



Jefferson County
Board of Zoning Appeals
Thursday, August 23, 2018 at 2:00 p.m.

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

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

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

1. Approval of Minutes –August 9, 2018
2. Swearing in of members of the public intending to provide testimony
3. Postponed from the August 9, 2018 meeting. Public Hearing. Variance from Section 5.7D3 to allocate two of the remaining development rights to the newly created non-residue lot in the proposed Rider Minor Subdivision. Property Owner: Cynthia B. Rider. Property Location: 195 Vance Road, Shepherdstown, WV. Tax District: Shepherdstown (09); Tax Map: 9; Parcel 22; Size: 100.36 acres; Zone: Rural. File: ZV18-09.
4. Public Hearing. Variance from Appendix B to reduce the side setbacks for a 16' x 24' addition to an existing church. Northern boundary line reduction from 50' to 38'. Southern boundary line reduction from 50' to 26'. Property Owner: Kearneysville Community Baptist Church. Property Location: 500 Stubbs Road, Kearneysville, WV. Tax District: Middleway (07); Tax Map: 3B; Parcel: 43; Size: 88' x 240'; Zone: Village File: ZV18-11.
5. Public Hearing. Variance from Appendix A to reduce the front setback from 20' to 2' to construct a 20' x 17' addition on to an existing home. Property Owner: Marion and Barbara Barrow. Property Location: 142 King Street, Kearneysville, WV. Tax District: Middleway (07); Tax Map: 22A; Parcel: 28; Size: .74 ac; Zone: Village File: ZV18-12.
6. Acting Zoning Administrator Report
 - a. Monthly Zoning Certificate Activity Report
7. 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: June 28, 2018
 - i. Appeal of the Zoning Administrator's Determination regarding the applicability of Section 4.4C pertaining to the proposed Magnolia Springs Subdivision and the Belvedere House which is listed on the National Register of Historic Places. File: AP18-01.
 - ii. Variance from Section 4.11B and Appendix B. Property Owner: Universal Forest Products Eastern Division Inc. Property Location: 249 16th Ave., Ranson, WV. Tax District: Charles Town (02); Tax Map: 7; Parcel: 11.6 (A & B); Size 30 ac; Zone: Industrial Commercial. File: ZV18-10.

Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: August 9, 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, Matt Knott and
5 Deirdre Catterton
6 Members absent: None
7 Staff members present: Jennifer Brockman, Acting Zoning Administrator; Nathan Cochran,
8 Assistant Prosecuting Attorney; and, Jennilee Hartman, Zoning Clerk
9 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

10 The purpose of this Special Meeting is to address items from the regularly scheduled July 26, 2018
11 Board of Zoning Appeals meeting that were postponed due to the lack of a quorum.

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

14 1. Approval of Minutes – June 28, 2018. Mr. Bannon moved to approve the minutes. The following
15 edits were requested:

- 16 a) Page 1, line 30, change the word *my* to *by*.
17 b) Page 2, line 36, insert the word *that* before the word *Section*.
18 c) Page 3, line 23, change ‘*for deliberation*’ to ‘*from deliberation*’.
19 d) Page 2, line 36, insert a comma after the word *meeting* and add the word *and* thereafter.

20 Mr. Quynn called for a vote on the revised minutes, which carried unanimously.

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

22 3. Public Hearing. Variance from Section 5.7D3 to allocate two of the remaining development rights
23 to the newly created non-residue lot in the proposed Rider Minor Subdivision. Property Owner:
24 Cynthia B. Rider. Property Location: 195 Vance Road, Shepherdstown, WV. Tax District:
25 Shepherdstown (09); Tax Map: 9; Parcel 22; Size: 100.36 acres; Zone: Rural. File: ZV18-09.

26 This item was postponed until the August 23, 2018 meeting at the request of the property owner.

27 4. Public Hearing. Variance from Section 4.11B and Appendix B: to eliminate the landscape buffer
28 that is required for a proposed 8,750 sf storage building, a 45,000 sf warehouse, and employee
29 parking lot as follows: eliminate the buffer along the northern boundary of the subject parcel
30 and the remaining perimeter of subject parcel where it is not currently landscaped, other than a
31 small area along the 45,000 sq. ft. proposed building. (PC File #S18-04). Property Owner:
32 Universal Forest Products Eastern Division Inc. Property Location: 249 16th Ave., Ranson,
33 WV. Tax District: Charles Town (02); Tax Map: 7; Parcel: 11.6 (A & B); Size 30 ac; Zone:
34 Industrial Commercial. File: ZV18-10.

35 Ian Morris consultant with Pennoni and representative for Universal Forest Products, Inc. was
36 present to address the Board. Ms. Brockman presented her staff report to the Board noting that
37 the applicant would be providing the required landscaping along the western property line up to
38 the proposed building area. Mr. Morris explained the nature of the request to the Board and
39 listed all of the adjacent commercial land uses. Mr. Quynn opened the public hearing. There was
40 no public comment. Mr. Quynn closed the public hearing. Mr. Knott moved to approve the
41 variance as requested. Mr. Bannon seconded the motion, which carried unanimously.

1 5. Zoning Administrator's Report

2 a. Monthly Zoning Certificate Activity Report. This report was provided to the Board in their
3 mailed packet.

4 Ms. Brockman did not review any additional information with the Board. Ms. Brockman stated
5 the next regularly meeting would be August 23, 2018.

6 6. Legal Update

7 a. Possible executive session on the following pending lawsuits. None.

8 b. Discussion with possible deliberative session and sign of draft Findings/Decisions

9 Meeting: June 28, 2018

10 Mr. Cochran provided the draft Findings to the Board.

11 i. Appeal of the Zoning Administrator's Determination regarding the applicability of Sec.
12 4.4C pertaining to the proposed Magnolia Springs Subdivision and the Belvedere House
13 which is listed on the National Register of Historic Places. File: AP18-01.

