



Jefferson County
Board of Zoning Appeals
Thursday, November 10, 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 October 27, 2016 meeting.
2. Approval of the 2017 Board of Zoning Appeals Meeting Schedule.
3. Swearing in of members of the public intending to provide testimony.
4. Variance request by the Bavarian Inn from the following sections to allow for a proposed minor subdivision:
 - a) Section 4.11A (includes reference to Appendix B): To eliminate the required landscape buffer between commercial uses;
 - b) Section 5.4D.2 (includes reference to 5.6D.1 & Appendix B); and,
 - c) Appendix B to reduce the building setback from 50' to 25' and to eliminate the required parking and drive aisle buffers.

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 #ZV16-23.

5. Zoning Administrator's Report.
 - a) Monthly Zoning Certificate Activity Report
 - b) Proposed correspondence from the Board to the County Commission requesting action on the Mass Event text amendment (a draft is to be distributed at the meeting).
6. 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 October 27, 2016:

- i. Variance request from Section 5.7(b) by Michael Coffman. File ZV16-20.
 - ii. Variance request from Section 4.18 by Beallair Homes LLC. File: ZV16-21.
 - iii. Variance request by Bernadine Somers on behalf of Morgan Academy from Section 10.4C File #ZV16-22.
7. Acknowledgement of 11 years of service to the Board of Zoning Appeals by Ms. Christy Huddle.

Minutes
Jefferson County Zoning Board of Appeals

- 1 Meeting Date: October 27, 2016
- 2 Meeting Location: Charles Town Library Conference Room
3 200 East Washington Street, Charles Town West Virginia
- 4 Board members present: Jeffrey Bannon, Matt Knott, Christy Huddle, Ted Schiltz,
5 Jeffrey Bresee, Alternate
- 6 Absent members: Tyler Quynn, Chair; Craig Foster, Alternate (with notification)
- 7 Staff members present: Alexandra Beaulieu, Zoning Administrator; Roger Goodwin, Director of
8 Engineering, Planning, Zoning; Stephanie Hunt, County Administrator; Lydia
9 Lehman, Assistant Prosecuting Attorney; and, Jennilee Hartman, Zoning Clerk
10
- 11 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.
- 12 Mr. Bannon presided over the meeting in Mr. Quynn's absence.
- 13 Ms. Huddle moved to call the meeting to order at 2:00 p.m. Mr. Bresee seconded the motion, which
14 carried unanimously.
- 15 1. Report from Roger Goodwin, Director of Engineering, Planning, and Zoning and Stephanie Hunt,
16 County Administrator, regarding recent consolidation of various departments, including Planning
17 and Zoning, into single department (per request by Mr. Jeffrey Bannon on 09-22-16).
- 18 Mr. Goodwin presented a brief report on the County Commission initiated consolidation of
19 the Departments of Engineering, Planning, Zoning, and GIS. Mr. Goodwin and Mrs. Hunt
20 addressed questions from the Board.
- 21 2. Approval of the minutes from the September 22, 2016 meeting.
- 22 Ms. Huddle moved to approve the September 22, 2016 minutes. Mr. Bannon suggested an edit
23 to Page 3, Line 35, to change the word *present* to *request*, which was accepted by Ms. Huddle.
24 Mr. Bannon called for a vote on the amended minutes, which carried 4 in support and 1 recusal
25 (Mr. Schiltz was absent from this meeting).
- 26 3. Swearing in of members of the public intending to provide testimony.
- 27 Ms. Hartman swore in members of the public who indicated they would be providing testimony.
- 28 4. Variance request from Section 5.7(b) to reduce the side setback from 15' to 8' for a 24' x 30'
29 pole building. Property Owner: Michael Coffman. Location: 98 Franklinton Rd., Summit
30 Point. District: Kabletown (06); Map: 19A; Parcel: 26.4; Size: 2 ac; Zone: Rural;
- 31 Mr. Michael Coffman, owner, and Ms. Peggy Burcker, aunt, were present to address the Board.
32 Ms. Beaulieu provided an overview of the staff report, noting that the applicant had obtained a
33 letter of support from the neighbor most affected by the request. Mr. Coffman and Ms. Burcker
34 answered questions from the Board. Mr. Bannon called for public comment. There was no
35 public comment.
- 36 Mr. Knott moved to approve the request. The motion carried unanimously.
- 37 5. Variance request from Section 4.18 to allow a staffed model townhome on Lot 51, which
38 is located within the interior of the subdivision. Property Owner: Beallair Homes, LLC.
39 Location: Beallair Subdivision, Lot 51, fronting on Lewis Washington Dr. & Clover Lea
40 Way, Charles Town. District: Harpers Ferry (04); Map: 10A; Parcel: RESB / 50; Size:
41 .09 ac; Zone: Residential Growth; File: ZV16-21.

