



**Jefferson County**  
**Board of Zoning Appeals**  
**Thursday, December 8, 2016, 2:00 p.m.**

Members  
Tyler Quynn, Chair  
Jeffrey Bannon, Vice Chair  
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 November 10, 2016 meeting.
  2. Swearing in of members of the public intending to provide testimony.
  3. Request by David and Laura Humphreys for an eighteen (18) month extension of the approved Conditional Use Permit (CUP) for Whispering Wind Farms Bed and Breakfast (File #CP15-02), which is expiring on February 2, 2017. The approved CUP consists of a 3-unit (5 bedrooms) bed & breakfast with no proposed changes to the existing home. The proposal included five (5) parking spaces to utilize the existing driveway area and a 16 sq. ft. sign located at entrance of property. If granted, the CUP would expire on August 2, 2018. Property Owners: David and Laura Humphreys; Property location: 290 Falling Springs Rd, Shepherdstown, WV; Tax District: Shepherdstown (09); Map: 13; Parcel: 29.41; Zone: Residential Growth; Size: 20.21 acres; File: CP15-02.
  4. Variance from Section 9.7 to reduce the rear setback from 50' to 5' to allow for the construction of a new home outside of the floodway/floodplain areas. Property owner: Michael and Lori De Celie. Property location: Tulip Hill Subdivision, Lot G, John Rissler Road, Charles Town. District: Charles Town (02); Map: 22; Parcel: 32; Zone: Rural; Size: 2.109 ac; File: ZV16-25.
  5. Request for a Special Exception to operate a Rural Reception / Event Facility to host weddings, gatherings and agricultural & equestrian related functions up to 16/month. Events will be located inside a 40' x 72' barn, a 48' x 72' barn, and a 40' x 60' temporary tent. Grass parking for 140 vehicles is proposed. Anna and Jacob Binkley. Property location: 6229 Flowing Springs Road, Shenandoah Jct. District: Shepherdstown (09); Map: 20; Parcel: 4.1; Zone: Rural; Size: 47.374 ac; File: SE16-01.
  6. Zoning Administrator's Report.
    - a) Monthly Zoning Certificate Activity Report
  7. Legal Update.
    - a) Possible executive session on the follow pending lawsuits: None.
    - b) Discussion with possible deliberative session and signing of draft findings/decisions.
- Meeting November 10, 2016
- i. Variance request from Sec. 4.11A (includes reference to App B), Sec. 5.4D.2; and, App B by Bavarian Inn. File ZV16-23.



Minutes  
Jefferson County Zoning Board of Appeals

- 1 Meeting Date: November 10, 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; Jeffrey Bannon, Matt Knott, Christy Huddle,  
5 Ted Schiltz, and Jeffrey Bresee, Alternate  
6 Absent members: Craig Foster, Alternate (with notification)  
7 Staff members present: Alexandra Beaulieu, Zoning Administrator; Lydia Lehman, Assistant  
8 Prosecuting Attorney; and Jennilee Hartman, Zoning Clerk  
9

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

11 Mr. Bannon moved to call the meeting to order at 2:00 p.m. The motion carried unanimously.

12 Ms. Hartman swore in members of the public who indicated they would be providing testimony.

13 1. Approval of the minutes from the October 27, 2016 meeting.

14 Ms. Huddle moved to approve the October 27, 2016 minutes. The motion carried four (4) in  
15 support and one (1) abstention (Mr. Quynn was absent from this meeting).

16 2. Variance request by the Bavarian Inn from the following sections to allow for a proposed  
17 minor subdivision: (a) Section 4.11A (includes reference to Appendix B): To eliminate the  
18 required landscape buffer between commercial uses; (b) Section 5.4D.2 (includes reference  
19 to 5.6D.1 & Appendix B); and, (c) Appendix B to reduce the building setback from 50' to 25'  
20 and to eliminate the required parking and drive aisle buffers. Property Owner: Asam Family  
21 Limited Partnership; Property Location: 164 Shepherd Grade Rd, Shepherdstown, WV.  
22 District: Shepherdstown Corp. (10); Map: 1; Parcel: 1; Zone: Residential Growth; Size:  
23 ~6.15 ac. (2.45 acres in the County); File #ZV16-23.

24 Mr. Michael Shepp, consultant with Allegheny Surveys, was present to address the Board.

25 Ms. Beaulieu stated for the record that a different consultant was incorrectly noted in the staff  
26 report. Ms. Beaulieu proceeded with an overview from the staff report and addressed questions  
27 from the Board. Mr. Shepp addressed the Board. Noting that there were no members of the  
28 public in attendance, Mr. Quynn called for a motion.

29 Ms. Huddle moved to approve the above referenced request with the following conditions:

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

37 The motion carried unanimously.

38 Mr. Knott left the meeting early due to a scheduling conflict. Mr. Bresee became an acting member  
39 in Mr. Knott's absence.

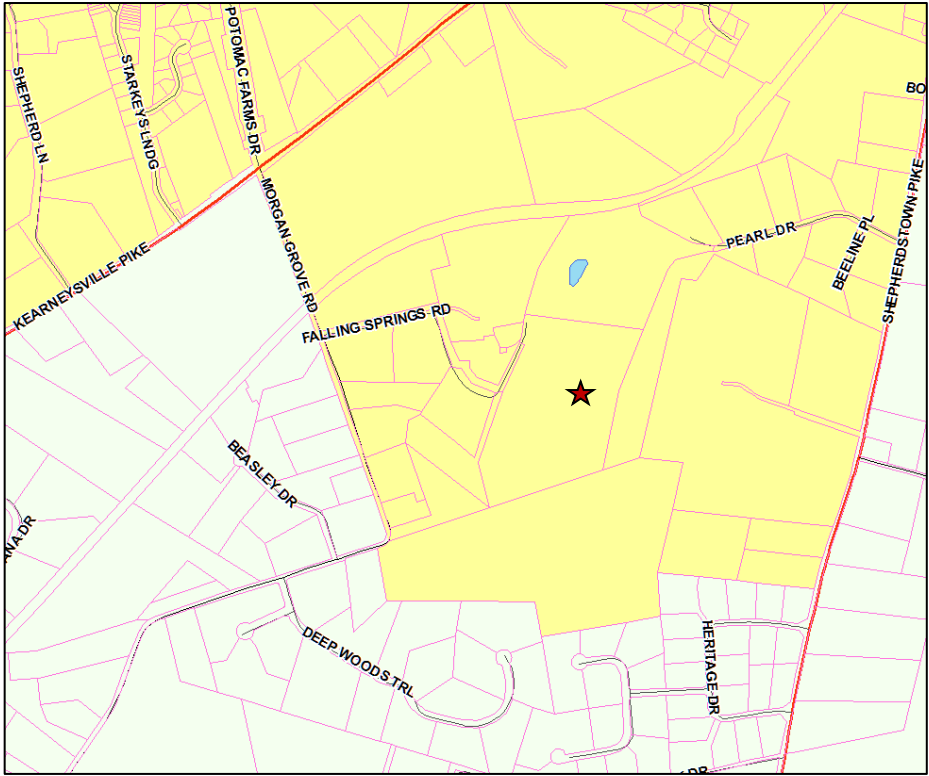
40 3. Approval of the 2017 Board of Zoning Appeals Meeting Schedule. Mr. Bannon moved to adopt  
41 the Schedule. The motion carried unanimously.

- 1 4. Zoning Administrator's Report.
- 2       a) Monthly Zoning Certificate Activity Report
- 3       Ms. Beaulieu updated the Board on the status of pending amendments. Ms. Beaulieu noted that
- 4       the next meeting would be held on December 8, 2016.
- 5 5. Legal Update. Ms. Lehman did not have any information for the Board.
- 6       a) Possible executive session on pending lawsuits: None.
- 7       b) Discussion with possible deliberative session and signing of draft findings/decisions.
- 8       Meeting date October 27, 2016: The following Findings were reviewed by Mr. Bannon
- 9       as he presided over the October 27, 2016 meeting.
- 10       i. Variance request from Section 5.7(b) by Michael Coffman. File ZV16-20.
- 11       ii. Variance request from Section 4.18 by Beallair Homes LLC. File: ZV16-21.
- 12       iii. Variance request by Bernadine Somers on behalf of Morgan Academy from
- 13       Section 10.4C File #ZV16-22.
- 14 6. Acknowledgement of 11 years of service to the Board of Zoning Appeals by Ms. Christy Huddle.
- 15       Mr. Bresee thanked Ms. Huddle for her dedication and commitment to the Board. Mr. Bresee
- 16       noted that Ms. Huddle's fair and kind manner helped make an applicant feel at ease. Ms. Beaulieu
- 17       presented a plaque to Ms. Huddle thanking her for her service to the County.
- 18 Ms. Huddle moved to adjourn the meeting at 2:37 p.m. The motion carried unanimously.

