

MINUTES
JEFFERSON COUNTY BOARD OF ZONING APPEALS
FEBRUARY 21, 2008

The Jefferson County Zoning Board of Appeals met on Thursday, February 21, 2008 at 3:00 p.m., in the Charles Town Library Meeting Room. Members present were as follows: Chairman, Tom Trumble, Jeff Bresee, Christy Huddle, Edwin Kelly and Alternate Member Jon Brusco. Member, Tiffany Hine was absent with notification. Staff members present were Deputy Director/Zoning Administrator, Sherry Kelly, Prosecuting Attorney James Casimiro and Recording Secretary, Christine Chalmers. Mr. Trumble called the meeting to order at 3:00 p.m.

1. From January Meeting (cancelled due to inclement weather):
Election of Officers.

Jeff Bresee nominated Tom Trumble for a second term in the position of Chairperson. Edwin Kelly seconded the nomination, which carried unanimously. Jeff Bresee then nominated Christy Huddle for a second term in the position of Vice Chair. Edwin Kelly seconded the nomination, which also carried unanimously.

Upon appointment, Mr. Trumble advised that he is also the acting Chair of Candidate Rusty Morgan's Campaign for the West Virginia Senate from the 16th District. Per se, he contacted the Ethics Commission to insure that there was not an ethical conflict between the two positions. With regard to his concerns, it was the opinion of the Ethics Commission that there would be no issue if he continued to serve as both the Chairperson for the Board of Zoning Appeals and on the Campaign Committee. Additionally, although it was also determined that Mr. Trumble could decide matters before the Board of Zoning Appeals which may involve persons, including businesses, who have contributed time or money to said Campaign Committee, he stated that he would recuse himself if he became aware of any Campaign contributions that would compromise his integrity. Mr. Trumble provided Members with copies of confirming email correspondences from the Ethics Commission.

Due to the arrival of Prosecuting Attorneys Brandon Sims and Stephanie Grove, Mr. Trumble requested that there be a reversal to the Agenda Items so that Item #9 / Legal Update could be addressed in Executive Session by the Attorneys.

It was also determined that the following Agenda Items would be addressed upon return from deliberations of the regular session:

- 3. Monthly address from Deputy Director of Zoning, Sherry Kelly.**
- 8. Rules of Procedure before the Jefferson County Board of Zoning Appeals.**
- 9. Legal Update**
- 10. Correspondence.**

Mr. Bresee motioned to go into Executive Session at 3:03 p.m. Mr. Kelly seconded the motion, which carried unanimously.

Mr. Bresee motioned to return to regular Session. Mr. Kelly seconded the motion, which carried unanimously. The meeting commenced again at 3:23 p.m.

2. Minutes.

Mr. Bresee motioned to approve the Minutes from the December 20, 2007 without correction.
Ms. Huddle seconded the motion, which carried unanimously with a vote of four (4) in favor.
Mr. Kelly abstained from voting due to his absence at the December meeting.

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

4. From January Meeting (cancelled due to inclement weather):

Variance Request by the Bank of Charles Town to include a choice of red or green background selections in addition to the standard blue with contrasting white lettering that is currently being displayed on the Electronic Reader Board color message sign.
(Middleway District – Tax Map 3B / Parcel 15)

Mr. Bill Chesley, Representing Agent for the Bank of Charles Town advised that everything will remain the same on the existing sign, with the exception that he will have the option of green or red background selections in addition to the standard blue with contrasting white lettering, that is currently being displayed on the Electronic Reader Board color message sign. There was no public comment.

