



**Jefferson County**  
**Board of Zoning Appeals**  
**Thursday, October 27, 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. Report from Roger Goodwin, Director of Engineering, Planning, and Zoning and Stephanie Hunt, County Administrator, regarding recent consolidation of various departments, including Planning and Zoning, into single department (per request by Mr. Jeffrey Bannon on 09-22-16).
2. Approval of the minutes from the September 22, 2016 meeting.
3. Swearing in of members of the public intending to provide testimony.
4. Variance request from Section 5.7(b) to reduce the side setback from 15' to 8' for a 24' x 30' pole building. Property Owner: Michael Coffman. Location: 98 Franklinton Rd., Summit Point. District: Kabletown (06); Map: 19A; Parcel: 26.4; Size: 2 ac; Zone: Rural; File ZV16-20.
5. Variance request from Section 4.18 to allow a staffed model townhome on Lot 51, which is located within the interior of the subdivision. Property Owner: Beallair Homes, LLC. Location: Beallair Subdivision, Lot 51, fronting on Lewis Washington Dr. & Clover Lea Way, Charles Town. District: Harpers Ferry (04); Map: 10A; Parcel: RESB / 50; Size: .09 ac; Zone: Residential Growth; File: ZV16-21.
6. Variance request by Bernadine Somers on behalf of Morgan Academy from Section 10.4C to reduce a setback for an existing sign from 25' to 6'. Property Owner: Amy Secrist; Property Location: 8505 Shepherdstown Pk., Shepherdstown. District: Shepherdstown (09); Map: 8; Parcel: 37; Size: 13.5 ac; Zone: Residential Growth; File #ZV16-22.
7. Zoning Administrator's Report.
  - a) Monthly Zoning Certificate Activity Report
8. 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 September 22, 2016:

    - i. Variance request by The Bavarian Inn from Section 4.6B.2. File #ZV16-17
    - ii. Variance request by McGee Civil Construction, LLC from Sections 4.11A.2, 4.11E.1, 4.11J, 5.6D.1 & App B. File #ZV16-18
    - iii. Variance request by David Leighton from Section 9.7. File #ZV16-19



Minutes  
Jefferson County Zoning Board of Appeals

- 1 Meeting Date: September 22, 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 and Jeffrey Bresee, Alternate  
6 Absent members: Ted Schiltz (with notification); Craig Foster, Alternate (without notification)  
7 Staff members present: Alexandra Beaulieu, Zoning Administrator; Christine Chalmers, substituting  
8 for Zoning Clerk, Jennilee Hartman.  
9 Absent Staff members: Lydia Lehman, Assistant Prosecuting Attorney (with notification)  
10

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

12 At the request of Mr. Quynn, Mr. Bannon presided over the meeting.

13 Mr. Bannon provided opening comments and instruction regarding meeting format.

14 Ms. Huddle moved to call the meeting to order at 2:04 p.m. Mr. Bresee seconded the motion.

15 1. Approval of the minutes from the July 28, 2016 meeting.

16 Due to a lack of actionable items, the August 25, 2016 BZA Meeting was cancelled.

17 Mr. Quynn moved to approve the July 28, 2016 minutes with no corrections. The minutes were  
18 approved unanimously.

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

20 Ms. Chalmers swore in members of the public who indicated they would be providing testimony.

21 3. Variance request by The Bavarian Inn, represented by Richard Klein, Alpha Associated, Inc.  
22 from Section 4.6B.2 to reduce the side distance requirement for a commercial use adjacent to a  
23 residential use from 75' to 57' to allow for the construction of an addition to the existing  
24 Bavarian Inn. Property Owner: Asam Family Limited Partnership; Property Location: 164  
25 Shepherd Grade Rd, Shepherdstown, WV. District: Shepherdstown Corp (10); Map: 1; Parcel: 1;  
26 Zone: Residential Growth; Size: ~6.15 ac. (2.45 acres in the County); File #ZV16-17.

27 Mr. Richard Klein, PE, Alpha Associates, Inc. and Bavarian Inn Owners, David and Christian  
28 Asam were present to address the Board. Ms. Beaulieu provided an overview of the staff report,  
29 stating that staff was in support of the request. Mr. Quynn asked if the property was properly  
30 posted. Ms. Beaulieu confirmed that the property was properly posted. Mr. Bannon asked  
31 Ms. Beaulieu to explain the difference between a standard setback and the larger distance  
32 requirement. Ms. Beaulieu advised that the larger distance requirement offered a greater buffer  
33 than a standard setback and is intended for situations in which the proximity of a commercial use  
34 could have a negative impact on an adjacent property with residential or institutional use, or with  
35 historic status.

36 Mr. Klein read the variance application and presented two (2) letters of support from adjacent  
37 property owners, which were entered into the record. Mr. Quynn asked whether there were any  
38 known requirements for the portion of the parcel located within the Shepherdstown Corporation.  
39 Mr. Klein responded that the portion of the property for which the request pertains is located in  
40 the County's jurisdiction and therefore, Shepherdstown Corporation requirements did not apply.  
41 Mr. Bannon inquired whether the proposal would present any adverse effects. Ms. Beaulieu  
42 advised that the proposed project consists of enclosing an existing patio, utilized for dining, and  
43 she did not anticipate that the proposed project would adversely affect adjoining properties.

1 There was no public comment.

2 Ms. Huddle moved to approve the request, with the condition that the variance applies only to  
3 the proposed expansion of the existing restaurant as shown in the exhibit submitted with the  
4 variance application. The motion carried unanimously.

5 4. Variance request by McGee Civil Construction, LLC, owner, represented by Jason Gerhart of  
6 Gordon, from the following:

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

9 b) Section 4.11E.1: Vegetative screening shall comply with Standard Details M52, M53 or  
10 M54, or other applicable Standard Details, depending on the buffer width. At the time of  
11 the planting, the vegetation shall be at least six (6) feet in height.

12 c) Section 4.11J: Required landscape buffers for a non-residential use are indicated in  
13 Appendix B.

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

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

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

21 The applicant is proposing to accommodate the landscaping buffer requirements along the rear  
22 and southern side property lines by permitting a six (6) foot tall chain link fence with a mesh  
23 screen and existing vegetation. Additionally, the applicant is proposing to accommodate the  
24 northern side property line landscape buffer requirements by utilizing the existing six (6) foot tall  
25 chain link fence with a mesh screen and the installation of one deciduous shade tree for every  
26 100' of property line, which will alternate with the adjacent property's existing buffer trees to  
27 meet the combined one (1) tree per 50' requirement.

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

30 Mr. Jason Gerhart of Gordon was present to address the Board. Ms. Beaulieu provided an  
31 overview of the staff report and noted that a variance to reduce the landscaping standards for  
32 undeveloped parcels within the Burr Parks was approved by the BZA at the July 28, 2016  
33 meeting. She advised that staff supported the current request.

34 Mr. Gerhart provided an overview of the request. Ms. Huddle voiced concern about the  
35 aesthetics of the plastic mesh cover on the existing chain link fence, stating that plastic has the  
36 propensity to deteriorate over time. She asked if it would be possible to install new mesh if  
37 necessary. Mr. Gerhart responded that the mesh would likely be attached to only one side of the  
38 fence, not intertwined, which would allow for future replacement if required. Mr. Bannon asked  
39 how this variance differed from the July 28<sup>th</sup> request. Mr. Gerhart advised that the variance  
40 request mirrored the one approved on July 28<sup>th</sup> with the exception of a request to install a  
41 deciduous tree as opposed to an evergreen tree. He stated that most evergreen trees have a  
42 conical form which decreases in width as it rises and that a deciduous shade tree would provide  
43 better screening above the existing six-foot fence and would be of the same species of trees

1 currently surrounding the property (oaks & maples). Ms. Huddle agreed that deciduous trees  
2 seem to have a higher survival rate and stated that she supported the request to plant a deciduous  
3 tree instead of an evergreen. Ms. Huddle asked what types of deciduous trees were being  
4 considered. Mr. Gerhart replied that red maples or oaks, at least 6 feet in height, would  
5 probably be planted.

