



Jefferson County
Board of Zoning Appeals
Thursday, September 28, 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 July 27, 2017 meeting.
2. Swearing in of members of the public intending to provide testimony.
3. Variance from Section 5.4(b) to reduce the front setback for the townhome lots from 25' to 10' along a one-way alley (Clover Lea Way). Owner: Beallair Homes, LLC. Location: Beallair Subdivision, Lots 50 – 67 fronting on Lewis Washington Dr. & Claymont Hill St. & utilize Clover Lea Way for their access. District: Harpers Ferry (04); Map: 10A; Parcel: RESB / 50; Combined acreage: ~3.00 ac; Zone: Residential Growth; File: ZV17-14.
4. Variance from Section 5.4(b) to reduce the front setback from 25' to 10' along the southern boundary for Lots 283 through 289; to reduce the front setback from 25' to 10' along the eastern boundary for Lot 283; to reduce the front setback from 25' to 10' along the northern boundary for Lots 290 through 296; to reduce the front setback from 25' to 10' along the eastern boundary for Lot 296; to reduce the front setback distance from 25' to 10' along the southern boundary for Lots 297 through 304; and to reduce the front setback distance from 25' to 18' along the eastern boundary for Lot 297. Owner: Beallair Homes, LLC. Location: Beallair Subdivision. District: Harpers Ferry (04); Map: 10A; Parcel: RESA; Current acreage: ~72 ac; Zone: Residential Growth; File: ZV17-15.
5. Request for a Conditional Use Permit to add tobacco, beer, and wine sales to the existing Dollar General as a Retail Sales, Limited land use. Owner: SAGA Holdings, LLC. Applicant: Dolgencorp, LLC: Location: 4735 Middleway Pike, Kearneysville, WV 25430. District: Middleway (07); Map: 19; Parcel: 16.6; Size: 1.59 ac; Zone: Rural; File: CUP17-04.
6. Variance from Section 9.7 to reduce the side setback from 8' to 1' to construct a 28' x 30' attached garage. Owners: Russell & Janet Lloyd. Location: Tuscawilla Hills Subdivision, Lot 66, 1210 Tuscawilla Dr, Charles Town. District: Charles Town (02); Tax Map: 11A; Parcel: 4; Size: .328 ac; Zone: Residential Growth; File: ZV17-16.
7. Zoning Administrator's Report
 - a. Monthly Zoning Certificate Activity Report
 - b. Notice of Ethics and Open Meetings Training offered by the Jefferson County Commission Wednesday, October 18, 2017 at 7:00 PM – Charles Town Library Meeting Room
8. Legal Update
 - a. Possible executive session on the following pending lawsuits: None.
 - b. Discussion with possible deliberative session and signing of draft findings/decisions.
Meeting July 27, 2017
 - i. Variance from Sec. 9.7 & App. A. Owner: Bernard DeMartini and Terry Tucker. File: ZV17-13.

Minutes
Jefferson County Board of Zoning Appeals

1 Meeting Date: July 27, 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; Jeff Bresee, and
5 Ted Schiltz.

6 Absent members: Matt Knott (with notification)
7 Deirdre Catterton, Alternate (without notification)

8 Staff members present: Alexandra Beaulieu, Zoning Administrator and
9 Rhonda Greenholtz, Planning Clerk

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

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

12 Mr. Quynn explained to the public how the meeting would be conducted.

13 1. Approval of the June 22, 2017 meeting minutes.

14 Mr. Bresee moved to approve the June 22, 2017 minutes. Mr. Quynn called for a vote, which
15 carried unanimously.

16 2. Ms. Greenholtz swore in members of the public who indicated they would be providing
17 testimony.

18 3. Variance request from Section 9.7 and Appendix A to reduce the front setback from 20' to 12'
19 along both South King Street and the unimproved portion of Fairmont Avenue to allow for the
20 construction of a new home. Property Owner: Bernard DeMartini and Terry Tucker. Location:
21 Vacant lot on the corner of South King St. and unimproved Fairmont Ave. Shepherdstown, WV.
22 Tax District: Shepherdstown (09); Tax Map: 8B; Parcel 41; Size: .196 acres; Zone: Residential
23 Growth. File: ZV17-13.

24 Mr. Bernard DeMartini, applicant, was present to address the Board. Ms. Beaulieu delivered
25 an overview of the staff report and addressed questions from the Board. Mr. DeMartini briefly
26 explained the nature of the request to the Board. Mr. Quynn opened the public hearing. There
27 was no public comment. Mr. Quynn closed the public hearing.

28 Mr. Schiltz moved to approve the variance request from Section 9.7 and Appendix A. Mr.
29 Quynn called for a vote, which carried unanimously.

30 4. Zoning Administrator's Report

31 a. Monthly Zoning Certificate Activity Report. This report was provided to the Board in the
32 mailed packet.

33 Ms. Beaulieu reported on the status of pending text amendments and stated the next BZA
34 meeting would be August 24, 2017.

35 5. Legal Update.

36 a. Possible executive session on the follow pending lawsuits: None.

37 b. Discussion with possible deliberative session and signing of draft findings/decisions.

38 Meeting June 22, 2017

Board of Zoning Appeals

July 27, 2017

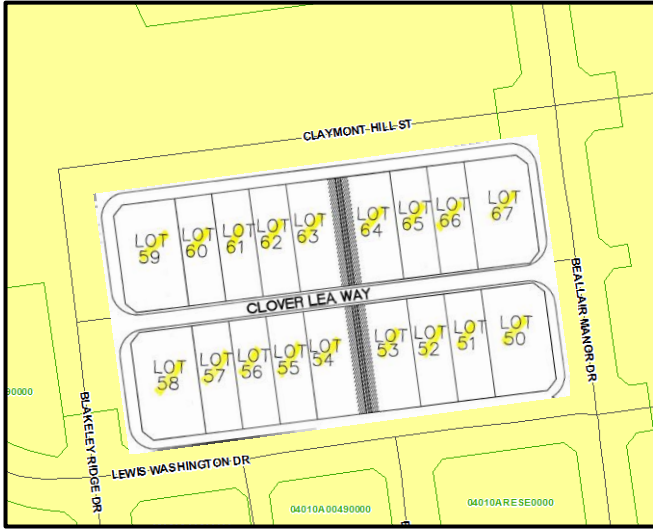
Page 2 of 2

- 1 i. Variance from Section 4.11A(1) & 4.11D and Appendix B. Owner/Applicant: Dr. Craig
2 Bush, Pastor, Grace Baptist Church. File: ZV17-10.
- 3 ii. Variance from Sec. 5.4(B) [of the Zoning and Land Development Review Ordinance, as
4 amended 11/07/02] Owner: Collis Holdings, LLC and F Squared, LLC. File: ZV17-11.
- 5 iii. Variance from Section 9.7. Owner: Patricia Dunn. File: ZV17-12.
- 6 iv. Request by applicant, The Middleway Conservancy Association Inc., for a Seasonal Use
7 Permit for “Reenactment of the Battle of Smithfield Crossing” to operate from
8 September 8-10, 2017. File: SU17-01(A – I).
- 9 Ms. Beaulieu provided the Board with a draft copy of the Findings for each request.
- 10 Mr. Bannon moved to adjourn the meeting at 2:13 p.m. Mr. Quynn called for a vote, which carried
11 unanimously.

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 September 28, 2017

Beallair Variance Request (#ZV17-14)

Item #3: Variance from Section 5.4(b) to reduce the front setback from 25' to 10' along Clover Lea Way for Lots 50-67.

APPLICANT:	Beallair Homes, LLC
OWNER:	Beallair Homes, LLC
DEVELOPER:	Same as Applicant
CONSULTANT:	Piedmont Design Group
PROPERTY LOCATION:	Beallair Subdivision, Phase 2, fronting Lewis Washington Dr. & Claymont Hill St. (homes accessed via Clover Lea Way), Charles Town
LEGAL DESCRIPTION & ZONING DISTRICT:	<p style="text-align: center;">Tax District: Harpers Ferry (04); Tax Map: 10A; Parcel: RESB / 50 Size: ~3.00 ac. combined; Zone: RG</p> 
SURROUNDING PROPERTIES:	<p>Zoning Map Designation:</p> <p>North: RG South: RG</p> <p>East: RG West: RG</p>
SUBDIVISION HISTORY: Planning Commission Approvals	<p>09/14/04: PC approved Final Plat for Beallair Phase I (#02-36)</p> <p>10/24/06: PC approved Final Plat for Beallair Phase II (#05-41)</p> <p>02/26/08: PC approved CIS for Beallair West (#07-30)</p> <p>10/27/09: PC approved Final Plat (#08-21)</p>
SUBDIVISION VARIANCE(S):	<p>03/25/03: PC approved the following variances:</p> <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. <p>03/23/04: PC approved the following variances:</p> <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
 September 28, 2017

Beallair Variance Request (#ZV17-14)

	<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>03/23/17: BZA approved a variance to allow a staffed model townhome on Lots 50-67 (ZV17-02)</p>
<p>APPROVED ACTIVITY:</p>	<p>Townhomes (lots 50 – 67)</p>

RELEVANT INFORMATION:

1. Previous Case History

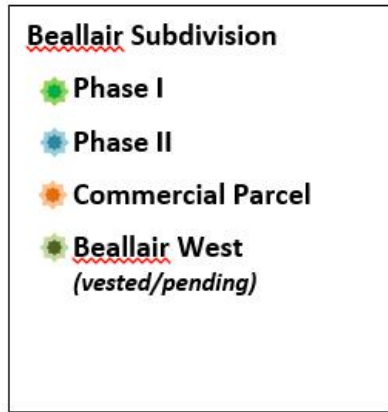
An overview of the Beallair Case History is as follows:

- 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)
- Minor Plat Change to revise setbacks (Plat Bk: 25, PG: 641)

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, 2020. 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
September 28, 2017

Beallair Variance Request (#ZV17-14)



2. Staff Evaluation of Request

a. Purpose of ordinance requirements

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

The primary purpose of a front yard setback is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that sight visibility is not impaired for drivers along the right-of-way. Right-of-way expansion is not a factor in this subdivision because these are privately maintained roads in a subdivision.

b. Character of area/Impact on adjacent properties

The subject parcels 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.