5. From January Meeting (cancelled due to inclement weather):

Request by Town Run Commons (#Z06-01) for an extension of the Conditional Use Permit that was issued on August 17, 2006. Property Description: East side of 480 (Kearneysville Pike) approximately 0.25 miles south of its intersection with Route 16/5 (Morgan Grove Road) and one mile southwest of the Shepherdstown Corporate Limits.
(Shepherdstown District – Map 9 / Parcels 26.1, 26.2, 26.3 and 26.4 / 13.69 Acres)

Representing Agent, Chad Wallen with William H. Gordon, Associates, Inc. advised that the Conditional Use Permit was issued for a mixed-use community centered on the Arts, with designated living space, working space and open space consisting of 32 condominium units; one third of which will be affordable housing, two 5,000 square foot commercial spaces, and one existing single family dwelling on 13.69 acres. Referencing a timeline of events that was included within the content of the request letter, Mr. Wallen stated that although the owner/developer put forth significant efforts to submit all applications in a timely manner to move the project through the process prior to the February 17, 2008 expiration date, it was not possible to commence construction by that deadline. Therefore they are requesting an extension of the Conditional Use Permit for a period of twelve (12) months, which they consider to be a sufficient amount of time to complete the process. There was no public comment.

6. Variance Request to allow full use of the Electronic Reader sign proposed for the original, manually operated, sign design. Property description: Cliffside Inn / 4328 William L. Wilson Freeway, Harpers Ferry, WV. Zoning Ordinance: Article 10, Section 10.2.i. (Harpers Ferry District – Map 9 / Parcel 66 / 13.946 Acres)

Representing Agent, Attorney Peter Chakmakian, advised that the Variance would allow the conversion of the previously, manually operated sign, to a computer generated digital service

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sign, and would be comparable to local signage previously approved by the Board of Zoning Appeals in recent months. This full use would include a display of public service announcements, such as local charity events, fund raisers, patriotic symbols and messages, as well as special events, all using computer generated graphics displayed at six (6) second intervals not to exceed eight (8) messages in a 24-hour period. It is the position of Cliffside Inn, LLC that the full use of the Electronic Reader Board will be a service opportunity for the Inn and Conference Center to provide the surrounding community with announcements of area events. Public opposition was expressed with comments by local residents, Mr. Al Alsdorf, owner of the Harpers Ferry Guest House and Mr. Scott Faulkner. In addition to the propensity of being a traffic safety hazard, other items of concern included the negative impact imposed by signs, “garish” in appearance, to both the Historic character of the region and the corresponding “Eastern Gateway” Tourist Industry. Vice Chair, Christy Huddle, reminded the Board that the sign had already been converted and was currently operating without benefit of a permit. Mr. Terry Marcus, owner of the Cliffside Inn, and Mr. Matt Snyder with W.J. Strickler Signs, Inc. responded that they were unaware that a permit was required to alter an existing sign.

Mr. Bresee motioned to take a five-minute break at 4:28 p.m. Mr. Kelly seconded the motion, which carried unanimously.

Mr. Bresee motioned to return to regular session at 4:33 p.m. Mr. Kelly seconded the motion, which carried unanimously.

7. Variance Request to reduce Setback requirement from 20’ to 10’ to allow for the replacement of a previously existing mobile home destroyed by fire. Property description: 99 Prospect Avenue, Charles Town, WV. Zoning Ordinance: Article 9, Section 9.7. (Charles Town District – Map 10A / Parcel 012 / Lot Size: 100 x 150)

Representing Sharon Kircher was her son, Mr. William Shiflett, who advised that the property includes his mother’s residence and three (3) mobile homes, which have been situated on the property for over twenty years. The income generated by these mobile homes provide Ms. Kircher with monetary support during retirement. Recently, one of the mobile homes was destroyed by fire, resulting in a financial hardship due to the loss of revenue. The Applicant’s intent is to replace the ruined mobile home with a new one, to be positioned in the existing area that is located 10’ from the alleyway. Public opposition was voiced by Karlton and Nancy French, who presented Board Members with a Community Perspective and Petition containing twenty-nine (29) signatures from neighboring residents, who expressed an issue with approval of the Variance Request. Additionally, Mr. French also shared over thirty (30) photographs with Board Members evidencing their concerns, which included inadequate parking, fire hazards, drug related safety risks and the lack of property maintenance.

Mr. Bresee motioned to go into deliberations, at 5:10 p.m. Mr. Kelly seconded the motion, which carried unanimously.

