



**Jefferson County
Board of Zoning Appeals
Thursday, March 22, 2018**

Members
Tyler Quynn, Chair
Jeffrey Bannon, Vice Chair
Deirdre Catterton
Matt Knott
Jeff Bresee

The Jefferson County Board of Zoning Appeals will meet in the Charles Town Library Conference Room located at 200 East Washington Street, at the side entrance on Samuel Street, in Charles Town, West Virginia.

Unless otherwise noted, all requests are pursuant to the Zoning & Land Development Ordinance.

1. Postponed from February 22, 2018. Election of Officers.
2. Approval of Minutes – February 22, 2018
3. Swearing in of members of the public intending to provide testimony
4. Public Hearing. Variance from Section 5.4b of the 2005 Zoning Ordinance to reduce the rear setback from 20' to 11' for the construction of a 20' x 16' pavilion and a masonry retaining wall (less than 2' in height). Property Owner: Nelson Benavides. Property Location: Sheridan Estates, Lot 156, 43 Wilderness Ct. Harpers Ferry. Tax District: Harpers Ferry (04); Tax Map: 9D; Parcel: 156; Size: .33 ac; Zone: Residential Growth; File: ZV18-04.
5. Zoning Administrator Report
 - a. Monthly Zoning Certificate Activity Report
6. Legal Update
 - a. Possible executive session on the following pending lawsuits. None.
 - b. Discussion with possible deliberative session and sign of draft Findings/Decisions
Meeting: February 22, 2018
 - i. Variance from App. B. Owner: Jefferson County Commission. Applicant: Jefferson County Convention and Visitors Bureau (JCCVB). File: ZV18-01.
 - ii. Variance from Sec. 4.11A.1 & App. B. Owner: SPARC LLC. File: ZV18-02.
 - iii. Variance from Sec. 5.7D.3. Owner: S. Knott & M. Ogg. Applicant: D. Lutman. File: ZV18-03.

Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: February 22, 2018
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; Deirdre Catterton
5 Members absent: Jeff Bresee and Matt Knott (with notification)
6 Staff members present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, Assistant
7 Prosecuting Attorney; and, Jennilee Hartman, Zoning Clerk

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

9 Mr. Bannon moved to call the meeting to order at 2:00 pm, which carried unanimously. Mr. Quynn
10 explained to the public how the meeting would be conducted.

11 1. Election of Officers. Postponed until March 22, 2018.

12 2. Approval of Minutes – December 14, 2017. Mr. Bannon moved to approve the minutes with no
13 corrections. Mr. Quynn seconded the motion, which carried unanimously.

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

15 3. Public Hearing. Variance request from Appendix B to reduce the front setback from 40' to 9' to
16 construct the exterior stairs; and, to reduce the front setback from 40' to 14' for the construction
17 of the proposed Jefferson County Convention and Visitors Bureau building expansion. Property
18 Owner: Jefferson County Commission. Applicant: Jefferson County Convention and Visitors
19 Bureau (JCCVB). Location: 37 Washington Ct. Harpers Ferry. Tax District: Harpers Ferry (04);
20 Tax Map: 7; Parcel: 33; Size: .64 ac; Zone: Rural; File: ZV18-01.

21 Ms. Annette Gavin-Bates, with the Jefferson County Convention and Visitors Bureau, and
22 Michael Mills, with the Mills Group, were present to address the Board. Ms. Beaulieu presented
23 her staff report to the Board. Ms. Beaulieu highlighted the fact that the applicant had previously
24 been before the Board and that the redesign necessitated additional variances. Ms. Gavin-Bates
25 and Mr. Mills explained the nature of the request. Mr. Bannon noted that there did not appear to
26 be any buildable area should the required setbacks be applied. Mr. Quynn opened the public
27 hearing. There was no public comment. Mr. Quynn closed the public hearing.

28 Mr. Bannon moved to approve the variance as requested with the condition that the applicants
29 were bound by their testimony, which carried unanimously.

30 4. Public Hearing. Variance request from Section 4.11A.1 & Appendix B to allow a 50' unscreened
31 buffer along the boundary lines for the proposed site for the purpose of constructing three (3)
32 mobile unit classrooms as part of the approved Vocational and/or Training Facility for Adults.
33 Property Owner: SPARC LLC. Applicant: Ryan Perks with Gordon. Property Location: 201
34 Motorsports Park Circle, Summit Point. Tax District: Kabletown (06); Tax Map: 17; Parcel: 2;
35 Size: ~415 ac; Zone: Rural; File: ZV18-02.

