

MINUTES
JEFFERSON COUNTY BOARD OF ZONING APPEALS
OCTOBER 19, 2006

The Jefferson County Zoning Board of Appeals met on Thursday, October 19, 2006 at 3:00 p.m., in the Charles Town Library Meeting Room. Members present were as follows: Tiffany Hines, Jeff Bresee, Christy Huddle, Edwin Kelly and Tom Trumble. Alternate member Frances Morgan was also present, arriving as the Board adjourned for deliberations. Staff members present were Executive Director Paul Raco, Executive Secretary Rebecca Burns and Assistant Prosecuting Attorney Stephanie Grove.

The meeting was called to order by Ms. Hine at 3:00 p.m.

Introductions were made by Stephanie Grove and Rebecca Burns welcoming newly hired County Employees, Assistant Civil Prosecuting Attorney James Casimiro, and Recording Secretary/Clerical Support Christine Chalmers, respectively.

1. Minutes. The following notations to the minutes of September 21, 2006 were made: Page 2 / Item #8 regarding staff support has been resolved. Page 2 / Item #10 “subject to” will be stricken from context and replaced by “on authority of”. Mr. Trumble asked if the series of corrections had been added, and if the last statement had been included, and was informed that the corrections had been added, but that the last statement had not been approved. Ms. Burns advised that she had neglected to attach the approved set, but would certainly make sure that was done. Mr. Trumble also voiced his concern about being recorded as absent without notification, as he had contacted Ms. Burns regarding his absence. Mr. Bresee motioned to accept the Minutes of the September 21, 2006 with corrections. Ms. Huddle seconded the motion, which carried unanimously.

Mrs. Burns swore in individuals who indicated they would be giving testimony.

2. Request by Todd Lewis, representing Beazer Homes, to allow a model home/staffed sales center to be located on Lot S9–Comegy Drive in the Colonial Hills Subdivision. There was no public comment.

3. Request by Todd Lewis, representing Beazer Homes, to utilize a single townhouse unit as a model home/staffed sales center, to be located on Lot 45-Starkeys Landing of the Colonial Hills Subdivision. A staffed sales trailer is currently located at Lot S2 site, which would be removed upon completion of the new sales center. There was no public comment.

4. Request by Jason Kenney (Kenney Signs), representing Bank of Charles Town in Kearneysville, for a variance to replace an existing sign with a color message display sign. The current sign measures 5’6” x 10’, and the replacement sign would be 6’ x 10’, in addition to the ornamental roof. Replacement of this sign would standardize all Bank branches throughout the County. Concerns by the Board were voiced about message animation, content, length and distraction impact to drivers. Mr. Raco stated that if the Board considers granting the request, it should be conditioned on setting parameters to content and time limitations. There was no public comment.

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5. Request by Mr. Michael Cassell, representing Mon Valley Bank (MVB) located in the Somerset Village Shopping Center, for a variance from the landscaping, screening and buffer yard requirements (Article 4). Mr. Cassell voiced concern about site line safety and security issues and requested that shrubs be at a height of no greater than 36". Mr. Dick Martin, Bank President, and Sergeant Tom Hanson from the Jefferson County Sheriff's Office, also expressed safety concerns. Mr. Martin submitted that both customer and employee safety would be jeopardized by the visual impairment of the enclosure. Sergeant Hanson stated that the required buffer would present a "tactical nightmare" for law enforcement during an emergency. Ms. Huddle asked about the possibility of substituting deciduous trees in lieu of evergreens; Sergeant Hanson had the same concerns. There was no public comment.

6. Request by Sandra Thomas, representing the Apple Blossom Meadows Home Owners Association, for a variance from setbacks approved as part of the subdivision process for the Apple Blossom Meadows Subdivision as follows: Front Setbacks from 50' to 25'; Side Setbacks from 25' to 12' and Rear Setbacks from 50' to 12' (Article 9, Section 9.7). Due to grade issues, affected homeowners cannot put sheds at the rear of their properties without being in violation of the current setback requirements. Most lot sizes are one acre. All of the homeowners are in agreement by vote, submitting signed documentation. There was no public comment.

7. With regard to the Finding of Fact and Conclusion of Law for Town Run Commons (#Z06-01), postponed from the September 21, 2006 meeting, Ms. Grove advised that she conditioned everything that was agreed to from the staff report and enumerated everything else because of the potential degree of confusion during a hearing. She offered to go back and include the staff report conditions, but was asked to keep conditions listed separately. Ms. Grove will make necessary corrections and forward to the Board of Zoning Appeals, upon completion. Mr. Bresee moved to approve changes made today, authorize the Chair to sign once completed, and to remove from the future agenda. Ms. Huddle seconded the motion, which carried unanimously.

