

MINUTES
JEFFERSON COUNTY BOARD OF ZONING APPEALS
APRIL 19, 2007

The Jefferson County Zoning Board of Appeals met on Thursday, April 19, 2007 at 3:00 p.m., in the Charles Town Library Meeting Room. Members present were as follows: Christy Huddle, Tiffany Hine, Jeff Bresee, Edwin Kelly and Alternate Member, Mary Sue Jedele. Staff members present were Zoning Administrator, Sherry Kelly, Prosecuting Attorney Stephanie Grove and Recording Secretary, Christine Chalmers.

Mr. Trumble was absent with notification; accordingly, Vice-Chair Christy Huddle called the meeting to order at 3:00 p.m.

1. Minutes. Ms. Jedele motioned to approve the Minutes from the March 15, 2007 meeting subject to the following changes/corrections: page one, first paragraph-fourth line down, correction to name: from “Jadele” to “Jedele”. Additionally, page three, Item #5, third line down: change “a need” to “the need”. Mr. Bresee seconded the motion, which carried unanimously.

Ms. Chalmers swore in individuals who indicated they would be giving testimony, and maintained the sign-up sheets.

2. Request by Michelle Busch for a Variance for a Side Setback from 12’ to 5’ for an existing pool and proposed pool enclosure. Property description: Cave Quarter Estates Subdivision – 84 Cave Quarter Drive, Lot 16. (Charles Town District – Map 16A / Parcel 16 / 0.2497 Acres)

Ms. Patti Heinrich, proxy for Ms. Busch, advised that pool therapy was necessary for Ms. Busch to help alleviate pain sustained by combat injuries. Accordingly, Ms. Busch had contracted the services of the Blue Haven Pool Company for installation of a heated spa and pool, which was completed on July 18, 2005. To afford year-round use, Ms. Busch would now like to have a prefab structure erected to enclose the pool. However, since the Blue Haven Pool Company had encroached into the set back area when installing the pool, a Variance for a Side Setback from 12’ to 5’ will be required before construction can commence. Ms. Busch advised that the fence that currently surrounds the pool is in code compliance, and there will also be an alarm installed. A cooperative letter from the adjacent property owner, granting approval for the structure was also included. There was no public comment.

3. Request by Shenandoah Professional Center, LLC for a Variance from Conditional Use Permit Requirements to allow for 16 additional parking spaces. Property description: 36 Bakerton Road at its intersection with U.S. Route 340. (Harpers Ferry District – Map 9 / Parcel 11A / 1.487 Acres)

Mr. Matthew Powell and Ms. Patricia Sanderson represented the Shenandoah Professional Center, LLC. Mr. Powell submitted pictures of the Center and advised that it currently has seventeen (17) parking spaces; however, as there have been numerous occasions where visitors or employees have been forced to park on the grass or the side of the road during the course of normal business operating hours, the approval of sixteen (16) additional parking spaces would benefit the public by providing easier and safer access to the office building. Ms. Sanderson collaborated with his comments. Additionally, Mr. Paul Rosa with the Harpers Ferry Conservancy commended the Shenandoah Professional Center for their good faith efforts of completely renovating and using a historical structure as an office building. He also stated that the allowance of the additional parking spaces would be compatible with the Center’s

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display of community preservation. There was no other public comment.

4. Request by the PNGI Charles Town Gaming for a Variance to allow the existing tree line to remain as a part of the landscape plan. Property description: Charles Town Races and Slots – East 5th Avenue, Charles Town. (Charles Town District – Map 8 / Parcel 11A / 23.7192 Acres)

Ms. Hine recused herself from the matter and left the room. She asked that the public record reflect that her recusal was due to the fact that her husband is an employee of Charles Town Gaming, and had nothing to do with her employment. Mr. Randy Kepler, representing agent for PNGI Charles Town Gaming, advised that they would prefer not to remove an already existing, mature tree line, only to replace it with much smaller trees. Instead, PNGI is requesting that the existing screening buffer of mature trees be allowed to remain and become part of the current landscape plan. Moreover, Mr. Kepler stated that the adjacent property protected by this screening buffer is Shenandoah Downs, which is also owned by Charles Town Races. There was no public comment

5. Request by Beazer Homes Corporation for a Variance to allow for the relocation of the Model Home / Sales Office from Lot 45 to Lot 31. Property description: Colonial Hills Subdivision, Phase 2 / Lot 31, Starkey's Landing. (Shepherdstown District – Map 8 / Parcel 7.1 & 10 / 0.0767 acres)

Mr. Joe Gorrell, representative for Beazer Homes Corporation, advised that they have requested the move from Lot 45 to Lot 31 so that the temporary sales office would not impede traffic that could park on the corner. It is believed that the Lot 31 location will not impact the community as much as Lot 45. He also indicated that ample parking would be available to insure that neighboring lots are not intruded on when business is conducted. Regular business hours are Monday-Sunday from 11:00 a.m. – 6:00 p.m. The sales center/model home will be installed within the guidelines and regulations for new home construction set forth by Jefferson County, which will transfer from Lot 45 to Lot 31. It will be used to sell the surrounding residences within the Colonial Hills Subdivision, for a temporary period of approximately eighteen (18) months, during which time it will be subject to the stated Homeowners Association covenants. Thereafter, it will be sold as a residence. Letters were also included from the adjacent homeowners, indicating approval of the request. There was no public comment.

