



Jefferson County
Board of Zoning Appeals
Thursday, March 24, 2016, 2:00 p.m.

Members
Tyler Quynn, Chair
Jeffrey Bannon, Vice Chair
Christy Huddle
Matt Knott
Ted Schiltz
Jeff Bresee, Alternate
Craig Foster, Alternate

The Jefferson County Board of Zoning Appeals will meet in the Charles Town Library Conference Room located at 200 East Washington Street, at the side entrance on Samuel Street, in Charles Town, West Virginia.

Unless otherwise noted, all requests are pursuant to the Zoning & Land Development Ordinance.

1. Approval of the minutes from the February 25, 2016 meeting.
2. Swearing in of members of the public intending to provide testimony.
3. Variance request by United Methodist Church from Section 10.4C to reduce the required setback of 25' to 0' to allow for the replacement of the existing freestanding sign. File: ZV16-03
4. Variance request by United Methodist Church from the following:
 - a) Section 4.10A to waive the requirement of a site plan for the installation of a 1000 square foot gravel parking lot. File: ZV16-04
 - b) Appendix B to reduce the front parking setback from 15' to 0'. File: ZV16-04Owner: United Methodist Church Trustees. Location: 289 Potomac Ave. Shenandoah Junction.
District: 02; Map: 1A; Parcel: 62; Size: .21 ac; Zone: V; File: ZV16-03 and ZV16-04.
5. Variance from Section 4.11A.1 and Appendix B to reduce the side and rear setback from 50' to 25'; and, to eliminate the required residential landscape buffer to allow for the construction of a proposed 37,500 square foot self-storage facility. Owner: CTSS, LLC. Location: 257 Keyes Ferry Rd., Charles Town, District: 02; Map: 9; Parcel: 8.3; Size: 3.2 ac; Zone: RLIC; File: ZV16-06.
6. Variance from Appendix B to reduce the rear setback from 50' to 25' for the existing bowling alley to accommodate a proposed lot line adjustment. Owner: LSCG Fund LLC. Applicant: CTSS, LLC. Location: Portion of 107 Keyes Ferry Rd., Charles Town, District: 02; Map: 9; Parcel: 8.1; Size: 4.59 ac; Zone: RLIC; File: ZV16-05.
7. Director's Report.
 - a) Monthly Zoning Certificate Activity Report
8. Legal Update.
 - a) Whistling Farms Bed & Breakfast Litigation CA # 15-C-209 (possible executive session)
9. Discussion with possible deliberative session and signing of draft findings/decisions.

Meeting Date: 12/10/15, 01/28/16 and 02/25/16 meetings. (*see agenda for full item description*)

 - a) An Appeal of the Acting Zoning Administrator's determination to enforce a 2013 Memo, which restricted shipping containers from being used as residential accessory structures. Appellant: Brian Billey. File: AP15-03.
 - b) Variance from Sec. 9.7 and App. A to reduce the front setback on S. Church St. from 20' to 7' for a 12'x15' breezeway, a 25' x 28' attached garage with a 5' x 25' attached porch. Owner: Elena Mestre and Eric Hyman. File: ZV15-29.

- c) Variance request from Sec. 8.2 to reduce the distance requirement for barns from the 75' to 47'.
Applicant: Jessica Howard. Owner: Joann Conte. File: ZV16-01.
- d) Postponed from the 01/28/16 meeting. Variance request from Sec. 4.11A.2, 4.11E and App. B to remove the side and rear landscape/screening buffer for a private, commercial warehouse/garage.
Owner: Daniel McGinn.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
March 24, 2016

United Methodist Church Variance Request (#ZV16-03 and ZV16-04)

RELEVANT INFORMATION:

1. Overview of Request

The applicant has submitted two separate variance requests; one of which consists of two parts. While each request must be considered independently, the merits of the requests overlap. To reduce redundancy, this staff report will address the subject parcel as a whole and will provide an assessment of each request.

The first variance request is from Section 10.4C, which requires all freestanding signs to be located 25' from the edge of the road right-of-way. The applicant is seeking a reduction in the required setback from 25' to 0' to allow for the replacement of an existing sign. The proposed 4' x 6' sign will be reoriented towards oncoming traffic, which the applicant states may provide better visibility for the church.

The second variance request is from Section 4.10, which requires the submittal and approval of a site plan for the installation of a 1000 square foot parking lot. A variance to this section would allow the installation of a gravel parking lot rather than the required paved parking. The parking lot also requires a variance from Appendix B to reduce the front parking setback from 15' to 0'; and the side parking setback from 4' to 0'.

2. Previous Case History

The subject parcel was platted prior to the adoption of the 1979 Subdivision Ordinance and Zoning Ordinance. The current sign was also erected prior to the enactment of the Zoning Ordinance in 1988.

3. Applicant's Justification of Request

In the attached application submitted for the variance request the applicant provided a response to the following four criteria for a variance:

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*
- b) *Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance.*
- c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*
- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

4. Staff Evaluation of Request

a. Purpose of ordinance requirements

The purpose of Zoning Ordinance, *Section 10.4C Signs Requiring a Zoning Permit*, is to provide a means by which Jefferson County regulates all exterior and interior signs placed for exterior observance in order to protect the property values and the character of the County. The Ordinance states that "any sign placed on land or on a building for the purposes of identification or for advertising a use conducted therein or thereon shall be deemed to be accessory and incidental to such land, building, or use." The intent of regulating signage, particularly as it relates to size and setbacks, is based on the need to ensure that signs do not distract drivers, have a negative impact on public safety, or have a negative impact on adjoining properties.

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United Methodist Church Variance Request (#ZV16-03 and ZV16-04)

Section 4.10 of the Jefferson County Zoning and Land Development Ordinance states that a site plan is required to be submitted and approved for a variety of uses including all commercial and institutional development in any district and for all major additions or expansions of existing uses. While the Zoning Ordinance requires a Site Plan, the Jefferson County Subdivision and Land Development Regulations defines the type of Site Plan based on the proposed uses on the property. In 1992, the Jefferson County Planning Commission determined that all newly developed parking areas required an Improvement Location Permit (now processed as a Site Plan and/or Building Permit). For this reason, a site plan would be required for the development of the gravel parking lot (already in place).

Setbacks for all structures and parking lots are found in Appendix B, Nonresidential Site Development Standards Table. Front yard setbacks are in place to ensure there is adequate distance between structures and the road on which it fronts to ensure that there is adequate room for emergency vehicles between and around the properties; access for utility workers who need to deal with electric, cable and phone lines; space for maintenance on the structure; and adequate sight distance for drivers along the road. The more rural the environment, the greater the front yard setback typically is. Historically, in rural villages such as Shenandoah Junction, front setbacks were very short.

b. Unique characteristics of property

The applicant's property is a rectangular-shaped lot that fronts on Potomac Avenue in Shenandoah Junction. The DOH right-of-way is approximately 55 feet wide in this area; the paved road is approximately 25 feet wide. Directly next to the applicant's lot is another house of worship of a different denomination. In this part of Shenandoah Junction the area's topography gently slopes downhill from 4th Street to 1st street.

The church structure and sign pre-date the adoption of zoning in Jefferson County and therefore are existing non-conforming uses. The existing sign sits at or near the edge of the DOH right-of way, immediately in front of the church structure itself and cannot be moved back to meet the required setbacks.

The front yard of the lot (shown as grass in this older aerial photo) has recently been converted into a gravel parking area on both sides of the front entrance walkway without benefit of a site plan. The second variance is requesting that the site plan which would have been required for this parking lot be waived.

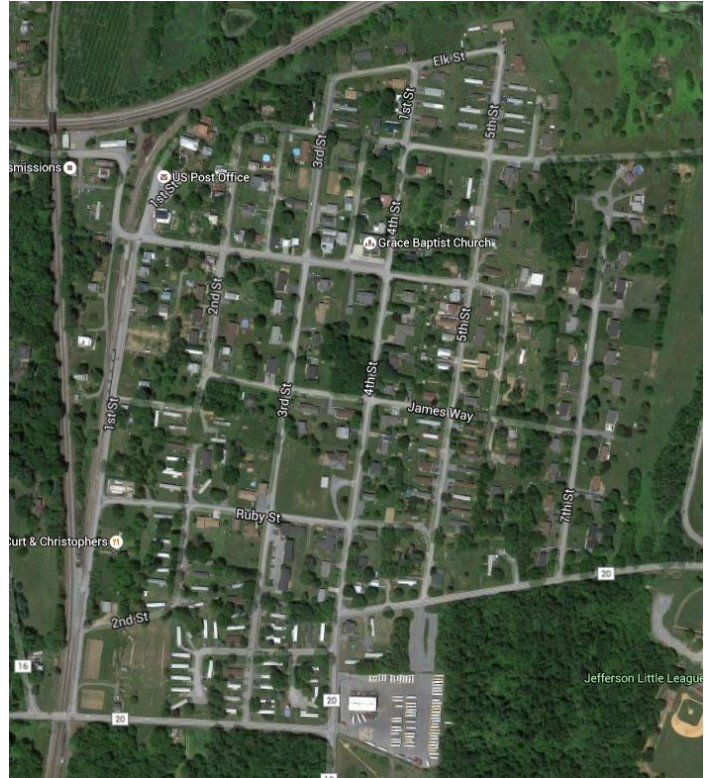


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United Methodist Church Variance Request (#ZV16-03 and ZV16-04)

c. Character of area

Shenandoah Junction is a small rural community, roughly one square mile in size near the junction of two historic rail right-of-ways. The applicant's church is one of several houses of worship in this compact community. Shenandoah Junction is predominantly a residential community consisting of single family homes, mobile homes and a few multi-family dwellings. Commercial/Commuter Rail train tracks run the length of the community as its northern and western boundaries. Jefferson County Public Schools has a bus depot at the southwestern boundary of the community which has recently moved to the Burr Industrial Park.



