



**Jefferson County**  
**Board of Zoning Appeals**  
**Thursday, January 12, 2017, 2:00 p.m.**

Members  
Tyler Quynn, Chair  
Jeffrey Bannon, Vice Chair  
Matt Knott  
Ted Schiltz  
Jeff Bresee

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. Election of Officers.
  2. Approval of the minutes from the December 8, 2016 meeting.
  3. Appeal of the Zoning Administrator's determination by Thomas Hayden, President of the Runnymede Homeowners Association, to permit Lisa and James Boyer to operate a dog kennel (#ZC16-37) located at 5404 Kabletown Road in Charles Town, also designated as Parcel 7.10, on Map 5 in the Kabletown Tax District. The parcel will be approximately 57 – 59 acres after the applicant processes the required lot line adjustment (merger) from their adjoining property. The property is zoned Rural.
  4. Variance request by Kristen Stolipher with Gordon, on behalf of CTSS, LLC, property owner, from the following sections:
    - a. Section 4.11A.2 and Appendix B: To eliminate the required four (4) foot west side & rear property line parking setbacks and the 10 foot west side & rear property line landscape buffers; and,
    - b. Section 8.9A.10: To eliminate the required 50' landscape buffer when located within ½ mile of a controlled access highway.
  5. Variance from Section 5.7(b) to reduce the side setback from 12' to 10' to construct a 12' x 20' attached garage. Property Owners: Alex Arneson and Christina Firaben. Property Location: Briar Run Subdivision, Lot 2, 26 Bugs Court, Ranson, WV. District: Charles Town (02); Map: 4E; Parcel: 2; Size: .33 ac; Zone: Rural; File: ZV16-28.
  6. Zoning Administrator's Report
    - a. Monthly Zoning Certificate Activity Report
  7. Legal Update
    - a. Possible executive session on the follow pending lawsuits: None.
    - a. Discussion with possible deliberative session and signing of draft findings/decisions.
- Meeting December 8, 2016:
- i. Request by David and Laura Humphreys for an 18 month extension of the approved CUP for Whispering Wind Farms Bed and Breakfast (expiring on 02/02/17). File: CP15-02.
  - ii. Variance from Sec. 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. Owner: Michael and Lori De Celie. File: ZV16-25.
  - iii. Request for a Special Exception to operate a Rural Reception / Event Facility. Owners: Anna and Jacob Binkley. File: SE16-01.



Minutes  
Jefferson County Zoning Board of Appeals

- 1 Meeting Date: December 8, 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, and  
5 Jeff Bresee, Alternate  
6 Absent members: Ted Schiltz and 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. Bresee moved to call the meeting to order at 2:04 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 November 10, 2016 meeting.

14 Mr. Bannon moved to approve the November 10, 2016 meeting minutes. The motion carried  
15 unanimously.

16 2. Request by David and Laura Humphreys, property owners, for an eighteen (18) month  
17 extension of the approved Conditional Use Permit (CUP) for Whispering Wind Farms Bed  
18 and Breakfast, which expires on February 2, 2017. The approved CUP consists of a 3-unit  
19 (5 bedrooms) bed & breakfast with no proposed changes to the existing home. The proposal  
20 included five (5) parking spaces to utilize the existing driveway area and a 16 sq. ft. sign  
21 located at the entrance of the property. If granted, the CUP would expire on August 2, 2018.  
22 Property location: 290 Falling Springs Rd, Shepherdstown, WV; District: Shepherdstown (09);  
23 Map: 13; Parcel: 29.41; Zone: Residential Growth; Size: 20.21 acres; File #CP15-02.

24 Mr. David Humphreys was present to address the Board. Ms. Beaulieu presented her staff  
25 report and addressed the Board's questions. Mr. Humphreys explained the nature of his  
26 request to the Board and addressed their questions.

27 Mr. Knott moved to approve the extension request, which carried three (3) in support and one  
28 (1) in opposition (Mr. Bannon).

29 3. Variance from Section 9.7 to reduce the rear setback from 50' to 5' to allow for the construction  
30 of a new home outside of the floodway/floodplain areas. Owners: Michael and Lori De Celie.  
31 Property location: Tulip Hill Subdivision, Lot G, John Rissler Road, Charles Town. District:  
32 Charles Town (02); Map: 22; Parcel: 32; Zone: Rural; Size: 2.109 ac; File: ZV16-25.

33 Michael De Celie was present to address the Board. Ms. Beaulieu presented her staff report and  
34 addressed the Board's questions. Mr. De Celie explained the nature of his request to the Board  
35 and addressed their questions. Mr. Quynn opened the public hearing. Ms. Kathryn Thomas  
36 and Ms. Mamie Burton spoke in opposition to the request on behalf of Seven Springs Inc. of  
37 West Virginia. Ms. Thomas read a letter of objection into the record on behalf of Ms. Ellen  
38 Blackwell, President of Seven Springs Inc. of West Virginia. Mr. DeCelie responded to the  
39 neighbor's concerns and the Board's questions. Mr. Quynn closed the public hearing.

1 4. Request for a Special Exception to operate a Rural Reception / Event Facility to host weddings,  
2 gatherings and agricultural & equestrian related functions up to 16/month. Events will be  
3 located inside a 40' x 72' barn, a 48' x 72' barn, and a 40' x 60' temporary tent. Grass parking  
4 for 140 vehicles is proposed. Anna and Jacob Binkley. Property location: 6229 Flowing Springs  
5 Road, Shenandoah Jct. District: Shepherdstown (09); Map: 20; Parcel: 4.1; Zone: Rural; Size:  
6 47.374 ac; File: SE16-01.

7 Mr. and Mrs. Jacob and Anna Binkley, property owners, and Ms. Kristen Stolipher, consultant  
8 with Gordon, were present to address the Board. Ms. Beaulieu explained the rationale behind her  
9 interpretation of the term "existing" to the Board then proceeded with the remainder of her staff  
10 report. While referring to a PowerPoint presentation, Ms. Stolipher explained the nature of the  
11 request to the Board and addressed their questions. Mr. Binkley provided additional information  
12 on the proposed use and background on the existing farm. Mr. Mark Dyck, consultant with  
13 Gordon provided additional information pertaining to the definition of the word "existing".  
14 Mr. Quynn opened the public hearing. There were no public comments. Mr. Quynn closed the  
15 public hearing.

16 Mr. Bannon moved to go into deliberative session at 3:43 p.m. Mr. Knott seconded the motion  
17 which carried unanimously. Mr. Knott moved to come out of deliberative session at 3:58 p.m.,  
18 which carried unanimously.

19 3. Variance from Section 9.7 to reduce the rear setback from 50' to 5' to allow for the construction  
20 of a new home outside of the floodway/floodplain areas. Property owner: Michael and Lori De  
21 Celie. Property location: Tulip Hill Subdivision, Lot G, John Rissler Road, Charles Town.  
22 District: Charles Town (02); Map: 22; Parcel: 32; Zone: Rural; Size: 2.109 ac; File: ZV16-25.

23 Mr. Bresee moved to approve a reduction in the rear setback from 50' to 12' for the construction  
24 of a new home located at the above reference property. The motion carried unanimously.

25 4. Request for a Special Exception to operate a Rural Reception / Event Facility to host weddings,  
26 gatherings and agricultural & equestrian related functions up to 16/month. Events will be  
27 located inside a 40' x 72' barn, a 48' x 72' barn, and a 40' x 60' temporary tent. Grass parking  
28 for 140 vehicles is proposed. Anna and Jacob Binkley. Property location: 6229 Flowing Springs  
29 Road, Shenandoah Jct. District: Shepherdstown (09); Map: 20; Parcel: 4.1; Zone: Rural; Size:  
30 47.374 ac; File: SE16-01.

31 Mr. Knott moved to approve the above referenced request, allowing the use of both barns noted  
32 in the application. The motion carried unanimously. Mr. Knott noted for the record that the  
33 Board concurred with Ms. Beaulieu's interpretation of the term "existing" as noted in her staff  
34 report; however, felt that they had the discretion to approve the Special Exception as requested.

35 5. Zoning Administrator's Report.

36 a) Monthly Zoning Certificate Activity Report

37 Ms. Beaulieu updated the Board on the status of various pending amendments. Ms. Beaulieu  
38 stated that the office had received an appeal and suggested that the Board call a special  
39 meeting for January 12, 2017 in order to meet the deadline requirements in Section 3.4 of the  
40 Zoning Ordinance. Upon confirming that there would be no advertising conflicts, the Board  
41 agreed to move their regularly scheduled meeting from January 26, 2017 to January 12, 2017.

- 1 6. Legal Update. Ms. Lehman did not have any information for the Board.
- 2 a) Possible executive session on pending lawsuits: None.
- 3 b) Discussion with possible deliberative session and signing of draft findings/decisions.
- 4 Mr. Bannon signed the following Findings as he presided over the October 27, 2016 meeting.
- 5 i. Variance request from Section 5.7(b) by Michael Coffman. File ZV16-20.
- 6 ii. Variance request from Section 4.18 by Beallair Homes LLC. File: ZV16-21.
- 7 iii. Variance request by Bernadine Somers on behalf of Morgan Academy from
- 8 Section 10.4C File #ZV16-22.
- 9 Mr. Quynn reviewed the following Finding as he presided over the November 10, 2016
- 10 meeting.
- 11 i. Variance request from Sec. 4.11A (includes reference to App B), Sec. 5.4D.2; and,
- 12 App B by Bavarian Inn. File ZV16-23.
- 13 Mr. Bresee moved to adjourn the meeting at 4:00 p.m. The motion carried unanimously.





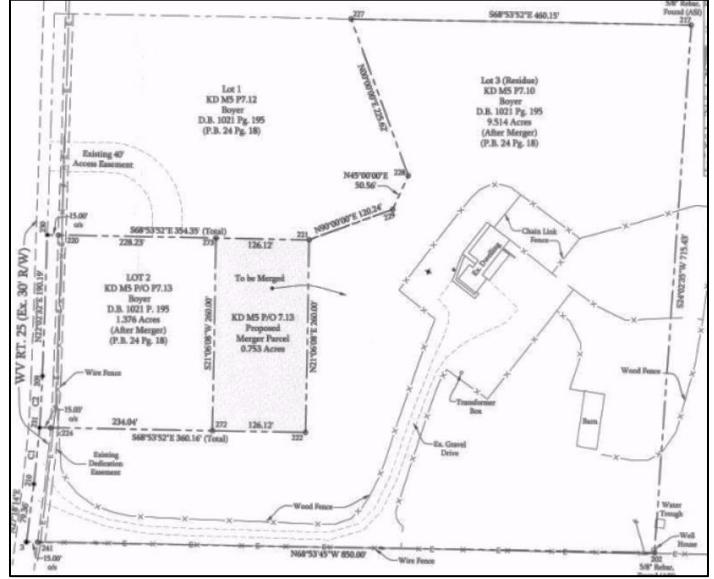
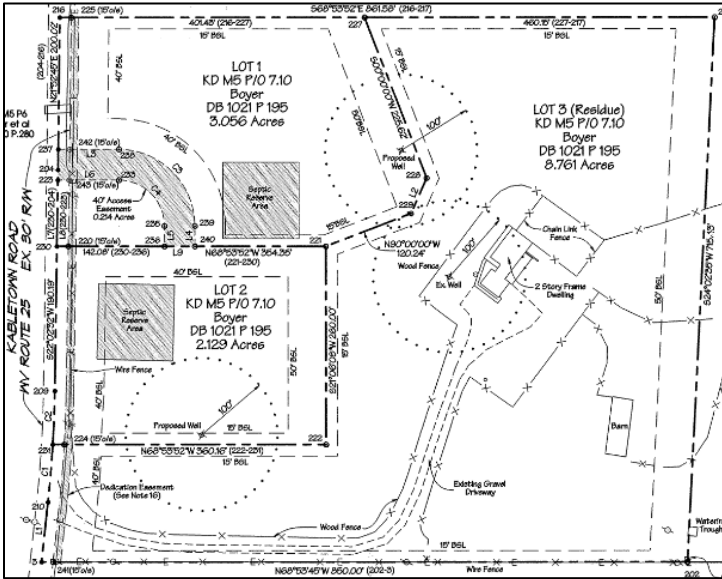
Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 12, 2017