6 There was no public comment.

7 Mr. Knott moved to approve the request, with the condition that the variance applies only to  
8 Lot 40 within the Burr Business Park. The motion carried unanimously.

9 5. Variance request by David Leighton, owner, from Section 9.7 to reduce the rear setback from  
10 12' to 6' to allow for the construction of a 36' x 14' deck. Property Location: Blue Ridge Acres,  
11 Lot 42, 88 Rock Lane, Harpers Ferry, WV. District: Harpers Ferry (04); Map: 12D; Parcel: 118;  
12 Zone: Rural; Size: .64 ac. (File #ZV16-19).

13 Mr. Leighton was present to address the Board and presented six (6) photos of the area in  
14 question, which were passed around for Board Members to review before being entered into the  
15 record. Ms. Beaulieu provided an overview of the staff report, noting that staff was in support of  
16 the request. She noted that the home is located in a clearing with abundant tree canopy, situated  
17 toward the rear of the parcel, and the area where the deck is proposed abuts a densely wooded  
18 9.5 acre lot, which creates a natural buffer from the adjacent parcel. She stated that the  
19 neighboring residence to the rear of the parcel is approximately 560 feet from the applicant's  
20 home. Mr. Bannon asked Ms. Beaulieu if the property was properly posted. Ms. Beaulieu replied  
21 that she did not visit the site and noted that Mr. Leighton had picked up the sign from the office  
22 on time for posting purposes. Mr. Leighton confirmed that he had posted the sign.

23 There was no public comment.

24 Mr. Quynn moved to approve the request as presented. The motion carried unanimously.

25 6. Zoning Administrator's Report

26 a) Monthly Zoning Certificate Activity Report

27 Ms. Beaulieu stated that a Landscaping Text Amendment Stakeholders Work Session was being  
28 held at 2:00 p.m. on September 23<sup>rd</sup>. Mr. Quynn asked if he could attend. Ms. Beaulieu advised  
29 that he was welcome to attend as long as there would not be a quorum.

30 Ms. Beaulieu informed Board Members of the 2016 State Auditor's Seminar which is being held  
31 at the Martinsburg Holiday Inn October 5, 2016.

32 Ms. Beaulieu stated that the next BZA meeting was scheduled for October 27<sup>th</sup>. Ms. Huddle  
33 asked when the Board would meet in November and December. Ms. Beaulieu advised  
34 November 10<sup>th</sup> and December 8<sup>th</sup>.

35 Mr. Bannon asked that Ms. Beaulieu present a "reorganization" report from the County  
36 Administrator at the October meeting.

37 7. Legal Update.

38 No Legal Representation present.

39 Mr. Quynn moved to adjourn the meeting at 2:45 p.m. The motion carried unanimously.



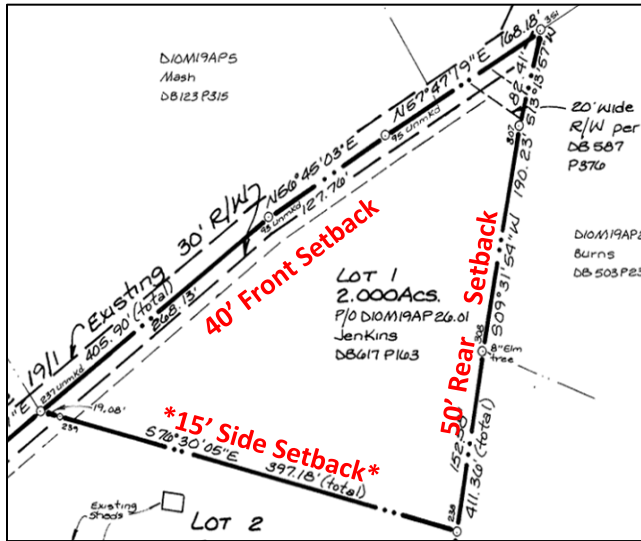


Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 October 27, 2016

**Coffman Variance Request (#ZV16-20)**

b. Unique characteristics of property

The parcel is triangular in shape and densely wooded, which limits the applicant's buildable area. Health Department records indicate that the septic area is located toward the rear of the property.



c. Character of area

The property is located in a rural area with a number of large rural residential lots in the vicinity.

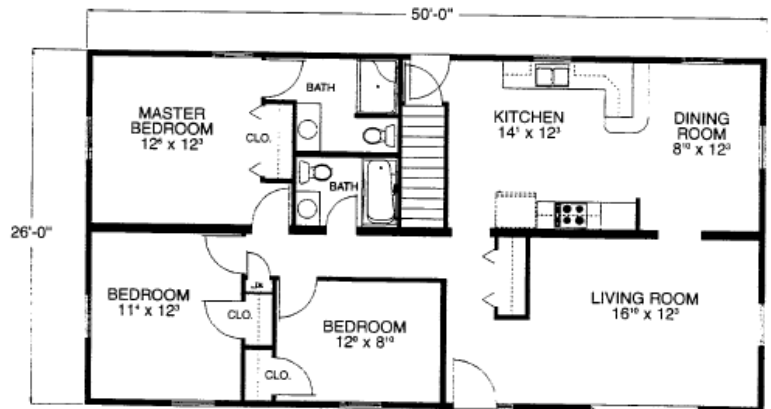
d. Impact on adjacent properties

The neighboring home most affected by the proposed structure is approximately 100' from the proposed construction site.

e. Feasibility of complying with the ordinance by other means

While the applicant appears to have enough buildable area to the north of the property, a garage cited in this location would not be compatible to the interior layout of the existing home.

The applicant should address the necessity of the proposed location and design so that the Board may determine if the variance is warranted.



**Floor Plan: From 2001 building permit**

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
October 27, 2016

**Coffman Variance Request (#ZV16-20)**

**5. 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 side setback from 15' to 8'.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

Section 5.7(b) Minimum Lot Area, Lot Width and Yard Requirements

Minimum lot sizes, lot width, and yard requirements are as follows for principal permitted uses. For any residential use that complies with the Development Review System, the setbacks and lot shall be as outlined in Article 5.4(b). [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

	Lot Area	Lot Width	Front Yard Depth	Side Yard Depth	Rear Yard Depth
Dwellings	40,000 sq. ft.	100	40	15	50
Churches	2 acres	200	50	50	100
Schools, Grades K-4	10 acres +	500	100	100	100
Schools, Grades 5-8	20 acres +	500	100	100	100
Schools, Grades 9-12	30 acres +	500	100	100	100
Hospitals	10 acres	500	100	100	50
Other permitted uses	40,000 sq. ft.	100	40	50	50





JEFFERSON COUNTY, WEST VIRGINIA

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

File Number: # ZV16-20
Staff Initials: CFC
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: Michael W. Coffman
Mailing Address: 98 FRANKLINTOWN Rd Summit Point WV 25446
Phone Number: 1-304-725-8349 Email: CELL 1-571-437-3473

Applicant Contact Information

Name:
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: 98 FRANKLINTOWN Rd. S
City: Summit Point State: WV Zip Code: 25446
Tax District: KABLE TOWN Map No: 19A Parcel No: 002600040000
Parcel Size: 2 ACRES Deed Book: 812 Page No: 604

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 31 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: 5.7 b gt 10/17/16

Briefly describe the nature of the variance request:

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

Front Setback  Side Setback  Rear Setback  Reduction From 15' to 8'

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:

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?