These lots have not yet been constructed; therefore, there is no negative impact on adjacent properties.

c. Feasibility of complying with the ordinance by other means

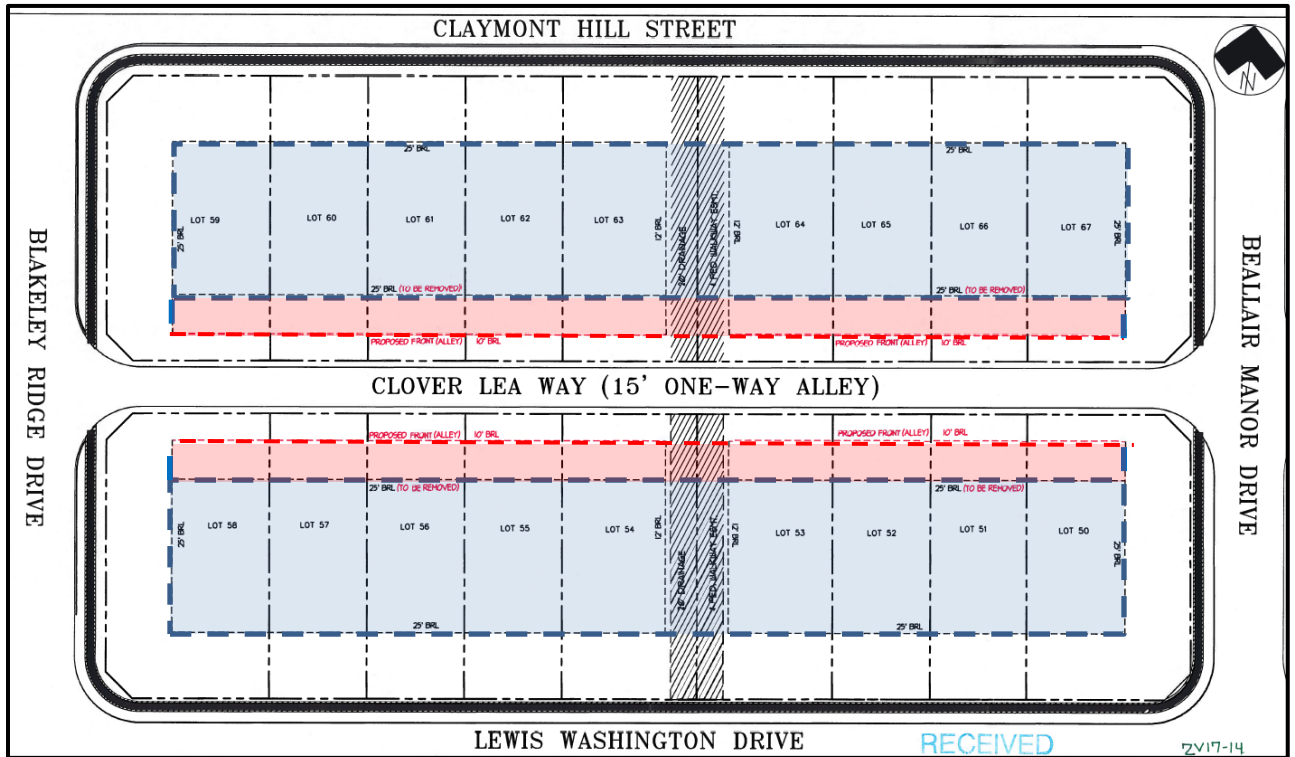
The current request is to reduce the front setback distance from 25' to 10' along Clover Lea Way for Lots 50 - 67. A front setback of 25' has been applied to the boundary lines along Claymont Hill Street, Clover Lea Way, and Lewis Washington Drive; as well as to the boundary lines along Blakeley Ridge Drive and Beallair Manor Drive for Lots 50, 58, 59, & 67.

The applicant is requesting to reduce the front setback requirements for the boundary lines along Clover Lea Way to accommodate reasonable parking garage space (see image below).

Because homes have not yet been constructed, it is feasible to comply with the requirements of the Zoning Ordinance.

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Beallair Variance Request (#ZV17-14)



**The area shaded in blue indicates the current, approved setback of 25'; the red-dotted line reflects the proposed, reduced setback to 10'.*

3. Conditions of Approval

No conditions of approval are identified for this variance request.

SECTION OF ORDINANCE TO BE CONSIDERED:

SECTION 5.4b Residential Growth District - Height And Yard Requirements

[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPT. 13, 1990 AND SEPT. 1, 2006]

Development Type	Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)	Required Yards	Maximum Building
Townhouse	1,400 sq. ft. MLA	25 ft. front	40 ft.
Public/Central water and sewer	3,500 sq. ft. ADU	12 ft. side (exterior side) 20 ft. rear	



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, P.O. Box 338

Charles Town, WV 25414

File Number: #ZV17-14
Staff Initials: CJC
Fees Paid (\$100 or \$150): \$100.00

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

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

zoning@jeffersoncountywv.org

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 (Phase 2)
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 ext 132 Email: todd.abe@wormald.com

Physical Property Details

Physical Address: Beallair Manor Drive & Clover Lea Way, Lot 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)



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 Zoning Ordinance sect 5.4B.3

Briefly describe the nature of the variance request:

See applicant response letter included with this submission, Response 1

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

Front Setback Side Setback Rear Setback Reduction From 25 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:

See applicant response letter included with this submission, Response 2

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

See applicant response letter included with this submission, Response 3

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

See applicant response letter included with this submission, Response 4

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

See applicant response letter included with this submission, Response 5

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

8/23/17

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)).

SEPTEMBER 28 2017

Date of Public Hearing

SEPTEMBER 13 2017

Advertising Date

SEPTEMBER 13 2017

Placard Posting Date

#ZV17-14

Ms. Alexandra Beaulieu, Office/Project Manager
Jefferson County Department of Planning and Zoning
August 24, 2017

**Zoning Variance Request
Applicant Response Letter
Phase 2**

1 - Due to a substantial front-to-rear grade differential across several of the townhouse Lots 50-67, additional steps and stoops are required in the garages and impinge on the available garage parking space. Therefore, to accommodate a revised townhouse garage extension, we are hereby requesting a reduction to the required front BRL from 25' to 10', which occurs on the alley side of the townhouse lots.

2 - The variance request applies only to lots within the variance request, which are surrounded by private community streets and undeveloped property under the control of the applicant. The request does not change the intention of the need to place BRL's on the lots, only the dimensions thereof. Thus, there is no adverse effect on the public safety, health or welfare by reducing one component of the setback.

3 - As previously mentioned, site topographic conditions force the redesign and lengthening of townhouse garages to accommodate a reasonable parking space within due to encroachments created by the required stoop and steps to accommodate the grade changes. The topographic conditions are a feature not created by the applicant, but rather one which the applicant is attempting to overcome its negative impacts.

4 - Utilizing the current setbacks would create a less than desirable garage parking space dimension if the current foundation design is held, and thus affecting the marketability of the units. In addition, reducing the BRL only affects adjoining alley sides of the townhouse units or a parking area, neither of which are unfavorable to adjoining units or residents, especially if considering that most alley-served townhouse designs have garage to garage separations on alleys as little as 20', versus our proposed design at 40' minimum.

5 - Reducing the BRL's on the alleys will not negatively impact the integrity of the project design, adjoining units or residents, and still meets the intent of the Zoning Ordinance in that separation of building features (i.e. garages) is still achieved even with a reduced setback.



Beallair Homes, LLC &
Piedmont Design Group

08/24/17



BEALLAIR MANOR DR

OLD COUNTRY CLUB ROAD
TO ROUTE 340

PHASE 2
TOWNHOUSE
LOTS 50 - 61



RECEIVED

AUG 29 2017

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

JEFFERSON COUNTY, WV
AUGUST 2017

BZA VARIANCE REQUEST LOCATION SKETCH FOR
BEALLAIR PHASE 2 - TOWNHOUSE LOTS
HARPERS FERRY MAGISTERIAL DISTRICT NO. 4



2V17-14

BEALLAIR
HOMES,
LLC.

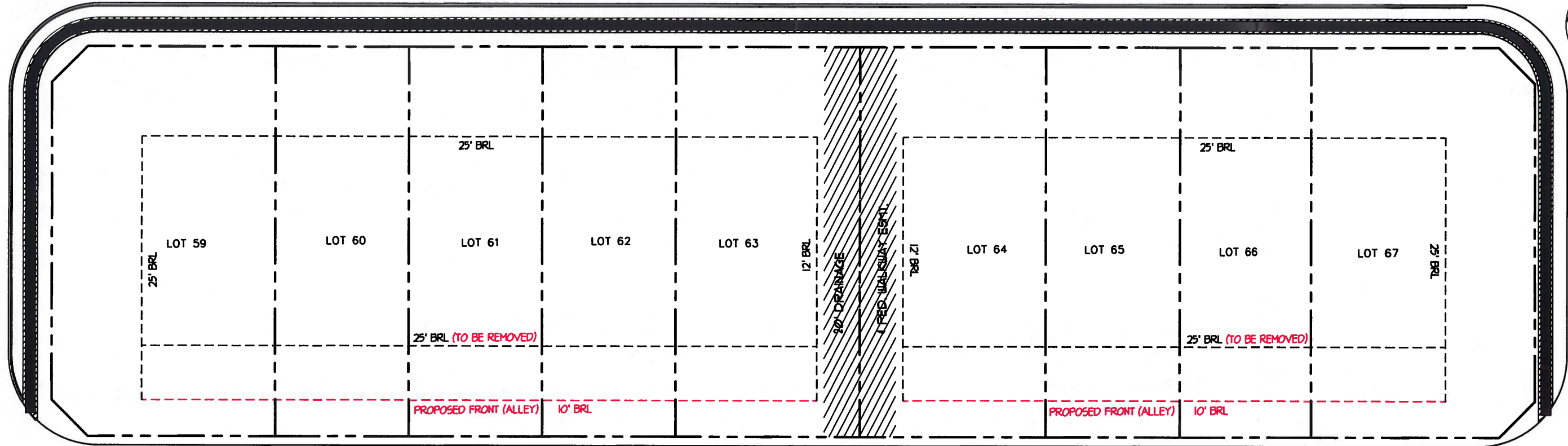
5225 Corporate Drive, Suite 300
Frederick, MD 21703
301.678.6644

CLAYMONT HILL STREET

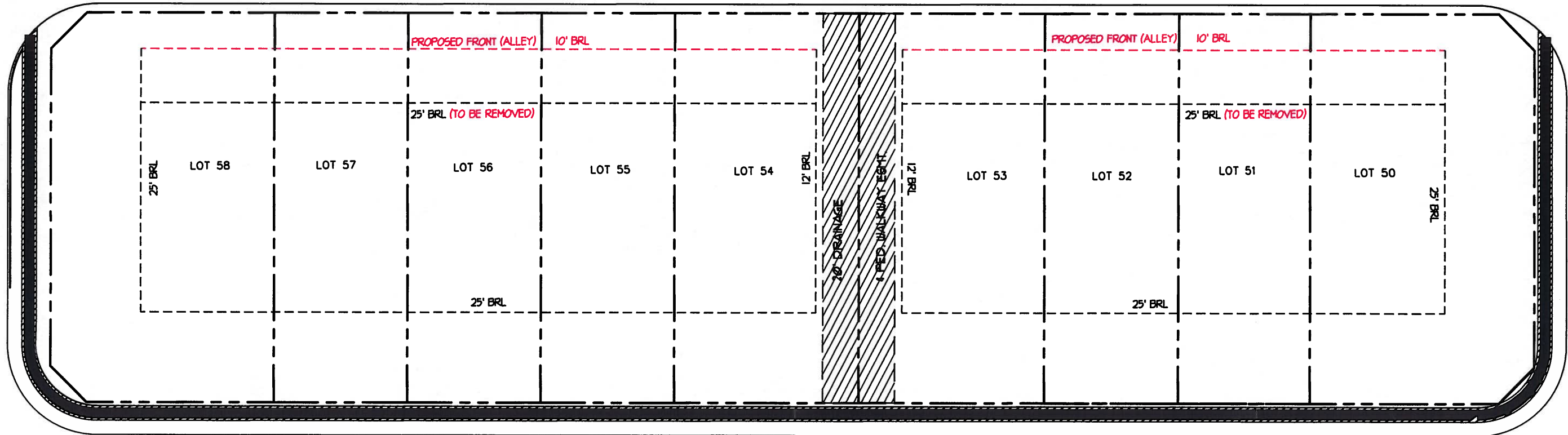


BLAKELEY RIDGE DRIVE

BEALLAIR MANOR DRIVE



CLOVER LEA WAY (15' ONE-WAY ALLEY)



LEWIS WASHINGTON DRIVE

BZA VARIANCE REQUEST EXHIBIT FOR
BEALLAIR PHASE 2 - TOWNHOUSE LOTS 50-67
HARPERS FERRY MAGISTERIAL DISTRICT NO. 4

RECEIVED

AUG 29 2017

W

JEFFERSON COUNTY PLANNING
ZONING & ENGINEERING W O R M A L D

ZV17-14
BEALLAIR
HOMES,
LLC.

