

**MINUTES**  
**JEFFERSON COUNTY BOARD OF ZONING APPEALS**  
MARCH 18, 2010

Due to the County Commission's use of the Charles Town Library Conference Room, the Jefferson County Board of Zoning Appeals met on Thursday, March 18, 2010 at 3:00 p.m., in the upper level Conference Room of the Departments of Planning & Zoning. Members present were as follows: Chairman, Jeff Bresee; Vice Chairman, Christy Huddle; Ed Kelly, Tiffany Hine, Jon Brusco and Alternate, Tyler Quynn. Staff members present were Director, Jennifer Brockman; Zoning Administrator, Jennifer Snyder; Assistant Prosecuting Attorney, Stephen Groh and Zoning Secretary, Christine Chalmers

Chairman, Jeff Bresee, called the Meeting to order at 3:00 p.m.

**1. Approval of Minutes from the February 18, 2010 Meeting.**

Chairman Bresee requested a motion for approval of the February Minutes. Christy Huddle motioned to approve the Minutes from the February 18, 2010 meeting as written. Ed Kelly seconded the motion, which carried with a unanimous vote. Tiffany Hine abstained from voting due to her absence at the February meeting.

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

**2. Variance Request from Section 3.2 (g) to allow for an additional 24-month extension of a Conditional Use Permit that expired on February 1, 2010. Property description: Fronting on East Side of Flowing Springs Road, North of Country Club Road and South of Job Corps Road.**

**RE: Stonecrest Subdivision** (Charles Town District / Map 3 / Parcel 9 / approx. 102 Acres)

**#ZV10-01**

Representing Attorney, J. Michael Cassell, advised that the submitted Variance Request arises from special conditions or attributes pertaining to the property, which were not created by his Client, Ms. Stone. Due to Buckeye Development (contracted purchasers of the property), having breached their Contract with the Applicant in early 2009, Ms. Stone was forced to assume project responsibility without the benefit of having Development expertise. Moreover, an extensive Litigation History, the downturn in the current Real Estate Market and the decline of the Economy, in general, have all greatly impacted the project to a negative degree. Accordingly an additional extension of twenty-four months is being requested for accomplishment of the project. Since both the Conditional Use Permit and initial eighteen-month extension were previously approved by the Board of Zoning Appeals, all Zoning requirements have been addressed. A denial of this request would ultimately result in subjecting the Applicant to an enormous financial hardship for (redundant) work.

Public comment was received by Ms. Barbara Humes, with the Elks Run Watershed Committee, who expressed concern regarding the damaging impact on area drinking water. By asking that the Board deny the Request for "positive reasons", she hoped that the Developer would be encouraged to go back to the drawing board, to "think green" and to modify the preliminary plat accordingly.

In response, Attorney Cassell noted Ms. Hume's concerns and advised that water issue matters are typically addressed under the Subdivision Regulations and do not pertain to Conditional Use Permit considerations.

During his presentation, Attorney Cassell specifically referenced a related time-line summary that was included within the content of a Staff Report provided to the Jefferson County Planning Commission at their meeting on June 9, 2009. For the purpose of comparative review, said summary is published on the following page:

**JEFFERSON COUNTY BOARD OF ZONING APPEALS****MARCH 18, 2010****PAGE TWO**

**Staff Report**  
**Jefferson County Planning Commission Meeting**  
**June 9, 2009**  
**Stonecrest Subdivision PC File # 06-35**

<b>PERMIT APPROVALS:</b>	
Health Department	Permit No.: 18,028 (sewer), 18,029 (water)
Dept. of Highways	Permit No.: 5-08-0510
<b>APPROVALS:</b>	
Conditional Use Permit (CUP) <i>(F.K.A. Forest View Subdivision)</i> <b>PC File #Z02-01</b>	Submitted: 02/01/02 Site Assessment Passed: 04/05/02 Neighborhood Compatibility Scheduled: 05/01/02, 09/25/02 Official Neighborhood Compatibility: 01/22/03 Public Hearings Scheduled: 01/22/03, 02/25/03, 03/11/03 Official PH & PC Action: 04/08/03 (approved) Official Issuance Signature: 02/01/07 Expiration Date: 08/01/08 Extension to: 02/01/2010
Community Impact Statement (CIS) <b>PC File #06-35</b>	Submitted: 11/01/06 Staff Review Mtg.: 01/18/02, 11/17/06 County Planner Approval: 3/19/07 County Engineer Approval: 3/20/07 PC Approval: 04/24/07 Expires on: 11/17/09
Preliminary Plat	Submitted: 12/14/07 Staff Review Mtg.: 01/04/08 County Engineer Approval: 07/29/08 County Planner Approval: 07/29/08
Site Plan	N/A
Final Plat	N/A
Variance History	09/28/04 PC approved a tolling of time for 18 months of the CUP to 04/08/06. 03/20/08 BZA granted an extension of the CUP to 02/01/2010. 09/23/08 PC granted a 6-month CIS extension of time to 05/16/09. 05/12/09 PC denied 1-year extension request.
<b>OTHER APPROVALS:</b>	Court Order allowing for a tolling of time for a period of 1,290 days (Case No. 02-C-217) JC DEP Groundwater protection plan approved 01/11/08 JC Addressing approved 04/26/07

