



Jefferson County
Board of Zoning Appeals
Thursday, September 22, 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 July 28, 2016 meeting.
2. Swearing in of members of the public intending to provide testimony.
3. Variance request by The Bavarian Inn, represented by Richard Klein, Alpha Associated, Inc. from Section 4.6B.2 to reduce the side distance requirement for a commercial use adjacent to a residential use from 75' to 57' to allow for the construction of an addition to the existing Bavarian Inn. Property Owner: Asam Family Limited Partnership; Property Location: 164 Shepherd Grade Rd, Shepherdstown, WV. District: Shepherdstown Corp. (10); Map: 1; Parcel: 1; Zone: Residential Growth; Size: ~6.15 ac. (2.45 acres in the County); File #ZV16-17.
4. Variance request by McGee Civil Construction, LLC, owner, represented by Jason Gerhart of Gordon, from the following:
 - a) Section 4.11A.2: All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.
 - b) Section 4.11E.1: Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least six (6) feet in height.
 - c) Section 4.11J: Required landscape buffers for a non-residential use are indicated in Appendix B.
 - d) Section 5.6D.1: Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance.
 - e) Section 8.9A.10: All commercial and industrial developments shall comply with Section 4.11 unless otherwise specified in this Ordinance.
 - f) Appendix B All commercial development adjacent to all other uses must maintain ten (10) foot screened side and rear yard landscape buffers.

The applicant is proposing to accommodate the landscaping buffer requirements along the rear and southern side property lines by permitting a six (6) foot tall chain link fence with a mesh screen and existing vegetation

The applicant is proposed to accommodate the northern side property line landscape buffer requirements by utilizing the existing six (6) foot tall chain link fence with a mesh screen and the installation of one deciduous shade tree for every 100' of property line, which will alternate with the adjacent property's existing buffer trees to meet the combined 1 tree per 50' requirement.

Property Location: Lot 40, Burr Business Park; District: Charles Town (02); Map: 1; Parcel 140; Zone: Industrial Commercial; Size: 1.22 ac. (File #ZV16-18)

5. Variance request by David Leighton, owner, from Section 9.7 to reduce the rear setback from 12' to 6' to allow for the construction of a 36' x 14' deck. Property Location: Blue Ridge Acres, Lot 42, 88 Rock Lane, Harpers Ferry WV. District: Harpers Ferry (04); Map: 12D; Parcel: 118; Zone: Rural; Size: .64 ac. (File #ZV16-19)

6. Zoning Administrator's Report.
 - a) Monthly Zoning Certificate Activity Report
7. Legal Update.
 - a) Possible executive session on the follow pending lawsuits: None.
 - b) Discussion with possible deliberative session and signing of draft findings/decisions.

Meeting date July 28, 2016:

- i. Variance request by Beallair Homes, LLC from Sec. 5.4B1 (ZV16-12); Sec. 4.18 (ZV16-13).
- ii. Variance request by the JC Development Authority, owner, from Sections 4.11A.1, 4.11B.2 and 3, 4.11E.1(a-d), 4.11J, 5.6D.1 and App. B (ZV16-14).
- iii. Variance request by the JC Convention and Visitor's Bureau, applicant, on behalf of the Jefferson County Commission, owner, from Appendix B (ZV16-15 and ZV16-16).

Minutes
Jefferson County Zoning Board of Appeals

- 1 Meeting Date: July 28, 2016
2 Meeting Location: Charles Town Library Conference Room
3 200 East Washington Street, Charles Town West Virginia
4 Board members present: Tyler Quynn, Chair; Matt Knott, Christy Huddle, Jeffrey Bannon,
5 Craig Foster, Alternate, and Jeffrey Bresee, Alternate
6 Absent members: Ted Schiltz (with notification)
7 Staff members present: Alexandra Beaulieu, Zoning Administrator; Jennifer M. Brockman,
8 County Planner; Lydia Lehman, Assistant Prosecuting Attorney
9

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

11 Mr. Quynn called the meeting to order at 2:05 PM.

12 1. Approval of the minutes from the June 23, 2016 meeting.

13 Ms. Huddle moved to approve the June 23, 2016 minutes. The minutes were approved
14 unanimously.

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

16 Ms. Brockman swore in members of the public who indicated they would be providing
17 testimony.

18 3. Variance request by Beallair Homes, LLC, owner, from the following:

19 a) Section 5.4B1 to reduce the rear setback from 20' to 12' for any residential structures on
20 Lots 112, 127, and 128 (ZV16-12).

21 b) Section 4.18 to allow a staffed model home on Lot 111, which is located within the
22 interior of the subdivision (ZV16-13).

23 Location: Beallair Subdivision, Lots 112, 127, 128, and Lot 111, Beallair Manor Dr. &
24 Lafayette St., Charles Town, WV. District: 04; Map: 10A; Parcels: 112, 127, 128 (.88 acres
25 total), and 111 (.33 acres); Zone: Residential Growth.

26 Mr. Mike Wiley and Mr. Todd Abey were present to address the Board. Ms. Beaulieu provided
27 an overview of the staff report, noting that staff was in support of both requests. Mr. Wiley
28 stated that the purpose of the first request, to reduce the rear setback distance from 20' to 12',
29 was to accommodate new product types which would not be able to fit on the lots as they are
30 currently configured. He stated that the second request was to allow a staffed model home on
31 Lot 111 as the previous model home had been sold. There was no public comment.

32 Ms. Huddle moved to approve both requests as presented by the applicant. The motion carried
33 unanimously.

34 4. Variance request by the Jefferson County Development Authority, owner, from the following:

35 a) Section 5.6D.1 and Appendix B to reduce the required front, side, and rear building
36 setbacks to 25' for all lots;

37 b) Section 4.11A.1, 4.11B.2 and 3, 4.11E.1(a-d), 4.11J, & Appendix B to reduce the
38 required side and rear landscape buffer to 10' and to allow a modified planting standard;
39 and to allow existing vegetation in lieu of the aforementioned modified planting standard.

40

1 The proposed modified planting standard is as follows:

2 Front: Street trees per Section 4.11I / Side: 10' / Rear: 10'

3 Without outside storage: 1 evergreen tree planted every 50' along the property line.
4 Should an adjacent use have existing landscaping meeting this standard, trees shall
5 be planted in an alternating pattern.

6 With outside storage: 1 evergreen tree planted every 50' along the property line.
7 Should an adjacent use have existing landscaping meeting this standard, trees shall be
8 planted in an alternating pattern. Additionally, a fence approved by the Jefferson
9 County Development Authority Board shall be installed. A letter indicating this
10 approval shall be submitted with the site plan.

11 Vegetation existing along the length of the property line may be used in lieu of the
12 required plantings provided,

13 A) A letter of support from the Jefferson County Development Authority Board
14 is submitted to the Department. A letter indicating this approval shall be
15 submitted with the site plan.

16 B) Documentation that the existing vegetation is comprised of hardwood and/or
17 evergreen trees.

18 C) A 10' landscape buffer is delineated on the required site plan noting that the
19 buffer is to remain undisturbed.

20 Should any existing vegetation be removed within the buffer, except for general
21 landscape maintenance, the applicant shall replant the affected area per the landscaping
22 standards noted above.

23 c) Section 8.9A.10 to allow the street tree standard or modified planting standard in lieu of
24 the required 50' landscape buffer strip for lots along or .5 miles from a limited access
25 highway; and,

26 d) Appendix B to reduce the parking and drive aisle setbacks for a proposed industrial use
27 to Front: 15', Side: 10', and Rear: 10'.

28 District: Charles Town (02); Map: 1; Lot/Parcel below: Burr Business Park: L: 1/P: 101, L:
29 4/P: 104, L: 5/P: 105, L: 6/P: 106, L: 7/P: 107, L: 9/P: 109, L: 10/P: 110, L: 12/P: 112; L:
30 13/P: 113; Lot 14/P: 114, L: 15/P: 115, L: 16/P: 116, L: 17/P: 117, L: 18/P: 118, L: 19/P:
31 119, L: 20/P: 120, L: 21, P: 121, L: 22/P: 122, L: 23/P: 123, L: 25/P: 125, L: 27, P: 127, L:
32 28/P: 128, L: 29/P: 129, L: 30/P: 130, L: 31, P: 131, L: 32/P: 132, L: 33/P: 133, L: 34/P:
33 134, L: 35/P: 135, L: 36/P: 136; Burr Industrial Park, Ph. I: L: 12/P: 65; James Burr
34 Technology Center: L: 3/P: 16.4; Zone: Industrial Commercial; File: ZV16-14.