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

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

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.

Michael Gifford 8/22/16  
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)).

10/27/16  
Date of Public Hearing

10/12/16  
Advertising Date

10/12/16  
Placard Posting Date

Request for variance: Lot 1 Jenkins Minor S/D


1-Requesting a variance from 15 foot setback to 8 foot setback. Plan to have 24 X 30 with 1 ft overhang Pioneer Pole Building/Garage built on the property and due to rock outcropping, septic field and existing home site current set back do not provide enough space.

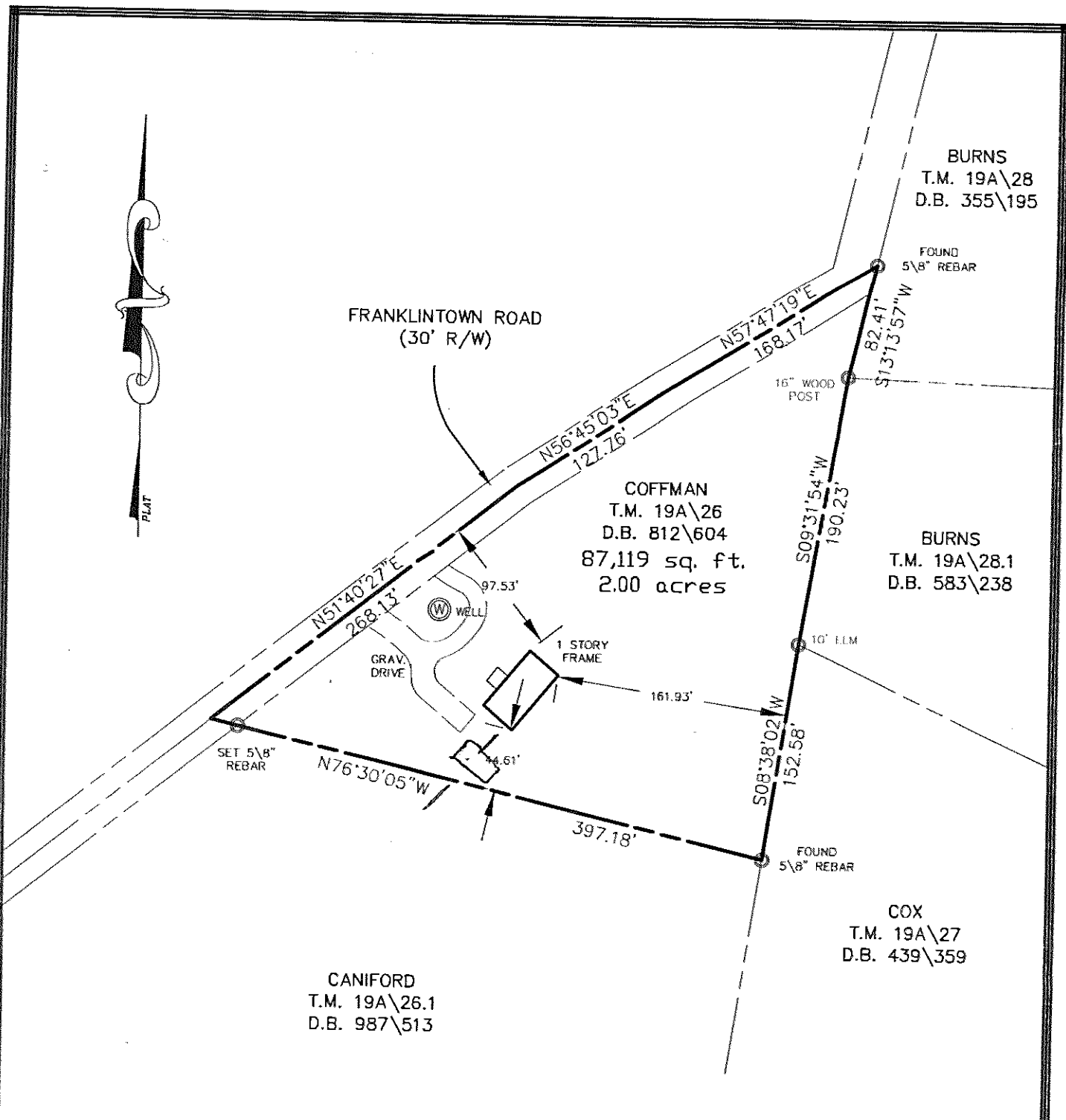
2-It will not affect any of my neighbors since it is not affecting anyone's visibility or is not visible from most of the neighboring homes. Letter attached from adjoining neighbor stating that fact.

3-Even though the lot is a 2 acre lot the problem arises from rock outcropping that would require blasting in order to try to put in a different location on the property. Photos included.

4) Due to the increase in thievery in our area I currently have no place to secure my personal property. Two other automobiles, lawn mower and boat. Just recently someone came onto my property, jacked up my pickup truck and stole all 4 tires and rims. Another property owner had 60 sheets of plywood stole from his property.

5) I strongly feel that the county's intent of Zoning Ordinance was and is for the good of the people but with enough flexible to allow for adjustments in setback requirements if necessary for home/land owners to have reasonable use in order to improve his investment and add to security. Thank you for your consideration if you need anything else, please let me know.

  
Michael Wayne Coffman



# LOCATION SURVEY

PLAT SHOWING IMPROVEMENTS TO TAX MAP 19A PARCEL 26.  
 STANDING IN THE NAME OF MICHAEL W. COFFMAN, AS RECORDED IN THE OFFICE  
 OF THE COUNTY CLERK OF JEFFERSON COUNTY IN DEED BOOK 812\604 LOCATED IN  
 KABLETOWN DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA.

RECEIVED

DWG # COFFMAN

DATE-7/28/16

AUG 31 2016

GRAPHIC SCALE

JEFFERSON COUNTY PLANNING,  
 ZONING & ENGINEERING



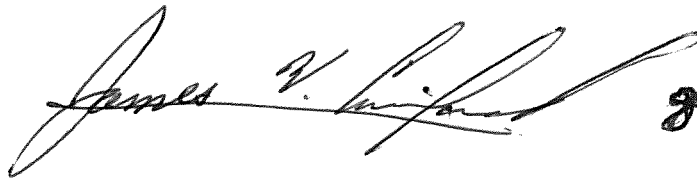
( IN FEET )

Owners Lot #2 2.92 Acres

Donna Jo Caniford

James W. Caniford

We have no objection to Michael  
Coffman building 26 x 30 Pioneer  
Pole Barn/Garage and obtaining  
A Variance from 15ft to 8ft

