

MINUTES
JEFFERSON COUNTY BOARD OF ZONING APPEALS
SEPTEMBER 16, 2010

The Jefferson County Board of Zoning Appeals met on Thursday, September 16, 2010 at 3:00 p.m., in the upper level Conference Room of the Departments of Planning & Zoning. Members Christy Huddle, Vice Chairman; Tiffany Hine, Ed Kelly and Alternate, Tyler Quynn were present. Staff members present were Zoning Administrator, Steve Barney; Assistant Prosecuting Attorney, Stephen Groh and Zoning Clerk, Jennilee Hartman.

Members Jeff Bresee, Chairman, and Jon Brusco were absent with notification.

Ms. Hine motioned to commence the meeting. Mr. Kelly seconded the motion. Vice Chairman Huddle called the meeting to order at 3:02 p.m.

Christine Chalmers, Office Assistant, swore in individuals who indicated they would be giving testimony.

1. Approval of Minutes from the August 19, 2010 meeting.

Mr. Kelly motioned to approve the minutes with the following change:

- a. Page 2, Item #4, strike the sentence, *“Due to the fact that the slab is not attached to the home it was determined that the request is necessary.”*

Ms. Hine seconded the motion, which carried unanimously.

2. Continued from the July 15, 2010 meeting. Variance Request by property owner, Eli F. Sizemore, Jr., from Article 9, Section 9.7 to reduce the side setback distance from 8’ to 3’ to allow for the encroachment of an existing shed into the setback area. Property location: Westridge Hills Subdivision, 364 Mt. Top Trail, Harpers Ferry, WV. (District: Harpers Ferry, Map: 13K, Parcel: 641, Zoned: Rural, File: #ZV10-09)

Mr. Sizemore was present to address the Board. Mr. Barney informed the Board that because the staff had determined that the structure crossed the rear property line of Mr. Sizemore’s adjacent parcel that the required setbacks increased from 8’ to 10’. Discussion ensued regarding whether the deck in between the house and shed would not result in the shed being considered “attached.”

Ms. Huddle called for public comment. There was no public comment.

3. Variance Request by property owners, Newell F. and Carolyn E. Block from Article 5, Section 5.7(b) to reduce the rear setback distance from 50’ to 25’ to allow for the construction of a residential dwelling unit with an attached garage. Property location: Michael D. & Malisa K. Pindell Minor Subdivision, Lot 2, Kabletown, West Virginia. (District: Kabletown, Map: 9, Parcel: 4.2, Zoned: Rural, File: #ZV10-15)

Newell Block, applicant, presented the request. Mr. Block explained that if the request is granted the proposed RV garage would be built with the natural slope of the property, thus giving the appearance of a 10 foot wall as opposed to a 15 foot wall. Ms. Huddle called for public comment. There was no public comment.

4. Variance Request by property owners, Mark and Heather Einreinhof from Article 9, Section 9.5(a) to reduce the rear setback distance from 20' to 15' to allow for the construction of a 10' x 20' deck. Property location: Windmill Crossing Subdivision, 36 Don Quixote Drive, Charles Town, West Virginia. (District: Charles Town, Map: 9C, Parcel: 112, Zoned: Residential-Light Industrial-Commercial, File: #ZV10-16)

Heather Einreinhof, applicant, presented the request. Ms. Einreinhof explained that her house was the end unit and that there were no neighbors in the rear of her property. Ms. Huddle called for public comment. There was no public comment.

5. Variance Request by property owner, Dipika Mara from Article 9, Section 9.6(a) to reduce the side and rear setback distances from 12' to 5' to allow for the construction of a 15' x 15' shed. Property location: Glenn Meadows Subdivision, 57 Heritage Drive, Shepherdstown, West Virginia. (District: Shepherdstown, Map:13F, Parcel: 54, Zoned: Residential Growth, File: #ZV10-17)

Dipika Mara, applicant, presented the request. Ms. Mara provided the Board with a letter in support of the variance from her neighbor. Mr. Quynn asked if trees would need to be removed for the placement of the shed in the proposed location. Ms. Mara stated that trees would not need to be removed. Ms. Huddle called for public comment. There was no public comment.

6. Variance Request by property owner, Fellowship Bible Church from Article 4, Section 4.10 to waive the site plan requirements to allow the temporary placement of one 14' x 55' modular classroom and one 28' x 55' modular classroom until Phase II is completed. Property location: 160 Daniel Road, Shenandoah Junction, West Virginia. (District: Charles Town, Map: 3, Parcel: 4.5, Zoned: Rural, File #ZV10-18)

Richard Beddow, property manager, presented the request. Ms. Huddle asked when the second phase was to be built. Mr. Beddow stated the completion of Phase II was contingent upon donations and that the church could not estimate a timeframe. Mr. Barney stated the original site plan for the church was approved in 2005 and that the parking and storm water requirements for the entire project were included in the first phase of construction. Ms. Huddle called for public comment. There was no public comment.

