

**MINUTES**  
**JEFFERSON COUNTY BOARD OF ZONING APPEALS**  
**MARCH 20, 2008**

The Jefferson County Board of Zoning Appeals met on Thursday, March 20, 2008 at 3:00 p.m., in the Charles Town Library Meeting Room. Members present were as follows: Chairman, Tom Trumble, Vice Chair Christy Huddle, Tiffany Hine, Jeff Bresee and Edwin Kelly. Alternate Member, Jon Brusco arrived later. Staff members present were Zoning Administrator, Sherry Kelly, Prosecuting Attorney James Casimiro and Recording Secretary, Christine Chalmers.

Mr. Trumble called the meeting to order at 3:04 p.m.

**1. Minutes.**

Mr. Bresee motioned to approve the Minutes from the February 21, 2008 meeting. Ms. Huddle seconded the motion with the following revision to the Minutes: Page #4, Item #6, fourth paragraph ~ change from: "Variance finds were not applicable to this Request" to "Variance findings could not be found with this Request". Mr. Bresee seconded the amended motion, which carried with a vote of four (4) in favor. Ms. Hine abstained from voting due to her absence at said meeting.

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

**3. Variance Request By Michael and Dawn Hanscom to reduce the Rear Setback distance from 50' to 25' to allow for an existing 10' x 20' shed. Property description: 130 Breckenridge Way, Shenandoah Junction, West Virginia. Zoning Ordinance: Article 9, Section 9.7. (Charles Town District - Map 3A / Parcel 20 / 3.551 acres) #ZV08-04**

Owner, Michael Hanscom advised that the rear of his property is adjacent to a 100(+) acre Residue Lot, and placement of the shed does not adversely affect the Residue's current farmland usage nor does it negatively impact the neighboring residents. Additionally, he also said that his property's topography is such that this location provided the most level area and did not require disruption of the ground to site. When questioned about having placed the structure without benefit of a permit, Mr. Hanscom stated that he was unaware that a Building Permit was required since the building is not permanently secured to a foundation and he had satisfied the Community HOA requirements prior to placement of the shed. Public comment was offered by Mr. Richard Parker, neighboring resident and member of Community HOA, who voiced his opposition to the request, as follows:

- a. With regard to the proposed construction of an Elementary School on the Residue Lot, concern was expressed over the restriction of future land use in the location of the shed.
- b. As the Community HOA had previously insisted that another resident relocate his shed, Mr. Parker thought it unreasonable for the BZA to grant Mr. Hanscom an approval.
- c. Mr. Parker considers the building to be an "eye-sore" which has lessened the property values within the Community of Breckenridge North, making particular reference to the fact that a motor home is parked next to the structure.

In rebuttal, Mr. Hanscom stated that he has been cooperative with the Community HOA, regarding the motor-coach matter. There was no additional public comment.

- 4. Variance Request by Chengtung Tom Weng to reduce the Front Setback distance from 40' to 35' to allow for the replacement of an existing, insect-damaged porch. Property description: 634 Gardners Lane, Shepherdstown, West Virginia. Zoning Ordinance: Article 5, Section 5.7.b. (Shepherdstown District – Map 13 / Parcel 21.9 / 0.92 acres) #ZV08-07**

Mr. Weng advised that the referenced property, which included the original house, was divided and acquired from his wife's parents. When termite and water damage necessitated replacement of an attached existing covered front deck, the Owners were unaware that a Building Permit would be required, unless change was made to the structure. As this deck most conveniently accesses entry into the home, the Applicant asks that the Request be granted without issue. There was no public comment.

- 5. Variance Request by Comfort Inn / Lowe Hospitality Group to allow for full use of the proposed Electronic Reader Board Sign. Property description: 70 Maddex Square Drive, Shepherdstown, West Virginia. Zoning Ordinance: Article 10, Section 10.2.i. (Shepherdstown District – Map 8 / Parcel 15.7)**

On behalf of the Lowe Hospitality Group, Mr. Tripp Lowe advised that the Variance would allow for full use of an Electronic Reader Board Sign, to display public service announcements, such as local charity events, fund raisers, patriotic symbols and messages, in addition to time/temperature services and company events/promotions, all using computer generated digital graphics/pictures/backgrounds and words. The Group respectfully proposes a six (6) second hold time between message changes and requests similar conditions for messaging content, as granted to other local business with comparable signage, that have been previously approved by the Board of Zoning Appeals in recent months. Mr. Matt Snyder with W.J. Strickler Signs, Inc. was also available for support. There was no public comment.

