

MINUTES
JEFFERSON COUNTY BOARD OF ZONING APPEALS
DECEMBER 20, 2007

The Jefferson County Board of Zoning Appeals met on Thursday, December 20, 2007 at 3:00 p.m., in the Charles Town Library Meeting Room. Members present were as follows: Chairman, Tom Trumble, Tiffany Hine, Christy Huddle, Jeff Bresee, and Alternate Member, Mary Sue Jedele. Ed Kelly and Alternate Member, Jon Busco, were absent with notification. Staff members present were Deputy Director of Zoning, 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.

Ms. Hine motioned to approve the minutes from the November 15, 2007 without revision. Ms. Jedele seconded the motion, which carried with a vote of four (4) in favor. Mr. Bresee abstained from voting due to his absence at the November meeting.

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

2. Monthly Address from Director of Zoning, Tony Redman.

Mr. Redman was unavailable due to the necessity of his attendance at another meeting. Accordingly, Deputy Director of Zoning, Sherry Kelly, provided the Board with an update of the Draft Zoning Ordinance, Subdivision Regulation and Zoning Map revision process that is currently being addressed by Mr. Redman, under direction of the Jefferson County Commission.

3. Variance Request by David E. Gano, Owner for a Front Setback reduction from 20' to 3' to allow for an existing carport that was constructed as a replacement for a previous carport that was destroyed by snow. Property description: 32 Bear Run, Harpers Ferry, West Virginia . Zoning Ordinance: Article 9, Section 9.7
(Harpers Ferry District – Map 13D / Parcel 136 / Lot Size: 1/2 Acre)

Mr. Gano advised that a previously existing carport had been destroyed by snow, so he rebuilt another one on the same site without obtaining a building permit. As a 3' setback is in compliance with the Campsite Bylaws, he was unaware of any replacement issue at that location, and thought that a carport could be constructed anywhere on the property. Included with the Variance Request were four (4) letters of endorsement from neighboring residents. Mr. Gano also shared photos of the current carport with Board Members. There was no public comment.

4. Request by Aspen Greens Subdivision (Z02-06) for an extension of the Conditional Use Permit. Property description: North side of Route 24 (Old Country Club Road) and the east side of Route 17 (Flowing Springs Road) at its intersection with Route 18 (Daniel 's Road). Zoning Ordinance: Article 3, Section 3.2g.
(Charles Town District – Map 4 / Parcel 19 / 110.708 Acres)

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Representing Attorney, Patrick Henry, advised that on November 2, 2007 he received a facsimile copy of the written Conditional Use Permit prepared pursuant to the June 15, 2006 ruling by the Board of Zoning Appeals. The corresponding Minutes from that meeting had only recently been published and made available to the public. Since the Conditional Use Permit was unsigned, the actual date of issuance could not be established; however, an expiration date specifically referenced on said Conditional Use Permit was noted as December 30, 2007. Understanding that recent changes in Administrative Staff had resulted in some logistical difficulties relating to the normal processing of projects, Mr. Henry respectfully requested that the Board grant a renewal of the Applicant's Conditional Use Permit, to include an allowance for the possibility of an additional extension if necessary. Prosecuting Attorney, Stephanie Grove, confirmed the above-referenced oversight, and indicated that there may be issues with upcoming Conditional Use Permits, as well. Deputy Director, Sherry Kelly, stated that she would review all Conditional Use Permits currently being processed, to insure that each has been properly approved and executed. Mr. Trumble expressed his concern regarding this matter, and requested that Staff provide the Board with a list of the aforementioned Conditional Use Permits currently being processed, to include a corresponding status report for each. Mr. Bresee motioned to approve Mr. Trumble's request. Ms. Hine seconded the motion, which carried unanimously.

Public comment was offered by Mr. Dan Riss with the Elks Run Study Unit, who stated that the development process would be closely monitored, due to water shed concerns.

5. Monthly Report from Deputy Director of Zoning, Sherry Kelly.

Referenced in Agenda Item #2.

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

Prosecuting Attorney, James Casimiro provided the Board with a Draft of the Rules of Procedure for review, which will be addressed in greater detail during the January 2008 Meeting.

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

7. Legal Update.

8. Correspondence.

Ms. Hine motioned to go into deliberations, at 3:59 p.m. Ms. Huddle seconded the motion, which carried unanimously. The meeting commenced again at 4:13 p.m.

3. Variance Request by David E. Gano, Owner for a Front Setback reduction from 20' to 3' to allow for an existing carport that was constructed as a replacement for a previous carport that was destroyed by snow.

As the original carport had been constructed without adherence to the required permit process, Ms. Hine motioned to deny the above referenced Variance. Ms. Huddle seconded the motion, which carried with a vote of four (4) in favor and one (1) opposing vote (Jeff Bresee).

4. Request by Aspen Greens Subdivision (Z02-06) for an extension of the Conditional Use Permit.

Ms. Hine motioned to grant the above referenced request by Aspen Greens Subdivision for an extension of the Conditional Use Permit, in the amount of eighteen (18) months. Ms. Huddle seconded the motion, which carried unanimously. Mr. Bresee further moved that Staff provide a signed Conditional Use Permit to the Applicant by 5:00 p.m., thus recognizing today's issuance as the effective commencement date of the eighteen (18) month time period for process completion, to conclude on June 20, 2009. At that date, should additional time be deemed necessary to finish the project, the Applicant would then be eligible to request a one-time eighteen (18) month extension from the Board of Zoning Appeals, as provided by the Ordinance. Ms. Hine seconded the motion, which carried unanimously.

7. Legal Update.

Mr. Bresee motioned to go into an Executive Session for the purpose of discussing Thorn Hill matters, at 4:23 p.m. Ms. Jedele seconded the motion, which carried unanimously. Due to a conflict of interest resulting from her place of employment, Ms. Hine recused herself from the remainder of the meeting and left.

Upon return from the Executive Session at 4:40 p.m., Mr. Bresee moved to approve certain actions that were discussed with Prosecuting Attorney, Stephanie Grove during deliberations. Ms. Jedele seconded the motion, which carried unanimously.

8. Correspondence.

None

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

The CD# where the transcript of this meeting can be found has not yet been determined. Recording Secretary, Christine Chalmers, prepared these Minutes.