- 1 Mr. Todd Abe, representative for Beallair Homes, LLC, was present to address the Board.
2 Ms. Beaulieu provided an overview of the staff report. Mr. Bannon questioned the feasibility
3 of complying with the Ordinance if the variance were not granted. Ms. Beaulieu confirmed
4 that a staffed model townhome would not be permitted on any other lot within the subdivision.
5 Mr. Abe addressed the Board questions. Mr. Bannon called for public comment. There was
6 no public comment.
- 7 Ms. Huddle moved to approve the request. The motion carried unanimously.
- 8 6. Variance request by Bernadine Somers on behalf of Morgan Academy from Section 10.4C
9 to reduce a setback for an existing sign from 25' to 6'. Property Owner: Amy Secrist;
10 Property Location: 8505 Shepherdstown Pk., Shepherdstown. District: Shepherdstown (09);
11 Map: 8; Parcel: 37; Size: 13.5 ac; Zone: Residential Growth; File #ZV16-22.
- 12 Ms. Bernadine Somers and Ms. Lori Robertson were present to address the Board.
13 Ms. Beaulieu provided an overview of the staff report. Ms. Beaulieu noted that the current
14 sign did not appear to negatively impact sight distance. Ms. Somers apologized to the Board
15 for installing the sign without obtaining a building permit and explained that they were
16 unaware that one was required for the current sign. Mr. Bannon called for public comment.
17 There was no public comment.
- 18 Mr. Bresee moved to approve the request. The motion carried unanimously.
- 19 7. Zoning Administrator's Report.
- 20 a) Monthly Zoning Certificate Activity Report
- 21 Ms. Beaulieu updated the Board on the status of pending amendments. Ms. Beaulieu noted that
22 the next meeting would be held on November 10, 2016.
- 23 8. Legal Update. Ms. Lehman did not have any information for the Board.
- 24 a) Possible executive session on pending lawsuits: None.
- 25 b) Discussion with possible deliberative session and signing of draft findings/decisions.
- 26 Meeting date September 22, 2016:
- 27 i. Variance request by The Bavarian Inn from Section 4.6B.2. File #ZV16-17
28 ii. Variance request by McGee Civil Construction, LLC from Sections 4.11A.2,
29 4.11E.1, 4.11J, 5.6D.1 & App B. File #ZV16-18
30 iii. Variance request by David Leighton from Section 9.7. File #ZV16-19
- 31 Ms. Huddle informed the Board that she would be resigning from the Board. Ms. Huddle stated
32 her last meeting would be in November.
- 33 Ms. Huddle moved to adjourn the meeting at 2:37 p.m. The motion carried unanimously.



JEFFERSON COUNTY, WEST VIRGINIA

Department of Planning and Zoning

116 East Washington Street, 2nd Floor

P.O. Box 338

Charles Town, West Virginia 25414

Phone: 304-728-3228

Fax: 304-728-8126

Email: zoning@jeffersoncountywv.org

2017 MEETING SCHEDULE OF THE JEFFERSON COUNTY BOARD OF ZONING APPEALS

Board of Zoning Appeals meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street at 2:00 p.m.

Scheduled Meetings

Thursday, January 26, 2017
Thursday, February 23, 2017
Thursday, March 23, 2017
Thursday, April 27, 2017
Thursday, May 25, 2017
Thursday, June 22, 2017
Thursday, July 27, 2017
Thursday, August 24, 2017
Thursday, September 28, 2017
Thursday, October 26, 2017
Thursday, November 9, 2017**
Thursday, December 14, 2017**

Submission Deadlines*

Friday, December 30, 2016
Friday, January 27, 2017
Friday, February 24, 2017
Friday, March 31, 2017
Friday, April 28, 2017
Friday, May 26, 2017
Friday, June 30, 2017
Friday, July 28, 2017
Friday, September 1, 2017
Friday, September 29, 2017
Friday, October 13, 2017
Thursday, November 17, 2017

* The required zoning variance request form signed by the legal property owner, supporting documentation and applicable fees must be submitted to the office by close of business on the Submission Deadline date in order for the request to be sufficiently reviewed and noticed in the Spirit of Jefferson. For all other applications please contact the office for the Submission Deadline date.

** Meeting dates have been modified in observance of the Thanksgiving and Christmas Holidays.

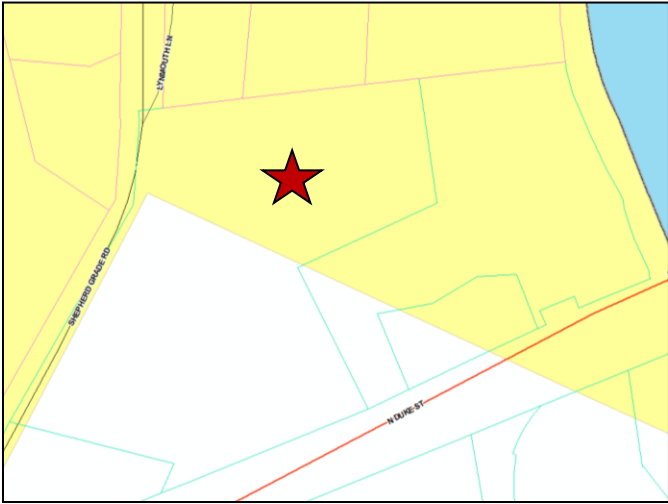
Changes in the time or location of the meeting shall be noticed on the County's website at www.jeffersoncountywv.org. Note: If the President of the County Commission or Chair of the Board of Zoning Appeals has determined weather conditions make travel unsafe for the public, County offices may close and/or the Board of Zoning Appeals meeting may be cancelled. Please check the County's website for possible meeting updates during inclement weather.