5283 Corporate Drive, Suite 300
Frederick, MD 21703
301.645.6614

JEFFERSON COUNTY, WV
AUGUST 2017

Scale 1" = 30'



Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 September 28, 2017

Beallair Phase 3 Variance Request (#ZV17-15)

	<p>03/23/04: PC approved the following variances:</p> <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; • No sidewalks on the one-war 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>03/23/17: BZA approved a variance to allow a staffed model townhome on Lots 50-67 (ZV17-02)</p>
<p>APPROVED ACTIVITY:</p>	<p>Townhomes (lots 283 - 304)</p>

RELEVANT INFORMATION:

1. Previous Case History

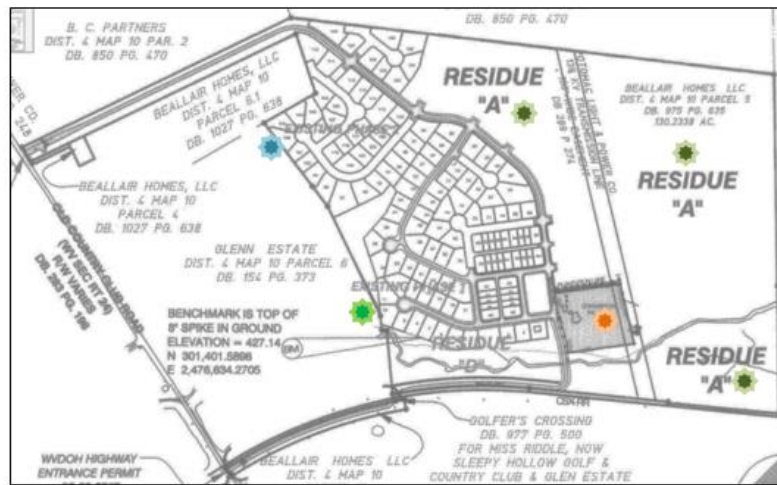
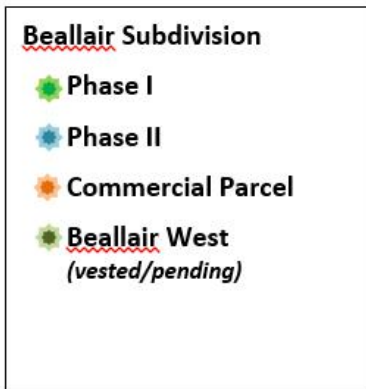
An overview of the Beallair Case History is as follows:

- 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)
- Minor Plat Change to revise setbacks (Plat Bk: 25, PG: 641)

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, 2020. 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.

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September 28, 2017

Beallair Phase 3 Variance Request (#ZV17-15)



2. Staff Evaluation of Request

a. Purpose of ordinance requirements

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

The primary purpose of a front yard setback is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that sight visibility is not impaired for drivers along the right-of-way. Right-of-way expansion is not a factor in this subdivision because these are privately maintained roads in a subdivision.

b. Character of area/Impact on adjacent properties

The subject parcels 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.

These lots have not yet been constructed; therefore, there is no negative impact on adjacent properties.

c. Feasibility of complying with the ordinance by other means

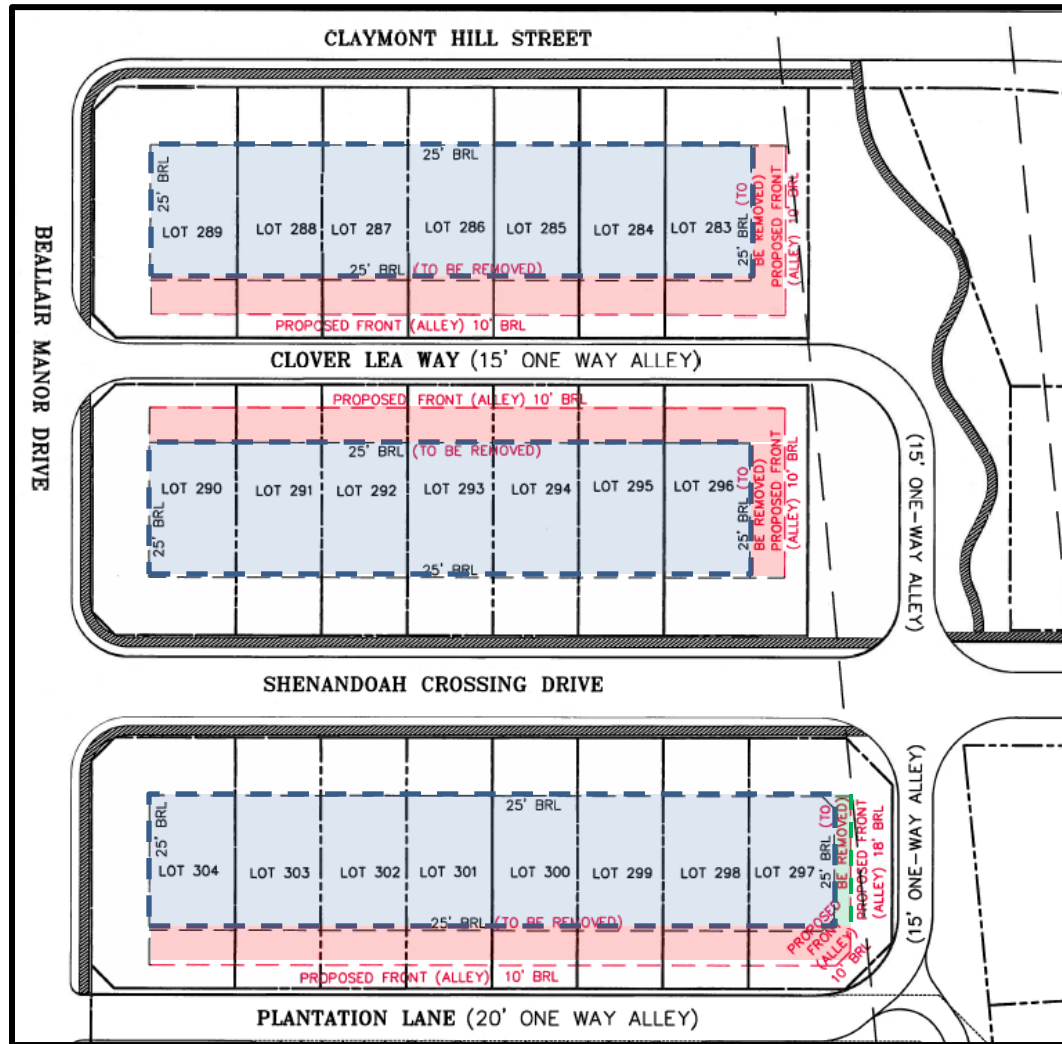
The current request is to reduce the front setback distance from 25' to 10' along the southern boundary for Lots 283 through 289; to reduce the front setback from 25' to 10' along the eastern boundary for Lot 283; to reduce the front setback from 25' to 10' along the northern boundary for Lots 290 through 296; to reduce the front setback from 25' to 10' along the eastern boundary for Lot 296; to reduce the front setback distance from 25' to 10' along the southern boundary for Lots 297 through 304; and to reduce the front setback distance from 25' to 18' along the eastern boundary for Lot 297.

The applicant is requesting to reduce the front setback requirements to accommodate reasonable parking garage space.

The referenced Lots have not yet been platted and the homes have not yet been constructed; therefore, it is feasible to comply with the setbacks required by the Ordinance.

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 September 28, 2017

Beallair Phase 3 Variance Request (#ZV17-15)



**The area shaded in blue indicates the current, approved setback of 25'; the red-dotted line reflects the proposed, reduced setback to 10'. The green dotted line reflects the reduced setback to 18' for Lot 297.*

3. Conditions of Approval

No conditions of approval are identified for this variance request.

SECTION OF ORDINANCE TO BE CONSIDERED:

SECTION 5.4b Residential Growth District - Height And Yard Requirements

[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPT. 13, 1990 AND SEPT. 1, 2006]

Development Type	Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)	Required Yards	Maximum Building
Townhouse	1,400 sq. ft. MLA	25 ft. front	40 ft.
Public/Central water and sewer	3,500 sq. ft. ADU	12 ft. side (exterior side) 20 ft. rear	



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

File Number: ZV17-15

Staff Initials: AB

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 (Phase 3)
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 ext 132 Email: todd.abe@wormald.com

Physical Property Details

Physical Address: Beallair Manor Drive & Clover Lea Way, Lot 283-296 and Beallair Manor Drive & Shenandoah Crossing Dr., Lot 297-304
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)

Residential Growth (RG) [checked]
Industrial Commercial (IC)
Rural (R)
Residential-Light Industrial-Commercial (R-LI-C)
Village (V)
Neighborhood Commercial (NC)
General Commercial (GC)

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Highway Commercial (HC)
Light Industrial (LI)
Major Industrial (MI)
Planned Neighborhood Development (PND)
Office/Commercial Mixed-Use (OC)

Revised + Replaced with corrected information
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 Zoning Ordinance sect 5.4B.3

Briefly describe the nature of the variance request:

See applicant response letter included with this submission, Response 1

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

Front Setback Side Setback Rear Setback Reduction From 25 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:

See applicant response letter included with this submission, Response 2

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

See applicant response letter included with this submission, Response 3

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

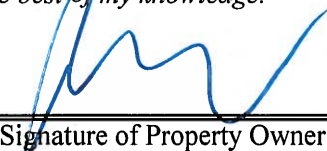
See applicant response letter included with this submission, Response 4

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

See applicant response letter included with this submission, Response 5

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.

 8/23/17
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)).

SEPTEMBER 28, 2017
Date of Public Hearing

SEPTEMBER 13, 2017
Advertising Date

SEPTEMBER 13, 2017
Placard Posting Date

Ms. Alexandra Beaulieu, Office/Project Manager
Jefferson County Department of Planning and Zoning
August 29, 2017

**Zoning Variance Request
Applicant Response Letter
Phase 3**

1 - Due to a substantial front-to-rear grade differential across several of the townhouse Lots 289-304, additional steps and stoops are required in the garages and impinge on the available garage parking space. Therefore, to accommodate a revised townhouse garage extension, we are hereby requesting a reduction to the required front BRL from 25' to 10', which occurs on the alley side of the townhouse lots. Exception to the requested reduction to 10' is the East side of Lot 297 only, which has an existing Power Line Easement. To prevent overlapping restrictions, we request the BRL reduction from 25' to 18' in this area.

2 - The variance request applies only to lots within the variance request, which are surrounded by private community streets and undeveloped property under the control of the applicant. The request does not change the intention of the need to place BRL's on the lots, only the dimensions thereof. Thus, there is no adverse effect on the public safety, health or welfare by reducing one component of the setback.