**Zoning Determination Regarding Boyer Kennel #AP16-02**

**Property History**

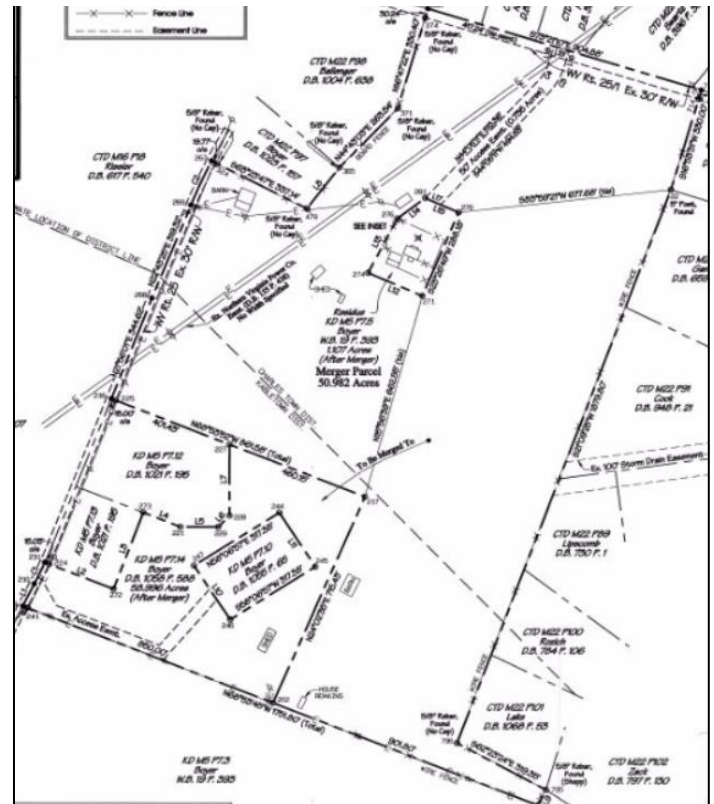
On May 17, 2007 the "Lots 1, 2 & 3 (Residue) James Boyer Minor Subdivision" final plat was recorded.

On September 3, 2008 a lot line adjustment was recorded transferring .753 acres from Lot 2 to Lot 3.



On November 21, 2008 a parent-to-child parcel (Lot 3A) was subdivided from Lot 3 (Residue).

On May 9, 2012 a lot line adjustment was recorded to enlarge Lot 3 to ~59 acres; reducing the adjacent parcel to ~1.1 acres.



Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 12, 2017

**Zoning Determination Regarding Boyer Kennel #AP16-02**

**Staff Response to Appeal**

Article 2 of the current Zoning Ordinance defines Kennel as follows:

“The boarding, breeding, raising, grooming, or training of more than six dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain or as part of the operations of a not-for-profit organization.”

Article 8, Section 8.4 of the current Zoning Ordinance outlines the standards for a Kennel:

“All portions of a Kennel land use must be buffered pursuant to Article 4 and set back at least 500 feet from any property that contains a residence. Kennels cannot be located within a Planning Commission approved residential subdivision.”

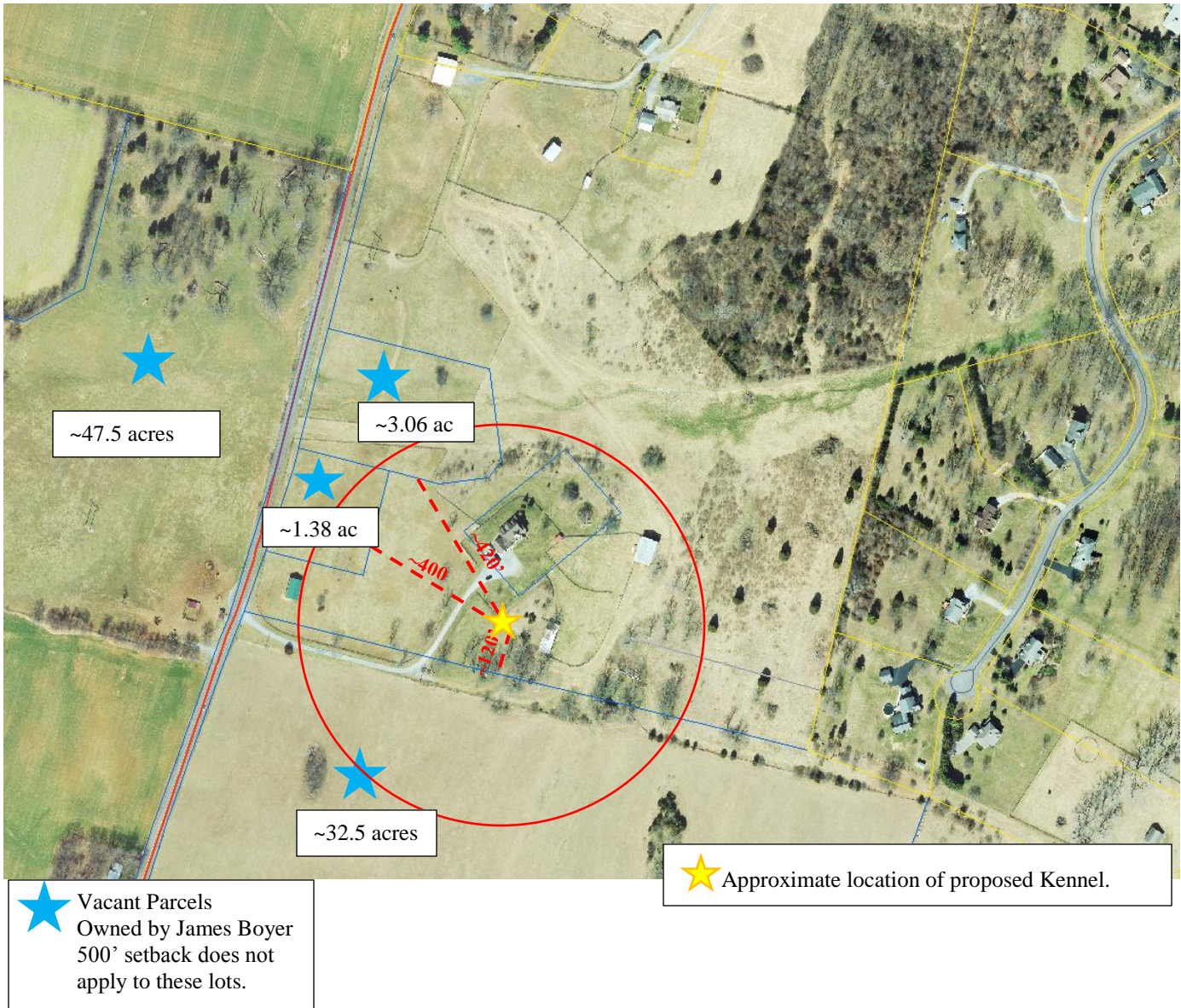
Appendix C lists Kennels as a Principal Permitted Use in the Rural Zoning District.

APPENDIX C: PRINCIPAL PERMITTED USES TABLE<sup>23, 27</sup>

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Commercial Uses Continued</b>													<b>Sec. 8.9</b>
Bail Bond Services	NP	P	P	P	PC	NP	NP	NP	NP	PC	P	NP	
Bank	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Bank with Drive-Through Facility	PC	P	P	P	PC	P	P	NP	NP	P	P	NP	
Bar	P	P	P	P	NP	P	P	NP	NP	P	P	NP	
Barber/Beauty Shop, Limited	P	P	P	P	NP	P	P	NP	NP	P	P	PC	
Bed and Breakfast	P	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	PC	Sec. 8.3
Business Equipment Sales and Service	PC	P	P	P	PC	P	P	NP	NP	P	P	NP	
Building Maintenance Services	PC	P	P	P	P	P	P	NP	NP	P	P	NP	
Building Materials and Supplies	NP	P	P	P	P	P	NP	NP	NP	P	P	NP	
Campground <sup>21</sup>	NP	P	NP	NP	NP	NP	NP	P	NP	P	P	NP	Sec. 8.17
Car Wash	NP	P	P	P	PC	P	P	NP	NP	P	P	NP	
Commercial Blood Plasma Center	NP	P	P	P	NP	PC	PC	NP	NP	PC	P	NP	
Contractor with No Outdoor Storage	P	P	P	P	P	P	P	NP	NP	P	P	NP	
Contractor with Outdoor Storage	NP	P	P	P	P	P	NP	NP	NP	P	P	NP	
Convenience Store, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Convenience Store	PC	P	P	P	PC	P	NP	NP	NP	PC	P	NP	Sec. 5.8C (RLIC only)
Country Inn	P	P	P	P	NP	P	P	NP	NP	P	P	PC	
Custom Manufacturing	P	P	P	P	P	P	P	NP	NP	P	P	PC	
Dry cleaning and Laundry Services	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Dry cleaning and Laundry Facility	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Equipment Rental, Sales, or Service	NP	P	P	P	P	P	NP	NP	NP	P	P	NP	
Exterminating Services	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Florist	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Food Preparation	P	P	P	P	PC	P	P	NP	NP	P	P	NP	
Hotel/Motel	NP	P	P	P	NP	P	P	NP	NP	P	P	NP	
Gambling Facilities	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	Sec. 4.4G
Gas Station, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	NP	
Gas Station	NP	P	P	P	PC	P	P	NP	NP	P	P	NP	
Gas Station, Large	NP	PC	P	P	PC	PC	PC	NP	NP	P	P	NP	
Golf Course	NP	P	P	P	NP	P	P	NP	NP	P	P	NP	
Grocery Store	P	P	P	P	PC	P	NP	NP	NP	P	P	NP	
Horse Racing Facility	NP	NP	NP	P	NP	NP	NP	NP	NP	P	P	NP	
<b>Kennel</b>	NP	P	P	P	PC	P	P	P	NP	P	P	NP	Sec. 8.4

**Zoning Determination Regarding Boyer Kennel #AP16-02**

The Zoning Administrator issued the Zoning Certificate based on the fact that Appendix C lists Kennels as a Principal Permitted Use in the Rural Zoning District and based on the fact that the proposed Kennel meets the 500' setback requirement.



As depicted above, the proposed location for the dog kennel exceeds the 500' distance requirement from any lot with a residence. The closest residence is approximately 760 feet from the proposed kennel. It should be noted that the proposed location does not meet the 500' distance requirement from the vacant lots, all of which are owned by the applicant, however, the Ordinance does not require 500' distance for vacant parcels – it specifically states "...500' from any property that contains a residence."

**Zoning Determination Regarding Boyer Kennel #AP16-02**

**Board of Zoning Appeals Role**

Section 3.4 Boards and Commissions<sup>23</sup>

3. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.
  - a. Filing an Appeal
    - i. An appeal to the Board may be taken by any person, board, associate, corporation or official allegedly aggrieved by any administrative decision based or claimed to be based, in whole or in part, upon the provisions of this Ordinance. The property owner of the subject appeal shall sign the application or an affidavit allowing an agent for the property owner to file the application which shall be submitted.
    - ii. Such appeal shall be filed with the Board within thirty (30) days from the decision appealed.
  - b. Notification
    - i. 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.<sup>5, 17, 21</sup>
    - ii. The subject property 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 before the hearing. The sign will be prepared by the Office of Planning and Zoning but posting the sign is the responsibility of the applicant. The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.
  - c. Public Hearing
    - i. The Board shall hold a hearing within forty-five (45) days of the date the appeal is received in the Office of Planning and Zoning. At the hearing, any party may appear and be heard in person or by agent or attorney.<sup>5, 8, 17, 21</sup>
    - ii. The Board shall render its determination on the application no more than thirty (30) days following the public hearing by registered mail.
  - d. Continuance of Hearing
    - i. The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session. Any hearing continued shall be held within thirty (30) days from the initial hearing.
6. In exercising its power and authority, the Board of Zoning Appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as the Board deems appropriate.<sup>17, 21</sup>





# JEFFERSON COUNTY, WEST VIRGINIA

## Departments of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor, P.O. Box 338

Charles Town, WV 25414

Appeal Number: \_\_\_\_\_

Staff Initials: \_\_\_\_\_

Fees Paid (\$100): \$ \_\_\_\_\_

[www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html](http://www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html)

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

Phone: (304) 728-3228

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

Fax: (304) 728-8126

### Appeal Form - Board of Zoning Appeals

Pursuant to Section 3.4 of the Jefferson County Zoning and Land Development Ordinance, the Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or any ordinance adopted thereto. The property owner of the subject appeal shall sign the application or an affidavit allowing an agent for the property owner to file the application which shall be submitted. Such appeal shall be filed with the Board within thirty (30) days from the decision appealed.