35 Mr. John Reisenweber, Executive Director, was present to address the Board. Ms. Beaulieu
36 provided an overview of the staff report, noting that staff was in support of the requests.
37 She stated that several of the developed lots within the Burr Parks had received variances
38 pertaining to reduced building and parking setbacks, as well as reduced landscape buffers and
39 modified planting standards. She noted that in requesting a blanket variance for internal lot
40 lines on the remaining vacant lots, the JCDA could simplify the process for future
41 development. Mr. Reisenweber provided an overview of the request. He stated that Ms.
42 Brockman had advised that the JCDA apply for a blanket variance for the remaining vacant
43 lots. He stated that the request would simplify the process and be more cost efficient for
44 future development. There was no public comment.

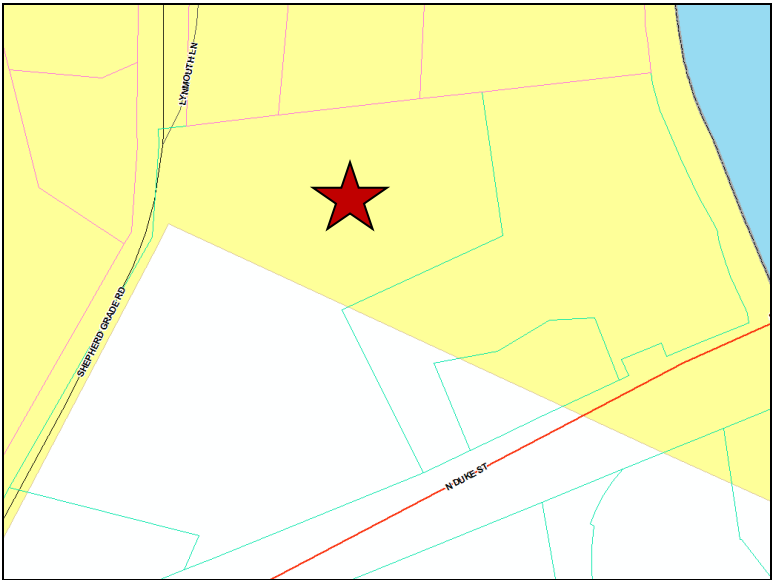
- 1 Mr. Knott moved to approve the requests as presented by the applicant. The motion carried
2 unanimously.
- 3 5. Variance request by the Jefferson County Convention and Visitor's Bureau, applicant, on
4 behalf of the Jefferson County Commission, owner, from the following:
- 5 a) Appendix B to reduce the front setbacks from 40' to 19.97' (ZV16-15); and,
6 b) Appendix B to reduce the front parking setback from 15' to 0'; and Section 11.1A
7 to allow on-street parking (ZV16-16).
- 8 Location: 37 Washington Ct. Harpers Ferry; District: Harpers Ferry (04); Map: 7; Parcel: N/A;
9 Size: .64 ac; Zone: Rural
- 10 Mr. Knott recused himself from this request stating there was a conflict of interest since he
11 was a member of the CVB's board of directors.
- 12 Ms. Annette Gavin, CEO of Jefferson County Convention & Visitor's Bureau, was present to
13 address the Board. Ms. Beaulieu provided an overview of the staff report, noting that staff
14 supported the requests. Ms. Gavin provided an overview of the history of the property. She
15 stated that granting the variances would allow the CVB to construct the proposed second
16 structure on a uniquely shaped parcel. Ms. Gavin noted for the record that the WV Division of
17 Highways granted a waiver from the current requirements which prevents backing maneuvers
18 within a State highway right-of-way and also supported the request for right angle parking.
19 She submitted a copy of the letter from the WVDOH as part of her application. There was no
20 public comment.
- 21 Ms. Huddle moved to approve the request as presented. The motion carried unanimously.
- 22 6. Zoning Administrator's Report
- 23 a) Monthly Zoning Certificate Activity Report
- 24 Ms. Beaulieu stated that she had been appointed Zoning Administrator effective July 1, 2016.
25 She stated that she had been given direction to shorten the staff reports and requested input
26 from the Board. It was the consensus of the Board that the staff reports provided in the July
27 packets were satisfactory.
- 28 7. Legal Update.
- 29 a) Discussion with possible deliberative session and signing of draft findings/decisions.
- 30 Ms. Lehman inquired of the Board as to whether they would prefer to receive the draft Findings
31 of Fact and Conclusions of Law (FFCL) by email prior to their meeting, or if they would prefer
32 to continue receiving the FFCL in paper format the day of the meeting. The Board agreed to
33 receive the draft FFCL by email.
- 34 Ms. Huddle moved to adjourn the meeting at 3:25 p.m. The motion carried unanimously.

Staff Report
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Bavarian Inn Variance Request File #ZV16-17

Item #3 Variance request by applicant, the Bavarian Inn, represented by Richard Klein, Alpha Associates, Inc. from the following section:

- a. Section 4.6.B.2: Reduce side distance requirement for a commercial use adjacent to a dwelling from 75' to 57' to allow for the construction of a 1,500 sq. ft. addition to existing restaurant.

APPLICANT:	The Bavarian Inn
OWNER:	Asam Family Limited Partnership.
DEVELOPER:	N/A
SURVEYOR/ENGINEER:	Richard W. Klein, PE, Alpha Associates, Inc.
PROPERTY LOCATION:	164 Shepherd Grade Road
LEGAL DESCRIPTION & ZONING DISTRICT:	<p style="text-align: center;">District: Shepherdstown Corp. (10); Map: 1; Parcel: 1 Size: 6.15 acres, (~2.45 ac in the County and ~3.7 ac in the Corporation); Zoned: Residential Growth</p> 
SITE PLAN:	S98-11, approved 01/22/99 S13-01, approved 04/11/13
SUBDIVISION:	80-10, Bavarian Inn Planned Unit Development (addition of 3 buildings of 9 units each, and ancillary facilities) 84-03, Bavarian Inn Resort II Planned Unit Development (additional 12-unit building)
ZONING VARIANCES:	02-21-13: BZA approved the following variances (ZV13-04 – ZV13-08): <ul style="list-style-type: none"> • A reduction of the side setback for a commercial site greater than 1.5 ac. from 50' to 20'; • A reduction of the rear setback for a commercial site greater than 1.5 ac. from 50' to 16'; • A reduction of the side distance requirement for a commercial use adjacent to a residential use from 75' to 20';

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Bavarian Inn Variance Request File #ZV16-17

	<ul style="list-style-type: none">• Eliminate the 10' screened buffer requirement for a commercial use adjacent to a commercial use; and• Reduction of the rear distance requirement for a commercial use adjacent to a commercial use in the Residential Growth district from 75' to 16'.
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RELEVANT INFORMATION:

1. Previous Case History

Many of the buildings on the property were constructed prior to the enactment of the Jefferson County Subdivision Regulations. Subsequently, in 1980, the property owners received County approval of the Bavarian Inn Planned Unit Development for the addition of 3 buildings with 9 units each and ancillary facilities. In 1984, the County approved the Bavarian Inn Resort II Planned Unit Development for an additional 12-unit building. In 1999, a site plan was approved for improvements to the Bavarian Inn facilities. In 2013 the applicant was granted a variance from Section 4.6 to reduce the distance requirement for the purpose of constructing a poolside building on their adjoining parcel to the east.

2. Staff Evaluation of the Request

a. Summary of Request and Purpose of Ordinance Requirements

The Bavarian Inn is seeking a variance from the following section of the Zoning Ordinance, for the purpose of constructing an addition to the existing building:

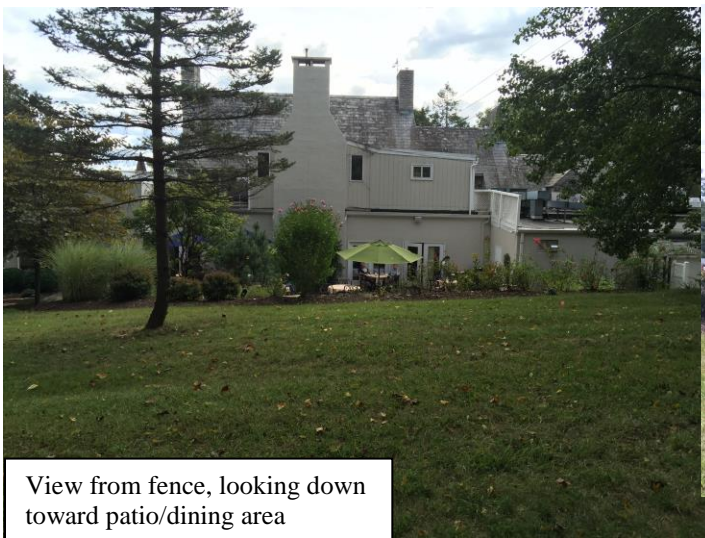
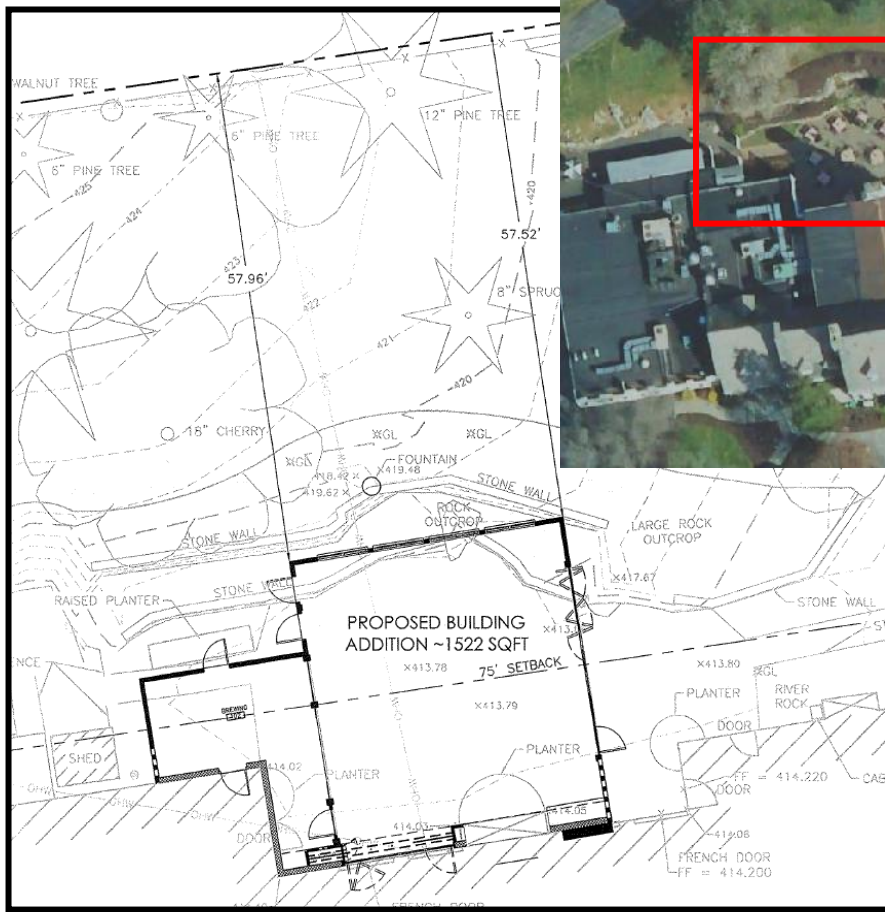
- Section 4.6.B.2: Reduce side distance requirement for a commercial use adjacent to a dwelling from 75' to 57' to allow for the construction of a 1,500 sq. ft. addition to existing restaurant.

The larger setback standards of distance requirements are intended for situations in which the proximity of a commercial use could have a negative impact on an adjacent property with a residential or institutional use, or with historic status.

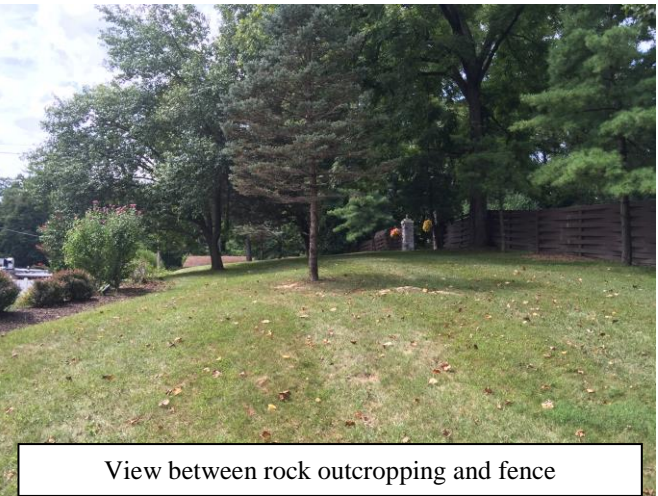


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Bavarian Inn Variance Request File #ZV16-17



View from fence, looking down toward patio/dining area



View between rock outcropping and fence

Staff Report
Jefferson County Board of Zoning Appeals Meeting
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Bavarian Inn Variance Request File #ZV16-17

b. Unique Characteristics of the Property

The Bavarian Inn is a nonconforming use and most of the site improvements were developed prior to the enactment of the Zoning Ordinance. The portion of the parcel which contains the restaurant is located within the County's jurisdiction and the lower portion of the parcel, which contains a portion of the parking lot and two entrances - one from Shepherd Grade Road and one from Duke Street, is located within the Corporation of Shepherdstown.

c. Character of Area/Impact on Adjacent Properties

The Bavarian Inn is located on the northern edge of an institutional/commercial area, bordered by a residential neighborhood. A single-family home is located to the north of the property. Shepherd University facilities are located to the south, across Route 480. Additional Bavarian Inn facilities and the Potomac River are located to the east.

The parcel located to the north contains a single-family home. It appears that existing trees screen the commercial use from the residential property.

d. Feasibility of Complying with the Ordinance by other means

It is unlikely that the applicant would be able to comply with the Ordinance for the proposed addition. It should be noted that while the applicant is requesting a reduction in the distance requirement, they still exceed the required side setback standard of 50'.

3. Possible Conditions of Approval

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

- a. The variance applies only to the proposed expansion of the existing restaurant as shown in the exhibit submitted with the variance application.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.6 Distance Requirements

B. Commercial uses are subject to this subsection, unless otherwise specified in this Ordinance. Adjacent uses (not including parking) or buildings subject to compliance with this Section shall be located at least 75 feet from: ^{7, 27}

1. Any lot in the Residential Growth District;
2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building;
3. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.²³



JEFFERSON COUNTY, WEST VIRGINIA

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

File Number: #ZV16-17
Staff Initials: CJC
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: Asam Enterprises, Inc.
Mailing Address: 164 Shepherd Grade Road
Phone Number: 304-876-2551 Email: christianasam100@gmail.com

Applicant Contact Information

Name: The Bavarian Inn
Mailing Address: Same as Owner
Phone Number: 304-876-2551 Email: christianasam100@gmail.com

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

Name: Alpha Associates, Inc. Attn: Richard W. Klein, PE
Mailing Address: 535 West King Street
Phone Number: 304-264-0051 Email: richard.klein@thinkalphafirst.com

Physical Property Details

Physical Address: 164 Shepherd Grade Road
City: Shepherdstown State: WV Zip Code: 25443
Tax District: Shepherdstown Map No: 1 Parcel No: 7.4 | 78
Parcel Size: 3.891 Deed Book: 632 Page No: 339

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). RG is checked.

RECEIVED

AUG 03 2015

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: 4.6.B Distance Requirements

Briefly describe the nature of the variance request:

Reduce the distance requirement for a commercial building adjacent to a lot with a dwelling from 75' to 57' to allow for the construction of an addition to the existing Bavarian Inn

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

Front Setback Side Setback Rear Setback Reduction From _____ to _____

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 area of the Bavarian Inn site where the addition is proposed is an existing patio area that has been used for years as a dining venue, sometimes with temporary tenting. The addition would not be a major change to how this area is currently used. Additionally, the adjacent property owner is one of the owners of the Bavarian Inn.

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 facility was constructed prior to Zoning Regulations being enacted in Jefferson County. Therefore, the owners of the Inn could not have foreseen at the time that expansion of the facility would be restricted by distance requirements.

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

Not granting the variance would prevent the Bavarian Inn from being able to improve their facility to the optimum layout envisioned. It is reasonable to use this portion of the property as it has been used previously.

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

Granting the variance will allow for continued expansion and growth for a popular tourist attraction in Jefferson County, without detriment to the public health, safety or welfare or rights of the adjacent property owners.

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.



Signature of Property Owner

8/3/16

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)).

09-22-16

Date of Public Hearing

09-07-16

Advertising Date

09-07-16

Placard Posting Date

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McGee Variance Request (#ZV16-18)

RELEVANT INFORMATION:

1. Previous Case History

The subject property is located in the Burr Industrial Park (PC File #04-38), which was approved and recorded with the County Clerk’s office on December 18, 2007. This section of the industrial park (Lots 1 – 44) received a variance from the Planning Commission from installing road curbs, gutters, and sidewalks.

On July 28, 2016 the Board approved a variance from the landscaping standards for the undeveloped parcels within the Park. While not eliminating the landscaping standards, this variance allowed for a reduction in the required landscaping.