**JEFFERSON COUNTY BOARD OF Z ONING APPEALS**

**MARCH 18, 2010**

**PAGE THREE**

- 3. Variance Request, by Christopher L. Rankin, Rankin Properties, LLC from Section 3.2 (g) to allow for an additional 18-month extension of a Conditional Use Permit that will expire on July 11, 2011. Property description: Intersection of Route 480 and Route 45 Bypass - Shepherdstown, WV. RE: Shepherdstown Professional Center (Shepherdstown District / Map 8 / Parcel 8.1 / 3.56 Acres) #ZV10-02**

Owner, Christopher L. Rankin, Rankin Properties, LLC advised that, per prior suggestion from the Board, he is requesting a second eighteen-month extension of a Conditional Use Permit that was recently approved for an initial eighteen-month extension, at the December 17, 2009 Board of Zoning Appeals Meeting. Said extension will expire on July 11, 2011. Mr. Rankin's actual intent was to request thirty (30) months at the December Meeting, as it has been necessary to temporarily postpone the construction on his project due to the current downturn in the economy. However, Staff comment, was offered by Zoning Administrator, Jennifer Snyder, who advised that, per Section 3.2(g) of the Zoning Ordinance, "A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after the evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months." Accordingly, the Board further determined that the matter of requesting additional time could be re-addressed, again, at a future date should Mr. Rankin submit application for a Variance from Section 3.2(g).

Although the present economic climate is still difficult, Mr. Rankin is preparing to move forward with the Shepherdstown development and asks that this additional Request also be granted by the Board, as the stated requirements cannot be accomplished within an eighteen-month period. Financing Institutions, especially, require established time-line verification before funding consideration of a multi-million dollar project. He further advised that the consequences of denying an approval for a second extension would include forced project termination, resulting in a total loss of both his personal finances and the monetary investment of other "players" in this endeavor, some of which are from Berkeley County. It is of great concern to Mr. Rankin. There was no public comment.

In an effort to validate Mr. Rankin's concern, Zoning Administrator, Jennifer Snyder, agreed that usual development processing, disregarding funding prerequisites, would necessitate the requested time-frame.

The following Agenda Items will be addressed upon return from Deliberations:

- 4. Monthly Address presented by Director, Jennifer Brockman, and Status Report by Zoning Administrator, Jennifer Snyder.**
- 5. Legal Update.**
- 6. Vote on written decisions from prior Board of Zoning Appeal Meetings.**
- 7. Correspondence.**

Christy Huddle motioned to go into Deliberative Session at 3:58 p.m. Ed Kelly seconded the motion, which carried with a unanimous vote. Christy Huddle motioned to return from Deliberative Session; Tiffany Hine seconded the motion. The meeting commenced again at 4:15 p.m.

- 2. Variance Request from Section 3.2 (g) to allow for an additional 24-month extension of a Conditional Use Permit that expired on February 1, 2010. Project Name: Stonecrest #ZV10-01**

Noting that all four (4) stated Variance criteria have been met, Ed Kelly motioned to approve the above-

**JEFFERSON COUNTY BOARD OF ZONING APPEALS**

**MARCH 18, 2010**

**PAGE FOUR**

referenced Variance Request without condition. Tiffany Hine seconded the motion, which carried with a unanimous vote.