#### Name and/or File Number of Project

Name of Project: BOYER KENNEL - Proposed Cottage Industry File Number: ZC16-37

#### Appellant Information

Appellant Name: Runnymede Homeowners Association by THOMAS C. HAYDEN, President  
Mailing Address: 411 Runnymede Drive  
City: Charles Town State: WV Zip Code: 25414  
Phone Number: 304-724-6205 Email: tnshayden@comcast.net

#### Appellant Representative(s) Information

Company Name: \_\_\_\_\_  
Representative Name(s): \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

#### Appellant Physical Property Details

Physical Address: 411 Runnymede Drive  
City: Charles Town State: WV Zip Code: 25414  
Tax District: 02 - Charles Town Map No: 22 Parcel No: 0899  
Size: 3.25 acres Deed Book: 931 Page No: 370

#### Zoning District (please check one)

	Residential	Industrial	Residential-	
	Growth	Commerical	Light Industrial-	
Rural	(R-G)	(I-C)	Commercial	Village
(R-A)	(R-G)	(I-C)	(R-L-C)	(V)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Only if applicable to your request, provide a sketch showing the shape and location of the lot indicating all roads, rights of ways, 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 and submit with this form.

**Decision Being Appealed**

Proposed construction of new Accessory building to be used as a kennel for more than six (6) dogs - Cottage industry

**Type of Appeal**

Administrative Decision       LESA Point Score       Other

If other, please describe: \_\_\_\_\_

Please explain reasons/justifications for appeal and desired action by Board, in numerical order. Use a separate sheet of paper if necessary.

We believe the proposed kennel is an unsuitable business in light of the surrounding residential properties, which have existed for twenty years or more.

Please see the attached sheet for amplification

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

Thomas Chryde, President, Runnymede Holt  
Signature of Appellant      Date - Nov 30, 2016      Signature of Appellant      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 twenty-eight (28) inches by twenty-two (22) inches in size, at least 15 days before the hearing (pursuant to Zoning and Land Development Ordinance Section 3.4A(3)(b)).

\_\_\_\_\_  
Date of Public Hearing

\_\_\_\_\_  
Advertising Date

\_\_\_\_\_  
Placard Posting Date

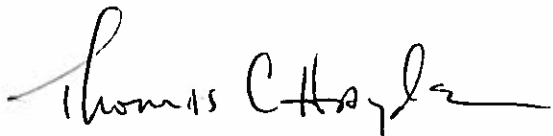
Re: ZC16-37 (Boyer Kennel, Proposed Cottage Industry)

The Runnymede Homeowners Association (HOA) comprises fourteen properties containing owner-occupied single family homes on (approx.) one- to four-acre homesites. Five of the properties abut the Boyer property, directly. A majority of the HOA members believe approval of the proposed kennel, which will house a variety of breeds of dogs, of all ages and temperament, can only lead to unacceptable barking noises which will create, "...offensive manifestations by ... sound ... detectable to the normal senses..." A boarding kennel, in the daily conduct of its mission, creates such offensive noise – when animals arrive or depart, when humans arrive or depart, when animals are fed or exercised, when animals see, hear or smell other animals in close proximity, day or night.

Eleven of our homeowners are still working, either full- or part-time, some from home; and nine of us in the neighborhood have dogs. Two of the homeowners whose properties abut the Boyer property are Loudoun County Deputy Sheriffs who regularly work shifts that include late night and early morning hours. As such, their sleeping hours do not always follow the norm; their lives will be subject to further disruption.

All of us wish to continue to enjoy the quietude and solitude that living in Runnymede affords us. We object to the notion that a Rural classification or a 500-foot buffer means we have to be subjected to offensive noise, continually. As it is now, from late autumn to mid-spring we can hear the cars on the track at Summit Point, a distance of some ten "as the crow flies" miles away. Daily, we hear the gunshots from the shooting range at 340 Defense, located very close to the Virginia state line; and shooters on all their ranges are firing at targets in the opposite direction of Runnymede. A distance of five hundred feet cannot temper the noise that will emanate from the proposed kennel.

Accordingly, the Runnymede HOA requests that the Board of Zoning Appeals overturn the Zoning Certificate, #ZC16-37 and deny the proposed use for the construction of a new accessory building to be used as a kennel for more than six (6) dogs.

  
President, Runnymede HOA



Memorandum in Support of Zoning Administrator Decision  
 Boyer Kennel  
 File: ZC16-37  
 Jefferson County Board of Zoning Appeals  
 Meeting Date: January 12, 2017

RECEIVED

JAN 03 2017

JEFFERSON COUNTY  
 PLANNING, ZONING AND ENGINEERING

TO: Jefferson County Board of Zoning Appeals

FROM: Lisa and James Boyer, Owner/Respondent *LB*

SUBJECT: Support to Uphold Zoning Administrator's Presumed Valid Issuance of Zoning Certificate (ZC16-37) for Boyer Kennel

DATE: January 2, 2017

Thank you for an opportunity to be heard with respect to Ms. Alex Beaulieu's, Zoning Administrator, issuance of a Zoning Certificate for our less than 1500 sq. ft. kennel structure. We believe that the Appeal fails on numerous counts and therefore, the Appeal should be rejected or denied and Ms. Beaulieu's decision should be affirmed or approved. This determination should be based on the following:

- I. There is no basis for the Appeal provided in the documentation filed by Mr. Hayden as the President of the Runnymede Homeowners Association. Mr. Hayden does not provide any rationale (or even allegation) that the Zoning Certificate was issued in error. Nothing is raised to show how Ms. Beaulieu misinterpreted the ordinance. Accordingly, Ms. Beaulieu's decision should be presumed valid in absence of any alleged error. Regardless, we will try to address each item that Mr. Hayden provided in his appeal.
- II. Under the Justifications for Appeal and Desired Action by Board on page 2 of the appeal form, the Appellant only alleges that the 'Kennel' is an unsuitable business in this area. The Appeal lists no reasons for the error and makes no request for desired action. As such, it is very hard to respond to the Appeal. However, please be advised that the Jefferson County Zoning and Development Review Ordinance lists "Kennel" as a Principal Permitted Use in the Rural Zone. Please see attached Chart from Addendum C of the Zoning Ordinance that lists Kennel as a Permitted Use. Accordingly, since this property is zoned 'Rural' and Kennels are permitted in the Rural Zone, the Zoning Administrator did not error on this point. Plus, the Appellant lists no desired action for the Board to take or for the Respondents to address.
- III. A Kennel is a permitted use in the Rural District, but it requires compliance with the setbacks of the Zoning Ordinance. The current Ordinance requires a 500' foot setback from any property line that contains a house on the lot. Please note that the Boyers own all of the property within the 500' limit from where the kennel structure is to be located. The closest portion of the Runnymede Subdivision appears to be over 800' from the proposed structure. While Runnymede Subdivision is a residential subdivision that was approved by the Jefferson County Planning Commission, the Boyer Property is an active farm that is not within the Runnymede Subdivision. As a side note, the Planning Commission recently proposed and approved an amendment to the Ordinance that allows Kennels to be as close

\*Copies mailed in BZA packet for 01/12/17 mtg. JH

as 300' to property lines. This amendment is pending County Commission Approval. In any event, since the property is well over 500' from the Appellant's subdivision (and any other residence besides the Boyers' own house), the Zoning Administrator did not error on this point.

- IV. In the supplemental information filed (page 3 of the Appeal filed on November 30, 2016), the Appellant makes the point that there are many dogs in the neighborhood, but that the dogs on the Boyers' property will create offensive manifestations by sound detectable to the normal senses. By simple reasoning, since the Appellant states that there are many dogs in the Runnymede Subdivision, it seems hard to believe that the Boyer dogs (over 800 feet away) would be the ones causing offensive manifestations of sound. In fact, there are other sections of the ordinance (Section 8.9) that regulate the noise level for uses. There has been no demonstration that the noise in the proposed kennel will exceed those levels permitted by other sections in the Zoning Ordinance. Additionally, the Boyers are contracting with a builder to utilize soundproofing panels and ceiling baffles for the structure to further ensure that the dogs won't be heard outside of the property. Accordingly, the Zoning Administrator has not erred on the noise portion of the Ordinance.
- V. Page three of the appeal also raises issues concerning the conduct of the mission of the kennel. Please see the attached photos. This is not a puppy mill or a doggy daycare (drop off day service). This will be a 'Bed and Breakfast' type of establishment with individual, inside rooms for the dogs. The structure will be located next to the Boyer's driveway that enters their home. It is a very short walking distance from the house so that the Boyers can take care of the dogs and see that their needs are met. The Boyer's house is the closest house to the proposed structure by over 500' than the closest Appellant. The Boyers will make sure that there is no disruption, because it would most affect them if there are disruptions. However, there seems to be nothing that alleges error in this portion of the Appeal, so the Zoning Administrator's issuance of the Zoning Certificate should again be upheld.
- VI. The Appellant raises other things in the Appeal, but again, none of these issues rise to the level of an Appeal or error. It includes references to noise on offsite properties such as the shooting range and the racetrack. These references merely illustrate that there are noises in the neighborhood not related to dogs. One thing that should be noted is that the Runnymede Subdivision is accessed off Mt. Hammond Road. The entrance to this structure will be down the Boyer's driveway that accesses directly onto Kabletown Road. There are no other houses that access this driveway and this entrance is nowhere near the entrance to the Runnymede Subdivision on Mt. Hammond Road. There should be no traffic on Mt. Hammond Road that is associated with the kennel. Furthermore, as a Cottage Industry, the number of trips per WEEK are limited to 60 trips.
- VII. Ms. Boyer has been a Pet Companion and boarder of dogs on this subject property, as well as in people's houses for many years. Ms. Boyer has boarded dogs on this property for a fee for the Appellant and his neighbors. The individual Appellant has boarded his two dogs with Ms. Boyer on this property 4 times just in 2016 and has boarded his dogs with Ms. Boyer as

early has 2014. The most recent being in October, when he boarded his dogs with Ms. Boyer and recommended a neighbor who boarded her dogs at the same time. Therefore, this use has been going on for some time on this property. Ms. Boyer would just like to provide a more accommodating facility.