3 - As previously mentioned, site topographic conditions force the redesign and lengthening of townhouse garages to accommodate a reasonable parking space within due to encroachments created by the required stoop and steps to accommodate the grade changes. The topographic conditions are a feature not created by the applicant, but rather one which the applicant is attempting to overcome its negative impacts.

4 - Utilizing the current setbacks would create a less than desirable garage parking space dimension if the current foundation design is held, and thus affecting the marketability of the units. In addition, reducing the BRL only affects adjoining alley sides of the townhouse units or a parking area, neither of which are unfavorable to adjoining units or residents, especially if considering that most alley-served townhouse designs have garage to garage separations on alleys as little as 20', versus our proposed design at 40' minimum.

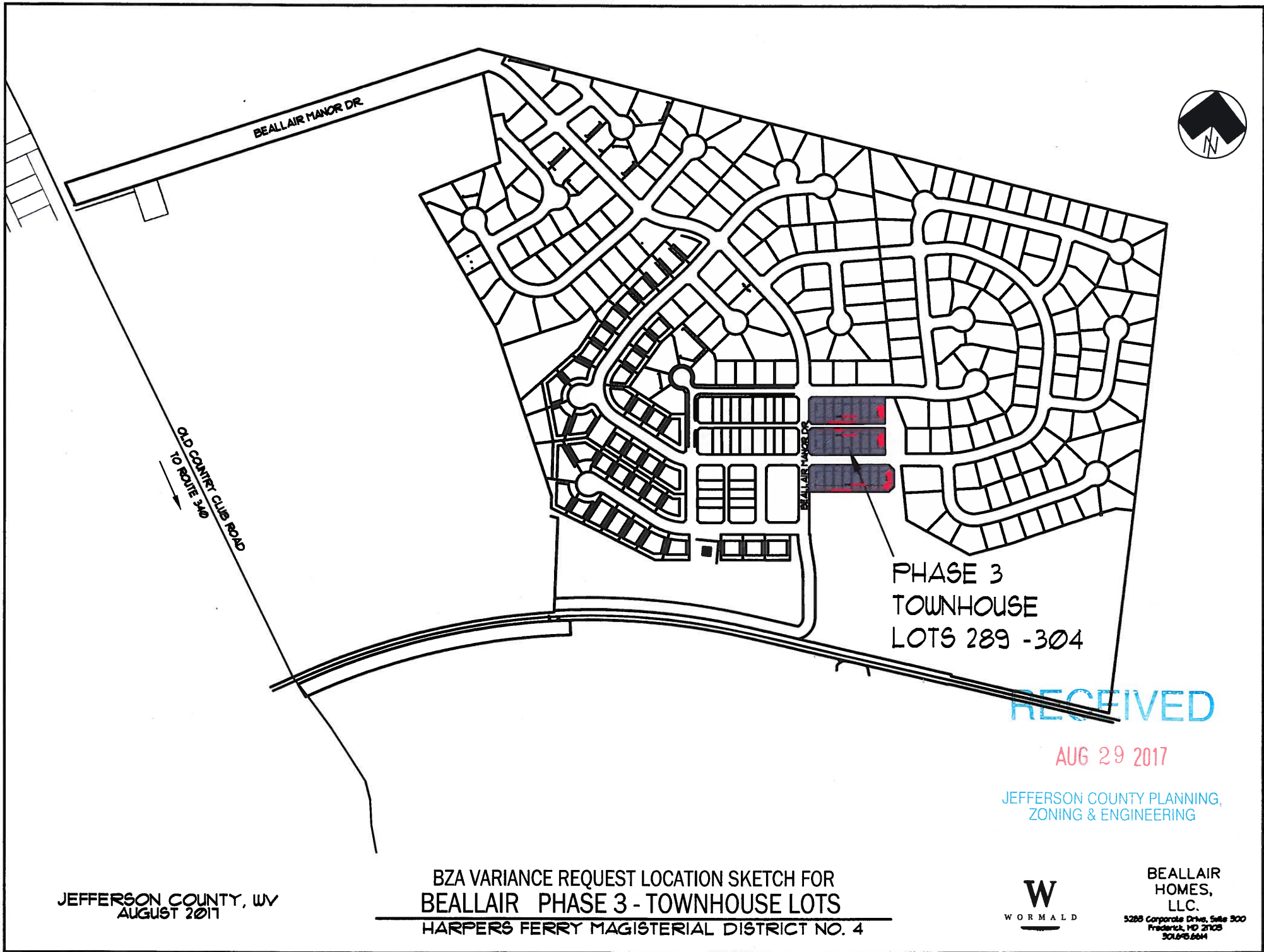
5 - Reducing the BRL's on the alleys will not negatively impact the integrity of the project design, adjoining units or residents, and still meets the intent of the Zoning Ordinance in that separation of building features (i.e. garages) is still achieved even with a reduced setback.

Beallair Homes, LLC &
Piedmont Design Group

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ZONING & ENGINEERING



JEFFERSON COUNTY, WV
AUGUST 2017

BZA VARIANCE REQUEST LOCATION SKETCH FOR
BEALLAIR PHASE 3 - TOWNHOUSE LOTS
 HARPERS FERRY MAGISTERIAL DISTRICT NO. 4



BEALLAIR HOMES, LLC.
 5288 Corporate Drive, Suite 300
 Frederick, MD 21705
 301.675.6644

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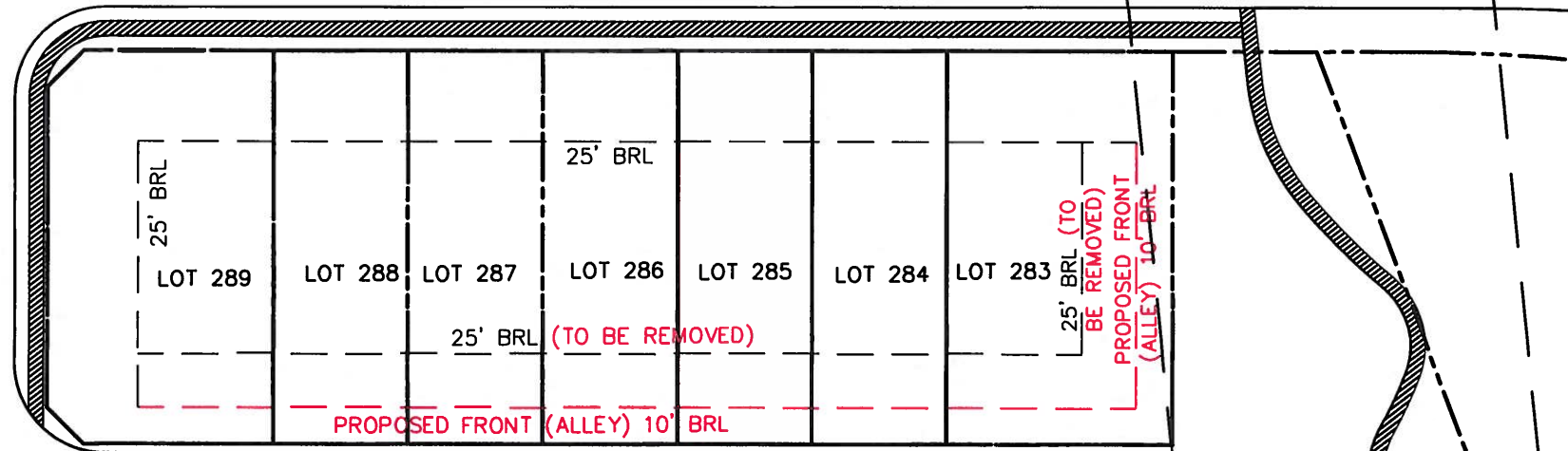
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ZV17-15

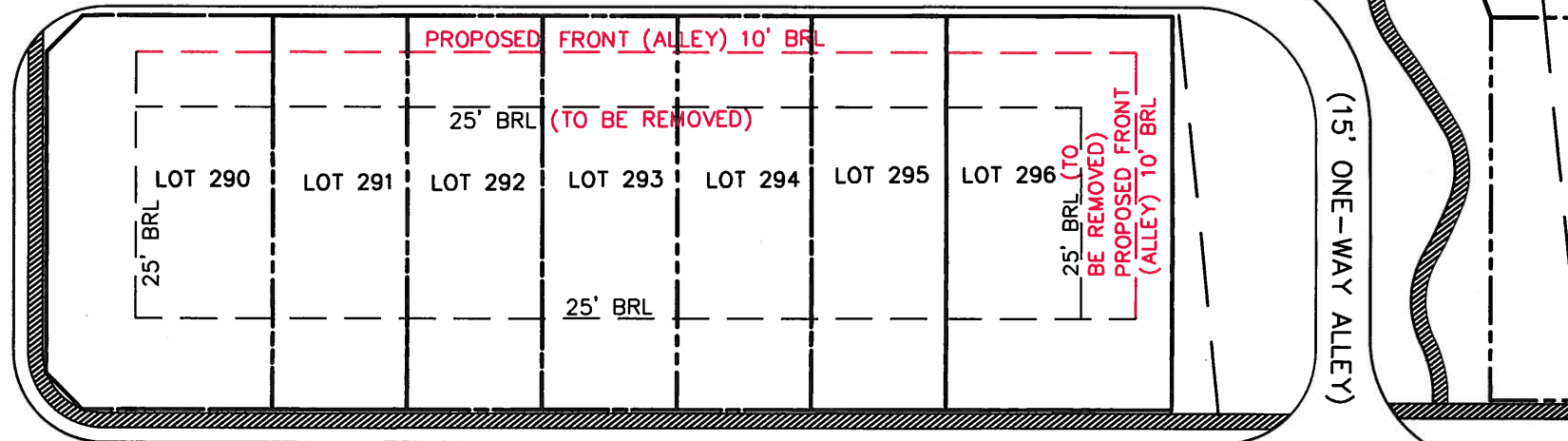


CLAYMONT HILL STREET

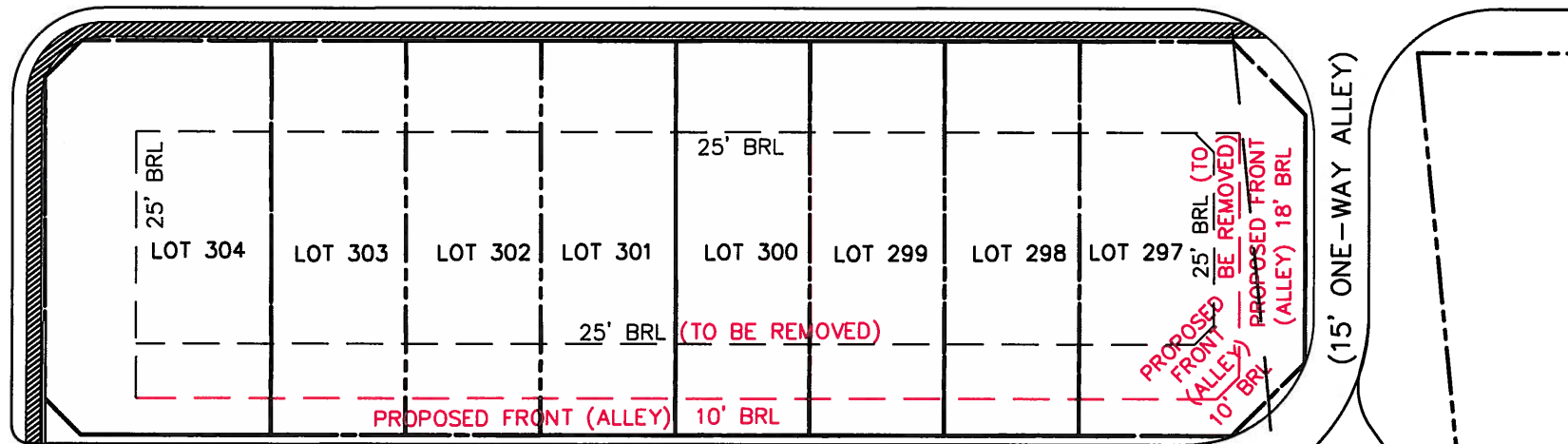


BEALLAIR MANOR DRIVE

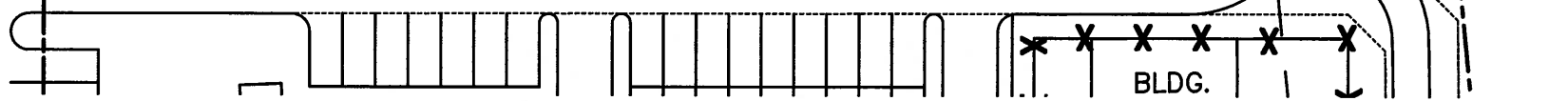
CLOVER LEA WAY (15' ONE WAY ALLEY)



