

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

The Jefferson County Board of Zoning Appeals met on Thursday, July 16, 2009 at 3:00 p.m., at the Charles Town Court House Meeting Room, as the County Commission was occupying the Library Conference Room. Members present were as follows: Vice Chairman, Christy Huddle; Edwin Kelly, Jeff Bresee and Jon Brusco. Staff members present were new Director, Jennifer Brockman. Acting Zoning Administrator, Jennifer Snyder; newly assigned Assistant Prosecuting Attorney, Stephen Groh; and Zoning Secretary, Christine Chalmers. Tiffany Hine was absent with notification.

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

**1. Election of Officers**

Ed Kelly motioned to nominate Jeff Bresee for the position of Chairman, replacing Tom Trumble, who is now a Member of the Planning Commission. Christy Huddle seconded the motion, which carried unanimously.

As his first official act, Chairman Bresee recognized (former Alternate) Jon Brusco as a newly appointed voting Member, and welcomed him to the Board in that capacity.

**2. Minutes.**

Due to the lack of available Members who had attended the June 18<sup>th</sup> meeting (Jon Brusco and Christy Huddle abstained from voting), Jeff Bresee motioned to defer consideration of said Minutes until the August 20<sup>th</sup> Meeting. He further amended the motion to include that written confirmation, stating the effective date of issuance for the extension, was provided to the Applicant, Fred Gates, as requested (copy attached). Ed Kelly seconded the motion, which carried with a unanimous vote. Ed Kelly advised that he would be unable to attend the August Meeting, but could be contacted by phone for the purpose of voting, if necessary.

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

**3. Variance Request by property owners, Martin and Helen Broadhurst, for a six-foot reduction of the rear setback distance, from 20' to 14', to allow for the construction of a replacement for an existing detached garage. Property description: 136 Fairmont Avenue, Shepherdstown, WV.**

**Article 9, Section 9.7.** (Shepherdstown District / Map: #8B / Parcel: #47/ Lot Size: 20,605 sq.ft.) **#ZV09-07**

Property Owner, Martin Broadhurst, advised that the existing (tin) garage, originally built in the 1920's, is situated approximately 14' from a public alley right-of-way, also considered as a (second) property front. Since the current code requires a minimum setback distance of 20', he is requesting a 6' reduction. Mr. Broadhurst further states that although he anticipates an increased height (couple feet) to the structure, granting the request would not adversely affect the public as the alley is unused and mostly grass covered and the adjacent neighbors, who are residents of Lowe Garden Apartment, are separated from the existing/proposed garage by trees, which obstructs their view. Accordingly, in addition to increasing safety and aesthetically enhancing the property, replacing the garage on the current foundation does not change the present land use and minimizes construction costs for the owners. There was no public comment.

**4. Variance Request by property owners, Jeremy and Emily Major, for a two-foot reduction of the rear setback distance, from 20' to 18', to allow for the construction of an extension to an existing rear deck. Property description: 115 Monte Carlo Way; Charles Town, West Virginia.**

**Article 9, Section 9.7.** (Charles Town District / Map #9C / Parcel: #75 / Lot Size: .04 acres) **#ZV09-08**

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Owner, Emily Major, advised that even though the Builder of their townhouse was originally issued an approved permit for the construction of a 7'6" wall-to-wall rear deck, since the units are staggered by two-foot offsets, due to setback restrictions the deck could only be extended 5'6". Accordingly, for the purpose of affording more space for their family of four, Ms. Major is requesting a 2' reduction to the current 20' setback distance, which would allow for an increased area of use. Acting Zoning Administrator, Jennifer Snyder, who advised that a deck is permitted 4' into the rear setback if it is not wider than 10', stated that Staff had no issue with the Applicant's request. There was no public comment.

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

- 5. Introduction and Monthly Address, presented by new Director, Jennifer Brockman; and 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.**

Christy Huddle motioned to go into/return from Deliberative Session at 3:10 p.m. Jon Brusco seconded the motion, which carried with a unanimous vote. The meeting commenced again at 3:13 p.m.

- 3. Variance Request by property owners, Martin and Helen Broadhurst, for a six-foot reduction of the rear setback distance, from 20' to 14', to allow for the construction of a replacement to an existing detached garage.**

Ed Kelly motioned to approve the Request as referenced; Christy Huddle, who amended the motion to include that the Variance be considered a change to a non-conforming use, per Article 4, Section 4.3(c), seconded the amended motion, which carried with a unanimous vote.

- 4. Variance Request by property owners, Jeremy and Emily Major, for a two-foot reduction of the rear setback distance, from 20' to 18', to allow for construction of an extension on an existing deck.**

Jon Brusco motioned to approve the Request as referenced for a 2', full-width extension to the rear deck. Ed Kelly seconded the motion, which carried with a unanimous vote.

- 5. Introduction and Monthly Address, presented by new Director, Jennifer Brockman; and Status Report by Acting Zoning Administrator, Jennifer Snyder.**

Chairman Bresee welcomed new Director, Jennifer Brockman, who expressed her appreciation of the Board, offered continued support from Staff, and encouraged Member interaction.

Mrs. Brockman also advised that the a special election to vote on the Zoning Ordinance has been set by the County Commission on Saturday, November 7, 2009. She further stated that the Departments of Planning and Zoning would be available to provide the County Clerk with assistance upon request. Additionally, the County Commission has asked for an outreach to ensure that the Public knows that only those who are located outside the Corporated areas are eligible to vote on this matter.

Acting Zoning Administrator, Jennifer Snyder, advised that matters currently being addressed included salvage yard violation cases that both she and Compliance Officer, Mason Carter, were working on.

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**6. Legal Update – Introduction of newly assigned Assistant Prosecuting Attorney Stephen Groh.**

Assistant Prosecuting Attorney, Stephen Groh, who was also welcomed by the Board, advised that cases existing prior to his reassignment would continue to be addressed by Attorney James Casimiro and vice-versa. He further stated that he would continue to provide the Board with monthly Findings of Fact and Conclusion of Law on decisions from prior Board of Zoning Appeal Meetings, and would work towards improving the procedure currently in effect. He expressed his appreciation for ongoing support from the Board and Staff.

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

Assistant Prosecuting Attorney Steve Groh determined that a Finding of Facts and Conclusions of Law regarding the Extension Request approved at the June 16, 2009 Meeting (referenced below) was not required.

**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.**

**8. Correspondence.** None.

Christy Huddle motioned to adjourn the meeting at 3:30 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.