

Minutes  
Jefferson County Zoning Board of Appeals

1 Meeting Date: October 22, 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; Ted Schiltz, Matt Knott,  
6 Christy Huddle, Jeff Bresee, Alternate, and Craig Foster, Alternate

7 Board members absent: None

8 Staff members present: Jennifer M. Brockman, Acting Zoning Administrator/Director of  
9 Planning and Zoning; David Simon, County Planner; Lydia Lehman,  
10 Assistant Prosecuting Attorney; Alex Beaulieu, Office/Project Manger  
11

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

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

17 Mr. Quynn explained how the meeting would be conducted to the public.  
18

19 1) Approval of the minutes from the September 24, 2015 meeting.  
20

21 Mr. Quynn moved to approve the September 24, 2015 meeting minutes with no corrections.  
22 Mr. Quynn called for a vote, which carried four in support and one (1) abstention (Mr. Bannon  
23 did not attend the September meeting).  
24

25 2) Swearing in of members of the public intending to provide testimony.  
26

27 Ms. Beaulieu swore in members of the public who indicated they would be providing testimony.  
28

29 Mr. Quynn introduced and welcomed Mr. Foster and the newest Alternate Member for the Board.  
30

31 3) Variance request from Sections 4.11A.2 & 4.11E, and Appendix B to remove the side and  
32 rear landscaping requirements. Owner: Jefferson County Economic Development Authority.  
33 Developer: Mark Cerasi. Location: Burr Industrial Park, Lot 41, 81 Steeley Way,  
34 Kearneysville, WV. District: 02; Map: 1; Parcel: 141; Zone: IC; File: ZV15-23.  
35

36 Ms. Kristin Stolipher, Consultant with Gordon, was present to address the Board. Mr. Simon  
37 briefly presented his staff report to the Board. Ms. Stolipher noted for the record that  
38 Mark Cerasi was now the property owner. Ms. Stolipher explained that historically land-  
39 scape buffers were not required between two commercial uses and that due to a recent text  
40 amendment and interpretation the buffer was now being applied to the noted land use.  
41 Ms. Stolipher stated that her firm had also been contracted to design a project immediately  
42 adjacent to the subject parcel and submitted a letter in support of the request. Ms. Huddle  
43 stated that during her nine (9) year term as a Board member that she recalled numerous  
44 variance requests from the required landscape buffer and that if buffers were not noted in the  
45 field it was most likely due to the fact that the parcel in question had received a variance and  
46 not that a landscape buffer was not required.  
47

1 Discussion regarding the evolution of the text amendment for the current landscaping  
2 requirements ensued. Mr. Quynn opened the public hearing. There was no public  
3 comment. Mr. Quynn closed the public hearing.  
4

- 5 4) Variance request from Section 5B.1 to reduce rear setback from 20' to 15' for a 10' x 18'  
6 deck. Owner: Adam Sperry. Location: Crosswinds Subdivision, 120 Wind Shear Dr.,  
7 Charles Town, WV. District: 02; Map: 18A; Parcel: 50; Zone: RG; File: ZV15-24.  
8

9 Mr. Adam Sperry, property owner, was present to address the Board. Mr. Simon briefly  
10 presented his staff report to the Board. Mr. Sperry explained the nature of the request to  
11 the Board. Mr. Quynn opened the public hearing. There was no public comment.  
12 Mr. Quynn closed the public hearing.  
13

14 The Board agreed a deliberative session was unnecessary. Ms. Huddle moved to approve  
15 Item #4 conditioned upon the fact that the variance was limited only to the construction of  
16 the requested deck. Mr. Quynn called for a vote, which carried unanimously.  
17

- 18 5) The Middleway Volunteer Fire Company (MVFC), Developer, is requesting the following:

- 19 a) Request for a Special Exception for an outdoor advertising sign per Section 10.5.  
20 The sign will be located on a parcel adjacent to the MVFC (File: SE15-01); and,  
21 b) A variance from Section 10.4G & Appendix A to reduce the front setback from  
22 40' to 25' for an outdoor advertising sign for the MVFC (File ZV15-25) and,  
23 c) A variance from Section 9.6C to allow the sign in the required front yard (File ZV15-25).  
24

25 Property owner: Marshall Edwards, Sr. Location: Southwest corner of the intersection of  
26 Leetown Road and Dark Hill Road, Kearneysville, WV. District: 07; Map: 24; Parcel: 2;  
27 Zone: R; Size: 81.42 ac.  
28

29 Mr. Edward Marshall and Mrs. Nancy Marshall, property owners, were present to address  
30 the Board. Mr. Simon briefly presented his staff report to the Board. The Board discussed  
31 the proposed conditions listed in the staff report with Staff. Mr. and Mrs. Marshall spoke  
32 to the nature of the request. Mrs. Marshall noted that the MVFC may be acquiring the  
33 portion of land, which is the subject of the variance. If the MVFC owned the property the  
34 Special Exception and the requested zoning variance would be unnecessary. Mr. Quynn  
35 stated for the record that he did not open a public hearing as there were no members of the  
36 public in attendance.  
37

38 The Board agreed a deliberative session was unnecessary. Mr. Knott moved to approve  
39 the above referenced requests with the following conditions:

- 40 a) Approval of this Special Exception and Variance permits only one sign for the sole  
41 purpose of advertising the location of the Middleway Volunteer Fire Company and  
42 its related activities, in the approximate location discussed in this application.