14 Mr. Cochran explained that the Findings were drafted by Mr. Gay who was the attorney
15 for Mr. Hunter Wilson, the developer of Magnolia Springs. Due to the authorship and
16 length of the Findings, Board members expressed a desire to review the Findings and take
17 action at a subsequent meeting. Mr. Knott moved to take action on the Findings at the
18 August 23, 2018 meeting, which carried unanimously.

19 ii. Request for a Special Exception Permit for a 6' W x 10' L Electronic Sign, which is to
20 replace an existing 6' x 10' sign, to be affixed to an existing supporting structure
21 approximately 25' in height. Owner: Bolivar International Pentecostal Church of Christ.
22 File: SE18-01.

23 Mr. Quynn retained the Findings to review and sign at a later date.

24 Mr. Knott moved to adjourn the meeting at 2:30 pm. Mr. Quynn called for a vote, which carried
25 unanimously.

Staff Report
Jefferson County Board of Zoning Appeals
July 26, 2018

Cynthia B. Rider Variance (ZV18-09)

STAFF EVALUATION OF THE REQUEST:

Summary of Request and Purpose of the Ordinance Requirements

The applicant is currently processing a Minor Subdivision through our Office. She would like to allocate the right to divide two additional lots off of the newly created non-residue lot in her subdivision to the future buyer. Section 5.7D3 of the Zoning Ordinance states, “Only the residue or parent parcel may qualify under this provision once the original subdivision takes place.” Therefore, the applicant is seeking a variance from Section 5.7D3 of the Zoning Ordinance to allocate two of the remaining development rights to the newly created non-residue lot in the proposed Rider Minor Subdivision.



Impact on Adjacent Properties

The property owner has the right to subdivide the number of lots being proposed, using either the minor or major subdivision process. She has the right to create 20 lots through the cluster provision. Allowing the applicant to allocate a portion of the additional rights to the non-residue parcel would not have any more significant of an impact on adjacent properties than if the current property owner were to utilize all of the density rights.

Staff Report
Jefferson County Board of Zoning Appeals
July 26, 2018

Cynthia B. Rider Variance (ZV18-09)

Feasibility of complying with the Ordinance by other means

The property owner possesses the right to create a major subdivision of 20 lots utilizing the cluster provision (which requires a minimum of 50 acres of greenspace) or 6 lots and a residue using the 1 lot/15 acres provision. She could create the full number of lots up front, but is currently requesting to create one lot and a residue as a minor subdivision. Our understanding is that the applicant would like the option to market the newly created non-residue lot as having the ability to be further subdivided in the future, should a new property owner choose to do so.

Conditions of Approval

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

A note should be added to the final plat stating that the newly created non-residue lot has the right to create two additional lots as the result of this variance, while the residue retains the balance of the development rights under the Jefferson County Zoning and Land Development Ordinance in effect at the time the plat is approved.

The non-residue parcel may be permitted to subdivide provided it conforms to the rules and regulations in effect at the time it is submitted. No lot within the non-residue subdivision shall be given the residue designation. A note shall be added to that plat referencing this Board of Zoning Appeals meeting date.

Section of Ordinance to be Considered:

Section 5.7 Rural (R) District

D. Maximum Number of Lots Allowed

All parcels of land that were on record as of October 5, 1988 are entitled to subdivide for single family detached residences based on Subsections 5.7D.1, 5.7D.2, or 5.7D.3 below.

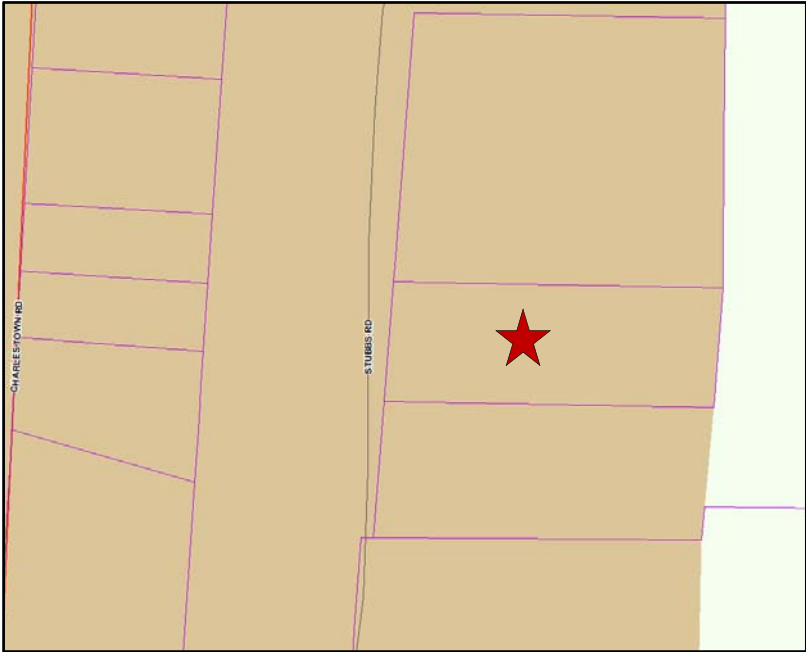
A property owner may use a combination of these Subsections, provided that the number of lots are prorated by density. The density rights for any rural development shall be based on the parcel of record as of October 5, 1988 utilizing the following alternatives:^{8, 32}

3. If the development rights under Subsections 5.7D.1 and 5.7D.2 above have not been utilized, any property that was a lot of record as of October 5, 1988 may create three (3) total lots (including the residue) during any five year period. Such application may process as a Minor Subdivision, in accordance with the Subdivision Regulations, and shall be exempt from density limitations provided that all subdivision requirements are satisfied. Applications which exceed this number during any five year period shall process under Subsection 5.7D.1 or 5.7D.2 above. **Only the residue or parent parcel may qualify under this provision once the original subdivision takes places. All lots that qualify under this section must meet subdivision requirements.**³²

Staff Report
 Jefferson County Board of Zoning Appeals
 August 23, 2018

Kearneysville Community Baptist Church Variance (ZV18-11)

Item #4: Variance from Appendix B to reduce both of the side setbacks for a 16' x 24' addition to an existing church. Northern boundary line reduction from 50' to 38'. Southern boundary line reduction from 50' to 26'.

