

Minutes
Jefferson County Zoning Board of Appeals

1 Meeting Date: August 27, 2015

2 Meeting Location: Charles Town Library Conference Room

3 200 East Washington Street, West Virginia

4

5 Board members present: Tyler Quynn, Chair; Jeffrey Bannon, Vice Chair, Christy Huddle,
6 Matt Knott and Jeff Bresee, Alternate

7 Board members absent: Ted Schiltz (with notification)

8 Staff members present: Jennifer M. Brockman, Director of Planning and Zoning/Acting
9 Zoning Administrator; David Simon, County Planner; Lydia Lehman,
10 Assistant Prosecuting Attorney; Jennilee Hartman, Zoning Clerk

11

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

13

14 Mr. Bresee filled Mr. Schiltz's vacancy as the Alternate Board Member.

15

16 Mr. Bannon moved to begin the meeting at 2:00 p.m. Mr. Quynn called for a vote, which carried
17 unanimously.

18

19 Mr. Quynn explained how the meeting would be conducted to the public.

20

21 1) Approval of the minutes from the July 16, 2015 meeting.

22

23 Mr. Quynn moved to approve the minutes with corrections. The board members requested the
24 following corrections:

25

26 a) Page 1, line 45, change *recued* to *recused*.

27 b) Page 2, line 41, remove first comma; and, after *at* add *the*.

28 c) Page 3, line 28, after *agreed* add *to*.

29 d) Page 4, line 34, change *resident's* to *residents'*.

30 e) Page 5, line 42, add the sentence *Mr. Quynn called for a vote, which carried unanimously.*

31 f) Page 6, line 4, after *at* add *the*.

32 g) Page 5, line 6, change *plat* to *plant*.

33 h) Page 5, line 7, after *compatible* add *with the neighborhood*.

34

35 Mr. Quynn called for a vote, which carried four (4) in support and one (1) abstention (Ms. Huddle,
36 as she was not in attendance).

37

38 2) Swearing in of members of the public intending to provide testimony.

39

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

41

42 3) Variance from Section 4.10A to waive the requirement of a site plan for a 40' x 35' (1,400
43 sq. ft.) addition to an existing church to be used for children's ministries. Owner: CrossPoint
44 Church of God. Location: 3066 South Childs Rd, Kearneysville, WV. District: 07; Map: 21;
45 Parcel: 5.14; Zone: Rural; Size: 2.64 ac; File: ZV15-18.

46

1 Michael Shepp with Alleghany Surveys was present to address the Board. Mr. Simon briefly
2 presented his staff report to the Board. Mr. Shepp explained the purpose of the request.
3 Mr. Quynn opened the public hearing. There was no public comment. Mr. Quynn closed the
4 public hearing. The Board determined a deliberative session was not necessary. Ms. Huddle
5 moved to approve the variance, with the following conditions:

- 6 1. The variance to waive the requirement of a site plan for a 40' x 35' (1,400 sq. ft.)
7 addition to an existing church is limited to the proposed 1,400 square foot addition;
- 8 2. The applicant shall continue to retain as much of the existing treed buffer as possible
9 and replace as much of the impacted screened buffer as possible.
- 10 3. Should the applicant wish to retain the existing shed currently located in the proposed
11 building area, a building permit must be obtained to relocate the accessory structure
12 prior to its removal.

13 Mr. Quynn called for a vote, which carried unanimously.
14

- 15 4) Variance from Section 5.7B.1 to reduce the front setback from 40' to 14' for a constructed
16 24' x 32' garage; and, from Section 9.6C to allow an accessory structure in the required
17 front yard. Owner: Karen Valentine. Location: 384 Potomac Ridge Ln, Shepherdstown WV.
18 District: 09; Map: 10; Parcel: 9.17; Zone: Rural. Size: 3 ac; File: ZV15-19.
19

20 Karen Valentine, owner, was present to address the Board. Mr. Simon briefly presented his
21 staff report to the Board. Ms. Valentine explained the purpose of the request stating she had
22 hired Trees 101, an independent tree consulting service, in order to preserve as many trees as
23 possible. Mr. Quynn opened the public hearing. There was no public comment. Mr. Quynn
24 closed the public hearing. The Board determined a deliberative session was not necessary.
25 Mr. Bannon moved to approve the variance, with the following conditions:

- 26 1. The variance is limited to the proposed 24' x 32' garage.
- 27 2. Per the conditions of approval for the Potomac Ridge Subdivision, the applicant
28 shall retain as much of the existing tree buffer as possible.
- 29 3. The applicant is bound by her testimony.

30 Mr. Quynn called for a vote, which carried unanimously.
31

- 32 5) Variance from Section 4.10A to waive the site plan requirement; and, from Appendix B to reduce
33 the front parking setback from 15' to 0', to allow the construction of a 25' x 120' parking pad to
34 be used as a drop off/pick up area for families awaiting the school bus. Owner: Locust Hill HOA
35 Inc. Location: Locust Hill Subdivision Common Area (Parcel A), Oakmont Dr., Charles Town
36 WV. District: 02; Map: 13A-4; Parcel: 182; Zone: Rural; Size: .423 ac; File: ZV15-20.
37

38 Michael Boyle, President of the HOA, and Renee Hall, Community Manager from Clagett
39 Management, were present to address the Board. Mr. Simon briefly presented his staff report to
40 the Board. Ms. Hall and Mr. Boyle explained to the Board the purpose of the request stating that
41 the proposed pad site had been used as a parking area for the neighborhood families for a number
42 of years and that over time the area had begun to degrade. The HOA was proposing to pave the
43 parking pad to prevent further damage to the common area.