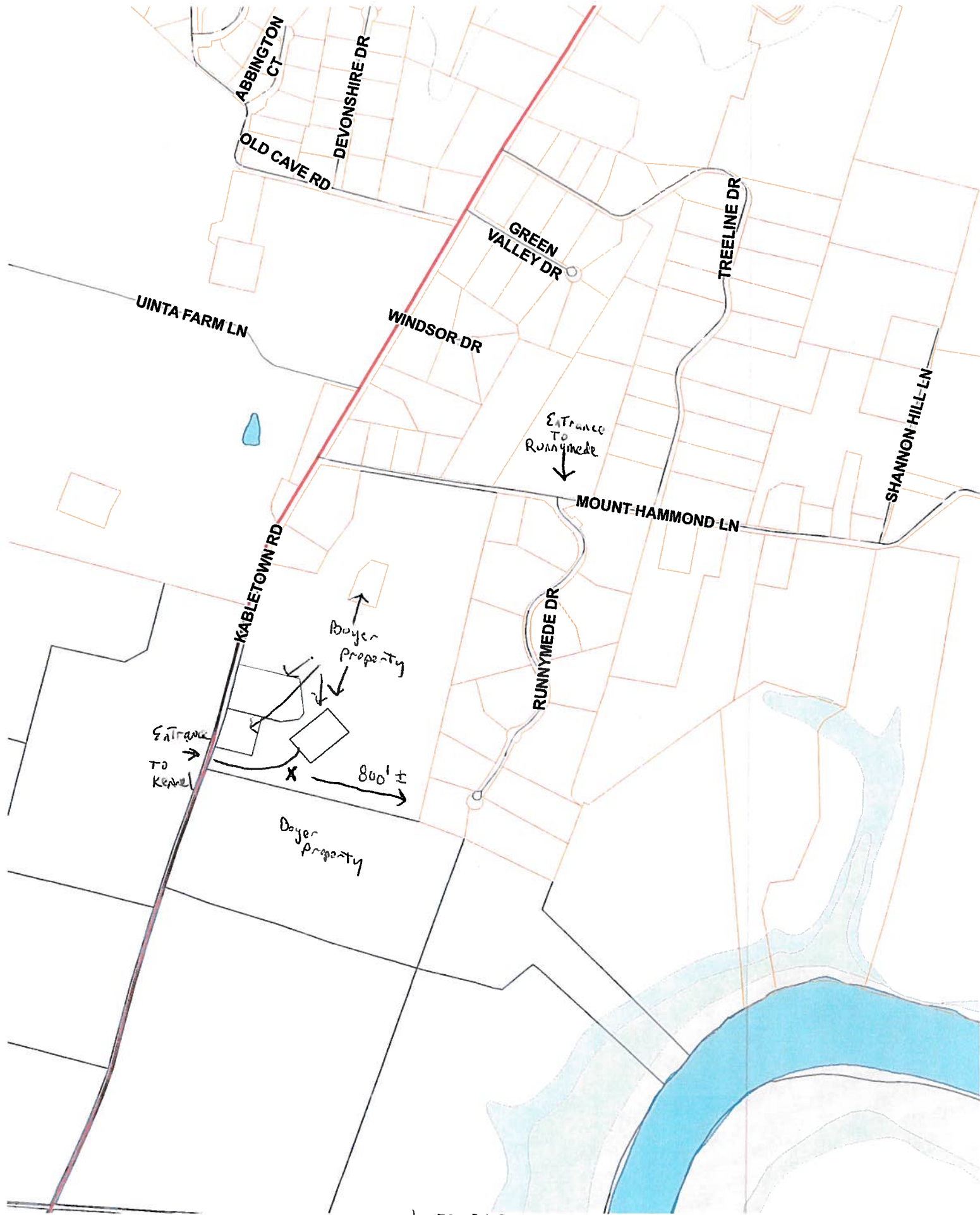
- VIII. Other reasons for the rejection and/or denial of the Appeal include the fact that no sketch was provided with the appeal and that no documentation was provided verifying that the HOA took official action according to their bylaws to approve the filing of this appeal.
  
- IX. There is a dire need for dog boarding in Jefferson County. Ms. Boyer is consistently being told by her clients that her services have been recommended by animal adoption centers in Jefferson County. What better place, than in an area that is in the middle of the Rural District where livestock barns can go as close as 75' to adjacent property lines. This building will be over 800 feet away from dwellings off of the Boyers' properties. Kennels are necessary in the County to provide a needed service for the residents. The County Commission through the Principal Permitted Use Chart in the Zoning Ordinance has determined that place to be in the Rural District. Again, as such, no error has occurred in the issuance of the permit/certificate.

For the above reasons and any necessary rebuttal information submitted at the time of the meeting, we respectfully ask the Board to reject or deny the appeal and uphold the Zoning Administrator's decision to issue Zoning Certificate, ZC16-37. The primary reason for this denial is the fact that there has been no evidence, or even allegation, of error presented against Ms. Beaulieu's decision and no request for any action by the Board. As such, the permit/certificate is presumed to be valid. Accordingly, please uphold the issuance of the Zoning Certificate for the Kennel.

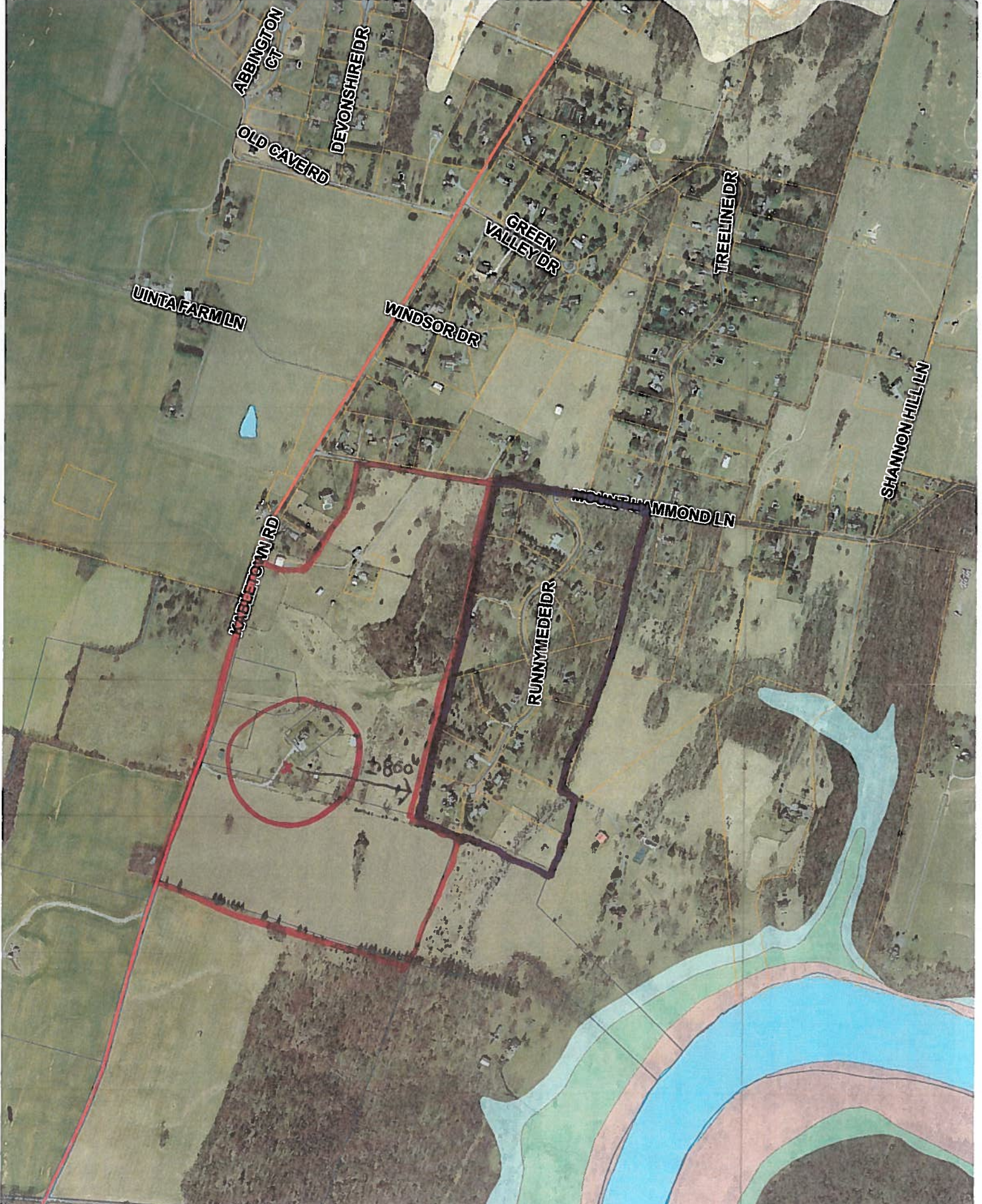
↓

APPENDIX C: PRINCIPAL PERMITTED USES TABLE<sup>23, 27</sup>

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	<b>R</b>	RG	RLIC	IC	V	Additional Standards
<b>Commercial Uses Continued</b>													<b>Sec. 8.9</b>
Bail Bond Services	NP	P	P	P	PC	NP	NP	NP	NP	PC	P	NP	
Bank	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Bank with Drive-Through Facility	PC	P	P	P	PC	P	P	NP	NP	P	P	NP	
Bar	P	P	P	P	NP	P	P	NP	NP	P	P	NP	
Barber/Beauty Shop, Limited	P	P	P	P	NP	P	P	NP	NP	P	P	PC	
Bed and Breakfast	P	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	PC	<b>Sec. 8.3</b>
Business Equipment Sales and Service	PC	P	P	P	PC	P	P	NP	NP	P	P	NP	
Building Maintenance Services	PC	P	P	P	P	P	P	NP	NP	P	P	NP	
Building Materials and Supplies	NP	P	P	P	P	P	NP	NP	NP	P	P	NP	
Campground <sup>31</sup>	NP	P	NP	NP	NP	NP	NP	P	NP	P	P	NP	<b>Sec. 8.17</b>
Car Wash	NP	P	P	P	PC	P	P	NP	NP	P	P	NP	
Commercial Blood Plasma Center	NP	P	P	P	NP	PC	PC	NP	NP	PC	P	NP	
Contractor with No Outdoor Storage	P	P	P	P	P	P	P	NP	NP	P	P	NP	
Contractor with Outdoor Storage	NP	P	P	P	P	P	NP	NP	NP	P	P	NP	
Convenience Store, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Convenience Store	PC	P	P	P	PC	P	NP	NP	NP	PC	P	NP	<b>Sec. 5.8C (RLIC only)</b>
Country Inn	P	P	P	P	NP	P	P	NP	NP	P	P	PC	
Custom Manufacturing	P	P	P	P	P	P	P	NP	NP	P	P	PC	
Dry cleaning and Laundry Services	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Dry cleaning and Laundry Facility	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Equipment Rental, Sales, or Service	NP	P	P	P	P	P	NP	NP	NP	P	P	NP	
Exterminating Services	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Florist	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Food Preparation	P	P	P	P	PC	P	P	NP	NP	P	P	NP	
Hotel/Motel	NP	P	P	P	NP	P	P	NP	NP	P	P	NP	
Gambling Facilities	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	<b>Sec. 4.4G</b>
Gas Station, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	NP	
Gas Station	NP	P	P	P	PC	P	P	NP	NP	P	P	NP	
Gas Station, Large	NP	PC	P	P	PC	PC	PC	NP	NP	P	P	NP	
Golf Course	NP	P	P	P	NP	P	P	NP	NP	P	P	NP	
Grocery Store	P	P	P	P	PC	P	NP	NP	NP	P	P	NP	
Horse Racing Facility	NP	NP	NP	P	NP	NP	NP	NP	NP	P	P	NP	
<b>Kennel</b>	NP	P	P	P	PC	P	P	<b>P</b>	NP	P	P	NP	<b>Sec. 8.4</b>
Medical/Dental/Optical Office, Small	P	P	P	P	PC	P	P	NP	NP	P	P	P	
Medical/Dental/Optical Office	NP	P	P	P	PC	P	P	NP	NP	P	P	NP	
Mobile Home, Boat and Trailer Sales	NP	P	P	P	PC	P	NP	NP	NP	PC	P	NP	
Movie Theater	NP	P	P	P	NP	P	NP	NP	NP	P	P	NP	
Nightclub	NP	P	P	P	NP	P	NP	NP	NP	P	P	NP	
Non Profit Commercial Uses	P	P	P	P	NP	P	P	NP	NP	P	P	NP	
Non-Profit Community Centers	P	P	P	P	PC	P	NP	P	NP	P	P	NP	
Parking, Commercial Offsite Accessory	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Pawn Shop Services	NP	P	P	P	NP	P	NP	NP	NP	P	P	NP	