**3. Variance Request, by Christopher L. Rankin, Rankin Properties, LLC, from Section 3.2 (g) to allow for an additional 18-month extension of a Conditional Use Permit that will expire on July 11, 2011. Project Name: Shepherdstown Professional Center #ZV10-02**

Jon Brusco motioned to approve the above referenced Variance Request without condition. Christy Huddle motioned to amend said to include that the four (4) stated Variance criteria have been met. Tiffany Hine seconded the amended motion, which carried with a vote of unanimous vote.

**4. Monthly Address presented by Director, Jennifer Brockman, and Status Report by Zoning Administrator, Jennifer Snyder.**

Having included the first Staff Report in the monthly packets forwarded to Members, Director, Jennifer Brockman, asked for opinions and/or suggestions from the Board to better assist Staff in providing a more informative report. Responding consensus indicated that said Report was satisfactory as presented.

For the purpose of affording the Public an opportunity to offer input regarding Amendments to Subdivision Regulations, Ms. Brockman advised that four (4) Public Outreach Meetings have been scheduled. Said meetings (as follows), which will address current matters only, will not include the proposal of new ideas.

1. Friday, March 26, 2010 @ 10 am – noon (Location: Planning & Zoning Conference Room).
2. Monday, March 29, 2010 @ 6 pm – 9 pm (Location: Shepherdstown Men’s Club).
3. Wednesday, March 31, 2010 @ 1:30 pm – 3:30 pm (Location: Planning & Zoning Conference Room).
4. Thursday, April 1, 2010 @ 6 pm – 9 pm (Location: Charles Town Library Conference Room)

Zoning Administrator, Jennifer Snyder presented Members with an Activity Report that updated the list of Zoning Certificates that have been issued during the past year. To accommodate a request from Members, future Reports will include a property location description.

**RE:**

**Variance Request by the Board of Trustees of Asbury United Methodist Church, Pastor Kelly Green, to allow for the installation of a full-color, double-faced, LED electronic sign which will replace the current Church sign. Property description: 4257 Kearneysville Pike; Shepherdstown, West Virginia. Article 10, Section 10.2(i) (Shepherdstown District / Map #8 / Parcel: #7.2/ 4.98 acres) #ZV09-13**

Due to several expressed complaints regarding the above-referenced Variance, which was approved by the Board of Zoning Appeals with conditions at their October 15, 2009 meeting, Ms. Snyder advised that Compliance Officer, Mason Carter, has spoken with Pastor Kelly Green who has agreed to make “appropriate adjustments”. A follow-up site inspection, to ensure conformity to the conditions, will also be made.

**8. Legal Update.** None.

**9. Vote on written decisions from prior Board of Zoning Appeal Meetings.**

Assistant Prosecuting Attorney, Stephen Groh, presented Chairman Jeff Bresee for signature, a copy of the Approval of Change of Non-Conforming Use with Condition for the following matter from January 21, 2010:

**JEFFERSON COUNTY BOARD OF ZONING APPEALS**

**MARCH 18, 2010**

**PAGE FIVE**

**Request by HJE Group, LC for a Change in Non-Conforming Use to allow for Vehicle Auto Repair and Sales. Property Location: 15 Willingham Rd; Charles Town, WV.** (Middleway District / Map 20 / Parcel 9.2 / 1.78 acres)

**#ZC09-12**

Having recently driven past the aforementioned subject property, Christy Huddle expressed her concern regarding negative impact to the vicinity due to the “salvage-yard” appearance of the entire area; most specifically, the un-buffered portion facing Route 51. In response, Zoning Administrator, Jennifer Snyder advised that she would discuss the matter with Compliance Officer, Mason Carter, in an effort to further improve the aesthetic appeal of said property.

It was also requested that Attorney Groh provide a Findings of Fact and Conclusions of Law, stating conditions, for the following determination that was made by the Board at their February 18, 2010 meeting.

**Variance Request by DDS, LLP from Section 4.10 – Site Plan Requirements. Project Name: Southern States. Property Location: West of State Route 2 / North of State Route 15; Ranson, WV.**

(Charles Town District / Map 7 / Parcel 9.2 / 8.61 acres)

**#ZV09-19**

**10. Correspondence.** None.

Christy Huddle motioned to adjourn the meeting at 4:38 p.m. Tiffany Hine seconded the motion, which carried with a unanimous vote.

An Audio Transcript of this meeting can be found on CD #\_\_\_\_. Zoning Secretary, Christine Chalmers, prepared these Minutes.

