



**Jefferson County**  
**Board of Zoning Appeals**  
**Thursday, September 27, 2018 at 2:00 p.m.**

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

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 23, 2018
2. Swearing in of members of the public intending to provide testimony
3. Public Hearing. Variance from Section 9.7 to reduce the rear setback from 50’ to 30’ for a 21’ above ground swimming pool. Owner: Patricia and Gary Dunn. Location: 923 Gardners Ln, Shepherdstown; District: Shepherdstown (09); Map: 17; Parcel: 1; Size: 2.5 ac; Zone: R; File: ZV18-13.
4. Public Hearing. Variance from Section 5.4B.1 to reduce the rear setback from 20’ to 18’ to allow for the inadvertent encroachment of a home under construction. Property Owner: Beallair Homes, LLC. Property Location: Beallair Subdivision, Phase II, Lot 125, Southwest intersection of Potomac Crossing & Beallair Manor. District: Harpers Ferry (04); Map: 10A; Parcel: 125; Size: 9,500 sf; Zone: Residential Growth. Files: ZV18-14.
5. Public Hearing. Variance from Appendix B to reduce the side setback from 50’ to 34’ for the expansion of a church. Property Owner: Fellowship Bible Church. Property Location: 160 Daniel Rd., Shenandoah Junction, WV. District: Charles Town (02); Map: 3; Parcel: 4.5; Size: 50 ac; Zone: Rural. File: ZV18-15.
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: August 23, 2018
    - i. Postponed from the 08-09-18. Variance from Sec. 5.7D3. Owner: Cynthia B. Rider. File: ZV18-09.
    - ii. Variance from App. B. Owner: Kearneysville Community Baptist Church. File: ZV18-11.
    - iii. Variance from App. A. Owner: Marion and Barbara Barrow. File: ZV18-12.



Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: August 23, 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; Matt Knott and Deirdre Catterton  
5 Members absent: Jeffrey Bannon, Vice Chair with notification  
6 Staff members present: Jennifer Brockman, Acting Zoning Administrator; Nathan Cochran,  
7 Assistant Prosecuting Attorney; and, Jennilee Hartman, Zoning Clerk  
8 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

9 Mr. Quynn explained to the public how the meeting would be conducted. Mr. Knott moved to call  
10 the meeting to order at 2:07 pm, which carried unanimously.

11 1. Approval of Minutes – August 9, 2018. Ms. Catterton moved to approve the minutes. The  
12 following edits were requested:

13 a) Page 1, line 11, change the word *were* to *was*.

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

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

16 Mr. Quynn rearranged the order of the agenda, shifting Item #3 Cynthia Rider to the end of the agenda.

17 3. Public Hearing. Variance from Appendix B to reduce the side setbacks for a 16' x 24' addition to  
18 an existing church. Northern boundary line reduction from 50' to 38'. Southern boundary line  
19 reduction from 50' to 26'. Property Owner: Kearneysville Community Baptist Church. Property  
20 Location: 500 Stubbs Road, Kearneysville, WV. Tax District: Middleway (07); Tax Map: 3B;  
21 Parcel: 43; Size: 88' x 240'; Zone: Village File: ZV18-11.

22 Pastor Diana Ferguson Smallman was present to address the Board. Ms. Brockman presented her  
23 staff report to the Board stating that the creation of the lot and the erection of the church predated  
24 County subdivision and zoning standards. Ms. Brockman explained that the applicant understood  
25 their property line to be in a different location than the one identified in a 1998 zoning variance  
26 request. Ms. Brockman noted that there was a letter of support from the surrounding property  
27 owner. Pastor Smallman explained the nature of the request stating that the addition would not  
28 extend any further than the existing wheelchair ramp. Mr. Quynn opened the public hearing.  
29 There was no public comment. Mr. Quynn closed the public hearing. Mr. Knott moved to approve  
30 the variance as requested. Ms. Catterton seconded the motion, which carried unanimously.

31 4. Public Hearing. Variance from Appendix A to reduce the front setback from 20' to 2' to  
32 construct a 20' x 17' addition on to an existing home. Property Owner: Marion and Barbara  
33 Barrow. Property Location: 142 King Street, Kearneysville, WV. Tax District: Middleway (07);  
34 Tax Map: 22A; Parcel: 28; Size: .74 ac; Zone: Village File: ZV18-12.

35 Mr. Marion Barrow was present to address the Board. Ms. Brockman presented her staff report  
36 to the Board stating that the creation of the lot and the erection of the single family dwelling  
37 predated County subdivision and zoning standards. Ms. Brockman noted that the dwelling was  
38 currently vacant. Mr. Barrow explained the nature of the request to the Board stating that he and  
39 his wife would prefer to have their bed and bathroom accommodations located on the main floor  
40 of the home. Mr. Quynn opened the public hearing. There was no public comment. Mr. Quynn  
41 closed the public hearing. Ms. Catterton moved to approve the variance as requested, which  
42 carried unanimously.

1 5. Postponed from the August 9, 2018 meeting. Public Hearing. Variance from Section 5.7D.3 to  
2 allocate two of the remaining development rights to the newly created non-residue lot in the  
3 proposed Rider Minor Subdivision. Property Owner: Cynthia B. Rider. Property Location:  
4 195 Vance Road, Shepherdstown, WV. Tax District: Shepherdstown (09); Tax Map: 9; Parcel 22;  
5 Size: 100.36 acres; Zone: Rural. File: ZV18-09.

6 Ms. Cynthia Rider was present to address the Board. Ms. Brockman presented her staff report  
7 to the Board noting that the request was for the applicant to be permitted to allocate two (2) of  
8 her development rights to a lot that she wished to create via the minor subdivision process.  
9 Ms. Brockman noted that should these two lots subdivide in the future that they should not be  
10 permitted to retain the “residue” designation as is typically required in Section 5.7D.3 of the  
11 Ordinance. Ms. Rider clarified that it was not her intent to allocate two (2) development rights  
12 to the proposed lot; however, she wished to allocate only one (1) development right with a  
13 specific condition regarding who could receive the lot. The Board explained that they could not  
14 place or enforce restrictions of that nature. Discussion regarding the size of the lot and the  
15 potential for an additional lot for wildlife/historical preservation ensued. Mr. Quynn opened the  
16 public hearing. Mr. Bill Carrigan, neighbor, expressed concern regarding the number of  
17 development rights Lot 1 would actually retain; the type of covenants that would be imposed  
18 on Lot 1; and, the water run-off issues that have occurred since the installation of Ms. Rider’s  
19 driveway on Trough Road. Mr. Quynn closed the public hearing.

20 Ms. Rider responded to Mr. Carrigan’s concerns stating that the proposed lot would not be  
21 adjacent to his land. Ms. Rider also noted that the installed driveway was approved by the  
22 Department of Highways and that the water run-off issues were unavoidable due to the  
23 increased amount of rain the area had received.

24 Mr. Knott moved to go into deliberation session at 2:51 p.m., which carried unanimously.  
25 Mr. Knott moved to come out of deliberative session at 3:08 p.m., which carried unanimously.

26 Mr. Knott moved to approve the applicant’s modified request to allocate only one (1) development  
27 right to the newly created non-residue lot in the proposed Rider Minor Subdivision, which will be  
28 noted on the newly created plat. Mr. Quynn called for a vote, which carried unanimously.

29 6. Legal Update

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

31 b. Discussion with possible deliberative session and sign of draft Findings/Decisions  
32 Meeting: June 28, 2018

33 i. Appeal of the Zoning Administrator’s Determination regarding the applicability of  
34 Section 4.4C pertaining to the proposed Magnolia Springs Subdivision and the Belvedere  
35 House which is listed on the National Register of Historic Places. File: AP18-01.

36 Mr. Cochran stated for the record that he had been recused from writing the Order.  
37 Mr. Cochran provided a copy of the Findings that had been drafted by Attorney  
38 Richard Gay. Mr. Knott moved to approve the Findings of fact and Conclusions of Law.  
39 Ms. Catterton seconded the motion, which carried unanimously.

40 ii. Variance from Section 4.11B and Appendix B. Property Owner: Universal Forest  
41 Products Eastern Division Inc. Property Location: 249 16th Ave., Ranson, WV. Tax  
42 District: Charles Town (02); Tax Map: 7; Parcel: 11.6 (A & B); Size 30 ac; Zone:  
43 Industrial Commercial. File: ZV18-10.

44 Mr. Quynn signed the Findings as presented.


- 1 7. 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 informed the Board of a proposed Zoning Ordinance text amendment for Pet and
- 5 Livestock Crematoriums. Ms. Brockman stated the next regularly meeting would be September
- 6 27, 2018. Mr. Quynn requested a letter of service for Mr. Knott.
- 7 As this meeting would be Mr. Knott's last meeting as a Member, Mr. Quynn thanked Mr. Knott for
- 8 his service on the Board of Zoning Appeals.
- 9 Mr. Knott moved to adjourn the meeting at 3:14 pm. Mr. Quynn called for a vote, which carried
- 10 unanimously.



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 September 27, 2018

**Dunn Variance Request (#ZV18-13)**

Item #3 Variance request from Section 9.7 to reduce the rear setback from 50' to 25' for a 21' above ground swimming pool.

Applicant:	Patricia and Gary Dunn
Owner:	Same as above
Developer:	N/A
Consultant:	N/A
Property Location:	923 Gardners Lane, Shepherdstown
Legal Description & Zoning District:	<p style="text-align: center;">District: Shepherdstown (09); Map: 17; Parcel: 1          Size: 2.5 ac; Zone: Rural</p> 
Surrounding Properties:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Rural <i>East:</i> Rural <i>West:</i> Rural
History:	None
Waivers/Variations:	06/23/17: BZA approved variance to reduce rear setback from 50' to 30' for an accessory structure (ZV17-12).
Approved Activity:	Residential

**STAFF EVALUATION OF REQUEST**

a. Summary of Request and Purpose of Ordinance Requirements

The applicant is requesting a variance from Section 9.7 to reduce the rear setback from 50' to 25' for a 21' above ground swimming pool.