 8-22-16

 8-22-16

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AUG 31 2016

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING



FRONT V.ew  
98 FRANKLINTOWN Rd  
#ZV16-20



Street V.ew



Basement Entry



Construction Site  
26 x 30 Pioneer  
Pole Barn/Garage



Drive way



Rock Out Cropping



Rock ledge -  
Outcropping



Rock Ledge +  
OUTCROPPINGS



Rock Outcroppings



Rock ledge on  
Left side of  
Home



Rock ledge on  
Left side of  
Home





Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 October 27, 2016

**Beallair Variance Request (#ZV16-21)**

	<ul style="list-style-type: none"> <li>• A reduction from 3' to 2.5' for the back of the curb from the edge of the pavement;</li> <li>• No buffer screening between common areas &amp; adjoining single family lots.</li> </ul> <p>09/12/06: PC approved a variance to extend the 24-month provision for a period of 12 months to 09/12/07.</p> <p>08/26/08: PC approved a variance to extend the 24-month provision for a period of 12 months to 08/26/09.</p>
<p>ZONING VARIANCES:</p>	<p>07-19-12: BZA approved a variance to reduce the rear setback from 20' to 17' for the construction of a 12' x 16' screened porch. (ZV12-24).</p> <p>07-24-14: BZA approved a variance to reduce the rear setback from 20' to 3' to construct a deck.</p> <p>04-28-16: BZA approved a variance to reduce the rear setback from 20' to 10' to construct a deck (ZV16-09).</p> <p>07-28-16: BZA approved a variance to reduce rear setback from 20' to 12' for Lots 112, 127, and 128 (ZV16-12).</p> <p>07-28-16: BZA approved a variance to allow a staffed model home on Lot 111 (ZV16-13).</p>
<p>APPROVED ACTIVITY:</p>	<p>Single family dwellings and townhomes</p>

**RELEVANT INFORMATION:**

**1. Previous Case History**

An overview of the Beallair Case History is as follows:

- Beallair Phase I, Lots 1-49 & Residue Parcels A, B, C, D & E. Recorded: 12/08/04 (Plat Bk: 21; Pg: 54)
- Beallair Phase II, Lots 50-133, Residue Parcel A. Recorded: 01/16/07 (Plat Bk: 23; Pg: 91)
  - A minor plat change to revise and update drainage areas, Recorded: 06/19/14 (Plat Bk: 25; Pg: 457)
- Final Plat of Commercial Parcel 1, Plantation Ln & Parcel A. Recorded: 01/25/10 (Plat Bk: 25; Pg: 184)
- Minor Plat Change to revise setbacks (Plat Bk: 25, Pg: 589)

The remaining lots to be platted from Beallair Subdivision and the Beallair West Subdivision are currently vested under the County Commission's subdivision extension policy, which extends the vesting until July 1, 2017. At such time the developer of both sections of Beallair will be required to plat a portion of each section in order to keep the files valid.

**Beallair Subdivision**

- Phase I
- Phase II
- Commercial Parcel
- Beallair West  
(vested/pending)



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
October 27, 2016

**Beallair Variance Request (#ZV16-21)**

**2. Staff Evaluation of Request**

a. Purpose of ordinance requirements

The purpose of the restriction to locate model homes to the first lot on either or both sides of any road/right-of-way that enters the subdivision is to limit the amount of non-residential traffic coming in out of the subdivision and minimize impact on adjacent homes.

b. Character of area/Impact on adjacent properties

The subject parcel and the surrounding area are zoned Residential Growth. Beallair is a partially complete subdivision comprised of fairly small lots containing single family detached homes and attached townhouse units. The historic Beallair Mansion serves as a community Clubhouse.

c. Feasibility of complying with the ordinance by other means

The current request is to allow for a new style townhouse model to be either staffed or unstaffed on Lot 51. The Zoning Ordinance allows for staffed model homes to be located within a subdivision if a variance is approved by the Board.

**3. Conditions of Approval**

No conditions of approval are identified for this variance request.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

Section 4.18 Model Homes/Sales Offices

Model homes with a staffed sales office for sales exclusively within the residential subdivision that they are located are permitted provided that they are contained on the first lot on either or both side of any road/right-of-way that enter the subdivision; provided also that they are so designated on the preliminary and final plats during the subdivision process.

Model homes with a staffed sales office in any other location within the subdivision needs to be approved or denied by the Zoning Board of Appeals after a 15 day public hearing.

Model homes without staffed sales offices are permitted internally within the subdivision.  
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]





JEFFERSON COUNTY, WEST VIRGINIA

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

File Number: #ZV16-21
Staff Initials: CFC
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: Beallair Homes LLC
Mailing Address: 5283 Corporate Drive, Suite 300, Frederick, MD 21703
Phone Number: 301-695-6614 Email: Ed.Wormald@wormald.com

Applicant Contact Information

Name: Beallair Homes LLC
Mailing Address: 5283 Corporate Drive, Suite 300, Frederick, MD 21703
Phone Number: 301-695-6614 Email: Ed.Wormald@wormald.com

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

Name: Piedmont Design Group
Mailing Address: 5283 Corporate Drive, Suite 300, Frederick, MD 21703
Phone Number: 301-695-6614 Email: Mike.Wiley@wormald.com

Physical Property Details

Physical Address: Beallair Manor Drive & Lewis Washington Drive, Lot 51
City: Charles Town State: WV Zip Code: 25414
Tax District: Harpers Ferry Map No: 10 Parcel No: 3.2 - 3.4
Parcel Size: 28.3 acres Deed Book: 975; 977 Page No: 635; 490 & 495

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). Includes a 'RECEIVED' stamp dated SEP 15 2015.

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: 1708 Jefferson Cty Zoning Ordinance sect 4.18

Briefly describe the nature of the variance request:

To allow townhouse model home/sales office (either staffed or unstaffed) to be placed on lot 51, within phase 2.

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:

The variance granting will not impact the public.

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?

Phase 1 townhouse has been sold. A new style townhouse will now be offered as a staffed or unstaffed model home/sales office on lot 51.

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

Lots specified on plat are in phase one and sold. We need to offer a new model.

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

We submit that this request will uphold the basic intent of the ordinance and merely represents a reasonable accommodation for a development style currently found within the community of Beallair in Jefferson County.

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.

9/13/16

Signature of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Signature of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Notification Requirements (to be completed by staff)