APPLICANT:	Pastor Diana Fleming Smallman
OWNER:	Kearneysville Community Baptist Church
DEVELOPER:	Same as Applicant
CONSULTANT:	None
PROPERTY LOCATION:	500 Stubbs Road, Kearneysville, WV
LEGAL DESCRIPTION & ZONING DISTRICT	<p style="text-align: center;">Tax District: Middleway (07); Tax Map: 3B; Parcel: 43; Size: 88' x 240'; Zone: Village</p> 
	<p>Zoning Map Designation:</p> <p><i>North:</i> Village <i>South:</i> Village</p> <p><i>East:</i> Rural <i>West:</i> Village</p>
PARCEL HISTORY:	01-21-99: BZA Approved a variance to reduce the side setback on the southern boundary line from 50' to 26' for a previous 24' x 32' addition (ZV98-40)

STAFF EVALUATION OF THE REQUEST:

Summary of Request and Purpose of the Ordinance Requirements

The applicant is seeking a variance from Appendix B of the Zoning Ordinance to reduce the side setbacks from 50' to 38' on the northern boundary line and to 26' on the southern boundary line to construct a 24' x 16' addition to an existing church.

Staff Report
Jefferson County Board of Zoning Appeals
August 23, 2018

Kearneysville Community Baptist Church Variance (ZV18-11)

Unique Characteristics of the Property

This church is located on a half-acre parcel within the village of Kearneysville. It has been at this location for nearly 50 years. The original building sits on the southern property line with no setback and the northern property line is along the edge of the parking lot. A 24' x 32' addition was constructed in 1999 with a variance allowing it to be located 26' from the southern property line. The access to the lot is along the northern property line and the parking lot is located on that side of the church building.



At that time, it was believed that the lot was 100' wide and therefore a variance was not sought for the northern property line. The lot is actually 89' wide and therefore variances are required for both side setbacks.

Impact on Adjacent Properties

The church has sat along the southern property line for the last 50 years. The previous addition was constructed approximately 20 years ago and received support from the neighbors to be located 26 feet from the southern property line. The requested 16' x 24' addition will have minimal additional impact on the adjacent properties. The Walkers own the properties on either side of the church and have provided a letter of support.

Feasibility of complying with the Ordinance by other means

Due to the size and shape of the property, it is not possible to construct an addition on this structure without the requested variances.

Section of Ordinance to be Considered:

Attachment: Appendix B Nonresidential Site Development Standards Table



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: 2018-09
 Staff Initials: rlg
 Meeting Date: 7/26/18
 Fees Paid (\$100 or \$150): 100.00

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: Cynthia B. Rider
 Mailing Address: P.O. Box 614 Shepherdstown, WV 25443
 Phone Number: 304-876-4383 Email: n19

Applicant Contact Information

Name: Cynthia Rider
 Mailing Address: P.O. Box 614 Shepherdstown, WV 25443
 Phone Number: 304-876-4383 Email: n19

Applicant Registered Engineer(s), Surveyor(s), or Consultant(s) n19

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

Physical Property Details

Physical Address: 195 Vance Road
 City: Shepherdstown State: WV Zip Code: 25443
 Tax District: Shepherdstown Map No: 9 Parcel No: 22
 Parcel Size: _____ Deed Book: 214 Page No: 64

Zoning District (please check one)

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

RECEIVED

JUL 03 2018

JEFFERSON COUNTY
 PLANNING, ZONING AND ENGINEERING
 Place Received Date Stamp Here

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

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

Reference the section of the Zoning Ordinance pertaining to this request: Section 20 (S.7D3)

Briefly describe the nature of the variance request: 201 minor subdivisions B. Family Transfer pg 11

The new owner may be granted the permission of selling two parcels - one to help guard the property, the other to the Civil War Trust

If this request is for a setback variance, please check one of the following: 7/19

Front Setback Side Setback Rear Setback Reduction From _____ to _____

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

- 1) The new owner will follow the same procedures with the Planning & zoning regulations if (optional) forming 2 parcels
- 2) in 47 acres there is enough space for a determined parcel & a 1 acre or less parcel

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

This variance is for the purpose of guarding the wildlife & then granting a strip of Civil War interest to the Shepherdstown Battlefield

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

The new owner will be informed of the permission granted which can then be discussed along with the covenants and restrictions to be in place

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

The option of this variance is to allow for the natural habitat of wildlife - for the wildlife - to be protected.

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.

Cynthia B. Rider July 2, 2018
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 6.1B).

