

**MINUTES**  
**JEFFERSON COUNTY BOARD OF ZONING APPEALS**  
**APRIL 16, 2009**

The Jefferson County Board of Zoning Appeals met on Thursday, April 16, 2009 at 3:00 p.m., at the Charles Town Library Meeting Room. Members present were as follows: Vice Chair, Christy Huddle, Edwin Kelly, Tiffany Hine, Jeff Bresee and Alternate Member, Jon Brusco. Staff members present were Acting Zoning Administrator, Jennifer Snyder; Assistant Prosecuting Attorney, James Casimiro; and Zoning Secretary, Christine Chalmers. Chairman, Tom Trumble; and Acting Director, Kirk Davis, were both absent with notification.

Ed Kelly motioned to commence with the meeting; Tiffany Hine seconded the meeting. Accordingly, the meeting was called to order by Vice Chairman, Christy Huddle, at 3:00 p.m.

**1. Minutes.**

Ed Kelly motioned to approve the Minutes from the March 19, 2009 meeting, after making a correction to his name in the first line of Agenda Item #1, changing it from Ed Kelly Huddle. Jeff Bresee seconded the motion which carried with a unanimous vote.

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

**2. Variance Request by Property Owners, Mark Mayo and Angela Blair to reduce the front setback distance from 20' to 5' to allow for the construction of a one-level, detached, two car garage.**

**Property description: 126 Valmont Lane; Harpers Ferry, West Virginia. Article 9, Section 9.7.**

(Harpers Ferry District / Map 12B / Parcel 89 / Lot Size: 0.78 acres).

**#ZV09-02**

Applicant, Mark Mayo, is requesting the above referenced setback distance reduction, due to the severely sloped topography of his property and septic system placement, which limits his site choice. The only alternative would be an area situated at the lower end of the property, closest to his neighbor. However, that location is inconvenient, will require the clearing of many established trees, and would necessitate an altered access route. In contrast, the proposed position minimizes tree removal, building costs and provides for logical situation of the structure. Moreover, the placement area faces a section of the road that remains undeveloped, with no future plans for expansion. Mr. Mayo did advise the Blue Ridge Acres Civic Association of his intent at their meeting in February; there was no opposition to his proposal. There was no public comment.

**3. Variance Request by Property Owners, Ben Shankle and Jennifer Brome, to reduce the rear setback distance from 20' to 16' to allow for the construction of a rear deck. Property description: 100 Monte Carlo Way; Charles Town, WV. Article 9, Section 9.7.** (Charles Town District / Map 9C / Parcel 148) **#ZV09-03**

Owner, Ben Shankle, advised that he is requesting a four-foot reduction of the setback distance to allow for construction of a rear deck (10' in depth), off the second floor of his townhouse. Since the units are staggered, each is offset by two-foot, thus the proximity of Mr. Shankle's townhouse is nearer to the rear property line than any other in the community. Accordingly, he has been adversely affected by limitations not applicable to most other residents. The proposed structure will be self-contained, well maintained and attractive and would be situated sixteen foot from the rear property line and adjacent field. As said field is zoned commercial, there are no future plans for additional residential units to be built on that property. There was no public comment.

**4. Variance Request by Property Owner, Marc Saccucci, for a 40 sq. ft. reduction to a corner of the rear setback distance to allow for the construction of an addition to the rear of an existing home. Property description: 290 Maddex Drive; Shepherdstown, West Virginia. Article 9, Section 9.7.**

(Shepherdstown District / Map 8C / Parcel 227 / Lot Size: 0.196 acres)

**#ZV09-04**

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Due to the angled building line restriction of his unusual shaped property, Applicant Mark Saccucci, is requesting that a small total reduction area to a corner of the rear setback distance be granted, to accommodate the design specifications of a two-story addition to the rear of his existing home. Since moving is not an option under the current poor market conditions, in an effort to meet the growing needs of his family, construction of said addition would eliminate their hardship by providing the required extra space. The proposed addition will match architectural characteristics and will be similar in design to the current existing neighborhood homes. The location of this addition was dictated by placement of existing structures to include a deck, patio and in-ground propane tank. Moreover, Mr. Saccucci also advised that he was purchasing the rear adjoining property, so visual impact will be minimal, as only a small triangular area of the structure will exceed the setback limits. In a show of support, a letter from William and Sheila Hennessy, the neighbors most impacted by the Variance is attached. There was no public comment.