Agenda items that have been deferred due to a cancellation will be rescheduled. Per the Board's Rules of Procedure, no additional newspaper notice shall be given. Please keep signs posted on the respective properties until the rescheduled meeting date. Please call the office or check the County's webpage for the rescheduled meeting date.

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 November 10, 2016

Bavarian Inn Variance Request File #ZV16-23

- Item #4 Variance request by applicant, the Bavarian Inn, represented by Richard Klein, Alpha Associates, Inc. from the following sections:
- a) Section 4.11A (includes reference to Appendix B): To eliminate the required landscape buffer between commercial uses.
 - b) Section 5.4D.2 (includes reference to 5.6D.1 & Appendix B).
 - c) Appendix B: Reduction of the building setback from 50' to 25' and to eliminate the required parking and drive aisle buffers.

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 acres, (~2.5 ac in the County and ~3.5 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)
	<p>02/21/13: BZA approved the following variances (ZV13-04 – ZV13-08):</p> <ul style="list-style-type: none"> • Reduce the side setback for a commercial site greater than 1.5 ac. from 50' to 20'; • Reduce the rear setback for a commercial site greater than 1.5 ac. from 50' to 16'; • Reduce the side distance requirement for a commercial use adjacent to a residential use from 75' to 20'; • Eliminate the 10' screened buffer requirement for a commercial use adjacent to a commercial use; and

Staff Report
Jefferson County Board of Zoning Appeals Meeting
November 10, 2016

Bavarian Inn Variance Request File #ZV16-23

	<ul style="list-style-type: none">• Reduce the rear distance requirement for a commercial use adjacent to the Residential Growth district from 75' to 16'. <p>09/22/16: BZA approved a variance to reduce side distance requirement for a commercial use adjacent to a dwelling from 75' to 57' to expand the restaurant (ZV16-16).</p> <p>10/01/16: PC approved a waiver to process as a minor subdivision (PCW16-10).</p>
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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. 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.

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 sections of the Zoning Ordinance, for the purpose of subdividing the parcel to create two lots:

- Section 4.11A (which includes by reference Appendix B): Eliminate the 10' side and rear landscape buffer required between commercial uses.
- Section 5.4D2 (which includes by reference 5.6D(1) and Appendix B): Reduce the building setback requirement from 50' to 25' and eliminate the required parking and drive aisle setbacks (Front: 15'; Side and Rear: 10').

The purpose of landscape buffer requirements is typically to lessen the impact between adjacent land uses, including the visual impact of parking, truck loading area, 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.

The purpose for building 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.

The purpose of parking and drive aisle setbacks is to reduce negative interactions between vehicles, as well as pedestrians, traveling on the roadway and using the parking area. Parking setbacks also serve to reduce the impact that a land use might have on an adjacent property, such as the bright lights from headlights and engine noise.

Applying setbacks to individual lots within a multi-lot development under the same ownership may appear redundant, the purpose of this requirement is to protect future lot owners in the event that an individual lot is sold or foreclosed on in the future.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
November 10, 2016

Bavarian Inn Variance Request File #ZV16-23

In similar cases, the Board approved variances to waive items such as building setbacks, parking and drive aisle setbacks, and landscape buffers for internal lot lines for the Twin Oaks Subdivision (ZV12-35); 340 Business Park (ZV12-34); Burr Industrial Park, Phase I: Lots 40 & 41 (ZV13-37); River Riders' All-Inclusive Family Adventure Resort (ZV14-19); and Jefferson Business Park Associates (ZV15-27). Prior approvals by the Board do not necessarily indicate precedent because of the unique circumstances of each case which should be judged on their own individual merits.