Between 2013 and 2016, the Board approved variances to waive all or some of the building, parking and drive aisle setbacks, and landscape buffers for internal lot lines for the following lots in the Burr Park: Burr Industrial Park, Lot 71 (ZV13-10); Burr Industrial Park, Lot 8 (ZV13-25); Burr Industrial Park, Phase I: Lots 40 & 41 (ZV13-37); and Burr Park, LLC, Lot 34 (ZV13-38); Burr Industrial Park, Lot 41 (ZV15-23); Burr Business Park, Lot 11 (ZV16-02); Burr Business Park, Lots 2 & 3 (ZV16-07); and Burr Park Vacant Lots (various) (ZV16-14). (NOTE: Prior approvals by the Board do not necessarily indicate precedent because of the unique circumstances of each case.)

2. Staff Evaluation of Request

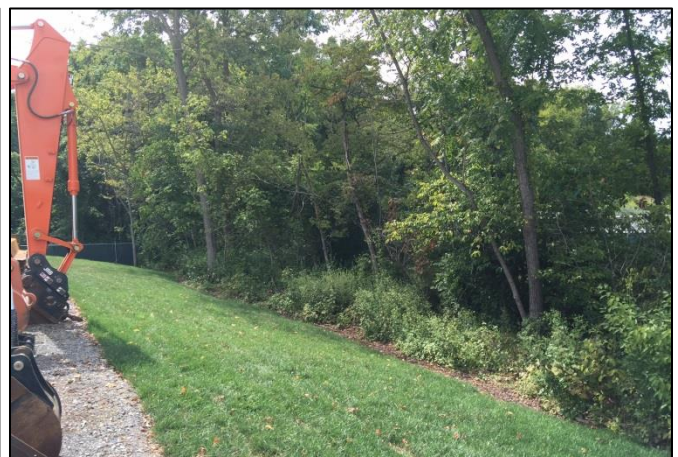
a. Summary of Request and Purpose of Ordinance Requirements

The applicant cited several sections of the Ordinance from which they would like to request variances. Their request mirrors the request submitted by the JCDA on July 28, 2016, which the Board granted unanimously. However, based on the application, it appears that the relevant sections are specifically 4.11A.2, which requires ten (10) foot side and rear yard landscape buffers; 4.11E which requires a fence or a dense screen planting; 4.11J, which requires compliance with Appendix B; and Appendix B, which requires a ten-foot side and rear screened buffer.

The applicant is proposing to utilize an existing six foot tall chain link fence with a mesh privacy screen and existing vegetation to create a landscaping buffer along the rear and southern side property lines.



Existing natural vegetation and fencing
southern side property line



Existing natural vegetation and fencing along
rear property line

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McGee Variance Request (#ZV16-18)

Additionally, the applicant is proposing to utilize an existing six-foot tall chain-link fence with a mesh privacy screen and a modified planting schedule to create a landscaping buffer along the northern side property line. The proposed modified planting schedule is for one deciduous shade tree for every 100 feet of property line. It should be noted that the JCDA's application requested a variance to allow one evergreen tree every 50' (ZV16-14).



The purpose of landscape buffer requirements is typically to lessen the impact between adjacent land uses, including the visual impact of parking, truck loading areas, etc. Landscape buffers contribute by reducing the impact that a land use might cause to an adjacent property by serving as a barrier to visibility, airborne particles, glare, or noise.

b. Unique characteristics of property

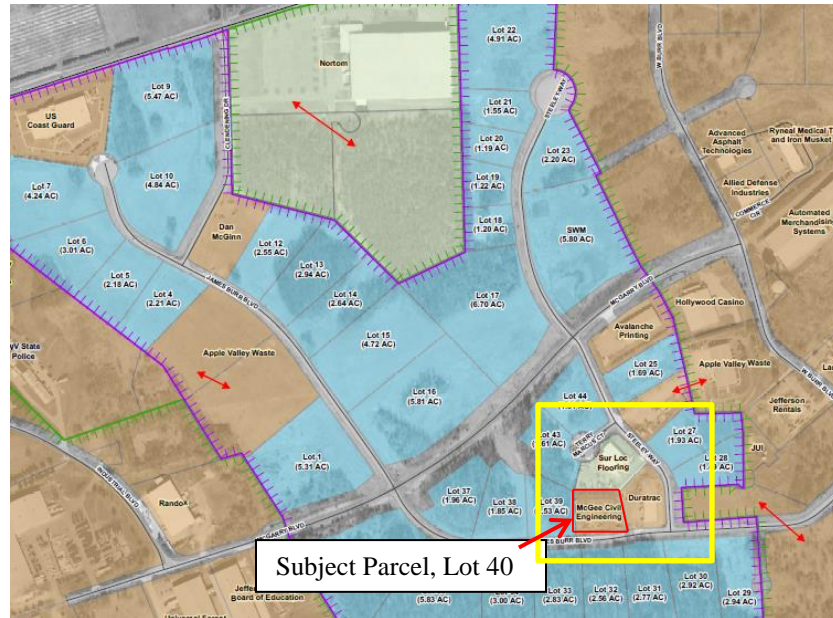
Lot 40 is located off James Burr Blvd within the Burr Business Park, which is located off Route 9. The Burr Business Park is a master planned nonresidential subdivision owned and developed by the Jefferson County Development Authority. Burr Business Park was designed to attract light industrial and commercial businesses that need convenient access to local and regional transportation networks. All roads and stormwater facilities have been constructed during the initial phases of site development of the business park.

c. Character of area

Currently there are vacant, unimproved commercial lots to the west of the subject parcel and across James Burr Blvd. These lots have existing natural vegetation but it is not anticipated that this vegetation will remain once development occurs. The adjacent parcels to the north and east of the subject property are occupied by Sur Loc Flooring Systems. The subject parcel is visible from the road. The map below depicts the vacant parcels in the Burr Parks (shown in blue), which received a variance on July 28, 2016 to allow for a modified planting standard and reduced landscaping buffer.

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McGee Variance Request (#ZV16-18)



d. Impact on adjacent properties

Future businesses locating to the Burr Park should be informed and have an understanding that they are developing land in an industrial and commercial area, and accept that there may be potential for increased noise, odors, and lights, depending on the adjoining parcel's activities. Some level of impact on adjacent properties is possible, but should be minimal.

It should be noted that several of the developed lots have received variances pertaining to reduced landscape buffers and modified planting standards. Additionally, all of the vacant parcels (shown in blue on the above map) received a blanket variance to reduce the landscaping buffer requirements and to use a modified planting standard (07-28-16).

e. Feasibility of complying with the ordinance by other means

A recent interpretation of the Ordinance allows as an alternative to natural buffers opaque fencing made of durable materials, six feet in height, and constructed of wood boards and/or brick or masonry walls. Such fencing would not require a variance. However, the applicant's fence is a chain link fence with a mesh privacy screen and therefore, the existing fence does not meet the current interpretation of an opaque fence.

5. **Conditions of Approval**

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

- a) The variance applies only to Lot 40 within the Burr Business Park.

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 September 22, 2016

McGee Variance Request (#ZV16-18)

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.11A.2: All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.

Section 4.11E.1: All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare, or noise. Such screen planting shall meet the following requirements:

1. Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least six (6) feet in height.^{7, 23, 27, 28} However, any development where a 10 foot side and/or rear yard vegetative landscaping buffer is required adjacent to proposed commercial uses and where no outdoor storage is being proposed or provided, the following standards shall be met.^{27, 28}
 - a. One (1) deciduous or evergreen tree with a height of six (6) feet or more when planted, likely to reach a height of twenty (20) feet or more at maturity, planted every fifty (50) linear feet; at least every other tree shall be an evergreen;
 - b. One (1) ornamental tree with a height of four (4) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every fifty (50) linear feet; and
 - c. Three (3) shrubs per each twenty five (25) feet along the property line, round upward.
 - d. These requirements shall be required on both sides of a property line for adjoining properties

Section 4.11J: Required landscape buffers for a non-residential use are indicated in App. B.

Section 5.6D.1: Setbacks, height, and other site development standards shall be as indicated in App. A, Residential Site Development Standards, and App. B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance.

Section 8.9A.10: All commercial and industrial developments shall comply with Section 4.11 unless otherwise specified in this Ordinance.

Appendix B: All commercial development adjacent to all other uses must maintain ten (10) foot screened side and rear yard landscape buffers (table below).

APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE²⁷

Zoning District	Development Type ⁹	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imper-vious Surface Limit	Building Setbacks			Parking/Drive Aisle Setbacks*			Distance if Sec. 4.6 applies	Buffers (Sec. 4.11) (Screened / Unscreened)					
						Front	Side	Rear	Front	Side	Rear		Commercial Use			Industrial Use		
													Front, Side, Rear	Front, Side, Rear	Front	Side	Rear	Front
Industrial - Commercial**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25	15	4	4	75	N/A	10(S)	10(S)	N/A	10(S)	10(S)		



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, P.O. Box 338

Charles Town, WV 25414

File Number: # 7/16-18

Staff Initials: CPC

Fees Paid (\$100 or \$150): 150.00

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

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

zoning@jeffersoncountywv.org

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: McGee Civil Construction, LLC. ; c/o Kelly McGee

Mailing Address: P.O. Box 250; Purcellville, VA 20134

Phone Number: 703-856-2138

Email: kelly@mcgeecivilconstruction.com

Applicant Contact Information

Name: McGee Civil Construction, LLC. ; c/o Kelly McGee

Mailing Address: P.O. Box 250; Purcellville, VA 20134

Phone Number: 703-856-2138

Email: kelly@mcgeecivilconstruction.com

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

Name: GORDON; c/o Jason Gerhart

Mailing Address: 301 North Mildred Street; Charles Town, WV 25414

Phone Number: 304-725-8456

Email: jgerhart@gordon.us.com

Physical Property Details

Physical Address: James Burr Boulevard, Lot #40 Burr Business Park

City: Kearneysville

State: WV

Zip Code: 25430

Tax District: Charles Town

Map No: 1

Parcel No: 140

Parcel Size: 1.22 acres

Deed Book: 1160

Page No: 0668

Zoning District (please check one)

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

RECEIVED

AUG 26 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: See addendum.

Briefly describe the nature of the variance request:

See addendum.

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

Front Setback Side Setback Rear Setback Reduction From _____ to _____

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:

See addendum.

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?

See addendum.

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

See addendum.

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

See addendum.

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.

 8/24/16
Signature of Property Owner 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)).

09.22.16
Date of Public Hearing

09.07.16
Advertising Date

09.07.16
Placard Posting Date

#ZV16-18

RECEIVED

AUG 26 2016

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

Lot 40 Property
Burr Business Park
Variance Request Addendum
August 25, 2016

Briefly describe the nature of your variance request:

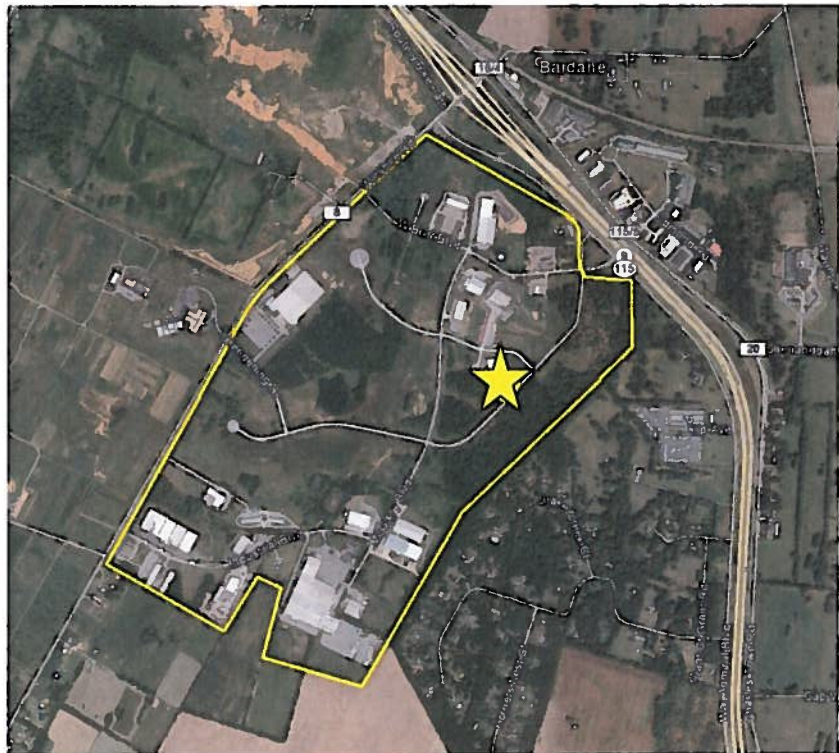
The property maintains an approved site plan for a commercial contractor maintenance facility building (for company use only). All site improvements except for the landscaping are constructed. The landscape improvements identified in the Site Plan are currently under bond with Jefferson County.

The requested variance is to modify the side and rear yard buffer requirements to allow for:

- Rear and side (southern property line) buffers to be achieved through an existing six-foot tall opaque fence and existing vegetation.
- Side buffer (northern property line) to be achieved through an existing six-foot tall opaque fence and the installation of one deciduous shade tree for every 100 feet of property line. The shade trees will alternate with the adjacent property's existing buffer trees, meeting the combined 1 tree per 50' requirement provided in a prior variance request for undeveloped lots at Burr Park.

The requested variance seeks to implement modified buffer requirements similar to those granted to all existing undeveloped lots within the Burr Business Park on July 28, 2016. While every variance request is unique and judged on its particular circumstances, the prior approvals within Burr Park recognize this commercial/industrial subdivision as a location with compatible uses.

This request mirrors the July 28th variance except that it is requested that a deciduous tree be installed opposed to an evergreen tree. Most evergreen trees have a conical form which decrease in width as it rises. A deciduous shade tree will provide better screening above the existing six-foot opaque fence and be of the same species as the trees currently surrounding the property (oaks & maples).



- Applicable/Related Sections of the Zoning and Land Development Ordinance
 - Section 4.11.A.2.
 - All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.
 - Section 4.11.E.1.
 - Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least six (6) feet in height.
 - Section 4.11.J.
 - Required landscape buffers for a non-residential use are indicated in Appendix B.
 - Section 5.6.D.1.
 - Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance.
 - Section 8.9.A.10.
 - All commercial and industrial developments shall comply with Section 4.11 unless otherwise specified in this Ordinance.
 - Appendix B: Non Residential Site Development Standards Table
 - Ten-foot side and rear screened buffer (references Section 4.11).



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

- The health, safety and welfare of the public will not be impacted by the absence of a rear and side buffer for the property.
 - All distance requirements will be maintained.
 - The Burr Business Park is a private subdivision and any tenants or patrons anticipate development similar or more intense than the development proposed on Lot 40.
 - There are no operations associated with the proposed facility which will create any noxious or dangerous situations for the adjacent property owner.

- The rights of the current and future adjacent property owners will be preserved.
 - The property is located in the Burr Business Park which is designated for commercial / industrial uses. Companies often locate in this Park to be surrounded by similar uses and anticipate that future development will be of a complimentary use.
 - The JCDA reviews and approves all development proposed within Burr Business Park and therefore the current owners will be informed of the adjacent uses.
 - Any future property owners would be aware of the property's condition prior to purchase. If desired, these future owners will have the right to plant additional privacy screening or not purchase any impacted property.



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 a variance?

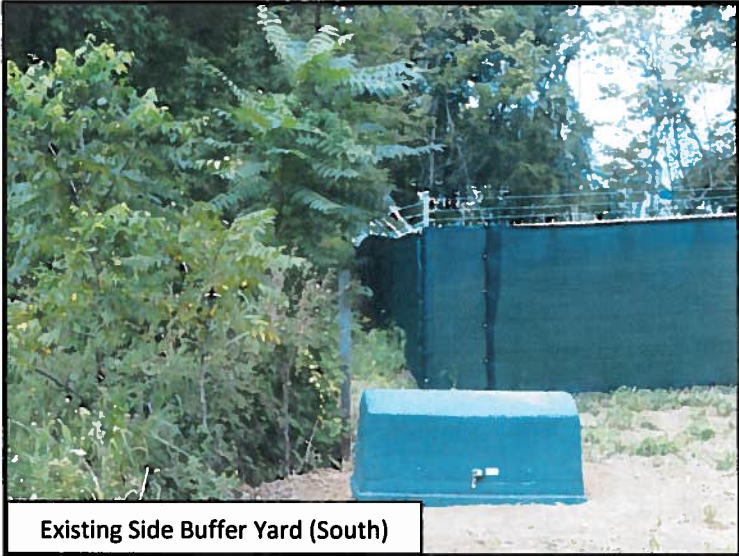
- The property is located in a business park which is intended for commercial and industrial development. Business parks are different from other areas within Jefferson County in that it is a planned development under the control of the JCDA. The JCDA monitors and approves proposed development within the Park. Areas outside of the County's Business Parks often require buffers to protect less intense zoning districts / uses from more intense and incompatible uses.
- The previous version / interpretation of the Zoning Ordinance under which the Burr Business Park was created did not require rear or side screened landscape buffers. The elimination of the screening requirements will allow the subject property to develop in a pattern consistent with the regulations under which the Park was envisioned and to that of existing patterns already developed within the Park.
- The property is surrounded by mature existing vegetation on two sides and an existing buffer on the third side. The property is also enclosed within a six-foot tall opaque fence. These perimeter conditions are not accounted for by the Zoning Ordinance but these conditions do provide an adequate buffering for this location.