SHENANDOAH CROSSING DRIVE



PLANTATION LANE (20' ONE WAY ALLEY)



JEFFERSON COUNTY, WV
AUGUST 2017

Scale 1" = 50'



BZA VARIANCE REQUEST EXHIBIT FOR
BEALLAIR PHASE 3 - TOWNHOUSE LOTS 289-304
 HARPERS FERRY MAGISTERIAL DISTRICT NO. 4

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AUG 29 2017

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

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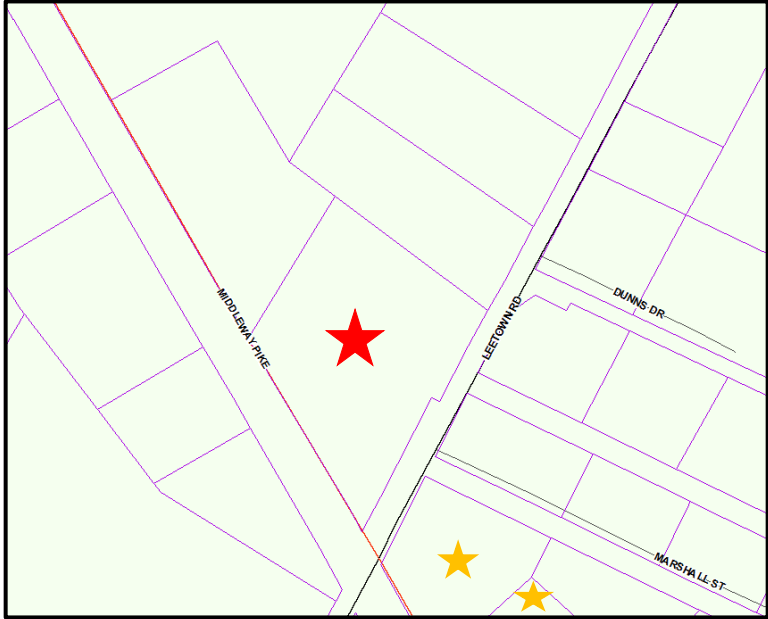
BEALLAIR
HOMES,
LLC.

5283 Corporate Drive, Suite 300
Frederick, MD 21703
301.645.6614

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 September 28, 2017

**Dolgencorp, LLC (Dollar General - Middleway)
 Conditional Use Permit Request (#CUP17-04)**

Item #5 Request for a Conditional Use Permit to add tobacco, beer, and wine sales to the existing Dollar General Store #16066. The proposed land use is Retail Sales, Limited.

Applicant:	Dolgencorp, LLC
Owner:	SAGA Holdings, LLC
Developer:	N/A
Consultant:	N/A
Property Location:	4735 Middleway Pike, Kearneysville, WV
Legal Description & Zoning District:	<p style="text-align: center;">District: Middleway (07); Map: 19; Parcel: 16.6 Size: 1.59 acres; Zone: Rural</p>  <p style="text-align: center;">★ These parcels were rezoned to General Commercial in 2017.</p>
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation: <i>North: Rural South: Rural/General Commercial</i> <i>East: Rural West: Rural</i></p>
Approved Use:	Condition Use Permit #CP14-02 was issued on March 25, 2015 to operate a 9,100 square foot retail store, to include public restrooms, merchandise storage, storefront and pole signage, and an asphalt parking lot that will accommodate the required 40 parking spaces, plus drive aisles.
Waivers/Variances:	On March 26, 2015 the BZA approved a reduction in parking spaces from 40 to 30 spaces (#ZV15-06); and, to allow freestanding sign, to be located less than the required 1000' from the existing signs along Middleway Pk (#ZV15-07).

Staff Report
Jefferson County Board of Zoning Appeals Meeting
September 28, 2017

**Dolgencorp, LLC (Dollar General - Middleway)
Conditional Use Permit Request (#CUP17-04)**

Summary of Request and Purpose of Ordinance Requirements

The applicant is requesting a Conditional Use Permit for the land use “Retail Sales, Limited” for the purpose of adding tobacco, beer, and wine sales to the existing Dollar General store.

The existing Dollar General store (#16066) was approved as a Conditional Use on March 25, 2015. The initial request did not include the sale of alcohol in their proposal and now the applicant is requesting to add the sale of tobacco, beer, and wine to their approval.

Property Description

The subject parcel is located at the intersection of Middleway Pike and Leetown Road in a location supporting a combination of commercial and residential uses.

Impact on adjacent properties

A Dollar General store already exists on site; therefore, the addition of the sale of tobacco, beer, and wine would likely have minimal impact on adjacent properties.

Conditional Use Permit Process

On March 16, 2017 the County Commission adopted a text amendment which eliminated the LESA/ CUP process and replaced with a new CUP Process which requires a public hearing before the Board of Zoning Appeals. Below are the general standards from Section 6.3 of the Zoning Ordinance which the BZA shall consider when reviewing a CUP Application.

“The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as “Conditional Uses (CU)” in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit:”

The following General Standards shall be considered in approving or denying the CUP:

1. The proposed use is compatible with the goals of the adopted Comprehensive Plan.

The applicant has addressed this criteria in their application.

The referenced parcel is shown as future mixed use residential/commercial on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide and is located within the County’s Preferred Growth Area. Staff concurs that the proposed use is compatible with the goals of the adopted Comprehensive Plan.

2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare.

The applicant has addressed this criteria in their application.

A previous Conditional Use Permit was issued on March 25, 2015 to allow a Dollar General store to operate at the referenced location. The Dollar General store, which received site plan approval in November 2015, has been constructed and is currently operating. The current request is to include the sale of tobacco, beer, and wine as part of their inventory and merchandising; therefore, it appears that the proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and does not appear to pose any threat to public health, safety, and welfare.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
September 28, 2017

**Dolgencorp, LLC (Dollar General - Middleway)
Conditional Use Permit Request (#CUP17-04)**

- 3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings.**

The applicant has addressed this criteria in their application.

All site development was completed under the previously approved Conditional Use Permit (CU14-02). There is no site development proposed as part of the current request.

- 4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance.**

As noted above, there is no site development proposed; therefore, no landscaping or buffering will be required as part of this request.

- 5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of this Ordinance.**

As part of the Conditional Use Permit application, the applicant was informed of this criteria and shall comply with this standard.



JEFFERSON COUNTY, WEST VIRGINIA
Department of Engineering, Planning and Zoning
Office of Planning and Zoning
 116 East Washington Street, 2nd Floor
 P.O. Box 716
 Charles Town, West Virginia 25414

File #: CUP 17-04
 Mtg. Date: 09/28/17
 Fee Paid: \$ _____
 Staff Int.: Ctc

Email: zoning@jeffersoncountywv.org

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

Application for a Conditional Use Permit

Conditional Use Permit process is outlined in Article 6 of the Zoning Ordinance

Project Name

Dollar General Store #16066

Property Owner Information

Name: SAGA Holdings, LLC c/o Anil Suwal
 Business Name: _____
 Mailing Address: 203 Fairfield Dr., Winchester, VA 22602 Mail Yes
 Phone Number: 540-352-3159 Email Response: anilsuwal@gmail.com Response: No

Applicant Information

Name: Dolgencorp, LLC
 Business Name: Dollar General Store #16066
 Mailing Address: 100 Mission Ridge, Attn: Tax Dept. Goodlettsville, TN Mail Yes
 Phone Number: 65-855-4000 Email Response: _____ Response: No
 Tax-beerandwinelicense 37072
 @dollargeneral.com

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

Name: _____
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email Response: N/A Mail Yes
 Response: No

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 AUG 29 2017

Physical Property Details

Physical Address: 4735 Middleway Pike, Keameysville, WV 25430
 Tax District: _____ Map No: _____ Parcel No: _____
 Parcel Size: _____ Deed Book: _____ Page No: _____

Zoning District (please check one)

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (I-C) <input type="checkbox"/>	Rural* (R) <input checked="" type="checkbox"/>	Residential-Light Industrial-Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>
General Commercial (GC) <input type="checkbox"/>	Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

* For properties in the Rural Zoning District:
 Is property located on a primary or secondary road? Yes No

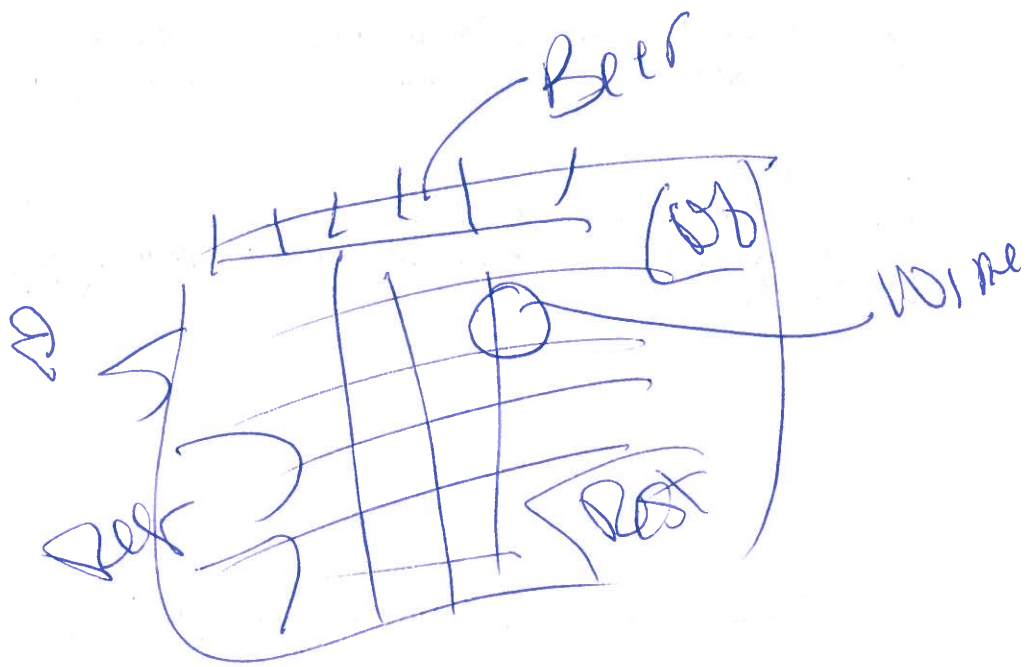
Name of Road and/or Route Number: Route 51 in Middleway

Find out exactly how much B/W -
and where -

Trish Keenan - (Space/Store Planning)

Ken Harper - Merch

email them that you have cop



Sketch Plan (see cover sheet for description)

Attached

A list of all adjacent and confronting property owners (see cover sheet for description)

Attached

Please provide any information or known history regarding this property.

