



Jefferson County
Board of Zoning Appeals
Thursday, May 23, 2019 at 2:00 p.m.

Members
Tyler Quynn, Chair
Jeffrey Bannon, Vice Chair
Deirdre Catterton
Matthew McKinney
Leeds Corbin

Meeting Location: Charles Town Library Conference Room, 200 East Washington Street, Charles Town, WV
Unless otherwise noted, all requests are pursuant to the Zoning & Land Development Ordinance.

Approval of Minutes: April 25, 2019

Public Hearing – Administer Oath

-
- ITEM #1** **FILE #: 19-1-CUP – Postponed From February 28, March 28, and April 25, 2019**
Request: Request for a Conditional Use Permit for an existing Drive-Through, Fast Food Restaurant (McDonald's) to replace and upgrade the exterior menu boards with digital menu boards.
Applicant: Tracey Diehl, Expedite The Diehl
Parcel Info: McDonald's Corporation
31 Maddex Square Dr, Shepherdstown, WV
Parcel ID: 09008C00680000; Size: 0.88 ac; Zone: Residential-Light Industrial-Commercial
-
- ITEM #2** **FILE #: 19-8-ZV**
Request: Variance from Section 5.7(b) to reduce the rear setback from 50' to 18' to install a 54' x 22' inground pool with surrounding concrete patio.
Applicant: Same as Owner
Parcel Info: R.L. Jenkins
Barleywood Subdivision, Lot 9, 146 Inaugural Way, Charles Town, WV
Parcel ID: 02006A00090000; Size: 3.08 ac; Zone: Rural
-
- ITEM #3** **FILE #: 19-9-ZV**
Request: Variance request per Section 4.3H to allow for the reconstruction of a nonconforming 28' x 32' garage to be located 3' from the side property line.
Applicant: Same as Owner
Parcel Info: Michael G. Kelly and Michael G. Kelly Jr.
Glen Haven Subdivision, Lots 10, 11 and part of 12, 129 Mason Drive, Harpers Ferry
Parcel ID: 04003C00110001, 04003C00120000, 04003C00130001; Subject parcel size: .56 ac;
Zone: Rural
-
- ITEM #4** **FILE #: 19-10-ZV**
Request: Variance from Section 5.4(b) to reduce the front setback from 25' to 20'; the side setback from 12' to 10'; and, the rear setback from 20' to 15' for Lots 68-72, 78, 106-108, 118, 121-124, & 129.
Applicant: P.J. Raco Consulting
Parcel Info: Beallair Homes LLC ;
Beallair Subdivision, Lot 68 Claymont Hill St.; Parcel ID: 04010A00680000; Size: 9,429 sf;
Lot 69 Claymont Hill St.; Parcel ID: 04010A00690000; Size: 8,000 sf;
Lot 70 Claymont Hill St.; Parcel ID: 04010A00700000; Size: 8,000 sf;
Lot 71 Claymont Hill St.; Parcel ID: 04010A00710000; Size: 8,000 sf;
Lot 72 Claymont Hill St.; Parcel ID: 04010A00720000; Size: 11,246 sf;
Lot 78 Lewis Washington Dr.; Parcel ID: 04010A00780000; Size: 9,880 sf;
Lot 106 Robinson Way; Parcel ID: 04010A01060000; Size: 11,284 sf;
Lot 107 Robinson Way; Parcel ID: 04010A01070000; Size: 11,158 sf;
Lot 108 Robinson Way; Parcel ID: 04010A01080000; Size: 10,327 sf;
Lot 118 Robinson Way; Parcel ID: 04010A01180000; Size: 8,353 sf;
Lot 121 Potomac Crossing St.; Parcel ID: 04010A01210000; Size: 10,457 sf;
-

ITEM #4 FILE #: 19-10-ZV *continued*

Lot 122 Potomac Crossing St.; Parcel ID: 04010A01220000; Size: 9,467 sf;
Lot 123 Potomac Crossing St.; Parcel ID: 04010A01230000; Size: 8,511 sf;
Lot 124 Potomac Crossing St.; Parcel ID: 04010A01240000; Size: 8,185 sf; to
Lot 129 Colonel Black Way; Parcel ID: 04010A01290000; Size: 9,215 sf;
Zone: Residential Growth

Item #5 FILE #: 19-1-AP

Request: Appeal of the Zoning Administrator's determination that "tiny homes" are permitted Camping Units as it related to the proposed campground associated with 19-3-ZV.

Appellants: Wayne and Ann Bavry and Neal and Alice Barkus

Parcel Info: Danielle LaRock and Jonathan Carnill, property owners.
Vacant parcel on the northwest corner of River Rd and Cedar Ridge Ln in Shepherdstown.
Parcel ID: 09001000070000; Size: 6.06 ac.; Zone: Rural.