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 December 8, 2016

**Whistling Wind Farm Bed & Breakfast CUP Extension Request (#CP15-02)**

Item #3 Request by David and Laura Humphreys for an eighteen (18) month extension of the approved Conditional Use Permit (CUP) for Whispering Wind Farm Bed and Breakfast (File #CP15-02), which is expiring on February 2, 2017. The approved CUP consists of a 3-unit (5 bedrooms) bed & breakfast with no proposed changes to the existing home. The proposal included 5 parking spaces to utilize the existing driveway area and a 16 sq. ft. sign located at entrance of property. If granted, the CUP would expire on August 2, 2018.

APPLICANT:	Whistling Wind Farm Bed & Breakfast
OWNER :	David and Laura Humphreys
DEVELOPER:	Same as Owner/Applicant
CONSULTANT:	None
PROPERTY LOCATION:	290 Falling Spring Road, Shepherdstown, West Virginia 25443
LEGAL DESCRIPTION & ZONING DISTRICT:	<p style="text-align: center;">District: Shepherdstown (09); Map: 13; Parcel: 29.41; Size: 20.21 ac;          Zoning Map Designation: Residential Growth</p> 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North: RG                      South: RG</i> <i>East: RG                        West: RG</i>
APPROVALS:	Principle land use: Single family dwelling unit Accessory land use: ZC15-38: Bed & Breakfast (CUP). Issued: 07/25/15 ZC15-47: Farm vacation enterprise providing lodging and meals in three (3) lodging units consisting of five bedrooms. Issued: 10/01/15
VARIANCES:	N/A

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
December 8, 2016

**Whistling Wind Farm Bed & Breakfast CUP Extension Request (#CP15-02)**

RELEVANT INFORMATION:

1. Overview of Request

The Applicant is requesting an extension of a Conditional Use Permit for the Whistling Wind Farm Bed & Breakfast, which the Board of Zoning Appeals voted to approve on July 16, 2015. Staff signed the CUP on September 2, 2015. The CUP will expire on February 2, 2017.

The approved CUP consists of a 3-unit (5 bedrooms) bed & breakfast with no proposed changes to the existing home. The proposal included five (5) parking spaces to utilize the existing driveway area and a 16 sq. ft. sign located at entrance of property.

2. Applicant's Justification of Request

In a letter to the Board, the applicant provides the following reasons for the extension request:

“We would like to keep alive the CUP as insurance in case someone finds a way to invalidate our Farm Vacation Enterprise Zoning Certificate.”

3. Staff Evaluation of Request

The Board has previously approved CUP extensions. For example, on November 19, 2009, the Board approved a CUP extension for Dairy Queen (#Z08-01) in the Maddex Square Shopping Center. Per the letter submitted with that application, the need for the request was attributed to the national economic downturn.

The Board approved another CUP extension on October 18, 2012 for the Rippon Brewing Company (Z11-01). Per the letter submitted with that application, the need for the request was attributed to the risky economic environment and the surprisingly high engineering requirements for the rehabilitation of the mill structure.

Following the 2015 approval of the CUP for Whistling Wind Farm Bed & Breakfast, the applicant applied for and was granted a Zoning Certificate to operate a “Farm Vacation Enterprise providing lodging and meals in three (3) lodging units consisting of five bedrooms”. The applicant may continue to operate under their current Zoning Certificate as a Farm Vacation Enterprise as long as they maintain their farm use exemption status with the Assessor's Office.

SECTION OF ORDINANCE TO BE CONSIDERED

**Section 3.2 Zoning Administrator**

- (G) A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months. Pursuant to Chapter 8A of the West Virginia State Code as amended, a Zoning Certificate or Conditional Use Permit associated with a subdivision or land development plan – whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010 – shall remain valid until July 1, 2012, provided that the land development plan or plat received at least preliminary approval by the Planning Commission or county Commission by March 1, 2010.



JEFFERSON COUNTY, WEST VIRGINIA  
DEPARTMENTS OF PLANNING AND ZONING

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**CONDITIONAL USE PERMIT**

**WHISTLING WIND FARM BED AND BREAKFAST  
FILE #CP15-02**

This is to certify that effective September 2, 2015, the property described below has been granted a Conditional Use Permit.

Project Name: Whistling Wind Farm Bed and Breakfast  
Owners: David & Laura Humphreys  
Mailing Address: 290 Falling Springs Rd, Shepherdstown, WV 25443  
Telephone Number: 304-268-8017  
Property Location: 290 Falling Springs Rd, Shepherdstown, WV 25443  
Tax Reference: District: Shepherdstown (09); Map: 13; Parcel: 29.41  
Deed Reference: Book: 623; Page: 443  
Zoning District: Residential Growth  
Parcel Size: 20.21 acres  
Approved Use: A three (3) unit, five (5) bedroom, bed & breakfast with no changes to the existing structure. The proposal includes five (5) parking spaces, which will utilize the existing driveway area.

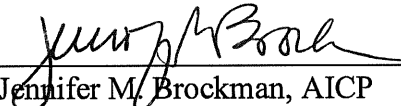
The Owners agreed to the following conditions at the May 22, 2015 Compatibility Assessment Meeting:

1. To reduce the proposed size of the sign from 16' to 8' square feet; and, to use a solar powered dusk to dawn light directed towards the sign.
2. To terminate the Conditional Use Permit should the Humphries sell the subject parcel.
3. To pay double Homeowners Association dues to cover any additional impact on the Homeowners Association maintained road.
4. To advise clients that there is a 11:00 pm to 6:00 am curfew, except for emergencies.
5. To notify clients of the low speed limit and to cooperate with Homeowners Association if speeding becomes an issue.
6. To install speed bumps or trenches to slow traffic on Falling Springs Road, if approved by the Homeowners Association.
7. To pay for any rise in insurance premiums, if based solely on the addition of a 3-unit bed and breakfast, at the same level of coverage currently held.

Pursuant to Article 7.6F of the Jefferson County Zoning and Land Development Ordinance, the Board of Zoning Appeals held a meeting on July 16, 2015, at which they upheld the self-imposed conditions agreed to by the Owners at the May 22, 2015 Compatibility Assessment Meeting (noted above).

In the event that the operation of this Bed and Breakfast has not commenced by February 2, 2017, (18-months from issuance) this Permit will expire. Prior to the expiration date, extension requests must be submitted to the Department of Zoning, for consideration by the Board of Zoning Appeals. See Jefferson County Zoning and Land Development Ordinance, revised June 1, 2014, Section 3.2G.

This Permit in no way relieves the Owner or Applicant from any requirements of the Jefferson County Ordinances unless the appropriate waivers/variances are granted by the appropriate County authority.

  
\_\_\_\_\_  
Jennifer M. Brockman, AICP  
Acting Zoning Administrator/  
Director of Planning and Zoning

9/2/15  
Date



**This Conditional Use Permit becomes VOID should the Humphreys sell the property.**

**JEFFERSON COUNTY**  
**DEPARTMENT of ZONING**  
**ZONING CERTIFICATE**

#ZC15-47

This is to certify that the use cited on this form is a Permitted Use in the Zone where it is proposed, by virtue of the following justification. This use is subject to the conditions imposed below:

- \*Principal Permitted Use in Zone stated below.
- \*Nonconforming Grand-fathered Use in Zone stated below.
- \*Change in Nonconforming Use approved by Public Hearing in Zone stated below.
- \*Change in Nonconforming Use approved by Zoning Administrator in Zone stated below.

**This Certificate does not constitute a Certificate of Occupancy, and does not exempt the proposed development and/or use from any relevant Jefferson County Ordinances, including but not limited to Floodplain, Building Code, building and sign permits, Site Plan requirements, Health Department approvals, as well as other local and State requirements.**


**PROPERTY DESCRIPTION**

OWNER/APPLICANT NAME: David and Laura Humphreys  
MAILING ADDRESS: P.O. Box 988  
Shepherdstown, West Virginia 25443  
TELEPHONE NUMBER: (304) 876-1132 / dhumphreys14@yahoo.com  
PHYSICAL ADDRESS: 290 Falling Springs Road; Shepherdstown, West Virginia 25443  
TAX DISTRICT: Shepherdstown (09)/ MAP: 13/ PARCEL: 29.41  
DEED BOOK: 623 PAGE: 443  
PROPERTY SIZE: 20.21 acres  
ZONE: Residential-Growth  
PROPOSED USE: Farm Vacation Enterprise providing lodging and meals in three (3) lodging units consisting of five bedrooms.  
RESTRICTIONS/CONDITIONS: In accordance with the Jefferson County Zoning and Land Development Ordinance, Section 4.5, nothing shall prohibit the use of land for agricultural purposes or the construction or use of buildings or structures incidental to the use for agricultural purposes, irrespective of the zoning. As such, and in light of the designation by the Tax Assessor of Whistling Wind Farm as "Farm Use" for valuation purposes, agricultural uses defined in the Zoning Ordinance are permitted to occur on this property. This Zoning Certificate conditions the approval of a "Farm Vacation Enterprise" as defined in the Zoning Ordinance as "a farm adapted for use as a rural vacation area, which may include picnicking and sporting areas, fishing waters, camping, scenery, nature recreation area, and similar uses. The site may contain up to five lodging units". Per the application, such lodging shall be limited to three (3) lodging units consisting of five

bedrooms, and related meals and activities. Such lodging units shall be occupied by reservation only. Current Farm Sign is exempt from processing, per Section 10.2F. Any new sign advertising this approved use must apply for a Zoning Certificate and Building Permit.