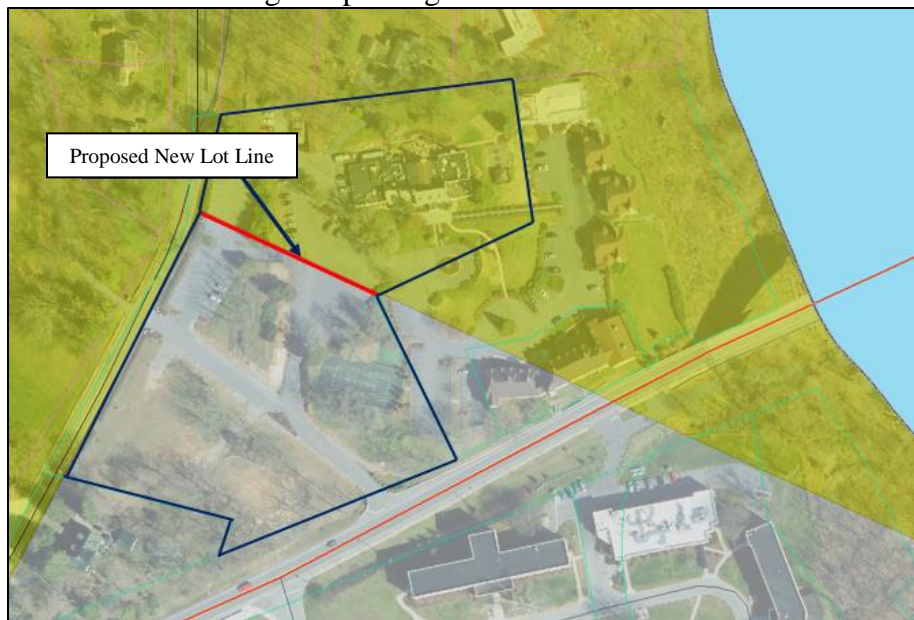
b. Unique Characteristics of the Property

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. It has existing drive aisles, parking areas, and buildings located in a manner that will not allow them to meet the parking and drive aisle setbacks or the landscaping requirements if the property is subdivided.

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 to the west and the north. Shepherd University facilities are located to the south, across Route 480. Additional Bavarian Inn facilities and the Potomac River are located to the east.

Staff finds the variance, if granted, would have no greater impact on adjacent properties than the current function of the building and parking area.



d. Feasibility of Complying with the Ordinance by other means

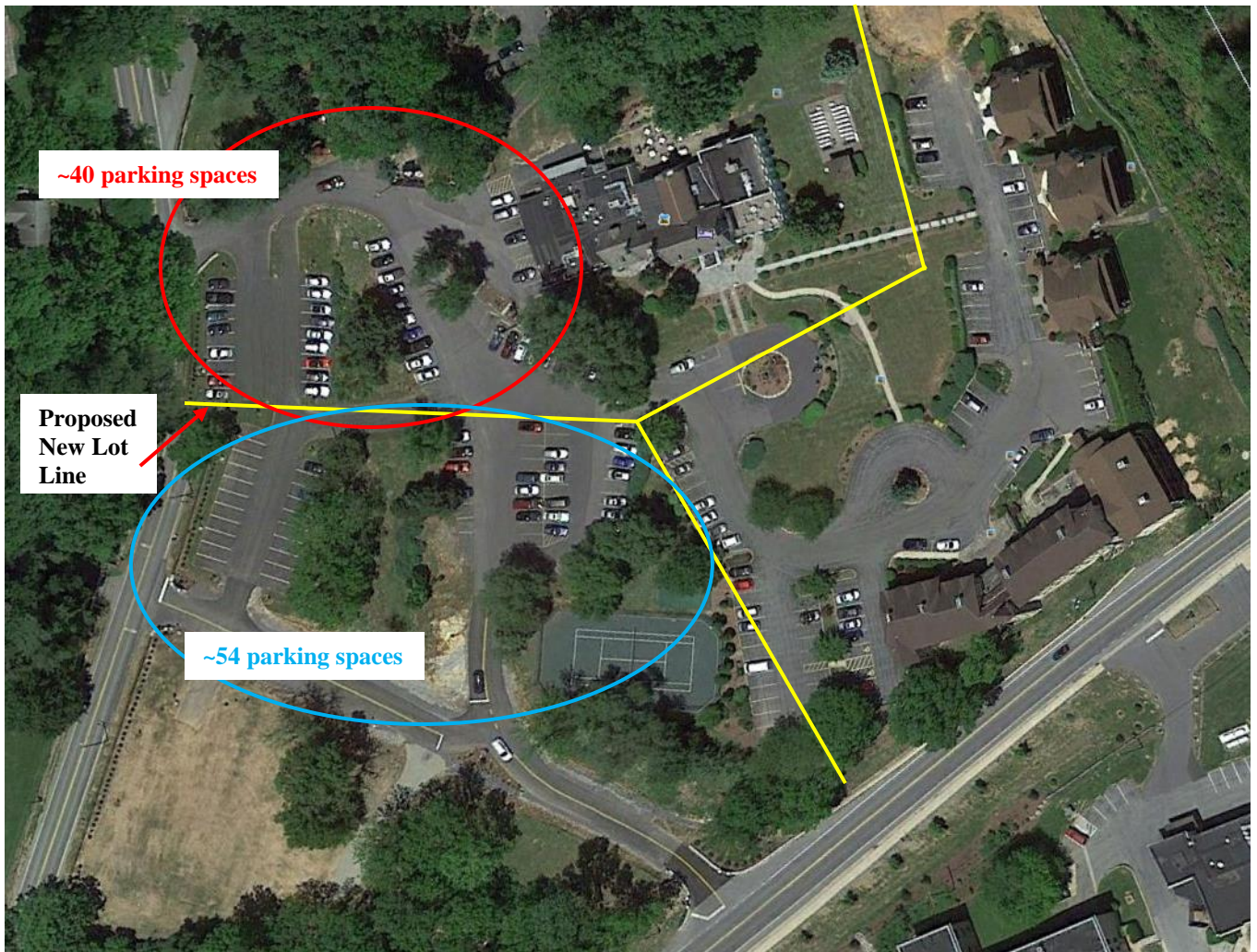
Compliance with the Ordinance is feasible. The applicant is requesting the variance because they would like to subdivide the parcel for corporate and financial purposes. The subdivision would create two lots, one lot with the main building and the second lot with the majority of the parking and the tennis court.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
November 10, 2016