Zoning Administrator Report

- a. Request for Clarification regarding the Blossman Gas Conditional Use Permit (CUP17-05)
- b. Monthly Zoning Certificate Activity Report

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: April 25, 2019

1. Variance from Sec. 4.18. Owner: Beallair Homes, LLC. File: 19-7-ZV

Minutes
Jefferson County Board of Zoning Appeals

1 Meeting Date: April 25, 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; Jeffrey Bannon, Vice Chair; Leeds Corbin and
5 Matthew McKinney
6 Members absent: Deirdre Catterton (with notification)
7 Staff members present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, Assistant
8 Prosecuting Attorney; and Jennilee Hartman, Zoning Clerk.
9 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

10 Mr. Bannon moved to call the meeting to order at 2:00 pm, which carried unanimously.

11 **Approval of Minutes: February 25, 2019**

12 Mr. Quynn requested the following correction to the minutes:

13 1. Page 3, at the end of line 17: add “*a variance from the Board of Zoning Appeals concerning*”

14 Mr. Quynn called for a vote, which carried two in support (Mr. Quynn and Mr. Corbin) and two
15 abstentions as Mr. McKinney and Mr. Bannon were not present for the February meeting.

16 **Public Hearing – Administer Oath**

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

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

19 Request: Request for a Conditional Use Permit for an existing Drive-Through, Fast Food
20 Restaurant (McDonald's) to replace and upgrade the exterior menu boards with
21 digital menu boards.

22 Applicant: Tracey Diehl, Expedite The Diehl

23 Parcel Info: McDonald's Corporation

24 31 Maddex Square Dr., Shepherdstown, WV

25 Parcel ID: 09008C00680000; Size: 0.88 ac; Zone: Residential-Light Industrial-
26 Commercial

27 Ms. Beaulieu stated the applicant requested a postponement of this item until the May 23, 2019
28 meeting. Mr. Corbin moved to postpone File 19-1-CUP until the Board's May meeting. Mr. McKinney
29 seconded the motion, which carried unanimously.

30 ITEM #2 FILE #: 19-7-ZV

31 Request: Variance from Section 4.18 to allow a staffed model home on Lot 68 within Beallair
32 Subdivision, Phase II.

33 Applicant: Same as Owner

34 Parcel Info: Beallair Homes, LLC

35 NE corner of Beallair Manor Dr., and Claymont Hill St., Charles Town, WV

36 Parcel ID: 04010A00680000; Size: .21 ac; Zone: Residential Growth

37 Mr. Michael Wiley, representative with Piedmont Group, LLC, was present to address the Board.

38 Ms. Beaulieu provided an overview of her staff report. Mr. Wiley explained the nature of the

39 request stating that the previous model within Beallair had sold and that a new model was required.

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

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

5 **Zoning Administrator Report**

6 a. Monthly Zoning Certificate Activity Report. Ms. Beaulieu noted that the report was not in
7 the packet and stated she would email it to the members after the meeting.

8 b. Ms. Beaulieu stated that the deadline for the May 23, 2019 meeting is April 29, 2019.

9 **Legal Update**

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

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

12 Meeting: March 28, 2019

13 1. Variance from Section 5.6D. Owners: Paul & Donna Ashbaugh. File: 19-2-ZV.

14 2. Variance from Sec. 8.17B.1. Owners: Danielle LaRock & Johnathon Carnill. File: 19-3-ZV.

15 3. Variance from Sec. 4.10A. Owners: Danielle LaRock & Johnathon Carnill. File: 19-4-ZV.

16 4. Variance from Sec. 5.7(b). Owners: Mark and Elaine Boyd. File: 19-5-ZV.

17 Mr. Corbin moved to go into deliberative session at 2:11 pm. Mr. Quynn called for a vote,
18 which carried unanimously.

19 Mr. Corbin moved to come out of deliberative session at 2:32 pm. Mr. Quynn called for a
20 vote, which carried unanimously.

21 Mr. Cochran presented the Findings to the Board and reviewed the proposed language for files
22 19-3-ZV and 19-4-ZV with the Board. Mr. Quynn moved to approve the Findings as presented.

23 Mr. Quynn called for a vote, which carried two in support (Mr. Quynn and Mr. Corbin) and two
24 abstentions as Mr. McKinney and Mr. Bannon were not present for the February meeting.