Any future change in use or expansion will require processing through the Jefferson County Departments of Planning, Zoning and Engineering to update this Certificate, and insure compliance with all applicable County Regulations.

This certification in no way relieves the Owner, Applicant or User from the documented requirements of the Jefferson County Ordinances, to include Building and Sign Permit processing, unless the appropriate variances are granted by corresponding County authority.

  
\_\_\_\_\_  
Jennifer M. Brockman, AICP  
Acting Zoning Administrator

October 01, 2015 Date of Issuance



David J. Humphreys  
P.O Box 988  
Shepherdstown, WV 25443

November 10, 2016

Alexandra Beaulieu, Zoning Administrator  
Jefferson County Office of Planning and Zoning  
116 East Washington St., 2<sup>nd</sup> Floor  
Charles Town, WV 25414

RECEIVED

NOV 10 2016

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

Re: Extension of CUP

Dear Ms. Beaulieu:

Please accept this letter as supplemental information regarding our request to extend the expiration date of our conditional Use permit for the Whispering Wind Farm Bed and Breakfast (File #CP15-02) which is due to expire on February 7, 2017.

We are now operating our bed and breakfast under the Farm Vacation Enterprise Zoning Certificate #ZC15-47 that was issued October 1, 2015.

We are operating under that rather than under the CUP because the CUP contains a number of concessions we agreed to in connection with that process in order to accommodate the wishes of our neighbors. It became clear that in spite of these concessions one of our neighbors, John Barrat, decided to sue Jefferson County and us in an effort to invalidate our CUP. After eleven months of vigorous and expensive litigation Mr. Barrat finally dropped his lawsuits with prejudice after a court-ordered mediation was held.

\* Copies provided in mailed BZA packet for 12/08/16 mtg -gtl

At this point, we would like to keep alive the CUP as insurance in case someone finds a way to invalidate our Farm Vacation Enterprise Zoning Certificate.

Thank you for your consideration of this request.

Sincerely,

  
David J. Humphreys

  
Laura B. Humphreys



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
December 8, 2016

**De Celie Variance Request (#ZV16-25)**

**2. Staff Evaluation of Request**

a. Summary of Request and Purpose of Ordinance Requirements

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

b. Unique characteristics of property

The property is located in a rural area along the Shenandoah River. Due to its proximity to the river, the majority of this parcel is located within both the delineated Floodplain (Zone A) and Floodway, which renders most of the property unbuildable. The County's Floodplain Ordinance requires a 25' buffer from any delineated floodplain area. While this language is strictly enforced on all lots created by this Department, the existing lots in the County may be unable to accommodate the 25' buffer. In this case, at the discretion of the County's Floodplain Manager, an elevation certificate may be necessary before construction could commence.



c. Character of area

The majority of the existing homes within the Tulip Hill Subdivision are located toward the rear of their respective lots. It appears that each lot processed a small lot line adjustment with the large parcel toward the rear to allow for more buildable area outside of the delineated flood areas.

d. Impact on adjacent properties

The neighboring home most affected by the proposed structure is approximately 170' from the proposed construction site and shares a fairly dense wooded boundary much of the year.



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
December 8, 2016

**De Celie Variance Request (#ZV16-25)**

e. Feasibility of complying with the ordinance by other means

As the property is currently configured it appears that the applicant would be unable to construct a traditional home if the rear setback were enforced. Section 4.8 of the Zoning Ordinance refers to a *Buildable Lot* as:

“Any lot which was a buildable lot under the terms or regulations in effect at the time of the adoption of this ordinance and which was established or recorded at that time shall be deemed a buildable lot for the erection of a single-family dwelling, subject to the provisions of the appropriate district regulations of this ordinance.”

This section has previously been interpreted to specifically allow property owners the right to construct a residential dwelling unit, provided the applicant could document approval with the Division of Highways and the Health Department. This applicant has been advised to contact the Health Department for any regulations they may have in locating a septic system within or in close proximity to the floodplain/floodway.

The current Subdivision Regulations would permit a lot line adjustment with the adjoining parcel in the rear to increase the buildable area of his parcel.

Additionally, the applicant may be able to modify the layout of the home to accommodate the setback.

**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 of the rear setback as requested.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 9.7 Other Exceptions<sup>3</sup>**

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

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

**Rural Agricultural and Industrial Commercial**

**Single Family Residences**

<b>Over 2 acres --</b>	<b>40' front,</b>	<b>15' side</b>	<b>and</b>	<b>50' rear</b>
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'





JEFFERSON COUNTY, WEST VIRGINIA

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

File Number: #2V16-25
Staff Initials: cle
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 + Lori DeCelia
Mailing Address: 2583 Shady Valley Lane Harpers Ferry WV 254
Phone Number: 304 724 2093 Email: mdecelia@yahoo.com

Applicant Contact Information

Name: Michael + Lori DeCelia
Mailing Address: 2583 Shady Valley Lane Harpers Ferry WV 25425
Phone Number: (703) 865-1513 Email: mdecelia@yahoo.com

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

Name:
Mailing Address:
Phone Number: Email:

Physical Property Details

Physical Address: ? John Rissler Rd
City: Charles Town State: WV Zip Code: 25414
Tax District: Charles Town District Map No: 22 Parcel No: 32
Parcel Size: 2.109 Acres Deed Book: 1178 Page No: 598

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.

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NOV 10 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: 9.7

Briefly describe the nature of the variance request:

To Build further away from the flood plain (HOME)

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

Front Setback  Side Setback  Rear Setback  Reduction From 50 to ~~50~~ 5ft

11/22/11

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:

Rural area, adjacent owners have slightly larger lots to move their horses further out of the flood plain

\* MASON FLOOD Plain Manag suggeste

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?

To move further out of harms way

5 ft 11/22/11

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

The neighboring properties purchased an additional 50 ft of land in the rear to move their house further from the flood plain. Not a viable option for me

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

This set back does not affect adjacent owners or defy the purpose of this zoning ordinance is solely to move the house further away from the flood plain

@ This Time  
from the Flood Plain

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] 11/9/16  
Signature of Property Owner Date