While there are no sidewalks in this neighborhood, the roads in the community are fairly low traffic and conducive to children and families walking.

d. Impact on adjacent properties

The applicant is seeking permission to replace an existing nonconforming sign that was constructed before a County Zoning Ordinance was established in 1988 by the Jefferson County Commission. As the sign's location has been in place for almost 30 years, and has not been a nuisance, obstructed street visibility, or caused adjoining properties any undue burden, the impact on adjacent properties is should be minimal. The applicant does intend to rotate the sign so that it is more visible to the traveling public while retaining the base in the existing location.



Staff Report
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United Methodist Church Variance Request (#ZV16-03 and ZV16-04)

The applicant is also seeking permission to develop the gravel parking lot (in place) without benefit of the required site plan. It has been noted that the parking lot extends into the DOH right-of-way and the applicant has been informed that they will need to coordinate this issue with the DOH. Additionally, the proposed parking lot requires a variance regarding the front and side yard setbacks along Potomac Avenue, Third Street and Parrish Way. As noted above, these setbacks generally have to do with protecting the safety of the traveling public and providing an adequate buffer between the private land use and the road right-of-ways. In this case, however, the traffic volume is fairly low and the slow moving and its location within a Village District make the proposed changes generally compatible with the character and context of the village. The neighboring church also has parking occupying much of their front yard area.



e. Feasibility of complying with the ordinance by other means

Due to the width of the DOH right-of way and the limited distance between the front of the church and Potomac Avenue, the existing sign does not and cannot meet the requirement that any “freestanding sign shall be located in such a manner that no part of the supporting structure is less than twenty-five (25) feet from the street right-of-way” (Jefferson County Zoning Ordinance, 10.4.C). Due to these spatial limitations and the applicant’s desire to replace the existing sign with a new one proposed to be affixed to the existing brick foundation, there appears to be no other means that the applicant could feasibly comply with the intent of the Ordinance as written.

5. Conditions of Approval

Should the Board choose to approve this request, possible conditions of approval include:

- a) The variance regarding the sign setback shall only apply to the requested freestanding sign utilizing the same base as the existing nonconforming sign;
- b) The variance regarding the site plan waiver and parking lot setbacks shall only apply to the gravel parking as constructed; any expansion of this lot shall require applying for a site plan.

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United Methodist Church Variance Request (#ZV16-03 and ZV16-04)

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 10.4 Signs Requiring a Zoning Permit

- C. Individual business or industrial establishments may erect a freestanding business sign, provided the lot frontage is at least forty (40) feet. The freestanding sign shall be located in such a manner that no part of the supporting structure is less than twenty-five (25) feet from the street right-of-way, and that no part of the sign is closer than five (5) feet to the right-of-way. The total area for any sign or signs on one supporting structure shall not exceed 300 square feet and the total height of the sign structure shall not exceed thirty-five (35) feet. Businesses or industries having a frontage on more than one street may have an additional freestanding sign for each street frontage, provided that the total area for all freestanding signs does not exceed 600 square feet. Where the lot adjoins a residence and a freestanding sign is on the side of the business lot adjoining the residential lot, the sign shall not face the adjoining residence. Signs governed by the Development Review System are subject to Section 10.4E. Structures which have more than one use shall be required to use a pylon sign. One is permitted on each street frontage.⁸

Section 4.10 Site Plan Requirements

- A. Submittal and approval of a site plan is required for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.^{23, 26}



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, P.O. Box 338

Charles Town, WV 25414

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

File Number: # ZV16-03
Staff Initials: JH
Fees Paid (\$100 or \$150):

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

Zoning Variance Request

Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

Property Owner Information

Name: United Methodist Church Trustees
Mailing Address: PO BOX 3, Shenandoah Junction, WV 25442
Phone Number: 540-728-7518 Email: fayemar@aol.com

Applicant Contact Information

Name: Pastor Parker Hinzman, United Methodist Church
Mailing Address: 3415 Kearneysville Pike, Shepherdstown, WV 25443
Phone Number: 304-876-6272 Email: phinzman3415@comcast.net

Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)

Name:
Mailing Address:
Phone Number: Email:

Physical Property Details

Physical Address: 289 Potomac Ave.
City: Shenandoah Junction State: WV Zip Code: 25442
Tax District: Charles Town Map No: 1A Parcel No: 62
Parcel Size: .2083 ac Deed Book: 809 Page No: 348

Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG), Industrial Commercial (IC), Rural (R), Residential-Light Industrial-Commercial (R-LI-C), Village (V), Neighborhood Commercial (NC), General Commercial (GC), Highway Commercial (HC), Light Industrial (LI), Major Industrial (MI), Planned Neighborhood Development (PND), Office/Commercial Mixed-Use (OC). Village (V) is checked.

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FEB 22 2016
JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes No

Reference the section of the Zoning Ordinance pertaining to this request: Section 10.4C

Briefly describe the nature of the variance request:

Requesting a reduction of the front setback requirement of 25' to 0' to replace an existing sign.

If this request is for a setback variance, please check one of the following:

Front Setback Side Setback Rear Setback Reduction From 25 to 0

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

This proposed sign would be replacing the existing sign. The existing sign faces the road while the proposed sign faces oncoming traffic, which will promote greater visibility and increase public safety. One of the adjacent uses is also a church, therefore this sign will help differentiate between our two buildings.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

Potomac Ave is platted as a 55' right-of-way, which severely limits any type of construction in front of the church. It appears that the edge of this ROW is almost immediately in front of the existing sign. The church and the sign were erected prior to the zoning laws going into effect.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

Due to the size of the lot and the width of the ROW we do not have an alternative location to place the sign. If the variance is not granted a new sign cannot be rebuilt in the same location it has always been. We believe a sign is beneficial to the community and will assist those looking for the church when driving.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

The Ordinance currently allows for the face of a sign to be replaced provided the supporting structure remains as is. The intent is to use the existing foundation; however, due to building code regulations this may not be feasible and so this request is necessary as the existing sign is currently located within the required setback.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

Jay Thompson 2-22-16
Signature of Property Owner Date

Jay Thompson 2-22-16
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 3.4A(3)(b)).

03/24/16
Date of Public Hearing

03/09/16
Advertising Date

03/09/16
Placard Posting Date



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, P.O. Box 338

Charles Town, WV 25414

File Number: #ZV16-04

Staff Initials: JH

Fees Paid (\$100 or \$150): \$100.00

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
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Zoning Variance Request

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Phone Number: 304-876-6272 Email: phinzman3415@comcast.net

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Name:
Mailing Address:
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FEB 22 2016

JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes No

Reference the section of the Zoning Ordinance pertaining to this request: Section 4.10A and Appendix B

Briefly describe the nature of the variance request:

Requesting to waive the requirement of processing a site plan for a newly installed gravel parking lot that is approximately 1000+ square feet in size and to reduce the required setback for a gravel parking lot to 0'.

If this request is for a setback variance, please check one of the following:

Front Setback Side Setback Rear Setback Reduction From 15' & 4' to 0'

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

The site currently does not provide parking for the congregation; therefore, they have to park along the road. The gravel parking lot now provides a safe location for the congregation to park.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

The church was constructed prior to the adoption of zoning. The site has never had a parking lot. Attendees primarily walked from neighboring houses, however, the main mode of transportation is by vehicle thus necessitating a parking lot.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

Again this will allow the congregation to park on site. The new lot will hopefully increased the attendance of the congregation by providing more space for people to park. The grass site was already used to park the vehicles, the gravel prevents the site from becoming muddy.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

The purpose of the parking lot is to promote safety and to encourage growth of congregation. The lot will improve the appearance of the area by preventing a muddy grass area.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

Jaye Thompson 2-22-16
Signature of Property Owner Date

Jaye Thompson 2-22-16
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 3.4A(3)(b)).