36 Mr. Ryan Perks, with Gordon, was present to address the Board. Ms. Beaulieu presented her
37 staff report to the Board. Mr. Perks explained the nature of the request. Mr. Perks reviewed all
38 of the adjacent land uses, noting that the nearest residential lot was approximately 750' from the
39 proposed location of the mobile units. Mr. Quynn opened the public hearing. There was no
40 public comment. Mr. Quynn closed the public hearing.

1 Ms. Catterton moved to approve the variance as requested with the condition that the applicant
2 was bound by his testimony. Mr. Bannon seconded the motion, which carried unanimously.

3 5. Public Hearing. Variance request from Section 5.7D.3 to subdivide more than (three) 3 lots within
4 a five (5) year timeframe. Applicant is proposing to subdivide a total of five (5) lots via the minor
5 subdivision process. Owner: Steven Knott & Margret Ogg. Applicant: David Lutman. Location:
6 Southwest intersection of River Rd & Knott Rd. District: Shepherdstown (09); Map: 11; Parcel:
7 13; Size: 37 ac; Zone: Rural; File: ZV18-03.

8 Mr. David Lutman, applicant, and Mr. Paul Raco, with P.J. Raco Consulting LLC, were present
9 to address the Board. Ms. Beaulieu presented her staff report to the Board, providing clarification
10 of the request. Ms. Beaulieu briefly explained the differences between processing under Section
11 5.7D.2 and Section 5.7D.3.

12 Mr. Raco provided the Board with paper copies of a PowerPoint presentation. Mr. Raco
13 explained that Mr. Lutman intentionally designed the subdivision to be in keeping with the
14 surrounding properties. Mr. Raco pointed out that the residue parcel meets the 50% open space
15 size criteria. Drawing the Board's attention to an expanded view of a tax map, Mr. Raco argued
16 that adhering to the design of a cluster development would detract from the rural character of
17 the area, which consisted primarily of large lot residential developments. Mr. Raco addressed
18 each of the zoning variance criteria. Mr. Raco explained that the Division of Highways, the
19 Department of Health, and the Department of Engineering, Planning, and Zoning would have
20 to approve the plans prior to recordation. Mr. Raco noted that Mr. Lutman would no longer
21 utilize any further subdivision rights under the "1 per 10", "1 per 15", or "2 lots and a residue"
22 provisions should the Board grant the request. Mr. Bannon asked which standard of the major
23 subdivision process the applicant believed was too onerous to process under. Mr. Raco stated it
24 was a lengthy process and costly. Mr. Raco explained that the applicant would most likely seek
25 waivers from various road standards, which would result in a design similar to the plat
26 currently before the Board.

27 Mr. Quynn opened the public hearing. Kevin Bohrer, Paul Marshall, Edwin Hall, Peter Milcetic,
28 and Diana de Bello, surrounding property owners, spoke in opposition to the request. The
29 neighbors were concerned about the negative traffic impact additional homes would bring. They
30 noted that the five year provision helps slow growth to retain the rural character of the area. The
31 neighbors stated they would prefer a cluster development which would result in the preservation
32 of farmland. Mr. Quynn closed the public hearing.

33 In rebuttal Mr. Raco answered Mr. Bannon's question regarding the text amendments pertaining
34 to the cluster provision. Mr. Raco provided information from the 2014 Comprehensive Plan,
35 which suggested that cluster developments process as a minor subdivision. Mr. Lutman argued
36 that the proposed lots were in keeping with the rural character of the area noting that they
37 ranged from five, ten, to twelve acres in size. Mr. Raco reaffirmed the applicant's offer that
38 should the Board approve the variance that the applicant would be agreeable to a condition that
39 a note be placed on the final plat that states the applicant would not further subdivide under
40 Section 5.7D to process 2 lots and a residue every five (5) years or an additional cluster lot.
41 Mr. Raco addressed traffic safety concerns by stating that the Division of Highways would have
42 to grant approval.