Plot of land owned by CD DG Middleway, LLC and rented by Dolgen Corp, LLC

Please respond (in detail) to the following statements located in Section 6.3 of the Zoning Ordinance:

1. The proposed use is compatible with the goals of the adopted Comprehensive Plan. Section 6.3A.1

Yes - General Retail Merchandise with tobacco and beer & wine sales. - boost economy.

2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety, and welfare. Section 6.3A.2

Existing building w/ general retail merchandise Dolgen Corp LLC is only adding new product of 8 linear feet of assorted Beer & Wine

3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. Section 6.3A.3

Existing Building - on a parcel of land that adheres to all Jefferson County guidelines.

4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance. Section 6.3A.4

I am aware of the landscaping buffer requirements and will adhere to them.

I am aware of the landscaping buffer requirements; however, I may be seeking a variance to modify them.

5. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan's Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a Principal Arterial, Minor Arterial, or Major Collector road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the Board of Zoning Appeals to review in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use. Section 6.3A.6

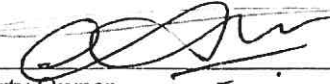
Applicable (Trip Generation Data attached)

Landlord needs to be sent via FedEx with Return label Not Applicable

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


Property Owner

7/27/17
Date


Property Owner

7/27/17
Date

on behalf of Dolgen Corp LLC



JEFFERSON COUNTY, WEST VIRGINIA
DEPARTMENTS OF PLANNING AND ZONING

CONDITIONAL USE PERMIT

**DOLLAR GENERAL - MIDDLEWAY WV
FILE #CP14-02**

This is to certify that effective March 26, 2015, the property described below has been granted a Conditional Use Permit.

Project Name: Dollar General – Middleway WV

Owner: Wilbur A. Alger Jr.
Business Address: P.O. Box 445, Bunker Hill WV 25413
Telephone Number: 304-264-6633

Developer: Cross Development, LLC
Business Address: 17430 Campbell Road, Suite 225, Dallas, TX 75252
Telephone Number: 765-215-1444

Property Location: Northwest corner of Leetown Road (Route 1) and
Middleway Pike (Route 51), Kearneysville, WV

Tax Reference: District: Middleway (07); Map: 19A; Parcel: 16.6

Deed Reference: Book: 1163; Page: 299

Zoning District: Rural

Parcel Size: 1.59 acres

Approved Use: A 9,100 square foot retail store, to include public restrooms, merchandise storage, storefront and pole signage and an asphalt parking lot that will accommodate the required 40 parking spaces, plus drive aisles.

On March 26, 2015 the Board approved a variance request to reduce the required number of parking spaces from 40 to 30 spaces (ZV15-06); and, to permit a freestanding sign to be located less than the required 1000' from the existing signs along Route 51 (ZV15-07).

The developer agreed to the following conditions at the Compatibility Assessment Meeting that was held on January 9, 2015.

1. Adhere to all Jefferson County Stormwater Management standards, which will not permit the rate of runoff to increase.
2. Prepare a photometric drawing as a part of the site plan including specifications for full cut-off lighting; statements documenting that the exterior parking lot lights are turned off

one hour after closing (approximately 10:00 p.m.), while the security lights surrounding the building would remain on; consider placement of street trees in a manner which would take in to consideration the possibility of screening any lighting.

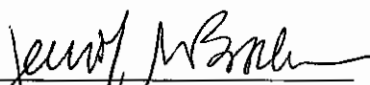
3. Utilize on-site well and septic systems.
4. If the well construction impacts neighboring wells in any way, the applicant shall work with the neighbors to mitigate the issue.
5. Conform with the West Virginia Board of Health requirements regarding the spacing between all wells and their septic system prior to Site Plan approval.
6. Pursue the option of using Shepherd students for a "salvage assessment" prior to soil disturbance.
7. Conform with the requirements of the local fire department and the state fire marshal regarding whether sprinklers are be required.
8. Pursue the option of installing a dry hydrant on site with the local fire company.

Pursuant to Article 7.6F of the Jefferson County Zoning and Land Development Ordinance the Board of Zoning Appeals, at its regularly scheduled meeting on January 22, 2015, imposed the following conditions as found in the approved Findings of Fact and Conclusions of Law signed February 26, 2015 (attached):

- a. The applicant is bound by his testimony.
- b. The applicant is bound by the resolved issues from the Compatibility Assessment Meeting.
- c. The applicant will consider the feasibility of a second entrance onto Leetown Road.
- d. The applicant will offer adjacent property owners a water quality well test to establish a baseline, and if the construction should negatively impact the adjoining wells the applicant will attempt to mitigate such problems.

In the event that construction has not commenced by September 26, 2016, eighteen months from date of signature, said permission will expire unless an extension is granted. Extensions must be formally requested of the Jefferson County Department of Zoning, for consideration by the Board of Zoning Appeals, prior to the expiration date. (See Jefferson County Zoning and Land Development Ordinance, revised January 1, 2015, Article 3, Section 3.2G.

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


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

March 26, 2015
Date



Section 6.2 Variances³²

The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.²³

- A. The Board shall approve a variance request if the Board finds that a variance:
 1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
 2. Arises 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;
 3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
 4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.^{17, 21}
- B. The owner or authorized representative of the owner of the property which is the subject of a variance request shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The variance request shall be filed with the Board in the Office of Planning and Zoning.
- C. Notification for a variance must be conducted according to the requirements of Section 6.1B.
- D. A public hearing must be conducted according to the requirements of Section 6.1C and such hearing may be continued according to the requirements of Section 6.1D.

Section 6.3 Conditional Use Permit³²

The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as "Conditional Uses (CU)" in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit.^{2, 32}

- A. The Board shall consider each Conditional Use Permit request that is filed in accordance with this Ordinance and the procedural requirements of the Board of Zoning Appeals. The Board may require reasonable conditions or special requirements which allows for the proper integration of the proposed uses into the community and are directly related to and incidental to the proposed conditional use permit. The following General Standards shall be considered in approving or denying the CUP:
 1. The proposed use is compatible with the goals of the adopted Comprehensive Plan.
 2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare.
 3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings.
 4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance.
 5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of this Ordinance.
 6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan's Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a Principal Arterial,

Minor Arterial, or Major Collector road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the BZA to review in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use.

- B. The owner or authorized representative of the owner of the property for which the Conditional Use Permit is being requested shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The Conditional Use Permit request shall be filed with the Board at the Office of Planning and Zoning.
- C. Staff will notify the adjacent and confronting property owners of the date, time, and location of the Public Hearing by registered mail. Notification for a Conditional Use Permit must be conducted according to the requirements of Section 6.1B.
- D. A public hearing must be conducted according to the requirements of Section 6.1C and such hearing may be continued according to the requirements of Section 6.1D.
- E. If there are no negative public comments received by the Board, the Board shall issue the Conditional Use Permit but may require reasonable conditions.

Section 6.4 Seasonal Uses^{5, 7, 32}

Seasonal uses must be approved by the Board of Zoning Appeals pursuant to a public hearing according to the requirements of Section 6.1C. Newspaper notification requirements of Section 6.1B apply. Seasonal uses cannot be approved for longer than one year at a time.^{17, 21, 23}

Section 6.5 Special Exception Uses^{26, 32}

- A. Special Exception uses listed in this section may be approved by the Board of Zoning Appeals following a public hearing.
 - 1. The public hearing shall be conducted according to the requirements of Section 6.1C.
 - 2. Such hearing may be continued according to the requirements of Section 6.1D.
 - 3. The public hearing is subject to the notification requirements of Section 6.1B.
- B. The following uses may be approved as a Special Exception:
 - 1. Outdoor advertising signs including billboards. The Board of Zoning Appeals shall determine if such a sign conforms to existing State law and does not have a negative effect on the neighborhood or intent of this Ordinance.^{17, 21}

Middleway, WV Dollar General Jefferson County Conditional Use Permit Adjoining
Property Owners

Applicant: Josh Allen Cross Development, LLC

List of Adjoining Property Owners:

Parcel ID	Name	Address
	John D McKee 244 Tel Farm Ln. Kearneysville, WV 25430	
	Middle-of-the-Way Real Estate LTD PO Box 445 Bunker Hill, WV 25413	
	Across Leetown Rd.	
	Larry R. & Judy C. Weatherholtz 7872 Leetown Rd. Kearneysville, WV 25430	
	Lee S II & Melissa A. Mackey 11 Marshall St. Kearneysville, WV 25430	
	Jefferson Reality, LLC 62 Orchard Drive Ranson, WV 25438	
1. 19A00130000000	Toronta P Goodman & Robert W. White PA – Property Sold 11/03/14	PO Box 1325 Winchester,

