

**Minutes**  
**Jefferson County Board of Zoning Appeals**

- 1 Meeting Date: March 28, 2019  
2 Meeting Location: Charles Town Library Conference Room  
3 200 East Washington Street, Charles Town, West Virginia  
4 Board Members Present: Tyler Quynn, Chair; Deirdre Catterton, and Leeds Corbin  
5 Members absent: Jeffrey Bannon, Vice Chair, and Matthew McKinney (with notification)  
6 Staff members present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, Assistant  
7 Prosecuting Attorney; and Jennilee Hartman, Zoning Clerk.  
8 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

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

11 **Approval of Minutes: January 24, 2019**

12 Ms. Catterton moved to approve the minutes as presented. Mr. Quynn called for a vote, which  
13 carried two (2) in support (Mr. Quynn and Ms. Catterton) and one (1) recusal, as Mr. Corbin was not  
14 present for the January meeting.

15 Mr. Quynn stated that the agenda would be reorganized as follows: Files 19-1-CUP, 19-1-ZV, 19-2-  
16 ZV, 19-5-ZV, and then 19-3-ZV and 19-4-ZV simultaneously.

17 **Public Hearing – Administer Oath**

18 Ms. Hartman swore in members of the public who indicated they would be providing testimony.  
19 Ms. Beaulieu stated the applicant requested a postponement of this item until the next meeting.

20 ITEM #1 FILE #: 19-1-CUP – Postponed From February 28, 2019

21 Request: Request for a Conditional Use Permit for an existing Drive-Through, Fast Food  
22 Restaurant (McDonald's) to replace and upgrade the exterior menu boards with  
23 digital menu boards.  
24 Applicant: Tracey Diehl, Expedite The Diehl  
25 Parcel Info: McDonald's Corporation  
26 31 Maddex Square Dr, Shepherdstown, WV  
27 Parcel ID: 09008C00680000; Size: 0.88 ac; Zone: Residential-Light Industrial-  
28 Commercial

29 Ms. Catterton moved to postpone File 19-1-CUP until the Board's May meeting, which carried  
30 unanimously. Note: Under the Zoning Administrator's Report this motion was corrected to postpone  
31 the item until April 25, 2019.

32 ITEM #2 FILE #: 19-1-ZV – POSTPONED FROM FEBRUARY 28, 2019

33 Request: Variance from Section 5.7B to reduce the rear setback from 50' to 20' for a 31' x 57'  
34 inground pool and surrounding concrete patio.  
35 Applicant: Same as Owner  
36 Parcel Info: John and Dawn Grinstead  
37 33 Eldridge Ln, Charles Town, WV,  
38 Parcel ID: 06000900190021; Size: 2.08 ac; Zone: Rural

39 Mr. John Grinstead, owner, was present to address the Board. Ms. Beaulieu provided an overview  
40 of her staff report to the Board. Mr. Grinstead explained the nature of the request and noted that he  
41 had submitted a letter of support from his neighbor. Mr. Grinstead addressed the Board's questions.

1 Mr. Quynn opened the public hearing. There was no public comment. Mr. Quynn closed the public  
2 hearing.

3 Ms. Catterton moved to approve the variance as requested. Mr. Corbin seconded the motion, which  
4 carried unanimously.

5 ITEM #3      FILE #: 19-2-ZV – POSTPONED FROM FEBRUARY 28, 2019

6 Request:      Variance request from the following: Section 5.6D to reduce the perimeter setbacks  
7                      from 25' to 1' for an existing 7' tall fence (proposed parcel 35); and, to reduce the  
8                      side setback from 25' to 21' for an existing 75' tall cell tower (proposed parcel 36).  
9                      The purpose of the request is to allow for a boundary line adjustment between  
10                     parcels 35 and 36.