25 Mr. Quynn signed the above referenced Findings.

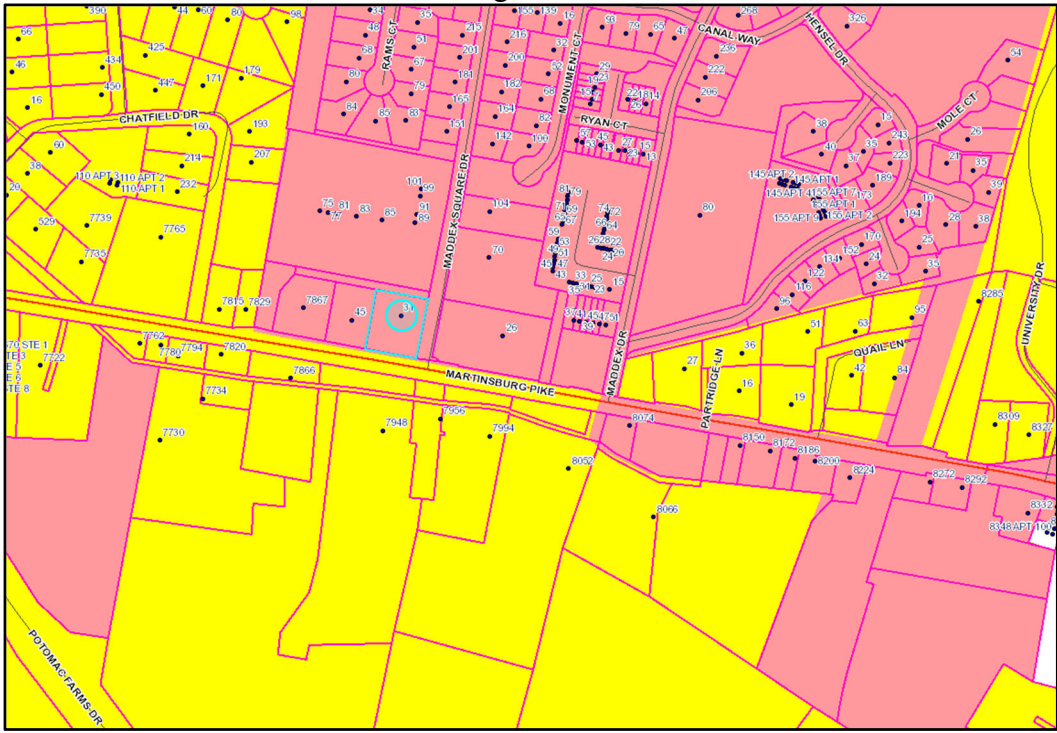
26 Mr. Bannon moved to adjourn the meeting at 2:38 pm. Mr. Quynn called for a vote, which carried
27 unanimously.

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 April 25, 2019

Postponed from February 28 and March 28, 2019

**McDonald's Menu Board
 Conditional Use Permit Request (#19-1-CUP)**

Item #1 Request for a Conditional Use Permit for an existing Drive-Through, Fast Food Restaurant (McDonald's) to replace and upgrade the exterior menu boards with digital menu boards.

Applicant:	Tracey Diehl, Expedite The Diehl
Owner:	McDonald's Corporation
Developer:	Same as applicant
Consultant:	N/A
Parcel Information and Zoning District:	<p style="text-align: center;">31 Maddex Square Dr, Shepherdstown, WV Parcel ID: 09008C00680000; Size: 0.88 ac; Zone: Residential-Light Industrial-Commercial</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:</p> <p style="text-align: center;"><i>North:</i> Residential - Light Industrial – Commercial <i>South:</i> Residential Growth <i>East & West:</i> Residential - Light Industrial – Commercial</p>
Approved Use:	<p>Z93-01: McDonald's Fast Food Restaurant CUP (Approved 05-11-93) S93-06: McDonald's New Construction (Approved 07-12-93) S11-18: McDonald's Remodel (Approved 12-30-11)</p>
Waivers/Variances:	ZV92-36: Section 4.6 Distance Requirements (Approved 07-16-92)