[Signature] 11/16/16  
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

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

12/08/16  
Date of Public Hearing

11/23/16  
Advertising Date

11/23/16  
Placard Posting Date

#2116-25

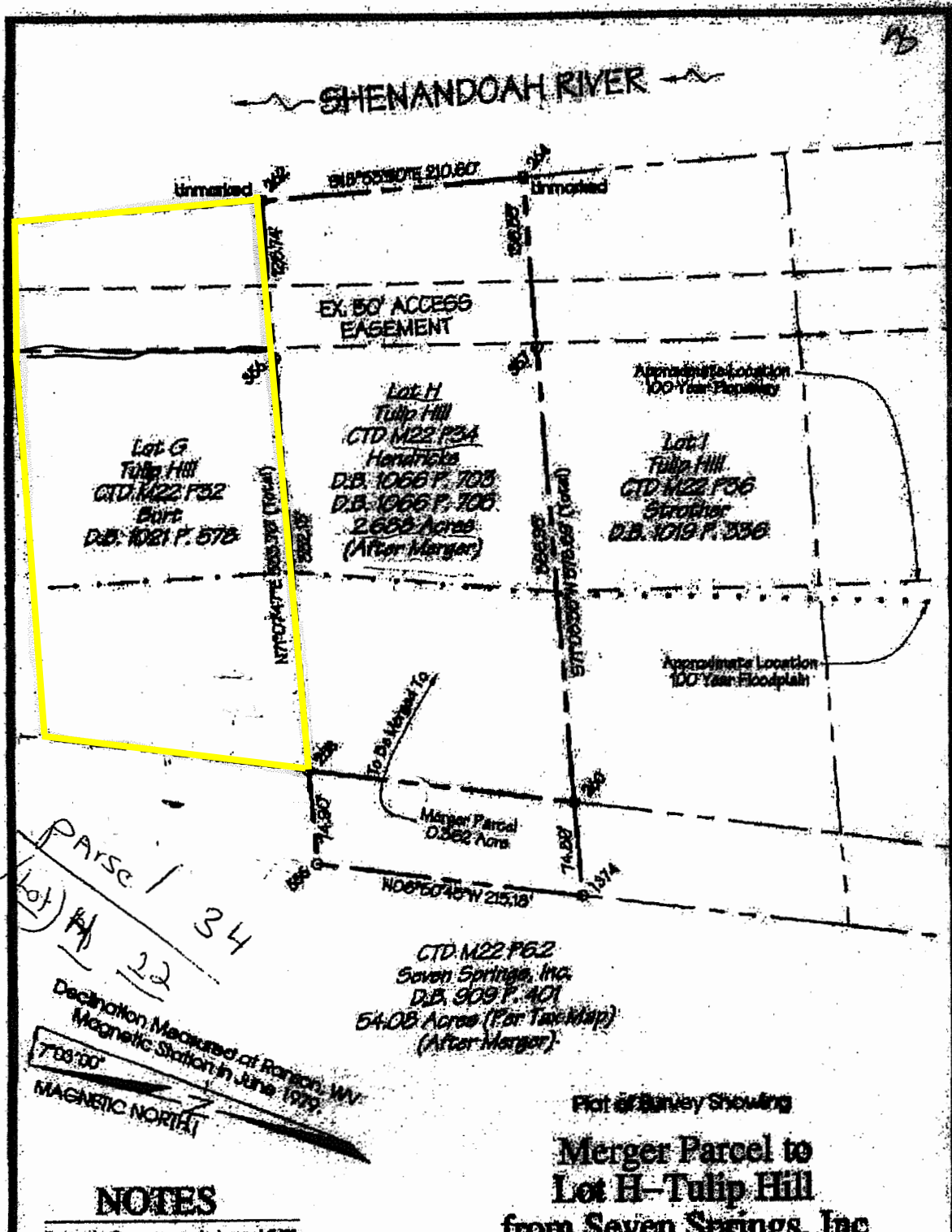
### Plat Map

Borrower	Hendricks, Stephen		
Property Address	Lot H John Ressler Rd.		
City	Charles Town	County	Jefferson
State	WV	Zip Code	25414
Lender	BB&T Mortgage		

RECEIVED

NOV 10 2015

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING







Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
December 8, 2016

**Jacob and Anna Binkley Special Exception Request (#SE16-01)**

**RELEVANT INFORMATION:**

**A. Overview of Request**

On January 2, 2014, the Jefferson County Commission approved an amendment to the Jefferson County Zoning and Land Development Ordinance that included provisions for “Rural Reception/Event Facilities” to be approved through the Special Exception process, which requires a Public Hearing held by the Board of Zoning Appeals (BZA). A “Rural Reception/Event Facility” is defined as “a facility within an existing structure and/or outdoor area for the hosting of events such as weddings and similar events in the Rural, Village, Residential Growth and Residential-Light Industrial-Commercial Districts (permitted by Special Exception). Such events are limited to events that involve extended families and friends such as weddings, wedding receptions, birthday events, anniversary events, reunion events and/or family gatherings. No events that involve charging admission or are solely performance events are permitted under this provision.” There is also a provision for a “Rural Reception/Event Facility, Small”, limited to not more than one event per month and not to exceed 75 cars, which can be processed administratively in accordance with the Cottage Industry section of the Ordinance. This request does not fall under the “Small” provision.

Section 10.5B(3) of the Zoning Ordinance provides that the following use may be approved as a Special Exception, after a Public Hearing before the BZA:

“Use of existing structures and outdoor areas as “Rural Reception/Event Facilities” for weddings and similar events in the Rural, Village, Residential Growth, and Residential-Light Industrial-Commercial Districts. Such a land use may be approved based on the Board’s evaluation of the proposed frequency and size of the proposed events, adequacy of parking area, size of the subject property, adequacy of vehicular access to the property, impact on adjacent properties, and compatibility with the neighborhood. For events exceeding 300 persons, applicants shall provide a traffic control plan.”

The Binkleys are proposing to utilize a 48’ x 72’ pole barn, a 40’ x 72’ pole barn, and a 40’ x 60’ temporary tent for several events and functions including wedding gatherings and agriculture and equestrian related functions. It should be noted that a Special Exception permit is not required for agriculture and equestrian related functions as those are outright permitted uses as defined in Article 2 of the Zoning Ordinance under “Agricultural Use”. Should the barn be utilized for agriculture and equestrian related functions, a site plan may be required to process through our office.

**B. Previous Case History**

On September 21, 2015 Anna Binkley submitted an Information Request to the Office of Planning and Zoning inquiring whether she could “renovate the existing barn or build a new barn to use as wedding venue”. Staff verbally informed Ms. Binkley that she could not build a new barn for the purpose of hosting events. During this conversation Ms. Binkley asked if the existing barn could be expanded to accommodate the events, at which time staff informed Ms. Binkley that additional research would be necessary.

While staff was researching her request to expand the existing barn Ms. Binkley submitted a building permit on October 15, 2015 to construct a new 48’ x 72’ pole barn (denoted as Building B on the applicant’s sketch).

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**Jacob and Anna Binkley Special Exception Request (#SE16-01)**

On November 12, 2015, staff sent an email to Ms. Binkley stating, “Based on our conversation it would appear that the Small Events use would not be conducive to your proposal. While you would be unable to expand the existing barn or build a new structure, you would be able to operate a wedding venue from the existing barn located on your property as a *Rural Receptions/Events Facility*, provided you obtain a Special Exception from the BZA. If you are interested in pursuing this option, please contact our office so we can review the Special Exception process with you.”

In the spring of this year, the Health Department contacted the Office of Building Permits in response to a complaint that the Binkleys’ were operating a commercial wedding venue. The Office of Building Permits stated that the building permit issued for the barn was agriculture exempt, which meant that the structure was not subject to building code or inspections, and that it was restricted from commercial use.

On October 26, 2016 Anna Binkley and her daughter Jaqueline attended a PPC meeting with staff from the Department of Engineering, Planning and Zoning during which they proposed the wedding venue concept. Ms. Binkley informed staff that a building permit for a gazebo and a small breezeway connecting the two barns had been submitted and issued (09-30-16). Note, both of these permits processed as agriculture exempt structures. Staff determined that the 48’ x 72’ barn did not meet the intent of “existing structure” and advised the applicant to seek a variance from the section that requires an existing structure.

On November 14, 2016 Ms. Binkley submitted a variance application to our office, as advised by staff; however, when the Zoning Administrator began preparing the staff report she noted that the definition of a Rural Reception / Event Facility in Article 2 of the Zoning Ordinance stated that the structure must be existing. The Board of Zoning Appeals previously determined that an applicant could not vary a standard that was contained within the Definitions. This decision was most notably addressed on October 2, 2014 when the All Good Music Festival applicants applied for a variance from the definition of Seasonal Use which limits events to three (3) days. Since then, staff has enforced this determination.

Upon recognizing this nuance, the Zoning Administrator notified Ms. Binkley and her Consultant, Kristen Stolipher that they could not seek a variance from this standard and advised they appeal the Zoning Administrator’s determination or apply for a Conditional Use Permit.

The applicant submitted an appeal of the Zoning Administrator’s decision “that a variance cannot be applied for to allow for this Rural Event Facility.” At this point, the Zoning Administrator advised that it may be prudent to appeal her determination of the use of the word “existing” because the BZA had already made the determination that a definition cannot be varied.

The applicant then withdrew both the variance application and their appeal and determined they would prefer to apply for the Special Exception permit before the Board of Zoning Appeals.

**C. Staff Evaluation of the Applicant’s Request**

The Zoning Administrator determined that the proposed use for wedding events did not meet the intent of the Zoning Ordinance because a Rural Reception / Event Facility is defined as being “a facility within an existing structure and/or outdoor area for the hosting of events such as weddings and similar events in the Rural [zoning district]...” (emphasis added). The applicant was issued a building permit on October 15, 2015 to construct the subject barn (Building B) and it appears that the barn was constructed sometime in March of 2016. Therefore, the Zoning Administrator made a

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determination that the proposed use did not meet the definition of Rural Event / Reception Facility because it did not meet the intent of the word “existing”.

It should be noted that the Zoning Ordinance does not define the word “existing”. However, there are two locations within the Zoning Ordinance where the term “existing” refers to a structure that has been in existence for five years:

1. Section 4A.5 Cottage Industry

G(3): Existing accessory structures that are to be converted to be used as part of the Cottage Industry, **if constructed during the five years prior to application** for a Zoning Certificate for a Cottage Industry.

2. Appendix C, under Agricultural Uses

“Rental of Existing Farm Building for Commercial Storage; **Structure must have existed for 5 years**”

State Code defines the term “Existing Use” as follows:

**§8A-1-2 Definitions**

- (g) **“Existing use” means use of land, buildings or activity permitted or in existence prior to the adoption of a zoning map or ordinances by the county or municipality.** If the use is nonconforming to local ordinance and lawfully existed prior to the adoption of the ordinance, the use may continue to exist as a nonconforming use until abandoned for a period of one year: *Provided*, That in the case of natural resources, the absence of natural resources extraction or harvesting is not abandonment of the use.

The Office of Building Permits holds the same definition of existing use as provided in state code; therefore, from a building permit standpoint, the barn does not meet the definition of existing either.

A less restrictive interpretation of State Code could be argued that “existing use” means the structure existed at the time of the adoption of the text amendment, which for this particular amendment was in 2014.

Based on the above cited facts, Staff determined that the subject barn (Building B) does not meet the intent of the word “existing” in the Zoning Ordinance.