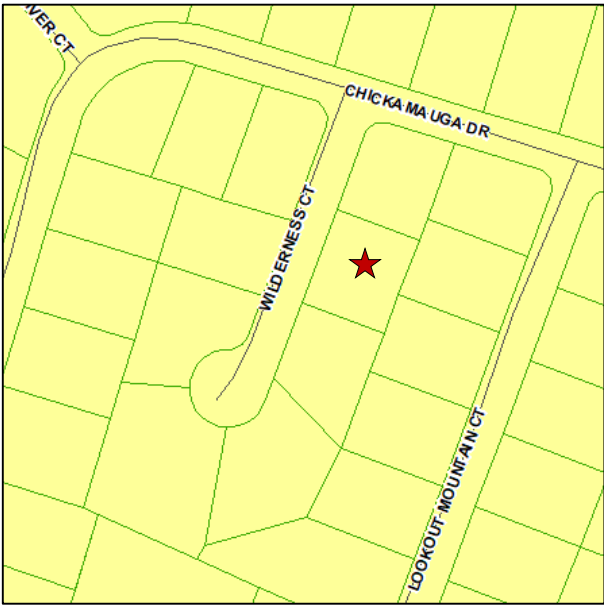
43 Mr. Bannon moved to go into deliberative session at 3:16 pm. Ms. Catterton seconded the
44 motion, which carried unanimously.

- 1 Mr. Bannon motioned to come out of deliberative session at 3:51 pm, which carried unanimously.
- 2 Mr. Quynn moved to approve the variance as requested with the following conditions,
- 3 a. The plan put forward is very similar to the one the Board received as part of the variance
- 4 request;
- 5 b. The applicant is bound by their testimony;
- 6 c. There will be no more than five (5) lots and that there will be no further subdivision of this
- 7 property in the future; and that a note stating this restriction be placed on the final plat.
- 8 Ms. Catteron seconded the motion, which carried unanimously.
- 9 6. Zoning Administrator's Report
- 10 a. Monthly Zoning Certificate Activity Report. This report was provided to the Board in their
- 11 mailed packet.
- 12 Ms. Beaulieu updated the Board on the status of the pending text amendments and reminded the
- 13 Board that the next meeting would be on March 22, 2018.
- 14 7. Legal Update
- 15 a. Possible executive session on the following pending lawsuits. None.
- 16 b. Discussion with possible deliberative session and signing of draft findings/decisions.
- 17 Meeting December 14, 2017.
- 18 i. Special Exception for an outdoor advertising sign for Grace Episcopal Church.
- 19 Property Owner: Karen Ashby-Bowers & Larry Bowers. File: SE17-01.
- 20 ii. Variance from Sections 10.4F & G for signage for Grace Episcopal Church.
- 21 Property Owner: Karen Ashby-Bowers & Larry Bowers. File: SE17-18.
- 22 iii. Variance from Sec. 5.7(b). Property Owner: Brian and Angela Wilt. File: ZV17-19
- 23 iv. Variance from Sec. 4.11A.1 & App. B. Property Owner: SPARC. File: ZV17-20.
- 24 v. Variance from Sec. 9.7. Property Owner: Alicia McCormick. File: ZV17-21.
- 25 vi. Request for a CUP for Starbuck's. Property Owner: Kentland Foundation, Inc.
- 26 File: CUP17-06.
- 27 Mr. Cochran provided the draft Findings to Mr. Quynn to review and sign.
- 28 Mr. Bannon moved to adjourn the meeting at 4:11 pm. Mr. Quynn called for a vote, which carried
- 29 unanimously.

Staff Report
 Jefferson County Board of Zoning Appeals
 March 22, 2018

Benavides Variance (ZV18-04)

Item #4: Variance from Sec 5.4b to reduce the rear setback from 20' to 11' for the construction of a 20' x 16' pavilion.

APPLICANT:	Nelson Benavides
OWNER:	Same as Applicant
DEVELOPER:	Same as Applicant
CONSULTANT:	None
PROPERTY LOCATION:	Sheridan Estates, Lot 156, 43 Wilderness Ct. Harpers Ferry, WV 25425
LEGAL DESCRIPTION & ZONING DISTRICT	District: Harpers Ferry (04); Map: 9D; Parcel: 156; Size: .33 ac; Zone: Residential Growth 
	Zoning Map Designation: <i>North:</i> RG <i>South:</i> RG <i>East:</i> RG <i>West:</i> RG
PARCEL HISTORY:	05-26: Sheridan Estates Final Plat is Recorded in Plat Book 23; Page 40

STAFF EVALUATION OF THE REQUEST:

Summary of Request and Purpose of the Ordinance Requirements

The applicant is requesting a variance from Section 5.4b of the Zoning and Land Development Review Ordinance, as amended, April, 8, 2005, to reduce the rear setback from 20' to 11' to construct a 20' x 16' pavilion, which includes an outdoor kitchen area.