Across Middleway Pike

Juanita E White
4650 Middleway Pike
Kearneysville, WV 25430

Maurice M & Crystal T. Cato
222 Harry Shirley Rd.
Kearneysville, WV 25430

Patrick D Riley & Susan L Williams
8713 Leetown Rd.
Kearneysville, WV 25430

Franklin D & Janet G Harding
4995 Middleway Pike
Kearcysville, WV 25430

FRAME AND HANG ON OFFICE WALL

DOLLAR GENERAL

PRELIMINARY
DATE: 01/06/16 BY: SEH

NO.	DATE	BY	DESCRIPTION
11	01/06/16	SEH	REVISED
12			
13			
14			
15			
16			
17			
18			
19			

NEW
BTS-C

D616-7
STANDARD

02/15/16
7.968

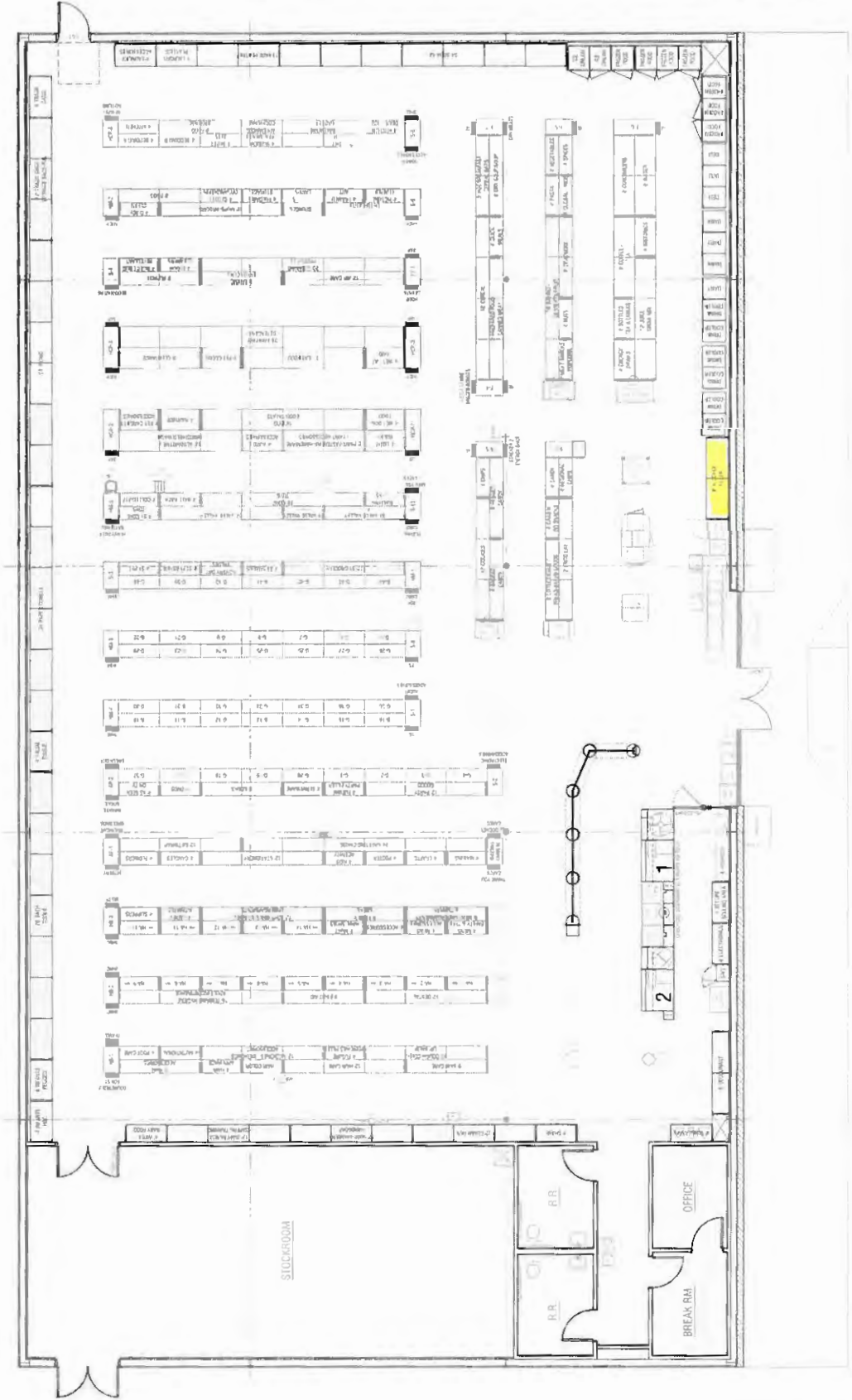
9.221
OPEN

11'-0"
176

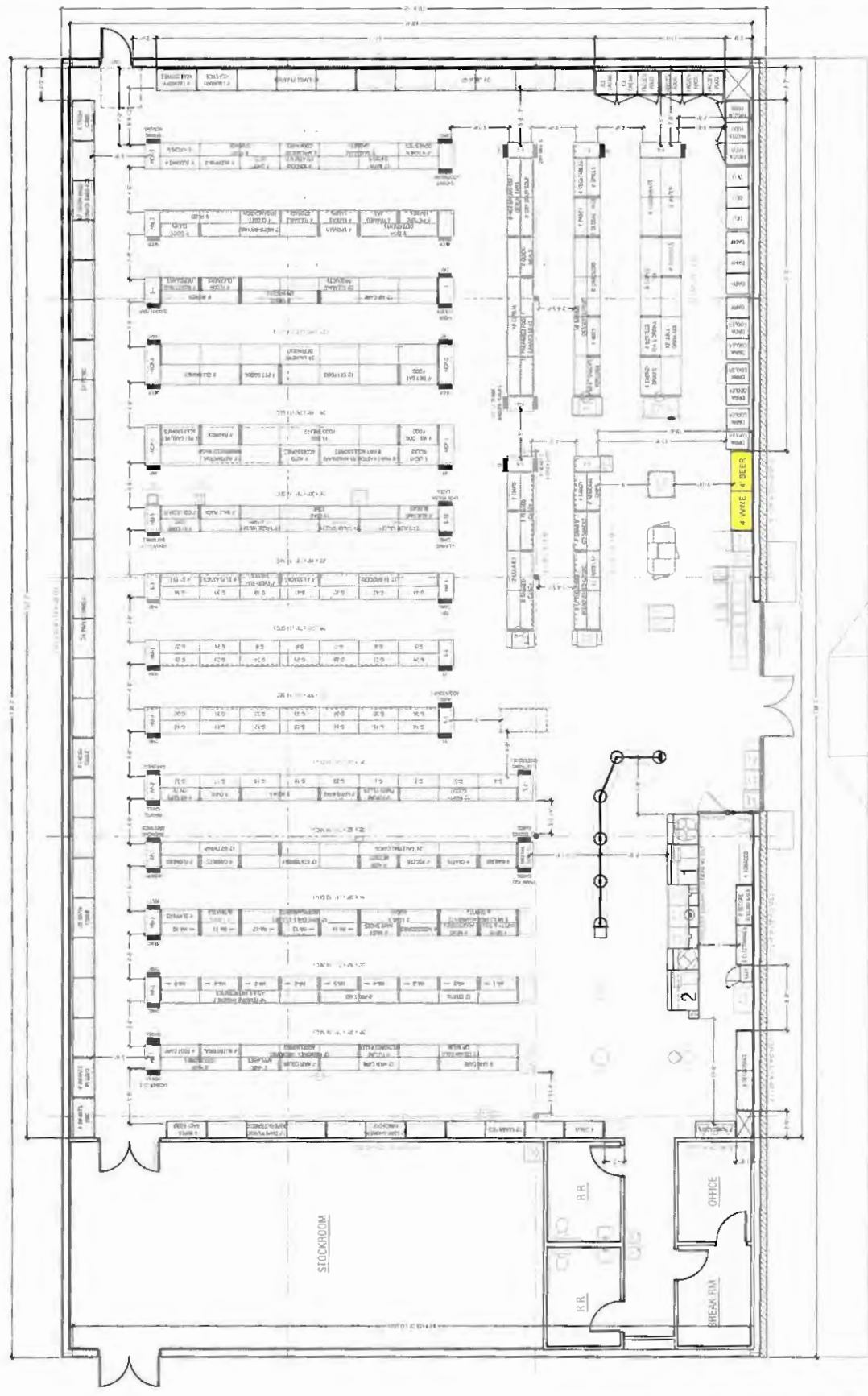
\$2,060,000

16066

4735 MIDDLEWAY PKE
RECARNEYSVILLE
KY 40369
25430
STORE PLANNING HOTLINE
(615) 855-4192



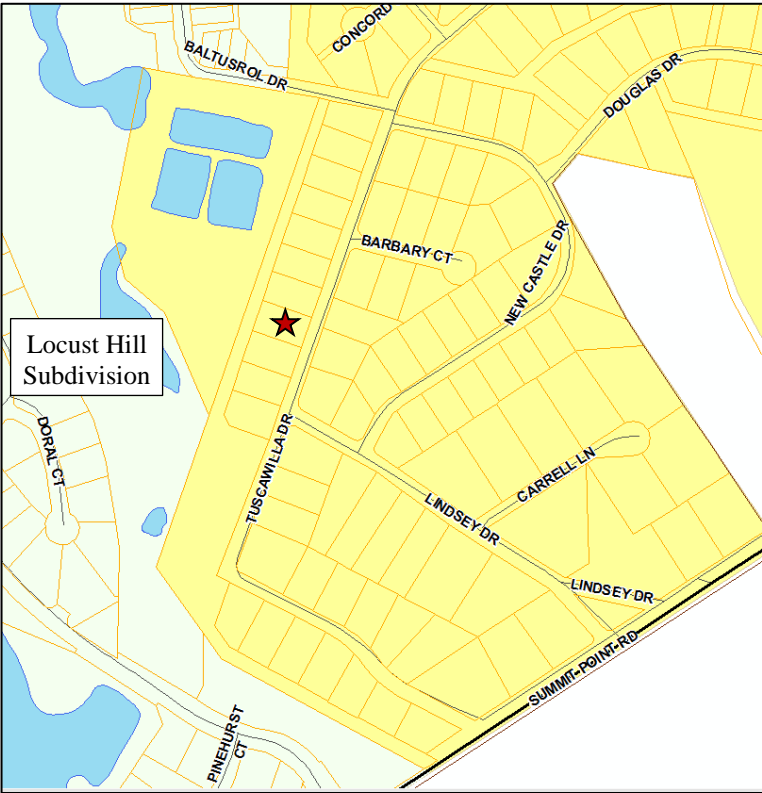
DOLLAR GENERAL	
PRELIMINARY	BY
DATE	
(1)	
(2)	
DRAWING HISTORY	
DATE	BY
01/08/16	SEH
DATE	BY
01/13/16	SEH
(1)	
(2)	
(3)	
(4)	
(5)	
(6)	
(7)	
(8)	
(9)	
PROJECT TYPE	NEW
PLAN TYPE	BTS-C
LAYOUT DATE	DG16-7
STORY NAME	STANDARD
PERIOD DATE	02/15/16
BASE FLOOR SFTL	7,368
TOTAL SFTL	9,221
CEILING HEIGHT	OPEN
FLOOR HEIGHT	11'-0"
SEASONALITY	176
SALES	\$2,060,000
STORE NUMBER	16066
ADDRESS	4735 MIDDLEWAY PIKE
CITY	KEARNEYSVILLE
STATE	MO
ZIP	64653
STORE PLANNING HOTLINE (615) 855-4192	



Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 September 28, 2017

Lloyd Variance Request (#ZV17-16)

Item #6: Variance from Section 9.7 to reduce the side setback distance from 8' to 1' to construct a 28' x 30' attached garage.

APPLICANT:	Russell & Janet Lloyd
OWNER:	Same as Applicant
DEVELOPER:	Same as Applicant
CONSULTANT:	n/a
PROPERTY LOCATION:	Tusawilla Subdivision Lot 66, 1210 Tusawilla Dr, Charles Town
LEGAL DESCRIPTION & ZONING DISTRICT:	<p style="text-align: center;">District: Charles Town (02); Tax Map: 11A; Parcel: 4 Size: .328 acres; Zone: Residential Growth</p> 
SURROUNDING PROPERTIES:	<p style="text-align: center;">Zoning Map Designation:</p> <p style="text-align: center;">North: RG South: RG East: RG West: RG</p>
SUBDIVISION HISTORY:	81-04, Tusawilla Hills, approved 8/25/81 Planning Commission Approvals 83-22, Tusawilla Hills Lots 285-292, approved 12/11/84
SUBDIVISION VARIANCE(S):	None
ZONING VARIANCES:	None
APPROVED ACTIVITY:	Residential Subdivision PB 2, Page 285 (02/09/1972)

Staff Report
Jefferson County Board of Zoning Appeals Meeting
September 28, 2017

Lloyd Variance Request (#ZV17-16)

RELEVANT INFORMATION:

1. Previous Case History

The subject property is located in the Tuscawilla Hills Subdivision, which was established prior to the adoption of zoning regulations.

2. Staff Evaluation of Request

a. Purpose of ordinance requirements

The purpose of setback requirements is to reduce the impact that a land use might have on adjacent properties, 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. Character of area/Impact on adjacent properties

The subject parcel and the surrounding area are zoned Residential Growth and Rural. Tuscawilla Hills is an approved subdivision, which predates the adoption of Zoning.