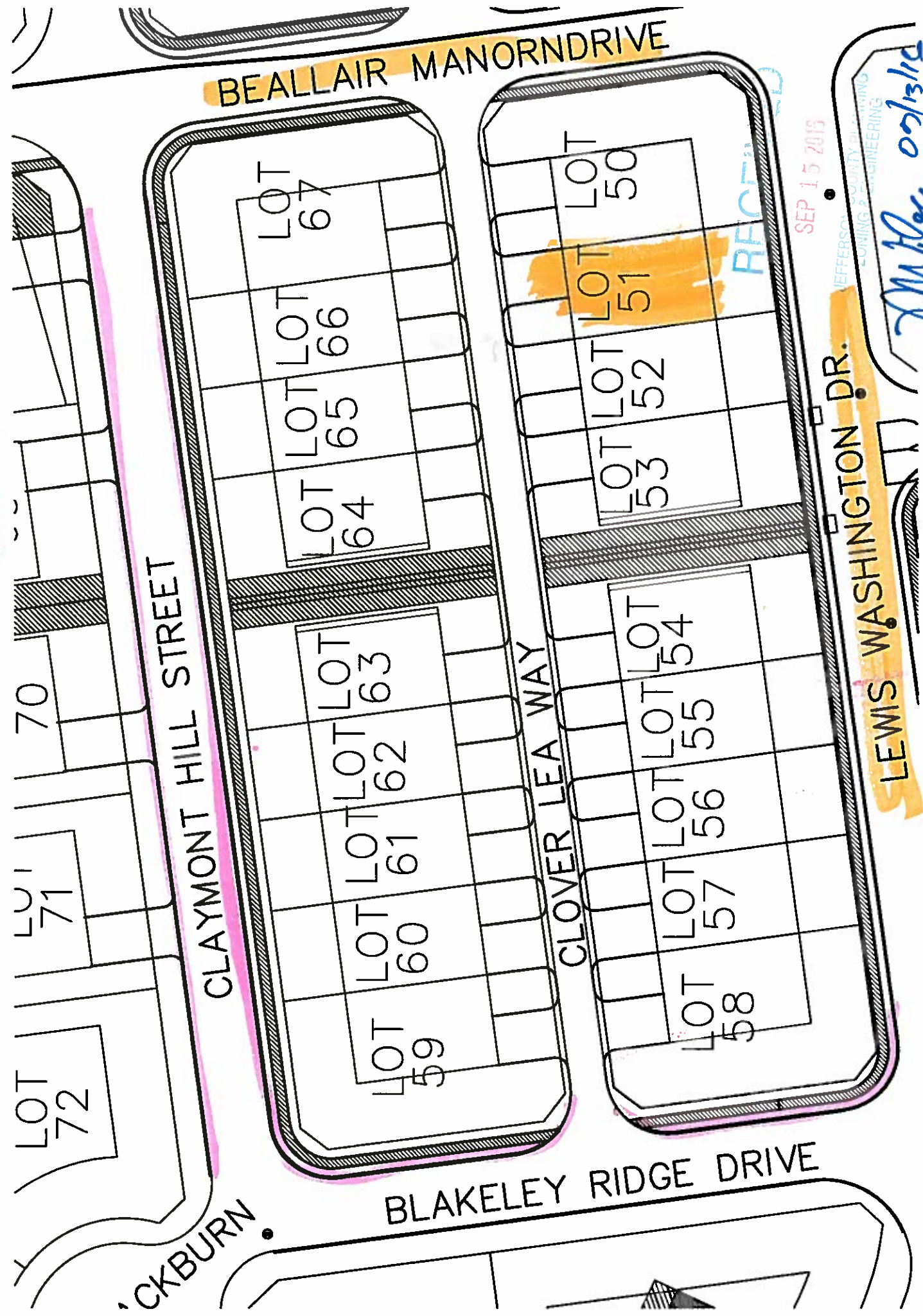
Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant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

10/27/16  
Date of Public Hearing

10/12/16  
Advertising Date

10/12/16  
Placard Posting Date

ATTACHMENT "A"



SEP 15 2015

JEFFERSON COUNTY ENGINEERING

LEWIS WASHINGTON DR.

J. White 09/13/15

#ZV16-21





Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
October 27, 2016

**Secrist Variance Request (#ZV16-22)**

**2. Staff Evaluation of Request**

a. Summary of Request and Purpose of Ordinance Requirement

The applicant placed a freestanding business sign at the entrance to their property. Unable to meet the setback requirements as outlined in Section 10.4C of the Zoning Ordinance, the applicant is requesting a setback reduction from 25' to 6'.

The purpose of the setback requirements for a freestanding business sign is to ensure that signs do not block line of sight for drivers and to lessen the impact on adjoining properties.

b. Unique characteristics of property

The subject parcel is located off of Shepherdstown Pike (Route 230) on a wooded parcel. The sign has been placed in the unpaved shoulder of the paved driveway entrance.

c. Character of area

There are several residential structures and small businesses located on both sides of Shepherdstown Pike. Morgan Academy blends well with the overall character of the area in that it is a small school, generating minimal traffic. The current location of the sign makes good use of the wooded lot without having to clear trees and brush, which would detract from the character of the area.

d. Impact of adjacent properties

The current placement of the sign has minimal impact on adjacent properties. The style of the sign compliments the surrounding businesses.

e. Feasibility of complying with the Ordinance by other means

In order to comply with the Division of Highways requirements, the entrance to the school is paved. The width of the driveway is based on County requirements and therefore, it would not be feasible for Morgan Academy to comply with the requirements of the Ordinance because the sign would be placed in the middle of the paved driveway. The only other option would be to place the sign on the other side of the driveway, which would require significant clearing of the property and would not be as visible from the road, which would create a safety hazard for parents entering and exiting the property.

**3. Conditions of Approval**

- a. No conditions of approval are identified for this variance request.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 10.4C:** Individual business [sic] 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.



JEFFERSON COUNTY, WEST VIRGINIA

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

File Number: # ZV16-22
Staff Initials: CC
Fees Paid (\$100 or \$150): \$150.00

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: Amy Secrist
Mailing Address: PO Box 246 Shepherdstown WV 25443
Phone Number: 410-703-7486 Email: Marylanden@hotmail.com

Applicant Contact Information

Name: Bernardine Somers
Mailing Address: PO Box 1281 Shepherdstown, WV 25443
Phone Number: 540-336-3465 Email: morganacademy05@gmail.com

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

Name:
Mailing Address:
Phone Number: Email:

Physical Property Details

Physical Address: "Big Arm" 8505 Shepherdstown Pike
City: Shepherdstown State: WV Zip Code: 25443
Tax District: Shepherdstown 9 Map No: 8 Parcel No: 37
Parcel Size: 1.35 Deed Book: 1157 Page No: 641

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

SEP 30 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 10.4c

Briefly describe the nature of the variance request:

Variance request for Setback for Morgan Academy (School) Sign from 25 feet to 10-12'

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

Front Setback  Side Setback  Rear Setback  Reduction From 25' to 10-12' 6" gH  
<sub>10/11/16</sub>

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 current location does not impede traffic cars pulling out onto Rt 230, it does not create a line of sight issue along 230, or other adjacent driveways (D), several other commercial properties across from MA-not out of place.

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?

If sign was placed 25' back, it would put the sign in the driveway, behind the driveway is an elevated slope. The sign would not be seen due to trees + brush along 230-causing drivers to stop suddenly.

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

There is not a more suitable location for the sign as the driveway curves around it, with a substantial rise in elevation of the land behind the driveway - it would not be seen.

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

MA feels the new location is more conducive for the safety and wellbeing of our parents/students + visitors, as it is easily seen at the 10-12' 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.