Date of Public Hearing Advertising Date Placard Posting Date

Trough Road

Western
line

SW

QV

Shepherdstown
Battlefield
Cem. burial
This area

Civil War Trench

-The ford-

Maryland

Patomac River

West Virginia

Northern boundary

49 acres
woodland

Southern boundary

bridge

101

NE

Western
line

July 2, 2018
Cynthia B. Piles

APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE^{27, 32, 35}

Zoning District	Development Type [Ⓔ]	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imper-vious Surface Limit	Building Setbacks			Parking/ Drive Aisle Setbacks			Buffers (Sec. 4.11) (Screened / Unscreened) Adjacent Use							
						Front	Side	Rear	Front	Side	Rear	Distance	Front	Side & Rear	Front	Side & Rear	Front	Side & Rear	
Industrial – Commercial (IC)**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25			15	4	4	75	Street Trees	Narrow Buffer Detail No. M-54	N/A	10(S)	N/A	10(S)	
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25			15	10	10	75	Street Trees	Medium Buffer Detail No M-53	N/A	10(S)	N/A	10(S)	
Residential-Light Industrial-Commercial (RLIC)	Industrial	3 ac***	N/A	75	90%	50 or 25 ft adjacent to Industrial Use			25 or 20 ft adjacent to Industrial Use			200	Street Trees	Wide Buffer Detail No. M-52	25(S)	20(S)	N/A	20(S)	
	Commercial or Industrial	N/A	N/A	75	80%	25	50	50				N/A	See IC District	50(U) or 15 (S)	N/A	10(S)	N/A	10(S)	
Rural (R)	Churches	2 acres	200	45	N/A	25	50	50				N/A							
	Schools, Grades K-12	K-4: 10 ac+ 5-8: 20 ac+ 9-12: 30 ac+	500	45	N/A	100			See IC District for commercial sites			N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Hospitals	10 ac	500	45	N/A	100						N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Other Rural principal permitted uses	40,000	100	45	N/A	40	50	50				N/A	See I-C District for commercial or industrial use; Otherwise N/A						
Village (V)	Commercial or Industrial**	N/A	N/A	35	N/A	25	10	40	See IC District				See IC District						
	Commercial [†]	See IC District	35	35					See IC District				See IC District						
Residential Growth (RG)	Commercial or Industrial**	See IC District	35	35					See IC District				See IC District						
Neighborhood Commercial (NC)	Commercial	N/A	N/A	35	70%	15 min 25 max	10 [£]	10 [Ⓓ]	See I-C District			25		See IC District					
General Commercial (GC)	Commercial	N/A	N/A	75	80%	20	10	25											
Highway Commercial (HC)	Commercial	N/A	N/A	75	80%	25	25	25											
Light Industrial (LI)	Commercial or Industrial	N/A	N/A	75	80%	25	25	25											
Major Industrial (MI)	Commercial	N/A	N/A	75	90%	25	10	50						See IC District					
	Industrial	3 ac***	N/A	75	90%	25	50	50											
Office/Commercial Mixed Use (OC)	Commercial	N/A	N/A	75	80%	15 min 25 max	10 [£]	10 [Ⓓ]											
Planned Neighborhood Development (PND)	Commercial	3 acres	See GC District	80%					See GC District										

The requirements in this table are in addition to any other applicable requirements in the text of this Ordinance. In the event of a conflict with the text, this table shall prevail.

All dimensions are in feet unless otherwise indicated by "ac" (acres).

* Maximum building height is subject to Sec. 9.2.

** If land use(s) approved via the Conditional Use process in accordance with this Ordinance.

*** MLA for Industrial uses does not apply if the site is located in an approved Industrial Park [Source: Sec. 5.6E]

**** Schools in Rural district: Plus one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewer treatment plant and retention ponds are required, acreage shall be increased accordingly.

***** Non-Residential Site Development in an existing structure in the Village District shall comply with Section 5.10A.2.

† Setback may be reduced if adjacent to industrial use.

Ⓟ For an industrial use, no structures, stored materials, or vehicular parking shall be permitted within the buffer yard. For a commercial use, no structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

Ⓠ A rear yard setback may be reduced to 10' for a non-residential use abutting a commercial or industrial use at a rear lot line


Ⓡ Churches in any district: (1) are treated as a commercial use on a lot of greater than 1.5 acres in determining buffer requirements and parking/drive aisle setbacks; (2) building setbacks are 25' (front) and 50' (side/rear); and (3) distance requirements do not apply.

Ⓢ For a non-residential use abutting a commercial or industrial use, no side yard setback is required, unless required by Building Code or other law or regulation.

Staff Report
 Jefferson County Board of Zoning Appeals
 August 23, 2018

Barrow Variance (ZV18-12)

Item #5: Variance from Appendix A to reduce the front setback from 20' to 2' to construct a 20' x 17' addition on to an existing home.

APPLICANT:	Marion and Barbara Barrow
OWNER:	Same as owner
DEVELOPER:	Same as Applicant
CONSULTANT:	None
PROPERTY LOCATION:	142 King Street, Kearneysville, WV
LEGAL DESCRIPTION & ZONING DISTRICT	<p>Tax District: Middleway (07); Tax Map: 22A; Parcel: 27 & 28; Size: .74 ac; Zone: Village</p> 
	<p>Zoning Map Designation: <i>North:</i> Village <i>South:</i> Village <i>East:</i> Village <i>West:</i> Village</p>
PARCEL HISTORY:	None

STAFF EVALUATION OF THE REQUEST:

Summary of Request and Purpose of the Ordinance Requirements

The applicant is seeking a variance from Appendix A of the Zoning Ordinance to reduce the front yard setbacks from 20' to 2' in order to construct a 20' by 17' addition to an existing, uninhabited dwelling unit. The applicant intends on renovating the existing house to make it livable and is proposing to construct a laundry room, bedroom and second bathroom on the main floor of the home.

While the proposed addition will cross over a common property line, a variance is not required as Section 9.4B reads, "A structure may be located on a common side or rear lot line of contiguous property owned by the same entity. Provided, however, that the structure shall only be a single family dwelling or an accessory structure. Also provided, however, that the contiguous lots shall be treated as one lot for all purposes by the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations."