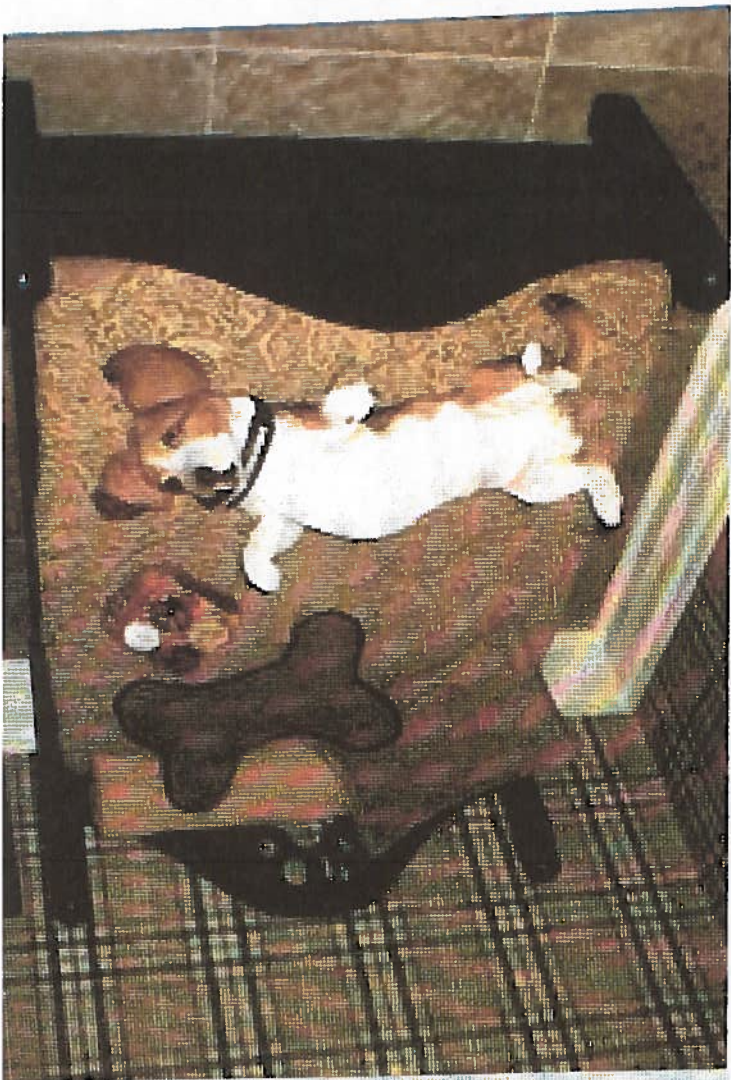


X - Proposed structure



✕ - Proposed 1500+ Kennel  
□ - Boyer Property

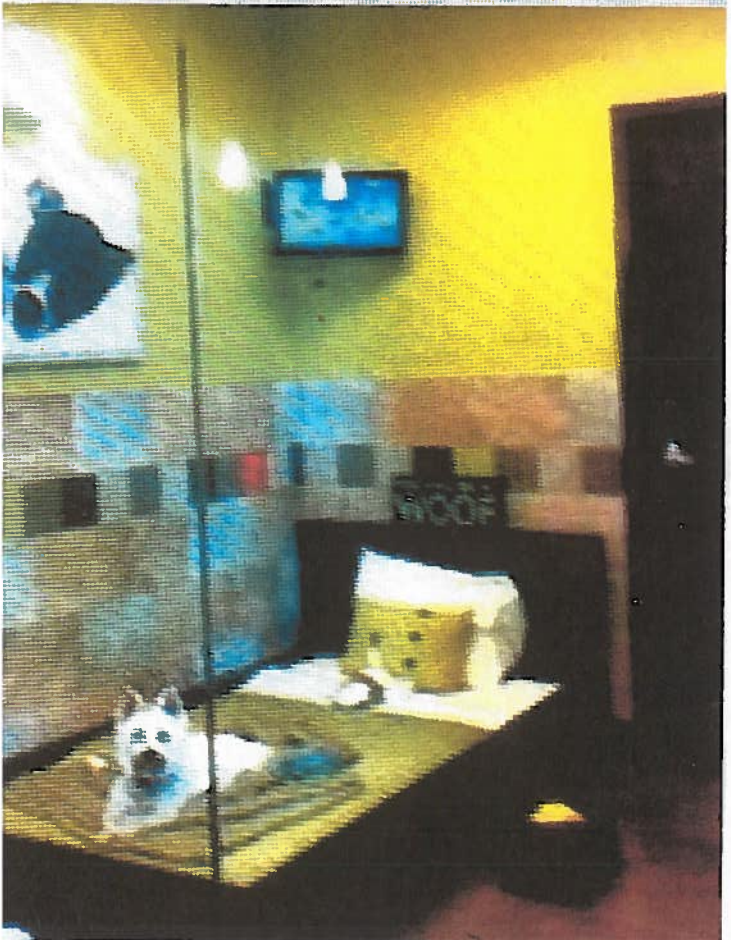
□ - Runnymede Subdivision  
□ - Required 500' Setback (Approx, NOT TO SCALE)  
→ - 800'



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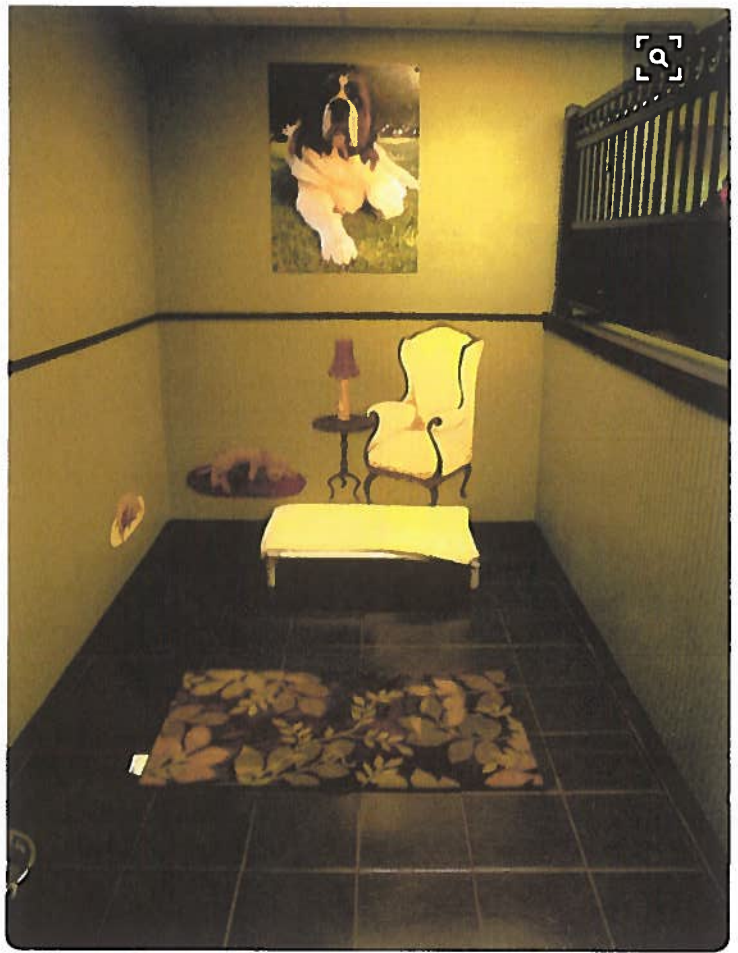


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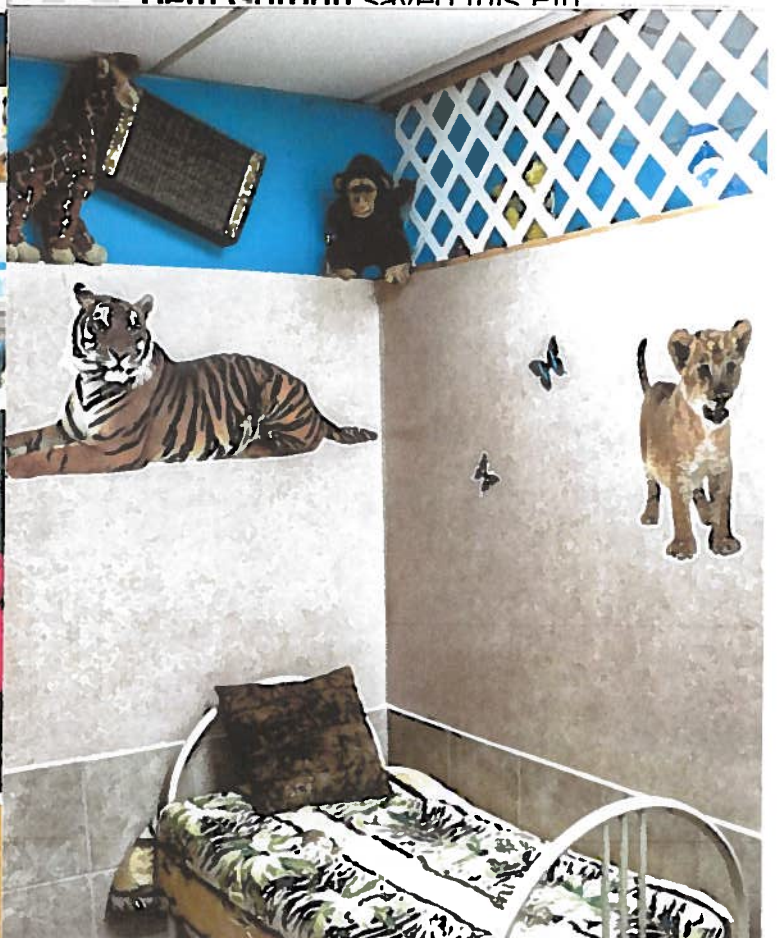
rooms



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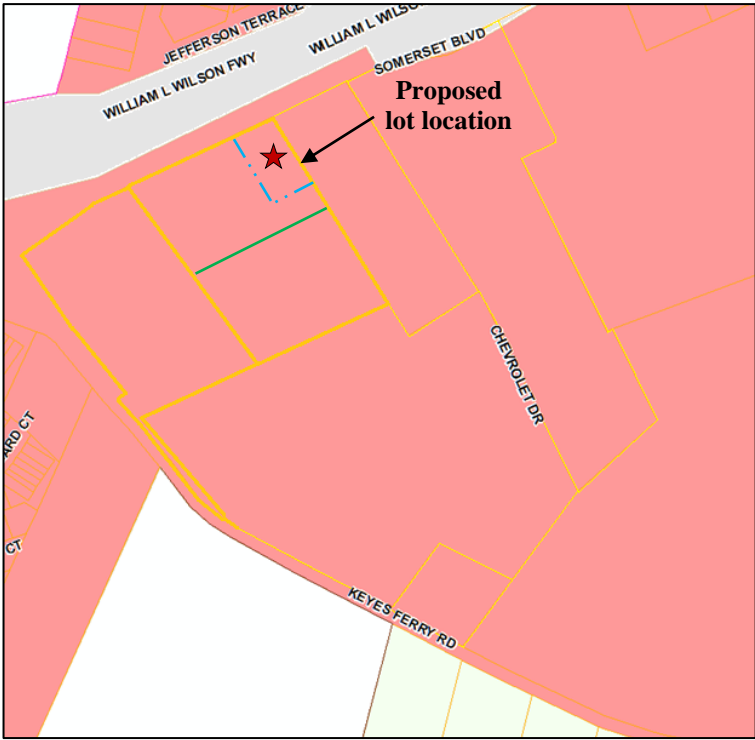
Beth Gordon saved this Pin



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 January 12, 2017

**Waffle House Variance Request (#ZV16-27)**

Item #4 Variance from Section 4.11A.2 and Appendix B to eliminate the required four (4) foot west side & rear property line parking setbacks and the 10 foot west side & rear property line landscape buffers; and Section 8.9A.10 to eliminate the required 50' landscape buffer when located within ½ mile of a controlled access highway.