The purpose of side and rear yard setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property 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.

Staff Report  
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**Dunn Variance Request (#ZV18-13)**

b. Unique characteristics of property

The subject parcel was created prior to the adoption of subdivision and zoning standards. Taking into consideration the parcel's shape, the location of the well and septic areas, as well as the location of the home and the garage that received a variance last year, placement of an accessory structure such as a pool in conformance with current County setback requirements may prove challenging.

c. Impact on adjacent properties

A rear setback reduction from 50' to 30' would likely have minimal impact on the neighboring property as the adjacent parcel is approximately 205 acres and is currently vacant.



d. Feasibility of complying with the ordinance by other means

Based on the dimensions of the property, the applicant could potentially situate the pool in another location to meet setback requirements; however, this would reduce the functionality of the pool as generally people enjoy having a pool within close proximity to the dwelling unit.

e. Conditions of Approval

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

1. No conditions of approval have been identified.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 9.7 Other Exceptions<sup>3</sup>**

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.

Staff Report  
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**Dunn Variance Request (#ZV18-13)**

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:<sup>23</sup>

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear





**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: ZV18-13  
 Staff Initials: GH  
 Meeting Date: 09/27/18  
 Fees Paid (\$100 or \$150): 100.00

Email: [zoning@jeffersoncountywv.org](mailto: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: PATRICIA ILENE DUNN  
 Mailing Address: 923 GARDNERS LANE SHEPHERDSTOWN WV 25443  
 Phone Number: 304-283-8932 Email: pgdunn2013@gmail.com

**Applicant Contact Information**

Name: MARY W. DUNN AND PATRICIA ILENE DUNN 304-283-8932  
 Mailing Address: 923 GARDNERS LANE SHEPHERDSTOWN WV 25443  
 Phone Number: 304-433-4315 Email: pgdunn2013@gmail.com

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

Name: N/A  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 923 GARDNERS LANE SHEPHERDSTOWN  
 City: SHEPHERDSTOWN State: WV Zip Code: 25443  
 Tax District: 19 Shepherdstown Dist Map No: 17 Parcel No: 0000 / 0000 0000  
 Parcel Size: 2 1/2 AC McCormick Deed Book: 1146 Page No: 38

**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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>RECEIVED</b>			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
<b>AUG 16 2018</b>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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: \_\_\_\_\_

Briefly describe the nature of the variance request:

Need a 28" VARIANCE FOR INSTALLATION of 21' ABOVE ground POOL

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

Front Setback  Side Setback  Rear Setback  Reduction From 50' to ~~33~~ 25'

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:

Property Behind our House is over 200 ACRES of Farmland & Wood Land, with a pool will NOT AFFECT AT ALL

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 way our Prop is set up. This is the only area with a pool can be placed. with a small view from the back

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

only place to install pool

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

allowing this variance will still leave plenty of room in with to have Emergency Equip behind our house between fence & house

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 Patricia Anne Dunn 8-15-18  
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).

09/27/18

Date of Public Hearing

09/12/18

Advertising Date

09/12/18

Placard Posting Date



RECEIVED

AUG 16 2018

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING



GARDNERS LN

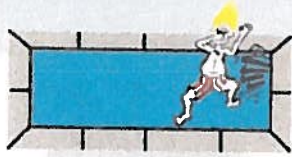
KNIGHTEN FARM LN

RECEIVED

AUG 16 2018

ZV18-13

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

**John's Pool Supplies****304-267-2000****RECEIVED**

AUG 16 2018

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING**ENDLESS SUMMER**  
ABOVE GROUND POOLS*Make Every Summer Endless with John's Pool Supplies***Conquest™ 52" Steel Above Ground Pool****Features:**

- 7" Top Ledge
- 6" Uprights
- Coated Bottom Rail
- Wide Mouth Skimmer Cutout
- Buttress Free
- 40 Year/2 Full Warranty

**Available Sizes:**

15', 18', 24', 27', 15'x30', 18'x33'

*21' Round Pool***Please call about pricing\*.**

\* Pricing includes Pool Kit,  
Accessory Kit (See reverse  
side for details), Installation,  
Water\*\*, and Taxes.

\* Pricing does **NOT** include Permits, Electrical Connections,  
and any Additional Accessories you are interested in.

\*\* The pricing for Water included is for Martinsburg residents.  
The price for Water may increase for surrounding areas.

**Visit us online:****[www.JohnsPoolSupplies.com](http://www.JohnsPoolSupplies.com)**

STATE OF WEST VIRGINIA

INSPECTION TO BE PRINTED OR TYPED

Jefferson HEALTH DEPARTMENT

Permit No.: ST-190607 131 ZV18-13

County: Jefferson

ON-SITE SEWAGE DISPOSAL SYSTEM INSPECTION FORM

Tax Map: Parcel #:

County Road:

Name of Owner: Richard Burrocker Installer: Doug Stalisher
Address: 923 Gardner Lane Shepherdstown, WV
Property Location: Gardner Lane
Type of Facility: House Facility is: New (X) Existing ( ) Lot Size: 2.5 Sq. Ft./Acres
Design Loading in gpd/No. Bedrooms: 3 Source of Water Supply: well

SEWAGE TANK COMPONENT

Capacity in Gallons: 1000 Material: concrete Manufacturer: Martinsburg
Distances (in feet) of Tank to: Dwelling: 24 Private (X)/Public ( ) Water Source: 125 Property Line: 110

ON-SITE DISPOSAL SYSTEM

Class I Systems: Standard Soil Absorption Trenches (X) or Bed ( ) Gravelless Pipe ( ), Diameter: Inches
Chamber Soil Absorption Trenches ( ) or Bed ( )
Class II Systems: Pumped/Dosed Soil Absorption Trenches ( ) or Bed ( ) Evapotranspiration Trenches ( ) or Bed ( )
Shallow Soil Absorption Trenches ( ) or Bed ( ) Other:

No. of Lines: 5 Length (in feet) of Each: 75, 67, 28, 72, 48, 10
Width of Trenches: 3 inches/feet Depth to Bottom of Field: 36 inches

If Bed, Dimensions (in Feet): If Chamber System, Name: No. of Units:

Approved and Adequate Materials Used? Yes (X) No ( ) Size Equates to: 900 Square Feet of Standard Gravel Field.

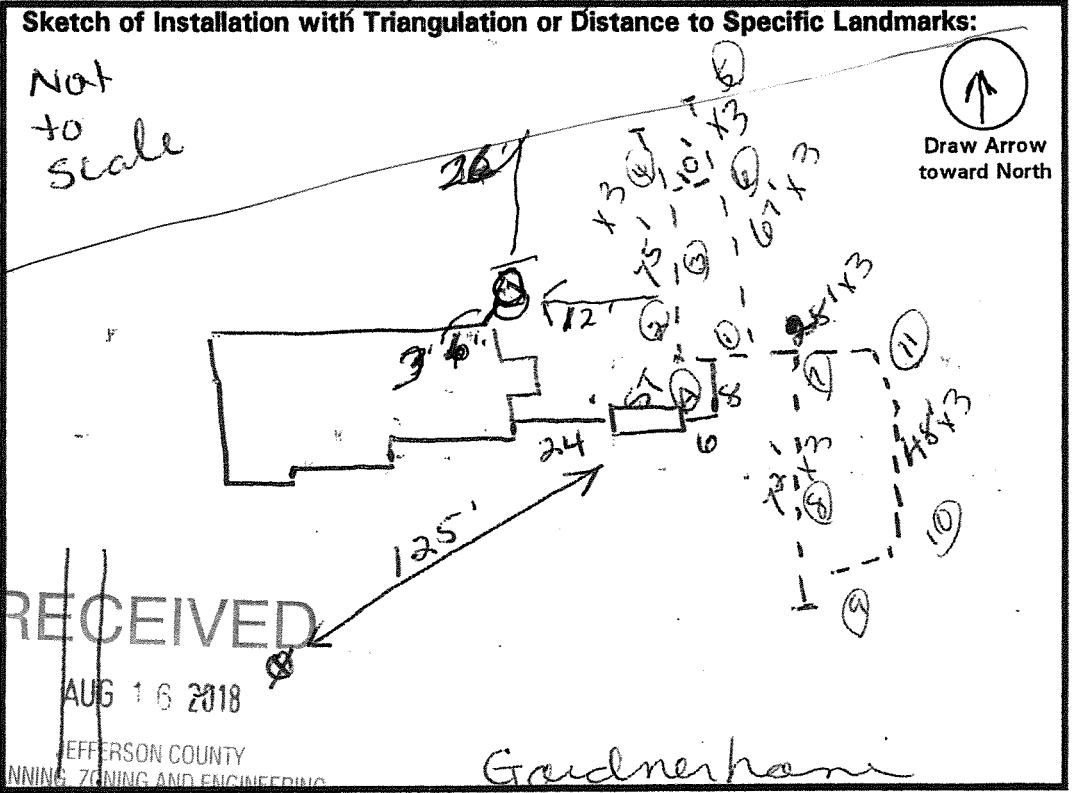
Distances (in feet) of System to: Dwelling: 110 Private (X)/Public ( ) Water Source: 110 Property Line: 110

Remarks: (A) 6'11 1) 7'6 1/4 2) 9' 6 1/2 3) 7' 4 4) 7' 6 1/2 5) 7' 5 1/2
6) 7' 7 1/4 7) 7' 7 8) 7' 5 1/2 9) 7' 6 10) 7' 6 11) 7' 6 1/2

An inspection indicates that the sewage disposal system described above DOES MEET ( ), DOES NOT MEET ( ), CANNOT BE DETERMINED TO MEET ( ) the minimum standards established by the West Virginia Bureau of Public Health.