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

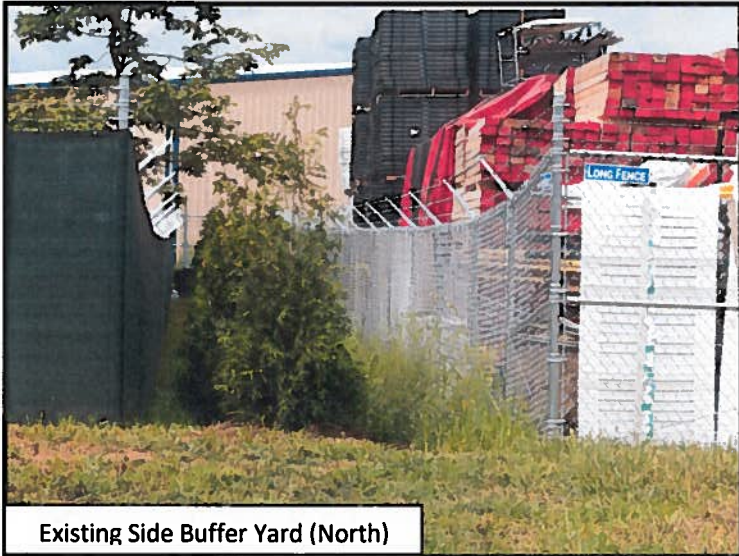
- The intended use of land within the Burr Business Park is for commercial and industrial uses. It is reasonable to assume that any future use of the adjacent lot will be similar or of greater intensity than what is proposed. While the intent of buffers within the ordinance is to protect property owners from uses which are not compatible, the Park represents a location which attempts to encourage commercial / industrial uses and represents a reasonable use of the land.
- The entire property is enclosed in a six-foot tall opaque fence approved by the JCDA. The shrubs required as part of the buffer would be located interior of the fence and would not be visible from any adjacent property. This will require increased maintenance for the applicant and will not provide any value to the adjacent properties or the general public.
- Requiring that Lot 40 be subject to different regulations as other lots within the approved Burr Business Park subdivision is unnecessary and holds the Lot 40 property owner to more stringent requirements than that afforded other property owners within the Park. All undeveloped lots within the Park have been approved for modified buffer requirements.

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

- Buffers are provided to protect certain uses from a more intense land use. The entire Burr Business Park is intended for commercial and industrial development. The need to protect complimentary uses from one another in this setting is an unintended consequence of the Zoning Ordinance regulations.
- The proposed development is designed to allow for a buffer to be constructed if it becomes necessary at a future time. This will allow for the intent of the Zoning Ordinance to be observed under future unforeseen circumstances.
- The modification of the buffer requirement will recognize that properties within the Burr Park are of similar use and a landscaping buffer does not provide any added benefit or promote any objective of the Zoning Ordinance to protect property rights / values through use buffers. Any future occupant of any adjacent properties may choose to implement a buffer for increased privacy and will be aware of their potential to do so prior to purchasing any parcel within the Park.



Existing Side Buffer Yard (South)



Existing Side Buffer Yard (North)



Existing Rear Buffer Yard (As seen through front gate)

Staff Report
Jefferson County Board of Zoning Appeals Meeting
September 22, 2016

Leighton Variance Request (#ZV16-19)

RELEVANT INFORMATION:

1. Previous Case History

Section 14 of the Blue Ridge Acres Subdivision was created prior to the adoption of the Jefferson County Subdivision Regulations and Zoning Ordinance. The single family residential dwelling unit was constructed in 1995 and appears to meet the required 12' rear setback.

2. Staff Evaluation of Request

a. Summary of Request and Purpose of Ordinance Requirements

The applicant is proposing to construct a 14' x 36' deck to be located in the rear of the existing home. The variance request is from Section 9.7 and Appendix A to reduce the required rear setback from 12' to 6' to accommodate the construction.

The purpose of 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.

b. Unique Characteristics of Property

The home is located in a clearing set back from Rock Lane with abundant tree canopy surrounding the dwelling. The lot in question is considered a pipestem lot, measuring approximately 82' in width and 300' in length. A parcel of this configuration would not be permitted under today's regulations, as there would not be sufficient buildable area. The existing dwelling is cited toward the rear of the parcel

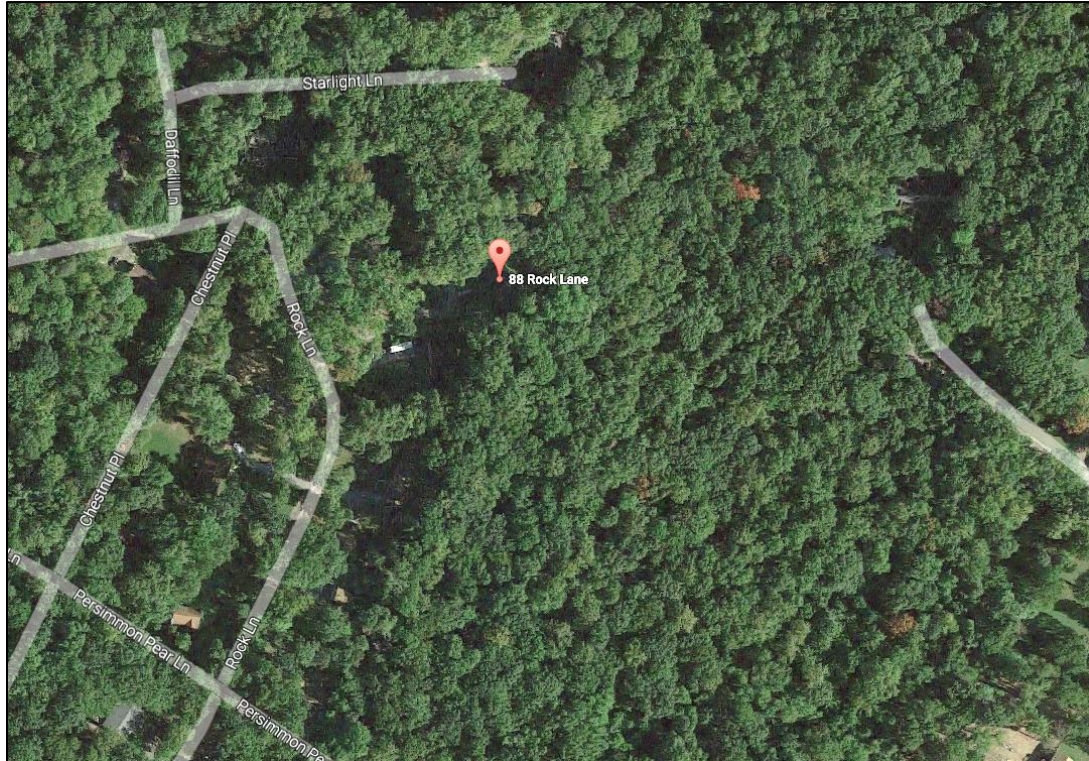


Staff Report
Jefferson County Board of Zoning Appeals Meeting
September 22, 2016

Leighton Variance Request (#ZV16-19)

c. Character of Area

The property is located in a rural area with a number of large rural residential lots in the vicinity. The secluded area is heavily wooded and the applicant's property itself has a fairly dense wooded boundary around much of the property. The area in which the applicant has proposed to construct the deck abuts a densely wooded 9.5 acre lot, creating a natural buffer between the proposed construction and the adjacent parcel.



*The closest residential structure located toward the rear of the subject parcel is approximately 560'.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
September 22, 2016

Leighton Variance Request (#ZV16-19)

d. Impact on adjacent properties

Worth noting, the neighboring home most affected by the proposed deck, sits approximately 560 feet from the applicant's home.

e. Feasibility of complying with the ordinance by other means

While the applicant appears to have enough buildable area in front of the property, a deck located in the front of the home would not provide the applicant the desired point of egress.

The applicant needs to address the necessity of the proposed location and design in order for the Board to determine if the variance is warranted.