Bavarian Inn Variance Request File #ZV16-23

As noted in this report, the Planning Commission granted a waiver from the Subdivision Regulations to allow the applicant to advance to Final Plat stage, which would allow for the applicant to process as a Minor Subdivision rather than a Major.

If the variance request is denied, it will not prohibit the applicant from subdividing their lot. In order to comply with the regulations, they would have to remove existing landscaping and parking to reinstall in another location to meet setback requirements. Should the applicant proceed with the subdivision, implementation of the setback requirements could create an awkward separation between parking areas and the building and eliminate interconnectivity.



**2013 aerial image depicting existing parking spaces. 2013 image used because it was the clearest image revealing the most amount of parking spaces (2016 imagery has shadows and made it difficult to give an accurate overview of the available parking).*

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 November 10, 2016

Bavarian Inn Variance Request File #ZV16-23

3. Possible Conditions of Approval

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

- a. The variance applies only to the new internal lot line created between the portion of Parcel 1 which contains the building and the portion which contains the majority of the parking.
- b. The Final Plat shall include a note granting cross access and cross parking for both lots and shall also state that should either lot be conveyed to another entity, an access easement and parking agreement shall be dedicated and recorded. A copy of the parking agreement shall be submitted to the Office of Planning and Zoning for their files.
- c. No buildings shall be permitted to cross lot lines.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

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

A. Commercial Development²⁷

2. All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.⁵

Section 5.4 Residential Growth (RG) District

D. Standards for Commercial or Light Industrial Uses²³

2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.

Section 5.6 Industrial-Commercial (IC) District²³

D. Development Standards

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. ^{5, 23, 27}

Appendix B: Non Residential Site Development Standards Table²⁷

Zoning District	Development Type ^o	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	ImperVIOUS 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		Front, Side, Rear	Residential district, or any lot with a residence, school, church, or institution of human care			Commercial Use			Industrial Use			
Industrial - Commercial**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25			15	4	4	75	Narrow Buffer Detail No. M-54			N/A	10(S)	10(S)	N/A	10(S)	10(S)		
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25	50 (or 25 if adjacent to industrial use)	15	10	10	75	Medium Buffer Detail No. M-53			N/A	10(S)	10(S)	N/A	10(S)	10(S)			
	Industrial	3 acres***	N/A	75	90%	50 (or 25 if adjacent to industrial use)			25 (or 20 if adjacent to industrial use)			200	Wide Buffer Detail No. M-52			25(S)	20(S)	20(S)	N/A	20(S)	20(S)		
Residential-Light Industrial-Commercial	Commercial or Industrial	N/A	N/A	60	80%	See Industrial - Commercial District																	
Rural	Churches	2 acres	200	35	N/A	25	50	50	See Parking / Drive Aisle Setbacks for commercial sites (greater or less than 1.5 acres, based on lot size) in the Industrial-Commercial District.			N/A	50(U) or 15(S)			N/A	10(S)	10(S)	N/A	10(S)	10(S)		
	Schools, Grades K-12	Grades K- 4: 10 acres+ Grades 5-8: 20 acres+ Grades 9-12: 30 acres+	500	35	N/A	100						N/A	N/A			N/A	N/A	N/A	N/A	N/A	N/A		
	Hospitals	10 acres	500	35	N/A	100						N/A	N/A			N/A	N/A	N/A	N/A	N/A	N/A		
	Other Rural principal permitted uses	40,000 sq. ft.	100	35	N/A	40	50	50				N/A	If a commercial or industrial use, see Industrial - Commercial District; otherwise N/A										
	Commercial or Industrial**	See Industrial - Commercial District																					
Village District	Commercial*	N/A	N/A	35	N/A	25	10	40	See Industrial - Commercial District														
	Industrial**	See Industrial - Commercial District																					
Residential Growth	Commercial or Industrial**	See Industrial - Commercial District																					



