



Jefferson County
Board of Zoning Appeals
Thursday, March 23, 2017, 2:00 p.m.

Members
Tyler Quynn, Chair
Jeffrey Bannon, Vice Chair
Matt Knott
Ted Schiltz
Jeff Bresee
Deirdre Catterton, 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 pm 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 February 23, 2017 meeting.
 2. Swearing in of members of the public intending to provide testimony.
 3. Variance request from Section 4.18 to allow a staffed model townhome on Lots 50 - 67, which are located within the interior of the subdivision. Property Owner: Beallair Homes, LLC. Location: Beallair Subdivision, fronting Lewis Washington Dr. & Clover Lea Way, Charles Town. District: Harpers Ferry (04); Map: 10A; Parcel: RESB / 50; Combined acreage: ~3.00 ac combined; Zone: Residential Growth; File: ZV17-02.
 4. Variance request from Section 9.7 to reduce the front setback from 20' to 12'; and the side setback from 8' to 6' to allow for the replacement of a home that will be larger than the existing home. Property Owner: Richard Pauley. Property Location: Harpers Ferry Campsites, 97 Skyhawk Trail, Harpers Ferry. District: Harpers Ferry (04); Map: 13D; Parcel 15; Size: 8,191 sf; Zone: Rural; File: ZV17-03.
 5. Zoning Administrator's Report
 - a. Monthly Zoning Certificate Activity Report
 6. Legal Update
 - a. Possible executive session on the follow pending lawsuits: None.
 - b. Discussion with possible deliberative session and signing of draft findings/decisions.
- Meeting February 23, 2017
- i. Variance request by Michael Witteried, applicant, from Section 9.7, Appendix A and B. File: ZV17-01.

Minutes
Jefferson County Board of Zoning Appeals

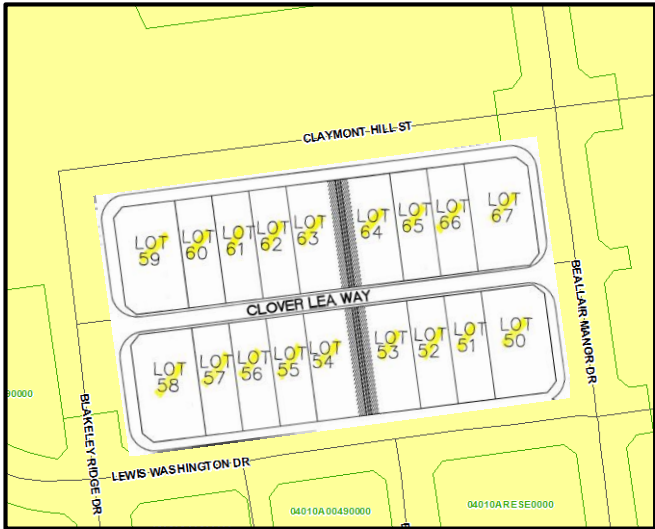
- 1 Meeting Date: February 23, 2017
- 2 Meeting Location: Charles Town Library Conference Room
3 200 East Washington Street, Charles Town, West Virginia
- 4 Board members present: Tyler Quynn, Chair; Jeffrey Bannon, Vice Chair; Matt Knott, Ted Schiltz,
5 Jeff Bresee, and Deirdre Catterton, Alternate
- 6 Absent members: None
- 7 Staff members present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, Assistant
8 Prosecuting Attorney; and, Jennilee Hartman, Zoning Clerk
- 9 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.
- 10 Mr. Schiltz moved to call the meeting to order at 2:00 p.m. The motion carried unanimously.
- 11 Mr. Quynn explained to the public how the meeting would be conducted.
- 12 1. Approval of the January 12, 2017 meeting minutes.
- 13 Mr. Bannon requested that his name be corrected on page one, line 4. Mr. Bresee moved to
14 approve the January 12, 2017 minutes with Mr. Bannon's correction. The motion carried
15 unanimously.
- 16 2. Ms. Hartman swore in members of the public who indicated they would be providing testimony.
- 17 3. Variance request by Michael Witteried, applicant, from Section 9.7, Appendix A and B to
18 reduce the building setbacks for a lot that is greater than 2 acres (40' Front, 15' Side, 50' Rear)
19 to the setbacks required for a lot that is 40,000 sq. ft. to 2 acres (25' Front, 12' Side, 12' Rear).
20 Property Owners: Linda P. Conn & Marshall T. Campbell. Property Location: Properties
21 located on the east & west side of War Admiral Blvd at its intersection with Currie Road.
22 District: Charles Town (02); Map: 2; Parcel: 18.1; Size: 2.21; Zone: Rural; File: ZV17-01.
- 23 Mr. Michael Witteried, applicant, was present to address the Board. Ms. Beaulieu delivered
24 an overview of the staff report and addressed questions from the Board. Mr. Witteried stated
25 that staff had presented most of the facts regarding the request and had only a few additional
26 comments to share with the Board. Mr. Witteried requested that the Board not impose the
27 following staff suggested condition of approval, "The variance applies only to residential
28 structures." but rather allow the variance to apply to any permitted use in the rural district.
29 Mr. Witteried explained that his variance also requested that the Board consider the property
30 line that bordered the controlled access ramp along Route 9 to be designated as a side yard (to
31 allow a 12' setback). The Board acknowledged the intent of his request. Mr. Witteried
32 answered questions from the Board. Mr. Quynn opened the public hearing.
- 33 Mr. Richard Wilson, concerned resident, had questions regarding the difference between rural
34 and residential designations and expressed concern that a commercial operation may be
35 permitted as a result of the request. Mr. Knott explained that the applicant would only be
36 allowed to conduct land used listed as permitted uses in the Zoning Ordinance. Ms. Beaulieu
37 confirmed that any other land use would require a public hearing and potentially a rezoning
38 depending on the proposed land use. Mr. Quynn advised Mr. Wilson on land use processes.
39 Mr. Wilson thanked the Board for their time. Mr. Quynn closed the public hearing.
- 40 Mr. Knott moved to approve the request as presented and stated that the applicant was bound by
41 their testimony. Mr. Bresee seconded the motion, which carried unanimously.

