

MINUTES
JEFFERSON COUNTY BOARD OF ZONING APPEALS
AUGUST 21, 2008

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

Mr. Trumble called the meeting to order at 3:00 p.m.

1. Minutes.

Christy Huddle motioned to approve the Minutes from the July 17, 2008 meeting. Jeff Bresee seconded the motion without correction. The motion carried with a vote of three in favor and one abstention (Ed Kelly).

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

- 2. Variance Request by property Owner, Matthew Bernazzoli, to reduce a Side Setback distance from 8' to 3' to allow for the construction of a new 26' x 28' garage in the same location where another structure was previously situated prior to its demolition. Property description: 664 Carter Avenue, Harpers Ferry, West Virginia. Zoning Ordinance: Article 9, Section 9.7. (Harpers Ferry District - Map 3A / Parcel 3 / Lot Size: .62 acres)**

#ZV08-21

From a recent survey, Owner Matthew Bernazzoli discovered that the East line of his property is not actually located where he had originally thought, and it is now too close to accommodate the construction of a new 26' x 28' garage, without encroaching upon the septic field. Since another smaller garage had previously been located in the same area, prior to its mandatory demolition, Mr. Bernazzoli is requesting that the Side Setback distance be reduced from 8' to 3' to allow for construction of a new replacement garage. Mr. Bernazzoli's site is situated adjacent to the Church of God property, which does not present an issue. There was no public comment.

- 3. Appeal of Sign Permit Denial, Cliffside Inn, LLC / Project File #08-312D (Permit). Property description: South Side of U.S. Route 340 at top of Alstadt's Hill – 4328 William L. Wilson Freeway, Harpers Ferry, West Virginia.**

(Harpers Ferry District – Map 9 / Parcel 66 / 13.946 Acres)

#AP08-01

Pursuant to an August 7, 2008 correspondence (included within the BZA review packets) that was received from Representing Attorney, Peter Chakmakian, it was requested that the above referenced Appeal be postponed Under Section 8.4 of the Jefferson County Zoning and Land Development Ordinance. "The purpose for this postponement is to allow both parties to examine their options in light of a recent Circuit Court decision, which impacts the disposition of this

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matter now before the Board of Zoning Appeals.” Assistant Prosecuting Attorney, James Casimiro is not opposed to said postponement. There was no public comment.

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

- 4. Monthly Address from Zoning Administrator, Sherry Kelly.**
- 5. Legal Update.**
- 6. Correspondence.**

Ed Kelly motioned to go into Deliberative Session at 3:09 p.m. Christy Huddle seconded the motion, which carried with a unanimous vote. Jeff Bresee motioned to return to Regular Session; Ms. Huddle seconded the motion, which carried unanimously. The meeting commenced again at 3:33 p.m.

- 2. Variance Request by property Owner, Matthew Bernazzoil to reduce a Side Setback distance from 8’ to 3’ to allow for the construction of a new 26’ x 28’ garage in the same location where another structure was previously situated prior to its demolition.**

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

- 3. Postponement of Appeal of Sign Permit Denial, Cliffside Inn, LLC / Project File #08-312D (Permit).**

Christy Huddle motioned to approve the above referenced request for a postponement of the Appeal, without condition. Jeff Bresee seconded the motion, which carried unanimously.

- 4. Monthly address by Zoning Administrator, Sherry Kelly.**

Responding to the Board’s inquiry regarding the message currently being displayed on the sign at the Cliffside Inn, Zoning Administrator Sherry Kelly, advised that she received a courtesy call from the Owners informing Staff that the sign would be turned on, but the text would remain motionless, not animated, and the message content unchanged. In view of said conditions, Ms. Kelly confirmed that the sign would be considered legal.

- 5. Legal Update.**

Assistant Prosecuting Attorney, James Casimiro, presented the Board with a brief update on the Faraway Farms case, and advised that Assistant Prosecuting Attorney Stephanie Grove had recommended that the Conditional Use Permit, regarding this matter, be granted based on the Supreme Court Order.

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Additionally, in a effort to insure compliance with the decision of the Board of Zoning Appeals at their June 19, 2008 meeting, whereby it was determined that a “Findings of Fact and Conclusions of Law” would be prepared for every Ruling rendered by the Board, Mr. Casimiro also provided Members with copies of said document regarding the two Variance Requests that were considered at the July 17, 2008 meeting. Accordingly, upon review, the following motions were made:

Agenda Item #2:

Jeff Bresee motioned to approve the Findings of Fact and Conclusions of Law regarding the Variance Request by Betty Link Walters, Owner to reduce a Side Setback distance from 8’ to 2’ to allow for the construction of an attached carport with handicap ramp. Property description: 129 Fulton Avenue, Charles Town, WV. Zoning Ordinance: Article 9, Section 9.7.

(Charles Town District – Map 8B / Parcel 67 / Lot size: .1567)

#ZV08-19

Christy Huddle seconded the motion, which carried with a vote of three in favor, and one abstention (Ed Kelly).

Agenda Item #3:

Jeff Bresee motioned to approve the Findings of Fact and Conclusions of Law regarding the Variance Request by John J. (Jr.) and Dorothea L. Quinn to reduce the Rear Setback distance from 50’ to 5’ to allow for the construction of a 26’ x 32’ Garage. Property description: 15 Quinn Lea Road, Harpers Ferry, WV. Zoning Ordinance: Article 9, Section 9.7.

(Shepherdstown District – Map 18 / Parcel 22.3 / Lot size: 1.316 acres)

#ZV08-20

Christy Huddle seconded the motion, which carried with a vote of three in favor, and one abstention (Ed Kelly).

6. Correspondence. None received.

Christy Huddle motioned to adjourn the meeting at 3:45 p.m. Jeff Bresee seconded the motion, which carried unanimously.

A transcript of this meeting can be found on CD #95.

Recording Secretary, Christine Chalmers, prepared these Minutes.