

MINUTES
JEFFERSON COUNTY BOARD OF ZONING APPEALS
DECEMBER 18, 2008

The Jefferson County Board of Zoning Appeals met on Thursday, December 18, 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, Tiffany Hine, Jeff Bresee, Edwin Kelly, and Alternate Member, Jon Brusco. Staff members present were Acting Director, Kirk Davis, newly appointed Acting Zoning Administrator, Jennifer Snyder, Assistant Prosecuting Attorney, James Casimiro, and Zoning Secretary, Christine Chalmers.

The Meeting was called to order by Chairman, Tom Trumble, at 3:00 p.m.

1. Minutes.

Jeff Bresee motioned to approve the Minutes from the November 20, 2008 meeting without correction. Christy Huddle seconded the motion which carried with a unanimous vote.

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

2. Variance Request by property Owner, Debra K. Longerbeam to reduce the rear setback distance from 6' to 2' to allow for an addition to the existing shed.

Property description: 75 Fulton Avenue, Charles Town, West Virginia.

Zoning Ordinance: Article 9, Section 9.7.

(Charles Town District – Map 8B / Parcel 22 / Lot Size: 105' x 96.50')

#ZV08-29

Property owner, Debra Longerbeam, advised that due to the recent loss of her husband, her daughter and infant grandchild are now residing in the home. To accommodate the present living arrangement, it was necessary to convert one room into a nursery, which has ultimately created an overcrowding issue. In an effort to eliminate this problem, Ms. Longerbeam is asking that she be allowed to extend her existing shed, which is situated 2' from her property line, by an additional 12'. Granting this Request would provide vital storage space and afford a satisfactory resolution to this problem. There was no public comment.

3. Variance Request by Rattling Springs Associates from Article 4, Section 4.14 of the Jefferson County Zoning Ordinance, which requires a 500' buffer from the Potomac and Shenandoah Rivers for all commercial projects. Property description: near the intersection of Bakerton Road and Potomac Street – adjacent to Potomac River.

(Harpers Ferry District – Map 6.1 / Parcel 4 / Lot Size: 30.2 +/- acres)

#ZV08-30

Pursuant to a December 10, 2008 correspondence from William H. Gordon, Associates, Inc. (included within the BZA review packets), it is requested that the above referenced Variance be postponed until January 15, 2009 (or the next available Board of Zoning Appeals Meeting date that is convenient for all Members). Gordon Representative, Mark Dyck, advised that due to unforeseen circumstances, Gerald T. Halpin, Ownership Group Member for Rattling Springs, LLC could not attend today's Meeting. When questioned about the absence, Mr. Dyck was unable to provide a specific reason, but stated that Mr. Halpin's testimony was critical for presentation. Mr. Trumble requested that a Deliberative Session be called to discuss this matter.

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

4. Monthly Address by Acting Director, Kirk Davis, and the following presentation by Acting Zoning Administrator, Jennifer Snyder:

Review and Discussion of current Procedures, applicable under the recently adopted Jefferson County Zoning Ordinance, for those Variance Requests and Conditional Use Permits that are to be determined by the Board of Zoning Appeals.

5. Legal Update.

Review and Discussion of the “Finding of Facts and Conclusions of Law” regarding the Decision Denying Variance Application of Advance Pest Control.

6. Correspondence. None.

Tiffany Hine motioned to go into Deliberative Session at 3:10 p.m. Christy Hine seconded the motion, which carried with a unanimous vote. Jeff Bresee motioned to return to Regular Session; Ms. Hine seconded the motion, which carried unanimously. The meeting commenced again at 3:24 p.m.

2. Variance Request by property Owner, Debra K. Longerbeam to reduce the rear setback distance from 6’ to 2’ to allow for an addition to the existing shed.

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

3. Variance Request by Rattling Springs Associates from Article 4, Section 4.14 of the Jefferson County Zoning Ordinance, which requires a 500’ buffer from the Potomac and Shenandoah Rivers for all commercial projects.

In an effort to insure that all parties are afforded the opportunity to state their comments, Mr. Bresee motioned to approve a postponement to the above referenced Variance, expressing his most sincere apology to those gathered, for any inconvenience resulting from said postponement. Christy Huddle seconded the motion, which carried unanimously. Another motion was also made, regarding the proposed postponement date. As Ms. Huddle will be unavailable for the January meeting but would appreciate an opportunity to participate in the deliberation of this case, it was determined that the February 19, 2009 meeting would be better suited to address the Request. The motion was seconded and carried with a unanimous vote. This postponement would require collection of additional re-advertising/posting fees from the Applicant, in the amount of \$100.00.

In closing, Mr. Trumble directed his attention to the large group who had assembled in opposition to this matter, and advised that the decision to postpone this case was in the best

interest of all parties involved, as it would allow the opportunity for *anyone* not present to offer comment. Further, he also extended his apologies and expressed appreciation for Public support.

2. Monthly Address by Acting Director, Kirk Davis, and the following presentation by Acting Zoning Administrator, Jennifer Snyder:

Review and Discussion of current Procedures, applicable under the recently adopted Jefferson County Zoning Ordinance, for those Variance Requests and Conditional Use Permits that are to be determined by the Board of Zoning Appeals.

Acting Director, Kirk Davis and Acting Zoning Administrator, Jennifer Snyder presented Members with the monthly overview of current office procedure and advised that, in an effort to improve Public relations, weekly time periods had been established on Monday, Wednesday and Friday for the purpose of scheduling Public meetings. To lessen confusion, these forums will provide an opportunity to address and discuss the questions, comments and concerns voiced by the Public. Additionally, during this time, amendments to the newly adopted Zoning Ordinance and Map will also be compiled for presentation to the County Commission. Mr. Davis further stated that his eventual intent is to offer in-house computer access to the Public for more convenient use during research and review of the Planning and Zoning Department files. As a final point, Ms. Snyder discussed current procedures, applicable under the recently adopted Jefferson County Zoning Ordinance regarding Variance Requests and Conditional Use Permits, and informed the Board that monthly Staff Reports would be provided to Members, prior to each Meeting for review, which would address the related Agenda Items that pertained to those issues.