JEFFERSON COUNTY, WEST VIRGINIA

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

File Number: #ZV16-23
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: Asam Family Limited Partnership (Bavarian Inn)
Mailing Address: 164 Shepherd Grade Road, Shepherdstown, WV 25443
Phone Number: 304/876-2551 Email:

Applicant Contact Information

Name: Christian Asam Prime Contact: Paul J. Raco, P.J. Raco Consulting LLC.
Mailing Address: Same Above and Below
Phone Number: Email:

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

Name: P.J. Raco Consulting LLC: Paul J. Raco Allegheny Surveys: Mike Shepp
Mailing Address: P.O. Box 548, Charles Town, WV 25414
Phone Number: 304/676-8256 Email: pjraco.consulting@gmail.com

Physical Property Details

Physical Address: 164 Shepherd Grade Road
City: Shepherdstown State: WV Zip Code: 25443
Tax District: Shepherdstown District Map No: 1 Parcel No: 1
Parcel Size: Approx 6 Acres +- Deed Book: 765 Page No: 756

Zoning District (please check one)

Residential Growth (RG) [checked]

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) []

RECEIVED

OCT 12 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: Attached

Briefly describe the nature of the variance request:
Attached

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

Front Setback Side Setback Rear Setback Reduction From See to Attached

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:
Attached

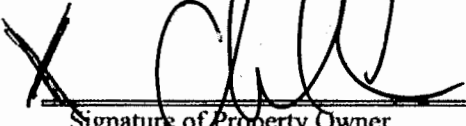
In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?
Attached

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

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.

 10/7/16
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).

11/10/16
Date of Public Hearing

10/26/16
Advertising Date

10/26/16
Placard Posting Date

2016-23

RECEIVED

OCT 12 2015

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

Asam Family Limited Partnership
Bavarian Inn
Request for Variances
Article 4, Section 4.11.A (Which includes by reference: 8.9A(10) and Appendix B)
Article 5, Sections 5.4D(2) (Which includes by reference: 5.6.D(1) and Appendix B)
Appendix B (Setbacks for Buildings, Access Drives and Parking Areas)
Jefferson County Zoning Ordinance
October 12, 2015

Brief Description of Request:

The Bavarian Inn is located on several parcels that are owned by the same family, but in different family partnerships and separate corporate names. One of the parcels is approximately 6 acres and houses the main building of the Inn and Restaurant. The Inn has been operated by the Asam Family for many, many years and is indeed a successful local business and popular tourist destination in Jefferson County. Through the years, the Asam family has made many improvements and additions to the facility including most recently the complete renovation of the pool area into a beautiful outside oasis.

Since there are multiple parcels with different partnerships (within the same family), the applicant needs to create two lots out of this approximately 6-acre parcel. The purpose of this subdivision is purely for corporate and financial reasons at this time. The new line will be created just on the Jefferson County portion of the property. As nothing but the subdivision of land is being proposed at this time, the two parcels will not create any need for improvements, roads, stormwater management, water or sewer approvals. Both parcels will have their own entrances and will continue to share the internal road system and parking areas as they do now. Absolutely nothing will change with regard to the infrastructure, external appearances or internal operations. As most in the community know, the Bavarian Inn is a beautifully landscaped property with a lot of open space.

Since there will be no external impact or changes in anything on the ground, the applicant is asking that the BZA to approve the same type of variances that have been granted to other existing businesses in Jefferson County to create separate, but same ownership lots. This will allow the Bavarian Inn to continue to operate, but with the ability to expand to a separate parcel. These types of requests are usually needed for corporate or other financial reasons to create a separate parcel. This is very similar to what has been happening with other businesses in the County. Therefore, the applicant is asking for the same internal setback, access roads, parking lots and buffer variances that have been granted for these other businesses. The Staff is currently working on ordinance amendments to eliminate the need for these types of variances since they have become routine for this type of business transaction.

The Staff has told the applicant's representative that they are supportive of these types of variances that are internal to an existing business. It provides a solution to a business that needs to create a parcel for both financial/corporate reasons and for the flexibility in the future to expand on the vacant parcel as needed. Often there isn't a lot of time to go through the subdivision process when needed, so these variances will clear the way for that possibility. If any new development does take place on the vacant parcel, then all other applicable site plan requirements will be a part of that process. However, since everything that is currently in place meets all of the appropriate requirements, no other variances are needed beyond the requested internal setback and buffer variances. Plus, these variances are only requested on the one new line between the lots that is being created with this request. Nothing external to the site is being requested. The Staff has recommended that this subdivision be treated as a

Minor Subdivision at the Planning Commission and hopefully will be confirmed by the time that this Board meets on this matter. All the Applicant is requesting is a way to draw one line to keep the main building on its own parcel for corporate and financial purposes.