- 1 4. Zoning Administrator's Report
- 2 a. Monthly Zoning Certificate Activity Report. This report was provided to the Board in the
- 3 mailed packet.
- 4 Ms. Beaulieu updated the Board on the status of the outstanding text amendments.
- 5 5. Legal Update. Mr. Cochran informed the Board that Ms. Lehman took a position with the
- 6 Berkeley County Prosecuting Office and that, in addition to serving the County Commission,
- 7 he would also serve as the Board's legal counsel for the time being. The Board noted that they
- 8 appreciated the counsel Ms. Lehman provided and remarked on her excellent performance
- 9 while serving the Board.
- 10 a. Possible executive session on the follow pending lawsuits: None.
- 11 b. Discussion with possible deliberative session and signing of draft findings/decisions
- 12 Meeting January 12, 2017
- 13 i. Appeal of the Zoning Administrator's determination by Thomas Hayden, President of
- 14 the Runnymede Homeowners Association, to permit Lisa and James Boyer to operate a
- 15 dog kennel (#ZC16-37) located at 5404 Kabletown Rd. in Charles Town. File: AP16-02.
- 16 ii. Variance request by CTSS, LLC, property owner, from Section 4.11A.2 & 8.9A.10 and
- 17 Appendix B File: ZV16-27.
- 18 iii. Variance by Alex Arneson and Christina Firaben from Section 5.7(b). File: ZV16-28.
- 19 Mr. Cochran provided the Board with a draft copy of the Findings for each request. Mr. Quynn
- 20 will sign the Findings once the suggested edits are completed.
- 21 Mr. Knott moved to adjourn the meeting at 2:36 p.m. Mr. Quynn called for a vote, which
- 22 carried unanimously.

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 March 23, 2017

Beallair Variance Request (#ZV17-02)

Item #3: Variance from Section 4.18 to allow a townhouse model home/sales office (staffed or unstaffed) to be placed on Lots 50 - 67, within Phase 2 of the Beallair Subdivision.

APPLICANT:	Piedmont Design Group
OWNER:	Beallair Homes, LLC
DEVELOPER:	Same as Applicant
CONSULTANT:	Same as Applicant
PROPERTY LOCATION:	Beallair Subdivision, fronting Lewis Washington Dr. & Claymont Hill St. (homes accessed via Clover Lea Way), Charles Town
LEGAL DESCRIPTION & ZONING DISTRICT:	<p style="text-align: center;">District: 04; Map: 10A; Parcel: RESB / 50 Size: ~3.00 ac. combined; Zone: RG</p> 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> RG <i>South:</i> RG <i>East:</i> RG <i>West:</i> RG
SUBDIVISION HISTORY: Planning Commission Approvals	09/14/04: PC approved Final Plat for Beallair Phase I (#02-36) 10/24/06: PC approved Final Plat for Beallair Phase II (#05-41) 02/26/08: PC approved CIS for Beallair West (#07-30) 10/27/09: PC approved Final Plat (#08-21)
SUBDIVISION VARIANCE(S):	03/25/03: PC approved the following variances: <ul style="list-style-type: none"> • Reduce finished road width from 20' to 15' for one-way rear access drives w/ no shoulders; • No curb & gutter in alleys; or, the one-way rear access drives; • Allow an inverted crown for drainage in one-way rear access drives; • Allow two (2) side-by-side, on-site parking spaces; • Reduce ROW width from 50' to 44' in the main road passing through the TND villa areas; and, • Reduce one-way rear access drives from 50' to 20' to serve the garages. 03/23/04: PC approved the following variances: <ul style="list-style-type: none"> • Min. finished road width from 24' to 15' for rear access drives; • No curbs included with the rear access drives;

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 March 23, 2017

Beallair Variance Request (#ZV17-02)

	<ul style="list-style-type: none"> • No sidewalks on the one-way rear access drives; • A reduction from 3' to 2.5' for the back of the curb from the edge of the pavement; • No buffer screening between common areas & adjoining single family lots. <p>09/12/06: PC approved a variance to extend the 24-month provision for a period of 12 months to 09/12/07.</p> <p>08/26/08: PC approved a variance to extend the 24-month provision for a period of 12 months to 08/26/09.</p>
<p>ZONING VARIANCES:</p>	<p>07-19-12: BZA approved a variance to reduce the rear setback from 20' to 17' for the construction of a 12' x 16' screened porch. (ZV12-24).</p> <p>07-24-14: BZA approved a variance to reduce the rear setback from 20' to 3' to construct a deck.</p> <p>04-28-16: BZA approved a variance to reduce the rear setback from 20' to 10' to construct a deck (ZV16-09).</p> <p>07-28-16: BZA approved a variance to reduce rear setback from 20' to 12' for Lots 112, 127, and 128 (ZV16-12).</p> <p>07-28-16: BZA approved a variance to allow a staffed model home on Lot 111 (ZV16-13).</p> <p>10/27/16: BZA approved a variance to allow a staffed model townhome on Lot 51 (ZV16-21).</p>
<p>APPROVED ACTIVITY:</p>	<p>Townhomes (lots 50 – 67)</p>

RELEVANT INFORMATION:

1. Previous Case History

An overview of the Beallair Case History is as follows:





- Beallair Phase I, Lots 1-49 & Residue Parcels A, B, C, D & E. Recorded: 12/08/04 (Plat Bk: 21; Pg: 54)
- Beallair Phase II, Lots 50-133, Residue Parcel A. Recorded: 01/16/07 (Plat Bk: 23; Pg: 91)
 - A minor plat change to revise and update drainage areas, Recorded: 06/19/14 (Plat Bk: 25; Pg: 457)
- Final Plat of Commercial Parcel 1, Plantation Ln & Parcel A. Recorded: 01/25/10 (Plat Bk: 25; Pg: 184)
- Minor Plat Change to revise utility easements (Plat Bk: 25, Pg: 563)
- Minor Plat Change to revise setbacks (Plat Bk: 25, Pg: 589)

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

Staff Report
Jefferson County Board of Zoning Appeals Meeting
March 23, 2017

Beallair Variance Request (#ZV17-02)

Beallair Subdivision

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



2. Staff Evaluation of Request

a. Purpose of ordinance requirements

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

b. Character of area/Impact on adjacent properties

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

c. Feasibility of complying with the ordinance by other means

The current request is to allow for a new style townhouse model to be either staffed or unstaffed on Lots 50 thru 67. The Zoning Ordinance allows for staffed model homes to be located within a subdivision if a variance is approved by the Board.

3. Conditions of Approval

No conditions of approval are identified for this variance request.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.18 Model Homes/Sales Offices

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

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

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



JEFFERSON COUNTY, WEST VIRGINIA

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

File Number: #ZV17-02
Staff Initials: CFC
Fees Paid (\$100 or \$150): \$100.00

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

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

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

Zoning Variance Request

Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

Property Owner Information

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

Applicant Contact Information

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

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

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

Physical Property Details

Physical Address: ~~Beallair Manor Drive & Lewis Washington Drive, Lot 51~~ + Claymont Hill St. Lots 50-67
City: Charles Town State: WV Zip Code: 25414
Tax District: Harpers Ferry Map No: 10 Parcel No: 3.2 - 3.4
Parcel Size: 28.3 acres Deed Book: 975; 977 Page No: 635; 490 & 495

Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG) [checked], Industrial Commercial (IC) [], Rural (R) [], Residential-Light Industrial-Commercial (R-LI-C) [], Village (V) [], Neighborhood Commercial (NC) [], General Commercial (GC) [], Highway Commercial (HC) [], Light Industrial (LI) [], Major Industrial (MI) [], Planned Neighborhood Development (PND) [], Office/Commercial Mixed-Use (OC) []

RECEIVED

FEB 21 2017

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: 1988 Jefferson Cty Zoning Ordinance sect 4.18

Briefly describe the nature of the variance request:

To allow townhouse model home/sales office (either staffed or unstaffed) to be placed on an applicable phase 2 townhome lot. Applicable lots herein are Lots 50 thru 67.

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

Front Setback Side Setback Rear Setback Reduction From _____ to _____

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

The variance granting will not impact the public.

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

Phase 1 townhouse has been sold. A new style townhouse will now be offered. A staffed or unstaffed model home/sales office is desired on an applicable phase 2 townhome lots. Applicable lots herein are Lots 50 thru 67.

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

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

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

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

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

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

Signature of Property Owner

Date


Signature of Property Owner

02/20/17

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)).

MARCH 23, 2017 @ 2:00 P.M.

Date of Public Hearing

WEDNESDAY, MARCH 8, 2017

Advertising Date

WEDNESDAY, MARCH 8, 2017

Placard Posting Date

#ZV17-02



February 20, 2017

Ms. Alexandra Beaulieu, Office/Project Manager
Jefferson County Department of Planning and Zoning
104 East Washington Street
Charles Town, WV 25414

RE: The Community of Beallair
Variance Request for a SF attached model home within phase 2

Dear Ms. Beaulieu,

We respectfully request that the enclosed Variance Request and attachments be placed on the March 2017 Board of Zoning Appeals agenda, to request a variance of Section 4.18 of the Jefferson County Zoning and Land Development Ordinance Adopted July 7, 1988 (with Steptoe Amendments) for the reference project.

On behalf of Beallair Homes, LLC, we have enclosed the following for review: one (1) original Variance Request, attachments, and the fee check.

If you have any questions or require additional information, please feel free to call me at (301) 695-6614 x 132 or email me at todd.abe@wormald.com.

Sincerely,

PIEDMONT DESIGN GROUP, LLC

Todd Abe
Project Manager

Cc: Robert Wormald, Jr.
Edward Wormald
Mike Wiley, P.E., P.S.
File: BA -2.1.1/6.

RECEIVED

FEB 21 2017

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

JEFFERSON COUNTY, WEST VIRGINIA
Departments of Planning & Zoning

116 East Washington Street
P.O. Box 338
Charles Town, West Virginia 25414

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

Email: zoning@jeffersoncountywv.org

File Number: # ZV17-02

I authorize the staff of Department of Planning and Zoning to make necessary revisions to the enclosed submission, if required for processing. I understand that said revisions will be discussed with me prior to content modification.

Applicant PRINTED Name: Mike Wiley
Applicant Signature: *Mike Wiley*
Contact Number: (301)695-6614
Date: 02/20/ 2017

