

Draft Minutes
Jefferson County Zoning Board of Appeals

- 1 Meeting Date: January 22, 2015
2 Meeting Location: Conference Room, Old Charles Town Library
3 200 East Washington Street, Charles Town, West Virginia
4
5 Board members present: Tyler Quynn, Chair; Jeffrey Bannon, Vice Chair;
6 Christy Huddle, Ted Schiltz
7 Board member(s) absent: Matt Knott (without notification)
8
9 Staff members present: Jennifer Brockman, Acting Zoning Administrator/Director of
10 Planning and Zoning; Steve Groh, Assistant Prosecuting Attorney;
11 Jennilee Hartman, Zoning Clerk
12

13 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

14

15 1) Election of Officers.

16 Mr. Quynn postponed action on this item in anticipation of Mr. Knott's imminent arrival.

17

18 2) Approval of the minutes from the December 11, 2014 meeting.

19 Mr. Quynn moved to approve the minutes with following correction:

20 a) Page 2, line 39, rewrite as follows, for which he obtained a permit ~~for~~.

21 Mr. Bannon seconded the motion, which carried unanimously.

22

23 3) Swearing in of members of the public intending to provide testimony.

24 Ms. Hartman swore in members of the public who indicated they would be providing testimony.

25

26 4) Acceptance of the Compatibility Assessment Meeting Staff Report for the Dollar General
27 Conditional Use Permit (CP14-02). The meeting was held on January 9, 2015 at 2:00 pm,
28 which resulted in the resolution of all issues raised. Therefore, pursuant to Section 7.6E, no
29 additional public hearing is required. Details regarding the CUP application are listed in Item #5.
30

31 Mr. Quynn requested a summary of the Conditional Use Permit (CUP) process. Ms. Brockman
32 briefly outlined the process, while incorporating information about the Dollar General proposal.
33 Ms. Brockman highlighted each of the issues discussed at the Compatibility Assessment Meeting
34 (CAM) and any follow up that had subsequently taken place (see Staff Report for full description).
35

36 Ms. Huddle moved to accept the Compatibility Assessment Meeting Staff Report for the Dollar
37 General Conditional Use Permit.
38

39 5) Discussion and action on the Dollar General Conditional Use Permit (CP14-02). The applicant
40 is proposing a 9,100 sq. ft. retail store, to include public restrooms, merchandise storage, store-
41 front and pole signage and an asphalt parking lot that will accommodate the required 40 parking
42 space, plus drive aisles. This item is not a public hearing. Property owners: Wilbur A. Alger Jr.
43 and Middle of the Way Real Estate, LTD. Location: Intersection of Middleway Pike (Route 51)
44 and Leetown Road (Route 1). District (07); Map: 19; Parcels: 16.6 & 16.7.

1 Josh Allen, representative with Cross Development LLC, presented the Dollar General CUP
2 proposal to the Board. Mr. Allen stated that the proposal would be utilizing the setbacks
3 outlined in the 1977 Middleway Village Final Plat; however, it would conform to all other design
4 standards referenced in Appendix B of the Zoning Ordinance for commercial sites greater than
5 1.5 acres. Mr. Allen addressed each of the six resolved items from the CAM, which dealt with
6 the existing stormwater management problems along Middleway Pike; potential traffic safety
7 and related signage; the proposed building security and parking lot lighting; the potential for
8 future water and sewer availability; historic preservation efforts and the installation of a dry
9 hydrant to service the surrounding community. Mr. Allen addressed questions from the Board.

10
11 Ms. Brockman explained why the applicant was permitted to utilize the lesser setbacks that were
12 delineated on the Middleway Village Final Plat as opposed to the ones referenced in the Zoning
13 Ordinance.

14
15 Chris Stroech, Attorney for the property owner with Arnold and Bailey, also answered
16 questions from the Board. Discussion regarding the encroachment of the neighboring well
17 (Images) onto the subject parcel, raised concerns regarding the overall design of the project.
18 Mr. Allen explained that he would be working with the Images property owner, owner of
19 parcels 16.6 & 16.7, to relocate the well. Mr. Allen also stated that if the well cannot be
20 relocated that the project design may be altered by shifting the building closer to the Images
21 property and placing the septic reserve area adjacent to Leetown Road in order to accommodate
22 Health Department regulations. Further discussion took place regarding how the Developer
23 should address the neighbor's concerns regarding potential damage to his well (#4 from CAM
24 staff report), to what extent the Developer would be obligated to perform an archeological
25 survey, and the benefits of a second entrance on to Leetown Road.

26
27 Mr. Bannon moved to go into deliberative session at 2:52 p.m. Mr. Quynn called for a vote,
28 which carried unanimously. Ms. Huddle moved to come out of deliberative session at 3:14 p.m.
29 Mr. Quynn called for a vote, which carried unanimously.

30
31 **Board of Zoning Appeals Rulings**

32
33 6) Discussion and action on the Dollar General Conditional Use Permit Application (CP14-02).
34 Mr. Bannon moved to approve the Dollar General Conditional Use Permit with the following
35 conditions:

- 36 a) The applicant is bound by his testimony.
37 b) The applicant is bound by the resolved issues from the CAM.
38 c) The applicant will consider the feasibility of a second entrance onto Leetown Road (Rt 1).
39 d) The applicant will offer adjacent property owners a water quality well test to establish a
40 baseline, and if the construction should negatively impact the adjoining wells the applicant
41 will attempt to mitigate such problems.
42 e) Mr. Quynn called for a vote, which carried unanimously.

43
44 1) Election of Officers.

45 Mr. Schiltz moved to reappoint Mr. Quynn as Chair and Mr. Bannon as Vice Chair. Ms. Huddle
46 seconded the motion, which carried unanimously.

Minutes
Jefferson County Zoning Board of Appeals
January 22, 2015

1 7) Director's Report

2 a) Activity Report. No discussion.

3 Ms. Brockman updated the Board on the status of the Comprehensive Plan, the Zoning
4 Administrator position, the status of the Mass Events text amendment, and that the
5 representatives for the All Good Music Festival had contacted the office to schedule a Pre
6 Proposal Conference.

7
8 8) Legal Update.

9 a) All Good Music Festival Litigation

10 Mr. Groh informed the Board that Aitcheson/The All Good Music Festival's court date was
11 scheduled for March 2, 2015 and the William Neufeld court date was rescheduled to February
12 2, 2015. Ms. Brockman requested that her name be removed from the Neufeld court case as
13 she was not a party to the action once the Board made their determination.

14
15 The Board requested all paperwork related to legal cases be emailed to them in advance.
16 Mr. Quynn moved to go into deliberative session at 3:29 p.m. to discuss the pending lawsuits.
17 Ms. Huddle seconded the motion, which carried unanimously. Ms. Huddle moved to come
18 back into session at 3:49 p.m.

19
20 9) Signing of written decision from prior Board of Zoning Appeals meetings.

21 a) Appeal of an Administrative Decision to deny Zoning Certificate #ZC14-39. The
22 Appellant argues the Acting Zoning Administrator is "not allowing dual use [of]
23 equipment on my land". Location: 3 Sunstead Ln, Charles Town, WV. District: 07;
24 Map: 16; Parcel: 2.12; Size: 10.05 ac; Zone: Rural; File: AP14-02. *Mr. Quynn stated*
25 *he would review the Findings and bring them back to staff at a later time.*

26
27 Ms. Huddle moved to adjourn the meeting at 3:50 p.m. Mr. Quynn called for a vote, which carried
28 unanimously.