The three specific variances that are requested are the three variances that have been typically requested of the Board to create a nice, cohesive development that looks like a business campus. These include the elimination of the 10 feet required buffer required between commercial lots; the reduction of the building setback from 50 feet to 25'; and, the elimination of the access road and parking lot setbacks. The setback reduction is for the existing main Inn building and may not be necessary since the survey hasn't been completed pending the result of the Board's meeting. Typically, the setback for the parking and access drive is 10 feet. However, since this Business is already designed to work together, the parking and access drive will continue to be shared when and if further developed. As with the other cases that the BZA approved, these two parcels will continue to share the common use elements such as SWM, parking and access roads. If the property is ever conveyed separately outside of the current ownership, then the owner will dedicate the appropriate easements and agreements to the potential buyers. This arrangement will eliminate the need for a parking and access drive setback, while continuing to provide interconnectivity.

The granting of these variances will allow a Jefferson County local and tourist landmark to continue to function properly with the flexibility to expand their facilities as needed.

Thank you for your consideration of this matter.

RECEIVED

OCT 13 2015

JEFFERSON COUNTY PLANNING,
ZONING & LAND USE

Asam Family Limited Partnership
Bavarian Inn
Request for Variances

Article 4, Section 4.11.A (Which includes by reference: 8.9A(10) and Appendix B)
Article 5, Sections 5.4D(2) (Which includes by reference: 5.6.D(1) and Appendix B)
Appendix B (Setbacks for Buildings, Access Drives and Parking Areas)
Jefferson County Zoning Ordinance
October 12, 2015

1. Granting the variances will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

There will be no impact on these issues as this property is already a well maintained facility. Currently, the Bavarian Inn is a beautifully landscaped business with an abundance of manicured open space. If the variances are approved, there will be no changes to what already exists. The reason for the subdivision is an internal matter for business purposes.

Furthermore, the variances will have no effect on the perimeter of the property. The property will look exactly as it does now. It will only have one new property line added on the Jefferson County portion of the property. Also, if necessary, easements will be dedicated if either of the properties are ever conveyed separately. The parking and access roads will continue to be used to mutually benefit both parcels just as they are now. If the properties are conveyed separately in the future, easements will be dedicated at that time.

Finally, the existing parcel already has agency approvals for the development as it exists. There will be no changes to the entrances, external access or internal flow of traffic. Therefore, the granting of the waivers will not impact anything surrounding the property.

Currently, the existing property has a positive impact on the surrounding area because it is a local and tourist landmark in Jefferson County. If the variances are granted, then the owner will be able to use the property for financial purposes and the vacant property could be used for a future expansion without the need of processing a subdivision at that time.

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?

The property currently contains multiple lots in the name of several different family partnerships and corporations with separate financial arrangements. The separation of this one parcel will allow the Bavarian Inn to separate the main building with the restaurant and meeting space from a parcel that contains some of the parking lots and access roads. This new parcel will have no buildings on it which will allow it to be used for other purposes by the family partnerships if needed at a later time.

The variances will also allow the future expansion on the new parcel with its own separate financial arrangements. The subdivision of the parcel now will allow the owner to make the arrangements that they need to make without affecting the current business.

In the current economic climate, businesses need to constantly come up with creative financial strategies to remain successful and competitive. The variances and minor subdivision will allow the owner to do such, without impacting anybody in the neighborhood. If there is future expansion on the vacant parcel, then that expansion will comply with any regulations at that time.

The fact that this project, like other business park developments that the BZA has seen lately, is already approved with the buildings, parking and access drives and landscaping already located on the property makes this a unique situation. The one new property line will just split the property into two lots, without any changes in appearance or function.

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

The County has already determined that the buildings, parking lots, landscaping and access roads as designed and approved, are a reasonable use of the land. Since nothing will change on the property, the same types of uses will continue to be a good and reasonable use of the land. The granting of the variances, however, will allow the owners to be able to make good financial arrangements to continue to be a good and viable business in Jefferson County. It just makes good business sense to allow an existing successful business the flexibility to make proper financial arrangements that they need at this time.

If the variances were to be denied, the hardship will be that the parking lots and access roads would have to be separated, which would eliminate all forms of interconnectivity. This scenario would not make good business sense.

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

The purpose of a buffer between lots is to protect property owners from uses that don't complement each other. In this case, the property owners will continue to be the same. Since the facility is already built, any potential purchaser will buy it exactly as the site is developed and built. Additionally, this site is already landscaped and buffered, so both the intent and the spirit of the ordinance is already being observed. Finally, if something is built on the vacant portion of the new parcel, then additional landscaping will be provided as a part of that process. Regarding the parking and drive aisle setbacks, based on the existing nature of the improvements, it only makes sense to keep the parking lots connected to adequately serve the entire site. The shared access and parking lots will ensure that the business will continue to make efficient use of the land.