11 Applicant:    Same as Owner

12 Parcel Info:   Paul & Donna Ashbaugh

13                      121 and 125 Ashland Woods Dr., Harpers Ferry, WV

14                      Parcel ID: 02002100350000 and 02002100360000; Size: 2 and 95 ac; Zone: Rural

15 Mr. Paul Ashbaugh, owner, was present to address the Board. Ms. Beaulieu provided an overview of  
16 her staff report to the Board explaining that the purpose of the variance was to accommodate a  
17 boundary line adjustment to allow for the sale of the resulting 40,000 square foot lot shown in the  
18 sketch. Ms. Beaulieu noted that all of the structures relevant to the request have existed on the  
19 property for many years and the proposal did not appear to create a negative impact to the current  
20 property owner or the prospective purchaser. Mr. Ashbaugh noted that no additional building could  
21 be erected near the proposed merger area due to the existing Appalachian Trail easement. Mr. Quynn  
22 opened the public hearing. There was no public comment. Mr. Quynn closed the public hearing.

23 Mr. Corbin moved to approve the variance as requested. Ms. Catterton seconded the motion, which  
24 carried unanimously.

25 ITEM #4      FILE #: 19-5-ZV

26 Request:      Variance from Section 5.7(b) to reduce the front setback from 40' to 5' for a 20' x 21'  
27                      accessory structure.

28 Applicant:    Same as Owner

29 Parcel Info:   Mark & Elaine Boyd

30                      12615 Leetown Rd, Kearneysville, WV

31                      Parcel ID: 07000800020018; Size: 1.53 ac; Zone: Rural

32 Mr. Mark and Elaine Boyd, owners, were present to address the Board. Ms. Beaulieu provided an  
33 overview of her staff report to the Board. Mr. Boyd explained the nature of the request and  
34 addressed the Board's questions. Mr. Quynn opened the public hearing. There was no public  
35 comment. Mr. Quynn closed the public hearing.

36 Mr. Corbin moved to approve the variance as requested. Ms. Catterton seconded the motion, which  
37 carried unanimously.

38 Items 19-3-ZV and 19-4-ZV were heard simultaneously; however, the Board took action on each  
39 application separately.

40 ITEM #5      FILE #: 19-3-ZV

41 Request:      Variance from Section 8.17B.1 to reduce the required acreage for a six (6) site  
42                      campground from 10 acres to six (6) acres.

43 Applicant:    Same as Owner

1 Parcel Info: Danielle LaRock and Johnathon Carnill  
2 Vacant parcel on the northwest corner of River Rd and Cedar Ridge Ln,  
3 Shepherdstown, WV,  
4 Parcel ID: 09001000070000; Size: 6.06 ac; Zone: Rural

5 ITEM #6 FILE #: 19-4-ZV

6 Request: Variance from Section 4.10A to waive the requirement of a site plan to process a six  
7 (6) site campground.

8 Applicant: Same as Owner

9 Parcel Info: Danielle LaRock and Johnathon Carnill  
10 Vacant parcel on the northwest corner of River Rd and Cedar Ridge Ln,  
11 Shepherdstown, WV,  
12 Parcel ID: 09001000070000; Size: 6.06 ac; Zone: Rural

13 Ms. Danielle LaRock and Mr. Johnathon Carnill, owners, were present to address the Board. Ms.  
14 Beaulieu provided an overview of her staff reports to the Board noting that a campground is a  
15 principal permitted use in the rural zoning district. Ms. Beaulieu first addressed the request to  
16 reduce the minimum acreage, noting that when the campground text amendment was drafted, the  
17 County Commission determined it would be appropriate to allow an applicant to request a variance  
18 from the Board of Zoning Appeals concerning such a reduction on a case by case basis. Ms.  
19 Beaulieu noted that the requested density of six (6) camp sites on six acres is a lower density than  
20 what the Subdivision Regulations would permit. Ms. Beaulieu provided an overview of the second  
21 request, to waive the requirement of a site plan. She stated that should the Board grant the request,  
22 the applicants would still be required to obtain approvals from any outside agencies such as the  
23 Health Department and the Division of Highways.

24 Ms. LaRock and Mr. Carnill provided the Board with a packet that outlined their proposal entitled  
25 Tiny Haven. Ms. LaRock noted that of the six units proposed, only two were likely to be occupied  
26 by non-family members. The applicants stated that the campground would have guidelines that  
27 included quiet hours and the required 180-day occupancy limitation. They further explained that  
28 they would follow all environmental laws, install landscaping and fencing as a buffer along the  
29 perimeter of the property, and noted that the units would utilize composting toilets with septic  
30 systems. The applicants stated that they did not believe the traffic would be significantly increased  
31 as their intent is to rent spaces to tenants who wish to stay for the full 180 days. The applicants  
32 answered various questions by the Board. Mr. Quynn opened the public hearing.

