

## MARTINSBURG JOURNAL

Board of Zoning approves bed and breakfast for Falling Spring subdivision

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By Jenni Vincent ([jvincent@journal-news.net](mailto:jvincent@journal-news.net)) , Journal News

KEARNEYSVILLE - The Jefferson County Board of Zoning Appeals has approved a local couple's plan to utilize their Falling Spring Community Association home as a bed and breakfast, thanks to action taken Thursday afternoon.

That action - a vote of 4-1 with board member Ted Schiltz casting the lone dissenting vote -came following a lengthy (and sometimes stormy) debate as individuals voiced their opinions.

"I was looking out for vested rights - the home owners buying into a community have a vested right. And I feel that when you buy into a home owners' association that the rights go along with it - they go with the property," Schiltz said after the meeting.

[Journal photo by Jenni Vincent]

Jefferson County Board of Zoning Appeals members, from left, Matt Knott and Jeff Bresee look at photos relating to a local couple's plans to make a bed and breakfast.

As a result of the majority vote, Dave and Peggy Humphreys, whose house is located outside of Shepherdstown near Morgan's Grove, said they are ready to move ahead with its new use - the Whistling Wind Farm Bed and Breakfast -and are happy to have the zoning question resolved.

"We were waiting on this, and it feels good - especially since this has been a longtime dream of mine," Peggy Humphreys' said with a smile at her husband as they prepared to leave following the meeting.

"We live back on a 20-acre property, and even though there will be some cars on the road, it won't be as many as when we had five kids living at home."

Their proposal consisted of a three-unit (five-bedroom) B&B, as well as five parking spaces which will come from the existing driveway area. An 8-square foot sign will be located at the property's entrance.

However this approval is non-transferable, and anyone who wishes to operate a similar business after the Humphreys leave will have to come back to the BZA, board members agreed.

Jan Hafer, whose house is the last one before the Humphreys' driveway, said she had no objections to the proposal and favored keeping the road its current width.

"There is no problem when you meet another car. There is no safety issue even then," Hafer said.

Not everyone was happy, however, including longtime subdivision resident Diana Sutzenfield, who testified during the public meeting that the B&B is incompatible with the community.

It is a way to "exploit our residential neighborhood, some of which is in the historic districts, as an advertising tool to get tourists," she said.

Sutzenfield also expressed concern during her testimony about the community's stone entrance, gravel road and large, old trees that might be impacted by any changes made due to accommodate traffic generated by visitors to the B&B.

Neither Sutzenfield, nor some others opposing the plan, were happy with board chairman Tyler Quynn, who stressed that there are only two unresolved issues - whether the road needs to be widened, and if a buffer of evergreen trees should be planted in front of her home. By voting the way they did, board members agreed that neither changes were necessary.

Quynn said other possible concerns - such as increased traffic and liability insurance for the community's home owners' association - had already been resolved, and could not be discussed at the hearing.

"But don't be afraid to come up here and speak, because we're looking for facts. We're going to base our decision on the ordinance," Quynn said as the public comment period got underway.

In the end, Sutzenfield and John Barrat, a neighbor and HOA president, both objected when Quynn limited the topics they wanted to present and how long they would have to speak.

At one point, Quynn rose out of his chair and warned local attorney Braun Hamstead, who was representing Sutzenfield and Barrat, to stop talking or risk being removed by a bailiff who'd been assigned to oversee the session, which was held in the county maintenance office's conference room.

"Sir, if you get out of order again, I'm going to ask the bailiff to take you out of here because we're going to finish this hearing," said Quynn after he'd questioned Hamstead about whom he represented and what issues he planned to address.

Hamstead said he had an "ethical obligation" to speak, adding, "I know that the BZA is struggling, I can see that from the staff and also from the chair, with an ordinance that you can't really make compatible with your duties."

Quynn responded, "You are going to have three minutes to talk about the roads and the

buffer, but not the (home owners') association."

Land-use consultant Paul Raco, a former Jefferson County planning director who represented the Humphreys during the proceeding, also questioned whether Hamstead could address the board, stating it was improper since his two clients had already testified.

"My understanding of the ordinance is that every group has 15 minutes, and if you have a group, then each member of it is entitled to speak for five minutes. But I suggest you consult with staff rather than taking Mr. Raco's advice," Hamstead said.

County staff attending the meeting included Jennie Brockman (acting zoning administrator and director of planning and zoning), David Simon (planner and zoning administrator) and Jennilee Hartman (zoning clerk).

Speaking after the meeting, Brockman said anyone wishing to appeal the BZA decision to circuit court has 30 days to take that action.

- Staff writer Jenni Vincent can be reached at 304-263-8931, ext. 131.

SOURCE:

<http://www.journal-news.net/page/content.detail/id/638675/Board-of-Zoning-approves-bed-and-breakfast-for-Falling-Spring-subdivision.html?nav=5006#sthash.MYltmAI4.dpuf>