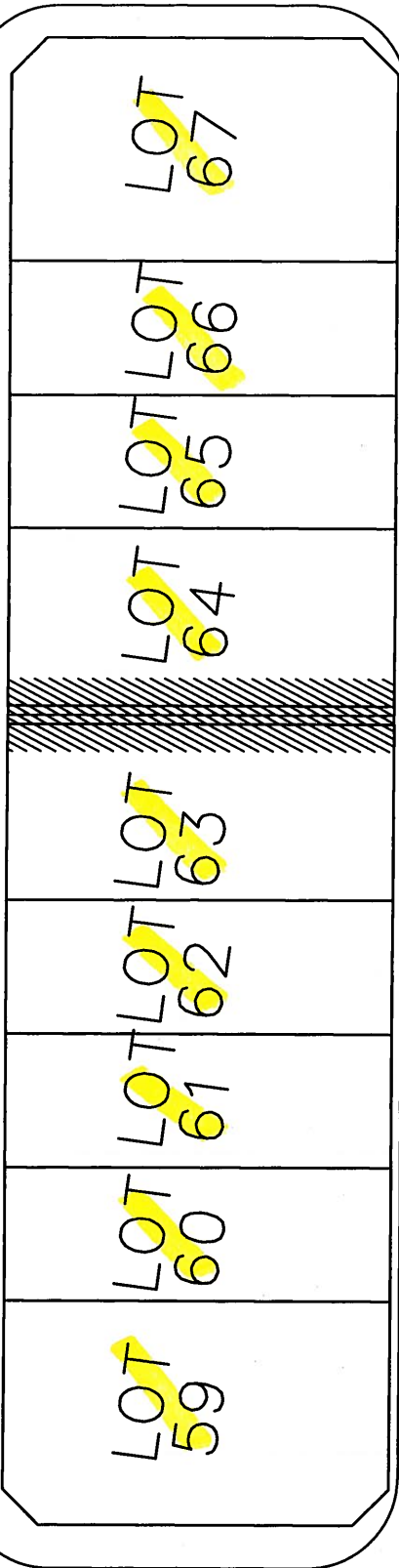
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FEB 21 2017

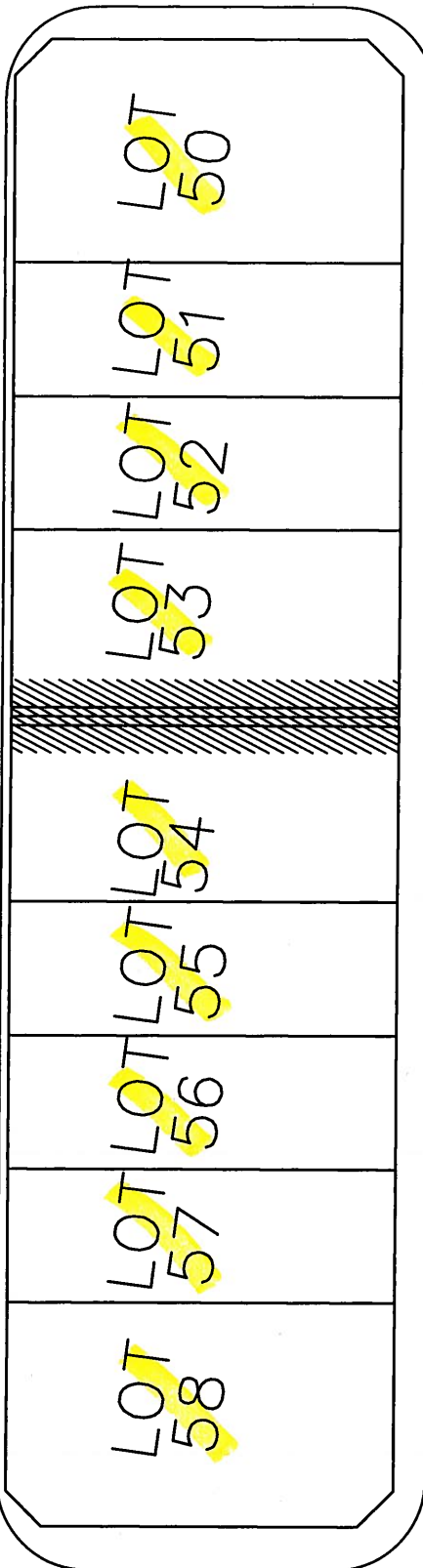
JEFFERSON COUNTY PLANNING & ZONING & ENGINEERING

BEALLAIR MANOR DRIVE

CLAYMONT HILL STREET



CLOVER LEA WAY



LEWIS WASHINGTON DR.

RECEIVED

FEB 21 2017

#ZV17-02

BR

AMW
02/20/17

B. C. PARTNERSHIP, INC.
DIST. 4 MAP 10 PAR. 2
DB. 850 PG. 470

B. C. PARTNERSHIP, INC.
DIST. 4 MAP 10 PAR. 3
DB. 850 PG. 470

05/23/2016 MINOR PLAT CHANGE
REVISION A BY
BEALLAIR HOMES, LLC

REVISION A BY
BEALLAIR HOMES, LLC

SHEET INDEX	
▲▲ COVER	----- SHEET 1 OF 1
▲▲ COVER	----- SHEET 2 OF 1
▲▲ COVER	----- SHEET 3 OF 1
▲▲ COVER	----- SHEET 4 OF 1
▲▲ COVER	----- SHEET 5 OF 1
▲▲ COVER	----- SHEET 6 OF 1
▲▲ COVER	----- SHEET 7 OF 1
▲▲ COVER	----- SHEET 8 OF 1
▲▲ COVER	----- SHEET 9 OF 1
▲▲ COVER	----- SHEET 10 OF 1

SYMBOL KEY

UNLESS LABELED OTHERWISE,
ALL CORNERS SHOWN AS ○
ARE TO BE SET 5/8" REBARS
PER NOTE ON SHEET 1.
CONCRETE MONUMENTS ARE SHOWN:
CONC. MON. □

LEGEND

Subdivision Boundary Line	-----
Lot Boundary Line	-----
Adjoiner Boundary Line	-----
Easement Boundary Line	-----
Centerline	-----
Fence Line	x-----x
Existing Utility Pole	○
Building Setback Limit Line	-----

REVISIONS

Date	Description
10/10/2006	Per JCPC Checklist
05/15/2014	MINOR PLAT CHANGE ▲
05/23/2016	MINOR PLAT CHANGE ▲
09/23/2016	MINOR PLAT CHANGE ▲