[Signature] 9-21-16  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

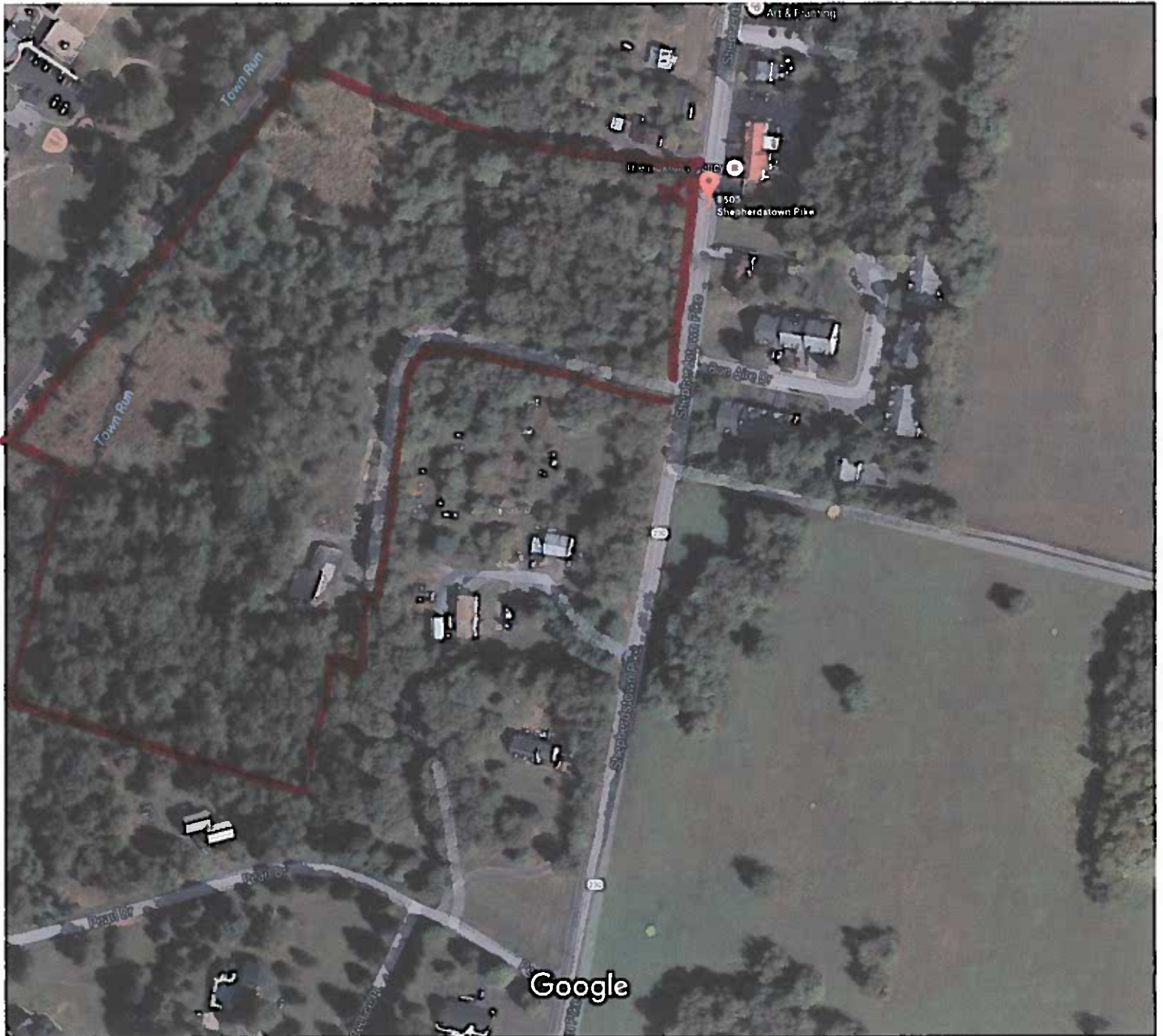
Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant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

10/27/16  
Date of Public Hearing

10/12/16  
Advertising Date

10/12/16  
Placard Posting Date

# Google Maps 8505 Shepherdstown Pike



Imagery ©2016 Commonwealth of Virginia, DigitalGlobe, U.S. Geological Survey, USDA Farm Service Agency, Map data ©2016 Google