03/24/16
Date of Public Hearing

03/09/16
Advertising Date

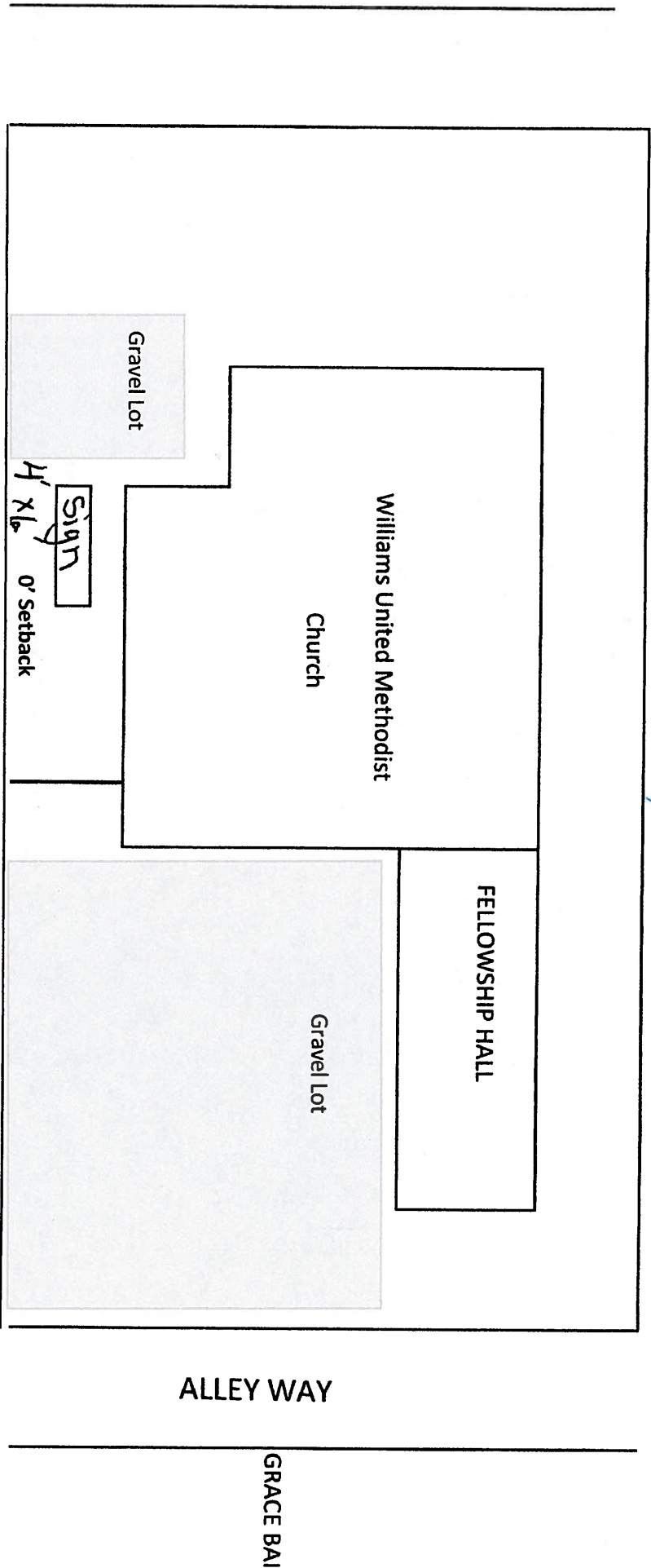
03/09/16
Placard Posting Date

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JEFFERSON COUNTY PLANNING
ZONING & ENGINEERING

#ZV16-03 and #ZV16-04



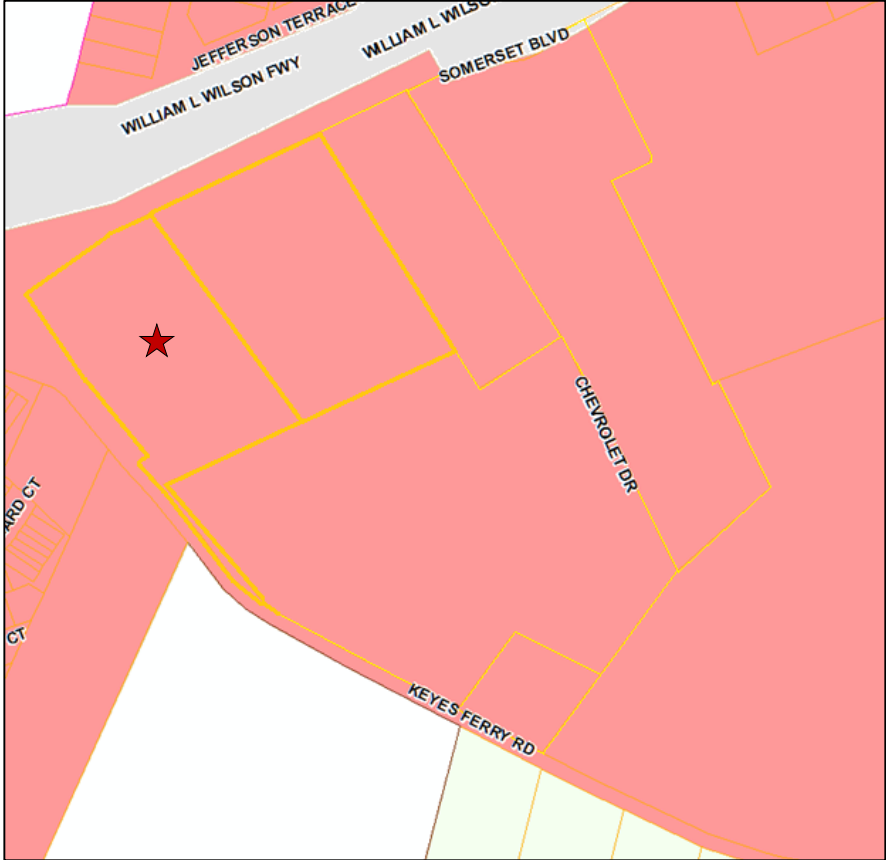
John Thompson
2-22-16

02-22-16 Variance Request

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
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CTSS, LLC Variance Request (#ZV16-05)

Item #5 Variance from Section 4.11A.1 and Appendix B to reduce the side and rear setback from 50' to 25'; and, to eliminate the required residential landscape buffer to allow for the construction of a proposed 37,500 square foot self-storage facility.

APPLICANT:	CTSS, LLC
OWNER:	CTSS, LLC
DEVELOPER:	Same as above
CONSULTANT:	Kristin Stolipher, Gordon
PROPERTY LOCATION:	257 Keyes Ferry Rd., Charles Town
LEGAL DESCRIPTION & ZONING DISTRICT:	<p style="text-align: center;">District: 02; Map: 9; Parcel: 8.3; Size: 3.2 ac; Zone: RLIC</p> 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> RLIC <i>South:</i> RLIC <i>East:</i> RLIC <i>West:</i> RLIC
PRIOR CASES & VARIANCE(S):	See History Below
APPROVED ACTIVITY:	Self-Storage Facility

Staff Report
Jefferson County Board of Zoning Appeals Meeting
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CTSS, LLC Variance Request (#ZV16-05)

RELEVANT INFORMATION:

1. Overview of Request

There are two separate variance requests included in this application and each needs to be examined separately and on their own merits:

- a. Appendix B: To reduce the side and rear setbacks from 50' to 25' for a commercial use adjacent to a commercial use; and,
- b. Section 4.11A.1/Appendix B: To eliminate the required residential landscape buffer along the southern property line.

Approval of these variances would allow the applicant to construct a proposed 37,500 square foot self-storage facility.

2. Previous Case History

This parcel consists of an office, five (5) storage units that total 44,000 square feet and includes the necessary drive aisles, landscaping and stormwater management facilities. Below is a list of the various approvals granted/issued to the property.

Plan Approvals

- 05/28/02: Approved for six (6) storage buildings totaling approx. 49,000 sq. ft.
**Note: Only 5 buildings were constructed on this site.*
- 09/30/02: Site Plan Phase I (File #S02-03)
- 05/19/04: Site Plan Phase II and Buildings 3, 4, & 5 (File #S03-11)
- 08/11/05: Redline revision for additional employee and handicap parking.