The sketch also depicts a masonry retaining wall; however, the applicant has confirmed that the height of the wall will not exceed 4'. Both the Zoning Ordinance and building code exempt fences/retaining walls that are under 4' in height from processing. Based on the verbal description provided by the applicant, the retaining wall will serve as an approximately 2' tall bench.

Staff Report
 Jefferson County Board of Zoning Appeals
 March 22, 2018

Benavides Variance (ZV18-04)

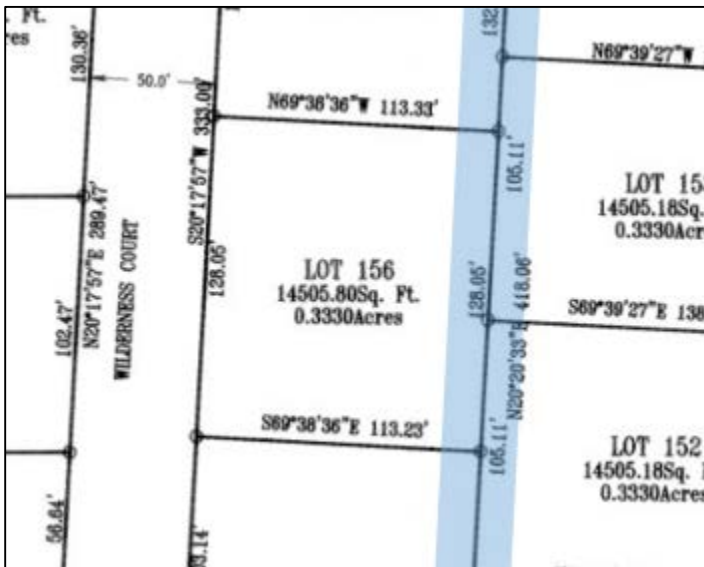
Unique Characteristics of the Property

This parcel is Lot 156 of Sheridan Estates, Phase II (PC File #05-26) which was recorded on August 31, 2006 in Plat Book: 23, at Page: 40. The subject parcel is .33 acres (~14,374 sf) and is zoned Residential Growth. The subdivision is served by water and sewer.

Impact on Adjacent Properties

As noted in the application, the significant slope in the rear of the applicant’s property is higher than the proposed structure and therefore, will not create any additional runoff from the hill.

While the drainage/utility easement is not delineated on the property, Note #15 on the recorded final plat states, “Each lot in Phase II shall have a 10’ wide drainage and utility easement along all lot lines.” As a result of this note, not only does the applicant have a 10’ easement along their property lines but the adjacent property owners also have this easement. This provides a shared 20’ buffer between the parcels.



Feasibility of complying with the Ordinance by other means

It is feasible to comply with the Ordinance by other means. The structure could be relocated elsewhere on the lot to comply with building setbacks.

Conditions of Approval

If the variance is granted, a possible condition of approval could be:

- a) No conditions of approval have been identified.

Section of Ordinance to be Considered:

	Development Type	Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)	Required Yards (ft)				Maximum Building Height (ft)*
			Front	Side	Street Side	Rear	
1	Single Family Dwelling	6,000 sq. ft. MLA**	25	12	15	20	40



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

RECEIVED

FEB 22 2018

www.jeffersoncountywv.org

File Number: ZV18-04

Staff Initials: JMB

Meeting Date: 3-22-18

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

JEFFERSON COUNTY PLANNING,
 ZONING & ENGINEERING

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

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: NELSON BENAVIDES
 Mailing Address: 43 WILDERNESS CT HARPERS FERRY WVA 25425
 Phone Number: 703-868-1150 Email: BENAVIDESN99@YAHOO.COM

Applicant Contact Information

Name: NELSON BENAVIDES
 Mailing Address: 43 WILDERNESS CT HARPERS FERRY WVA 25425
 Phone Number: 703-868-1150 Email: BENAVIDESN99@YAHOO.COM