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

- 5. Status Report by Acting Zoning Administrator, Jennifer Snyder.**
- 6. Legal Update.**
- 7. Vote on written decisions from prior Board of Zoning Appeal Meetings.**
- 8. Correspondence.**

Jeff Bresee motioned to go into/return from Deliberative Session at 3:15 p.m. Tiffany Hine seconded the motion, which carried with a unanimous vote. The meeting commenced again at 3:20 p.m.

- 2. Variance Request by Property Owners, Mark Mayo and Angela Blair to reduce the front setback distance from 20' to 5' to allow for the construction of a one-level, detached, two car garage.**

With regard to the above referenced Variance, Ed Kelly motioned to approve the Request, without condition. Jeff Bresee seconded the motion, which carried with a unanimous vote.

- 3. Variance Request by Property Owners, Ben Shankle and Jennifer Brome, to reduce the rear setback distance from 20' to 16' to allow for the construction of a rear deck.**

With regard to the above referenced Variance, Jeff Bresee motioned to approve the Request without condition. Tiffany Hine seconded the motion, which carried with a unanimous vote.

- 4. Variance Request by Property Owner, Marc Saccucci, for a 40 sq. ft. reduction to a corner of the rear setback distance to allow for the construction of an addition to the rear of an existing home.**

With regard to the above referenced Variance, Jon Brusco motioned to approve the Request without condition. Tiffany Hine seconded the motion, which carried with a unanimous vote.

- 5. Monthly Address from Acting Director, Kirk Davis and Status Report by Acting Zoning Administrator, Jennifer Snyder:**

Acting Zoning Administrator, Jennifer Snyder, informed the Board that no Zoning Certificates had been issued during the past month. She also advised that the Wata-Wings Restaurant was no longer operating in violation, and that the Southern States Zoning Certificate request was still pending. She further stated that the County Commission had just announced the appointment of Jennifer Brockman to the position of Director for the Departments of Planning and Zoning; details were unavailable. No other matters were presented for discussion.

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**6. Legal Update.**

Assistant Prosecuting Attorney James Casimiro reported on the following matters:

- Re: Rattling Springs. The Findings of Fact and Conclusions of Law regarding the Board of Zoning Appeals Variance denial was approved by signature of Board Chairman, Tom Trumble, and forwarded to the Applicant, prior to the thirty day cut-off period.
- Re: Thorn Hill. Attorney Richard Gay was appointed to the case after Mike Cassell was disqualified as Legal Counsel. In essence, the matter is back to square one again.
- Cliffside Inn Appeal. Mr. Casimiro has forwarded an order to Representing Attorney, Peter Chakmakian, and is ultimately expecting a dismissal of the matter.
- Re: Advance Pest Control. Although the Board of Zoning Appeals denial of a Variance submitted by Advance Pest Control is under appeal, an anticipated lot merge should afford a resolution to the matter.
- Re: Far Away Farms. The Community Impact Statement (CIS) matter, which was heard by the Planning Commission on Tuesday night (4-14) remains unresolved due to a 3-3 deadlocked vote.
- Re: Arcadia Lawsuit. Currently, no action reported.
- Re: Conditional Use Permits. With regard to this matter, Mr. Casimiro advised that the Appeal of Judge Steptoe's Ruling, currently before the State Supreme Court, is still pending.
- Re: Zoning Ordinance Referendum. It was noted that the County Commission will hold a Public Hearing on Tuesday, April 21, 2009 at 7:00 p.m. The purpose of this meeting is to seek public assistance on determining and setting a date for the vote on the Zoning Ordinance.

**7. Vote on written decisions from prior Board of Zoning Appeal Meetings.** None.

**8. Correspondence.** None.

Ed Kelly motioned to adjourn the meeting at 3:31 p.m. Jon Brusco seconded the motion, which carried with a unanimous vote.

Audio Transcript of this meeting can be found on CD #23.  
Zoning Secretary, Christine Chalmers, prepared these Minutes.