Building Permit Approvals

- 01/06/03: Building Permit/Zoning Certificate for Buildings 1 & 3 (Permit #03-13,#03-14)
- 10/24/03: Building Permit/Zoning Certificate for Building 2 (Permit #03-1238)
- 08/09/04: Building Permit/Zoning Certificate for Storage Bins (Permit #04-884)
- 11/17/04: Building Permit/Zoning Certificate for Building 4 (Permit #04-1274)
- 08/22/06: Building Permit/Zoning Certificate for Building 5 (Permit #06-1010)

Variance Approvals

- 07/18/02: Reduce parking & access drive setbacks from 15' to 5' for mini storage unit (ZV02-26)
- 02/24/04: Reduce driveway grade requirements (Sec. 9 Sub. Ord.)
- 03/23/04: Variance to allow Ph. II to process under Art. 11 instead of Art. 9 w/ no FP (Sub. Ord.)

3. Applicant's Justification of Request

In the attached application submitted for the variance request the applicant provided a response to the following four criteria for a variance:

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*
- b) *Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance.*
- c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*
- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

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CTSS, LLC Variance Request (#ZV16-05)

4. Staff Evaluation of Request

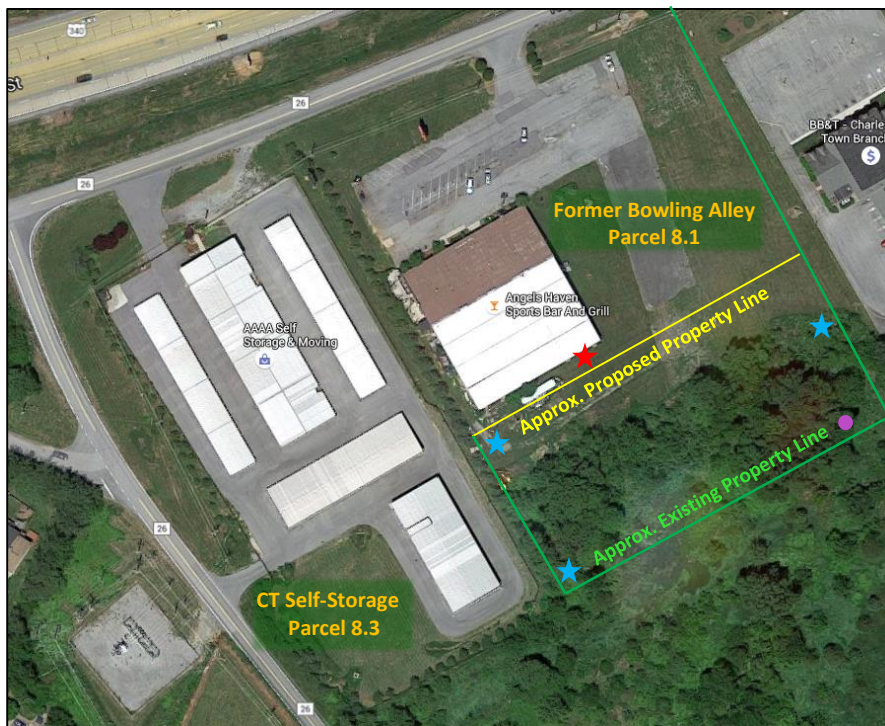
a. Purpose of ordinance requirements

The purpose of either side and rear yard setback requirements is to reduce the impact that a land use might cause to an adjacent property, to allow adequate space between a structure and a property line so that maintenance of the structure is feasible, to maintain adequate separation between structures for fire prevention purposes, and to allow room for utility easements.

Landscape buffers typically assist in mitigating any potential negative effects between commercial and residential uses. Noise, odor, light pollution, etc. can be lessened by appropriate landscaping.

b. Unique characteristics of property

The subject parcel is considered a corner lot as Keyes Ferry Road creates nearly 90 degree angle around the northwest portion of the parcel. There are two existing access points to the facility. While each are located on Keyes Ferry Road, one is to the north of the parcel and the other on the west. The applicant's property currently consists of an office, five (5) storage units that total 44,000 square feet and includes necessary drive aisles. The grassy area located towards the rear of the subject parcel (to the west of the fifth building) is the site's stormwater management area, leaving no addition land available for expansion.



★ Variance Request:
25' Rear Setback

★ Variance Requests:
25' Side and Rear Setback

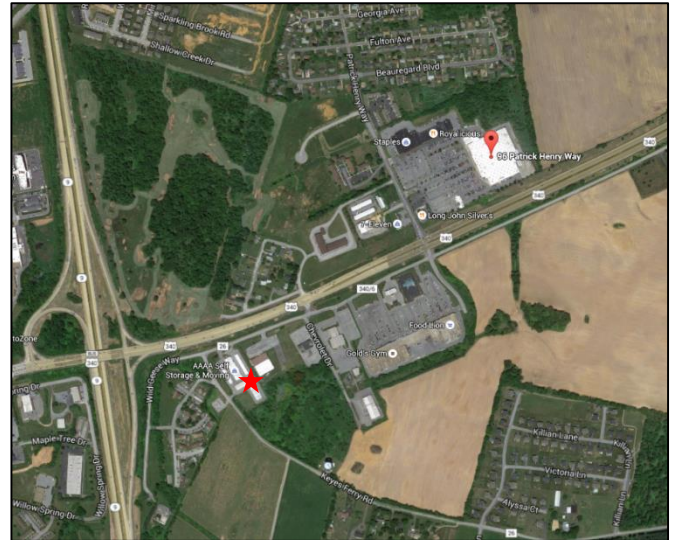
● Residential Landscape Buffer

Staff Report
Jefferson County Board of Zoning Appeals Meeting
March 24, 2016

CTSS, LLC Variance Request (#ZV16-05)

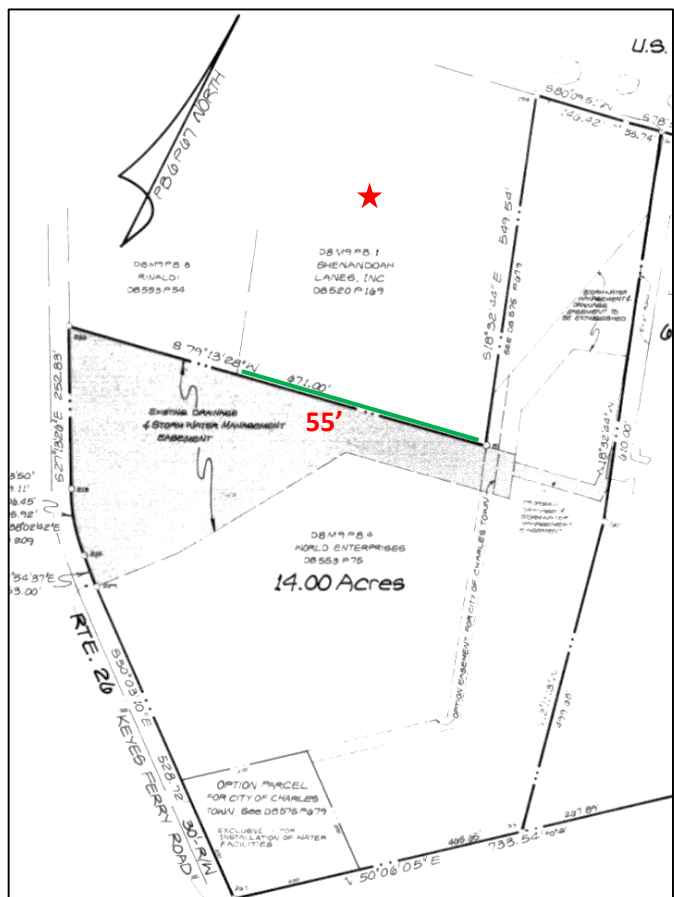
c. Character of area

The surrounding area is appropriately zoned Residential-Light Industrial-Commercial. Located within close proximity to the subject parcel, is a mixture of commercial uses and high density residential developments. Many of these developments consist of small lot single family or townhome dwelling units that do not afford the residents additional storage area. Access to a self-storage facility utilizing a frontage road to Route 340 within the immediate area provides residents a convenient storage option. Providing an additional storage facility to the expanding residential community may foster growth in an area designated for both commercial and residential land uses.



d. Impact on adjacent properties

The 11 acre property located to the south of the subject parcel is currently restricted to a single family dwelling. This parcel is densely wooded and otherwise surrounded by commercial development. Notably, the portion of the parcel that would abut the proposed self-storage expansion is encumbered by a substantial stormwater management easement that serves the adjacent bank and Jefferson Business Park (f.k.a. Alex Chevrolet). Approval of the variance request to eliminate the required landscaping along this shared property line would not appear to negatively impact this parcel.



Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 March 24, 2016

CTSS, LLC Variance Request (#ZV16-05)

e. Feasibility of complying with the ordinance by other means

Due to the size of the proposed building and lot configuration, the landscaping required between a commercial use adjacent to a residential lot would not be feasible. The applicant is unable to adjust the lot line to increase the size of the subject parcel without creating additional lot constraints on the bowling alley. The only recourse the applicant may have is to reduce the size of the building to allow for the installation of the required landscaping; however, due to the heavily wooded area within existing stormwater management area, Staff believes this additional landscaping would be unnecessary.