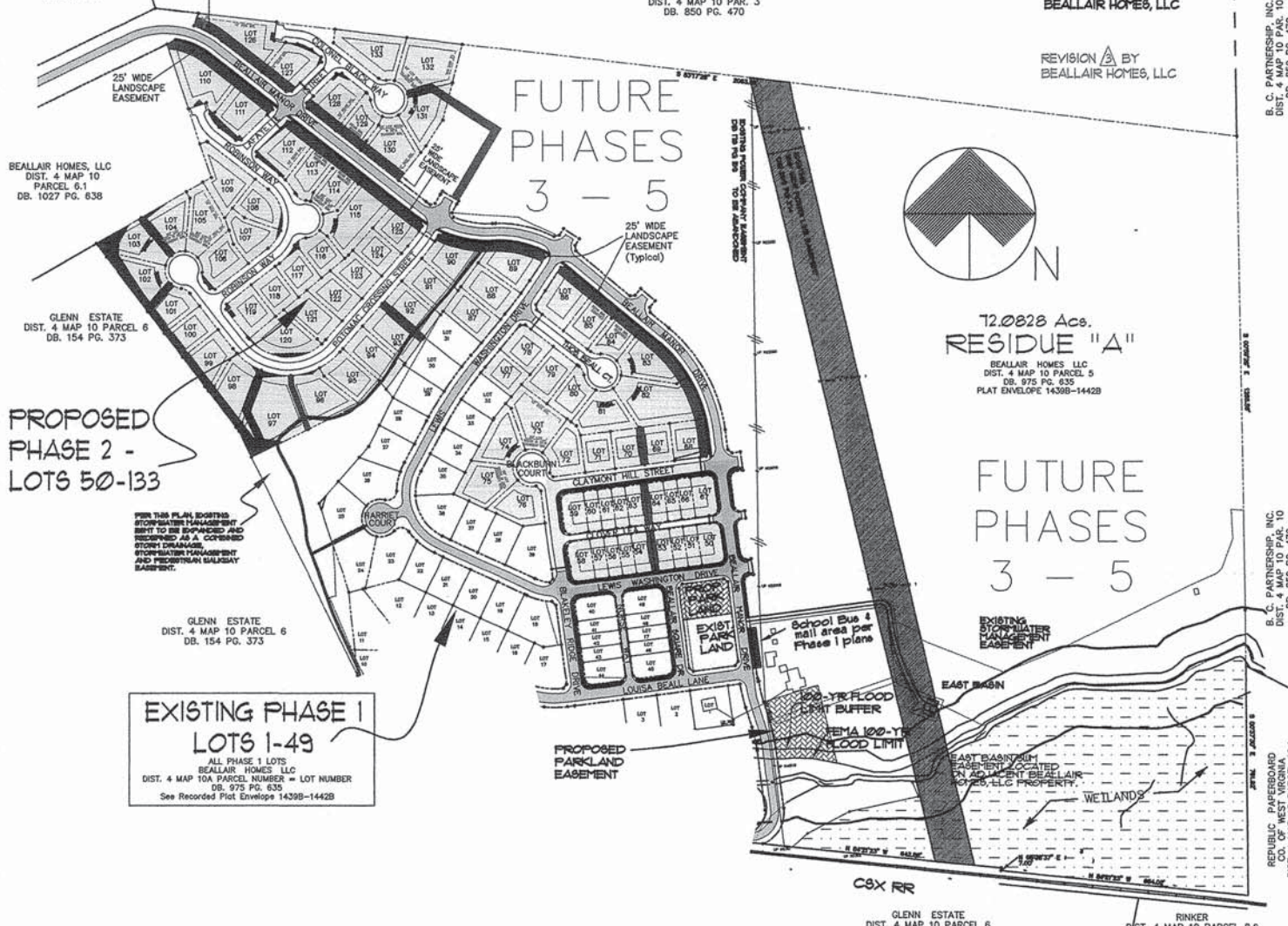
**DRIVEWAY
CULVERT CHART**

SWALE SECTION permitted on:

- Lot 72-76
- Lot 79-82
- Lot 84-105
- Lot 106 on Potomac Crossing
- Lot 109-110
- Lot 111 on Lafayette
- Lot 112 on Lafayette
- Lot 119 on Potomac Crossing
- Lot 126
- Lot 128 on Lafayette
- Lot 132-133.

All other Lot Frontages require a
15" CMP (or 13"x11" CMPA) Culvert,
or approved equivalent.

SURVEYOR:
MICHAEL I. WILEY, P.E., P.S.
WV PROFESSIONAL SURVEYOR NO. 1044
FOR
BEALLAIR HOMES, LLC
5283 CORPORATE DRIVE, SUITE 300
FREDERICK, MARYLAND 21703
301-695-6614



PROPOSED
PHASE 2 -
LOTS 50-133

FUTURE
PHASES
3 - 5

72.0828 Acs.
RESIDUE "A"

FUTURE
PHASES
3 - 5

EXISTING PHASE I
LOTS 1-49
ALL PHASE 1 LOTS
BEALLAIR HOMES, LLC
DIST. 4 MAP 10A PARCEL NUMBER = LOT NUMBER
DB. 975 PG. 635
See Recorded Plat Envelope 14398-14428