To correct a health hazard, modifications to existing systems may be done to improve part of a system. Such modifications may not be able to be designated as a does meet system since inadequate information is known.

Although many factors contribute to the successful functioning of a sewage disposal system, this office recommends water conservation and maintaining an even usage of water throughout the week.



Visit Date(s): 11/20/07

Final Inspection Date: 11/20/07

Sanitarian: Alonaster, RS



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
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**Beallair Lot 125 - Variance Request (#ZV18-14)**

	<ul style="list-style-type: none"> <li>• A reduction from 3' to 2.5' for the back of the curb from the edge of the pavement;</li> <li>• No buffer screening between common areas &amp; adjoining single family lots.</li> </ul> <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>
ZONING VARIANCES:	<p>BZA approved the following variances:</p> <p>07-19-12: 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: Reduce the rear setback from 20' to 3' to construct a deck.</p> <p>04-28-16: Reduce the rear setback from 20' to 10' to construct a deck (ZV16-09).</p> <p>07-28-16: Reduce rear setback from 20' to 12' for Lots 112, 127, and 128 (ZV16-12).</p> <p>07-28-16: Allow a staffed model home on Lot 111 (ZV16-13).</p> <p>10/27/16: Allow a staffed model townhome on Lot 51 (ZV16-21).</p> <p>03/23/17: Allow a staffed model townhome on Lots 50-67 (ZV17-02)</p> <p>09/28/17: Reduce front setback from 25' to 10' along Clover Lea Way for Lots 50-67. (ZV17-14).</p> <p>09/28/17: 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. (ZV17-15)</p>
APPROVED ACTIVITY:	Single Family Dwelling

**RELEVANT INFORMATION:**

**1. Previous Case History**

An overview of the Beallair Case History is as follows:

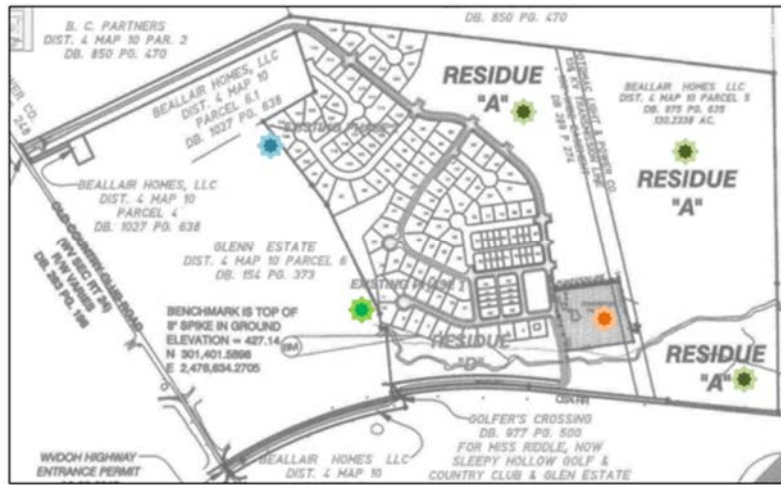
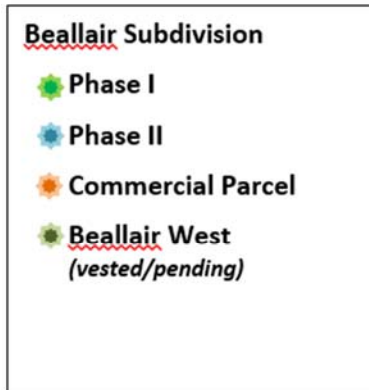
- Beallair Phase I, Lots 1-49 & Residue Parcels A, B, C, D & E. Recorded: 12/08/04 (Plat Bk: 21; Pg: 54)
- Beallair Phase II, Lots 50-133, Residue Parcel A. Recorded: 01/16/07 (Plat Bk: 23; Pg: 91)
  - A minor plat change to revise and update drainage areas, Recorded: 06/19/14 (Plat Bk: 25; Pg: 457)
- 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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**Beallair Lot 125 - Variance Request (#ZV18-14)**

Beallair Subdivision Phasing



Lot 125 which is the subject of this request is a part of Phase II of this development.



Summary of Request and Purpose of the Ordinance Requirements

The applicant is requesting a reduction of the rear setback from 20' to 18' due to an inadvertent encroachment of a portion of a single family dwelling unit into this setback. This particular lot is considered a corner lot, which required it to have two front setbacks and at least one rear setback, thereby reducing the buildable area of this lot. The variance relates to a 2' encroachment into the designated rear setback. This encroachment was noticed as a result of a foundation as-built which is discussed in detail in the variance application.

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**Beallair Lot 125 - Variance Request (#ZV18-14)**

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.

Impact on Adjacent Properties

The applicant has obtained a letter of support from the adjacent property owner that would be most impacted by this request.



View from Beallair Manor Drive

View from Potomac Crossing Street

Feasibility of complying with the Ordinance by other means

As this portion of the building has already been constructed it is not feasible to comply with the Ordinance.

Conditions of Approval

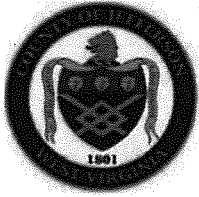
There are no conditions of approval identified for this request.

**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
Single family detached dwelling	6,000 sq. ft. MLA**	25 ft. front	40 ft.
Public/Central water and sewer	10,000 sq. ft. ADU	12 ft. side	
Public/Central water or sewer	20,000 sq. ft. MLA	20 ft. rear	
No Public/Central water or sewer	40,000. Sq. ft. MLA		



**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: ZV18-14  
 Staff Initials: SH  
 Meeting Date: 09/27/18  
 Fees Paid (\$100 or \$150): 150.00

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

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: Beallair Homes LLC  
 Mailing Address: 5283 Corporate Drive, Suite 300, Frederick, MD 21703  
 Phone Number: 3017788-2217 Email: c/o pjaco.consulting@gmail.com

**Applicant Contact Information**

Name: Mike Wiley, P.E. Paul J Raco  
 Mailing Address: Above and Below  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name: P.J. Raco Consulting, LLC Paul J Raco  
 Mailing Address: P.O. Box 548 Charles Town, WV 25414  
 Phone Number: 304/676-8256 Email: piraco.consulting@gmail.com

**Physical Property Details**

Physical Address: Lot 125 Potomac Crossing Street  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: Harpers Ferry Map No: 10A Parcel No: 125  
 Parcel Size: Approx 9,500 sq ft +- Deed Book: 975 Page No: 635

**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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**RECEIVED**

AUG 31 2018

JEFFERSON COUNTY  
 PLANNING, ZONING AND ENGINEERING

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 5.4B.1 and Appendix A

Briefly describe the nature of the variance request:

Rear Setback Variance from 20 feet down to 18 feet.

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

Front Setback  Side Setback  Rear Setback  Reduction From 20' to 18'

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.

 08/23/18  
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).

09/27/18  
Date of Public Hearing

09/12/18  
Advertising Date

09/12/18  
Placard Posting Date

Beallair Homes, LLC  
DBA Wormald Homes at Beallair, LLC  
Beallair Subdivision  
Request for Variance  
Article 5, Sections 5.4B(1) (Which includes by reference, Appendix A)  
Appendix A (Residential Site Development Standards Table)  
Jefferson County Zoning Ordinance  
August 31, 2018

## **Brief Description**

Beallair Subdivision is an ongoing approved subdivision on Country Club Road. Currently, there are approximately 133 single family detached and townhouse lots approved and platted. Of those, approximately 89 have been improved and sold. The developer of the Subdivision and the Applicant are subsidiaries of the same company operating under Wormald.

The variance request is for a reduction of a rear setback from 20 feet to 18' for Lot 125. While the construction of the house for Lot 125 was underway, a foundation as-built survey revealed that the house was rotated on the site a bit to create an encroachment into the rear setback by 2 feet at its greatest point. As shown on the attached foundation survey, it is a minor encroachment of 2 feet that angles down to a Zero encroachment. All other setbacks meet the necessary requirements. Two things contributed to the construction in the setback. The first was that the house design was selected by the customer and later a change order was processed for a revised design. After approved, the customer changed their mind on the selected lot and asked to change to Lot 125. To accommodate the customer, the change to the new lot was approved. When siting the house on the new lot, the original house design was used instead of the revised design ordered by the customer. These changes along with a slight shift of the foundation due to something encountered in the field caused an inadvertent encroachment into the setback. It was not intended to create a setback infringement.

The only impacted neighbors are Dr. and Ms. Spiess, who own Lot 115 as shown on the attached plot plan. They were made aware of the issue and had no issue with a variance being granted to fix the oversight. The Spiess' have signed a letter stating that they have no objection to the 18' reduced setback as it does not affect their property. They also indicate that the home and dimensional change will not be a problem because of the location of their house. The Spiess' house sits on larger lot in the Subdivision and there is adequate separation with the 18 feet setback. In many cases, the required setback would only be 12 feet as a side line if this weren't a corner lot.

The Applicant and Builder have built nearly 90 houses/townhouses in Beallair since it was approved and this is the first time that they have needed a variance after construction commenced. As an additional precaution, the Applicant does a foundation as-built plan to make sure that everything is okay before framing the house. In this instance, it revealed a minor shift of the foundation into the setback. As soon as the Applicant became aware of the discrepancy, they stopped further construction on the house to seek a variance resolution. The Foundation's cost is approximately \$30,000 and the Applicant hopes, that with the neighbor's concurrence, the Board will grant the variance down to 18' for the existing foundation and remaining house construction. If

granted, the construction will resume quickly and the house will not encroach further into the setback.