33 Wayne Bavry, George Baker, Christine Marshall, Richard Nickell, Bill Lichliter, Neil Barkus, John  
34 Knoll, Brian Miller, Chris Colbert, and Chris Stroeck spoke in opposition to both the requests. The  
35 local residents were primarily concerned that the tiny home proposal would turn into a permanent  
36 mobile home park, which is not a permitted use in the rural zoning district. Additional concerns  
37 were raised about the proposed density, the lack of a buffer, poor existing road conditions and  
38 increased traffic, infrastructure and sanitation issues, impact on surrounding property values, and a  
39 general concern that the applicants would not adhere to the required 180-day occupancy restriction.

40 In their rebuttal, Ms. LaRock and Mr. Carnill addressed the neighbors' concerns pertaining to  
41 complying with setbacks by explaining that each unit is typically 160 square feet and therefore, it  
42 would not be an issue to meet the required setbacks. Ms. LaRock also stated that the site would be  
43 adequately buffered so the visual impact to the neighbors should be minimal. Ms. Beaulieu  
44 confirmed Mr. Quynn's inquiry that per zoning, a mobile home would be permitted to locate on the  
45 property and that it appeared the subject parcel did possess development rights to be subdivided

1 into three (3) lots and each lot could have a dwelling unit and an In-Law Suite. Ms. Beaulieu noted  
2 that such a subdivision could process administratively.

3 Mr. Quynn closed the public hearing.

4 Ms. Catterton moved to go into deliberative session at 3:47 p.m. Mr. Corbin seconded the motion,  
5 which carried unanimously. Ms. Catterton moved to come out of deliberative session at 4:38 p.m.  
6 Mr. Corbin seconded the motion, which carried unanimously.

7 Ms. Catterton moved to deny variance request #19-4-ZV to waive the requirement of a site plan as  
8 the applicants failed to demonstrate a hardship that wasn't created by the applicants; and, that a  
9 failure to process a site plan could adversely affect the health, safety and welfare of the public. Mr.  
10 Corbin seconded the motion, which carried unanimously.

11 Mr. Corbin moved to approve variance request #19-3-ZV to reduce the required acreage for a  
12 campground from ten (10) acres to six (6) acres with the condition that the campground is limited to  
13 six (6) camp sites. Mr. Cochran clarified that the motion was to allow for a maximum of six (6) camp  
14 sites, which the Board confirmed. Ms. Catterton seconded the motion, which carried unanimously.

15 Mr. Quynn requested that the applicants come forward and reiterated that the Board had approved  
16 their request for a campground with six (6) sites and not for a mobile home park or tiny home park.  
17 Mr. Quynn further advised that the campground could only operate once they had processed a site  
18 plan. The applicants acknowledged that they understood the proceedings.

#### 19 **Zoning Administrator Report**

20 a. Monthly Zoning Certificate Activity Report. This report was provided in the packet.  
21 Ms. Beaulieu stated that in reference to the postponement of File #19-1-CUP, she had  
22 inadvertently referenced the May meeting, as opposed to the Board's April meeting, and that  
23 the motion would need to be modified. Ms. Catterton modified her original motion to reflect  
24 postponement until the April meeting. Mr. Corbin seconded the modified motion, which  
25 carried unanimously. Ms. Beaulieu noted for the record that the Board's next meeting would  
26 be April 25, 2019.

#### 27 **Legal Update**

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

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

30 Meeting: January 24, 2019

31 1. Variance from Sec. 4.3H. Owner: Peggy Ann Triplett Foundation. Applicant: Michael  
32 Smith. File: ZV18-22.

33 2. Variance from Sec. 9.6B. Owners: Daniel Beans. File: ZV18-23.

34 Mr. Quynn signed the above referenced Findings.

35 Ms. Catterton moved to adjourn the meeting at 4:44 pm. Mr. Corbin seconded the motion, which  
36 carried unanimously.