5. Conditions of Approval

Should the Board choose to approve this request, possible conditions of approval include:

- a) The variance is conditioned upon preserving the existing vegetation within the required 10' parking setback along the southern property line when possible.

SECTION OF ORDINANCE TO BE CONSIDERED:

Buffer yard requirements are as shown in Appendix A and B of this Ordinance, and are summarized in this section.²⁷

A. Commercial Development²⁷

- 1. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a fifty (50) foot or greater unscreened green space buffer or a fifteen (15) foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE²⁷

Zoning District	Development Type ⁶	Min Lot Area (MLA)	Min Lot Width	Max Building Height ⁸	ImperVIOUS Surface Limit	Building Setbacks		Parking/Drive Aisle Setbacks ⁹			Distance (if Sec. 4.6 applies)	Buffers (Sec. 4.11) (Screened / Unscreened)								
												Adjacent lot is:								
												Commercial Use			Industrial Use					
Front	Side	Rear	Front	Side	Rear	Front, Side, Rear	Front, Side, Rear	Front	Side	Rear	Front	Side	Rear							
Industrial - Commercial**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25		15	4	4	75	Narrow Buffer Detail No. M-54			N/A	10(S)	10(S)	N/A	10(S)	10(S)
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25	50 (or 25 if adjacent to industrial use)	15	10	10	75	Medium Buffer Detail No. M-53			N/A	10(S)	10(S)	N/A	10(S)	10(S)
	Industrial	3 acres***	N/A	75	90%	50 (or 25 if adjacent to industrial use)		25 (or 20 if adjacent to industrial use)			200	Wide Buffer Detail No. M-52			25(S)	20(S)	20(S)	N/A	20(S)	20(S)
Residential-Light Industrial-Commercial	Commercial or Industrial	N/A	N/A	60	80%	See Industrial - Commercial District														



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning
116 East Washington Street, P.O. Box 338
Charles Town, WV 25414

File Number: #ZV16-05
Staff Initials: CPe
Fees Paid (\$100 or \$150): \$100.00

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

Zoning Variance Request

Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

Property Owner Information

Name: CTSS, LLC.
Mailing Address: P.O. BOX 25523, WASHINGTON, D.C. 20027
Phone Number: 202-243-7530 Email: TOM@ARCLAND.COM

Applicant Contact Information

Name: CTSS, LLC.
Mailing Address: P.O. BOX 25523, WASHINGTON D.C. 20027
Phone Number: 202-243-7530 Email: TOM@ARCLAND.COM

Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)

Name: GORDON
Mailing Address: 301 NORTH MILDRED STREET, CHARLES TOWN, WV 25414
Phone Number: 304-725-8456 Email: KSTOLIPHER@GORDON.US.COM

Physical Property Details

Physical Address: KEYES FERRY ROAD
City: CHARLES TOWN State: WV Zip Code: 25414
Tax District: CHARLES TOWN (2) Map No: 9 Parcel No: 8.3
Parcel Size: 3.2+/- ACRES (BEFORE MERGER) Deed Book: 1137 Page No: 169

Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG), Industrial Commercial (IC), Rural (R), Residential-Light Industrial-Commercial (R-LI-C) [checked], Village (V), Neighborhood Commercial (NC), General Commercial (GC), Highway Commercial (HC), Light Industrial (LI), Major Industrial (MI), Planned Neighborhood Development (PND), Office/Commercial Mixed-Use (OC).

RECEIVED
FEB 26 2015
JEFFERSON COUNTY PLANNING & ZONING
Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes No

Reference the section of the Zoning Ordinance pertaining to this request: Appendix B + 4.11A.1 gh 3/16/16

Briefly describe the nature of the variance request:

This request is to reduce the required building setback from 50' to 25'.

If this request is for a setback variance, please check one of the following:

Front Setback Side Setback Rear Setback Reduction From 50' to 25'

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

This use will not adversely affect the public health, safety or welfare or the rights of adjacent property owners or residents since the immediate properties are either vacant or parking areas and the proposed setback is consistent with setbacks required if the adjacent use was industrial. The proposed use will incorporate the required landscaping buffer to shield adjacent properties.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

This request arises since the proposed use is the expansion of the existing self storage facility use in which the requested setbacks are consistent with the existing use.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

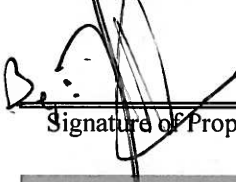
Granting this variance will permit a reasonable use of the land providing for a drive aisle and proposed building with adequate access while allowing for a reasonable building setback which maintains conformance with the ordinance should the adjacent parcels be developed as industrial. It will also eliminate an unnecessary hardship of reduced development potential on the site.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

Granting this variance will allow the intent of the Zoning Ordinance to be observed since we are requesting a setback similar to what is required for the same use adjacent to industrial uses. We feel that a reasonable setback of 25' is consistent with building setbacks in other areas of the Zoning Ordinance.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

 CTSS, LLC
Signature of Property Owner Date 2-25-2016

Signature of Property Owner Date

Notification Requirements (to be completed by staff)

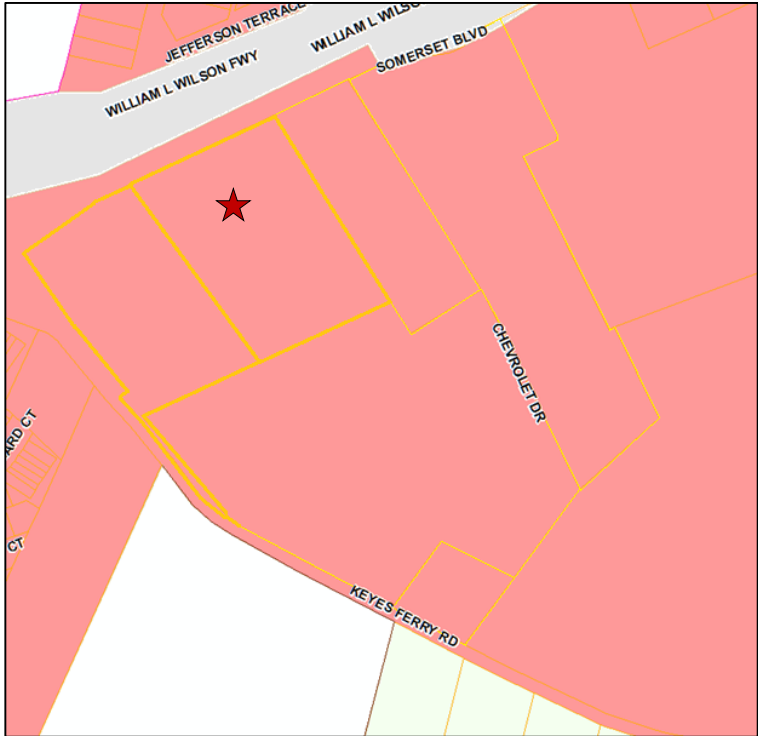
Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 3.4A(3)(b)).

Date of Public Hearing Advertising Date Placard Posting Date

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 March 24, 2016

LSCG Fund 11 Lanes, LLC Variance Request (#ZV16-06)

Item #6 Variance from Appendix B to reduce the rear setback from 50' to 25' for the existing bowling alley to accommodate a proposed lot line adjustment.

APPLICANT:	CTSS, LLC
OWNER:	LSCG Fund 11 Lanes, LLC
DEVELOPER:	Same as above
CONSULTANT:	Kristin Stolipher, Gordon
PROPERTY LOCATION:	107 Keyes Ferry Rd., Charles Town
LEGAL DESCRIPTION & ZONING DISTRICT:	<p style="text-align: center;">District: 02; Map: 9; Parcel: 8.1; Size: 5 ac; Zone: RLIC</p> 
SURROUNDING PROPERTIES:	<p>Zoning Map Designation:</p> <p><i>North:</i> RLIC <i>South:</i> RLIC</p> <p><i>East:</i> RLIC <i>West:</i> RLIC</p>
PRIOR CASES:	<p>ZC13-13: Brewpub with small vat beer production in existing bar/lounge/ nightclub/restaurant/grill within an existing bowling alley (05/15/13).</p> <p>ZC13-31: Legends Sports Bar & Lounge with 5 slot machines (12/18/13).</p> <p>ZC15-12: Sports Bar & Grill: 20 tables; 2 full-service bars (dine-in/carry-out); jukeboxes; pool tables; dart boards and 5 slot machines. Special Events to include live bands. All-ages establishment (04/14/15).</p>
VARIANCE(S):	N/A
APPROVED ACTIVITY:	Bowling Alley with Bar and 5 slot machines