Mr. Trumble then asked for a progress report pertaining to the Director Search Committee. Mr. Davis advised that three candidates were at the final selection stage, each with impressive qualifications. All had been contacted, two appeared to be very interested while one gentleman had not yet returned his call. The chosen applicants, consisting of two men and one woman, currently reside in smaller communities comparable to Jefferson County, that are located in Colorado, Kentucky and Pennsylvania. To further assess their individual potential, separate three-day weekends will be scheduled in January for the purpose of affording both the committee members and contenders the opportunity to become familiar with each other and the area, prior to an actual interview. In an effort to further acquaint themselves, Mr. Davis also recommended to the Applicants that they watch both the live broadcasts and archived video recordings of the County Commission, Planning Commission and Board of Zoning Appeals Meetings, accessed through the County Website.

3. Legal Update.

Review and Discussion of the “Finding of Facts and Conclusions of Law” regarding the Decision Denying Variance Application of Advance Pest Control.

With regard to the Decision Denying Variance Application of Advance Pest Control, Assistant Prosecuting Attorney, James Casimiro advised that, although he was not employed by the County when this item was initially addressed, his preparation of the “Finding of Facts and Conclusions of Law” was based on an assessment of both the Minutes and the audio recording

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from the April 20, 2006 Meeting, when the matter was presented. Upon completion of review, Jeff Bresee motioned to approve said “Finding of Facts and Conclusions of Law” as submitted without correction. Christy Huddle seconded the motion, which carried with a vote of four (4) in favor. Tiffany Hine abstained for voting due to not having attended the April 20, 2006 Meeting.

Also to be considered by the Board were the “Finding of Facts and Conclusions of Law” from the November 20, 2008 Meeting, provided by Mr. Casimiro as follows:

Agenda Item #2: This Variance Request was APPROVED by a unanimous vote.

Variance Request by property Owners, Joseph and Patricia S. Greene to reduce the Rear Yard Depth distance from 50’ to 42’ to allow for an existing deck to extend into said Rear Yard Depth. Property description: 119 Avon Bend Road, Charles Town, West Virginia.

(Kabletown District / Map 9 / Parcel 19.18 / Lot Size: 10095 acres)

#ZV08-24

Tiffany Hine motioned to approve the “Finding of Facts and Conclusions of Law” concerning the above referenced matter as presented. Ed Kelly seconded the motion, which carried with a unanimous vote.

Agenda Item #3: This Variance Request was APPROVED by a unanimous vote.

Variance Request by property Owner, Larry Barkdoll and Naomi Rohrer to reduce the Front Setback distance from 40’ to 12’ to allow for the construction of a second story addition to an existing one-story structure. Property description: 13927 Leetown Road, Kearneysville, West Virginia. (Middleway District / Map 5 / Parcel 4 / Lot Size: 2.151 acres)

#ZV08-25

Tiffany Hine motioned to approve the “Finding of Facts and Conclusions of Law” with regard to the aforementioned Variance Request without correction. Ed Kelly seconded the motion, which carried with a unanimous vote.

Agenda Item #4: This Variance Request was DENIED by a three-two vote.

Variance Request by property Owners, S. Andrew Arnold and Carmela Cesare to reduce the Side Setback distance from 8’ to 0’ to allow for construction of a two-story addition to the existing (1895) house, which was originally built on the lot line. Property description: 68 Fairmont Avenue, Shepherdstown, West Virginia.

(Shepherdstown District / Map 8B / Parcel 50.1 / Lot Size: 172’ x 120’)

#ZV08-26

Tiffany Hine motioned to approve the “Finding of Facts and Conclusions of Law” for said Variance Request as presented. Christy Huddle seconded the motion, which carried with a vote of four (4) in favor, one (1) opposed (Jeff Bresee).

Agenda Item #5: This Variance Request was DENIED by a four-one vote.

Variance Request by property Owner, Linda Wolf, to reduce the Rear Setback distance from 30’ to 18’ to allow for the construction of a deck with adjoining stairs. Property description: 165 Starkeys Landing, Shepherdstown, West Virginia.

(Shepherdstown District / Map 8D / Parcel D15 / Lot Size: .24 acres)

#ZV08-27

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Tiffany Hine motioned to approve the “Finding of Facts and Conclusions of Law” regarding the matter referenced above. Jeff Bresee seconded the motion, which carried with a unanimous vote.

Agenda Item #6: This Variance Request was APPROVED by a unanimous vote. Variance Request by property Owners, Marcos and Guadalupe Jimenez, to reduce the Rear Setback distance from 20’ to 6’ to allow for the construction of a two-car, detached garage. Property description: 600 Jefferson Avenue, Charles Town, West Virginia.

(Charles Town District / Map 10B / Parcel 60.1 / Lot Size: 7,500 sq. ft.)

#ZV08-28

Tiffany Hine motioned to approve the “Finding of Facts and Conclusions of Law” for the Variance Request as provided. Jeff Bresee seconded the motion, which carried with a unanimous vote.

4. Correspondence. None.

Ed Kelly motioned to adjourn the meeting at 4:15 p.m. Christy Huddle seconded the motion, which carried unanimously.

Audio Transcript of this meeting can be found on CD #133.

Zoning Secretary, Christine Chalmers, prepared these Minutes.