7. Variance Request by property owner, John Orem with Orem Inc., from Article 4, Section 4A.3 (a) and (k) to allow a cottage industry within the Hidden River Subdivision and to allow the existing tenant to maintain the business. The proposed use is to consist of an internet based business to operate primarily from an existing 24' x 36' detached garage with an office located within the home. Property location: Hidden River Subdivision, 1017 Wide Horizon Blvd., Kearneysville, West Virginia. (District: Middleway, Map: 13, Parcel: 99, Zoned: Rural, File: #ZV10-19)

John Orem, applicant, presented the request. Mr. Orem explained the nature of the business and the extent of the traffic. Larry McDaniel, tenant and employee, addressed the Board. Mr. McDaniel stated the two trailers on the property are for sale. Mr. McDaniel informed the Board that the Homeowners' Association was not active. Ms. Huddle called for public comment. Curtis Lilla, neighbor, stated that the business is currently using River Bend Road for access. Mr. Lilla explained the condition of River Bend Road and that he shares the cost of maintenance with his neighbors. Mr. Lilla also expressed his concern for the safety of the children that get on and off the bus on

River Bend Road and stated that the contractors that come from the business are not mindful of the children. Mr. Lilla stated he preferred the business access off of Wide Horizon Boulevard. Mr. Orem and Mr. McDaniel stated they could restrict the traffic to Wide Horizon Boulevard. Mr. McDaniel also stated he could help share the cost of the maintenance of River Bend Road if that were the preferable option.

Chastidy Shewbridge Bender, unsworn neighbor, expressed her concern of the business expanding, thereby increasing the amount of traffic. Mr. Orem stated he would follow all of the regulations regarding a Cottage Industry, for which traffic is limited to 12 trips per day.

Ms. Hine motioned to go into deliberative session. Mr. Quynn seconded the motion, which carried unanimously. The Board went into deliberative session at 4:16 p.m.

Ms. Hine motioned to come out of deliberative session. Mr. Quynn seconded the motion, which carried unanimously. The Board resumed the regular meeting at 4:47 p.m.

Board of Zoning Appeals Rulings

2. Continued from the July 15, 2010 meeting. Variance Request by property owner, Eli F. Sizemore, Jr., from Article 9, Section 9.7 to reduce the side setback distance from 8' to 3' to allow for the encroachment of an existing shed into the setback area.

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

3. Variance Request by property owners, Newell F. and Carolyn E. Block from Article 5, Section 5.7(b) to reduce the rear setback distance from 50' to 25' to allow for the construction of a residential dwelling unit with an attached garage.

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

4. Variance Request by property owners, Mark and Heather Einreinhof from Article 9, Section 9.5(a) to reduce the rear setback distance from 20' to 15' to allow for the construction of a 10' x 20' deck.

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

5. Variance Request by property owner, Dipika Mara from Article 9, Section 9.6(a) to reduce the side and rear setback distances from 12' to 5' to allow for the construction of a 15' x 15' shed.

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

6. Variance Request by property owner, Fellowship Bible Church from Article 4, Section 4.10 to waive the site plan requirements to allow the temporary placement of one 14' x 55' modular classroom and one 28' x 55' modular classroom until Phase II is completed.

Ms. Hine motioned to approve the above referenced variance request for a period of 24 months from the date of issuance of the first building permit with the understanding that the applicant may request additional time as needed. Mr. Kelly seconded the motion, which carried unanimously.

7. Variance Request by property owner, John Orem with Orem Inc., from Article 4, Section 4A.3 (a) and (k) to allow a cottage industry within the Hidden River Subdivision and to allow the existing tenant to maintain the business. The proposed use is to consist of an internet based business to operate primarily from an existing 24' x 36' detached garage with an office located within the home.

Mr. Quynn motioned to approve the above referenced variance request with two conditions, 1) the traffic generated by the business use Wide Horizon Boulevard; and, 2) the applicant abide by all other requirements as set forth under Section 4.A3, Cottage Industry. Ms. Huddle seconded the motion, which carried unanimously.

8. Monthly Address by Director Jennifer Brockman. Due to the fact that Ms. Brockman was absent from the meeting Mr. Barney informed the Board of the following:

- The Green Infrastructure Conference at NCTC.
- The Tree Canopy grant moving forward with the cities of Ranson and Charles Town.
- A meeting to be held with the Mayor of Harpers Ferry regarding the Urban Growth Boundary.
- Announced meeting dates for the Blue Ridge Mountain Study.
- Update on the draft Cell Tower Ordinance Amendments.

9. Legal Update. None.

10. Vote on written decisions from prior Board of Zoning Appeal meetings.

Ms. Hine motioned to allow Ms. Huddle to sign the Findings of Fact and Conclusions of Law in Mr. Breese's absence. Mr. Kelly seconded the motion, which carried unanimously.

- a. Findings of Fact and Conclusions of Law for ZC10-10.
Mr. Kelly motioned to approve the above referenced document. Ms. Hine seconded the motion, which carried unanimously.
- b. Findings of Fact and Conclusions of Law for Z10-01.
Ms. Hine motioned to approve the above referenced document with the removal of the word "to" in the second paragraph. Mr. Quynn seconded the motion, which carried unanimously.
- c. Findings of Fact and Conclusions of Law for Z10-02.

Ms. Hine motioned to approve the above referenced document with the removal of the word “to” in the second paragraph. Mr. Kelly seconded the motion, which carried unanimously.

11. Correspondence. None.

Ms. Hine motioned to adjourn the meeting 4:44 p.m. Mr. Kelly seconded the motion, which carried unanimously.

An audio transcript of this meeting can be found on CD #__ & __. These minutes were prepared by Jennilee Hartman, Zoning Clerk.