Staff Report
Jefferson County Board of Zoning Appeals
August 23, 2018

Barrow Variance (ZV18-12)

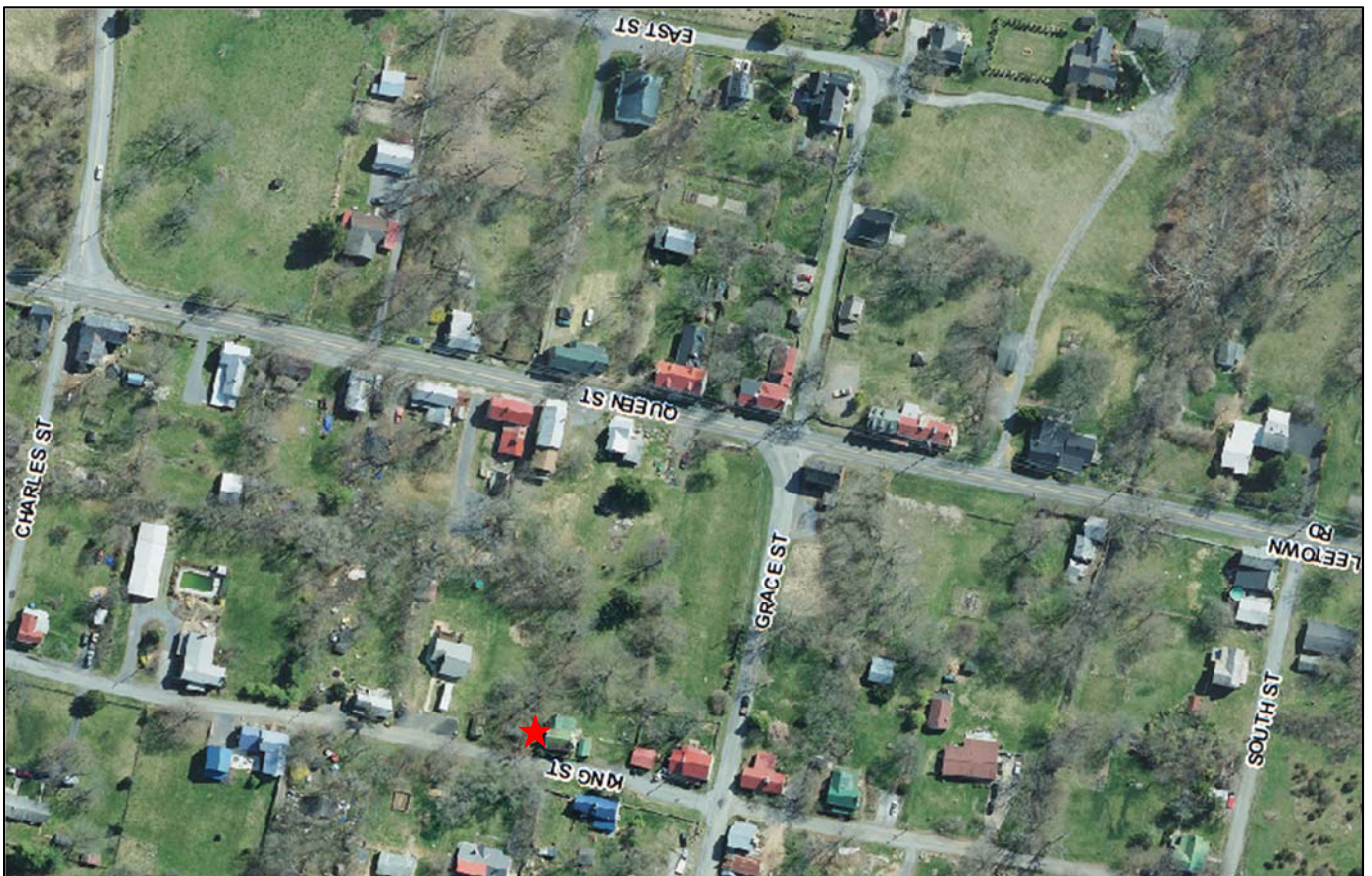
Unique Characteristics of the Property

The subject property is located in the Historic Village of Middleway and the combined lot size is approximately 0.74 acres in size. As the applicant noted in his application the original home was constructed in the mid-1800s.

One of the key purposes for front yard setback requirements is to allow sufficient room for future roadway expansion. However, in the case of the subject property, it should be noted that the existing home, in addition to nearby structures on other properties, is already located very close to the right-of-way. As these structures are located in a National Register Historic District, it appears unlikely that they would be demolished for the purpose of expanding a road. As such, staff finds that the proposed variance would not have an impact on future right-of-way expansion.

Front setback requirements are also applied for the purpose of maintaining neighborhood character. Based on aerial photography of the area, it is evident that shorter front setbacks are a common feature of the neighborhood. A linear expansion of the original structure also appears to be a common architectural theme in this village district. For this reason, staff finds that the proposed variance would not have a negative effect on the existing neighborhood character.

It should also be noted that as this property is not situated on a corner lot the line of sight should not be negatively impacted by this addition.



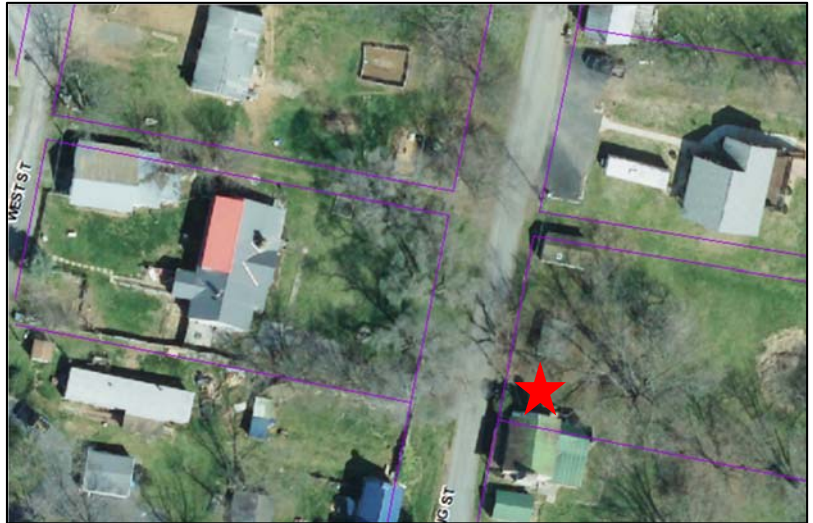
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Barrow Variance (ZV18-12)

Impact on Adjacent Properties

Staff believes there will not be a negative impact on the neighbor to the north as there is a 10' alley that separates this parcel from the subject property. With regard to the neighbor to the west, it appears that the addition will be constructed immediately across from their driveway. The addition would be approximately 115-120' from the front of this home, so it seems unlikely this addition will pose any negative impact to this neighbor.

