

MINUTES
JEFFERSON COUNTY ZONING BOARD OF APPEALS
FEBRUARY 19, 2004

The Jefferson County Zoning Board of Appeals met on Thursday, February 18, 2004 at 3:00 p.m., in the Jefferson County Meeting Room. Members present were Tiffany Hine, Thomas Trumble, Jeff Bresee, Douglas Rockwell and David Wiegand. Paul Raco, Executive Director, Michael Cassell, Assistant Prosecuting Attorney and Rebecca Burns, Executive Secretary were also present.

The meeting was called to order by Ms. Hine at 3:03 p.m. Ms. Hine introduced David Wiegand as the newest appointee to the Board replacing Mr. Groh.

Mr. Bresee motioned to amend the Minutes of the January 15, 2004 meeting by adding Brownshop Road, LLC to the action on item #4 on page 2. Mr. Rockwell seconded the motion which carried with a vote of 4 and 1 abstention (Mr. Wiegand because he was not in attendance at this meeting). Mr. Rockwell motioned to accept the Minutes as amended. Mr. Trumble seconded the motion which carried with a vote of 4 and 1 abstention (Mr. Wiegand).

Mrs. Burns swore in individuals who indicated they would be speaking.

NEW BUSINESS

1. Request by South Jefferson Ruritan Club for a variance from the principle permitted uses to allow rental of their facilities (Article 5, Section 5.7a). Mark Dyck of Gordon & Associates represented the request. Mr. Dyck stated the Ruritan Club would like to build their own assembly hall that they would periodically rent out for no more than 10 days per month for functions such as family reunions, wedding receptions, anniversaries and 4-H Club meetings. Mr. Dyck stated that they would not allow such activities that would charge a fee for profit. Doug Starliper a member of the South Jefferson Ruritan Club stated they would charge an amount that would cover the clubs expenses. Mr. Starliper explained that they were a charitable organization that donates funds to various groups and organizations throughout the county.

The following individuals spoke in support of the request Charles Adams; Ray Smith; Richard Zigler; Don Ranalli; Ward Zigler; and, Roger Dailey.

Mr. Raco stated that he has encouraged the Ruritan Club to propose an amendment to the Zoning Ordinance to address their concerns for many years and as of this date in time they have failed to do so.

2. Request by Jerry McKinney, Sr., for a variance from the side setback requirements from 6' to 1' for an existing fence (Article 9, Section 9.7). Jerry and Wanda McKinney represented the request stating they contracted a fence company in Augusta, WV to erect the fence and trusted them to acquire the necessary building permits. Mr. and Mrs. McKinney stated they have had numerous problems with their neighbors necessitating the need for the fence. There was no public comment.

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3. Request by Michael T. Wiley of Dewberry on behalf of Uniwest Sanitary Systems for a postponement of the appeal. Mr. Wiegand stated he was recusing himself from this matter since his employer has a contract with the owner of the property in question. Mr. Wiegand left the meeting room. Braun Hamstead stated he has been hired as legal counsel on behalf of Uniwest Sanitary Systems since David Layva's untimely death. Mr. Hamstead asked for a minimum of a thirty day postponement to allow him time to familiarize himself with the appeal. Mr. Raco representing the Planning Commission's interest stated he was not opposed to the postponement provided it is heard within the 90 day time frame outlined in the Ordinance and the time frame to submit documents is extended.

Mr. Bresee motioned to go into deliberations on item #3 only. Mr. Trumble seconded the motion which carried unanimously. Mr. Rockwell motioned to return to regular session. Mr. Trumble seconded the motion which carried unanimously.

Mr. Rockwell motioned to grant the postponement for the Uniwest Sanitary Systems appeal until the March 18, 2004 meeting. Mr. Trumble seconded the motion which carried unanimously. Mr. Trumble motioned the project be re-advertised and the cost be incurred by Uniwest Sanitary Systems. Mr. Bresee seconded the motion which carried unanimously.

4. Appeal by Uniwest Sanitary Systems of the Planning Commission's denial of the Conditional Use Permit for a 75,000 gallon per day wastewater treatment plant. Postponed per prior action.

Mr. Wiegand returned to the meeting room for the remainder of the meeting.

5. Request for a change in nonconforming use by Troika Limited Partnership from Blue Ridge Outfitters to Blue Ridge Outfitters and Breezy Knoll Storage Sheds (Article 4, Section 4.3). Mr. Raco stated the change is not necessary since the use is not nonconforming.

6. Correspondence: Memo from the Zoning Board of Appeals to Mr. Raco directing him to recalculate the linear feet on the undeveloped portion of land for Blackford Farm/Brownshop Road LLC; and, (2) have Mr. Raco re-review the calculations for the rest of the LESA scores and report back to the Board at the March 18, 2004 meeting of his findings. Mr. Bresee motioned for Ms. Hine to sign the memo and forward the same to Mr. Raco. Mr. Trumble seconded the motion which carried with a vote of 3 for and 2 abstention (Mr. Rockwell and Mr. Wiegand).

Mr. Rockwell motioned to go into deliberations. Mr. Trumble seconded the motion which carried unanimously. Mr. Bresee motioned to return to regular session. Mr. Rockwell seconded the motion which carried unanimously.

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1. Mr. Rockwell motioned to dismiss the variance on behalf of the South Jefferson Ruritan Club (SJRC) from the principle permitted uses to allow rental of their facilities based on the following:

1. The use of the proposed facility by SJRC as a clubhouse for meetings and social functions is a principle permitted use;
2. The SJRC does not intend to conduct a commercial enterprise by allow third-parties to use the clubhouse in exchange for a donation to defray expenses;
3. There are limitations on the SJRC as a result of their status as a nonprofit entity restricting the ability of the SJRC to rent its clubhouse to third-parties; and,
4. The Board feels there is not a need for a variance because the SJRC clubhouse use by third-parties is not a commercial use or business based on their presentation.

Mr. Bresee seconded the motion which carried unanimously.

2. Mr. Trumble motioned to deny the variance by Jerry McKinney, Sr., from the 6' side setback requirements to 1' for an existing fence on the basis the McKinney's failed to demonstrate that there are special conditions which would warrant a hardship; if the fence were not more than 6' in height it would be in compliance with the Zoning Ordinance; granting of the variance would be contrary to the public interest; and, reliance on advice from the contractor is not sufficient grounds for granting a variance. Mr. Wiegand seconded the motion which carried unanimously.

Mr. Wiegand motioned to adjourn the meeting at 4:53 p.m. Mr. Trumble seconded the motion which carried unanimously.

A detailed transcript of this meeting can be found on Tape(s) #11. These Minutes were prepared by Rebecca F. Burns.