1 The Board determined a deliberative session was not necessary. Mr. Bresee moved to approve
2 the variance, with the following conditions:

- 3 a) Install a Children Crossing sign.
- 4 b) Require vehicles parking in these spaces to back into the spaces to provide better
5 visibility to the bus shelter and the traveling traffic on the road.
- 6 c) Require striping of the proposed spaces that meet current parking standards (9' x 20').
- 7 d) Implement a community landscaping plan to reduce the environmental impact.

8 Mr. Quynn called for a vote, which carried unanimously. Mr. Bresee noted for the record that there
9 were no members of the public in attendance to require opening the public hearing on this item.

- 10
- 11 6) Discussion and action regarding the Surety Bond Agreement for the recent All Good Music
12 Festival and Camp Out. Documentation from the Principal shall be provided to the Department
13 of Zoning prior to September 1, 2015 for presentation to the County Commission on September
14 3, 2015 to determine whether the County has incurred any unexpected costs pursuant to the Bond
15 Agreement. The Board of Zoning Appeals may take action to conditionally terminate this Bond
16 only upon confirmation from the County Commission that the Principal has well and truly
17 performed and fulfilled the obligations required under the approved plans and permits.

18

19 The Board discussed this item with Ms. Brockman and Ms. Lehman and expressed that they
20 had intended the purpose of the bond to be for unexpected costs that were not known at the
21 time the Seasonal Use Permit was approved. Ms. Lehman stated she would meet with the
22 Health Department to review the invoices that had been submitted. Mr. Knott moved to
23 inform the County Commission that the All Good Music Festival [and Camp Out] has met
24 the conditions of the bonding agreement and that there are no outstanding unexpected costs
25 that the Board is aware of related to the conditions of the approval for the Seasonal Use
26 Permit (ZV14-15). Mr. Bannon seconded the motion, which carried four (4) in support and
27 one (1) recusal (Mr. Bresee had not participated in discussions related to the Festival).

28

29 7) Director's Report.

- 30 a) Monthly Zoning Certificate Activity Report. No action taken.
- 31 b) Ms. Brockman updated the Board on the following items:
 - 32 i) A public hearing for the Campground text amendments was scheduled for 09/08/15.
 - 33 ii) The Planning Commission will hear a presentation and review proposed redlined
34 edits to the Subdivision Regulations regarding the Major and Minor Subdivision
35 and Site Plan Processes and hold a work session on the draft Mass Events text
36 amendment at their 09/22/15 meeting.
 - 37 iii) The County Commission requested Staff follow up with the Comprehensive Plan's
38 recommendation to modify the LESA/Conditional Use and Cluster Subdivision
39 Provisions. Staff to coordinate with Legal to determine the notice requirements in
40 state law and work with the County Commission to determine the next steps.
 - 41 iv) Potential for a proposed text amendment regarding Historic Resource Demolition
42 and Adaptive Reuse
 - 43 v) A text amendment to Article 12 Zoning Ordinance will be heard at the 09/22/15
44 Planning Commission meeting.

1 8) Legal Update.

- 2 a) William Neufeld Pending Litigation CA #14-C-394. Ms. Lehman stated they were
3 awaiting Judge Sander's decision.
- 4 b) Shenandoah Air Conditioning & Heating, Inc. Pending Litigation CA #15-P-73.
5 Ms. Lehman stated they were awaiting the Judge's response.
- 6 c) Review and Disposition of Citizens Complaints in relation to the All Good Festival
7 (possible executive session). Mr. Quynn moved to postpone this item until the next
8 meeting. Mr. Quynn called for a vote, which carried unanimously.
9

10 9) Signing of Findings of Fact and Conclusions of Law/written decisions from prior Board of
11 Zoning Appeals meetings.

12 Meeting Date: July 16, 2015 (*see agenda for full item description*).

- 13 a) Acceptance of the Compatibility Assessment Meeting Staff Report for the Whistling
14 Wind Farm Bed & Breakfast Conditional Use Permit Application. Owner: Laura &
15 David Humphreys. File: (CP15-02).
- 16 b) Discussion and action on the Whistling Wind Farm Bed & Breakfast Conditional Use
17 Permit, a proposed 3-unit bed & breakfast with no changes to the existing structure.
18 File: CP15-02
- 19 c) Variance from Sec. 4.11A.1 and App. B to waive the all landscaping/buffers that are
20 required for an addition and associated parking. Owner: Uvilla United Methodist Church.
21 File: ZV15-15.
- 22 d) Variance from Sec. 5.4B to reduce the side setback from 12' to 3' and the rear setback
23 from 20' to 10' for a 12' x 20' accessory structure. Owner: Bryan & Kelli LaBombard.
24 File: ZV15-16.
- 25 e) Request by The Middleway Conservancy Association Inc. for a Seasonal Use Permit for
26 'The Battle of Smithfield Anniversary Re-enactment' to operate from 08/28-30/2015.
27 File: ZV15-17.

28 The Board agreed to review the Findings Ms. Lehman provided to them and would contact
29 her by August 31, 2015 should they have any proposed edits. Ms. Huddle stated she would
30 not be offering any comments on the Findings as she was not present at the July meeting.
31

32 Ms. Huddle moved to adjourn the meeting at 3:24 p.m. Mr. Quynn called for a vote, which carried
33 unanimously.