

MINUTES
JEFFERSON COUNTY BOARD OF ZONING APPEALS
FEBRUARY 15, 2007

The Jefferson County Zoning Board of Appeals met on Thursday, February 15, 2007 at 3:00 p.m., in the Charles Town Library Meeting Room. Members present were as follows: Tom Trumble, Christy Huddle, Edwin Kelly and Alternate Member, Mary Sue Jedele. Staff members present were Executive Director Paul Raco, Prosecuting Attorney Stephanie Grove and Recording Secretaries, Rebecca Burns and Christine Chalmers. Both Mr. Jeff Bresee and Ms. Tiffany Hine were absent with notification.

Mr. Trumble called the meeting to order at 3:02 p.m., and advised that anyone who would be giving testimony was required to sign the "Sign-Up" Sheet before speaking.

1. Minutes. Ms. Huddle motioned to approve the Minutes from the January 18, 2007 meeting, subject to the following changes: correction to the spelling of "Jedele" in fourth line from top on Page 1. Additionally, Page 2, Item #3: a change from the word "recommended" to "stated" in third line from bottom. Ms. Jedele seconded the motion for approval, which carried unanimously

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

2. Appeal filed by Phillip and Gaye Snyder that deals with an Administrative decision pertaining to the operation of the Shenandoah School within the Kristie A. George Minor Subdivision and a need for the processing of a Conditional Use Permit to do so. Property description: 1115 Gardners Lane, Shepherdstown, West Virginia (Shepherdstown District-Map 17 / Parcel 9.6 / Deed Book 1012, Page 415). Representing Attorney, Mr. J. Michael Cassell, submitted a letter of request to reschedule the hearing on this matter, stating that his Clients were unable to attend due to transportation problems resulting from the recent ice storm. Ms. Jedele motioned to accept the request to reschedule the hearing until next month's meeting, to be held on Thursday, March 15th at 3:00 pm. Mr. Kelly seconded the motion, which carried unanimously. Mr. Cassell stated on record that the Staff had provided a date/time confirmation for the aforementioned meeting. There was no public comment.

3. Request by Mr. Manish Desai for a transfer of one Nonconforming Use to another Nonconforming Use – from Foodway Supermarket to add a Restaurant. Property description: Route 9/5; 3507 Mission Road, (Kabletown District-Map 7 / Parcel 4 / 4.09 acres). Property Owner, Mr. Manish Desai, expressed confidence that the addition of a conveniently located, Family Style Restaurant would be an asset to the surrounding Community. Representing Attorney, J. Michael Cassell shared a slide presentation of the proposed Supermarket/Restaurant that illustrated storage space conversion, interior renovations, and the projected exterior parking arrangement that includes thirty-three spaces. The Restaurant would have a separate entrance. It was determined that only 3,200 sq.ft. is currently being effectively utilized in the (approximate) 6,500 sq.ft. building. Also under consideration was the question of whether a Public Hearing was actually required for issuance of a Zoning Certificate in this matter, pursuant to the regulations set forth in Article 4, Section 4.3 (c). Accordingly, Ms. Jedele motioned to go into a Deliberative Session at 3:36 pm to address this specific concern. Mr. Kelly seconded the motion, which carried 3 for and 1 opposed (Ms. Huddle). Ms. Huddle motioned to return to regular session. Ms. Jedele seconded the motion, which carried unanimously. The meeting commenced again at 3:50 pm. Mr. Kelly moved that, regarding the above referenced matter, conformance of Article 4, Section 4.3 (c) would require a Public Hearing. Ms. Jedele seconded the motion,

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which carried unanimously. Public comment was offered by longtime area resident, Mr. Josh Stillwell, who expressed both appreciation and excitement at the prospect of having a FamilyStyle Restaurant so conveniently located.

4. Request by property owner, Mr. Brian LeBlanc for a Variance from the Front Setback of 20' to 11.5' for an existing house foundation. Property description: Shannondale- Bottom of Upper Clubhouse Road - Section 8L, Lots 9 & 10; adjacent to Shannondale Lake. (Kabletown District- Map 6F / Parcel 11.6 / 0.5264 acres). Mr. LeBlanc stated that before installing the foundation, he had contacted the West Virginia Department of Transportation for verification of State Road property lines, and was advised of a 30' right of way, measuring 15' on each side of the center of the road (correspondence attached to request). Accordingly, Mr. LeBlanc set his foundation 38' from the center of the road. Prior to delivery of a modular home, Mr. LeBlanc's Bank ordered a survey of his property, which resulted in the current setback discrepancy. This inconsistency was directly attributed to inaccurate information provided by the Department of Transportation. There was no public comment.