Staff Report
Jefferson County Board of Zoning Appeals Meeting
March 24, 2016

LSCG Fund 11 Lanes, LLC Variance Request (#ZV16-06)

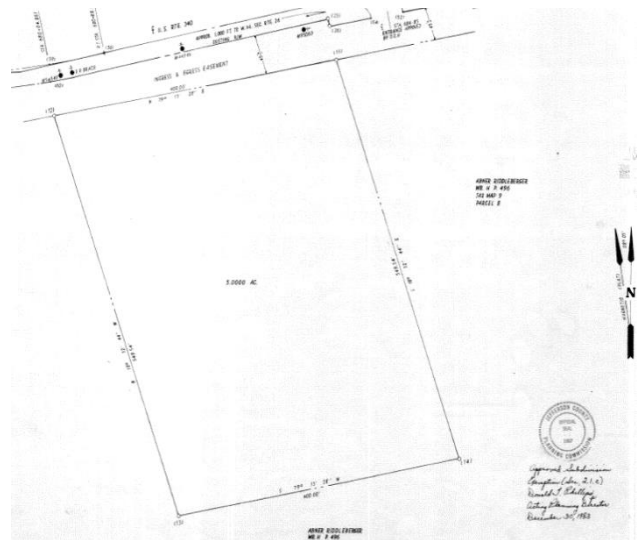
RELEVANT INFORMATION:

1. Overview of Request

The applicant is requesting to reduce the rear building setback from 50' to 25' to accommodate a proposed lot line adjustment. This lot line adjustment would result in a reduction in the subject parcel's size from 5 acres to 2 acres. Per Appendix B of the Zoning Ordinance, the required setback for a commercial use on a parcel greater than 1.5 acres is 50'. The relocated rear lot line would be approximately 25' from the existing bowling alley thus creating a setback violation. Note, the proposed lot line would not create a parking setback violation and, in Staff's opinion, does not appear to hinder the subject parcel's ability to install landscaping for future development.

2. Previous Case History

On December 30, 1983, this lot was created as a subdivision exemption outsale parcel per Section 2.1.c under the 1979 Subdivision Ordinance. The existing structure was built prior to the adoption of the Zoning Ordinance.



3. Applicant's Justification of Request

In the attached application submitted for the variance request the applicant provided a response to the following four criteria for a variance:

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*
- b) *Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance.*
- c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*
- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

4. Staff Evaluation of Request

a. Purpose of ordinance requirements

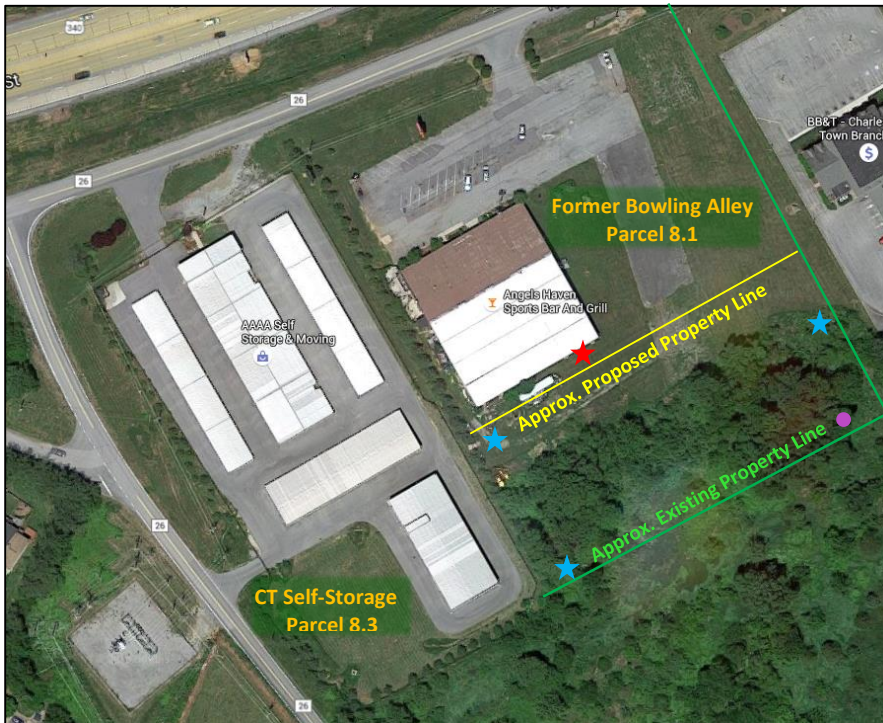
The purpose of the side and rear yard setback requirements is to reduce the impact that a land use might have on an adjacent property, to allow adequate space between a structure and a property line so that maintenance of the structure is feasible, to maintain adequate separation between structures for fire prevention purposes, and to allow room for utility easements.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
March 24, 2016

LSCG Fund 11 Lanes, LLC Variance Request (#ZV16-06)

b. Unique characteristics of property

The existing bowling alley was constructed prior to the adoption of the County's Zoning Ordinance, various amenities that are typically found in association with a commercial use, such as landscaping, were not required. While the commercial use of the property is permitted due to its location in the Residential-Light Industrial-Commercial zoning district, the site is considered a legal nonconforming use by definition due to its lack of design standards. The current parking lot exceeds the number of required spaces for the existing structure. Future use and/or development of the structure will require processing through the Department.



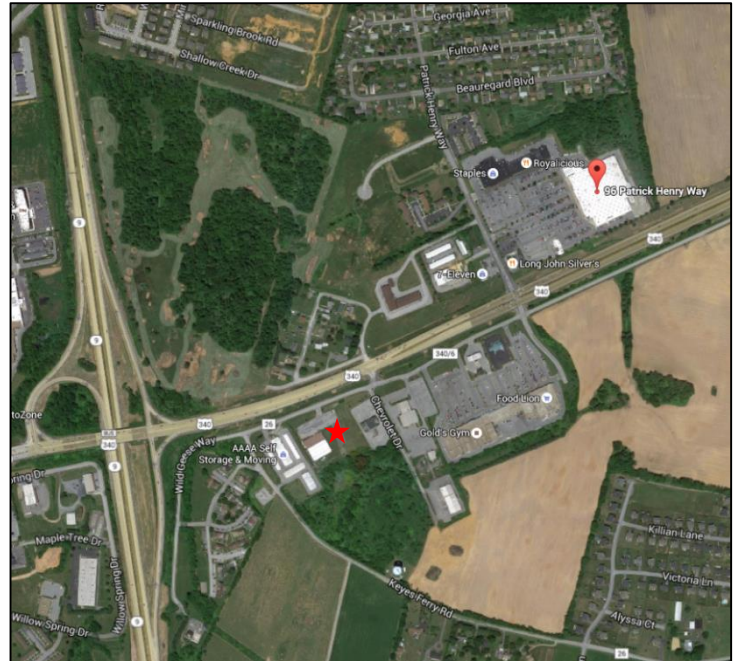
- ★ Variance Request:
25' Rear Setback
- ★ Variance Requests:
25' Side and Rear Setback
- Residential Landscape Buffer

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 March 24, 2016

LSCG Fund 11 Lanes, LLC Variance Request (#ZV16-06)

c. Character of area

The surrounding area is appropriately zoned Residential-Light Industrial-Commercial. Located within close proximity to the subject parcel, is a mixture of commercial uses and high density residential developments. To the east of the site is a branch of a regional bank with a large parking lot and several drive-through aisles. Nearby is a large shopping plaza with numerous businesses ranging from retail stores to a gym to multiple restaurants.



d. Impact on adjacent properties

The variance request to reduce the rear setback is to accommodate a lot line adjustment to allow for the adjacent property owner, who is also the applicant of this variance, to expand the self-storage facility. Therefore any negative impact that may occur as a result of this proposal would be self-imposed.

e. Feasibility of complying with the ordinance by other means

There does not appear to be another way of accommodating the 50' rear setback without redesigning and substantially reducing the size of the proposed self-storage facility. Commercial lots under 1.5 acres in size may have a 25' setback; however, due to the configuration of the subject parcel and the location of the existing structure and parking lot, reducing the acreage to attempt to meet this standard is not feasible.