Staff Report
Jefferson County Board of Zoning Appeals Meeting
March 28, 2019

Postponed from February 28, 2019

**McDonald's Menu Board
Conditional Use Permit Request (#19-1-CUP)**

Summary of Request and Purpose of Ordinance Requirements

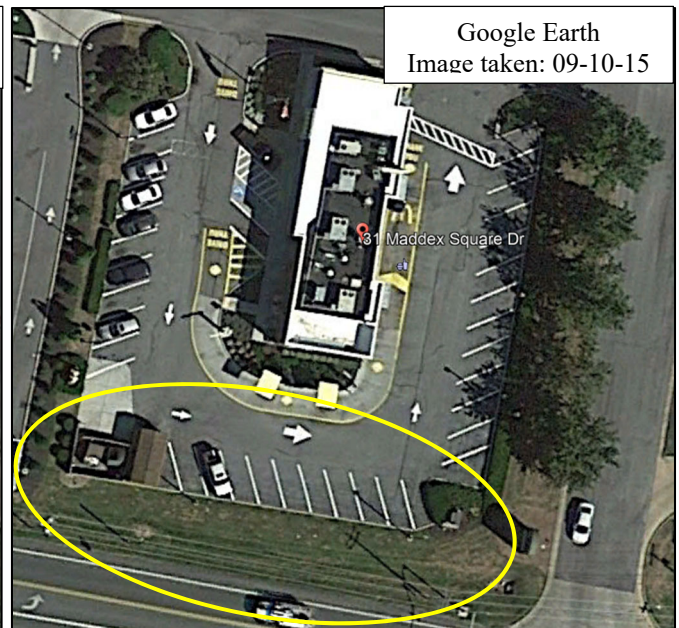
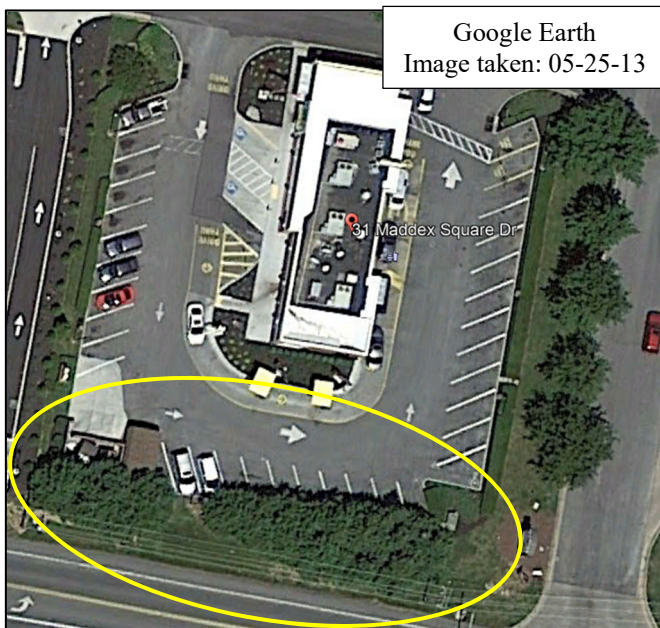
While the application before you today is for a new Conditional Use Permit, the request is to replace the existing static menu boards with digital (electronic) menu boards.

McDonald's was approved via Conditional Use Permit #Z93-01 on May 11, 1993. Because the land use processed as a Conditional Use, and the land use is still listed as a Conditional Use in the Ordinance, changes to the approved permit are subject to review and approval by the Board.

The applicant has stated that the existing menu boards are 84 square feet and that the proposed replacement signs will be 68.5 square feet.

Property Description

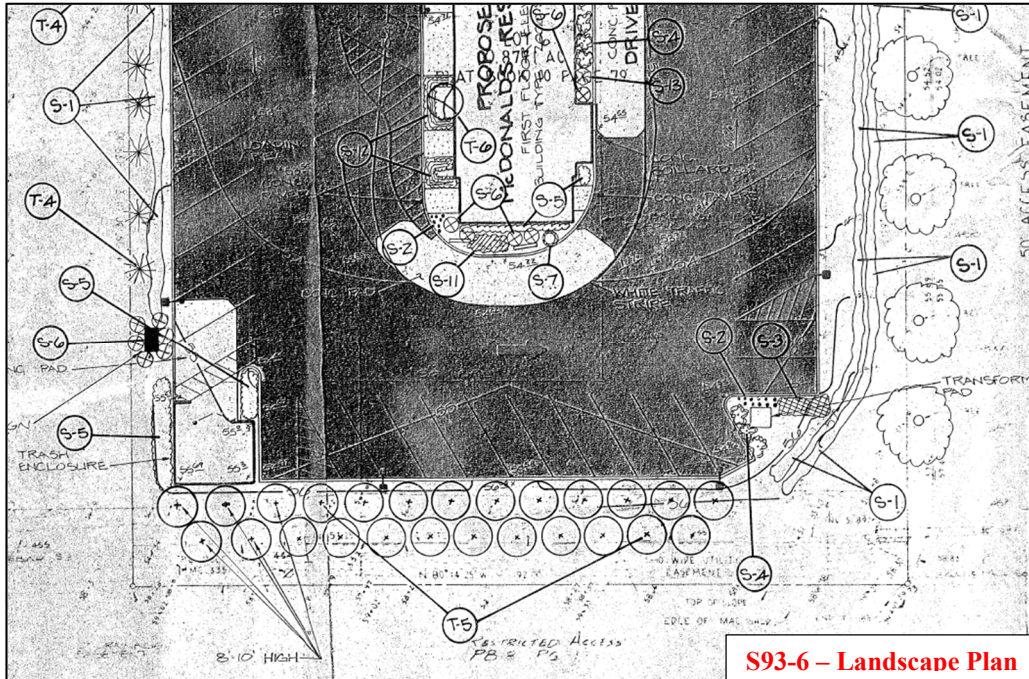
The subject parcel contains the approved McDonald's Drive-Through Restaurant. The original Conditional Use Permit and Site Plan were approved with landscaping along the front of the property which faces Martinsburg Pike (Route 45). As you can see in the below images, the landscaping has since been removed.



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**McDonald's Menu Board
Conditional Use Permit Request (#19-1-CUP)**



Impact on adjacent properties

The surrounding area is zoned Residential-Light Industrial-Commercial and Residential Growth. Located within close proximity to the subject parcel, is a mixture of commercial uses and high density residential development. Martinsburg Pike (Route 45) is shown as a Minor Arterial road on the Roadway Classification Map in the Envision Jefferson 2035 Comprehensive Plan.

