page 2, Item 5, second paragraph, eighth paragraph, change the sentence so it reads, “She stated that, Had they built the barn...”

Mr. Brusco seconded the motion to approve the minutes as corrected. The motion carried unanimously.

2. Variance request by property owner, Douglas A. Carter, from Section 5.4(b) for a reduction of the side and rear setback distances to allow for the continued placement of an existing shed. Property location: Demory Farm Subdivision, 75 Victoria Lane, Charles Town, West Virginia. (District: Charles Town – 02; Map 9B; Parcel 46; Size: 0.20 acres; Zoned: Residential Growth; File: #ZV11-27).

Mr. Carter was present to address the Board. Mr. Carter stated he was not aware he needed a building permit to construct the shed; however, when the issue was brought to his attention he immediately applied for a permit, upon which he found out he was in violation of the setback requirements. Mr. Carter stated that as a requirement of his Homeowners Association’s building committee that he was required to obtain his neighbors’ signatures of support in order to build the shed. Staff had no additional comments. Mr. Bresee called for public comment. There was no public comment.

3. Variance request by property owner, David P. McCloskey, from Section 5.7(b) for a reduction of the side and rear setback distances to allow for the continued placement of an existing pool and

pool deck, and the proposed construction of a 42' x 30' x 22' detached garage. Property location: 3081 Engle Molders Road, Harpers Ferry, West Virginia. (District: Shepherdstown – 09; Map: 18; Parcel: 36; Size: 2.0 acres; Zoned: Rural; File: #ZV11-28).

Mr. McCloskey was present to address the Board. Mr. McCloskey explained that he had applied for a building permit for the pool and the pool deck and had been issued permits for each in their current locations. Mr. McCloskey answered questions from the Board regarding the necessity of the garage being of that size. Mr. McCloskey stated he had letters of support signed by his neighbors. Staff explained that the pool and pool deck permits were issued in error, stating that the permits may have been issued using the standard setback for the district as opposed to the setback required on the subdivision plat. Mr. Bresee called for public comment. There was no public comment.

Ms. Huddle motioned to go into deliberative session at 3:12 p.m. Mr. Brusco seconded the motion, which carried unanimously.

Mr. Brusco motioned to come out of deliberative session 3:16 p.m. Ms. Huddle seconded the motion, which carried unanimously.

### **Board of Zoning Appeals Rulings**

2. Variance request by property owner, Douglas A. Carter, from Section 5.4(b) for a reduction of the side and rear setback distances to allow for the continued placement of an existing shed.

Mr. Brusco motioned to approve the above referenced request with the placement of the shed being 8' 3" from the side property line and 8' 1" from the rear property line. Ms. Huddle seconded the motion, which carried unanimously.

3. Variance request by property owner, David P. McCloskey, from Section 5.7(b) for a reduction of the side and rear setback distances to allow for the continued placement of an existing pool and pool deck, and the proposed construction of a 42' x 30' x 22' detached garage.

Ms. Huddle motioned to approve the above referenced request to allow a proposed garage to be 33' instead of the required 50' rear yard setback and 12' instead of the required 15' side yard setback; and to allow the existing pool to be 15' instead of the required 50' rear yard setback; and to allow the existing pool deck to be 27' instead of the required 50' rear yard setback with the condition that there cannot be access to the non-exclusive right-of-way adjoining the property unless the owner provides documentation to the Planning and Zoning Department that this lot has the legal right to access the easement. Mr. Brusco seconded the motion, which carried unanimously.

4. Director's Report. Mr. Barney spoke on Ms. Brockman's behalf and informed the Board of the status of the upcoming text amendments to the Zoning Ordinance.
5. Legal Update. None.

6. Vote on written decisions from prior Board of Zoning Appeals meetings.
  - a. Findings of Fact and Conclusions of Law for the 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. Bresee signed the Findings with one correction.
  - b. Findings of Fact and Conclusions of Law for the 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. Mr. Bresee signed the Findings with one correction.
7. Correspondence. None.

Mr. Brusco announced that he would be resigning as a Board of Zoning Appeals member because he would be moving to Colorado. Mr. Brusco stated this would be his last meeting. Mr. Bresee, on behalf of the Board, expressed appreciation for Mr. Brusco's excellent service to the Board over the years.

Mr. Brusco motioned to adjourn the meeting at 3:53 p.m. Ms. Huddle 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](http://www.jeffersoncountywv.org). These minutes were prepared by Jennilee Hartman, Zoning Clerk.