100 ft



*P.L. Sumers*

*#ZV16-22*

*9-29-16*

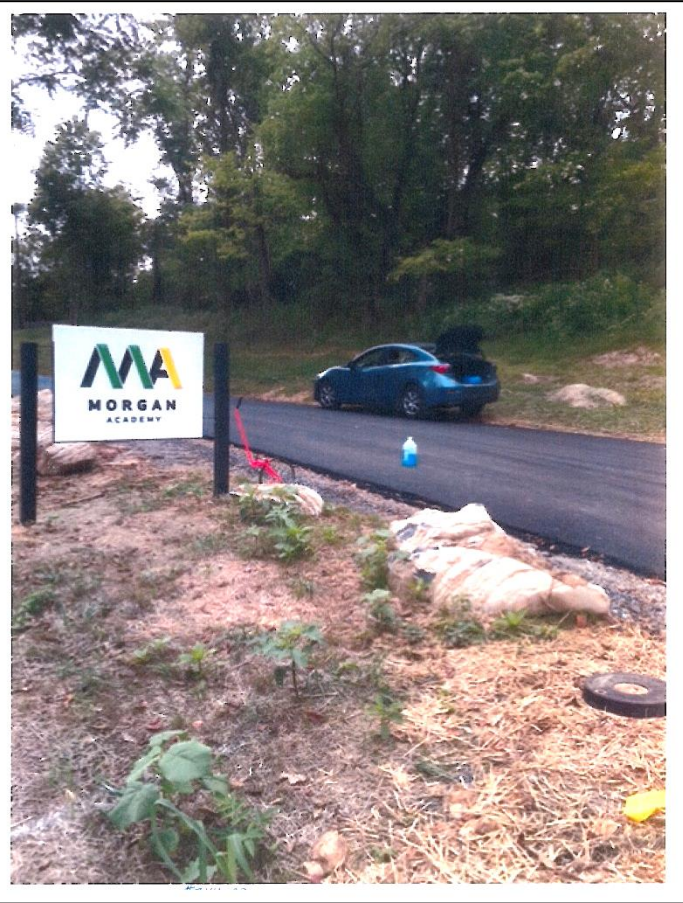
RECEIVED

SEP 30 2016

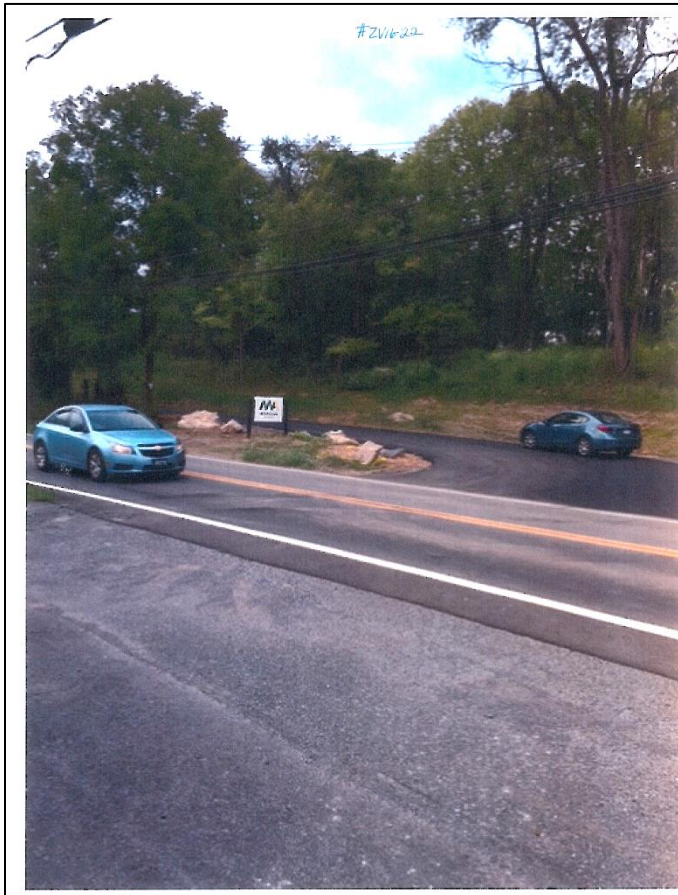




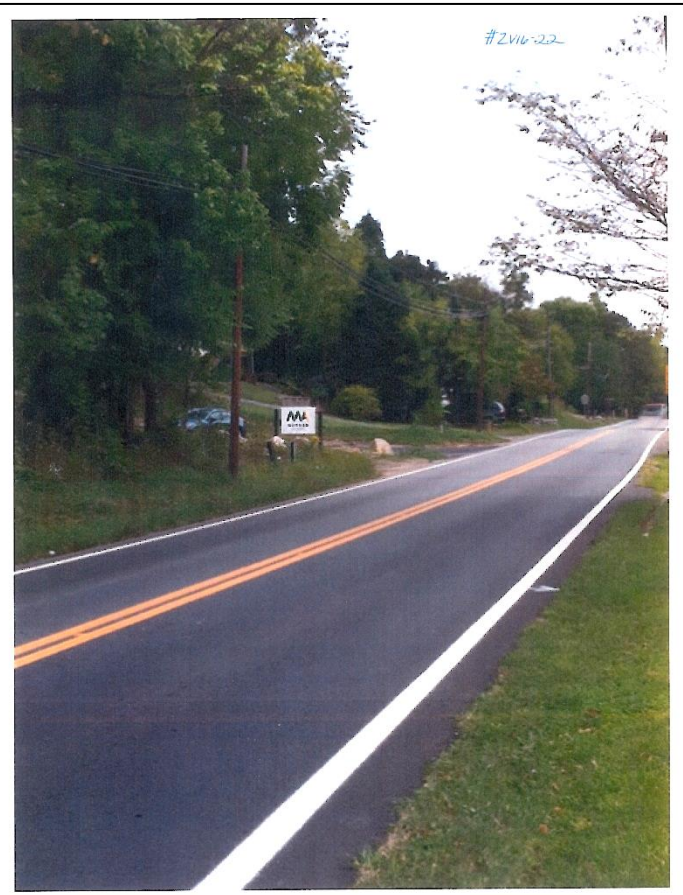
Double-sided sign



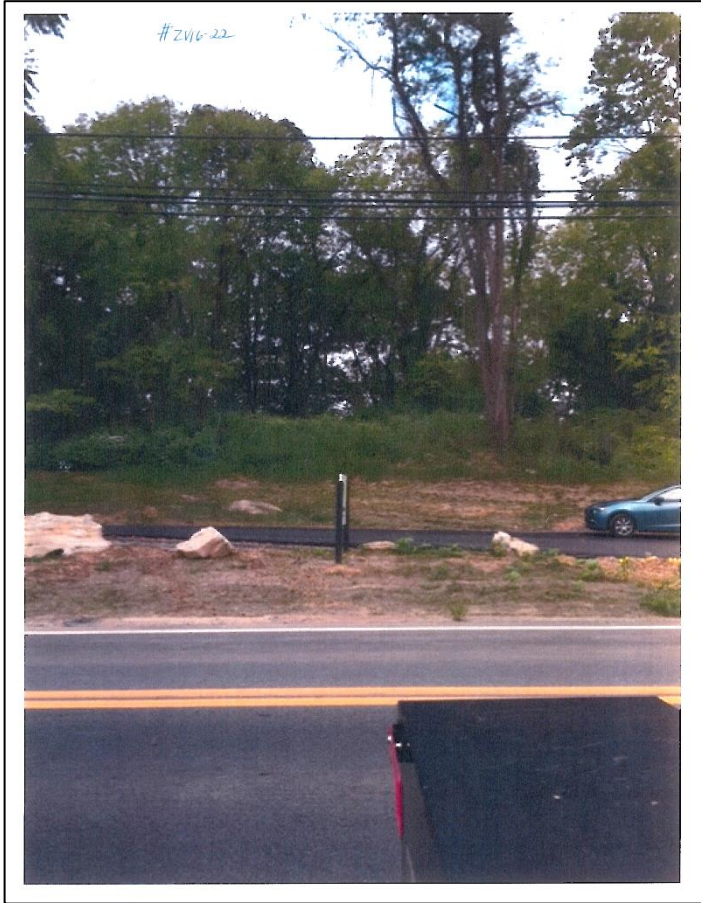
Bottle indicates approximate 25' setback