It should be noted that if the applicant’s proposal did not include the new 48’ x 72’ pole barn as part of the proposal, but rather proposed to conduct the use in the adjacent barn which was built in 2007, and/or in tents on the property, they would meet the intent of the Ordinance. Staff did inform the applicant in 2015 that they could not construct a new barn for the purpose of establishing a wedding venue under the “Rural Reception / Event Facility” provision but did note that they could utilize the existing barn for the proposed use. The Building Permit issued restricts the new barn (Building B) from any commercial use.

While the applicant does not meet the requirements of the proposed use for a “Rural Reception / Event Facility”, it is evident that the subject barn (Building B) was constructed to host such events. The pictures provided during a pre-proposal conference meeting depict an ideal location for a wedding venue with an open space for a reception, vaulted ceilings, chandeliers and ceiling fans, a wet bar, and other amenities ideal for a wedding venue.

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**Effect of Zoning Administrator's Decision**

While the Zoning Administrator advised that the Special Exception was not the appropriate process for the proposed use, the applicant was also informed that another option would be to apply for a Conditional Use Permit. The Conditional Use Permit process requires a Compatibility Assessment Meeting (public meeting) and final approval by the Board. Because the subject parcel is Zoned Rural and fronts on Flowing Springs Road, which is a secondary road as identified in the Envision Jefferson 2035 Comprehensive Plan, the application would not be subject to the LESA points process.

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**Jacob and Anna Binkley Special Exception Request (#SE16-01)**

1. Type of Event:

For the purpose of the staff report, Staff will only address the applicant's proposal for wedding events because agriculture and equestrian events are permitted as an Agricultural Use and do not require a Special Exception permit (but may require processing a site plan).

The applicant is proposing to host up to two (2) events on weekdays and up to two (2) events on weekends with a proposed frequency of up to 16 events per month. This is likely for a combination of weddings and agriculture/equestrian related events. The applicant has indicated that all events would cease operation by 11:00 PM. Parking is proposed to be located in two fields. The sketch plan depicts that they have approximately 140 parking spaces.

2. Admission Fee/Donation:

In accordance with Section 2.2 of the Zoning Ordinance, by definition "no events that involve charging admission or are solely performance events are permitted under this provision". The applicant states that they do not anticipate hosting an event that would generate admission costs.

3. Type of Facility:

The applicant proposes the use of a 48' x 72' pole barn (Building B), a 40' x 72' barn (Building A) and surrounding farm field for the purpose of hosting wedding events. The proposed use includes use of an additional 40' x 60' tent structure for each event.

4. Proposed Frequency of the Event:

The applicant proposes up to 16 events per month, with up to two (2) weekday events and up to two (2) weekend events. The applicant has indicated that events will cease operation by 11:00 PM.

5. Adequacy of Parking Area:

The applicant has indicated that there are two farm fields that will be dedicated to grass parking. Their sketch plan indicates that the fields will provide 140 grass parking spaces, including five (5) ADA parking spaces (also grass).

The County Engineer previously advised that the Rural Site Plan standard requiring 6" of stone/gravel for proposed parking could be utilized instead of paving the parking area. The applicant has indicated that they do not want to utilize gravel. Staff cannot administratively waive parking standards for a venue of this size; therefore, should the Special Exception be granted, the applicant may need to seek a variance from parking standards.

6. Size of the Subject Property:

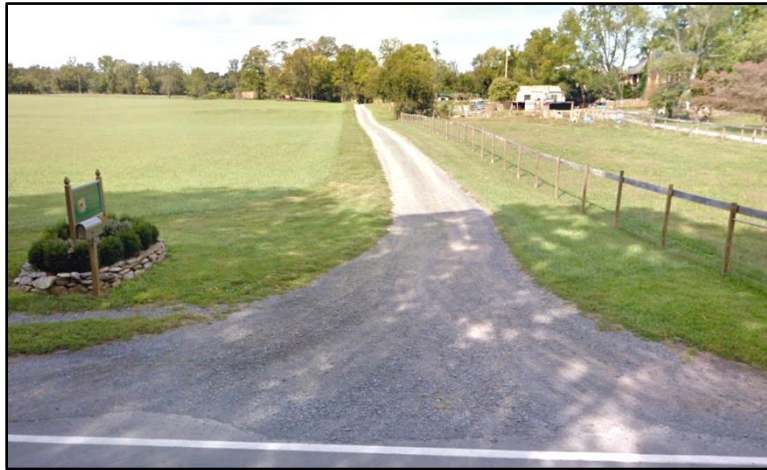
The application includes an area designated for the event activities, which is located centrally on the 47 acre farm.

7. Adequacy of Vehicular Access to the Property:

The 47 acre property has direct access to Flowing Springs Road (Rt. 17). The applicant may be required to process an entrance permit with the WV Division of Highways.

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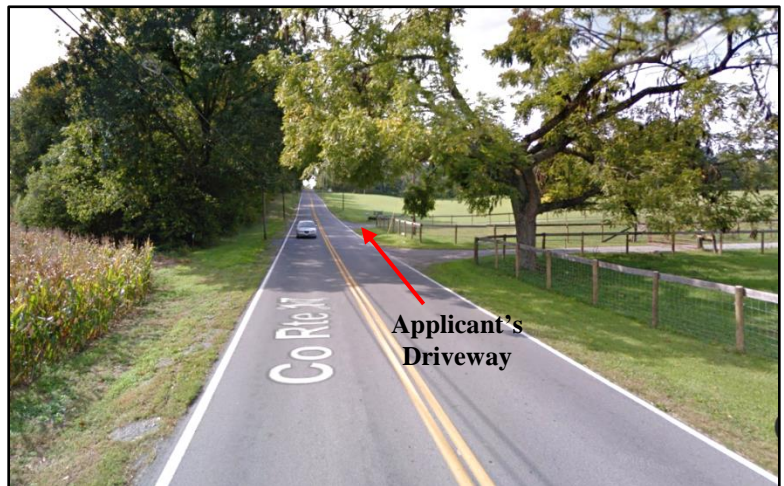
**Jacob and Anna Binkley Special Exception Request (#SE16-01)**



**Applicant's Driveway**



**From Flowing Springs toward Shepherdstown**



**From Flowing Springs toward Charles Town**

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8. Impact on Adjacent Properties:

The impact of the proposal on adjacent neighbors would appear to be mitigated as the activities are proposed toward the center of the property. However, access to the subject property borders an adjacent property owner's southern property boundary. Increased traffic may have a negative impact on the neighbor with an increase in vehicular noise, lights from headlights, and dust from a gravel entrance.



9. Compatibility with the Neighborhood:

The property is located in a rural area with fairly large residential lots and farms throughout the area. The proposed location for these events should be compatible with the neighborhood other than the amount of traffic that may be generated.

10. Attendance Provision:

The applicant has indicated that they do not anticipate events to exceed 300 people and that the building capacity is 250 maximum. The Zoning Ordinance requires that for events exceeding 300 persons, applicants shall provide a traffic control plan. This will be a requirement if such an event occurs.

11. Compliance with County Noise Restrictions per Section 8.9A.1:

The Zoning Ordinance states, "Approvals of all Rural Reception/Event Facility and Rural Reception/Event Facility, Small shall include a provision that noise at the property line shall conform to Section 8.9A.1 of the Ordinance and shall apply the Residential Growth District Standard to all adjacent lots containing a residence as well as adjacent lots in the Rural District." The supplemental information included in the application requires that the applicant acknowledge this requirement and certify compliance with it.

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**D. Conditions of Approval**

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

- a) The use shall be limited to weddings and wedding receptions utilizing the existing barn that was constructed in 2007 (building permit 07-965) and outdoor areas only, including rented tent structures which are removed after each event.
- b) If attendance at any event is expected to exceed 300 persons, applicants shall provide a traffic control plan at least two weeks in advance of the event.
- c) Noise at the property line shall conform to Section 8.9A.1 of the Ordinance and shall apply the Residential Growth District Standard to all adjacent lots containing a residence as well as adjacent lots in the Rural District.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 2.2 Terms Defined**

**Rural Reception/Event Facility<sup>26</sup>**

A facility within an existing structure and/or outdoor area for the hosting of events such as weddings and similar events in the Rural, Village, Residential Growth and Residential-Light Industrial-Commercial Districts (permitted by Special Exception). Such events are limited to events that involve extended families and friends such as weddings, wedding receptions, birthday events, anniversary events, reunion events and/or family gatherings. No events that involve charging admission or are solely performance events are permitted under this provision.

**Section 8.14 Rural Reception/Event Facility<sup>26</sup>**

A Rural Reception/Event Facility is a facility within an existing structure and/or outdoor area for the hosting of events such as weddings and similar events. Such events are allowed by Special Exception in accordance with Section 10.5B of this Ordinance.

A Rural Reception/Event Facility, Small, is a Rural Reception/Event Facility in the Rural District only, for the hosting of events such as weddings with attendance not to exceed 75 cars, at a frequency of no more than one event per month. Such events are permitted administratively in accordance with the requirements of a Cottage Industry found in Section 4A.5 of this Ordinance; provided, however, that the maximum square footage for a Cottage Industry shall not apply to a proposed Rural Reception/Event Facility, Small. If these requirements are not complied with, the Cottage Industry permit can be revoked.