1       b) Any proposed sign shall conform to all other requirements of the Building Code,  
2       Flood Plain Ordinance and shall not be placed in a manner that impacts the sight  
3       triangle for either Dark Hill or Cedar Hollow Lane or the traveling public.

4       c) The applicant is bound by testimony.

5       Mr. Quynn called for a vote which carried unanimously.

6

7       Ms. Huddle moved to go into executive session at 3:00 p.m. Mr. Knott moved to come out  
8       of deliberative session at 3:20 p.m.

9

10      3) Variance request from Sections 4.11A.2 & 4.11E, and Appendix B to remove the side  
11      and rear landscaping requirements. Owner: Jefferson County Economic Development  
12      Authority. Developer: Mark Cerasi. Location: Burr Industrial Park, Lot 41, 81 Steeley  
13      Way, Kearneysville, WV. District: 02; Map: 1; Parcel: 141; Zone: IC; File: ZV15-23.

14

15      Ms. Huddle moved to approve the aforementioned request with the following conditions:

16      a) The variance applies only to the subject parcel (Lot 41);

17      b) The applicant will retain the existing 10' vegetative buffer along the southern portion  
18      of the subject parcel and retain the existing vegetation depicted as undisturbed area on  
19      the sketch submitted with the application in the southwest corner of the subject parcel.

20      Mr. Quynn clarified that the parcel was currently unaddressed and that 81 Steeley Way was  
21      the address of the adjacent parcel [owned by the applicant].

22      c) The applicant is bound by their testimony.

23      Mr. Quynn called for a vote, which carried unanimously.

24

25      5) Director's Report.

26      a) Monthly Zoning Certificate Activity Report. No action.

27      b) Ms. Brockman updated the Board on the following items  
28      (*see Director's Report in BZA Packet for detailed information*):

29          1. Pending Zoning Ordinance and Subdivision Regulation Amendments for  
30          Campground, Major and Minor Subdivision and Site Plan Process, Mass Events,  
31          Article 12 (Rezoning), Historic Resource Demolition and Adaptive Reuse, and  
32          LESA/Conditional Use Permit and Cluster Subdivision Provision Modifications.

33          2. Other necessary text amendments proposed by staff: Parking, Landscaping and  
34          Signage Standards.

35          3. Upcoming Board meeting is November 12, 2015.

36          Mr. Knott asked Ms. Brockman about the issuance of the new Whistling Wind  
37          Farm zoning certificate listed in the Activity Report. Ms. Brockman stated the  
38          new zoning certificate replaced the previously issued zoning certificate for the  
39          bed and breakfast, which had received a conditional use permit. Ms. Lehman  
40          added that the pending lawsuit had not been dropped.

1 6) Legal Update.

2 a) William Neufeld Pending Litigation CA #14-C-394. No update.

3 b) Shenandoah Air Conditioning & Heating Inc. Pending Litigation CA #15-P-73.  
4 No update.

5 c) Review and Disposition of Citizens Complaints in relation to the All Good Festival  
6 (possible executive session).  
7

8 Ms. Huddle moved to go into executive session to discuss Item C at 3:35 p.m.. Mr. Bannon moved  
9 to come out of deliberative session at 3:45 pm.

10

11 Mr. Knott moved that the Board had reviewed all comments received and  
12 determined that none of the comments warranted further action on the part of the  
13 Board. Mr. Bannon seconded the motion, which carried four (4) in support, one  
14 (1) abstention (Ms. Huddle).

15 d) Whistling Farms Bed & Breakfast Litigation CA # 15-C-209 (possible executive session).  
16 No action.

17

18 7) Discussion with possible deliberative session and signing of draft findings/decisions. No action.  
19 Meeting Date: September 24, 2015 (*see agenda for full item description*)

20 a) Variance request from Section 9.6C to allow an accessory structure in the required  
21 front yard; and, Section 9.7 to reduce the front setback from 25' to 10' to construct  
22 a 25' x 28' two car garage. Owner: Jeffrey Schneider.

23 b) Variance from Section 9.5B to permit a fence taller than 6' to remain 6" from the  
24 property line. Owner: Loretta Holdaway.

25

26 Mr. Bannon moved to adjourn the meeting at 3:47 p.m. Mr. Quynn called for a vote, which carried  
27 unanimously.