The neighbor to the north is most directly impacted by the setback reduction and he has provided a letter of support for this request (see application).



c. Feasibility of complying with the ordinance by other means

The proposed garage could potentially be located to the rear of the home, but would require the removal of existing trees.

The applicant has stated that the primary reason for constructing the garage is for safety reasons and the preferred location was selected based on the location of the only exterior door leading to the driveway. The location of the white car and the red truck indicate approximately where the

Staff Report
Jefferson County Board of Zoning Appeals Meeting
September 28, 2017

Lloyd Variance Request (#ZV17-16)

proposed garage would be constructed. The applicant has stated that there will be approximately 15 feet (or more) between the proposed garage and the adjacent neighbor's house.



3. Conditions of Approval

No conditions of approval are identified for this variance request.

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

Residential Growth District²³

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear



JEFFERSON COUNTY, WEST VIRGINIA
Department of Engineering, Planning, and Zoning
Office of Planning and Zoning
 116 East Washington Street, P.O. Box 716
 Charles Town, WV 25414
 www.jeffersoncountywv.org

File Number: #ZV17-16
 Staff Initials: CPC
 Meeting Date: 09-28-17
 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: Russell & Janet Lloyd
 Mailing Address: 1210 Tuscawilla Dr, Charles Town, WV 25414
 Phone Number: 304-725-5264 Email: do not have

Applicant Contact Information

Name: Russell & Janet Lloyd
 Mailing Address: same as above
 Phone Number: 304-283-8135 cell Email: none




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

Name: n/a
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: Lot 66 Tuscawilla Hills 1210 Tuscawilla Drive
 City: Charles Town State: WV Zip Code: 25414
 Tax District: Charles Town Map No: 11A Parcel No: 4
 Parcel Size: 0.328 acres Deed Book: 933 Page No: 261

Zoning District (please check one)

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

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: Sec. 9.7 gjt

Briefly describe the nature of the variance request:

Side setback variance from 8' to 1'

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

Front Setback Side Setback Rear Setback Reduction From 8' to 1'

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:

See attached

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

See Attached

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

See attached

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

See attached

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.

Russell Lloyd 8/30/17
Signature of Property Owner Date

Jane M. Lloyd 8/30/17
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 6.1B).

SEPTEMBER 28, 2017
Date of Public Hearing

SEPTEMBER 13, 2017
Advertising Date

SEPTEMBER 13, 2017
Placard Posting Date

#ZV17-16

Please explain why granting of the variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents: The most directly affected property owner, Gary Scott, has provided a letter stating he has no objection to the proposed garage being located 1 foot from the common property line we share. The neighbors directly across the street from us who have the most direct view of our property have also provided a letter stating they do not object to the proposed garage being 1 foot from the side property line. The property directly behind ours is the sewage treatment plant for our subdivision.

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? Our home and existing storage building were built in 1973 prior to the need for any type of building permit through the county; and, prior to most of the land use regulations being adopted in the county. The existing storage building is approximately 2' from the side property line which we have in common with Gary Scott. The existing driveway has been in place since we purchased the home in 1973.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land? We are getting older and due to health issues it is becoming increasingly more difficult for my wife and me to come out of the house and get into our vehicles safely during inclement weather. This is the only exterior door that leads directly to our driveway where vehicles are parked; and, by allowing an attached garage to our home it will make it safer for both of us to get in and out of the house and in our vehicles safely. The driveway has been in place since the home was built in 1973 and there is no other location on our lot to place a garage. The garage will increase the value of our property and we believe it will also increase the value of other properties in our neighborhood.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done? As stated, when our home and shed were built in 1973 there were no building permit requirements nor was zoning in place. The zoning ordinance allows variances to be sought of its provisions subject to a public hearing process. The most directly affected neighbor has no objection to the location of the proposed garage. The distance between the proposed garage and Mr. Scotts dwelling will be 15 feet or more.

RECEIVED

SEP 01 2017

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING



sign Russell Skoff
date 8/30/17

#ZV17-16

TUSCAWILLA DR

RECEIVED

SEP 01 2017

ALBERTSON COUNTY PLANNING,
ZONING & ENGINEERING



TUSCAVILLA DR

1174

1192

1210

1224

1244

1211

1233

#ZV17-16

SEP 01 2017

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

Gary B. Scott
1192 Tusawilla Drive
Charles Town, WV 25414

#ZV17-16

August 30, 2017

Jefferson County Zoning Board of Appeals
P. O. Box 716
116 East Washington Street
Charles Town, WV

Dear Board Members:

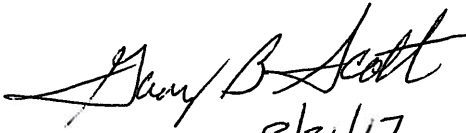
My name is Gary Scott and I have lived next door to Russell and Janet Lloyd for well over thirty years. I have no objection to them building a garage on their property. Nor do I have an objection to it being closer to the common side property line we share.

I understand they are seeking a variance from the side setback requirement of 12 feet to 1 foot from the side property line that we have in common. As the most directly affected neighbor I am not opposed to the Board granting a side setback variance from 12 feet to 1 foot.

Thank you for your consideration of their request.

Sincerely,

Gary B. Scott


304-279-5296 8/31/17

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JEFFERSON COUNTY PLANNING
& ENGINEERING

#ZV17-16

Ernest & Rebecca Burns
1211 Tuscawilla Drive
Charles Town, WV 25414

August 30, 2017

Jefferson County Zoning Board of Appeals
P. O. Box 716
116 East Washington Street
Charles Town, WV

Dear Board Members:

Our names are Randy and Becky Burns and we have lived directly across the street from Russell and Janet Lloyd for over thirty years. We have no objection to them building a garage on their property and believe it will not only increase their property value but ours as well. Nor do we have an objection to it being closer to the side property line.

We understand they are seeking a variance from the side setback requirement of 12 feet to 1 foot from the side property line. As the neighbor who is directly across the street from the Lloyds we are not opposed to the Board granting a side setback variance from 12 feet to 1 foot.

Thank you for your consideration of their request.

Sincerely,



Ernest and Rebecca Burns

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SEP 01 2017
JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING



Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

P.O. Box 716

Charles Town, WV 25414

Email: zoning@jeffersoncountyvzw.org

Phone: (304) 728-3228

Zoning Administrator's Report Board of Zoning Appeals Meeting September 28, 2017

1) Pending Zoning Ordinance and Subdivision Regulation Amendments

- **Pending amendments:**

- a) Historic Resource Demolition and Adaptive Reuse

- i. On July 11, 2017 the Planning Commission held a Public Hearing on the HLC's DRAFT Historic Preservation text amendment. Staff also proposed additional edits to Section 5.10, Village District. The Planning Commission made additional revisions on 09-12-17 which will be discussed at their 10-10-17 meeting.

- b) Signage

- i. Staff is researching sign regulations to begin amendement the County's current sign regulations.

2) 2017 Ethic and Open Meeting Training

- The County Commission will be hosting an Ethics and Open Meetings Training on October 18, 2017 at 7:00 pm. Speaker: Martin J. Wright, Jr. General Counsel for the West Virginia State Auditor's Office. See attached Notice.

3) Upcoming BZA meeting

- Next Regular Meeting: **October 26, 2017** (deadline for submissions: Friday, 09-29-17)



JEFFERSON COUNTY, WEST VIRGINIA

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

P.O. Box 716

Charles Town, West Virginia 25414

Email: 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: September 22, 2017
SUBJECT: September Zoning Certificate Activity Report

ISSUED ZONING CERTIFICATES

-
- #ZC17-25 Joan O'Dell, Mountain Lake Apartments, LLC
Issued: 07/26/17
Proposal: Three apartment units on Lots 7 & 8; a parking lot on Lot 6; and, three apartment units on Lot 5.
Location: 115 & 141 Old Bridge Rd, Harpers Ferry, WV 25425
Zone: Rural
-
- #ZC17-26 James Ruland, RAI Properties, LLC
Issued: 08/03/17
Proposal: John's Café & Grill
Location: 59 Ruland Rd, Ste D, Kearneysville, WV 25430
Zone: Industrial-Commercial
-
- #ZC17-27 James Ruland, RAI Properties, LLC, Owner
Danny Fryes, Two Rivers Armory, LLC, Applicant
Issued: 08/03/17
Proposal: Two Rivers Armory
Location: 59 Ruland Rd, Ste A, Kearneysville, WV 25430
Zone: Industrial-Commercial
-
- #ZC17-28 Brendan Slate, SUSO 2 ALABAMA LP, Owner
R. Hannold, Capital Partners, Inc., Applicant
Issued: 08/09/17
Proposal: AnyTime Fitness
Location: Walmart Shopping Center, 136 Patrick Way, Charles Town, WV 25414
Zone: Residential-Light Industrial- Commercial
-
- #ZC17-29 Daniel & Diane Alquist
Issued: 09/06/17
Proposal: Bed and Breakfast, consisting of two (2) units.
Location: 361 Pointfield Dr, Harpers Ferry, WV 25425
Zone: Rural
-
- #ZC17-30 William Chappell, Middleway Conservancy Association
Issued: 09/06/17
Proposal: Battle of Smithfield Re-Enactment
Location: Chappell, William D. & Linda, 175 East St., Bowers, Daniel B. & Anne L. 272 Mason Farm Dr., DeHart, Dorothea, 207 East St., Grace Episcopal Church, 112 East St., Quinones, Carmen, 7513 Queen St., Stickles, James, 7316 Queen St., Johnson, Timothy, 7279 Queen St., Trustees, Middleway United Methodist Church, 328 King St. & 7437 Queen St. (all Kearneysville)
Zone: Rural and Village
-

ISSUED ZONING CERTIFICATES *cont'd*

#ZC17-31 Kim E. Gutierrez, Jr.
Issued: 09/13/17
Proposal: Accessory Dwelling Unit Per Section 8.15(A) - In-Law Suite
Location: 182 Old Shennandale Rd, Charles Town WV 25414
Zone: Rural

#ZC17-32 Michael Collier, WV 340, LLC, owner
09/18/17
Issued: Arielle Miller, Starbucks Coffee, Applicant
Proposal: Starbucks Coffee Kiosk to replace the existing coffee shop inside the Martin's Food Store
190 Flowing Springs Rd, Charles Town, WV 25414
Location: Residential-Light Industrial-Commercial
Zone:

PENDING ZONING CERTIFICATES

#ZC17-33 American Towers, LLC
Issued: TBD
Proposal: Co-locate weather monitoring equipment on existing tower, includes ground-level support equipment.
Location: Raven Rock, 17340 Poppy Road, Bluemont, VA 20170
Zone: Rural

#ZC17-34 Nancy and Charles Stevens
Issued: TBD
Proposal: 1122 Duncan Rd, Harpers ferry WV 25425
Location: Bed and Breakfast per Section 8.3
Zone: Rural



Ethics and Open Meetings Training

Offered by the Jefferson County Commission

By: Martin J. Wright, Jr., General Counsel
West Virginia State Auditor's Office

Where: Jefferson County Commission Meeting Room
Old Charles Town Library
200 E. Washington Street
Charles Town, WV 25414

When: Wednesday, October 18, 2017

Time: 7:00 p.m.

*Questions regarding the event should be directed to
the Jefferson County Commission: 304-728-3284*