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

Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 43 WILDERNESS CT HARPERS FERRY WVA 25425
 City: HARPERS FERRY State: WVA Zip Code: 25425
 Tax District: 02050 HARPERS HARPERS FERRY Map No: 9D PARCELS Parcel No: 156
 Parcel Size: 0.3330 ACRES Deed Book: 1200-gtt Page No: 214 gtt

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: 5.4b ZO v. 4/8/05 gH 2/27/18

Briefly describe the nature of the variance request:

BUILD A 20'x16' OPEN WALLED HIP ROOF PAVILION
11' OFF THE REAR PROPERTY LINE. SUPPORT POST 8' TALL TOP OF ROOF
14' TALL FOR FAMILY OUTDOOR RECREATION

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

Front Setback

Side Setback

Rear Setback

Reduction From

20

to

11

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

WATER RUN OFF FROM THE HILL WILL NOT AFFECT THE ADJACENT PROPERTIES
AND ANY MORE THAN NOW. DUE TO THE HILL BEING HIGHER THAN THE STRUCTURE
THAT IS PROPOSED IT WILL AFFECT OTHER PROPERTY OWNERS VIEW

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?

MAKE USE OF THE BACKYARD THAT HAS A LARGE HILL. CREATE A REAR YARD
MY FAMILY CAN SAFELY USE

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

THE VIEW OF ADJACENT OWNERS OR WATER RUN OFF WILL NOT CHANGE
IN FACT WATER RUN OFF WILL BE CONTROLLED BETTER W/LANDSCAPING &
DRAINAGE. THE BACKYARD WILL BE SAFER & USABLE FOR MY FAMILY

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

WITH THE LARGE HILL (WE ARE ON THE BOTTOM OF THE SLOPE)
THE PROPOSED STRUCTURE WILL NOT APPEAR TO ENCRUCH ON OTHER PROPERTIES

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

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


Signature of Property Owner 02/22/18
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 6.1B).