The impact on adjacent properties is expected to be minimal. The most significant impact Staff identified is that the proposed electronic menu boards face Route 45 and landscaping does not exist as a buffer. However, the signs are oriented in such a way that the glare should be minimal and the applicant has stated that the brightness levels can be reduced at night and will be turned off at night. While a shut-off time was not specified by the applicant, a quick Google search reflects that the Shepherdstown McDonald's operates 5:00 a.m. – 12:00 a.m., Sunday through Thursday; and 5:00 a.m. to 1:00 a.m. Friday and Saturday.

Conditional Use Permit Process

Section 6.3 of the Zoning Ordinance states:

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

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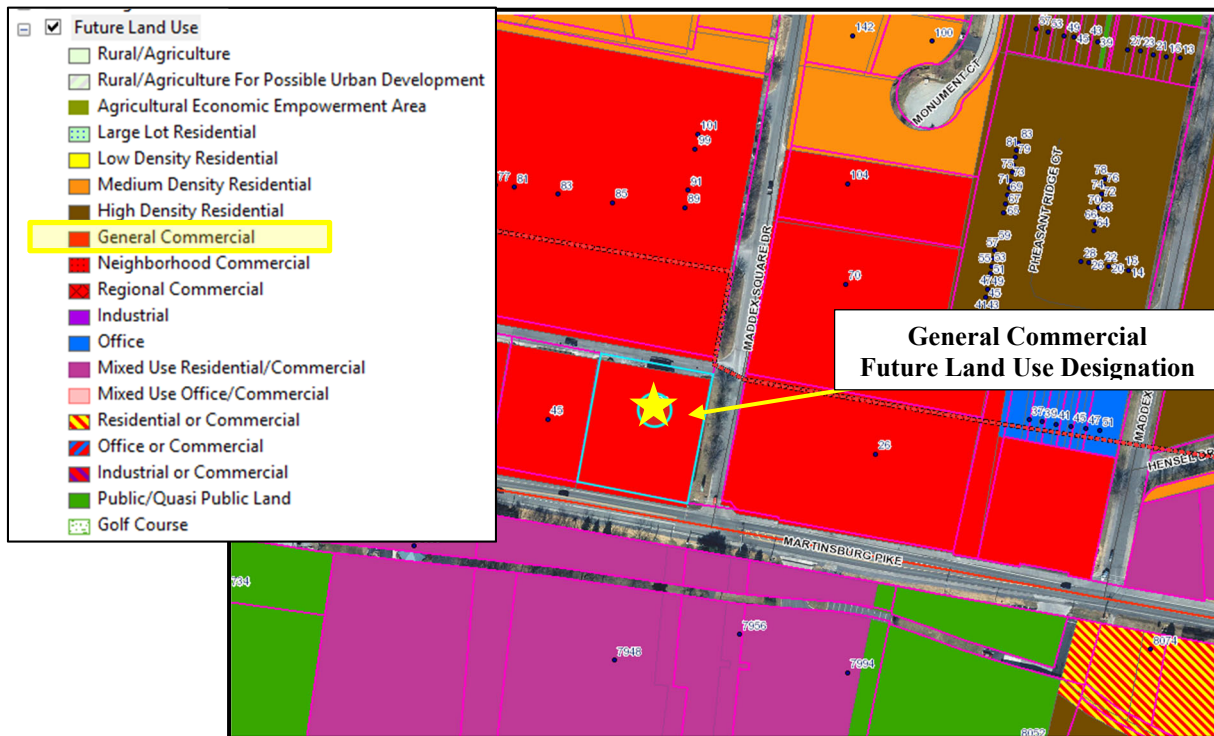
Postponed from February 28, 2019

**McDonald's Menu Board
Conditional Use Permit Request (#19-1-CUP)**

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

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

The referenced parcel is shown as "General Commercial" on the Envision Jefferson 2035 Comprehensive Plan's Future Land Use Guide and is located inside of the County's Preferred Growth Area. Staff finds that the proposed use is compatible with the goals of the adopted Comprehensive Plan.



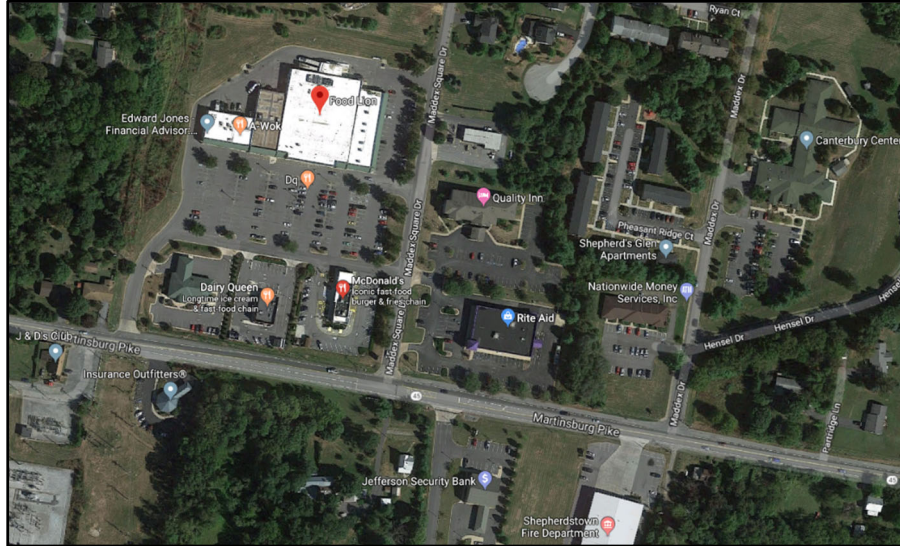
2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare.