Mr. Bresee motioned to return to regular session. Mr. Kelly seconded the motion, which carried unanimously. The meeting commenced again at 5:55 p.m.

4. Variance Request by the Bank of Charles Town located in Kearneysville, WV to include a choice of red or green background selections in addition to the standard blue with contrasting white lettering that is currently being displayed on the Electronic Reader Board Color Message Sign.

Mr. Bresee motioned to approve the above referenced request without condition. Mr. Kelly seconded the motion, which carried with a vote of four in favor and one against (Christy Huddle)

5. Request by Town Run Commons (#Z06-01) for an extension of the Conditional Use Permit that was issued on August 17, 2006.

Mr. Bresee motioned to approve the above referenced request for a twelve-month extension, without condition. Furthermore, at the date of expiration on February 17, 2009, should additional time be deemed necessary to finish the project, the Applicant would then be eligible to request another six-month extension from the Board of Zoning Appeals for completion. Mr. Kelly seconded the motion, which carried unanimously.

6. Variance Request to allow full use of the Electronic Reader sign proposed for the original, manually operated, sign design.

Ms. Huddle motioned to deny the above referenced Variance to allow full use of the Electronic Reader Sign due to the following facts: the sign is already converted and is currently being operated without permit, the sign does not conform to the provisions stated in Article 10, Section 10.1 paragraph 2, and the required Variance findings could not be found with this Request, as follows:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.
2. Arises from special conditions or attributes, which pertain to the property for which a variance is sought and which were not created by the person seeking the variance.
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land.
4. Will allow the intent of the zoning ordinance to be observed and substantial justice done (2004, c.153.).

Mr. Kelly seconded the motion, which carried unanimously.

Due to the complexity regarding signage issues, Mr. Trumble requested that an hour time frame be allocated on the March Meeting Agenda for continued discussion of this matter.

7. Variance Request to reduce Setback requirement from 20' to 10' to allow for the replacement of a previously existing mobile home destroyed by fire.

Ms. Huddle motioned to deny the above referenced request to replace an existing trailer destroyed by fire until such time that the Applicant provides evidence that the site has been cleared of the mobile home wreckage and removal of the related debris sufficiently satisfies compliance with appropriate County requirements. Accordingly, reapplication of the Variance is

conditioned upon written confirmation of said clean up from corresponding County authorities. Mr. Breesee seconded the motion, which carried unanimously.

3. Monthly address from Deputy Director of Zoning, Sherry Kelly.

Ms. Kelly provided the Board Members with a Zoning Ordinance update, stating that a revised Zoning Map is currently available for purchase at the Department of Planning and Zoning. Additionally, the second Draft Zoning Ordinance will also be offered for Public purchase next Thursday, February 28, 2008.

With regard to questions presented by Mr. Trumble concerning Director Tony Redman's projected Budget Request FY 2009 (copies had been provided to the Board prior to the Meeting), Ms. Kelly advised that, having just received the handout herself, she was unable to address his inquiries due to unfamiliarity of document content. However, upon brief review of the subject matter, Mr. Trumble did comment that he was not in support of the suggested Budget increase for hiring additional staff, at this time. Moreover, he also recommended that the current Clerk/Secretary position be re-titled as Secretary to the Board of Zoning Appeals.

8. Rules of Procedure before the Jefferson County Board of Zoning Appeals.

Mr. Trumble requested that a second hour time frame be allotted on the March Meeting Agenda for review/discussion of the seventeen page Rules of Procedure before the Jefferson County Board of Zoning Appeals Draft, previously submitted by Prosecuting Attorney, James Casimiro.

9. Legal Update.

Prosecuting Attorney, James Casimiro made reference to an Order issued by the Jefferson County Magistrate Court regarding the Hamstead case (#ZV05-48) and the ensuing complaint.

10. Correspondence

Ms. Huddle motioned to adjourn the meeting at 6:15 p.m. Mr. Breesee seconded the motion, which carried unanimously.

The CD# where the transcript of this meeting can be found has not been determined. Recording Secretary, Christine Chalmers, prepared these Minutes.