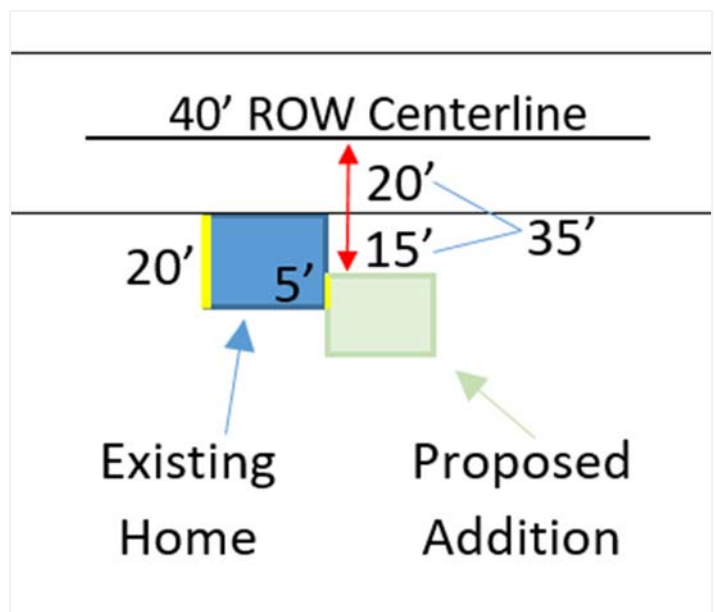
It is understood that the subject parcel has been vacant for a number of years and it would seem that the renovation of the home would bring value to the property and the community.



Feasibility of complying with the Ordinance by other means

Section 4.3 of the Ordinance allows a nonconforming use to expand up to 35% of the structure. In this case it would permit a linear expansion of the original home, which would equal approximately 7'. The applicant is requesting a 20' addition. While the applicant could have requested a variance from the 35% expansion provision, the property has been vacant for a number of years so the validity of the property's nonconforming status is questionable; thus, a variance from the setback standard seemed a simpler request.

Section 9.4 of the Ordinance also allows for the minimum setback for a proposed building to be based on the average of at least two existing buildings on the same side of the street within 200' of the proposed building. However, the Ordinance states, "in no case shall the setback line be less than thirty-five (35) feet from the centerline of any abutting road or street." The King Street right-of-way dimension is 40 feet. Measuring from the centerline of the ROW the required 35' and noting that the existing home is immediately on the edge of the ROW, this would mean that the proposed addition would have to be constructed in a manner that only allows a 5' overlap with the side of the home. See the diagram below for representation of this provision. Based on these dimensions, this section does not provide relief to the applicant.



If the applicant were to comply with the required 20' setback the structure would not be attached to the side of the home. In speaking with the applicant, Staff has learned that the interior layout of the home would not be conducive to adding the bedroom, bathroom and laundry area to the rear of the home. This would require the applicant to remodel the kitchen, which would substantially increase the cost of the project.

Staff Report
 Jefferson County Board of Zoning Appeals
 August 23, 2018

Barrow Variance (ZV18-12)

Conditions of Approval

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

- a) Any linear expansion is limited to the original size of the home and must be in conformance with the nonconforming use provisions of Section 4.3.

Section of Ordinance to be Considered:

APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE^{27, 32}

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft.***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks				Parking/ Drive Aisle Setbacks	Screened Buffers Sec. 4.11
							Front	Side	Street Side	Rear		
Residential Growth (RG)	Single Family Detached Dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20	N/A	N/A
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"		
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"		
	Small Lot Single-Family Detached Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20	N/A	N/A
	Duplex Dwelling Unit	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20		
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"		
	Townhouse Dwelling	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20	12 side 15 front 15 rear	12 side 15 front 15 rear
	Multi-Family Dwelling (See Section 4.12)	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30	N/A	N/A
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	#	12		
		30,000 sq. ft. to 40,000 sq. ft.	N/A	N/A	N/A	40	20	10	#	12		
Under 30,000 sq. ft.		N/A	N/A	N/A	40	20	8	#	12			
Rural (R) (See Sec. 5.7)	Dwellings		40,000	N/A	100	45	40	15	#	50	N/A	N/A
		Over 2 acres	N/A	N/A	N/A	45	40	15	#	50		
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	40,000 sq. ft. to 2 acres	N/A	N/A	N/A	45	25	12	#	12		
		30,000 sq. ft. to 39,999 sq. ft.	N/A	N/A	N/A	45	20	10	#	12		
		Under 30,000 sq. ft.	N/A	N/A	N/A	45	20	8	#	12		
Cluster Subdivision	See RG District											
Village (V)	Residential uses	See RG District										



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: ZV18-11
 Staff Initials: SAH
 Meeting Date: 08/23/18
 Fees Paid (\$100 or \$150): 100.00

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: Kearneysville Community Baptist Church
 Mailing Address: P.O. Box 789, 500 Stubbs Road
 Phone Number: 304-876-0658 or 304-876-3329* Email: Jesuslady@Frontiernet.net