Applicant:	CTSS, LLC
Owner:	CTSS, LLC
Developer:	Same as above
Consultant:	Kristin Stolipher, Gordon
Property Location:	107 Keyes Ferry Rd., Charles Town WV
Legal Description & Zoning District:	<p style="text-align: center;">District: Charles Town (02); Map: 9; Parcel: 8.1;          Size: 2.81 ac (current) .5 ac (proposed)          Zone: Residential-Light Industrial-Commercial</p> 
Surrounding Properties	<p>Zoning Map Designation:</p> <p>North: RLIC                      South: RLIC          East: RLIC                        West: RLIC</p>
Prior Cases:	<p>ZC13-13: Brewpub with small vat beer production in existing bar/lounge/ nightclub/restaurant/grill within an existing bowling alley (05/15/13).          ZC13-31: Legends Sports Bar &amp; Lounge with 5 slot machines (12/18/13).          ZC15-12: Sports Bar &amp; Grill: 20 tables; 2 full-service bars (dine-in/carry-out); jukeboxes; pool tables; dart boards and 5 slot machines. Special Events to include live bands. All-ages establishment (04/14/15).          04/12/16: Lot Line adjustment approved.</p>

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 January 12, 2017

**Waffle House Variance Request (#ZV16-27)**

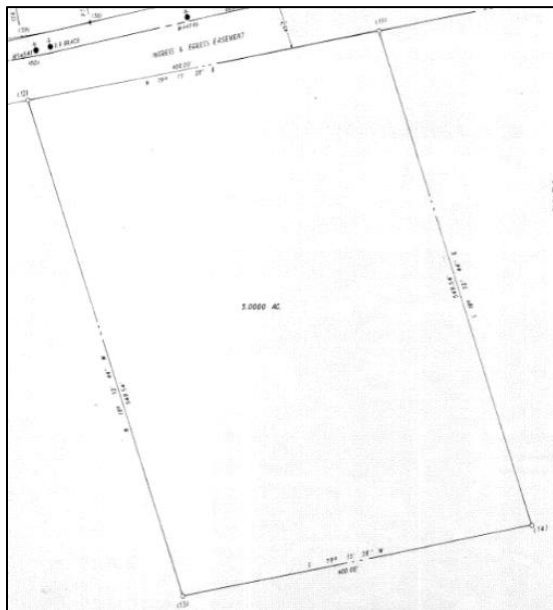
Waivers/Variations:	02/15/07: To allow for an Electronic Reader Board Sign with Color Message Display (ZV07-04 – DENIED) 09/27/07: To reconsider variance denial for Electronic Reader Board Sign (ZV07-26 – DENIED) 11/15/07: To allow for an Electronic Reader Board Sign with Color Message Display (ZV07-30 – APPROVED) 03/24/16: To reduce the rear setback from 50’ to 25’ for the existing bowling alley to accommodate a lot line adjustment which would allow for the expansion of the adjacent self-storage operation (ZV16-06).
Approved Activity:	Existing structure vacant

RELEVANT INFORMATION:

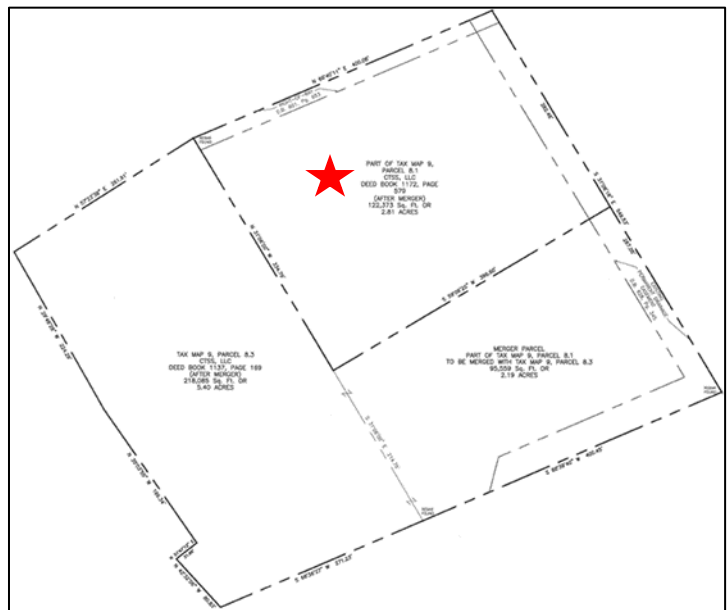
**1. PREVIOUS CASE HISTORY**

The subject parcel was originally created as a 5 acre parcel on December 30, 1983 as a subdivision exemption outsale parcel in accordance with Section 2.1.c of the 1979 Subdivision Ordinance. The existing structure (former bowling alley & restaurant/tap house) was built prior to the adoption of the Zoning Ordinance.

On March 24, 2016 the Board approved a variance to reduce the rear setback for the bowling alley to allow for a proposed lot line adjustment with an adjacent property owner. On July 22, 2016 a lot line adjustment was recorded to reduce the size of the subject parcel to its current configuration of 2.81 acres.



**1983 - Original 5 acre configuration**



**2016 – After merger, 2.81 acre configuration**

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
January 12, 2017

**Waffle House Variance Request (#ZV16-27)**

**2. STAFF EVALUATION OF REQUEST**

a. Summary of Request and Purpose of Ordinance Requirements

The applicant is proposing to subdivide the existing 2.81 acre parcel into two separate parcels consisting of one 2.31 acre lot and one .50 acre lot (approximately). The half (.50) acre lot is the parcel on which the proposed Waffle House restaurant is to be located. As a result of the subdivision, the applicant is requesting to eliminate the required four (4) foot parking setback and 10 foot landscape buffer for the west side and rear property lines.

Additionally, the applicant is requesting to eliminate the required 50' landscape buffer when located within a ½ mile of a controlled access highway.

The purpose of the 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 existing bowling alley was constructed prior to the adoption of the County's Zoning Ordinance. Various amenities that are typically found in association with a commercial use, such as landscaping, were not required. While the commercial use of the property is permitted due to its location in the Residential-Light Industrial-Commercial zoning district, the site is considered a legal nonconforming use by definition. A change in use and/or future development of the existing bowling alley structure will require processing through the Department.



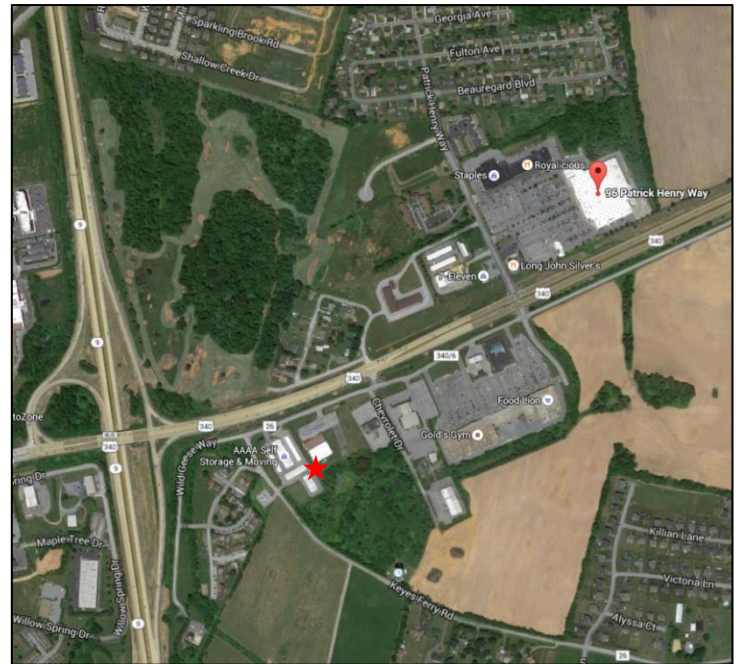
**Approximate location of proposed Waffle House restaurant**

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 January 12, 2017

**Waffle House Variance Request (#ZV16-27)**

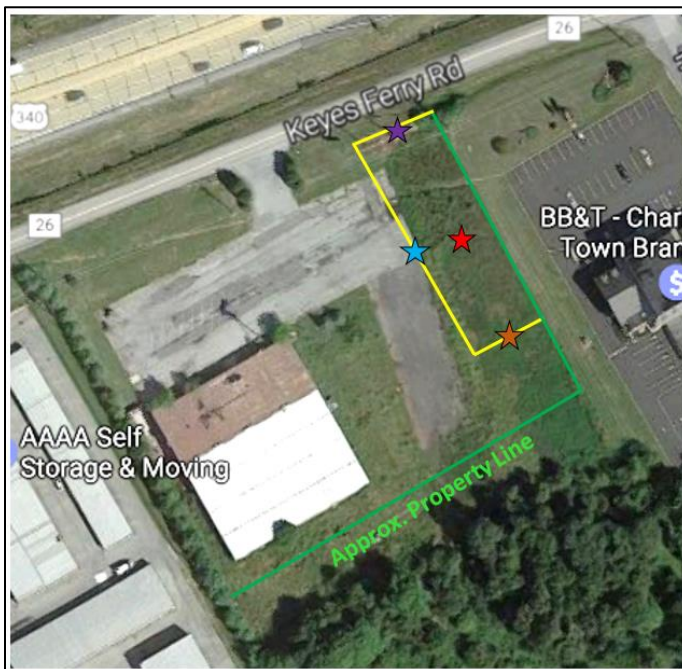
c. Character of area

The surrounding area is zoned Residential-Light Industrial-Commercial. Located within close proximity to the subject parcel is a mixture of commercial uses and high density residential developments. To the east of the site is a branch of a regional bank with a large parking lot and several drive-through aisles. Nearby is a large shopping plaza that includes retail stores, a gym, and restaurants.



d. Impact on adjacent properties

The variance request to eliminate the west side and rear parking setback and landscape buffer requirements is to accommodate a proposed subdivision of an existing commercial lot. The impact on adjacent properties appears to be minimal as the majority of the surrounding area is commercial.



- ★ Elimination of 50' Landscape Buffer when within 1/2 mile of a controlled access highway
- ★ Elimination of 4' West Side Parking Setback and 10' Landscaping Buffer
- ★ Elimination of 4' Rear Parking Setback and 10' Landscaping Buffer

Proposed new lot lines shown in yellow are an approximate location and are subject to change.

e. Feasibility of complying with the ordinance by other means

The .5 acre parcel has not yet been created; therefore, it is feasible to adjust the property boundaries to accommodate the necessary setbacks.

5. **Conditions of Approval**

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

- a) The variance applies only to the proposed .5 acre parcel.

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 January 12, 2017

**Waffle House Variance Request (#ZV16-27)**

**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.<sup>27</sup>

A. Commercial Development<sup>27</sup>

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

**APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE<sup>27</sup>**

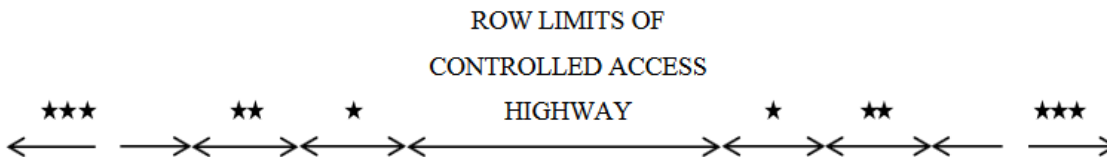
Zoning District	Development Type <sup>9</sup>	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Impervious Surface Limit	Building Setbacks			Parking/Drive Aisle Setbacks <sup>†</sup>			Distance if Sec. 4.6 applies	Buffers (Sec. 4.11) (Screened / Unscreened)								
						Front	Side	Rear	Front	Side	Rear		a Residential district, or any lot with a residence, school, church, or institution of human care			Commercial Use			Industrial Use		
													Front, Side, Rear	Front, Side, Rear	Front	Side	Rear	Front	Side	Rear	
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															

**Section 8.9A.10 Landscape Buffer**

All commercial and industrial developments shall comply with Section 4.11 unless otherwise specified in this Ordinance.<sup>27</sup>

A fifty (50) foot wide landscape buffer strip will be provided along all limited access highways. Said buffer shall be adjacent to the frontage road. In the case where existing roads not adjacent to controlled access highway serve as frontage road the landscape buffer may be placed against the highway right-of-way.