The Applicant respectfully requests the BZA to grant the variance and will assure the Board that they will make every effort in the future to avoid the need to again appear before the Board.

Thank you for your consideration of the request.

Beallair Homes, LLC  
DBA Wormald Homes at Beallair, LLC  
Beallair Subdivision  
Request for Variance  
Article 5, Sections 5.4B(1) (Which includes by reference, Appendix A)  
Appendix A (Residential Site Development Standards Table)  
Jefferson County Zoning Ordinance  
August 31, 2018

1. Granting the variances will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

There will be no impact on the public health, safety or welfare, as this lot is in a well maintained, actively developing community. Currently, the subject lot and the adjacent lot on one of the sides are still owned by the Applicant and developer; and, the main adjoining property owner along this rear setback has signed a letter indicating that they have no objection to the variance.

With regard to safety standards, the construction of the house will meet all Building Code Standards, as well as all Health Department Standards. The construction of a small portion of the house two feet into the 20-foot setback does not affect the safety of the general public at all, since it is private property and the closest neighbor that could be impacted by the construction has consented to the granting of the variance and the continued construction of the house. Furthermore, if the variance is granted, the construction of the house would be completed in a quick manner, which would minimize any disruption in the neighborhood.

The current contracted purchaser of the lot and house is aware of the need for a variance. They, along with any future buyer of the lot, will understand that the rear setback cannot be further impacted if the variance is granted.

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?

This subdivision is unique in Jefferson County in that the original subdivider is also the owner of the lots and the builder for these lots. Their houses in the Beallair Community are designed and built to create a cohesive, well-coordinated community. In this instance, the customer chose a house design and a lot for the house. After the selection, the customer requested a change order for a modified design. At that point, the redesigned house fit on the selected lot within the setbacks. However, the customer then requested to switch their selected lot to Lot 125. After reviewing the design on Lot 125, the change was approved. Unfortunately, the original house plans were used for siting the house. The

combination of the change of lot and small change order for the design along with a small shift in the field inadvertently caused the foundation to be built slightly into the rear setback. The slight encroachment peaks at 2 feet. Only a small corner of an abutment juts out the extra two feet and it quickly angles back to no encroachment into the setback. The issue was merely caused by a change of plans and lot. This type of thing happens and is not intentional in any way. The safeguards that the builder has in place to catch these issues caught it with the surveyed foundation plan. Most builders don't even do a foundation as-built. This small encroachment was unintentional and not deliberate in any way. The Applicant has built nearly 90 houses in Beallair and this has not happened before this innocent change of lot and house design.

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

The granting of the variance will help the folks that are waiting for the house to be completed in order to move into their new house. The unnecessary hardship of having to remove the foundation and reconstruct the same foundation would be costly and it would delay the new owners from occupying their dwelling.

This property is located in the Residential Growth District and the Preferred Residential Growth Area in the Comprehensive Plan. This area is recognized in the Plan to be the primary area for dense and urban level growth. The subdivision has been approved for some time and the owner and builder held onto the development even after the housing bubble burst in order to finish the development as envisioned by the Applicant and approved by the County. In this instance a shift of a small area of a corner into the setback does not negatively impact the development. With the revised setback, the Lot and development still conform with that original vision and County approval.

Finally, if the variance was denied, the hardship would seem to be extreme to demolish the already constructed, and County inspected, foundation; and then, to rotate it less than 2 feet, and rebuild it. The adjacent neighbor has agreed that allowing the existing foundation to remain for the house would be a reasonable use of the land.

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

The purpose of setbacks between lots and buildings is to protect property owners from uses that don't complement each other, as well as, provide enough room for fire safety and emergency service access. In this case, the neighboring property has no issue with the house construction in this location. Also, because of the larger size of the adjacent lot, there is ample room for access between the properties in the event of an emergency. Additionally, with regard to fire safety,

the designed house will meet or exceed any Building Code requirement for construction.

As stated above, the variance requested is for an item that typically would protect one property owner from building something that would negatively affect a neighboring property. In this instance the only impacted neighbor has reviewed the construction and setback and has no objection to the variance being granted.

Substantial justice would be to approve the requested variance, so that the house can be completed with no further disruption in the neighborhood. This builder is not a repeat Applicant in front of the BZA for setback issues. They have many safeguards in place to ensure that issues like the reduced setback are unlikely to happen. One of these safeguards is the added expense of doing a foundation as-built before starting to frame the house. In this case, after this foundation construction was surveyed, a minor setback adjustment is needed to correct the matter. The Builder and Developer will also add another layer in the checks and balances to hopefully prevent any further appearances before the Board on other lots in the subdivision.

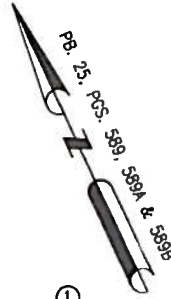
The Board's approval of the variances would be greatly appreciated.

**SURVEY NOTES AND CERTIFICATION:**

I HEREBY CERTIFY, TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF THAT:

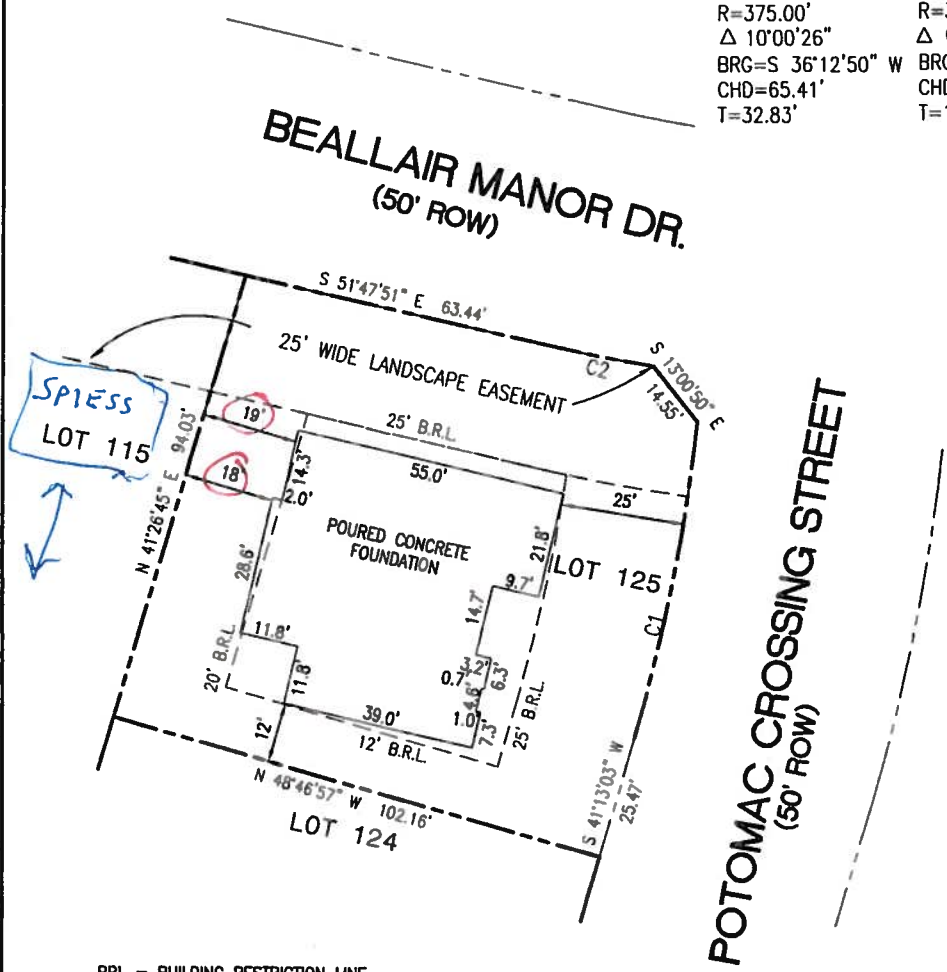
1. THIS SURVEY IS BASED UPON A SUBDIVISION PLAT ENTITLED "FINAL PLAT SHOWING LOTS 50-133 AND RESIDUE PARCEL A BEALLAIR - PHASE 2" AND RECORDED ON JANUARY 16, 2007 IN THE JEFFERSON COUNTY CLERK'S OFFICE IN PLAT BOOK 25, PAGES 589 A&B; AND
2. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT; ALL EASEMENTS OF RECORD MAY NOT BE SHOWN. HOWEVER, THERE WERE NO VISIBLE USES, OCCUPATIONS, OR EASEMENTS AFFECTING THE PROPERTY EXCEPT AS SHOWN ON THIS SURVEY AS COULD BE ASCERTAINED FROM THE AFOREMENTIONED PLAT OF RECORD, AND
3. ALL OF THIS LOT LIES WITHIN ZONE X, AREAS OF MINIMAL FLOODING, AS SHOWN ON JEFFERSON COUNTY, WV FIRM PANEL 130 OF 245, NO. 54037C0130E, EFFECTIVE REVISED DECEMBER 18, 2009; AND
4. ALL HOUSE TIES TO PROPERTY LINES ARE +/- 1'.