03/22/18

Date of Public Hearing

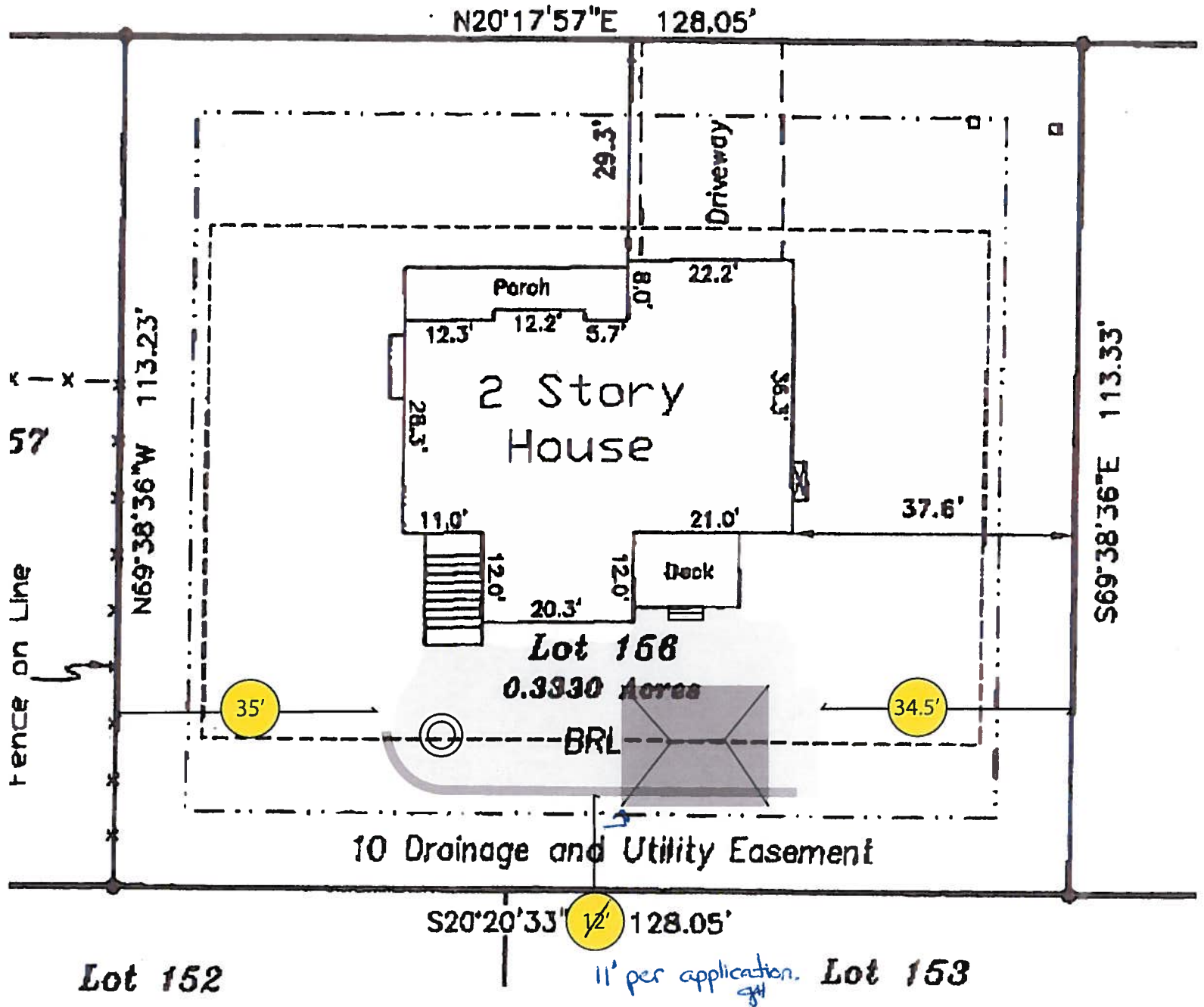
03/07/18

Advertising Date

03/07/18

Placard Posting Date

Wilderness Court R/W=50'

