

**MINUTES**  
**JEFFERSON COUNTY BOARD OF ZONING APPEALS**  
**MAY 20, 2010**

The Jefferson County Board of Zoning Appeals met on Thursday, May 20, 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, Jon Brusco and Alternate, Tyler Quynn. Member, Tiffany Hine was absent with notification. Staff members present were Director, Jennifer Brockman; Zoning Administrator, Jennifer Snyder; Assistant Prosecuting Attorney, Stephen Groh and Zoning Secretary, Christine Chalmers.

Christy Huddle motioned to commence the meeting; Jon Brusco seconded the motion. Chairman, Jeff Bresee, called the Meeting to order at 3:00 p.m.

**1. Approval of Minutes from the April 15, 2010 Meeting.**

Chairman Bresee requested a motion for approval of the April Minutes. Christy Huddle motioned to approve the Minutes from the April 15, 2010 Meeting, as presented. Tyler Quynn seconded the motion, which carried with a unanimous vote. Member, Jon Brusco, abstained from voting due to his absence at the April Meeting.

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

**2. Property Owner, Sherry Weaver, is requesting a Variance from stated setbacks which would afford an additional 6' of building space to allow for the construction of 12' x 18' rear deck. Property location: 236 Monte Carlo Way; Charles Town, WV. (Charles Town District / Map 9C / Parcel 3). #ZV10-04**

Applicant/Owner, Sherry Weaver advised that due to Subdivision setback stipulations, she is only afforded a 6' wide area to accommodate a rear deck, which she believes is not adequate outdoor living space. Granting an increase of an additional 6' would allow for the construction of a 12' x 18' deck, which is a more user-friendly family space, as opposed to just a "balcony". Ms. Weaver further advised that because a two-story berm is situated to the rear of her Townhouse, no neighbor or business will be adversely affected by allowing construction of the requested deck size. Also addressing the Board, Zoning Administrator, Jennifer Snyder, further confirmed that the area immediately behind Ms. Weaver's Townhouse was comprised of a Commercial component, not residential. Moreover, she also advised that a deck is permitted 4' into the rear setback and stated that Staff had no issue with the Applicant's request. There was no public comment.

**3. Special Exception Request by Applicant, PNGI – Charles Town Gaming, LLC, to allow for the installation of a sign which would direct traffic traveling north/southbound on Route 9 to the Facility. Article 10, Section 10.5 (Charles Town District / Map 8 / Parcel 3) #ZC10-05**

Speaking on behalf of the Applicant, Attorney Peter Chakmakian, advised that the Charles Town Gaming, LLC owns a small (approximately 0.6 acres) triangular shaped parcel of land within the County, left as an "uneconomic remnant" after the Route 9 Bypass was built. Said property is bordered by Fifth Avenue on the northwest side, Route 9 South on the eastern side and the Holiday Inn Express on the southern side. The Applicant would like to place a sign, directing both north/southbound traffic traveling on Route 9 to the main entrance of Charles Town Races & Slots facilities, located on Washington Street. The original Building Permit application was rejected in July 2009 by the Staff, because they considered it an 'off-site' directional sign. However, since this parcel is still considered "part of (P/O)" parcel 3 on Tax Map 8 in the Charles Town Tax District by the Jefferson County Assessor, it is recognized as Race Track property. Said sign will not exceed the typical Ordinance standards for an 'on-site' freestanding sign and closely resembles the other signs in the area, in terms of form and proportions to the surroundings. Moreover, it will be under the maximum 300 sq. ft.

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sign face allowance and will be well under the maximum height restriction, at only 30' high (per Section 10.4(c)). The primary color will be black with light lettering and will have a blue directional space at the bottom. Since the Facility operates twenty-four hours a day, though it will not flash, the sign will be "back-light" illuminated at night. Because the speed limit on Route 9 is sixty miles per hour, it is important that the intended task of identification be accomplished without causing distractions to motorists traveling on Route 9. Due to noted public complaints concerning the lack of directional signage, Ms. Dee Mara (representing PNGI) also offered clarification of the intent. With regard to State Law approval, representatives from the State Division of Highways have met on the property and have advised the Applicant that the Regulations require that a Zoning Certificate be issued prior to submitting for a State Highway permit, which can be a difficult process. Accordingly, as the Standards of said Provision required for approval have been appropriately addressed (as stated), the Applicant is respectfully requesting that the Board of Zoning Appeals grant the Special Exception for this sign, per Article 10, Section 10.5, as follows:

Special Exception Uses

"Outdoor advertising signs including billboards may be approved by the Board of Zoning Appeals if it **conforms to existing State Law** and **does not have a negative affect (sic) on the neighborhood or intent of this Ordinance.**"

Board Members were provided with an email correspondence for review, from Mr. Gil Garcia, who expressed his disapproval of the sign installation. There was no additional public comment.