OWNER/DEVELOPER:
BEALLAIR HOMES, LLC
5283 CORPORATE DRIVE, SUITE 300
FREDERICK, MARYLAND 21703
301-695-6614

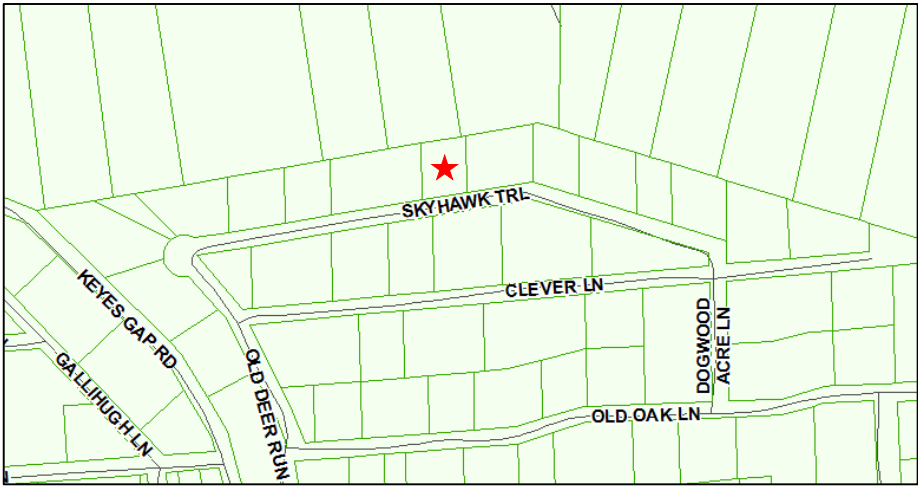
FINAL PLAT showing
Lots 50 - 133 and Residue Parcel A
BEALLAIR - PHASE 2
HARPERS FERRY MAGISTERIAL DISTRICT
Map 10 Parcels 92-34
Deed Book 575 Page 635 and
Deed Book 571 Page 430 & 435
JEFFERSON COUNTY, WV
JUNE 2006

Plotted: Sep 06, 2016 at 11:06am
 S:\Civil\New Business\BEALLAIR\PHASE 2\PHASE 2 FINAL PLAT\Minor Plat Change 4-2016\Revised-Section2 Minor Plat Change-04052016.dwg
 REVISION A BY BEALLAIR HOMES, LLC
 drawn by COLIN J. MITCHELL
 PROJECT MANAGEMENT
 1488 Engle Meters Road
 Harpers Ferry, WV 25425
 304-978-9390 (fax 304-878-3088)

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 March 23, 2017

Pauley Variance Request (#ZV17-03)

Item #4 Variance request from Section 9.7 to reduce the front setback from 20' to 12'; and the side setback from 8' to 6' to allow for the replacement of a home that will be larger than the existing home.

Applicant:	Richard Pauley				
Owner:	Same as above				
Developer:	N/A				
Consultant:	N/A				
Property Location:	Harpers Ferry Campsites, 97 Skyhawk Trail, Harpers Ferry				
Legal Description & Zoning District:	<p style="text-align: center;">District: Harpers Ferry (04); Map: 13D; Parcel 15 Size: 8,181 sf; Zone: Rural</p> 				
Surrounding Properties:	<p>Zoning Map Designation:</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td><i>North:</i> Rural</td> <td><i>South:</i> Rural</td> </tr> <tr> <td><i>East:</i> Rural</td> <td><i>West:</i> Rural</td> </tr> </table>	<i>North:</i> Rural	<i>South:</i> Rural	<i>East:</i> Rural	<i>West:</i> Rural
<i>North:</i> Rural	<i>South:</i> Rural				
<i>East:</i> Rural	<i>West:</i> Rural				
History:	N/A				
Waivers/Variations:	None				
Approved Activity:	Residential				

RELEVANT INFORMATION:

1. PREVIOUS CASE HISTORY

The subject parcel is comprised of Lots 32 - 35 of the Harpers Ferry Campsites, which was recorded in the Court House on October 24, 1966. This subdivision was created prior to the adoption of subdivision and zoning regulations in the County.

2. STAFF EVALUATION OF REQUEST

a. Summary of Request and Purpose of Ordinance Requirements

The applicant is requesting a variance to reduce the front setback requirement from 20' to 12' and to reduce the east side setback from 8' to 6' in order to replace an existing 8' x 40' (320 sq. ft.) home with a new, larger home (proposed dimensions of 14' x 66' [924 sq. ft.]).

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

Staff Report
Jefferson County Board of Zoning Appeals Meeting
March 23, 2017

Pauley Variance Request (#ZV17-03)

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 lot is approximately 8,181 square feet. The majority of the lots in this neighborhood are considered non-conforming sites as they do not meet the dimensional standards required by current County Regulations. Under current County Regulations, the minimum lot size in the Rural district is 40,000 square feet to accommodate well and septic areas.



c. Impact on adjacent properties

According to the applicant, the neighboring property to the east is vacant and has been vacant for several years. During a site visit, Staff noted that it did appear the existing house on the neighboring property to the east had been abandoned. A side setback reduction from 8' to 6' would likely have minimal impact on the neighbor to the east, should someone take up residence in the future.

The applicant is also requesting a front setback reduction from 20' to 12'. The property fronts Skyhawk Trail; therefore, a reduced front setback would appear to have no impact on adjacent properties. When reviewing aerial imagery, it appears the neighbor's home to the west of the subject parcel is at least 12' from their property line, if not slightly closer. A reduction from 20' to 12' would not be out of character for the neighborhood.

e. Feasibility of complying with the ordinance by other means

Based on the dimensions of the property, the applicant could potentially situate the home to meet the front setback, even with the larger footprint. However, it should be noted that during a site visit, Staff noted a large tree trunk in front of the existing home. This may create an obstacle for the applicant when trying to situate the new, larger home to meet the 20' setback.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
March 23, 2017

Pauley Variance Request (#ZV17-03)



Placement of the new, larger home in a location that complies with the 20' front setback may limit where the applicant could potentially construct accessory structures (such as a shed) in the future due to the drainfield located in the rear portion of the property. Reducing the front setback would allow the applicant to construct an accessory structure in the future, should he so choose.