WILLIAM M. ORSINGER DATE \_\_\_\_\_  
 WEST VIRGINIA PROFESSIONAL SURVEYOR NO. 2215  
 FOR GREENMAN PEDERSEN, INC.  
 WEST VIRGINIA CERTIFICATE OF AUTHORIZATION NO. 18-5830



*Pr*  
*8/31/12*

①	A.L.=65.50'	②	A.L.=21.00'
	R=375.00'		R=325.00'
	Δ 10°00'26"		Δ 03°42'11"
	BRG=S 36°12'50" W		BRG=S 53°38'57" E
	CHD=65.41'		CHD=21.00'
	T=32.83'		T=10.51'



BRL = BUILDING RESTRICTION LINE

GRAPHIC SCALE (IN FEET)

SCALE: 1" = 30'



**Foundation Location Survey  
 Beallair - Phase 2, Lot #125**

**Potomac Crossing Street**

Harpers Ferry District No. 4

Map 10A Parcel #125

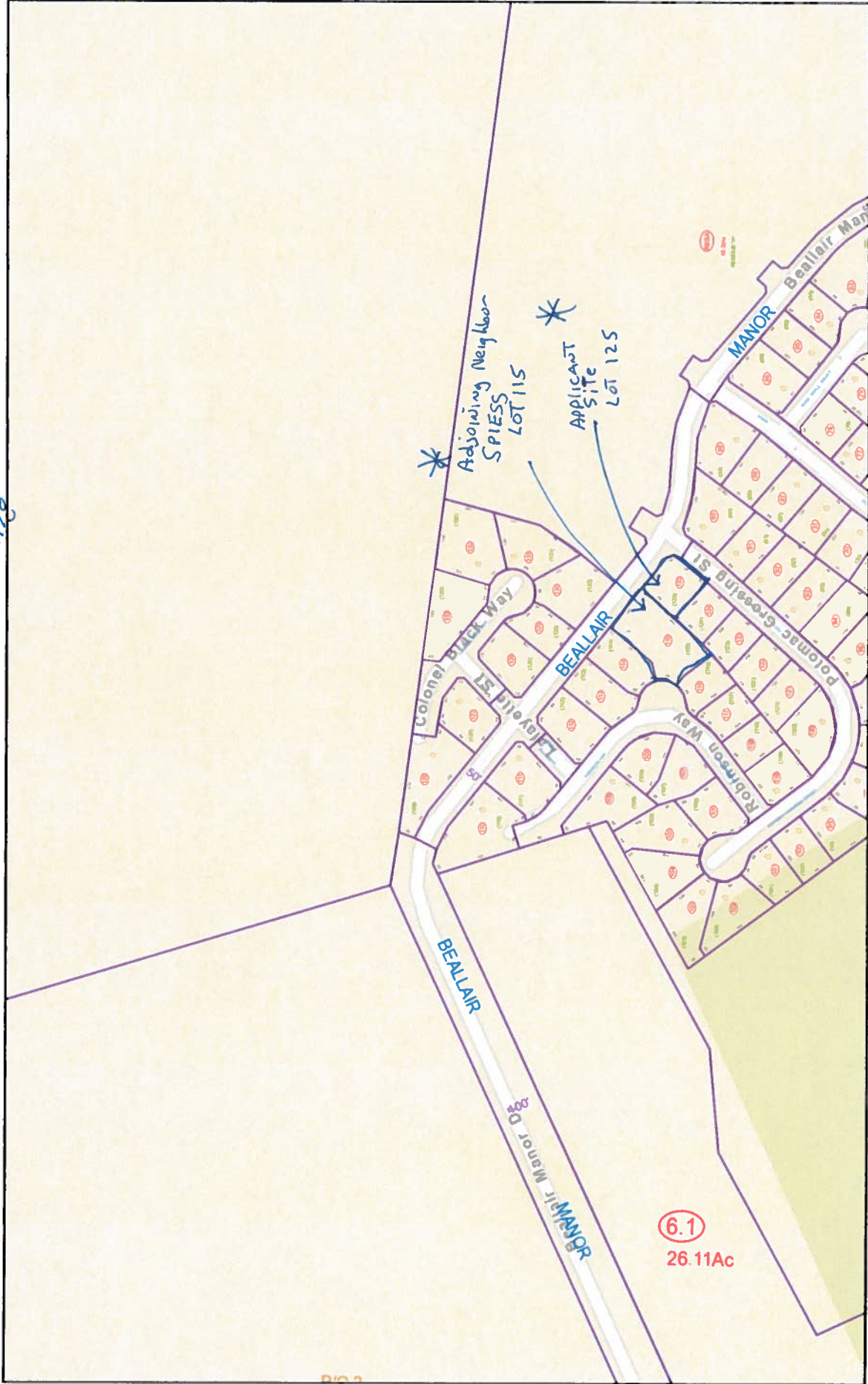
P.B. 25 Pg. 589 A&B

Jefferson County, West Virginia

Foundation Location Survey prepared by:  
 Greenman - Pedersen, Inc.  
 10977 Guilford Road  
 Annapolis Junction, Maryland 20701  
 p. 301-470-2772 f. 301-490-2649

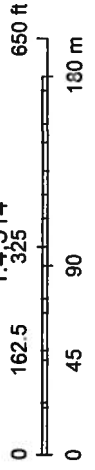
PR  
8/23/18

# Viewer Map



August 22, 2018

1:4,514



County of Loudoun, WashCo MD, VITA, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

Me  
Copyright 2014

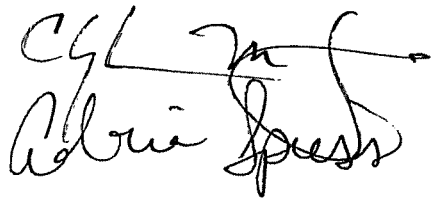
August 23, 2018

To Whom it May Concern,

We live on Lot 115 in the Beallair Subdivision at 60 Robinson Way, Charles Town, WV. Our lot is adjacent to 18 Potomac Crossing Street (Lot 125) Charles Town, WV in the Beallair Community.

It has been brought to our attention that our builder, Wormald Homes (Beallair Homes, LLC), has applied for a variance to the rear property building restriction line which adjoins our side property line. Our lot is the only adjacent lot that abuts the setback issue on Lot 125.

We have reviewed this variance request and do not have any objection to granting of the 2' setback variance from 20' to 18' on Lot 125. The home is sited far enough from our house that the minor dimensional change will not affect our property.

A handwritten signature in black ink, appearing to read "Chris and Adria Spiess". The signature is written in a cursive style with a horizontal line extending to the right from the top part of the name.

Christopher and Adria Spiess

Beallair Lot 115

Public Comment Received 09/21/18

## Zoning

---

**From:** Michael Hamilton <michaelthamilton@comcast.net>  
**Sent:** Friday, September 21, 2018 11:50 AM  
**To:** Zoning  
**Subject:** RE: Attention Jennifer Brockman---ZV18-14 Beallair Varianceapplication---Lot 125

Yes Ms. Brockman---I would like my comments included in the Board of Zoning appeals variance comments.

Thank You,  
Michael Hamilton

Sent from [Mail](#) for Windows 10

---

**From:** [Zoning](#)  
**Sent:** Friday, September 21, 2018 11:40 AM  
**To:** '[Michael Hamilton](#)'  
**Subject:** RE: Attention Jennifer Brockman---ZV18-14 Beallair Varianceapplication---Lot 125

Good morning Mr. Hamilton,

Thank you for your comments. Would you like this email included in the Board of Zoning Appeals packet for the comments relating to the zoning variance request?

Thank you,

Jennifer M. Brockman, AICP  
Acting Zoning Administrator  
Office of Planning and Zoning  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)  
304-728-3228

---

**From:** Michael Hamilton [mailto:michaelthamilton@comcast.net]  
**Sent:** Thursday, September 20, 2018 4:04 PM  
**To:** Zoning  
**Subject:** FW: Attention Jennifer Brockman---ZV18-14 Beallair Variance application---Lot 125



Sent from [Mail](#) for Windows 10

Dear Ms. Brockman:

Yesterday Jennilee Hartman provided me with the attached Zoning Variance ZV18-14. She was very professional and informative.

I reviewed the variance and then compared it to a comparable variance for corner lots with streets on 3 sides ZV16-12,

In 2017 Wormald also applied for a variance to reduce the increase the size of townhomes and there-by reducing the set-back,

As a result I have several questions:

- Is **Wormald intentionally selling Larger Homes than in their approved project plan** knowing that Jefferson County will approve the variance?
- Since there are so many changes to Wormald's approved plan for phases 1 and 2 **shouldn't the original plan be resubmitted with the revisions for larger homes?**
- Above you will see a picture of Lot 125 taken on September 9, 2018. The adjacent lot belongs to Dr. Spiess. Prior to Dr. Spiess buying his lot I considered buying his lot as it is a Larger Lot on which Wormald requested a \$15,000 lot premium. Dr Spiess has been out-of-town for 2 weeks. **Has anyone in your office verified that Dr. Spiess has no objection to the variance? (If I had paid for a larger lot I would object to a variance.)** Wormald put a model home next to me ZV16-13 and Wormald did not request approval of the variance from me.

- Look at the picture above. At the center of the grass berm you will see a small waterfall. Lot 125 is approximately 25 to 30 feet lower than Lot 112 and as a result water drains from Lots 112,113,114, and 115 creating the muck which you see above. WV DEP issued a violation in late July 2018 on adjoining lots #123, 122, and 121(see above). The muck from Lot 125 contributes to the issues on the adjoining lot. The water drains into a storm water pond which is not being maintained as it is full of sediment. Approximately 20 households have signed complaints against Wormald. The Storm Water Permit expires December 31, 2018 and if the issues with the pond are not corrected, the neighbors intend to request the State not to renew any permit.
  - Look at the picture and it appears that **if this Variance is granted that the new owner will have water issues with the basement in the future unless Jefferson County ensures that appropriate remedial action is taken.**

We had a meeting with Roger Goodwin and Joe Kent a month ago about Storm Water issues and what appeared to be Wormald proceeding without a required permit.

Keep me informed on this Variance.

Respectfully,  
Michael T Hamilton, CPA CGMA

**From:** [Zoning](#)  
**Sent:** Wednesday, September 19, 2018 11:33 AM  
**To:** '[Michael Hamilton](#)'  
**Subject:** ZV18-14 Beallair Variance application

Good morning Mr. Hamilton,

Please find attached the zoning variance application for Lot 125 in the Beallair Subdivision (PC File #ZV18-14). This application will be posted online by close of business Friday, September 21, 2018 along with our office's staff report. At this time the staff report is not yet complete. The Board will hear this request on September 27, 2018 at 2:00 p.m. in the basement of the Charles Town Library located at 200 E. Washington Street (the entrance is off of Samuel Street).