All front setbacks (building and parking lot) are to be measured from the landscape buffer. (See diagram)



- ★ Maximum 60' easement or dedication for frontage road
- ★★ 50' landscaped buffer strip
- ★★★ Setbacks

This provision shall also apply to any ramps or access roads connecting to a controlled access highway within ½ mile of a controlled access highway.<sup>5</sup>





**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 338  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: ZV16-27  
 Staff Initials: CC  
 Meeting Date: 01/12/17  
 Fees Paid (\$100 or \$150): \$100.00

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

**Zoning Variance Request**

*Variations 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: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Contact Information**

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Tax District: \_\_\_\_\_ Map No: \_\_\_\_\_ Parcel No: \_\_\_\_\_  
 Parcel Size: \_\_\_\_\_ Deed Book: \_\_\_\_\_ Page No: \_\_\_\_\_

**Zoning District (please check one)**

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

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: \_\_\_\_\_

*Briefly describe the nature of the variance request:*

\_\_\_\_\_  
\_\_\_\_\_

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

Front Setback       Side Setback       Rear Setback       Reduction From \_\_\_\_\_ to \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

**Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.**

*By signing this application, I give permission for the Office 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.*

\*Original signature in file. 12/19/16 jth

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

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

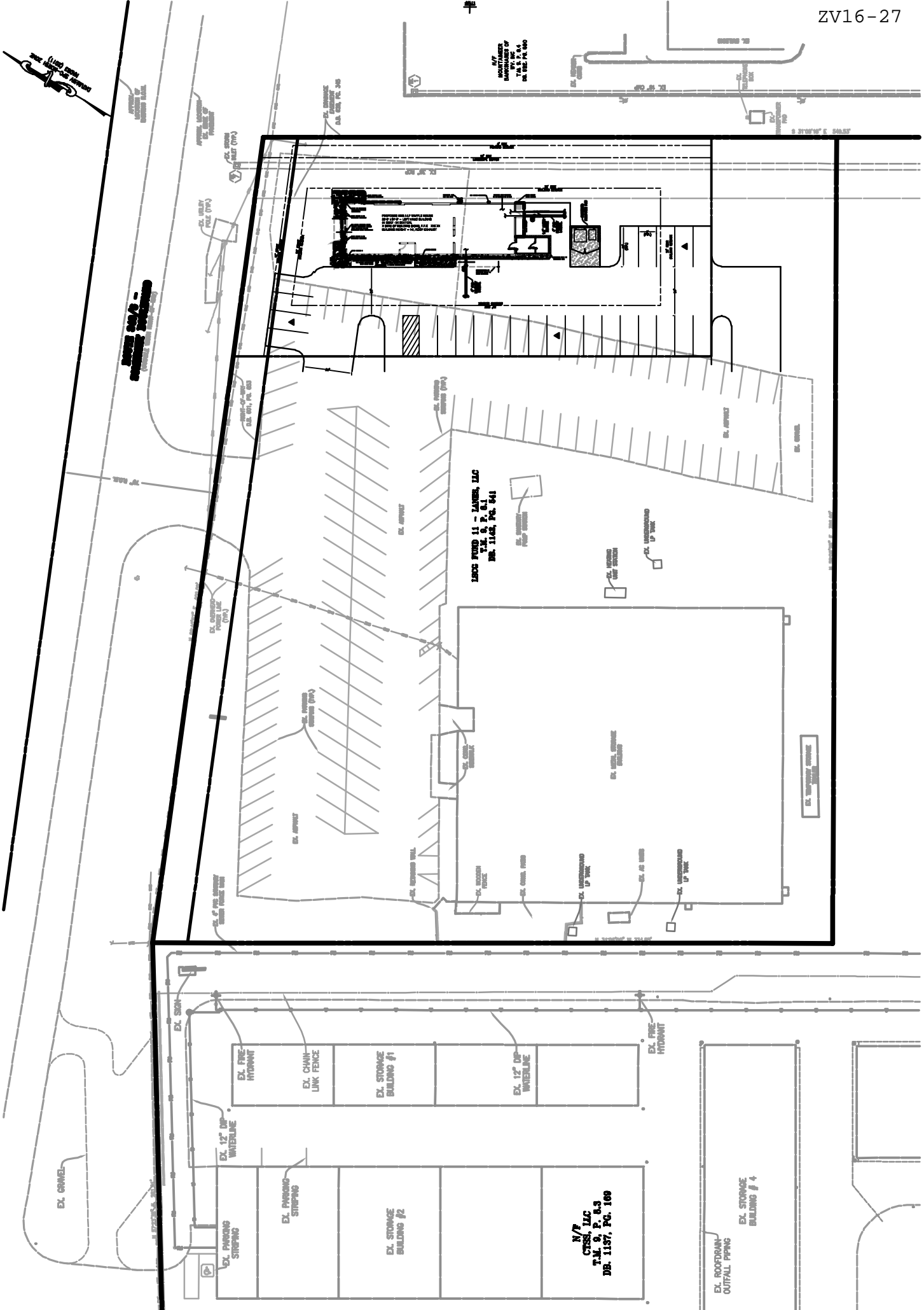
**Notification Requirements (to be completed by staff)**

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).

January 12, 2017 \_\_\_\_\_  
**Date of Public Hearing**

December 28, 2016 \_\_\_\_\_  
**Advertising Date**

December 28, 2016 \_\_\_\_\_  
**Placard Posting Date**



PROPERTY OF  
 UNIVERSITY OF  
 TEXAS AT AUSTIN  
 DB: 1157, PG. 100

**1995 FOOD 11 - JAMES, LLC**  
 T.M. 9, P. 8.3  
 DB: 1157, PG. 100

**1995 FOOD 11 - JAMES, LLC**  
 T.M. 9, P. 8.3  
 DB: 1157, PG. 100

**N/F  
 CRSS, LLC**  
 T.M. 9, P. 8.3  
 DB: 1157, PG. 100

EX. SIGN

EX. FIRE HYDRANT

EX. CHAIN LINK FENCE

EX. STORAGE BUILDING #1

EX. 12" DP WATERLINE

EX. FIRE HYDRANT

EX. 12" DP WATERLINE

EX. PARKING STRIPING

EX. PARKING STRIPING

EX. STORAGE BUILDING #2

EX. ROOFDRAIN OUTFALL PIPING

EX. STORAGE BUILDING #4

EX. CANAL

EX. PARKING STRIPING

EX. PARKING STRIPING

EX. STORAGE BUILDING #2

EX. STORAGE BUILDING #3

EX. STORAGE BUILDING #4

EX. TYPING SERVICE

EX. LOCAL STORAGE BUILDING

EX. WASTEWATER TREATMENT

EX. UNDERGROUND UP TAKE

EX. EXTERIOR WALL

EX. EXTERIOR FENCE

EX. EXTERIOR FENCE

EX. UNDERGROUND UP TAKE

EX. EXTERIOR FENCE

EX. UNDERGROUND UP TAKE

EX. EXTERIOR FENCE

EX. UNDERGROUND UP TAKE

EX. OVERHEAD PUBLIC UTILITY (O.P.U.)

EX. EXTERIOR FENCE

EX. EXTERIOR FENCE

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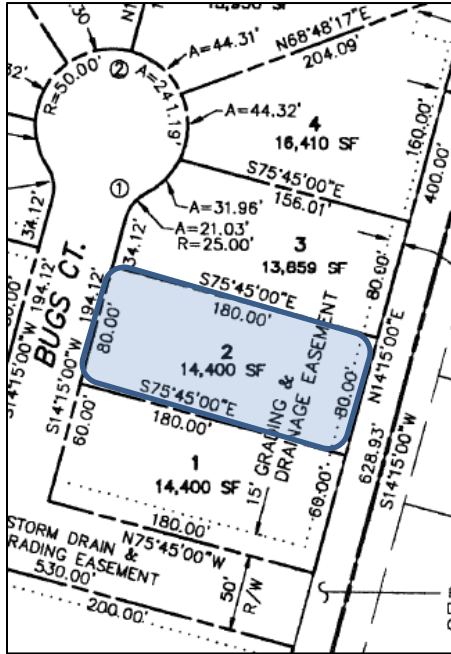


Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
January 12, 2017

**Briar Run Variance Request (#ZV16-28)**

RELEVANT INFORMATION:

**1. PREVIOUS CASE HISTORY**



The Briar Run Subdivision was issued a Conditional Use Permit (CUP #Z96-10) on October 5, 1996 for 250 single family homes and 150 townhomes. This section (Phase 1) of the Briar Run Subdivision, which consists of Lots 1 through 37, Parcel A, and Residue Parcels B & C, was recorded on April 25, 1997.

**2. STAFF EVALUATION OF REQUEST**

a. Summary of Request and Purpose of Ordinance Requirements

The applicant is proposing to construct a 12' x 20' single car garage along the northern (side) property line of an existing single family dwelling unit.

At the time, Section 5.7(b) of the Zoning Ordinance allowed projects that processed as a CUP to utilize the Residential Growth setback standards which required a 12' side setback (see chart on the last page of this report) as opposed to the Rural setback standard which required a 15' side setback.

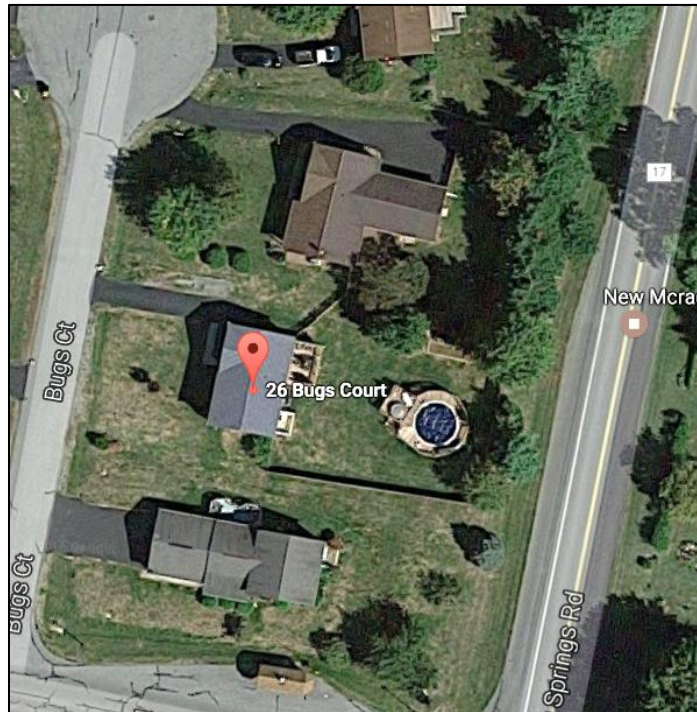
The purpose of the side and rear yard setback requirements is to reduce the impact that a land use might have on an adjacent property, to allow adequate space between a structure and a property line so that maintenance of the structure is feasible, to maintain adequate separation between structures for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

b. Unique characteristics of property

As shown in the picture below, the rear portion of the lot is fenced in and includes a deck off the back of the house and an above ground swimming pool to the rear of the property. These features, along with existing landscaping, limit alternate locations for the garage. Overall, the lot reflects similar characteristics to the rest of the lots in the Briar Run subdivision.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
January 12, 2017

**Briar Run Variance Request (#ZV16-28)**



c. Character of area

Located within close proximity to the Briar Run Subdivision is a mixture of commercial uses and high density residential development. The surrounding area is zoned Rural or has been annexed into the City of Ranson.

d. Impact on adjacent properties

The impact on adjacent properties is minimal. As stated in the variance application, the neighbor to the left, who would be most impacted by the setback reduction, does not foresee any issues with a two foot reduction.



