

MINUTES
JEFFERSON COUNTY BOARD OF ZONING APPEALS
MARCH 19, 2009

The Jefferson County Board of Zoning Appeals met on Thursday, March 19, 2009 at 3:00 p.m., at the Charles Town Library Meeting Room. Members present were as follows: Chairman, Tom Trumble, Vice Chair, Christy Huddle, Edwin Kelly, Tiffany Hine, Jeff Bresee and Alternate Member, Jon Brusco. Staff members present were Acting Director, Kirk Davis; Acting Zoning Administrator, Jennifer Snyder; Assistant Prosecuting Attorney, James Casimiro, and Zoning Secretary, Christine Chalmers.

The Meeting was called to order by Chairman, Tom Trumble, at 3:02 p.m.

No individuals were present to offer testimony.

1. Minutes.

Ed Kelly motioned to approve the Minutes from the February 19, 2008 meeting. Christy Huddle seconded the motion, with the following sentence revision, taken from the bottom of page two, Item #1.

CHANGE FROM:

Since the exact location of the water treatment facility, specific to the relationship of the Harpers Ferry intake area, is currently undecided, the public health, safety or welfare, or the rights of adjacent property owners or residents will be adversely affected due to issues resulting from water quality. Further, as portions of the proposed project are situated in an established flood plain, the potential risk factor to area visitors and guests on the premises is also a major concern.

TO:

As the proposed resort has portions of the project situated in an established flood plain with only one entrance and a relatively narrow roadway, access by emergency vehicles and the potential risk factor of stranding occupants on the premises, is a major concern. Further, because the exact location of the water treatment facility, specific to the relationship of the Harpers Ferry intake area, is currently undecided, the public health, safety or welfare, or the rights of adjacent property owners or residents will be adversely affected due to issues resulting from water quality.

The motion was approved, as revised, by a vote of four (4) in favor. Tiffany Hine and Jeff Bresee abstained from voting due to their absence at the February Meeting.

- 2. Variance Request by Property Owners, S. Andrew Arnold and Carmela M. Cesare from the 35% restriction to allow for a 1,477 sq. ft. addition onto a house that is currently approximately 1,980 sq. ft. in size. Said expansion is pursuant to Article 4.3(d), as may be required.**
- 3. Withdrawal by written submission from Owners/Applicants, S. Andrew Arnold and Carmela M. Cesare, of the above-referenced Variance Request. Additionally, referenced property has not been properly posted with zoning notice placard, per Article 8.2(d).**

No action taken by the Board regarding the above referenced Agenda Items #2 and #3.

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4. Monthly Address from Acting Director, Kirk Davis and Status Report by Acting Zoning Administrator, Jennifer Snyder:

Acting Director, Kirk Davis, informed the Board that the County Commission has denied his recommendation that Jennifer Snyder, who is presently performing in an Acting capacity, be permanently appointed to Zoning Administrator. Instead, the Commission has requested that the vacancy be advertised, so qualified candidates are afforded an opportunity to interview for the position. Ms. Snyder would also be considered for selection.

Asked about the Referendum, Mr. Davis advised that once re-districting is complete, the County Commission could call a vote, which might be as early as September.

With regard to the Lawsuit against the County Clerk, by Tom Harding of the Observer, it was deduced that the County Commission was not part of said Lawsuit. Having denied the request to obtain a copy of confidential petitioner names, the County Clerk, as Custodian of Record, is the sole target of said Lawsuit. A status account of said Lawsuit was unavailable.

In response to Mr. Trumble's inquiry about the Director Search Committee, Mr. Davis stated that a meeting was held on Tuesday, March 17th with Tom Trumble, Robert Reynolds and Mr. Davis in attendance. During this meeting, five (5) Finalists and four (4) Alternates were selected, after a review of the forty-six (46) submitted applications. Per instruction by the County Commission, initial interviews of the Finalists will be scheduled on April 6th, 7th and 8th. The projected start date for the new Director is the end of May.

Other topics of discussion included the Budget. Contrary to an article in the Martinsburg Journal, which suggested that the Jefferson County Planning Department is operating in the "red"; Mr. Davis advised that both the Departments of Planning and Zoning have actually accrued nearly \$200,000.00 in combined savings, through frugal management of Department funds.

In closing, the matter of signage was also briefly addressed and will be revisited in the future, for the purpose of determining usage regulations, applicable to Jefferson County.

Acting Zoning Administrator, Jennifer Snyder, presented members with a brief status update, to include an outline of the Zoning Certificates, recently requested, processed and issued through the office, to include:

Zoning Certificate Requests:

- a. Halltown Pool Supplies - Relocation of Business.
- b. Wata-Wings, LLC – Restaurant / Currently in violation: operating without a Zoning Certificate.
- c. Southern States – Retail Sales / Currently in violation: operating without a Zoning Certificate.

Zoning Certificates Issued:

- a. #ZC09-02 – Battery Rejuvenation Business (small scale)
- b. #ZC09-03 – JR Texas BBQ Restaurant

5. Legal Update.

Regarding the Advanced Pest Control matter. Although Assistant Prosecuting Attorney James Casimiro was not employed by the County in 2006, when the Board of Zoning Appeals denied the Variance currently under Appeal, he did advise that the County has sixty (60) days to respond. Additionally, as the Applicant recently purchased the adjacent property, a lot line adjustment might offer resolution without further issue, which may have been the Applicant's intent in acquiring the property.

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Mr. Trumble also asked about “Thorn Hill”. Again, as this case was also heard prior to Attorney Casimiro’s employment with the County, he offered to inquire about the status, from Assistant Prosecuting Attorney Stephanie Grove, who was Legal Counsel during the matter.

Concerning the matter of Conditional Use Permits, Attorney Casimiro advised that an Appeal of the decision rendered by Judge Steptoe was still pending in front of the Supreme Court.

6. Vote on written decisions from prior Board of Zoning Appeal Meetings.

Assistant Prosecuting Attorney, James Casimiro, presented the Findings of Facts and Conclusions of Law, for the Rattling Springs Associates Variance that was denied by the Board during the February Meeting. Upon completion of review, the following revisions were requested:

Pages 2 and 3: The numbering needs to be changed (starting after 3.) from 5.- 9. to 4.- 8.

Page 2 / Paragraph 1: With regard to the property “situated within 500 feet of the Potomac River bank”, instead of using “the vast majority is situated” as the descriptive amount, a more exacting “the entire disturbed area is situated...” will be substituted.

Accordingly, Ed Kelly motioned to approve the Finding of Facts and Conclusions of Law with stated revisions, for signature by Mr. Trumble. Christy Huddle seconded the motion, which carried with a vote of four (4) in favor. Tiffany Hine and Jeff Bresee abstained from voting due to their absence from the February Meeting.

7. Correspondence. None.

Christy Huddle motioned to adjourn the meeting at 3:45 p.m. Tiffany Hine seconded the motion, which carried unanimously.

An Audio Transcript of this meeting can be found on CD #14.
Zoning Secretary, Christine Chalmers, prepared these Minutes.