5. Conditions of Approval

Should the Board choose to approve this request, possible conditions of approval include:

- a) The variance is contingent upon the approval of the proposed lot line adjustment.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE²⁷

Zoning District	Development Type ²⁸	Min Lot Area (MLA)	Min Lot Width	Max Building Height ²⁹	Imperious Surface Limit	Building Setbacks		Parking/Drive Aisle Setbacks ³⁰			Distance (if Sec. 4.6 applies)	Buffers (Sec. 4.11) (Screened / Unscreened)								
												Adjacent lot is:								
						Commercial Use	Industrial Use													
Industrial - Commercial**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25		15	4	4	75	a Residential district, or any lot with a residence, school, church, or institution of human care								
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25	50 (or 25 if adjacent to industrial use)	15	10	10	75	Narrow Buffer Detail No. M-54			N/A	10(S)	10(S)	N/A	10(S)	10(S)
	Industrial	3 acres***	N/A	75	90%	50 (or 25 if adjacent to industrial use)		25 (or 20 if adjacent to industrial use)			200	Medium Buffer Detail No. M-53			N/A	10(S)	10(S)	N/A	10(S)	10(S)
Residential-Light Industrial-Commercial	Commercial or Industrial	N/A	N/A	60	80%							Wide Buffer Detail No. M-52			25(S)	20(S)	20(S)	N/A	20(S)	20(S)
												See Industrial - Commercial District								



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning
116 East Washington Street, P.O. Box 338
Charles Town, WV 25414

File Number: #ZV16-06
Staff Initials: CPC
Fees Paid (\$100 or \$150): \$100.00

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

Zoning Variance Request

Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

Property Owner Information

Name: LSCG FUND 11 LANES, LLC.
Mailing Address: 13949 VENTURA BOULEVARD, SUITE 300, SHERMAN OAKS, CA 91423
Phone Number: Email:

Applicant Contact Information

Name: CTSS, LLC.
Mailing Address: P.O. BOX 25523, WASHINGTON D.C. 20027
Phone Number: 202-243-7530 Email: TOM@ARCLAND.COM

Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)

Name: GORDON
Mailing Address: 301 NORTH MILDRED STREET, CHARLES TOWN, WV 25414
Phone Number: 304-725-8456 Email: KSTOLIPHER@GORDON.US.COM

Physical Property Details

Physical Address: KEYES FERRY ROAD
City: CHARLES TOWN State: WV Zip Code: 25414
Tax District: CHARLES TOWN (2) Map No: 9 Parcel No: 8.1
Parcel Size: 4.59 acres +/- (BEFORE MERGER) Deed Book: 1142 Page No: 541

Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG), Industrial Commercial (IC), Rural (R), Residential-Light Industrial-Commercial (R-LI-C), Village (V), Neighborhood Commercial (NC), General Commercial (GC), Highway Commercial (HC), Light Industrial (LI), Major Industrial (MI), Planned Neighborhood Development (PND), Office/Commercial Mixed-Use (OC). R-LI-C is checked.

RECEIVED FEB 26 2016

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes No

Reference the section of the Zoning Ordinance pertaining to this request: Appendix B

Briefly describe the nature of the variance request:

This request is to reduce the required building setback of the existing bowling alley building from 50' to 25'.

If this request is for a setback variance, please check one of the following:

Front Setback Side Setback Rear Setback Reduction From 50' to 25'

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

This use will not adversely affect the public health, safety or welfare or the rights of adjacent property owners or residents since the property owners will ultimately be under the same ownership and the proposed setback is consistent with setbacks required if the adjacent use was industrial.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

This request arises since the rear of the property is being merged into the adjacent site for the purposes of a proposed self storage expansion. The newly established property line will be set at 25' from the existing bowling alley building.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

Granting this variance will permit a reasonable use of the land providing for an adequate setback allowing for rear access to the building and will eliminate an unnecessary hardship of reducing the development potential on the adjacent site.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

Granting this variance will allow the intent of the Zoning Ordinance to be observed since we are requesting a setback similar to what is required for the same use adjacent to industrial uses. We feel that a reasonable setback of 25' is consistent with building setbacks in other areas of the Zoning Ordinance.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

[Handwritten Signature]
Signature of Property Owner
CTSS, LLC
2-25-2016
Date

Signature of Property Owner

Date

Notification Requirements (to be completed by staff)

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 3.4A(3)(b)).

Date of Public Hearing

Advertising Date

Placard Posting Date



Jefferson County, West Virginia

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Director's Report Board of Zoning Appeals Meeting March 24, 2016

1) Department Reorganization

County Commission budget discussion

2) LESA/Conditional Use and Cluster Subdivision Provision Modifications

New BZA roles and responsibilities in draft proposed amendment (attached) –
BZA input requested

3) Additional Pending Zoning Ordinance and Subdivision Regulation Amendments

a) **LESA/Conditional Use and Cluster Subdivision Provision Modifications**

First PC work session held 3/8/16 PC meeting; continued to special meeting
3/24/16 and April meetings

b) **Campgrounds:**

- i. County Commission requested a work session in April 2016

c) **Article 12 Zoning Ordinance:**

- i. County Commission approved amendment 3/17/16

d) **Mass Events Ordinance (#ZTA 14-02):**

- i. County Commission Public Hearing postponed until Summer 2016

d) **Pending amendments:**

- i. Historic Resource Demolition and Adaptive Reuse
 - Staff has a meeting scheduled with the HLC 3/25/16
- ii. Parking Standards
- iii. Landscape Standards
- iv. Signage

2) Upcoming BZA meeting

a) Next Regular Meeting: **April 28, 2016**

Section 3.4 Boards and Commissions²³

A. Board of Zoning Appeals

1. The Board of Zoning Appeals will consist of five members to be appointed by the County Commission. Their terms of office, succession, removal, filing of vacancies, and their powers and duties shall be provided in Chapter 8A of the West Virginia Code, as amended.
2. Meetings of the Board of Zoning Appeals shall be conducted according to the Rules of Procedure adopted by the Board of Zoning Appeals. In the event of a conflict between this Ordinance and the Rules of Procedure, the Rules of Procedure shall prevail.²
3. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.
 - a. Filing an Appeal
 - i. An appeal to the Board may be taken by any person, board, associate, corporation or official allegedly aggrieved by any administrative decision based or claimed to be based, in whole or in part, upon the provisions of this Ordinance. The property owner of the subject appeal shall sign the application or an affidavit allowing an agent for the property owner to file the application which shall be submitted.
 - ii. Such appeal shall be filed with the Board within thirty (30) days from the decision appealed.
 - b. Notification
 - i. Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing.^{5, 17, 21}
 - ii. The subject property shall be posted conspicuously by a zoning notice no less than twenty-eight (28) inches by twenty-two (22) inches in size, at least 15 days before the hearing. The sign will be prepared by the Departments of Planning and Zoning but posting the sign is the responsibility of the applicant. The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.
 - c. Public Hearing
 - i. The Board shall hold a hearing within forty-five (45) days of the date the appeal is received in the Departments of Planning and Zoning. At the hearing, any party may appear and be heard in person or by agent or attorney.^{5, 8, 17, 21}
 - ii. The Board shall render its determination on the application no more than thirty (30) days following the public hearing by registered mail.
 - d. Continuance of Hearing
 - i. The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session. Any hearing continued shall be held within thirty (30) days from the initial hearing.
4. The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.²³
 - a. The Board shall approve a variance request if the Board finds that a variance:
 - i. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;

- ii. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
 - iii. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
 - iv. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.^{17, 21}
- b. The owner or authorized representative of the owner of the property which is the subject of a variance request shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The variance request shall be filed with the Board at offices of the Departments of Planning and Zoning.
 - c. Notification for a variance must be conducted according to the requirements of Section 3.4A.3.b.
 - d. A public hearing must be conducted according to the requirements of Section 3.4A.3.c and such hearing may be continued according to the requirements of Section 3.4A.3.d.
5. The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as “Conditional Uses (CU)” in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit. The Board of Zoning Appeals review process for a conditional use permit application is established in Article 7 of this Ordinance.²
- a. The Board shall consider and approve a Conditional Use Permit request with conditions or special requirements which allows for the proper integration of the proposed uses into the community subject to such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit, if it finds that the following general standards have been met:
 - i. The proposed use is compatible with the goals of the adopted Comprehensive Plan.
 - ii. The proposed use is compatible in intensity and scale with the rural environment and poses no threat to public health, safety and welfare.
 - iii. Taking into consideration the Comprehensive Plan’s Highway Road Classification Map and Highway Problem Areas, the roads serving the proposed use are adequate to serve the development. and are not anticipated to have a greater impact on the road network than the by-right agricultural activities would.
The proposed use shall be compatible with the appropriate and orderly development of the district, taking into consideration the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with such use, the size in relation to the use, the assembly of persons in connection with such use, the size in relation to the use, and the location of the site with respect to streets giving access to the site.
 - iv. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. taking into consideration the location, nature and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site.
 - v. Neighborhood character and surrounding property values shall be reasonable safeguarded.
 - vi. Operations in connection with the use shall be in conformance with Section 8.9 of this Ordinance. not be offensive, dangerous, destructive of property values and

~~basic environmental characteristics, or detrimental to the public interest of the community. They shall not be more objectionable to nearby properties by reason of fumes, noise, vibration, flashing of or glare from lights, and similar nuisance conditions than the operations of any permitted use not requiring a conditional use permit in the district.~~

~~vii. The character and appearance of the proposed use, buildings, structures, and/or outdoor signs should be in general harmony or better, with the character and appearance of the surrounding neighborhood.~~

~~vii. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit.~~

b. The owner or authorized representative of the owner of the property for which the Conditional Use Permit is being requested shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The Conditional Use Permit request shall be filed with the Board at offices of the Departments of Planning and Zoning.

c. Notification for a Conditional Use Permit must be conducted according to the requirements of Section 3.4A.3.b.

d. A public hearing must be conducted according to the requirements of Section 3.4A.3.c and such hearing may be continued according to the requirements of Section 3.4A.3.d.