Applicant Contact Information

Name: Pastor Diana Ferguson Smallman
 Mailing Address: P.O. Box 482, Kearneysville, WV 25430
 Phone Number: 304-876-3329 Email: Jesuslady@Frontiernet.net

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

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

Physical Property Details

Physical Address: 500 Stubbs Rd.
 City: Kearneysville State: WV Zip Code: 25430
 Tax District: 17 Map No: 3B Parcel No: 43
 Parcel Size: .50 Deed Book: 659 Page No: 631

Zoning District (please check one)

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

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JUL 27 2018

JEFFERSON COUNTY
 PLANNING, ZONING AND ENGINEERING

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: Appendix B

Briefly describe the nature of the variance request:

Variance is to allow the addition width to be less than 50' from side property which is the same width of previous variances granted. The front and back variances distance exceeds the 50' variance required. Adding 16' long by 24' wide addition.

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

Front Setback Side Setback Rear Setback Reduction From 50' to 26' & 38"

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

The adjacent property has consented to the less than 50' from their property line and the addition is within the same width as previously added structure and will be within the guidelines for septic & drain tile distance required.

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

This church lot was never this far away (50') from neighboring homes. This community is centralized in being supportive of each other. So being within 50' feet makes smaller in number. This church was built way before I became pastor, based on current need/ variance

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

This variance will allow the church guests to have some place to set when receiving a visit. Current size only accommodate our members, have gospel services with guest limits our ability to accommodate them including funeral repass.

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

The zoning committee in our past always providing service and knowledge on how to follow guidelines and address the initial needs of our church by providing bathrooms. I believe they will be within justice and compassion to allow this variance.

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] 7/09/2018
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 6.1B).

08/23/18
Date of Public Hearing

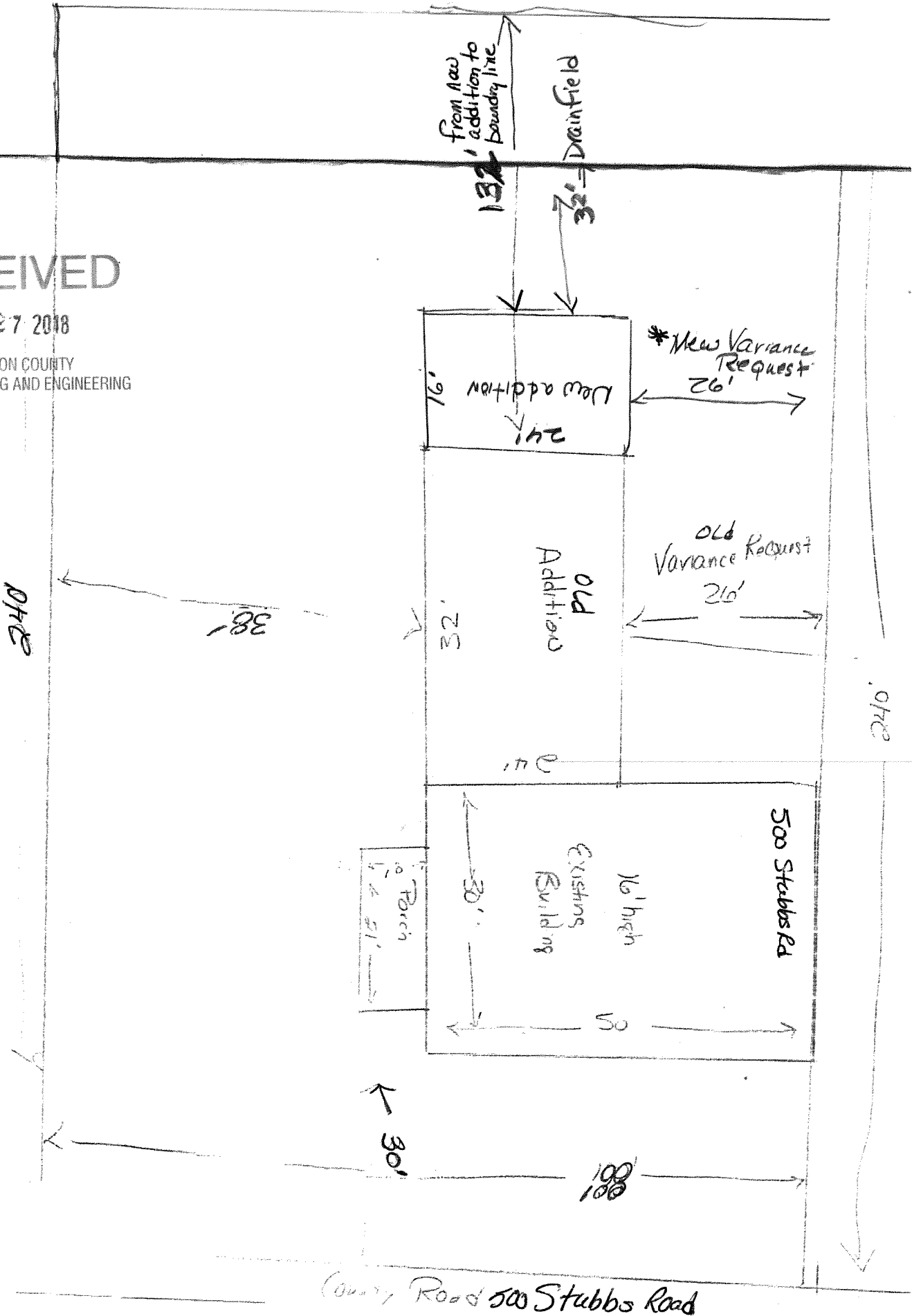
08/08/18
Advertising Date

08/08/18
Placard Posting Date

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PLANNING, ZONING AND ENGINEERING



Prep for Diana Ferguson
7/26/2018

County Road 500 Stubbbs Road

Walker Properties, LLC

10179 Leetown Rd,
Kearneysville WV 25430

Office of Planning and Zoning

To whom it may concern:

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JUL 27 2018

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Walker Properties, LLC does grant permission for the owners of 500 Stubbs Rd., Kearneysville WV 25430 to extend their building not more than 50 feet.