Please give me a call if you have any questions regarding the application or if you have any trouble opening the attachment.

Thank you,

Jennilee Hartman, Zoning Clerk  
Office of Planning and Zoning  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)  
304-728-3228



Staff Report  
Jefferson County Board of Zoning Appeals  
September 27, 2018

**Fellowship Bible Church Variance (ZV18-15)**

**STAFF EVALUATION OF THE REQUEST:**

**Overview of Property and the Request**

The applicant, Fellowship Bible Church, occupies a 50 acre site at the corner of Daniels Road and Flowing Spring Road. The Property is occupied by a single built structure containing the existing sanctuary, offices and classrooms as well as eight (8) existing modular temporary classrooms at the east end of the property. A picnic shelter, playground and sports equipment, and an area for a summer day camp is at the west end of the property.

The church property has a long history of site plan approvals dating from 2001 to the present which include a 20' landscape buffer area which has been planted with a dense row of evergreen trees, within the required 50' building setback line, between Flowing Springs Road and the area occupied by the modular classrooms.

In 2014, the applicant processed a Concept Plan that show the anticipated full build-out of this property in multiple phases. They have begun processing sub-phases as financing has become available. The applicant participated in a Pre-Proposal Conference (PPC) meeting with staff from various departments in May 2018 to discuss the status of the next phases. At that time, it was determined that the Concept Plan was vested due to the approval of Phase 1A in 2016. Additionally, the reconfiguration of the church addition was discussed and it was determined that the proposed revisions substantially conform to the previously approved Concept Plan and no modification of the Concept Plan is required at this time.

The applicant is proposing a 17,710 sq. ft. multi-story addition (10,080 sq. ft. footprint) to the east side of the existing structure to house an expansion of the sanctuary, additional offices, choir and orchestra room, additional bathrooms and an expanded kitchen. The design recommended by the architect, which is intended to integrate with the exiting building and sanctuary and minimize impact on parking and pedestrian flow, results in a 382 sq. ft. area encroaching into the required 50 foot side setback. The encroachment is 16 feet at its greatest distance. The proposed encroachment in the building setback line is not expected to impact the landscape buffer which provides a significant buffer for the neighboring residential lots.

Purpose of the Ordinance Requirements

The applicant is seeking a variance from Appendix B of the Zoning Ordinance to reduce the side setback from 50' to 34' for the construction of an addition to the front of the church building.

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.

Unique Characteristics of the Property

The property is partially unusual because it is so long and narrow which impacts the ability and configuration of expansion on the site. The existence of the well-developed landscape buffer is also a significant aspect when considering this variance.

Staff Report  
Jefferson County Board of Zoning Appeals  
September 27, 2018  
**Fellowship Bible Church Variance (ZV18-15)**

Impact on Adjacent Properties

There are two lots adjoining the impacted area of the variance request. One is approximately one (1) acre and has a newly constructed single family home. The second is approximately two (2) acres and has a house built in 1976.



View from Flowing Springs Road of Church and neighboring property with landscaping



View from Church driveway on the northwest side of the landscape buffer between church and neighboring properties



The impact on adjacent properties is expected to be minimal. The neighbors' rear property lines adjoin the applicant's property, where the setback reduction is requested and are both fully lined with the landscape buffer. Using aerial imagery, Staff measured approximately 150 feet from the corner of the applicant's proposed addition to the closest residential structure.

Staff Report  
Jefferson County Board of Zoning Appeals  
September 27, 2018

**Fellowship Bible Church Variance (ZV18-15)**

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) The variance applies only to the church addition as presented at this meeting.

**Section of Ordinance to be Considered:**

**See attached.**

**APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE<sup>27, 32, 35</sup>**

Zoning District	Development Type <sup>Ø</sup>	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	Front	Side	Rear	Distance	Front	Side & Rear	Street Trees	Commercial Use	Industrial Use
						10 <sup>£</sup>	10 <sup>£</sup>	10 <sup>£</sup>	25	15	4	4	75	Narrow Buffer Detail No. M-54	Street Trees	Commercial Use	Industrial Use
Industrial – Commercial (IC)**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25	25	25	15	4	4	75	Street Trees	N/A	10(S)	N/A	10(S)
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25	25	25	15	10	10	75	Street Trees	N/A	10(S)	N/A	10(S)
Rural (R)	Industrial	3 ac ***	N/A	75	90%	50 or 25 if adjacent to Industrial Use	50 or 25 if adjacent to Industrial Use	25 or 20 if adjacent to Industrial Use	See IC District			200	Street Trees	25(S)	N/A	N/A	20(S)
	Commercial or Industrial	N/A	N/A	75	80%	50	50	50	See IC District			200	Street Trees	25(S)	N/A	N/A	20(S)
	Churches	2 acres	200	45	N/A	25	50	50	See IC District			200	Street Trees	25(S)	N/A	N/A	20(S)
	Schools, Grades K-12	K-4: 10 ac+ 5-8: 20 ac+ 9-12: 30 ac+	500	45	N/A	100	100	100	See IC District for commercial sites			200	Street Trees	25(S)	N/A	N/A	20(S)
Residential-Light Industrial-Commercial (RLIC)	Hospitals	10 ac	500	45	N/A	40	50	50	See IC District			200	Street Trees	25(S)	N/A	N/A	20(S)
	Other Rural principal permitted uses	40,000	100	45	N/A	40	50	50	See IC District			200	Street Trees	25(S)	N/A	N/A	20(S)
Village (V)	Commercial or Industrial**	N/A	N/A	35	N/A	25	10	40	See IC District			200	Street Trees	25(S)	N/A	N/A	20(S)
	Commercial <sup>¥</sup>	See IC District	See IC District	35	N/A	25	10	40	See IC District			200	Street Trees	25(S)	N/A	N/A	20(S)
Residential Growth (RG)	Commercial or Industrial**	See IC District	See IC District	35	N/A	25	10	40	See IC District			200	Street Trees	25(S)	N/A	N/A	20(S)
	Commercial	See IC District	See IC District	35	N/A	25	10	40	See IC District			200	Street Trees	25(S)	N/A	N/A	20(S)
Neighborhood Commercial (NC)	Commercial	N/A	N/A	35	70%	15 min 25 max	10 <sup>£</sup>	10 <sup>£</sup>	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
	Commercial	N/A	N/A	75	80%	20	10	25	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
General Commercial (GC)	Commercial	N/A	N/A	75	80%	25	25	25	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
	Commercial	N/A	N/A	75	80%	25	25	25	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
Highway Commercial (HC)	Commercial or Industrial	N/A	N/A	75	80%	25	25	25	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
	Commercial	N/A	N/A	75	90%	25	10	50	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
Light Industrial (LI)	Commercial	N/A	N/A	75	90%	25	10	50	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
	Industrial	3 ac***	N/A	75	90%	25	10	50	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
Major Industrial (MI)	Commercial	N/A	N/A	75	80%	15 min 25 max	10 <sup>£</sup>	10 <sup>£</sup>	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
	Industrial	3 ac***	N/A	75	80%	15 min 25 max	10 <sup>£</sup>	10 <sup>£</sup>	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
Office/Commercial Mixed Use (OC)	Commercial	N/A	N/A	75	80%	15 min 25 max	10 <sup>£</sup>	10 <sup>£</sup>	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
	Commercial	3 acres	3 acres	75	80%	15 min 25 max	10 <sup>£</sup>	10 <sup>£</sup>	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
Planned Neighborhood Development (PND)	Commercial	3 acres	3 acres	75	80%	15 min 25 max	10 <sup>£</sup>	10 <sup>£</sup>	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC District
	Commercial	3 acres	3 acres	75	80%	15 min 25 max	10 <sup>£</sup>	10 <sup>£</sup>	See I-C District			25	See IC District	See IC District	See IC District	See IC District	See IC 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 the Village District shall comply with Section 5.10A.2.

‡ Setback may be reduced if adjacent to industrial use.

Ø 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.





**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: ZV18-15  
 Staff Initials: GH  
 Meeting Date: 09/27/18  
 Fees Paid (\$100 or \$150): 100.00

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

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: FELLOWSHIP BIBLE CHURCH  
 Mailing Address: 160 DANIEL ROAD, SHENANDOAH JUNCTION, WV 25442  
 Phone Number: 304-728-3700 Email: fbrich@fellowshipwv.org

**Applicant Contact Information**

Name: RICHARD BEDDOW - PROPERTY SUPERVISOR FOR FBC  
 Mailing Address: 160 DANIEL ROAD, SHENANDOAH JUNCTION, WV 25442  
 Phone Number: 304-702-4117 Email: fbrich@fellowshipwv.org

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

Name: GARY FREY - SURVEYOR  
 Mailing Address: PO BOX 1218, HARPERS FERRY  
 Phone Number: 304-728-3869 Email: gfrey.surveyor@frontier.com

**Physical Property Details**

Physical Address: 160 DANIEL ROAD  
 City: SHENANDOAH JUNCTION State: WV Zip Code: 25442  
 Tax District: 02 Map No: 3 Parcel No: 4.5  
 Parcel Size: 50 ACRES Deed Book: 992 Page No: 338

**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**

SEP 05 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: App B 9th 09/05/18

Briefly describe the nature of the variance request:

FELLOWSHIP BIBLE CHURCH IS REQUESTING A VARIANCE FROM THE SETBACK ORDINANCE TO ALLOW FOR A PROPOSED BUILDING EXPANSION

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

Front Setback  Side Setback  Rear Setback  Reduction From 50' to 34'

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:

GRANTING THIS VARIANCE WILL NOT ADVERSELY AFFECT ADJACENT PROPERTY OWNERS. THE PROPERTY LINE HAS SCREEN TREES AND THE ADJACENT PROPERTY IS WOODED WITH DWELLINGS +75' FROM THE PROPERTY LINE.