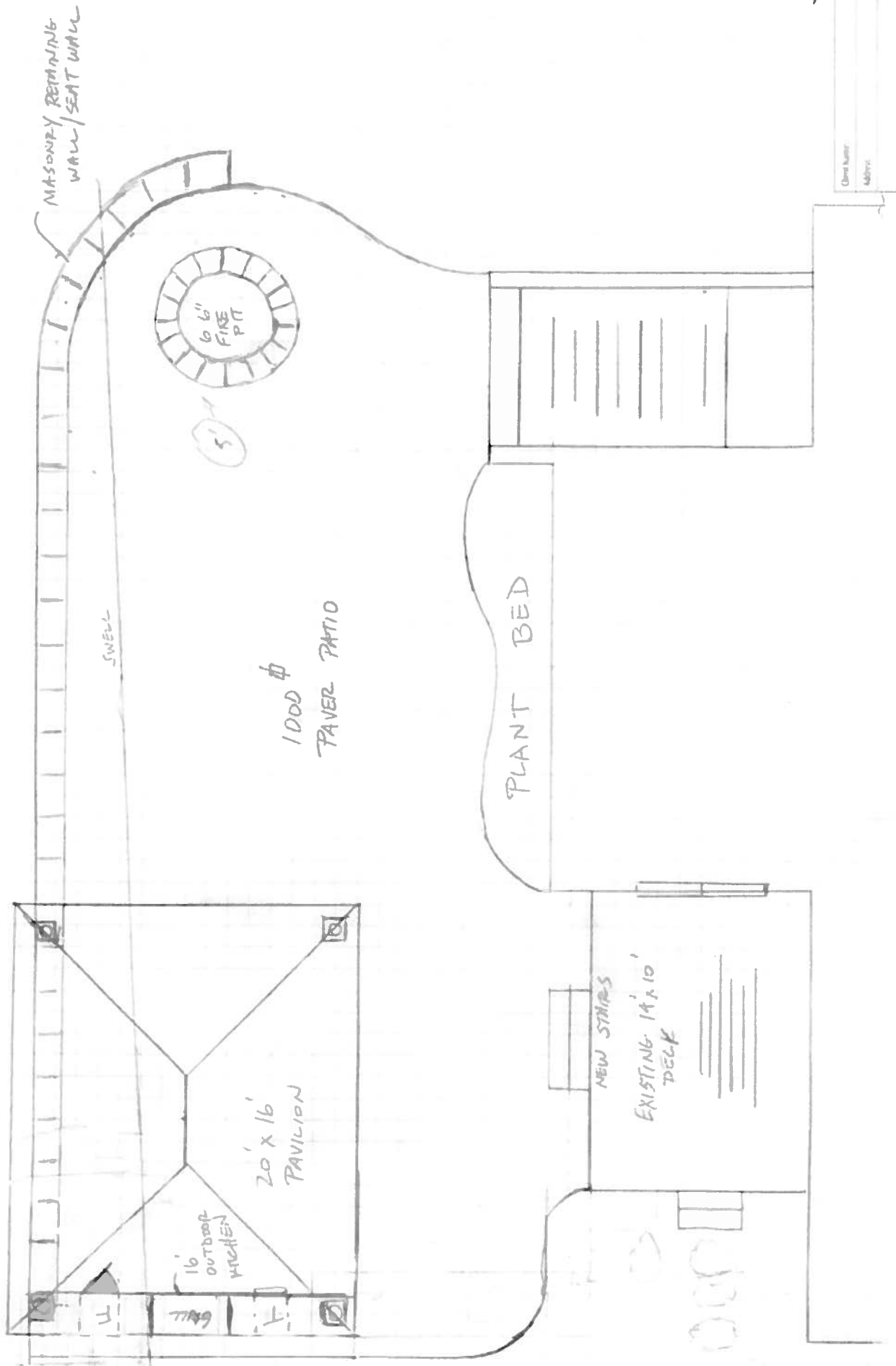


◊ = Utility Pedestal

--- = 10' wide drainage and utility easement along all lot lines.

ZV18-04

Client Name:	
Address:	



0000

ZVI 8-04





120

74

91

LOOKOUT MOUNTAIN CT

WILDERNESS CT

CHICKAMAUGA DR

561

265

287

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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@jeffersoncountyv.wv.org

Phone: (304) 728-3228

Zoning Administrator's Report Board of Zoning Appeals Meeting March 22, 2018

1) Pending Zoning Ordinance and Subdivision Regulation Amendments

- **Pending amendments:**

- a) Historic Preservation – 2nd County Commission Public Hearing Scheduled for 03-15-18
- b) Signage – Planning Commission Public Hearing Held on 03-13-18
 - i. Two public comments were made during the hearing, one in opposition and one in favor/requesting more information. The Planning Commission left the period for public comment open for two weeks and will accept written comments until March 27.
- c) Maximum Lots Allowed (in the Rural District) – County Commission Approved on 03-01-18

2) Upcoming BZA meeting

- The next regular meeting is scheduled for **April 26, 2018** (deadline for submissions is Wednesday, 04-04-18)



Jefferson County, West Virginia
 Department of Engineering, Planning and Zoning
Office of Planning and Zoning
 116 E. Washington Street, 2nd Floor, P.O. Box 716
 Charles Town, West Virginia 25414
www.jeffersoncountywv.org

March 2018

Zoning Certificate Activity Report

File #	Property Owner/ Business Name	Applicant Name	Property Location	Description	Status Date
ZC18-02	George Rushizky	Kenneth Hardin, Hardy Cellular Telephone Co.	8428 Shepherdstown Pk., Shepherdstown	Existing Wireless Telecommunication Facility: add six antennas & ancillary mounted equipment 200' tower	Approved 02/20/18
ZC18-03	Todd & Susan Hough, Tr.	Self	Shannondale Rd. ½ mile W of Kabletown Rd.	Veterinary Services, Pet Crematory under 1200 sq.	Approved 02/26/18
ZC18-04	Cable Holdco Exchange V LLC	Shenandoah Personal Comm. LLC, Shentel	512 Sandpiper Ln. Shepherdstown	Existing Wireless Telecommunication Facility: add six antennas & ancillary mounted equipment ~120' tower.	TBD
ZC18-05	Michael Feeser	Self	5567 Engle Molers Rd., Shepherdstown	Air B&B in guest home.	Denied 03/13/18
ZC18-06	Michael R. Skigen, CPA, Managing Partner	Carlos Marin Ranson Upholstery, LLC	197 Halltown Road, Unit #102 Harpers Ferry	Retails Sales, General: Upholstery Store	Approved 02/21/18
ZC18-07	Michael R. Skigen, CPA, Managing Partner	Charles & Cathy Kesner, Kenser Enterprises	Outdoors, 197 Halltown Road, Harpers Ferry	Commercial Use: Outdoor Flea Market	Approved 03/05/18