

MINUTES
JEFFERSON COUNTY BOARD OF ZONING APPEALS
JUNE 18, 2009

The Jefferson County Board of Zoning Appeals met on Thursday, June 18, 2009 at 3:00 p.m., at the Charles Town Library Meeting Room. Members present were as follows: Tiffany Hine, Edwin Kelly, and Jeff Bresee. Staff members present were Acting Zoning Administrator, Jennifer Snyder; Assistant Prosecuting Attorney, James Casimiro; and Zoning Secretary, Christine Chalmers. Vice Chair, Christy Huddle and Alternate Member, Jon Brusco were both absent with notification. Tom Trumble, who had resigned from his position as Chairman to serve on the Planning Commission, was also not seated on the Board.

Tiffany Hine, who was selected to head the June Meeting, called it to order at 3:00 p.m.

1. Minutes.

Ed Kelly motioned to approve the Minutes from the May 21, 2009 meeting, without correction. Jeff Bresee seconded the motion, which carried with a unanimous vote.

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

Prior to addressing the Meeting Agenda, Ms. Hine permitted former Chairman, Tom Trumble, the opportunity to formally pay his respects to the Members of the Board, in a gracious speech. He will be greatly missed.

An Election of Officers will occur at the July Meeting.

2. Request by Gates Associated, Inc. / Aspen Greens for an eighteen-month extension of the Conditional Use Permit from June 20, 2009 until December 20, 2010.

In requesting the aforementioned extension, Representing Attorney, Patrick Henry, made reference to the following Minutes from the December 20, 2007 Board of Zoning Appeals Meeting:

3. Request by Aspen Greens Subdivision (Z02-06) for an extension of the Conditional Use Permit.

Ms. Hine motioned to grant the above referenced request by Aspen Greens Subdivision for an extension of the Conditional Use Permit, in the amount of eighteen (18) months. Ms. Huddle seconded the motion, which carried unanimously. Mr. Bresee further moved that Staff provide a signed Conditional Use Permit to the Applicant by 5:00 p.m., thus recognizing today's issuance as the effective commencement date of the eighteen (18) month time period for process completion, to conclude on June 20, 2009. At that date, should additional time be deemed necessary to finish the project, the Applicant would then be eligible to request a one-time eighteen (18) month extension from the Board of Zoning Appeals, as provided by the Ordinance. Ms. Hine seconded the motion, which carried unanimously.

Accordingly, Attorney Henry advised that granting the Request for an extension satisfies the terms stated within said Minutes and eliminates an unnecessary hardship to the Applicant.

Public comment was expressed by Veterinarian, Pat Masters, whose inquiry regarding the proposed Elementary School slated to provide educational service for the communities of Aspen Greens, Stonecrest, Daniels Forest, and Breckenridge was not a subject of discussion at this meeting. There was no additional public comment.

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

- 3. Monthly Report, presented by Acting Zoning Administrator, Jennifer Snyder.**
- 4. Legal Update.**
- 5. Vote on written decisions from prior Board of Zoning Appeal Meetings.**
- 6. Correspondence.**

Jeff Bresee motioned to go into/return from Deliberative Session at 3:10 p.m. Ed Kelly seconded the motion, which carried with a unanimous vote. The meeting commenced again at 3:16 p.m.

2. Request by Gates Associated, Inc. / Aspen Greens for an eighteen-month extension of the Conditional Use Permit from June 20, 2009 until December 20, 2010.

Jeff Bresee motioned for the BZA to approve the Request as referenced, with the requisite that the Zoning Administrator provide the Applicant with written confirmation stating the effective date of issuance, in an effort to alleviate confusion regarding the extension. He further amended the motion to include that the approved request be noted as a "first extension", per the Applicant. Ed Kelly seconded the amended motion, which carried with a unanimous vote.

Property Owner, Fred Gates, respectively requested of the Board, a moment to voice his concern regarding the Utility issues within the County.

3. Monthly Report, presented by Acting Zoning Administrator, Jennifer Snyder.

Acting Zoning Administrator, Jennifer Snyder, informed the Board that the new Director, Jennifer Brockman, who was in Colorado orchestrating her family's move, would be present at the July Meeting. As requested, a copy of Ms. Brockman's Resume was forwarded to the Members for review in their June Packets. Ms. Snyder also advised that the Departments of Planning and Zoning have completed their move to the second floor suites of the Mason Building (former Sheriff's Office), located at 116 East Washington Street in Charles Town.

Further, in response to the aforementioned concerns expressed by Mr. Gates, Ms. Snyder advised that the Public Service District had scheduled a meeting on June 25th at 7:00 p.m., for the purpose of addressing the Flowing Springs Road issues. Said meeting is to include a public comment session.

4. Legal Update.

Assistant Prosecuting Attorney James Casimiro reported on the following matters:

- Re: Cliffside Inn. The case is Officially Dismissed.
- Re: Advanced Pest Control. The case is Officially Dismissed.
- Re: Thorn Hill. The case is still pending.

Mr. Casimiro also distributed a Memo, composed by Prosecuting Attorney, Ralph A. Lorenzetti, advising that he will be relocated to the Magistrate Judicial Building to take over the Juvenile Docket. Accordingly, Assistant Prosecuting Attorney, Stephen Groh has been reassigned as Legal Council for the Board of Zoning Appeals, Planning Commission and the Probate Office. Members of the Board expressed their appreciation of Attorney Casimiro's service and extended their Best Wishes with his new duties. He, too, will be missed.

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

Assistant Prosecuting Attorney James Casimiro provided the Board with the Finding of Facts and Conclusions of Law from the May 21, 2009 Variance Request Rulings for approval, as follows:

Variance Request by Dan Ryan Builders, to build a new Sales Model in “The Preserve at Barleywood” Subdivision, on Lot #12, which will replace an existing Model Home and will be converted into a residential unit within 36 months. Article 4, Section 4.18.

(Charles Town District / Map 6 / Parcel 6)

#ZV09-06

Jeff Breesee motioned to adopt said Finding of Facts and Conclusions of Law for the above referenced Variance, as submitted. Ed Kelly seconded the motion which carried unanimously.

Variance Request by Property Owner, James D. Santos to reduce the side setback distance from 12’ to 8’ to allow for the construction of an addition to an existing home. Property description: 871 Tusawilla Drive; Charles Town, West Virginia. Article 9, Section 9.7.

(Charles Town District / Map 11A / Parcel 108 / Lot Size 0.39 acres)

#ZV09-05

Jeff Breesee motioned to adopt said Finding of Facts and Conclusions of Law for the above referenced Variance, as submitted. Ed Kelly seconded the motion which carried unanimously.

6. Correspondence. None.

Jeff Breesee motioned to adjourn the meeting at 3:26 p.m. Ed Kelly seconded the motion, which carried with a unanimous vote.

Due to technical difficulty with the Webcam, there was no video recording of this meeting. An Audio Transcript of this meeting can be found on CD # 34. Zoning Secretary, Christine Chalmers, prepared these Minutes.