View of sign from commercial property

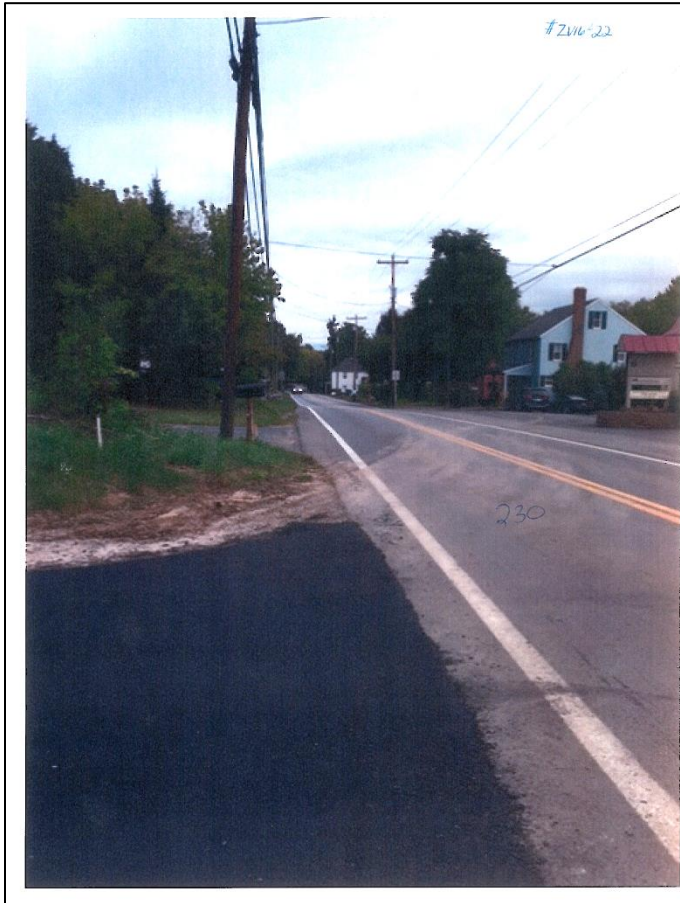


View of sign from residential property

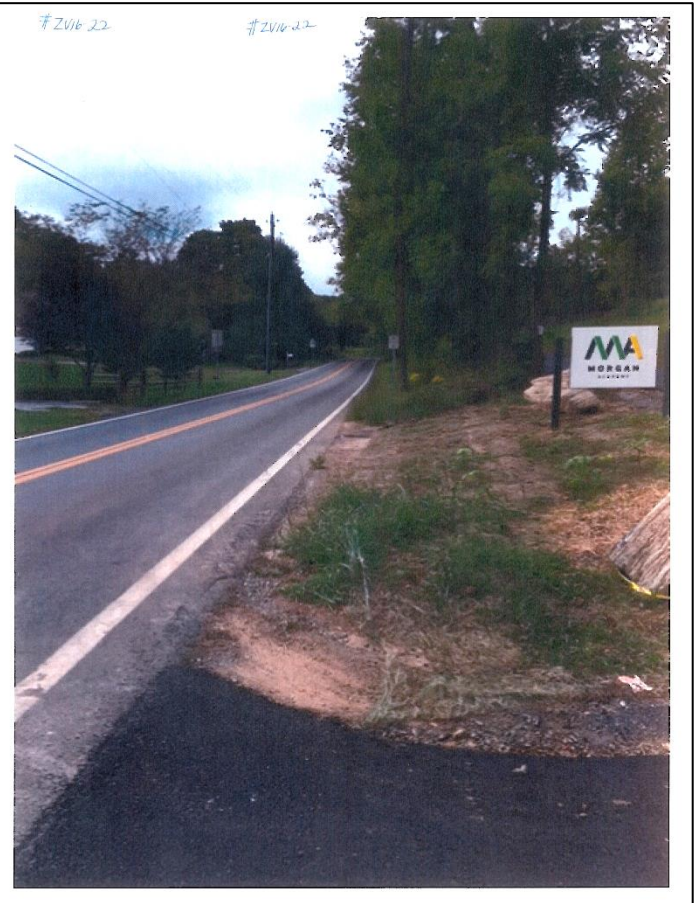


View of sign from across Rt. 230

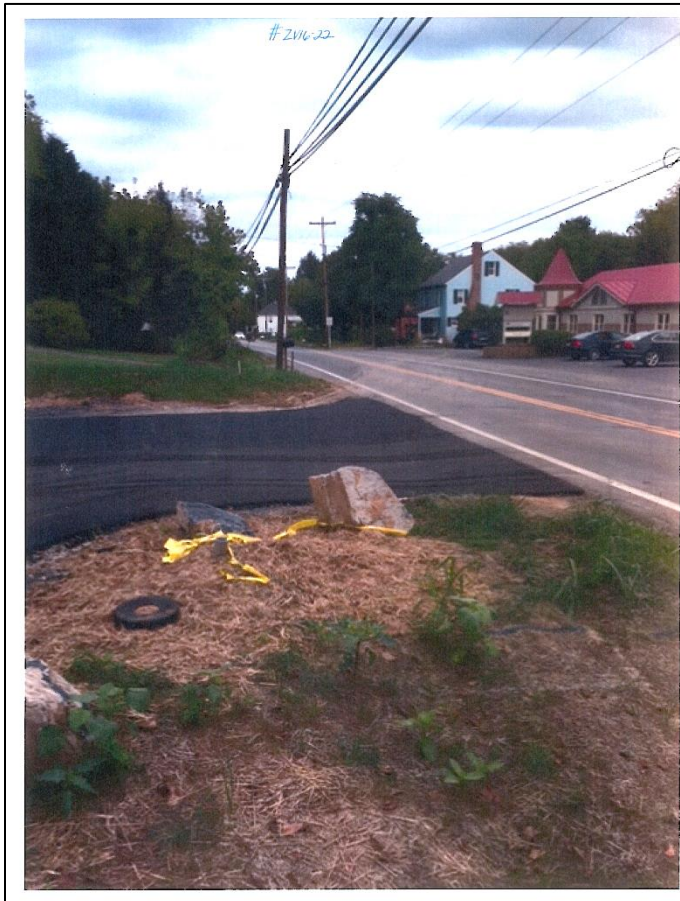
Morgan Academy/Secrist Variance #ZV16-22



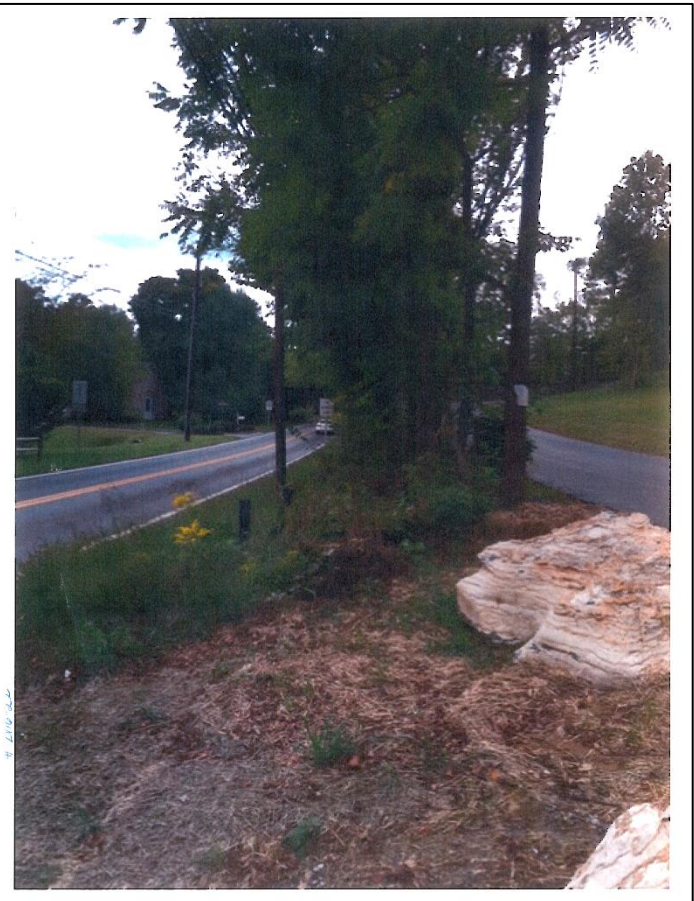
Sight Distance: Shepherdstown (left) from Driveway



Sight Distance: Shepherdstown (right) from Driveway



View: Towards Shepherdstown (left) from Sign



View: Leaving Shepherdstown (right) from Sign





# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor

Charles Town, WV 25414

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

Phone: (304) 728-3228

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Fax: (304) 728-8126

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## Zoning Administrator's Report Board of Zoning Appeals Meeting October 27, 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 on December 1, 2016 at 7:00 PM.

### 2) Additional Pending Zoning Ordinance and Subdivision Regulation Amendments

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

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

#### b) 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 was held on September 23. Staff is drafting an amendment based on the input received with the intent of presenting to the Planning Commission after the first of the year.
- iv. Signage

### 3) Upcoming BZA meeting

- a) Next Regular Meeting: **November 10, 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](mailto:zoning@jeffersoncountywv.org)

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

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**MEMORANDUM**

TO: Board of Zoning Appeals Members  
CC: Engineering & Building Permits Departments  
FROM: Zoning Administrator, Alexandra Beaulieu  
DATE: October 21, 2016  
SUBJECT: October Monthly Report of Department Activities

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**ISSUED ZONING CERTIFICATES**

#ZC16-35 WVA 340 LLC c/o UNIWEST JEFFERSON INC / CONTACT: LINDA LYONS – OWNER / SARGENTI ANCHITECTS / CONTACT: NICOLE DELUCA – APPLICANT

*Issuance Date:* September 16, 2016  
*Proposed Use:* Change in Tenant. Operation of Retail Pet Supply Store to also include Customer Self-Serve Dog Wash Station.  
*Physical Location:* Jefferson Crossing II Shopping Center  
91-A Saratoga Drive; Charles Town, West Virginia 25414  
*Zone:* Residential-Light Industrial-Commercial

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#ZC16-36 RAI PROPERTIES, LLC / CONTACT: JAMES GROSS – OWNER  
JOLENE CARROLL / SUGAR RUSH BAKERY – APPLICANT

*Issuance Date:* October 13, 2016  
*Proposed Use:* Expansion of existing Bakery footprint to include additional seating.  
*Physical Location:* 43 Ruland Road, Suite J; Kearneysville, West Virginia 25430  
*Zone:* Industrial-Commercial

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**PENDING ZONING CERTIFICATES**

#ZC16-37 JAMES & LISA BOYER – OWNERS/APPLICANTS  
P.J. RACO CONSULTING, LLC / CONTACT: PAUL RACO - CONSULTANT

*Issuance Date:* TBD  
*Proposed Use:* Cottage Industry. Construction of new accessory building to be used as a Kennel for more than six (6) dogs. Proposed project is exempt from Site Plan. Requires 15-day posting from 10/17/16.  
*Physical Location:* 5404 Kabletown Road; Charles Town, West Virginia 25414  
*Zone:* Rural