5. Conditions of Approval

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

- a) No conditions of approval have been identified.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 9.7 Other Exceptions³

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:²³

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
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
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: #ZV17-03
 Staff Initials: cfc
 Meeting Date: B-23-17
 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: Richard Pauley
 Mailing Address: 608 Tory Town Rd Bunker Hill WV 25425
 Phone Number: 304-261-1762 Email: richard21@frontier.net

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: 97 Skyhawk Trail
 City: Harpers Ferry State: WV Zip Code: 25425
 Tax District: Harpers Ferry Map No: 13D Parcel No: 15
 Parcel Size: 8181 sf Deed Book: 1007 Page No: 177

Zoning District (please check one)

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"/>	
			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"/>

RECEIVED

FEB 24 2017

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: Setback Variance

Briefly describe the nature of the variance request:

I would like to reduce the side setback of a mobile home when replacing an old one with more modern one. Also not a must be would be great if I could reduce the front setback considering the lot size of the 60's.

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

Front Setback Side Setback Rear Setback Reduction From 20ft to 12ft
8ft to 6ft

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

The variance will not adversely affect the adjacent property owner because the premises have been vacant for close to 20 years and is grown up. If possible I'd like to reduce front setbacks like the opposite adjacent property.

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?

By seeking this variance I would be able to put in a newer mobile home on some property that was zoned in the 1960's and can't comply with the new zoning laws that were adopted since.

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

By granting this variance I will be able to afford to upgrade a mobile home instead of with a newer model in which I could purchase.

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

By granting the variance I will be able to move an older smaller mobile home out and replace with a more modern one. Also, by doing this I will be making improvements for the neighborhood.

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.

Richard Paul 12-22-17
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).

Date of Public Hearing

Advertising Date

Placard Posting Date

JEFFERSON COUNTY, WEST VIRGINIA

Office of Planning & Zoning

116 East Washington Street

P.O. Box 338

Charles Town, West Virginia 25414

Phone: (304) 728-3228

Fax: (304) 728-8126

Email: zoning@jeffersoncountywv.org

File Number: #ZV17-03

I authorize Planning and Zoning staff to make necessary revisions to the enclosed submission, if required for processing. I understand that said revisions will be discussed with me prior to content modification.

Applicant PRINTED Name: RICHARD PALIKEY

Applicant Signature: _____

Contact Number: (304) 261-1762

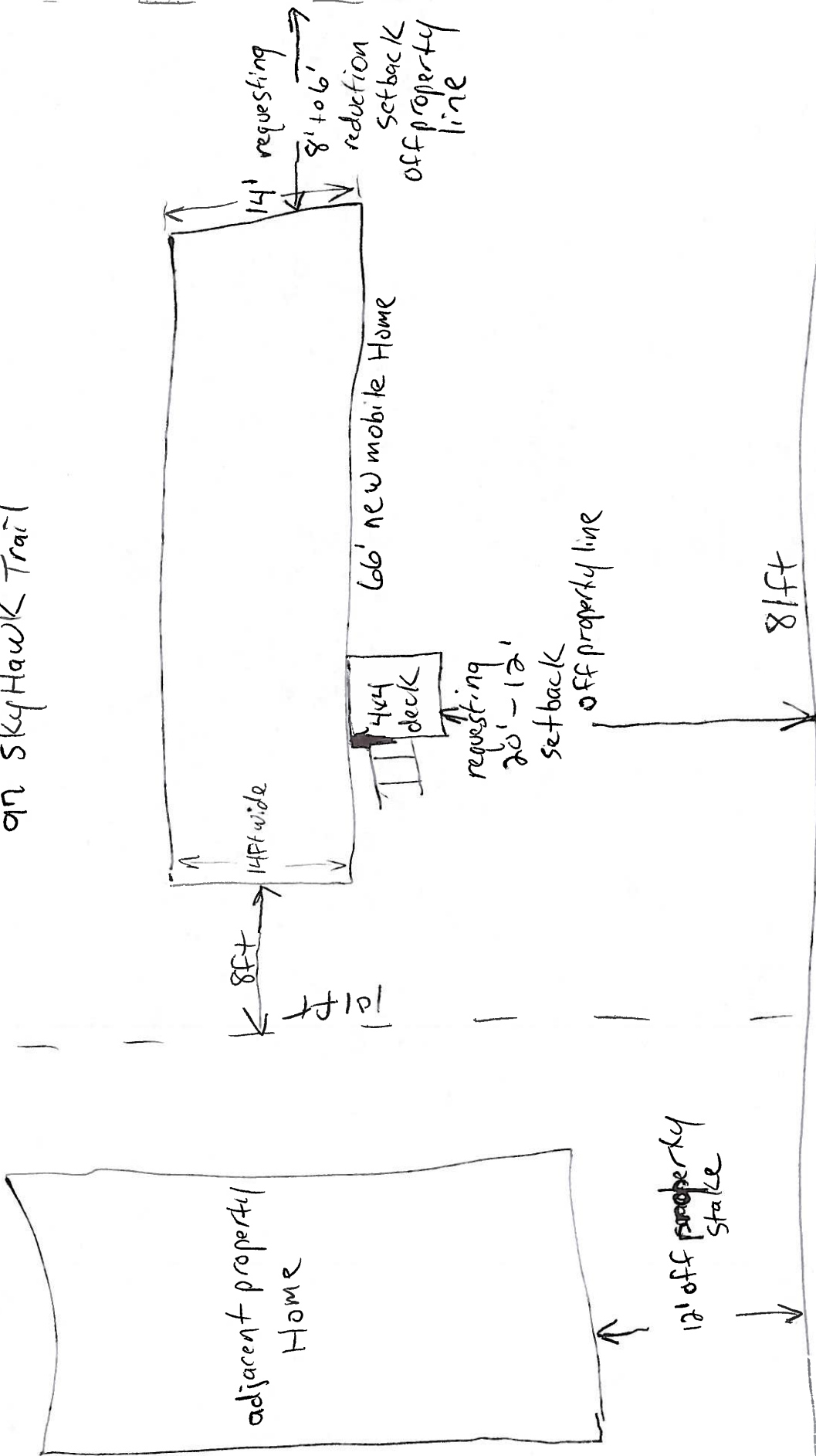
Date: FEBRUARY 24, 2017

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vacant property for close to 20 years

lot size 81' by 101'
drainfield in rear off property

on SkyHawk Trail



RECEIVED

#ZV17-03

FEB 24 2017

SkyHawk Trail



Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

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Charles Town, WV 25414

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Zoning Administrator's Report Board of Zoning Appeals Meeting March 23, 2017