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 3:40 p.m. Jon Brusco seconded the motion, which carried with a unanimous vote. Tyler Quynn motioned to return from Deliberative Session; Ed Kelly seconded the motion. The meeting commenced again at 3:55 p.m.

- 2. Variance Request by property owner, Sherry Weaver, from stated setbacks which would afford an additional 6' of building space to allow for the construction of 12' x 18' rear deck. Property location: 236 Monte Carlo Way; Charles Town, WV. (Charles Town District / Map 9C / Parcel 3). #ZV10-04**

Jon Brusco motioned to approve the above referenced Variance Request without condition. Christy Huddle seconded the motion which carried with a unanimous vote.

- 3. Special Exception Request by Applicant, PNGI – Charles Town Gaming, LLC, to allow for the installation of a sign which would direct traffic traveling North / Southbound on Route 9 to the Facility. Article 10, Section 10.5 (Charles Town District / Map 9C / Parcel 3) #ZC10-05**

Chairman, Jeff Bresee, advised that it is the conclusion of the Board that the small triangle section of land referenced in the application is a part of the Race Track property as evidenced. That being established, it was

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also determined that a Special Exception Request is not required. Instead, the Applicant was instructed to reapply for a Freestanding Business sign permit. Accordingly, for the purpose of clarification Zoning Administrator, Jennifer Snyder, stated that she would inform the Permit Department to that effect. It was further decided that said Special Exception Request will be continued/readdressed at the June 17th Board of Zoning Appeals Meeting, at which time affirmation of a satisfactory resolution is anticipated.

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

Director, Jennifer Brockman advised that after working on Subdivision Regulation amendments with the Planning Commission since November 2009, she is hopeful that these initial revisions will be available for County Commission review next week. Although Policy matters are not addressed in this “first round”, said revisions pertain to the following:

- a. ensure that the new Subdivision Regulations are compatible with the current (original) Zoning Ordinance.
- b. ensure that the new Subdivision Regulations are in conformance with current State Law.
- c. language related changes.

Making specific reference to BZA matters which appear to be obscured under the “CUP” section, Ms. Brockman further advised that it is the intent to establish a separate section for items pertaining to the Board of Zoning Appeals. She also informed the Board that the next phase of the process will address more major “stand-alone” amendments, and suggested that a joint meeting of both the Board of Zoning Appeals and Planning Commission for the purpose of discussion may prove beneficial. Vice-chairman, Christy Huddle, expressed her concern regarding environmental protection issues; in particular, the Elks Run Watershed. Currently, the Riparian Buffer encompasses all matters of environment protection.

In closing, Ms. Brockman introduced to the Board, Julie Quodala, who was recently hired by the Departments of Planning and Zoning as the Office Manager. Ms. Quodala was warmly welcomed.

Zoning Administrator, Jennifer Snyder, directed Members attention to the monthly Activity Report, which she reviewed in detail with the Board.

**8. Legal Update.**

Assistant Prosecuting Attorney, Stephen Groh, provided update on the following matters:

- a. Re: Thorn Hill Appeal. Although said Appeal, concerning the water/sewer Lesa point system score, had originally been scheduled for consideration by the Board of Zoning Appeals Meeting at their July 17<sup>th</sup> Meeting, Assistant Prosecuting Attorney, Stephanie Grove (Legal Council for the case), requested additional time to allow for further research/review. Zoning Administrator, Jennifer Snyder, advised that she had spoken with Owner, Herb Jonkers, who expressed his desire to maintain the original date. Staff is currently awaiting direction from Attorney Grove regarding this matter.
- b. Re: Faraway Farms. Action required currently not applicable to the Board of Zoning Appeals.

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Additional discussion related to the recent actions of the West Virginia State Legislature, identified as Senate Bill 595, which extends application processing deadlines related to Subdivision Land Development Plats until July 1, 2012.

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

**Variance Request from Section 4.11 (a) which would allow for the removal of the required 15' Landscape Side Buffer from the approved Site Plan. Property location: Bakerton Fire Department; 891 Carter Avenue; Harpers Ferry, West Virginia #ZV10-01**

Assistant Prosecuting Attorney, Stephen Groh provided a Findings of Fact and Conclusions of Law, stating conditions, for the determination that was made by the Board at their April 15, 2010 meeting. Said document was approved by signature of Chairman, Jeff Bresee.

**10. Correspondence.** None

Christy Huddle motioned to adjourn the meeting at 4:27 p.m. Jon Brusco 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.