Approvals of all Rural Reception/Event Facility and Rural Reception/Event Facility, Small shall include a provision that noise at the property line shall conform with Section 8.9A.1 of this Ordinance and shall apply the Residential Growth District Standard to all adjacent lots containing a residence as well adjacent lots in the Rural District.

**Section 8.9 Industrial and Commercial Uses<sup>23</sup>**

A. Industrial and commercial uses in all districts shall comply with the following standards:

1. Noise

All noise shall be muffled so as not to be objectionable due to intermitting, beat frequency, or shrillness. Noise levels shall not exceed the following sound levels dB(A). The sound-pressure level shall be measured at the property line with a sound level meter.

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<u>Sound Measured In</u>	<u>DAY</u> <u>7 AM - 6 PM</u>	<u>NIGHT</u> <u>6 PM - 7 AM</u>
Adjoining Agricultural or Residential Growth District	60 dB(A)	50 dB(A)

**Section 10.5 Special Exception Uses<sup>26</sup>**

- A. Special Exception uses listed in this section may be approved by the Board of Zoning Appeals following a public hearing.
1. The public hearing shall be conducted according to the requirements of Section 3.4A.3(c).
  2. Such hearing may be continued according to the requirements of Section 3.4A.3(d).
  3. The public hearing is subject to the notification requirements of Section 3.4A.3(b).
- B. The following uses may be approved as a Special Exception:
3. Use of existing structures and outdoor areas as “Rural Reception/Event Facilities” for weddings and similar events in the Rural, Village, Residential Growth, and Residential-Light Industrial-Commercial Districts. Such a land use may be approved based on the Board’s evaluation of the proposed frequency and size of the proposed events, adequacy of parking area, size of the subject property, adequacy of vehicular access to the property, impact on adjacent properties, and compatibility with the neighborhood. For events exceeding 300 persons, applicants shall provide a traffic control plan.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor, P.O. Box 338

Charles Town, WV 25414

File Number: #SE16-01
Staff Initials: c/c
Fees Paid: \$ 100.00

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

Email: zoningdepartment@jeffersoncountywv.org
planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Fax: (304) 728-8126

Application for Seasonal Use/Special Exception

Seasonal uses and special exceptions must be approved by the Board of Zoning Appeals pursuant to a public hearing. Seasonal uses cannot be approved for longer than one year at a time, and are limited to a single three-day consecutive period in each of the four solar seasons. For outdoor advertising signs, include (1) a full-color rendering of each sign proposed, including all dimensions of the sign and total square footage, (2) a sketch plan of the property, indicating the location of the sign and setbacks.

Type of Request

Seasonal Use: [ ] Special Exception: [x]

Property Owner Information

Name: Orna & Jacob Berkley
Mailing Address: 6229 Flowing Springs Road
City: Shepherds town, WV State: WV Zip Code: 25442
Phone Number: 301-514-6453 Email: maplevalleyfarmllc@gmail.com

Applicant Contact Information

Applicant Name: Same as above
Mailing Address:
City: State: Zip Code:
Phone Number: Email:

Engineer(s), Surveyor(s), Consultant(s) Information

Name: Gordon
Mailing Address: 301 N. Madred Street, Gutter
City: Charles Town, WV State: WV Zip Code: 25414
Phone Number: 304-725-8456 Email: KStolipher@gordon.us.com

Physical property details

Physical Address: 6229 Flowing Springs Rd
City: Shepherds town, WV State: WV Zip Code: 25442
Tax District: Shepherds town (09) Map No.: 20 Parcel No.: 4.1
Parcel Size: 49.374 acres Deed Book: 875 Page No.: 546

Zoning District (please check one)

- Residential Growth (RG) [ ] Industrial Commercial (IC) [ ] Rural (R) [x] Residential-Light Industrial-Commercial (RLIC) [ ] 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) [ ]

NOV 15 2016

JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING

Name of Temporary Business or Event

Description of Seasonal Use

Special Exception  
The existing land & buildings will be used for Rural Receptions and events such as, weddings, gatherings, agriculture and equestrian related functions

Name of Primary Contact/Responsible Party During Business Hours

Anna M. Bentley

Primary Contact Telephone Number

301-514-6453

Duration of Temporary Use/Window of Authorization

1/yr

Start Date:

End Date:

Total Number of Days:

Hours of Operation of Seasonal Use

Special Exception  
Traditional Events Not to extend beyond 11:00pm

How is the Property Currently Used?

The property is used for making hay, boarding, breeding, raising foaling and riding thoroughbred horses.

What is the Proposed Use of the Property?

The existing land & buildings will be used as if always has been with all necessary events location for events, weddings, receptions, and equestrian functions.  
On a separate sheet of paper, sketch the shape and location of the lot, including property boundaries, with accurate dimensions. Show the location of the intended construction or land use indicating building setbacks, size and height. Identify existing buildings, structures or land uses on the property.

Original signature is required of all property owners (attach additional signature page if needed).

The information given is correct to the best of my knowledge.

Jacob H Bentley 11-9-16  
Signature of Property Owner 1 Date

Anna M Bentley 11/9/2016  
Signature of Property Owner 2 Date

Notification Requirements

DECEMBER 8, 2016

NOVEMBER 23, 2016

(15 DAYS)  
NOVEMBER 23, 2016

Date of Public Hearing

Advertising Date

Posting Requirements  
(number of days prior to scheduled hearing)

Official Action of Board

Official Signature and Seal

President's Signature

Date

Jefferson County Department of Engineering, Planning, and Zoning  
Office of Planning and Zoning

Rural/Reception Events Facility Special Exception Requirements

Jefferson County Zoning and Land Development Ordinance, as amended September 29, 2016

The requirements for the "Rural/Reception Events Facility" are established in Section 8.14 and Section 10.5B.3 of the Zoning Ordinance. A Special Exception application must be presented before the Board of Zoning Appeals at a public hearing and must be accompanied by an acceptable Sketch Sheet. The Board will make a determination based on the following criteria: proposed frequency and size of the proposed events, adequacy of parking area, size of the subject property, adequacy of vehicular access to the property, impact on adjacent properties, and compatibility with the neighborhood.

Any property on which a Rural/Reception Events Facility is proposed shall be posted conspicuously by a zoning notice no less than twenty-eight (28) inches by twenty-two (22) inches in size, at least 15 days prior to the Board of Zoning Appeals Special Exception Hearing. The sign will be prepared by the Office of Planning and Zoning but posting the sign is the responsibility of the applicant.

I certify that the proposed Rural Reception/Event Facility comply with this requirement.

**NOTE: While required, the following is meant to be a guide for those processing a Rural Reception/Event Facility before the Board of Zoning Appeals. This document should not be used as the only basis for your request. There may be other relevant information pertaining to your request and/or property that may be useful to the Board; therefore, any additional information you wish to present is encouraged.**

**Type of Event**

This request shall be limited to events that involve extended families and friends such as weddings, wedding receptions, birthday events, anniversary events, reunion events and/or family gatherings.

I certify that the proposed Rural Reception/Event Facility will meet this standard.

Please explain briefly how the proposed land use will meet this standard:

*The existing land & buildings will be used for Rural Receptions and events such as wedding, gatherings, agricultural & equestrian related functions*

**Admission Fee/Donation**

No events that involve charging admission or are solely performance events are permitted under this provision.

I certify that the proposed Rural Reception/Event Facility will meet this standard.

Please explain briefly how the proposed land use will meet this standard:

*We do not charge admission for events in which there would be admission charged*

**Type of Facility**

- Temporary Structure
  - Tent: appt of
  - Size: 40x60
  - Outdoor Area (no structure)
  - Size: \_\_\_\_\_

- Existing Structure
  - Type: Bar
  - Size: See attached

**Jefferson County Department of Engineering, Planning, and Zoning  
Office of Planning and Zoning**

**Rural/Reception Events Facility Special Exception Requirements**

*Jefferson County Zoning and Land Development Ordinance, as amended September 29, 2016*

**Proposed Frequency of the Event:**

I would like to host \_\_\_\_\_ events per week; or,

I would like to host up to 16 events per month.

**Proposed Dates of Operation:**

Number of Weekday Events: up to 2

Hours of operation: 10 A.M. to 11 P.M.

Number of Weekend Events: up to 2

Hours of operation: 9 A.M. to 11 P.M.

**Size of the Subject Property and location of Proposed Use:**

Please provide a Sketch Plan of the property depicting the following information:

- Scale, North arrow, Title
- Property boundaries, including whether there are multiple lots or parcels
- Accurate locations and dimensions of the following:
  - Existing structures (i.e. homes, farms and/or accessory structures)
  - Existing paved areas (slabs), parking areas, drive aisles/driveway, access points to property
  - Existing wells and septic areas
- Indicate the area of the property to be utilized for the event, including which existing structures will be utilized for the events and what outdoor areas will be utilized for the event
- Indicate the size and location of proposed temporary tent structures, if applicable.
- Proposed location of trash receptacles
- Proposed location of port-a-potties (if proposed)\*
- Proposed parking areas and access for the rural event/facility (see more detail below)

\*The Health Department may require approval of port-a-potties or other restroom facilities.

