

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)  
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- 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 request 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.