8. Staff Support. Ms. Hine advised that the matter has been addressed and can be removed from the agenda.

9. Rules of Procedure Before the Jefferson County Board of Zoning Appeals. Ms. Hine suggested that they go into deliberations, during which time Items #9 & #10 could be discussed.

Mr. Bresee motioned to go into deliberations. Mr. Trumble seconded the motion, which carried unanimously. Mr. Trumble motioned to return to regular session. Mr. Bresee seconded the motion, which carried unanimously. Frances Morgan arrived between sessions.

2. Mr. Trumble motioned to grant the request by Beazer Homes to allow a model home with staffed sales center to be located on Lot S9-Comegy Drive of the Colonial Hills Subdivision (Article 4, Section 4.18), conditioned on removing the sales trailer within ninety days, and

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notifying the Zoning staff. Ms. Huddle seconded the motion, which carried unanimously.

3. Mr. Trumble motioned to grant the request by Beazer Homes to allow a model townhome with staffed sales center to be located on Lot 45-Starkeys Landing of the Colonial Hills Subdivision (Article 4, Section 4.18). Mr. Kelly seconded the motion, which carried unanimously.

4. Mr. Trumble motioned to grant the request by the Bank of Charles Town for a variance to replace an existing sign with a color message display sign (Article 10). Mr. Bresee seconded the motion. Ms. Huddle motioned to amend the content of the request to specify that each message be displayed at a minimum of five second intervals and that in addition to the time and temperature display, the number of individual messages be limited to a maximum of eight daily with the content to include general information, bank information and local events. Holiday messages would also be acceptable. Mr. Kelly seconded the amended motion. Both carried unanimously. Ms. Burns advised that all building requirements would still apply.

5. Mr. Bresee motioned that due to safety concerns, the unique situation with regard to the Bank's location (a shopping area within a shopping center), shrubbery and decorative bushes would be limited to a height, not to exceed 36". Mr. Trumble seconded the motion. Ms. Huddle suggested that the use of high crown deciduous trees, with a trunk size not to exceed 8" and a height restriction of 30' on center at maturity also be considered, in lieu of bushes. Mr. Bresee amended the motion to include that the aforesaid deciduous trees could be substituted in lieu of bushes, at the property owner's discretion. Mr. Trumble seconded the motion. Both original and seconded motions were withdrawn. Mr. Bresee moved that a variance be granted that included the aforementioned terms, and that the applicant be required to prepare a buffering plan incorporating those conditions to be presented to the Zoning staff for review and final approval. It was determined that there is no need to resubmit this matter to the Board of Zoning Appeals. Mr. Trumble seconded the motion, which carried unanimously.

6. Mr. Bresee motioned to grant a request by Apple Blossom Meadows Home Owners for a variance from the setbacks approved as part of the subdivision process for the Apple Blossom Meadows Subdivision, as follows: Front Setbacks from 50' to 25'; Side Setbacks from 25' to 12'; and Rear Setbacks from 50' to 12' (Article 9, Section 9.7). It was noted that this matter will need to be ratified through the Planning Commission, and a revision to the covenants must also be addressed separately, by the homeowners. Mr. Trumble seconded the motion. The motion was carried unanimously.

9. Ms. Hine excused herself from the meeting, turning the Chair over to Mr. Trumble. Ms. Grove expressed her concern over several issues of confusion and advised that she would email them the Board for review. She also stated that she would not be available for the next meeting, but Mr. Casimiro would attend in her place. Mr. Trumble began a discussion regarding the use of outside equipment during Board Meetings, specifically referring to disruptions/distractions

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during the set-up and removal process, and concern over the possibility of a breach in confidentiality during deliberations, should equipment inadvertently be left in operation. It was suggested that rules and parameters be established regarding usage by outside sources, and that the legal issues be researched by Stephanie Grove. It was suggested that the matter be docketed until the December meeting, at which time discussions with all members present would resume.

10. Correspondence - Handouts:

Ms. Burns presented the latest versions of Articles 1, 2 & 3 of the Zoning rewrites for review.

Submitted by Stephanie Grove:

ORDER GRANTING CONDITIONAL USE PERMIT APPLICATION

Submitted by Mike Cassell: MVB BANK, INC – Variance Request

Mr. Kelly motioned to adjourn the meeting at 5:34 p.m.

Mr. Bresee seconded the motion, which carried unanimously.

A transcript of this meeting can be found o CD #137 and #138.

These Minutes were prepared by Christine Chalmers.