5. Request by Shenandoah Lanes, Inc. for a Variance to allow for an Electronic Reader Board Sign with Color Message (Charles Town District- Map 9 / Parcel 8.1 / 4.59 acres). Property description: 107 Keys Ferry Road, adjacent to Charles Town Self Storage. Representatives for W.J. Strickler Signs, Mr. Bill Hynosky and Mr. Matt Snyder, stated that the proposed electronic reader board was comprised of changing (not flashing), computer generated static photographs, that would be used to display non-animated pictures and color text for communicating public service announcements (local charity events and fund raisers), patriotic symbols and messages, bowling alley events and time/temperature display, at a recommended time interval of approximately 1 ¾ - 2 seconds. He also noted that it would be used in conjunction with the already approved sign. Additionally, Mr. Hynosky provided study information (albeit dated) regarding "Safety and Environmental Design Considerations in the Use of Commercial Electronic Variable-Message Signage". Per Mr. Trumble's request, Ms. Burns provided a copy of both the October 2006 (Item #4) and November 2006 (Items #4 and #5) Minutes which also pertained to this subject matter, for review during deliberations. There was no public comment.

6. Request by AAL, LLC for a Temporary Setback Variance for existing house and shed to allow for recording of the Final Plat. Property description: Seneca Crossing North Subdivision – Route 45; adjacent to Dominoes Pizza (Shepherdstown District-Map 8-1 / Parcel 3.16 / 3.77 Acres).

7. Request by AAL, LLC for a Temporary Minimum Lot Size Variance for existing house and shed to allow for recording of the Final Plat. Property description: Seneca Crossing North Subdivision – Route 45; adjacent to Dominoes Pizza (Shepherdstown District- Map 8-1 / Parcel 3.16 / 3.77 acres).

It was determined that Items #6 and #7 would be addressed in combination, as both Variance Requests pertained to the same property. Mr. Eric Lewis, representing AAL, LLC stated that according to Article 5, Section 5.4 (b) of the Ordinance, the plat cannot be recorded without variances from the setbacks, as the existing house would violate the setback requirements. Additionally, the existing house is currently tenant occupied, and AAL, LLC desires to allow the

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tenants to remain in the house until site work begins, and will then demolish the house (pursuant to demolition requirements), before commencement of any other site work for the development. Also, no town home lots will be sold before the house is completely and satisfactorily removed. Inasmuch as ALL, LLC intends to fully comply with the site work completion timeframe requirements, the requested variances are temporary in nature. There was no public comment.

8. Rules of Procedure before the Jefferson County Board of Zoning Appeals.
To lessen confusion, Prosecuting Attorney Stephanie Grove advised that an entire rewrite would be necessary to incorporate the revisions previously discussed. Accordingly, her expressed intent is to present Members with a restructured Draft at the March Meeting.

9. Correspondence - There was no correspondence submitted.

Mr. Trumble advised that a five-minute break would be included within the deliberation time. Ms. Huddle motioned to go into deliberations, at 4:23 pm. Ms. Jedele seconded the motion, which carried unanimously. Mr. Kelly motioned to return to regular session. Ms. Jedele seconded the motion, which carried unanimously. The meeting commenced again at 4:38 pm.

3. Ms. Huddle moved to approve the request by Mr. Manish Desai for a transfer of one Nonconforming Use to another Nonconforming Use – from the current usage as a Foodway Supermarket to the addition of a Restaurant, at 3507 Mission Road. Mr. Kelly seconded the motion, which carried unanimously.

4. On the basis of his hardship for having relied on the erroneous information provided by a West Virginia State Department of Transportation Official, Ms. Jedele motioned to approve the request by Mr. Brian LeBlanc for a Variance from the Front Setback of 20' to 11.5' for an existing house foundation. Mr. Kelly seconded the motion, which carried unanimously.

5. Due to the possibility of seriously impacting traffic safety in this heavily traveled area, Ms. Huddle motioned to deny the request by Shenandoah Lanes, Inc. for a Variance to allow for an Electronic Reader Board Sign with Color Message Display at 107 Keys Ferry Road. Ms. Jedele seconded the motion, which carried 3 in favor and 1 against (Mr. Kelly).

6. Mr. Kelly motioned to approve the request by AAL, LLC for a Temporary Setback Variance for an existing house and shed to allow for recording of the Final Plat, effective until property site work commences. Ms. Huddle seconded the motion, which carried unanimously.

7. Mr. Kelly motioned to approve the request by AAL, LLC for a Temporary Minimum Lot Size Variance for an existing house and shed, effective until commencement of property site work. Ms. Huddle seconded the motion, which carried unanimously.

Ms. Huddle motioned to adjourn the meeting at 4:43 pm. Ms. Jedele seconded the motion, which carried unanimously.

A transcript of this meeting can be found on CD's #19 and #20.
These Minutes were prepared by Christine Chalmers.