**Adequacy of Parking Area:**

On the attached Sketch Plan, clearly depict the proposed parking area(s) and ADA space as follows,

- Square footage of the proposed parking area
- Delineate the number of proposed parking spaces (standard parking spaces are 9' W x 20' L)
- Type of parking surface (pavement, gravel or grass). If grass parking is proposed, the area shall be relatively flat and free of mud, ruts, etc.

Jefferson County Department of Engineering, Planning, and Zoning  
Office of Planning and Zoning

Rural/Reception Events Facility Special Exception Requirements

Jefferson County Zoning and Land Development Ordinance, as amended September 29, 2016

ADA parking requirements shall be addressed; in order to make reasonable accommodation for persons with disabilities, an unpaved accessible space may be created. Such space shall be identified as follows:

- The parking space shall be the standard width for a van-accessible space (16' wide)
- Signs shall be placed within the enclosed area that says "disabled parking only."
- The ADA space shall be located closest to the rural reception activity or on the closest space available that is as level as possible.

How will the parking spaces be delineated onsite (painted lines, roping off the area, orange cones, etc)?

*Parking spaces will be delineated with existing fencing and additional roping if necessary*

Parking will be by:

- Valet Service                       Self-Parked                       Both\*

\*If both, denote on Sketch Plan which areas will be valet service and self-parked.

**Adequacy of Vehicular Access to the Property:**

On the attached Sketch Plan, indicate the following:

- All access points to roads, driveways and easements\*
- The width of the legal access(es)
- If there is shared access
- If the event is proposed to use more than one point of entry.

\*The West Virginia Department of Highways may require an Entrance Permit for a Rural Event/Facility.

**Impact on Adjacent Properties and Compatibility with the Neighborhood:**

The rural event/reception facility provisions are intended to allow uses that have minimal impact on the adjacent properties and are compatible with the neighborhood in which it is located. Describe how the proposed use meets this intent.

*This property is located in a Rural area with the existing buildings having significant setbacks from adjacent properties. The facility will be used indoor/outdoor wedding events rural reception events and agriculture/recreation events.*

**Jefferson County Department of Engineering, Planning, and Zoning  
Office of Planning and Zoning**

**Rural/Reception Events Facility Special Exception Requirements**

*Jefferson County Zoning and Land Development Ordinance, as amended September 29, 2016*

**Compliance with County Noise Restrictions per Section 8.9A.1:**

**Section 8.9 Industrial and Commercial Uses<sup>23</sup>**

**A. Industrial and commercial uses in all districts shall comply with the following standards:**

**1. Noise**

All noise shall be muffled so as not to be objectionable due to intermitting, beat frequency, or shrillness. Noise levels shall not exceed the following sound levels dB(A). The sound-pressure level shall be measured at the property line with a sound level meter.

Sound Measured In	DAY	NIGHT
	7 AM - 6 PM	6 PM - 7 AM
Adjoining Agricultural or Residential Growth District	60 dB(A)	50 dB(A)

I certify that the proposed Rural Reception/Event Facility will meet this standard.

*Please explain briefly how the proposed land use will meet this standard:*

*Given the proximity of the buildings to the property line we do not anticipate any disruption to the neighboring properties.*

**Attendance Provision**

I understand that it is the applicant's responsibility to submit a traffic control plan to the Office of Planning and Zoning if proposed event(s) may exceed 300 persons. Only one traffic control is required by the Office of Planning and Zoning and shall be submitted prior to commencement.

I certify that the proposed Rural Reception/Event Facility will meet this standard.

*Please explain briefly how the proposed land use will meet this standard:*

*We do not anticipate hosting events greater than 300 people. The building capacity is 250 and should we have an event with more than 300 people a traffic plan will be submitted with the event.*

I understand that should the attendance/occupancy of an event hosted inside an existing structure exceed 300 people that the Office of Engineering will be notified and that I may be required to upgrade or modify the existing structure in addition to any improvements I have already made to meet current building code requirements.

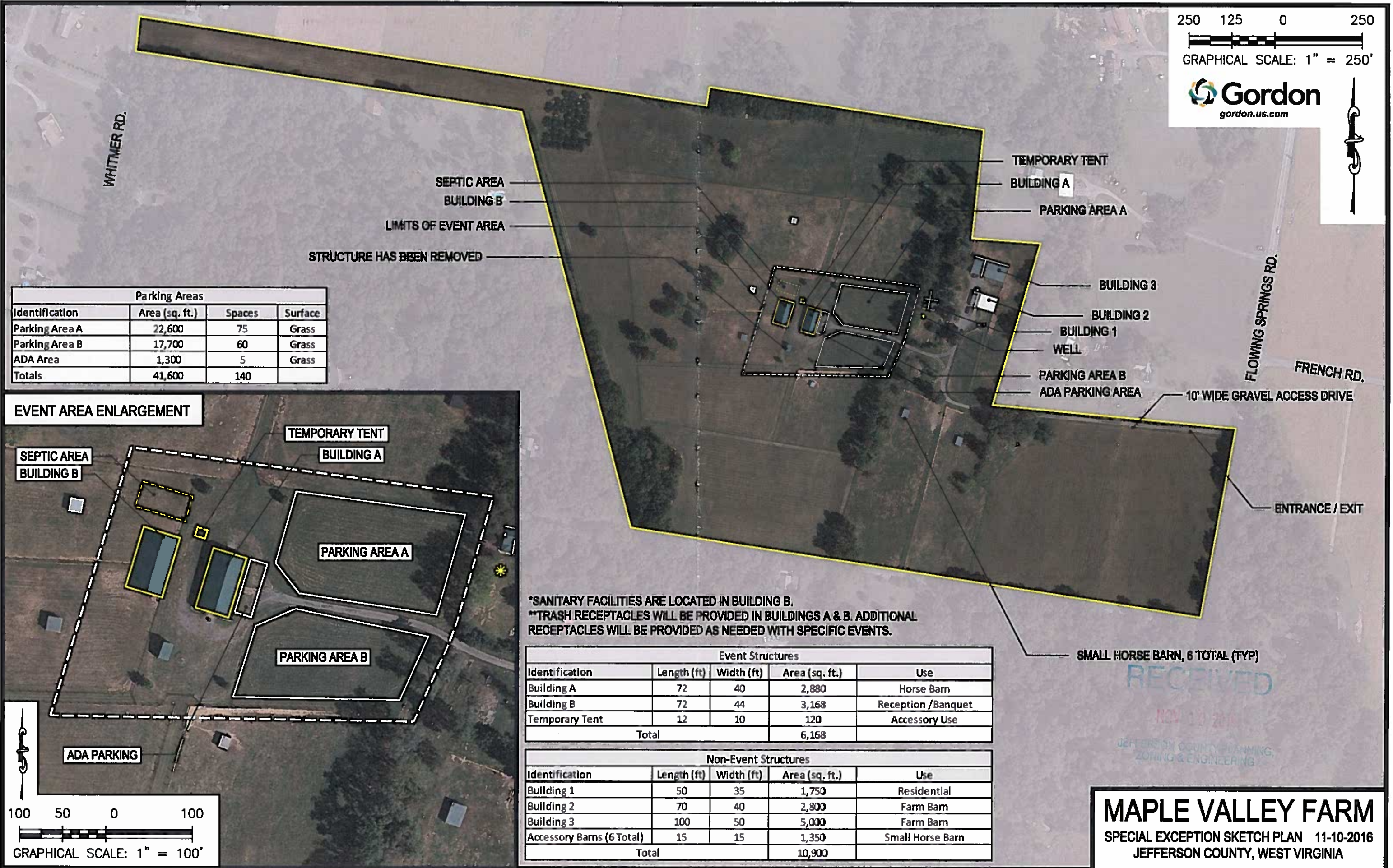
I understand that it is an applicant's responsibility to verify whether deed restrictions or Homeowners' Association covenants prohibit the proposed land use.

Note: Deed restrictions or Homeowners' Association covenants (which are not enforced by Jefferson County) may prohibit the proposed land use. Applicants are advised to review deed restrictions and Homeowners' Association covenants.