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 LOCATION AND SIZE OF THE BUILDING EXPANSION IS BY RECOMMENDATION FROM OUR ARCHITECT AFTER CONSIDERING EXISTING STRUCTURE, PARKING, PEDESTRIAN FLOW, UTILITIES AND COST.

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

GRANTING THIS VARIANCE WILL ALLOW FELLOWSHIP BIBLE CHURCH TO EXPAND AND ACQUIRE THE MOST SQUARE FOOTAGE FOR THE DOLLAR.

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

GRANTING THIS VARIANCE WILL STILL ALLOW THE ORDINANCE TO BE OBSERVED AND SUBSTANTIAL JUSTICE DONE BY ALLOWING REASONABLE USE OF THE LAND

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.

 9/5/18  
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).

9/27/18  
Date of Public Hearing

09/12/18  
Advertising Date

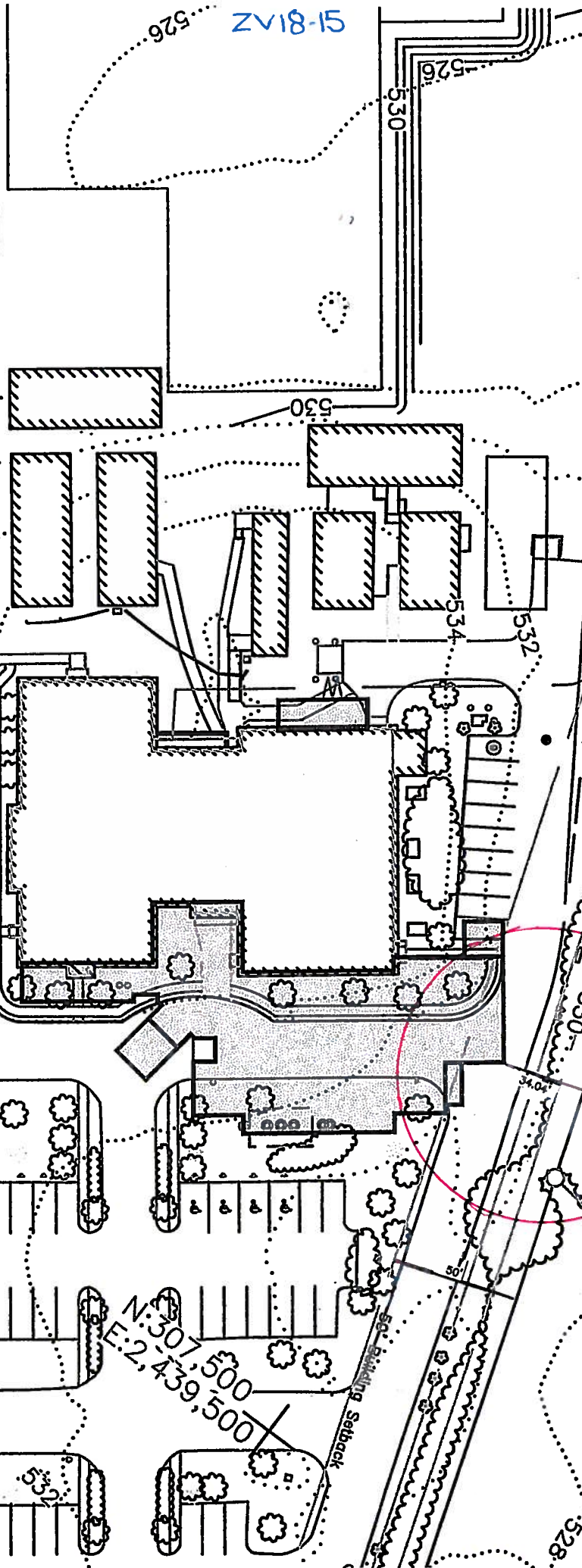
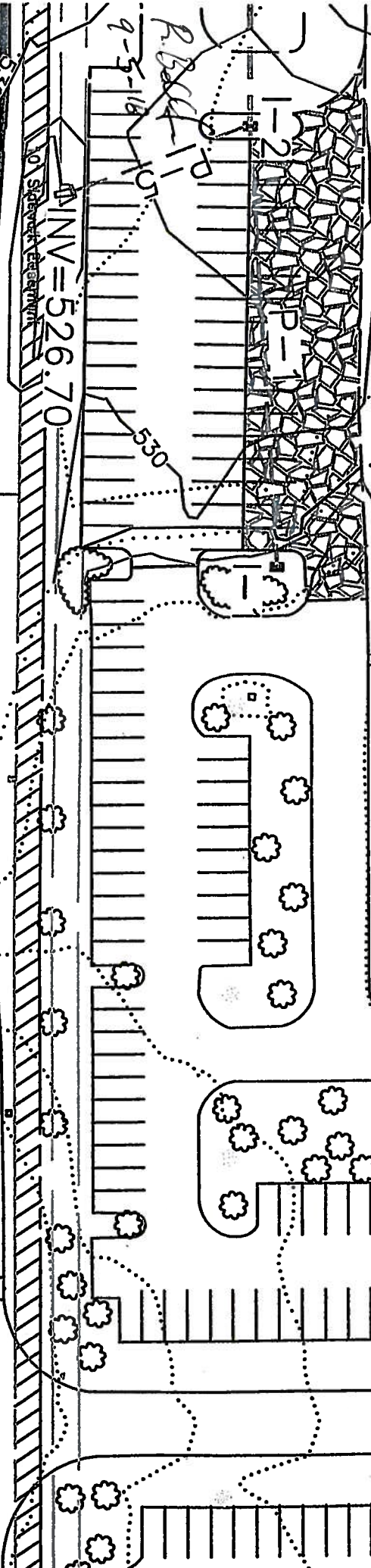
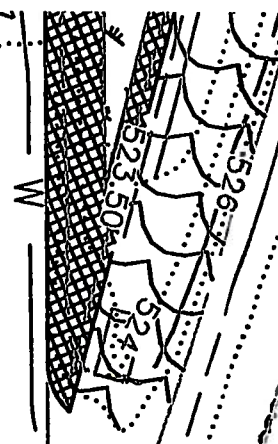
09/12/18  
Placard Posting Date

51-81VZ

526

530

526



N: 307,500  
 E: 2,439,500



PROPOSED ADDITION

Set Backing Setback

528

9-5-18

R. B. K. 11

INV = 526.70

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ZV18-15

**JEFFERSON COUNTY, WEST VIRGINIA  
STORMWATER MANAGEMENT FACILITIES MAINTENANCE REQUIREMENT**

- In accordance with the Jefferson County Stormwater Management Ordinance under which this project was approved, periodic inspection and maintenance shall be performed to ensure the proper function of all stormwater management facilities.
- All maintenance and repair, periodic inspections, and cleaning of stormwater management facilities shall be the responsibility of the Homeowners Association or Lot Owners Association, and/or property owner or other responsible entity, and shall be performed in accordance with the Jefferson County Stormwater Management Ordinance under which the project was approved.

**STORMWATER FACILITY MAINTENANCE AND INSPECTION SCHEDULE**

- Regular Maintenance
  - Mowing (seasonally) and removal of trash and debris shall be performed on a monthly basis at a minimum.
  - Repair and stabilization of eroded areas shall be performed during growing season and on an annual basis at a minimum.
- Periodic Inspections
 

All elements of the stormwater management facilities shall be inspected for proper operation and maintenance as follows:

  - After the first year of operation.
  - Once every year after the first year of operation.
  - Within 15 days after any maintenance activities are performed and completed.
  - After a 3-inch rainfall within a 24-hour period storm event (2-year, 24-hour storm event).
  - As requested by the Jefferson County Engineering Department in response to complaints or notice of possible violations.