The existing Commercial Use (Restaurant, Fast Food, Drive-Through) was approved via Conditional Use Permit #Z93-1. As part of the Conditional Use Permit application, the existing menu boards were permitted. The applicant is requesting to upgrade to digital (electronic) menu boards. Electronic Signs are outright permitted in the Residential-Light Industrial-Commercial zoning district; however, the existing land use was approved as a Conditional Use and the current Ordinance still lists a Drive-Through Restaurant as a Conditional Use. Therefore, any changes to the existing land use necessitates approval from the Board.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
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**McDonald's Menu Board
Conditional Use Permit Request (#19-1-CUP)**



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

The proposed menu sign upgrade will not hinder nor discourage the appropriate development and use of adjacent land and buildings. If any of the adjacent uses apply to upgrade their signs to electronic signs, they would be outright permitted in the Residential-Light Industrial-Commercial zoning district, unless the use was originally approved via a Conditional Use Permit (i.e. Dairy Queen).

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

Landscaping was installed at the time this site was developed. Additionally, when McDonald's renovated the property in 2011, the County Planner noted that some landscaping was missing and required that the missing landscaping be installed.

Sometime between 2013 and 2015, the street trees were removed from the property. Staff contacted the Division of Highways to inquire as to whether or not they required the landscaping to be removed. It appears that the DOH did not require that the landscaping be removed. Staff did not reach out to any other utility providers. Unless the applicant has documentation supporting otherwise, it appears the site is in violation of the approved site plan.

The menu boards face Martinsburg Pike (Route 45) and across the road the properties are zoned Residential Growth and contain a mixture of residential and non-residential uses. It seems reasonable to require as a condition of approval that the street trees be reinstalled to comply with the approved site plan and to provide a buffer from the signs.

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

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

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**McDonald's Menu Board
Conditional Use Permit Request (#19-1-CUP)**

The Ordinance does not address menu signs or drive through signs specifically. The two types of signs for which application can be made are freestanding and attached signs. Staff has determined that signs are considered an Accessory Use and may be placed in conjunction with an approved land use. Menu boards (signs) do not meet the requirements of freestanding or attached signs; therefore, they have been reviewed as accessory to a drive-through land use and subject to review during the Conditional Use Permit application.

Section 10.6 of the Zoning Ordinance addresses signs accessory to a land use subject to the approval of a Conditional Use Permit. The Ordinance requires that as part of the application, signage shall be addressed for review and consideration by the Board at the required Public Hearing. The applicant has provided some examples of signs for this type of use.

Section 10.6 Conditional Use Permit (CUP) Signs³⁶

Signs associated with a Conditional Use Permit application shall be assessed by the Board of Zoning Appeals as part of the CUP process per Section 6.3. Any deviation from the provisions of this section shall require consideration and approval by the Board as part of the CUP application. Signs approved by the Board shall adhere to the following:

- A. There shall be a minimum of 300 feet between signs when located in the commercial/industrial zoning districts.
- B. There shall be a minimum of 1,000 feet between signs when located in the rural/residential zoning districts; however, a minimum of 300 feet between signs may be permitted provided the adjacent land use is a commercial/industrial land use.
- C. Signs shall comply with the front yard setback provisions in the districts in which they are permitted.
- D. In addition to the provisions herein, electronic signs accessory to a CUP application shall conform to the criteria outlined in Section 10.7.

Section 10.7 Electronic Signs³⁶

Electronic Signs are permitted in any commercial and/or industrial district. Electronic Signs located in the Rural, Residential Growth, and Village zoning districts shall process as a Special Exception before the Board of Zoning Appeals per Section 6.5. Any electronic sign accessory to a Conditional Use Permit application shall comply with Section 10.6 and the criteria outlined in this section. When permitted, Electronic Signs shall conform to the following criteria:

- A. The message or image shall be static, displayed for a minimum of 15 seconds and shall not be animated by scrolling, flashing, or other similar non-static displays.
- B. The message or image change shall occur simultaneously for the entire electronic sign face without any special effects. The time to complete the change from one message to the next is a maximum of one second.
- C. Electronic signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if a malfunction occurs.
- D. An electronic sign may not be animated, play video or audio messages, or blink in any manner.