3. Conditions of Approval

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

- a) If approved, this variance only allows for the reduction in rear setback from

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 9.7 Other Exceptions³

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:²³

Rural Agricultural and Industrial Commercial

Single Family Residences

30,000 to 39,999 square feet -- 20' front, 10' side and 12' rear



JEFFERSON COUNTY, WEST VIRGINIA

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

File Number: #ZV16-19
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: DAVID LEIGHTON
Mailing Address: 88 ROCK LANE HARPERS FERRY WV 25425
Phone Number: 301-401-0710 Email: DKALEIGHTON@HOTMAIL.COM

Applicant Contact Information

Name: SARA *Prefers email contact
Mailing Address:
Phone Number: Email:

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

Name:
Mailing Address:
Phone Number: Email:

Physical Property Details

Physical Address: 88 ROCK LANE HARPERS FERRY WV. 25425
City: State: Zip Code:
Tax District: HF (04) Map No: 12D Parcel No: 118
Parcel Size: (30,000 sqft) 0.64255Ac Deed Book: 1136 Page No: 95

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). Rural (R) is checked.

RECEIVED

AUG 26 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: _____

Briefly describe the nature of the variance request:

see attached document question 1

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

Front Setback Side Setback Rear Setback Reduction From 12ft to 6ft

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:

see attached document question 2

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?

see attached document question 3

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

see attached document question 4

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

see attached document question 5

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.

David M. Linton 8/26/16

Signature of Property Owner

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)).

SEPTEMBER 22, 2016

Date of Public Hearing

SEPTEMBER 07, 2016

Advertising Date

SEPTEMBER 07, 2016

Placard Posting Date

ZV16-19

Question 1

Briefly describe the nature of the variance request:

The request of this variance is for the purpose of building a deck on the rear of my home where the setback zoning regulations of 12 ft and will have a negative impact to the limited options I would have for a useful addition of outside enjoyment. The lot has a angle on the back portion of the property and the house was built very far back on the lot for more privacy by the original owner. When purchasing the property in 2014 I had every intent of building the deck in the proposed location as it's the only realistic location for this deck that conforms to the way the house is designed. It wasn't until I went for the building permit was I aware of the setback clearances.

The 2 other options would be to build an odd shaped deck that would pose a negative value to the property and option B would be to shift the deck to the other end of the house where it would be highly elevated off the ground and be a privacy issue to a bedroom and bathroom windows. This option would also create a problem with gaining access to the backyard.

Question 2

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:

If the deck was to be granted there would be no adverse effect, as the back end of my property is not viewable or considered encroachment to any other property. Going straight back from the end of my property is a steep drop off of over 50 ft of wooded area and then the Shenandoah River. This property is privately owned and from my viewpoint is totally unbuildable and can't imagine it ever being built upon. Therefore I can't imagine how granting a variance could ever pose a adverse affect to the public, safety or welfare to any adjacent property or residents.

Question 3

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 house was built in 1995 which I am the 3rd owner of the property. I can understand why the owner/builder set the house back to the rear of the lot and that was for privacy. I am not sure if the builder was aware of the setback zoning distances or didn't think it was an issue due to the property being in such a wooded location. The deck area affected by the setback is only a small portion of the right corner due to the lot being at an angle. This affected area of the deck is approximately 60 sqft of the 504 sqft deck being proposed.

#ZV16-19

Question 4

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

The house and property is designed to have a deck off the kitchen as being proposed and if built in any other layout would have a negative impact on the value of the property and enjoyment of having a well functioning outside place for family enjoyment. I

Question 5

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

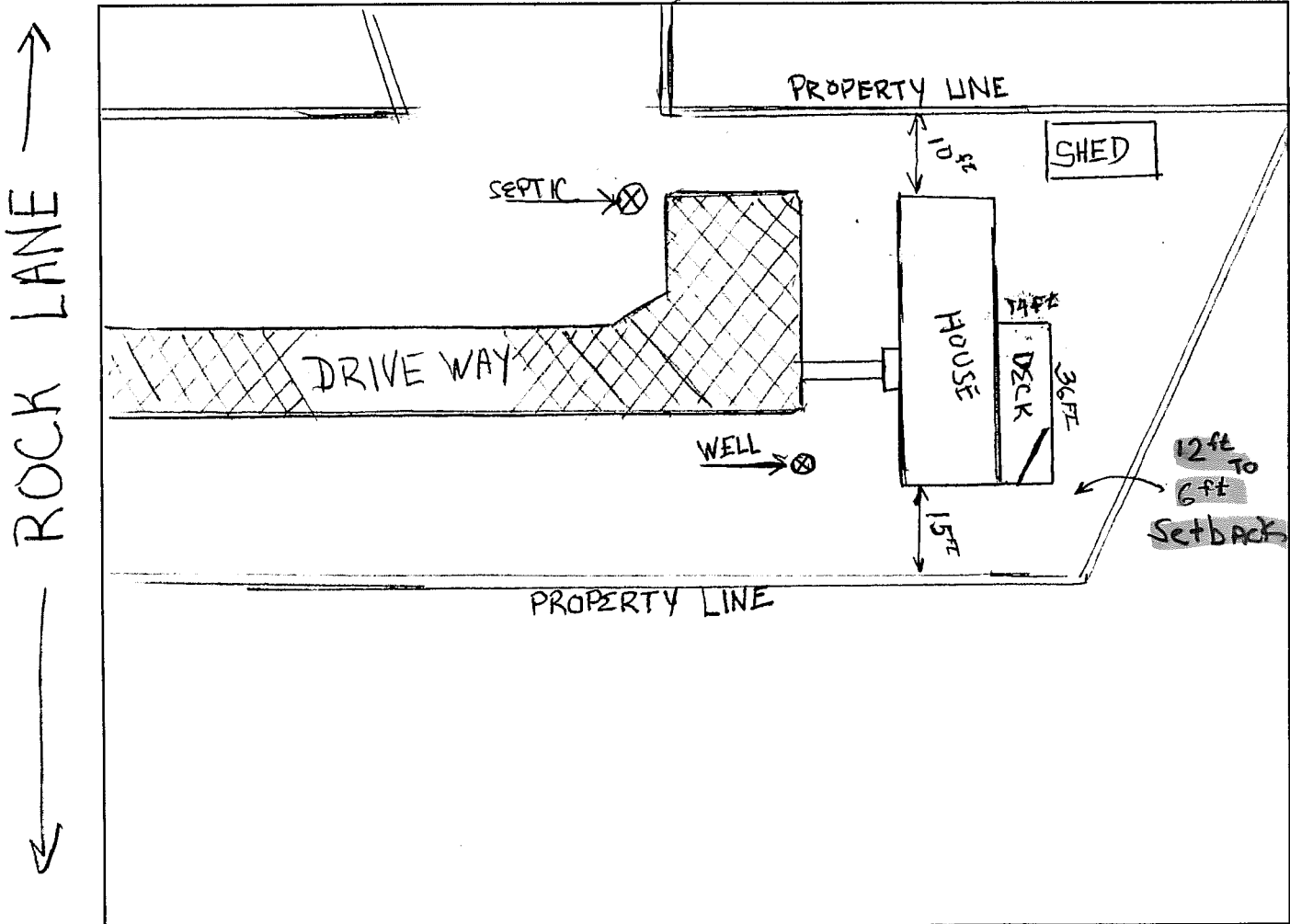
I have great respect for zoning laws and the need for residences to have setbacks rules in place to prevent encroachments. In this case I bought the house with the full intent of having a deck off the back as proposed because it's so isolated and secluded and at the time gave no thought of setbacks due to the woods. In granting a variance there is only a very small portion of the deck that is affected by the setback and the major portion of the deck is in full compliance of the setback ordinance and therefore cannot imagine any complaints coming forward in such minor waiver.

#ZV16-19

PROPERTY SKETCH SHEET

Sketch the shape and location of the lot and show the following:

1. All existing roads with names and/or route numbers.
 2. All rights-of-way and/or easements.
 3. Septic reserve areas.
 4. Location of the intended construction or land use; and show the building setback lines and the distances from the property line to the setback lines; and the distance from the property line to the structure.
 5. Show the size and height of the structure.
 6. Show all existing buildings/structures on the parcel/property.
 7. On Renovation's and Addition; Please indicate number of bedrooms and if adding a kitchen
- Note: The sketch may be on a separate sheet; however, it shall be signed and dated by the applicant.



Property Owner/Applicant's Signature _____ Date: ____/____/____



Jefferson County, West Virginia

Office 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

Zoning Administrator's Report Board of Zoning Appeals Meeting September 22, 2016

1) LESA/Conditional Use and Cluster Subdivision Provision Modifications

On September 13, 2016 the County Commission reviewed with staff the draft text amendment as recommended by the Planning Commission. They will hold a public hearing to receive public input. Date TBD.