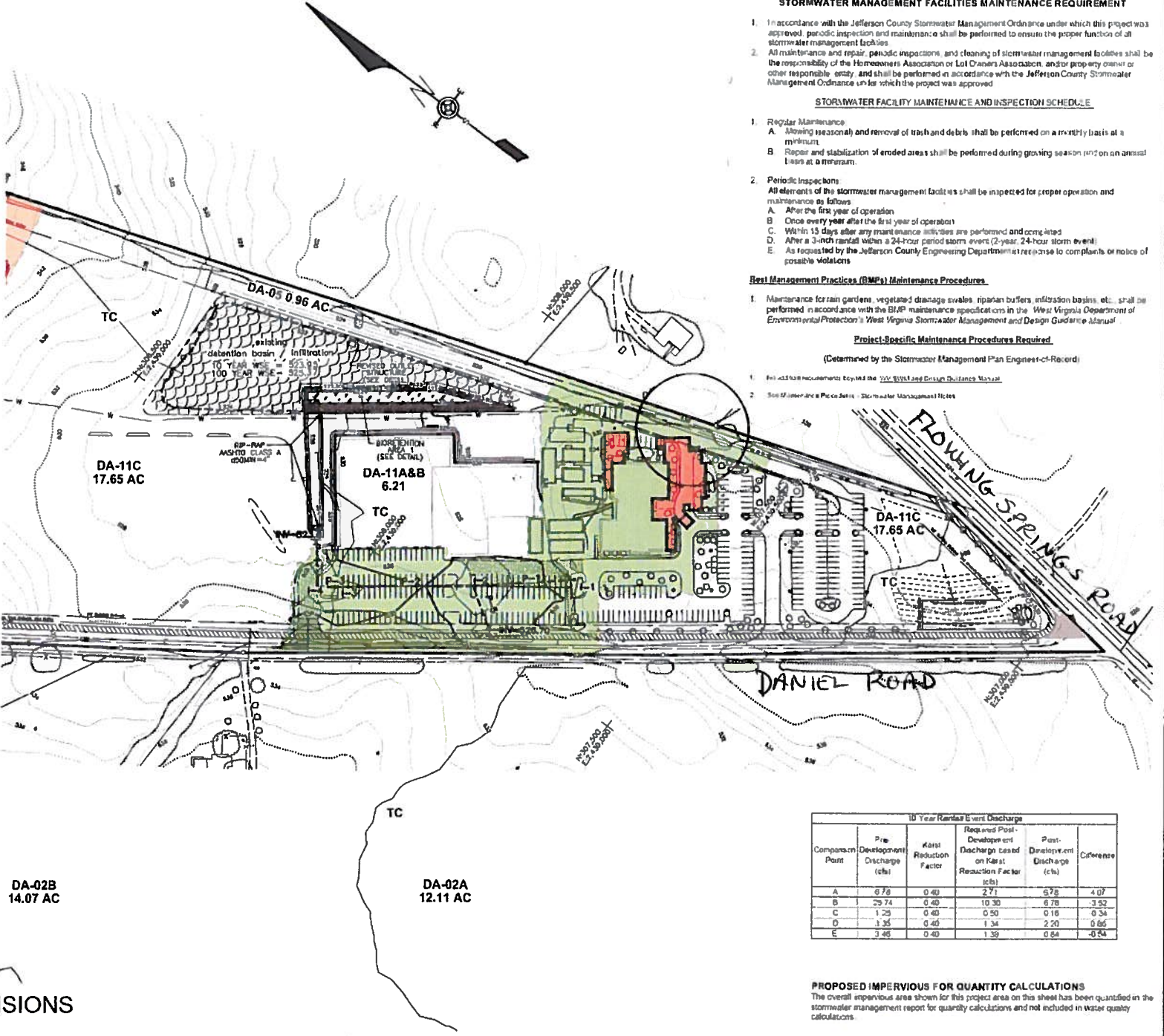
**Best Management Practices (BMP) Maintenance Procedures**

- Maintenance for rain gardens, vegetated drainage swales, riparian buffers, infiltration basins, etc., shall be performed in accordance with the BMP maintenance specifications in the West Virginia Department of Environmental Protection's West Virginia Stormwater Management and Design Guidance Manual.

**Project-Specific Maintenance Procedures Required**

(Determined by the Stormwater Management Plan Engineer-of-Record)

- See additional requirements beyond the WV SWM and Design Guidance Manual.
- See Maintenance Procedures - Stormwater Management Notes.



10 Year Rainfall Event Discharge					
Comparison Point	Pre-Development Discharge (cfs)	Best Reduction Factor	Required Post-Development Discharge based on Best Reduction Factor (cfs)	Post-Development Discharge (cfs)	Variance
A	6.78	0.40	2.71	6.78	+4.07
B	29.74	0.40	10.30	6.78	-19.92
C	1.23	0.40	0.50	0.16	-0.34
D	1.35	0.40	1.34	2.20	+0.85
E	3.45	0.40	1.39	0.84	-2.54

**PROPOSED IMPERVIOUS FOR QUANTITY CALCULATIONS**  
The overall impervious area shown for this project area on this sheet has been quantified in the stormwater management report for quantity calculations and not included in water quality calculations.

**PHASE 1B**

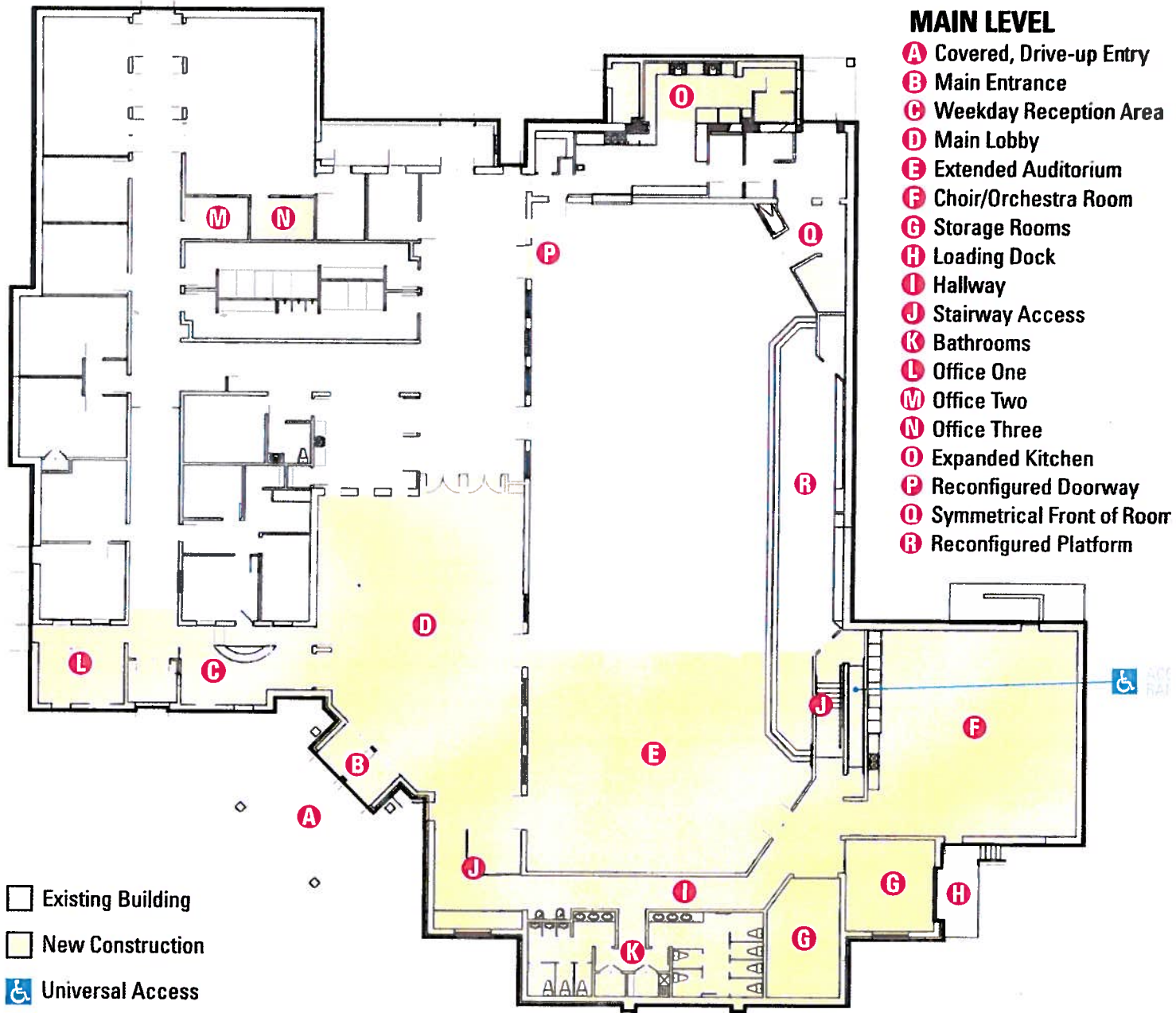
CHARLES TOWN DISTRICT      JEFFERSON CO.  
SITE PLAN  
FOR  
**FELLOWSHIP BIBLE CHURCH**  
DANIEL ROAD      SHENANDOAH JUNCTION, WV



*Paul Bell*  
9-5-18

OVERALL STORMWATER PLAN  
SHEET 7 OF 25  
I HEREBY CERTIFY THIS PLAN TO BE CORRECT AND DESIGN TO A MINIMUM ACCURACY OF 1/10,000

# PROJECT PEHEMIAH II



*Paul Bluff*  
 9-5-18





# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

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

P.O. Box 716

Charles Town, WV 25414

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

Phone: (304) 728-3228

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## Zoning Administrator's Report Board of Zoning Appeals Meeting September 27, 2018

### 1) Upcoming Text Amendments

Pet and Livestock Crematoriums in Rural District (ZTA18-01)

09/11/18: Planning Commission held a Public Hearing on a proposed text amendment to the Zoning Ordinance to include definitions for *Pet* and *Livestock* Crematoriums and to add those uses into Appendix C. The PC recommended approval of the text amendment noting that it was in conformance with the *Comprehensive Plan*. The amendment was forwarded to the County Commission.

09/20/18: County Commission scheduled a Public Hearing for 10/04/18.

### 2) Possible Upcoming Text Amendments

- 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.

### 3) Upcoming BZA meeting

- The next regular meeting is scheduled for **October 25, 2018** (deadline for submissions is Thursday, 10-03-18)



Jefferson County, West Virginia  
 Department of Engineering, Planning and Zoning  
**Office of Planning and Zoning**  
 116 E. Washington Street, 2<sup>nd</sup> Floor, P.O. Box 716  
 Charles Town, West Virginia 25414  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

**September 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
ZC18-25	Rock Spring Church	Sunshine Daycare	114 Poor Farm Road, Kearneysville, WV	Day Care Center, Large Accessory Use to an approved Church)	08/30/18
ZC18-26	Deborah Royalty	Same	199 Brannon Dr., Charles Town, WV	Cottage Industry: Mental Health Outpatient Medical Practice	09/25/18
ZC18-27	Rodney Kidwell	Jane Decker	35 Halltown Rd., Harpers Ferry, WV	Retail Sales, Limited: Antique Shop / Vintage Antique Furniture and Home Décor Shop	09/07/18
ZC18-28	RAI Properties, LLC	Nancy Ndungu Jeffreys, Tri- State Beauty Academy	340 Edmond Rd, Ste A, Kearneysville, WV	Change in tenant: Office & Shop Space for County PSD to Beauty School	TBD