1) LESA/Conditional Use and Cluster Subdivision Provision Modifications

- The County Commission requested a legal review the proposed amendment on February 2, 2017. On March 2, Legal provided an overview of recommended changes. The County Commission accepted the changes and requested that staff submit a final draft of the document on March 16 for a final vote to adopt the amended version. We anticipate the County Commission voting to adopt ZTA16-01 on March 16.

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. Following a recent discussion, Mr. Burke indicated he would like to submit a draft to the Planning Commission for their May 9 meeting.
 - b) Parking Standards
 - i. Staff will begin drafting an amendment to submit to the Planning Commission this summer.
 - c) Landscape Standards
 - i. Staff will begin drafting an amendment to submit to the Planning Commission this summer.
 - d) Signage
 - i. Staff will begin drafting an amendment to submit to the Planning Commission this summer.

3) Upcoming BZA meeting

- Next Regular Meeting: **April 27, 2017** (deadline for submissions: Friday, March 31, 2017)



JEFFERSON COUNTY, WEST VIRGINIA

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MEMORANDUM

TO: Board of Zoning Appeals Members
CC: Engineering & Building Permits Offices
FROM: Alexandra Beaulieu, Zoning Administrator
DATE: March 16, 2017
SUBJECT: March Zoning Certificate Activity Report

ISSUED ZONING CERTIFICATES

#ZC17-04 RAI PROPERTIES, LLC – OWNER
SECOND IMPRESSIONS BOUTIQUE LLC / CONTACT: ASHLEY ZIMMERMAN –
APPLICANT

Issuance Date: February 17, 2017
Proposed Use: Change in Tenant. Consignment Shop.
Physical Location: 43 Ruland Road; Suite F; Kearneysville, West Virginia 25430
Zone: Industrial-Commercial

#ZC17-03 MATT KNOTT, RIVER RIDERS INC, HARPERS FERRY HOLDINGS INC - OWNERS
PAUL J. RACO w/ P.J. RACO CONSULTING, LLC – CONSULTANT

Issuance Date: February 28, 2017
Proposed Use: Helipad as Commercial Use for existing approved recreational tourism site.
Physical Location: 408 Alstadts Hill Road; Harpers Ferry, West Virginia 25425
Zone: Residential-Light Industrial-Commercial

#ZC17-07 MATT KNOTT, RIVER RIDERS INC, HARPERS FERRY HOLDINGS INC - OWNERS
PAUL J. RACO w/ P.J. RACO CONSULTING, LLC – CONSULTANT

Issuance Date: February 28, 2017
Proposed Use: Recreation and Commercial Tourism Operation comprised of various indoor and outdoor recreation areas including Zip Lines; Miniature Golf; Paintball Course; Arcade; Laser Tag; Sky Rides; FlowRider; Neveplast Tubing; Zorbing; Adventure and Obstacle Courses; Climbing; Camping; Cabins; Vacation Rentals; Event Facility (dining, meeting and entertainment spaces); Food Service; Maintenance Buildings; Administrative Offices and Retail.

Physical Location: 408 Alstadts Hill Road; Harpers Ferry, West Virginia 25425
Zone: Residential-Light Industrial-Commercial

PENDING ZONING CERTIFICATES

#ZC17-05 WV 340 LLC – MICHAEL COLLIER / CONTACT: LINDA LYONS– OWNER
BPIZZA OF WEST VIRGINIA / CONTACT: LEE GARVIN – APPLICANT

Issuance Date: TBD
Proposed Use: Change in Tenant. Pizza Restaurant to include indoor and patio dining and carry-out.
Physical Location: 71 Jefferson Crossing Way, Suite F Charles Town, WV 25414
Zone: Residential- Light Industrial-Commercial

#ZC17-06 PETER S. CORUM – OWNER
CORE MORTGAGE SERVICES, LLC – APPLICANT

Issuance Date: TBD
Proposed Use: Mortgage Services Office
Physical Location: 3988 Kearneysville Pike; Shepherdstown, WV 25443
Zone: Neighborhood Commercial

#ZC17-08 GYPSY FLEA MARKET / McLUCKY, LLC - ATTN: PHILIP McDONALD / OWNER
CONTACT: KEVIN DROST
AMERICAN PROMOTIONAL EVENTS dba TNT FIREWORKS /
CONTACT: VANESSA HIXON / APPLICANT

Issuance Date: TBD
Proposed Use: Temporary sale of legal fireworks in a 20' x 40' tent and storage container. Dates: 06/18/17 – 07/06/17. Time: 9:00 a.m.-10:00 p.m. daily. Removal: 07/07/17.
Physical Location: 154 Wolfcraft Lane; Charles Town, West Virginia 25414
Zone: Residential-Light Industrial-Commercial

#ZC17-09 WV 340 LLC – MICHAEL COLLIER / CONTACT: LINDA LYONS– OWNER
FIREWORKS NOW, LLC / CONTACT: ANDREW SAIKEN - APPLICANT

Issuance Date: TBD
Proposed Use: Temporary sale of legal fireworks in a 8'x 45' storage container. Dates: 06/08/17 – 07/08/17. Time: 9:00 a.m. - 10:00 p.m. daily. Removal: 07/08/17.
Physical Location: 186 Flowing Springs Road; Charles Town, West Virginia 25414
Zone: Residential-Light Industrial-Commercial