- 6. Request by Rockwell's Moving and Storage for the extension of an unsigned Conditional Use Permit that was issued on March 16, 2006. Property description: 138 Shiloh Acres, Charles Town, West Virginia. Zoning Ordinance: Article 3, Section 3.2(g). (Charles Town District – Map 1 / Parcel 17.3 / 13.69 Acres)**

Representing Agent, Matthew Pennington with Huntley, Nyce & Associates, advised that although an extension has been requested, since the actual Conditional Use Permit was never signed, the Applicant is asking that the Board entertain a Ruling which would allow a Permit effective from this date, until September 20, 2009, thus recognizing the eighteen (18) month time period from the date of issuance by signature. Mr. Pennington further stated that said request for additional time resulted from Mr. Rockwell having been involved in a serious accident that required a prolonged recovery period. There was no public comment.

- 7. Request by the Jane Stone (Owner) / Buckeye Development (Developer) RE: Stonecrest Subdivision, for an 18-month extension of time on a Conditional Use Permit that was issued on February 1, 2007 and will expire on August 1, 2008. Property description: East side of Route 17 (Flowing Springs Road), 1200 ft. South of Rt. 22 (Job Corps Road) and 1700 ft. North of Rt. 24. Zoning Ordinance: Article 3, Section 3.2(g). (Charles Town District – Map 3 / Parcel 9 / 102 Acres) #ZV08-05**

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With regard to the Conditional Use Permit currently in effect, Representing Attorney, Peter Chakmakian advised that if construction or use has not commenced by April 17, 2008 said permission would expire unless an extension is granted. However, since the official issuance by signature was February 1, 2007, the date of expiration for this Conditional Use Permit would actually be on August 1, 2008. Accordingly, the Applicant first requests that the Board acknowledged February 1, 2007 as the official date of issuance, and recognized that the initial eighteen month time period began from that date, and will expire on August 1, 2008. Moreover, the Applicant also asks that the Board make it clear in their action that Stonecrest will still be able to exercise the extension rights eligible to them under Section 3.2(g), if deemed necessary. There was no public comment.

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

- 2. Monthly Address from Zoning Administrator, Sherry Kelly.**
- 8. Review and discussion of the previously forwarded proposed Zoning Ordinance Article 9 regarding Sign Regulations, with specific reference to the definition and usage of animated signage. Projected time allocation = One Hour.**
- 9. Rules of Procedure before the Jefferson County Board of Zoning Appeals = One Hour.**
- 10. Legal Update.**
- 11. Correspondence.**

Ms. Huddle motioned to go into deliberations at 3:20 p.m. Ms. Hine seconded the motion, which carried unanimously. Ms. Huddle motioned to return to regular session. Ms. Hine seconded the motion, which carried unanimously. The meeting commenced again at 3:35 p.m.

- 3. Variance Request by Michael and Dawn Hanscom to reduce the Rear Setback distance from 50' to 25' to allow for an existing 10' x 20' shed.**

Ms. Huddle motioned to approve the above referenced request with the condition that the Applicant submit a landscape-screening plan. Mr. Hanscom advised that a generous amount of landscaping already enhanced the area, which included flowerbeds and a number of trees he had planted. That being established, Ms. Huddle motioned to approve the request without condition. Ms. Hine seconded the motion, which carried unanimously

- 4. Variance Request by Chengtung Tom Weng to reduce the Rear Setback distance from 40' to 35' to allow for the replacement of an existing, insect-damaged porch.**

Mr. Bresee motioned to approve the above referenced request without condition. Ms. Hine seconded the motion, which carried unanimously.