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Postponed from February 28, 2019

**McDonald's Menu Board
Conditional Use Permit Request (#19-1-CUP)**

- E. Electronic signs shall not exceed a maximum illumination of 3,000 nits during daylight hours and a maximum of 100 nits for the time period between ½ hour before sunset and ½ hour after sunrise as measured from the sign's face at maximum brightness.
 - 1. The applicant shall provide written certification from the sign manufacturer that the light intensity has been factory preset not to exceed the levels specified above, and the intensity level is protected from end-user manipulation by password protected software or other appropriate methods.
 - 2. The change from 3,000 nits to 100 nits shall be controlled by an automatic dimmer control system.
- F. There shall be only one electronic sign on each parcel of land. Off-premises electronic signs shall be subject to Section 10.5A.
 - 1. Community announcements, emergency alerts, weather, and time related messages are generally permitted and shall not be considered an off-premises sign.
- G. Electronic Signs shall not be located within 300 feet of a traffic light.
- H. Electronic signs shall not be located within 200 feet of the property line of a parcel with a residential structure. This setback does not apply to mixed-use buildings or residential structures located on the same parcel as a commercial development.
- I. Electronic signs proposed to locate adjacent to a lot in the Rural, Residential Growth, or Village zoning districts, or adjacent to residential structures in any zoning district, shall be oriented perpendicular to residential frontages. Electronic signs shall not be parallel to any residential structures in any zoning district.
- J. Electronic signs adjacent to lots in the Rural, Residential Growth, and Village zoning districts shall automatically shut-off by 10:00 p.m. and shall not turn on until 6:00 a.m.

Electronic signs shall be FCC certified as required by Federal Law. A valid copy of the FCC Manufacturers Testing Certificate shall be submitted to the Office of Planning and Zoning as part of the Zoning Certificate application.



JEFFERSON COUNTY, WEST VIRGINIA

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

P.O. Box 716

Charles Town, WV25414

www.jeffersoncountywv.org

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Fax: (304) 728-8126

MEMO

TO: Board of Zoning Appeals

FROM: Alexandra Beaulieu, Zoning Administrator

DATE: May 23, 2019

RE: Landscaping Violation for McDonald's Site Plan

Staff has been in contact with the Regional Manager for McDonald's to discuss the landscaping violation for the subject parcel. The Regional Manager has indicated that he does not want to install the full landscaping that was included on the original site plan. Staff was unable to determine a variance process, due to the fact that no standard was specified on the site plan or in the Conditional Use Permit. The condition of approval for the original Conditional Use Permit was simply to "work out the landscaping plan directly with Pam Berry."

In considering the options for McDonald's, if the Board is inclined to approve the requested Conditional Use Permit, Staff believes that the Board has the authority to address landscaping as a condition of approval for the current application.

Staff's recommendation would be that at a minimum, the Board require the property owner to comply with the current street standards as set forth in Appendix B and Section 4.11 I of the Zoning Ordinance. Under this provision, four street trees would be required.

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

Zoning District	Development Type ⁹	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imperious Surface Limit	Building Setbacks		Parking/ Drive Aisle Setbacks			Buffers (Sec. 4.11) (Screened / Unscreened) Adjacent Use						
						Front	Side	Rear	Front	Side	Rear	A Residential district, or any lot with a residence, school, church, or institution of human care (Distance per Sec. 4.6)		Commercial Use		Industrial Use	
												Distance Front Side Rear	Street Trees	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)	
	Industrial	3 ac ***	N/A	75	90%	50 or 25 if adjacent to Industrial Use	25 or 20 if adjacent to Industrial Use			200	Street Trees	Wide Buffer Detail No. M-52	25(S)	20(S)	N/A	20(S)	
Residential-Light Industrial-Commercial (RLIC)	Commercial or Industrial	N/A	N/A	75	80%	See IC District											

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

- I. All required landscape plans shall contain the following elements:⁷
 1. Deciduous street trees for shade and aesthetics, planted at the following average spacing:²³
 - a. Site with street frontage of up to 200 feet: 1 tree per 50 feet.
 - b. Site with street frontage exceeding 200 feet: The greater of 4 trees or 1 tree per 100 feet.



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

File #: 19-1-CUP
 Mtg. Date: 02/28/19
 Fee Paid: \$ 300.00
 Staff Int.: gh

Email: zoning@jeffersoncountywv.org

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

Application for a Conditional Use Permit

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

Project Name

MCDONALDS NSN 13445

Property Owner Information

Name: MCDONALD'S CORPORATION
 Business Name: MCDONALD'S
 Mailing Address: 13 N EDGEWOOD DRIVE, HAGERSTOWN MD 21740 Mail Yes
 Phone Number: _____ Email Response: _____ Response: No

Applicant Information

Name: TRACEY DIEHL
 Business Name: EXPEDITE THE DIEHL
 Mailing Address: 6487 HILLIARD DRIVE, CANAL WINCHESTER, OH 43110 Mail Yes
 Phone Number: 614-828-8215 Email Response: TRACEY@ETD.WEBSITE Response: No