Terry Walker

Walker Properties, LLC





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: ZV18-12
 Staff Initials: JH
 Meeting Date: 08/23/18
 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: Marion and Barbara Barrow
 Mailing Address: 1223 Double Church Rd., Stephen City VA 22655
 Phone Number: 540-327-3721 Email: _____

Applicant Contact Information

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

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

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

Physical Property Details

Physical Address: 142 King Street
 City: Kearneysville State: WV Zip Code: 25430
 Tax District: 07 Map No: 22A Parcel No: 28
 Parcel Size: .74 ac Deed Book: 666 & 1182 Page No: 114 & 89

Zoning District (please check one)

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<p align="center">RECEIVED</p> <p align="center">JUL 30 2018</p> <p>JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING</p> <p align="center"><small>Place Received Date Stamp Here</small></p>			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

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

Reference the section of the Zoning Ordinance pertaining to this request: Section 9.7

Briefly describe the nature of the variance request:

Reduce the front setback from 20' to 2' to construct a 20' x 17' addition to an existing house.

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

Front Setback Side Setback Rear Setback Reduction From 20' to 2'

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:

All residential buildings in Middleway are located on the road frontage.

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?

The original home was constructed in the mid-1800s. To be consistent with the character of the area I would like to attach the building on the side of the house.

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

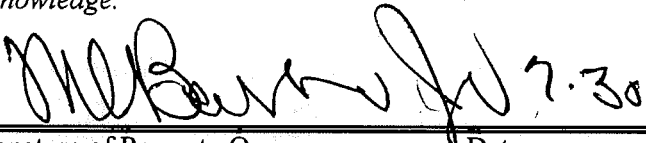
I need a laundry room, bedroom and a second bathroom on the main floor of the home.

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

I will be applying for a building permit and will meeting all necessary building codes.

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.

 7.30.18
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 6.1B).

08/23/18
Date of Public Hearing

08/08/18
Advertising Date

08/08/18
Placard Posting Date

ALLY
2022

ZY18-12

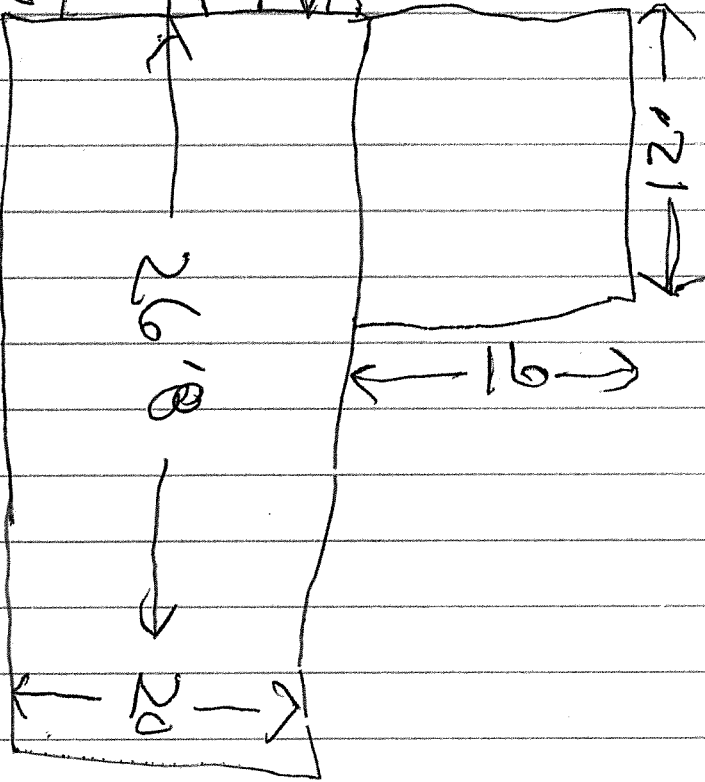
12' BLACKSMITH
SHOP

STORAGE

2' 20' ~~17'~~ 12'

~~15' 15'~~

King's
St



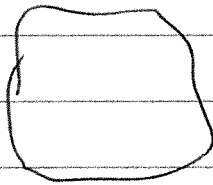
RECEIVED

JUL 30 2018

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

GARAGE

12' 16'3"





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@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Administrator's Report Board of Zoning Appeals Meeting August 23, 2018

1) Possible Upcoming Text Amendments

- Pet Crematorium in Rural District – PC requested Public Hearing to consider modification or text to allow individuals to utilize rural animal crematorium
- WV45 Gateway Design Standards (ZTA17-02) – based on recommendations of the Envision Jefferson 2035 Plan and at the request of the Shepherdstown Planning Commission
- Staff is researching landscaping and parking standards to update the County's Zoning Ordinance.
- Following the March 29, 2018 text amendment, specifically the change to Appendix C to allow all Commercial Uses listed as "Not Permitted" to process as a Conditional Use, Staff will need to revise Section 5.10 Village District.

2) Upcoming BZA meeting

- The next regular meeting is scheduled for **September 27, 2018** (deadline for submissions is Thursday, 09-05-18)



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

August 2018

Zoning Certificate Activity Report

File #	Property Owner/ Business Name	Applicant Name	Property Location	Description	Status Date
ZC18-24	Jefferson Utilities, Inc.	Michael Rebner AT&T Wireless	307 W Burr Blvd Kearneysville, WV	10' x 4' concrete pad and generator	TBD