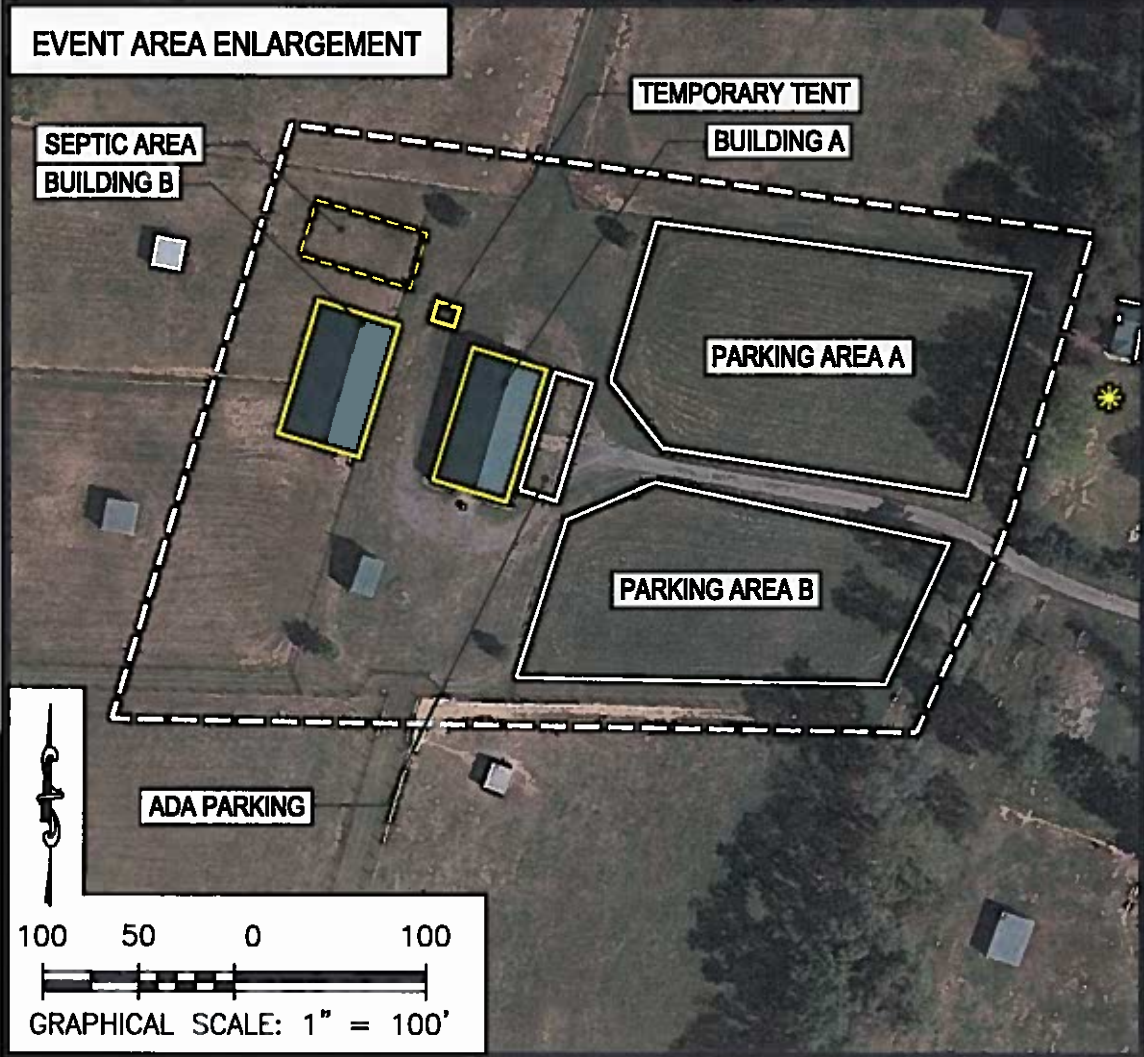
Anna M. Binkley                      Anna M. Binkley                      11/10/2016  
Printed Name                                      Signature                                      Date

250 125 0 250

GRAPHICAL SCALE: 1" = 250'



Parking Areas			
Identification	Area (sq. ft.)	Spaces	Surface
Parking Area A	22,600	75	Grass
Parking Area B	17,700	60	Grass
ADA Area	1,300	5	Grass
Totals	41,600	140	



\*SANITARY FACILITIES ARE LOCATED IN BUILDING B.  
 \*\*TRASH RECEPTACLES WILL BE PROVIDED IN BUILDINGS A & B. ADDITIONAL RECEPTACLES WILL BE PROVIDED AS NEEDED WITH SPECIFIC EVENTS.

Event Structures				
Identification	Length (ft)	Width (ft)	Area (sq. ft.)	Use
Building A	72	40	2,880	Horse Barn
Building B	72	44	3,168	Reception / Banquet
Temporary Tent	12	10	120	Accessory Use
Total			6,168	

Non-Event Structures				
Identification	Length (ft)	Width (ft)	Area (sq. ft.)	Use
Building 1	50	35	1,750	Residential
Building 2	70	40	2,800	Farm Barn
Building 3	100	50	5,000	Farm Barn
Accessory Barns (6 Total)	15	15	1,350	Small Horse Barn
Total			10,900	

SMALL HORSE BARN, 6 TOTAL (TYP)

RECEIVED  
 NOV 10 2016  
 JEFFERSON COUNTY PLANNING,  
 ZONING & ENGINEERING

**MAPLE VALLEY FARM**  
 SPECIAL EXCEPTION SKETCH PLAN 11-10-2016  
 JEFFERSON COUNTY, WEST VIRGINIA

100 50 0 100  
 GRAPHICAL SCALE: 1" = 100'

#SE16-01





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

Phone: (304) 728-3228

## Zoning Administrator's Report Board of Zoning Appeals Meeting December 8, 2016

### 1) LESA/Conditional Use and Cluster Subdivision Provision Modifications

- Public Hearing was held on December 1, 2016 at 7:00 PM. Three members of the public made comment during the hearing. Public Comment will remain open for two weeks in order to allow citizens to submit comments in writing. The County Commission will review all comments on December 15, 2016.

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

- **Mass Events Ordinance (#ZTA 14-02):**
  - a) The BZA submitted a memo to the County Commission requesting that they revisit this text amendment. On December 1, 2016 the County Commission reviewed the memo. The County Commission responded stating that they would revisit the Mass Event amendment after the current text amendment pertaining to LESA/CUP and cluster provisions has been approved.
- **Pending amendments:**
  - a) Historic Resource Demolition and Adaptive Reuse
    - i. HLC Board initiating draft text amendment. Staff continues to meet with Martin Burke to review and discuss the amendment. Mr. Burke has indicated he would like to submit the draft before the Planning Commission after the first of the year.
  - b) Parking Standards
    - i. Staff drafting an amendment with the intent to submit to the Planning Commission after the first of the year.
  - c) Landscape Standards
    - i. Staff drafting an amendment with the intent to submit to the Planning Commission after the first of the year.
  - d) Signage
    - i. Staff drafting an amendment with the intent to submit to the Planning Commission after the first of the year.

### 3) Upcoming BZA meeting

- Our office received an appeal of the Zoning Administrator's decision regarding a Zoning Certificate that was issued for a kennel. The Zoning Ordinance requires that a hearing be scheduled within 45 days of receipt of a complete appeal application. Staff is proposing January 12, 2017 which would be a special meeting.
- Next Regular Meeting: **January 26, 2017** (deadline for submissions: Friday, December 30, 2016)



# JEFFERSON COUNTY, WEST VIRGINIA

## Office of Planning and Zoning

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

P.O. Box 338

Charles Town, West Virginia 25414

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Phone: (304) 728-3228

Fax: (304) 728-8126

### MEMORANDUM

TO: Board of Zoning Appeals Members  
CC: Engineering & Building Permits Departments  
FROM: Alexandra Beaulieu, Zoning Administrator  
DATE: December 02, 2016  
SUBJECT: December Monthly Report of Department Activities

#### ISSUED ZONING CERTIFICATES

#ZC16-38 MADDEX SQUARE ASSOCIATES LIMITED PARTNERSHIP, OWNER  
KELLEY & JENNIFER RANKIN, APPLICANT

Issuance Date: November 07, 2016  
Proposed Use: 1,100 sq. ft. Outpatient Physical Therapy requires five (5) spaces  
Physical Location: 101 Maddex Square Drive; Shepherdstown, West Virginia 25443  
Zone: Residential-Light Industrial-Commercial

#### PENDING ZONING CERTIFICATES

#ZC16-40 WHEATLANDS PROPERTY MANAGEMENT LLC – OWNER  
JESSE MORGAN / – APPLICANT

*Issuance Date:* TBD  
*Proposed Use:* Mill Building as a Micro-Brewery. House as a two-unit residence.  
*Physical Location:* 2153 Berryville Pike; Rippon, West Virginia 25441  
*Zone:* Village

#ZC16-42 R.M. ROACH & SONS, INC. – OWNERS  
TAMMY BRINDLE, INTERSTATE SIGN COMPANY, INC. - APPLICANT

*Issuance Date:* TBD  
*Proposed Use:* Replace existing signage & canopy to reflect new BP/ROCS brand.  
*Physical Location:* 78 Somerset Boulevard; Charles Town, West Virginia 25414  
*Zone:* Residential-Light Industrial-Commercial

#### DENIED ZONING CERTIFICATES

#ZC16-41 DONALD M. FISHER III & ALICIA K. JAMES – OWNERS  
*Denied:* November 29, 2016  
*Proposed Use:* Outside Storage of resident's Landscape Business equipment (dump truck, pick-up truck, trailers and bobcat).  
*Physical Location:* 79 Hillcrest Drive; Kearneysville, West Virginia 25430  
*Zone:* Rural