**View proposed location for garage**

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 January 12, 2017

**Briar Run Variance Request (#ZV16-28)**

e. Feasibility of complying with the ordinance by other means

The applicant appears to have selected the smallest single-car garage advisable by industry standards, therefore, they would not be able to modify the structure to accommodate the side setback. Placing a detached garage in any other location on the property would be out of character for the neighborhood.

**5. Conditions of Approval**

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

- a) The variance applies only to the north side property line.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

Section 5.7 Rural District

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

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

**Section 5.4B.1 Residential Growth District - Height and Yard Requirements**

	Development Type	Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)	Required Yards (ft)				Maximum Building Height (ft)*
			Front	Side	Street Side	Rear	
1	Single Family Dwelling	6,000 sq. ft. MLA**	25	12	15	20	40
	Public/Central water and sewer	10,000 sq. ft. ADU	“	“	“	“	“
	Public/Central water or sewer	20,000 sq. ft. MLA	“	“	“	“	“
	No Public/Central water or sewer	40,000. Sq. ft. MLA	“	“	“	“	“

\*Subject to Section 9.2



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 338  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: #2V16-28

Staff Initials: CL

Meeting Date: 1-12-17 e2:00pm

Fees Paid (\$100 or \$150): \$100.00

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

Phone: (304) 728-3228

**Zoning Variance Request**

*Variations 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: Christina Firaben and Alex Arneson  
 Mailing Address: 26 Bugs Ct. Ranson, WV 25438  
 Phone Number: (540)290-1638 / (540)290-2331 Email: aarneson70771@gmail.com or christinafiraben@gmail.com

**Applicant Contact Information**

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 26 Bugs Ct.  
 City: Ranson State: WV Zip Code: 25438  
 Tax District: CHARLESTOWN (02) Map No: 4E Parcel No: 02  
 Parcel Size: 0.3324 acres Deed Book: 1177 Page No: 451

Zoning District (please check one) (LT #2) BRIAR RUNE STATES

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
RECEIVED DEC 22 2016 JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING Place Received Date Stamp Here			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property?  Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: 5.7(b)

Briefly describe the nature of the variance request:

I would like to attach a single car garage to our house. The front corner of the garage will have a setback of only 10' rather than the required 12'.

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

Front Setback  Side Setback  Rear Setback  Reduction From 12' to 10'

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:

I asked my neighbor's permission. She found the 2' difference insignificant enough.

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?

This request The extra 2' being requested is necessary for a car to fit in the garage. This particular area was most fit for the placement of the garage as a result of the position and location of the existing structure.

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

I would like a garage to protect my cars, and to have somewhere to store auto related tools and equipment that might otherwise be unsightly.

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

The Ordinance encourages "an improved appearance" for Jefferson County which we will achieve by storing equipment inside the garage without adversely affecting our neighbor. Additionally, we would like to be able to keep our car protected in the garage. gtt 12/30/16

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 Office 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] 12/22/16  
Signature of Property Owner Date

[Signature] 12/22/16  
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).

JANUARY 12, 2017  
Date of Public Hearing

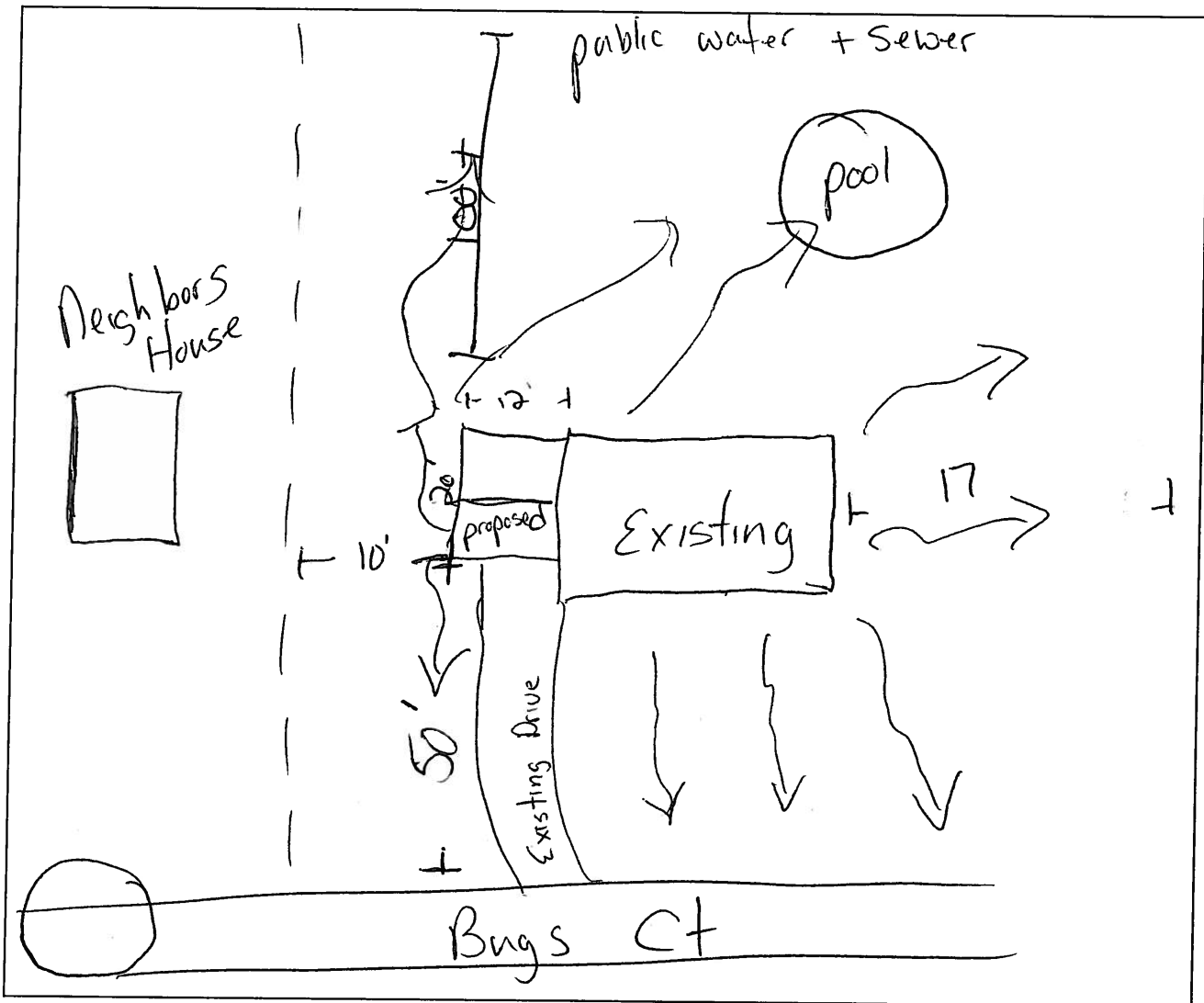
WEDNESDAY, DECEMBER 23, 2016  
Advertising Date

WEDNESDAY DECEMBER 23, 2016  
Placard Posting Date

PROPERTY SKETCH SHEET

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

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



Property Owner's (original/no copies) Signature Christina Irabon Date: 12, 1, 16

Christina Irabon

12/1/16





# 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 January 12, 2017

### 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. A Special Work Session is scheduled for January 11 at 9:30 PM.

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

- **Mass Events Ordinance (#ZTA 14-02):**
  - a) The County Commission stated 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 working with Martin Burke to review and discuss the amendment. Mr. Burke indicated he would like to submit the draft before the Planning Commission after the first of the year. At this point, we are waiting for direction on ZTA16-01 pertaining to LESA/CUP and cluster provisions.
  - b) Parking Standards
    - i. Staff intending to submit a draft to the Planning Commission following direction on ZTA16-01 pertaining to LESA/CUP and cluster provisions.
  - c) Landscape Standards
    - i. Staff intending to submit a draft to the Planning Commission following direction on ZTA16-01 pertaining to LESA/CUP and cluster provisions.
  - d) Signage
    - i. Staff intending to submit a draft to the Planning Commission following direction on ZTA16-01 pertaining to LESA/CUP and cluster provisions.

### 3) Upcoming BZA meeting

- Next Regular Meeting: **February 23, 2017** (deadline for submissions: Friday, January 27, 2017)





# JEFFERSON COUNTY, WEST VIRGINIA

## Office of Planning and Zoning

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

P.O. Box 716

Charles Town, West Virginia 25414

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

Phone: (304) 728-3228

Fax: (304) 728-8126

### MEMORANDUM

TO: Board of Zoning Appeals Members  
CC: Engineering & Building Permits Offices  
FROM: Alexandra Beaulieu, Zoning Administrator  
DATE: January 6, 2017  
SUBJECT: January Zoning Certificate Activity Report

### ISSUED ZONING CERTIFICATES

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

*Issuance Date:* December 5, 2016  
*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

#ZC16-44 RAI PROPERTIES, LLC / CONTACT: JAMES RULAND – OWNER  
SETH MILLER & RAYMOND MILLER (SPECTRUM) - APPLICANTS

*Issuance Date:* December 05, 2016  
*Proposed Use:* Expansion of existing Karate facility to include a third unit (Unit C) for an increase of approximately 1,000 sq. ft.  
*Physical Location:* 59 Ruland Road, Suites A, B & C; Kearneysville, WV 25430  
*Zone:* Industrial-Commercial

#ZC16-43 THOMAS LEFEVRE – OWNER  
AT&T WIRELESS - APPLICANT  
CONTACT: ALYSHA JANUARY & MIKE KELLY

*Issuance Date:* December 19, 2016  
*Proposed Use:* AT&T Wireless currently has nine (9) existing antennas mounted to an existing 198' self-support Telecommunications Tower. One (1) antenna per sector will be removed and replaced for a total of three (3) "LTE" antennas and three (3) RRH's, with support equipment, on the existing tower. Not height increase to tower, no ground disturbance, no electrical work.  
*Physical Location:* 237 Tel Farm Lane; Kearneysville, West Virginia 25430  
*Zone:* Rural

**PENDING ZONING CERTIFICATES**

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#ZC16-46 CHURCHWELL ADCOCK, LLC – OWNER  
CORNERSTONE LAWN SERVICES – APPLICANT

*Issuance Date:* TBD  
*Proposed Use:* Lawn Services / Storage and Light Retail.  
*Physical Location:* 25 Troy Drive, Unit 101; Charles Town, West Virginia 25414  
*Zone:* Residential-Light Industrial-Commercial

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#ZC16-47 CHURCHWELL ADCOCK, LLC – OWNER  
DRIVE PROS – APPLICANT

*Issuance Date:* TBD  
*Proposed Use:* Auto Sales and Service  
*Physical Location:* 25 Troy Drive, Unit 100; Charles Town, West Virginia 25414  
*Zone:* Residential-Light Industrial-Commercial

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#ZC17-01 TIMOTHY JOHNSON – OWNER/APPLICANT

*Issuance Date:* TBD  
*Proposed Use:* Antique Shop and Information Center  
*Physical Location:* 7279 Queen Street; Kearneysville, West Virginia 25414  
*Zone:* Village

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**ZONING CERTIFICATE EXEMPTIONS (Sec. 4A.2)**

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#ZC16-45 THOMAS LAKE – OWNER  
ANDY COLANDREA - APPLICANT

*Issuance Date:* December 14, 2016 – Proposal does not require a Zoning Certificate  
*Proposed Use:* Limo Service. Vehicles to be parked and maintained offsite.  
*Physical Location:* 60 Monte Carlo Way; Charles Town, WV 25414  
*Zone:* Residential-Light Industrial-Commercial

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

*Issuance Date:* December 21, 2016 – Proposal does not require a Zoning Certificate  
*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

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