**5. Variance Request by Comfort Inn / Low Hospitality Group to allow full use of the proposed Electronic Reader Board Sign.**

Ms. Huddle motioned to deny the Request because the required Variance Findings could not be found with this Request. Mr. Kelly seconded the motion, which carried with a vote of one (1) in favor and four opposed (Tom Trumble, Tiffany Hine, Jeff Bresee and Ed Kelly). The matter was opened for discussion by Mr. Trumble, during which it was determined that if a sign is in compliance with County Permits and Regulations, is aesthetically appropriate, and does not present a public decency issue or traffic safety concern, an Applicant should not be denied the opportunity to advertise with signage. This having been properly established with this case, Mr. Trumble asked for a count regarding the motion to deny, receiving one (1) vote in favor (Christy Huddle) and four (4) opposing the denial (Tom Trumble, Tiffany Hine, Jeff Bresee and Ed Kelly). Accordingly, Ms. Hine motioned to grant the above referenced Request conditioned upon the Applicant having satisfied all necessary County Permit qualifications and regulations. Mr. Bresee seconded the motion, which carried with a vote of four (4) in favor and one opposed (Christy Huddle).

**6. Request by Rockwell's Moving and Storage for an extension of the unsigned Conditional Use Permit that was issued on March 16, 2006.**

Mr. Kelly motioned to direct the Zoning Administrator to reinstate the Conditional Use Permit, effective from the date of this meeting until September 20, 2009. After that date, should additional time be deemed necessary to commence the project, the Applicant would then be eligible to request an eighteen-month extension from the Board of Zoning Appeals for completion. Ms. Hine motioned to amend the motion to include a timeline of March 21, 2008 at Noon for the Zoning Administrator to have the Conditional Use Permit available for release. Ms. Huddle seconded the motion, which carried unanimously.

Zoning Administrator, Sherry Kelly did inform Members that this should be the last unsigned Conditional Use Permit to be presented before the Board of Zoning Appeals.

**7. Request by Jane Stone (Owner) / Buckeye Development (Developer) RE: Stonecrest Subdivision, for an 18-month extension of time for a Conditional Use Permit that was issued on February 1, 2007 and will expire on August 1, 2008.**

Mr. Bresee motioned to find that the acknowledged time period for the above-referenced Conditional Use Permit would be from the official date of issuance by signature on February 1, 2007, until August 1, 2008. Further, it was also decided that the request for an eighteen (18) month extension, effective from said date of expiration until February 1, 2010, would also be granted. Ms. Hine seconded the motion, which carried unanimously.

**2. Monthly Address from Zoning Administrator, Sherry Kelly.**

Regarding the matter of improper sign usage by Shenandoah Lanes, LLC, Ms. Kelly advised that the issue has been addressed and successfully resolved by Compliance Officer, Mason Carter.

**8. Review and discussion of the previously forwarded proposed Zoning Ordinance Article 9 regarding Sign Regulations, with specific reference to the definition and usage of animated signage. Projected time allocation = One Hour.**

Upon review and preliminary discussion of the proposed Ordinance Article 9, Zoning Administrator, Sherry Kelly, offered to modify and condense the Article body in an effort to satisfy signage regulations particular to Jefferson County. With regard to said revisions, Mr. Trumble asked that Ms. Kelly create a definition of animated signage that promotes a uniformity of usage requirements to include establishing a maximum daily message count, with display hold-time limitations, and determining acceptable background/lettering color selections, text/lettering style, motion restrictions, messaging content and aesthetic appeal. He further requested that she also reference traffic safety concerns and other issues relating to this matter. Moreover, Mr. Matt Snyder, with W. J. Strickler Signs, Inc. advised that he would supply sign samples from surrounding areas and additional information that may assist Ms. Kelly in addressing this matter.

A ten-minute break was taken from 4:45 p.m. to 4:55 p.m.

**9. Rules of Procedure before the Jefferson County Board of Zoning Appeals. Projected time allocation = One Hour.**

Prosecuting Attorney, James Casimiro, submitted both a seven page Draft and the current Rules of Procedure for comparative review and comment by the Board. He will make the revisions, per their resulting determinations, and provide Members with a comment sheet of said changes for discussion and vote at the next Board of Zoning Appeals Meeting.

**10. Legal Update.**

In response to Mr. Trumble's inquiry about the current status of the "Faraway Farms" case, Assistant Prosecuting Attorney, James Casimiro advised that he was unable to offer information, as he was not Legal Counsel in the matter, but would endeavor to provide the Board with an updated report regarding the case.

**11. Correspondence.**

None

Tiffany Hine motioned to adjourn the meeting at 6:10 p.m. Christy Huddle 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.