The variances requested are for items that typically would protect one property owner from building something that would negatively affect a neighboring property. In this instance the buildings, access drives and parking areas already exist, so that really doesn't apply in this case. The variances only impact the newly created internal property

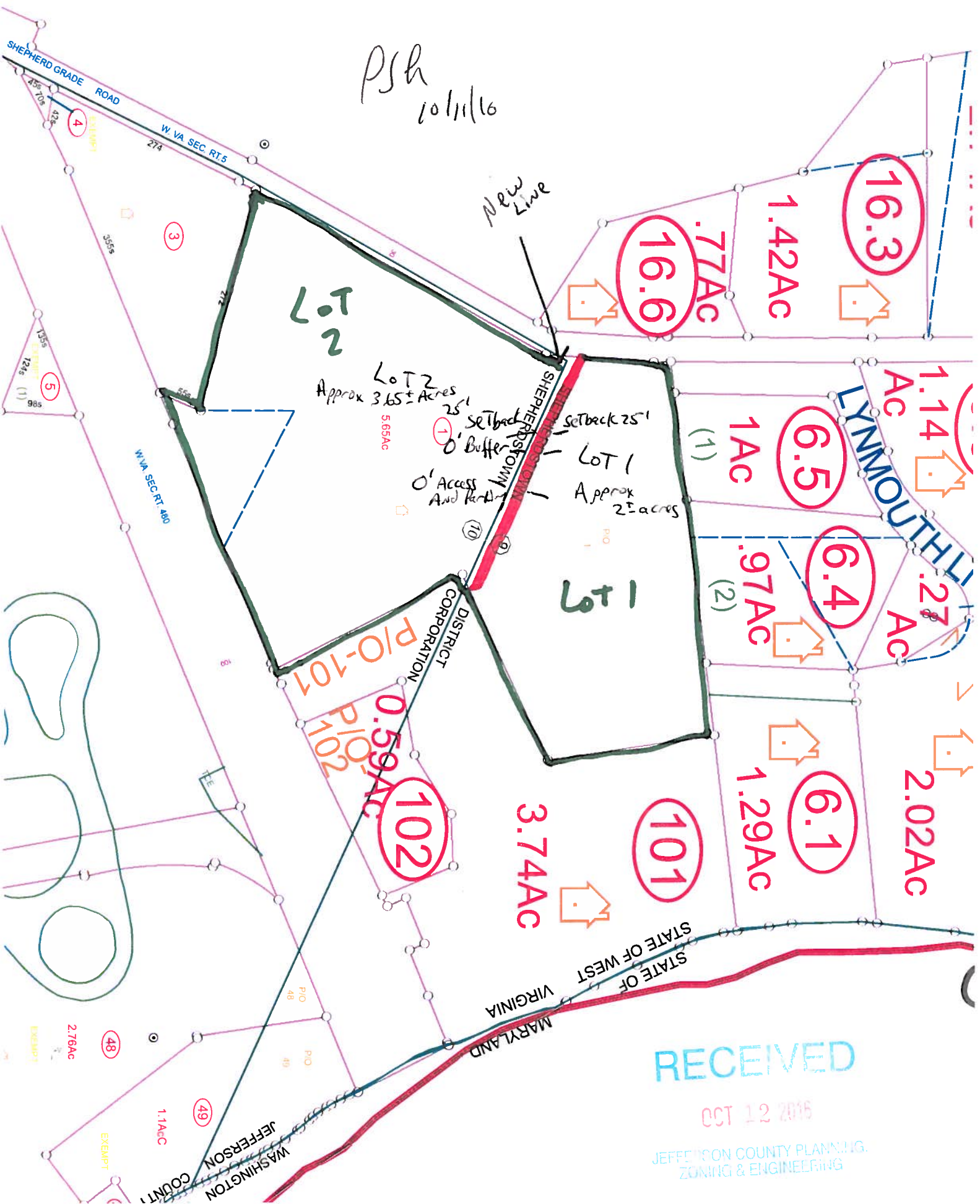
line. The balance of the property already is built to the current ordinance standards, and any new expansion will be built to the appropriate ordinance standards at that time.

Substantial justice would be to approve the requested variances, so that the Bavarian Inn can continue to thrive in Jefferson County for many years.

The Board's approval of the variances would be greatly appreciated.

#ZV16-23

Psh
10/11/16



RECEIVED

OCT 12 2016

JEFFERSON COUNTY PLANNING
ZONING & ENGINEERING



Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

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Zoning Administrator's Report Board of Zoning Appeals Meeting November 10, 2016

1) LESA/Conditional Use and Cluster Subdivision Provision Modifications

- Public Hearing scheduled for 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. We have been meeting with Martin Burke twice a month to review and discuss amendment. Intending to have a draft to submit before the Planning Commission after the first of the year.
- ii. Parking Standards
 - Staff working on drafting an amendment with the intent to submit before the Planning Commission after the first of the year.
- iii. Landscape Standards
 - Staff working on drafting an amendment with the intent to submit before the Planning Commission after the first of the year.
- iv. Signage
 - Staff working on drafting an amendment with the intent to submit before the Planning Commission after the first of the year.

3) Upcoming BZA meeting

- a) Next Regular Meeting: **December 8, 2016**