The following Agenda Items, will be addressed upon return to regular session after deliberations:

6. Findings of Fact and Conclusions of Law for BZA's Denial of the Variance Request by Shenandoah Lanes for an Electronic Reader Board Sign with Color Message Display.

7. Monthly Report from Zoning Administrator

8. DPZE Reorganization Report / Discussion: Certification of Record (Page 6/Item #3)

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

10. Legal Update.

11. Correspondence.

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Ms. Hine motioned to go into deliberations at 3:35 p.m. Mr. Bresee seconded the motion, which carried unanimously.

Mr. Bresee motioned to return to regular session. Ms. Jedele seconded the motion, which carried unanimously. The meeting commenced again at 3:53 p.m.

2. Mr. Bresee motioned to grant the Variance requested by Michelle Busch for a Side Setback from 12' to 5' for an existing pool and proposed pool enclosure. Mr. Kelly seconded the motion, which carried unanimously.

3. Mr. Kelly motioned to grant the Variance requested by Shenandoah Professional Center, LLC from Conditional Use Permit Requirements to allow 16 additional parking spaces. Ms. Jedele seconded the motion, which carried unanimously.

4. Mr. Bresee motioned to grant the Variance requested by PNGI Charles Town Gaming to allow the existing tree line to remain as a part of the landscape plan. Mr. Kelly moved to amend the motion to include that the Plat must be redlined to indicate changes. Ms. Jedele seconded the motion with amendment, which carried with a vote of 4 for and 1 abstained vote (Tiffany Hine).

5. Mr. Bresee motioned to grant the Variance requested by Beazer Homes Corporation to allow for the relocation of the Model Home / Sales Office from Lot 45 to Lot 31. Ms. Hine seconded the motion, which carried unanimously.

6. Findings of Fact and Conclusions of Law for BZA's Denial of the Variance Request by Shenandoah Lanes for an Electronic Reader Board Sign with Color Message Display.

Ms. Grove submitted a copy of the Decision of the Board of Zoning Appeals Findings of Fact and Conclusions of Law and engaged in a brief general discussion making reference to the fact that, with only three pages, the Federal report submitted by Shenandoah Lanes was incomplete. Both Ms. Hine and Mr. Bresee recused themselves, due to having been absent during the meeting concerning the item under consideration. Mr. Bresee left the room, but Ms. Hine decided to remain through the public session. The matter was addressed more specifically during the Deliberative Session referenced below.

7. Monthly Report from the Zoning Administrator.

Sherry Kelly, acting Chief Planner and Zoning Administrator, formally introduced herself to the Board and welcomed the opportunity to share a relationship of open communication.

8. DPZA Reorganization Report / Discussion: Certification of Record (page 6, item #3).

With regard to the aforementioned matter, Ms. Hine motioned to recommend that the BZA agree to the content on Page 6, Item #3 of the Transition Team for the Reorganization of the Department of Planning, Zoning and Engineering Report, stated as follows:

Central File System – agree to cooperate on planning and maintaining one central file system for the three departments. The Planning Department shall administer the file system. The Secretary

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of the Planning Commission shall be responsible for certifying the record of the Planning Commission in Legal matters. The Zoning Administrator, or their designee, shall certify the Zoning Board record in Legal matters. Mr. Bresee seconded the motion, which carried unanimously. The recommendation is subject to review by Mr. Trumble.

9. Rules of Procedure before the Jefferson County Board of Zoning Appeals.
To be addressed during Executive Session.

10. Legal Update.

Ms. Grove advised that due to the Annual Prosecuting Attorneys Meeting, there would be no Legal coverage during the June BZA meeting. Judge Steptoe will close Court on Thursday and Friday of that week, as the meeting will be held at Stonewall Jackson Resort.

Additional Legal matters to be addressed during Executive Session referenced below.

11. Correspondence.

“Introduction to the Zoning Board of Adjustment”. Details provided about the upcoming Audio Conference scheduled for Wednesday, April 25, 2007 from 3:00 p.m. – 4:30 p.m., to be held in the Library Conference Room. All BZA members were invited to attend.

Ms. Kelly submitted a copy of a correspondence from Mr. Michael Cassell, representing Attorney for Mr. and Mrs. Philip Snyder with regard to the Shenandoah School, requesting an extension in time from the Planning Commission, within which to complete the process before the Zoning Board of Appeals. Ms. Kelly has requested additional information from Mr. Cassell before she can make a determination.

Ms. Jedele motioned to go into Executive Session at 4:20 p.m., with regard to Agenda Item #9. Mr. Bresee seconded the motion, which carried unanimously. Ms. Kelly took her leave from the meeting at that time. Ms. Hine motioned to return to regular session at 4:45 p.m. Mr. Bresee seconded the motion, which carried unanimously.

Ms. Jedele motioned to go into Deliberative Session regarding Agenda Item #6 at 4:46 p.m. Mr. Kelly seconded the motion, which carried unanimously. Both Ms. Hine and Mr. Bresee recused themselves from the Session and left, due to having been absent during the meeting concerning the item under consideration. Ms. Jedele motioned to return to regular session at 5:03 p.m. Mr. Kelly seconded the motion, which carried unanimously.

Ms. Jedele motioned to adjourn the meeting at 5:03 p.m. Mr. Kelly seconded the motion, which carried unanimously.

A transcript of this meeting can be found on CD's #37 and #38.
Christine Chalmers prepared these Minutes.