~~5.6.~~ In exercising its power and authority, the Board of Zoning Appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as the Board deems appropriate.^{17, 21}

~~6.7.~~ Any party may appeal any decision of the Board of Zoning Appeals to the Circuit Court of Jefferson County within thirty (30) days of the Board's decision, pursuant to Chapter 8A of the West Virginia Code, as amended.^{2, 17, 21}

~~7.8.~~ Nothing in this Section shall be construed as permitting the Board of Zoning Appeals to exercise any power or refrain from the performance of any duty not authorized or directed by the provisions of Chapter 8A of the West Virginia Code, as amended, which provisions of the Code are hereby incorporated herein by reference.^{14, 17}

2. Planning Commission²³

1. Membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Planning Commission and Chapter 8A of the West Virginia Code, as amended.

2. The powers and duties of the Jefferson County Planning Commission include but are not limited to the following:

a. Review applications for major site plans, major subdivisions, and waivers from minimum standards, pursuant to the Subdivision and Land Development Regulations;

b. Review requests for amendments to the County zoning map and Zoning and Land Development Ordinance;

c. Research and recommend to the County Commission improvements to the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations;

d. Make recommendations to the County Commission concerning planning and zoning issues;

- e. Make an annual report to the County Commission concerning the operation of the Planning Commission and the status of planning within its jurisdiction;
 - f. Prepare the Jefferson County Comprehensive Plan and recommend to the County Commission for adoption or amendment.
3. County Commission²³
1. General. The County Commission shall have all powers conferred upon it by the Constitution, the laws of the State of West Virginia, and the County Charter. With respect to development approval and amendments to this Ordinance and the County's Comprehensive Plan, the powers that the County Commission retains and shall exercise include but are not limited to the powers set out in this Section.
 2. Approvals. Following a public hearing and the submittal of recommendations by the Planning and Zoning Department and the Planning Commission, the County Commission may take action on the proposed adoption of, or amendments to, the following, including text, maps, and other elements:
 - a. Comprehensive Plan
 - b. Zoning and Land Development Ordinance
 - c. Subdivision and Land Development Regulations
 - d. The Jefferson County Zoning Map
 - e. An Urban Growth Boundary in accordance with Chapter 8 of the West Virginia Code, as amended:
 - i. A boundary shall be established by the County Commission in agreement with each individual municipality regarding that municipality's boundary.
 - ii. If the County Commission and municipality cannot agree upon the location or size of the boundary, either party may file for declaratory judgment relief in the circuit court which shall submit the dispute to mediation or arbitration prior to final resolution by the circuit court.
 - iii. Once the county has adopted an urban growth boundary by its designation on an adopted county zoning map, the gross area inside the boundary may not be reduced without written consent of the municipality.
 - iv. The County Commission shall review each urban growth boundary at a period not to exceed ten years or upon request of the individual municipality.
 3. Hiring. The County Commission shall hire staff of the Departments of Planning and Zoning.
 4. Appointments. The County Commission shall appoint the members of the Planning Commission and the Board of Zoning Appeals.
 5. Fees. The County Commission shall adopt a fee schedule for processing applications pursuant to this Ordinance. The fee schedule may be amended from time to time as determined appropriate by the County Commission.

JEFFERSON COUNTY, WEST VIRGINIA
Department of Zoning

116 East Washington Street
P.O. Box 338
Charles Town, West Virginia 25414

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

MEMORANDUM

TO: Board of Zoning Appeals Members
CC: Engineering & Building Permits Departments
FROM: Acting Zoning Administrator, Jennifer M. Brockman
DATE: March 18, 2016
SUBJECT: March Monthly Report of Department Activities

ISSUED ZONING CERTIFICATES

#ZC16-04 WVA340 LP / CONTACT: M. COLLIER– OWNER
FOOT CARE CENTER, PLC – APPLICANT

Issuance Date: March 04, 2016
Proposed Use: Doctor's Office / Podiatrist
Physical Location: 44 Trifecta Place, Unit 200 Charles Town, West Virginia 25414
Zone: Residential-Light Industrial-Commercial

#ZC16-05 WVA340 LP / CONTACT: M. COLLIER– OWNER
V. W. BROWN INSURANCE – APPLICANT

Issuance Date: March 04, 2016
Proposed Use: Insurance Agency
Physical Location: 44 Trifecta Place, Unit 201 Charles Town, West Virginia 25414
Zone: Residential-Light Industrial-Commercial

#ZC16-06 RODNEY KIDWELL– OWNER
WILLIAM MOON – APPLICANT

Issuance Date: March 04, 2016
Proposed Use: Insurance Agency to include two (2) illuminated signs –
one installed on building exterior and one on existing pole
(approx. 2' x 3').
Physical Location: 35 Halltown Road; Harpers Ferry, West Virginia 25425
Zone: Residential-Light Industrial-Commercial

ISSUED ZONING CERTIFICATES

#ZC16-07 7-ELEVEN, INC./ STORE #20685 - OWNER
DHAVAL SHAH - APPLICANT

Issuance Date: March 08, 2016
Proposed Use: Change in Tenant.
Physical Location: 7364 Martinsburg Pike; Shepherdstown, West Virginia 25443
Zone: Residential-Growth

#ZC16-03 JEFFERSON BUSINESS PARK ASSOC, LLC / CONTACT: WADE JOHNSON –
OWNER
CC CHARLES TOWN, LLC / CONTACT: ANDY CHERNER – APPLICANT

Issuance Date: March 09, 2016
Proposed Use: The proposed project consists of utilizing the two buildings at the rear of the site as a Collision Repair Facility, to also include an existing (previously permitted) paint booth.
Physical Location: 1 Chevrolet Drive; Charles Town, West Virginia 25414
Zone: Residential-Light Industrial-Commercial

#ZC16-08 AMY L. SECRIST – OWNER
MORGAN ACADEMY / CONTACT: BERNADINE SOMERS - APPLICANT

Issuance Date: March 10, 2016
Proposed Use: Private School catering to up to sixty (60) children.
Physical Location: Shepherdstown Pike; Shepherdstown, West Virginia 25443
Zone: Residential-Growth

PENDING ZONING CERTIFICATES

#ZC16-09 KENNETH L. WILT – OWNER
T-MOBILE, NORTHEAST LLC - APPLICANT

Issuance Date: TBD
Proposed Use: Property contains existing 190' self-support tower. T-Mobile Northeast, LLC to remove one (1) existing equipment Cabinet and three (3) existing antennas, at 170', and install two (2) proposed equipment cabinets and three (3) proposed antennas to an existing wireless telecommunications facility. Additionally, install one (1) microwave dish; one (1) ODU; one (1) LMR-400 cable; install Emerson Cub within the existing lease area and one (1) new IDU in new Emerson Cube.
Physical Location: 543 Mission Road, North; Harpers Ferry, West Virginia 25425
Zone: Rural

PENDING ZONING CERTIFICATES

#ZC16-10 AMERICAN TOWERS LLC – OWNER
AT& T-MOBILITY / CONTACT: JOSE PUGEDA - APPLICANT

Issuance Date: TBD
Proposed Use: Property contains existing 360' self-support tower. AT& T Mobility to remove existing LTE Antenna in Position 2; install LTE Hexport Antenna in Position 2, at 234'; install 1900 RRH in Position 2; install two (2) 1" Flex Conduits from existing DC2 to proposed 1900 RRH; Run one (1) Fiber Pair from existing FC12 through existing DC2 to proposed 1900 RRH; Run DC Cable (#8 Shielded) from existing FC12 through existing DC2 to proposed 19 RRH; install two (2) Coax Jumpers from proposed 1900 RRH to proposed antenna in Position 2.
Physical Location: 17340 Poppy Road; Bluemont, Virginia 20135
Zone: Rural

#ZC15-51 EUGENE AND SARAH ABELOW – OWNERS
EUGENE ABELOW - APPLICANT

Issuance Date: TBD
Proposed Use: Increase number of residential rental units by three – from current 10 units to proposed 13 units.
Physical Location: 1585 Gardners Lane; Shepherdstown, West Virginia 25443
Zone: Rural