2) Additional Pending Zoning Ordinance and Subdivision Regulation Amendments

a) Campgrounds:

- i. The County Commission made additional edits to the proposed amendment on 09-13-16. They will review the revisions on 09-29-16 for final approval.

b) Mass Events Ordinance (#ZTA 14-02):

- i. County Commission Public Hearing postponed until summer 2016. No update.

d) Pending amendments:

- i. Historic Resource Demolition and Adaptive Reuse
 - HLC Board initiating draft text amendment – in collaboration with staff
- ii. Parking Standards
- iii. Landscape Standards
 - Stakeholder work session scheduled for Friday, September 23 at 2:00 PM
- iv. Signage

2) Upcoming BZA meeting

- a) Next Regular Meeting: **October 27, 2016**



JEFFERSON COUNTY, WEST VIRGINIA
Office of Planning and 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
Engineering & Building Permits Departments

FROM: Alex Beaulieu, Zoning Administrator

DATE: September 15, 2016

SUBJECT: Zoning Certificate Activity Report

ISSUED ZONING CERTIFICATES

#ZC16-30 Laurie Scott, Owner/Applicant

Issuance Date: July 26, 2016
Proposed Use: A 40' x 8' shipping container for storage of tools and equipment associated with agricultural related activity.
Location: 424 Molers Trace; Harpers Ferry, WV 25425
Zone: Rural

#ZC16-23 Hot Spot CT Real Estate LLC, Contact / Brent Jackson, Owner/Applicant (amended)

Issuance Date: July 26, 2016
Proposed Use: Pawn Shop (first floor); One bedroom/bathroom apartment (second floor).
Location: 1012 East Washington Street; Charles Town, WV 25442
Zone: Residential-Light Industrial-Commercial

#ZC16-31 WV 340, LLC c/o UNIWEST Commercial Realty, Linda Lyons, Owner
Ted Rosner, Applicant / Allison Osborn, Contact

Issuance Date: July 27, 2016
Proposed Use: Change in Tenant. Seasonal Halloween Retail Shop (August to November 2016)
Location: 186 Flowing Springs Road; Charles Town, WV 25414
Zone: Residential-Light Industrial-Commercial

#ZC16-32 340 RAINBOW, LLC, Owner / OUR 3 SONS, LLC, Applicant

Issuance Date: August 10, 2016
Proposed Use: Change in Tenant. Restaurant & Bar.
Location: 3511 Berryville Pike; Charles Town, WV 25414
Zone: Industrial-Commercial

ISSUED ZONING CERTIFICATES

#ZC16-33 John Darnell, et al Trustees, c/o T. Neil & Kenna Banks, Owners
Justin Blanset, Shenandoah Personal Communications, LLC, Applicant

Issuance Date: September 15, 2016
Proposed Use: Property contains existing 195.0' (+/-) self-support Telecommunications Tower.
Shentel to install 2.5GHz antennas and equipment inside Existing compound, per plans
per code. Proposed modification is for antenna work only with no electrical work
required and no ground disturbance or additional height increase to tower.
Location: 3343 Shepherdstown Pike; Shepherdstown, West Virginia 25443
Zone: Rural

#ZC16-34 SUSO 2 Alabama LP, Owner
Rob Jacknewitz, Project Manager, Mattress Firm Inc., Applicant

Issuance Date: August 30, 2016
Proposed Use: Change in Tenant. Retail Store specializing in Mattress Sales.
Location: 108 Patrick Henry Way; Charles Town, WV 25414
Zone: Residential-Light Industrial-Commercial

PENDING ZONING CERTIFICATES

#ZC16-35 Linda Lyons, Owner / Sargenti Architects, Applicant

Issuance Date: TBD
Proposed Use: Change in Tenant. Retail Pet Supply Store.
Location: Jefferson Crossing Shopping Center 91-A Saratoga Dr.; Charles Town, WV 25414
Zone: Residential-Light Industrial-Commercial



State of West Virginia

Lisa A. Hopkins

State Auditor

Office of the State Auditor
Local Government Services
200 West Main Street
Clarksburg, West Virginia 26301

Toll Free: (877) 982-9148
Telephone: (304) 627-2415
Fax: (304) 627-2417
www.wvsao.gov

August 29, 2016

Received

SEP 07 2016

To: ALL WEST VIRGINIA COUNTY COMMISSIONERS

Jefferson County Commission

We recognize that many of our local boards and authorities are unaware of some of the laws, regulations and reporting requirements for which they are responsible. We have decided to provide training to members and staff of the municipal and county boards and authorities. Since we do not know what boards and authorities you have, we are asking you to forward this information to them. To make it easier to attend we are having these seminars at five different locations throughout the state. These seminars are free to attend but we need for everyone to pre-register so we know how many people will be in attendance.

Not only will attendees get the opportunity to meet with us, they will also be able to network with other attendees on issues that may be important to their agency. These training events have been designed to assist boards and authorities with obtaining necessary skills and knowledge for adequate controls and oversight relating to the financial reporting and internal control process. Enclosed you will find the agenda and registration form for these training events.

If you have any questions concerning these seminars, please contact our Local Government Services Staff at 304-627-2415.

Sincerely,

A handwritten signature in black ink that reads "Ora L. Ash".

Ora L. Ash
Deputy State Auditor



2016 State Auditor's Training Seminar for County and Municipal Boards and Authorities

State Auditor Lisa A. Hopkins, through her Local Government Services Division, is pleased to extend this invitation to the Annual Training Seminars for County and Municipal Boards and Authorities during the months of September, October, and November at various locations throughout West Virginia.

City	Seminar Date	Location	Registration Deadline
Beckley, WV	Thursday, September 29	Holiday Inn & Suites <i>114 Dry Hill Rd., Beckley</i>	Sept. 22
Martinsburg, WV	Wednesday, October 5	Holiday Inn & Suites <i>301 Foxcroft Ave., Martinsburg</i>	Sept. 28
So. Charleston, WV	Thursday, October 13	Holiday Inn & Suites <i>400 Second Ave., South Charleston</i>	October 6
Bridgeport, WV	Thursday, October 27	Best Western <i>100 Lodgeville Rd., Bridgeport</i>	October 20
Wheeling, WV	Thursday, November 3	Hampton Inn & Suites <i>35 Bob Wise Dr., Triadelphia</i>	October 27

The registration fee has been waived, however, pre-registration is required.

*Although the fee has been waived, we must receive your registration **before** the deadline in order to have available space as well as food and beverages. Lunch will be provided.*

If we do not receive an adequate response for a particular location we may have to cancel the seminar for that location.

Return this registration form no later than the deadline for the specific seminar. Please feel free to **make copies of this form for additional attendees**. For questions concerning these seminars contact: Ora Ash, (304) 627-2415, ext. 5114 Email: ora.ash@wvsao.gov

County and Municipal Boards & Authorities

**FREE TO ATTEND, BUT YOU MUST REGISTER!
ONE NAME PER FORM PLEASE**

Name: _____ Board or Authority: _____

Mailing Address: _____

Telephone: _____ Position/Title: _____

Mail to: **Karen Drain, Admin. Support
Boards & Authorities Training
200 West Main Street
Clarksburg, West Virginia 26301**

FAX TO: 304-627-2417

<input type="checkbox"/> Beckley, September 29	<input type="checkbox"/> Bridgeport, October 27
<input type="checkbox"/> Martinsburg, October 5	<input type="checkbox"/> Wheeling, November 3
<input type="checkbox"/> South Charleston, October 13	

IMPORTANT: If unable to attend after registering, please call our office at 304-627-2415 to cancel.



2016 State Auditor's Seminar for Municipal and County Boards and Authorities

AGENDA

- 8:00-9:00AM **Registration**
- 9:00 AM **Welcome**
Ora L. Ash, Deputy State Auditor, WV State Auditor's Office
- 9:05 AM **Local Government Purchasing Card Update and Q&A**
Catherine Preston, WV State Auditor's Office
- 9:15 AM **Internal Controls and Fraud Prevention**
Shellie Humphrey, Budget Finance Specialist, WV State Auditor's Office
- 10:00 AM **Break**
- 10:10 AM **Let's Talk About Excess Levies**
Ora L. Ash, Deputy State Auditor, WV State Auditor's Office
- 11:00 AM **Getting Ready for an Audit**
Tiffany Hess, Budget Finance Specialist, WV State Auditor's Office
- 12:00 PM **Lunch (provided)**
- 1:00 PM **Taxable Fringe Benefits and Employee vs. Contract Labor**
Shellie Humphrey, Budget Finance Specialist, WV State Auditor's Office
- 2:00 PM **Break**
- 2:10 PM **Budgeting and Who is Responsible**
Ora L. Ash, Deputy State Auditor, WV State Auditor's Office
- 3:10 PM **Recommended Policies and Procedures**
Shellie Humphrey, Budget Finance Specialist, WV State Auditor's Office
Tiffany Hess, Budget Finance Specialist, WV State Auditor's Office
- 3:40 PM **General Question and Answer Discussion Among Attendees**
Topics to be determined by Attendees
- 4:00 **Adjournment**