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

Name: DONNA ELLIOTT
 Business Name: RRMM
 Mailing Address: 1317 EXECUTIVE BLVD #200 CHESAPEAKE VA 23320 Mail Yes
 Phone Number: 7576222828 Email Response: _____ Response: No

Physical Property Details

Physical Address: 31 MADDEX SQUARE DRIVE (LT #6 MADDEX SQUARE SHPPNG CNTR & MGR)
 Tax District: Shepherdstown DIST Map No: 8C Parcel No. 09 8C006800000
 Parcel Size: .88 AC Deed Book: 646 751 gh Page No: 642 519 gh
01/23/19

Zoning District (please check one)

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

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

Name of Road and/or Route Number: 31 MADDEX SQ DR.

RECEIVED

JAN 23 2019

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

Sketch Plan (see cover sheet for description)

Attached

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

Attached

State the proposed land use as listed in Appendix C and provide a description of the proposed use.

NO change to current land used

Please provide any information or known history regarding this property.

293-01 CUP (05-11-93)

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

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

There is an existing McDonalds under an existing Conditional Use - this proposal is for a modification to the CUP for the replacement of menu boards

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

Menu board replacement is proposed for an existing drive thru and poses no threat to public health, safety and welfare.

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

NO change to current development, proposal is for menu boards only and will not hinder, harm or be a detriment to the use of adjacent land and buildings

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

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

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

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

Applicable (Trip Generation Data attached)

Not Applicable

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

as Senior Counsel of
McDonald's Corporation

12/14/18
Date

Property Owner

Property Owner

Date

The property located at 31 Maddex Square Drive, exists as a McDonald's drive thru restaurant. The proposal is to replace the existing drive thru menu boards and upgrade them to digital menu boards. This is for an overall reduction in square footage as the proposed menu boards are smaller than the existing menu boards. Additionally the proposed menu boards would not have animated, flashing, moving or scrolling sign copy. The digital menu boards would change three times a day and the images are static.

The sign proposal will not increase any nonconformities that may exist and the signs proposed will enhance the overall appearance of the property.

14-1-CUP
047-0079

AFFIDAVIT OF PERMIT AUTHORIZATION

This affidavit certifies that the party listed, who is not a lessee, licensed architect, engineer, or contractor, has been granted authorization to obtain a permit(s) on behalf of a property owner. It must be filled out completely by the property owner if another party is submitting an application(s) on the owner's behalf. This form must be notarized and must be submitted prior to issuance.

I, McDonald's Corporation owner of the property listed below certify that I have granted, Bailiwick and their permit expeditor Expedite The Diehl, my duly authorized agent, permission to obtain the variance, sign permits and related documents necessary for the construction (or installation) of signs at the following address:

31 Maddex Square Dr, Shepherdstown, WV
Address of permit location

I understand that I am authorizing them to apply for necessary permits and related permit documents. This is limited to what is necessary for sign permit projects to be completed.

[Signature] as Senior Counsel of McDonald's Corporation 12/17/18
Signature of Property Owner Date

Notary

State of ILLINOIS

City/ County of COOK

I, Jeanine Jenig Notary Public in and for the aforesaid State hereby certify that Lorraine Fertelka appeared before me in the State and City/County aforesaid and executed this affidavit on this 17th day of December 2018.

[Signature]
Notary Public

My Commission Expires the 16th day of October, 2021.
Date Month year

Seal



RECEIVED

JAN 23 2019

JEFFERSON COUNTY PLANNING ZONING & ENGINEERING

From: [Tracey Diehl](#)
To: [Zoning](#)
Subject: NSN 13445 CU RE: MCDONALDS MENU BOARD SIGNS.
Date: Friday, February 1, 2019 7:43:51 PM
Attachments: [image003.png](#)
[image004.png](#)
[image006.png](#)
[image007.png](#)
[image011.png](#)
[Samsung Screen- 55.pdf](#)
[odmb page 8.pdf](#)
[Struct NSN 13445, SHEPHERDSTOWN, WV.PDF](#)
[Coates-ODMB-PermittingPack .pdf](#)

The boards can be adjusted as needed. See paperwork attached.

The proposed boards are smaller than the existing boards.

The existing signage is 84 sq. ft.

The proposal is to remove all existing menu boards.

Replace the 84 sq. ft. menu boards with the following:

2 double panel menu boards (22.5 sq. ft. each)

1 single panel pre browse menu board (13.5 sq. ft.)

Total area of replacement signage is 68.5 sq. ft. max

The dimensions vary because one set of plans uses the out side of the frame and the other is the inside of the frame. The total sign area being installed is 68.5 sq. ft. for the outside of the menu board frames.

Signs would be turned off at night and can be reduced in brightness as required.

Can you tell me if we are confirmed on the agenda and when that would be?

Sincere Regards,

Tracey Diehl

Owner

 **Expedite The Diehl** LLC
Office 614/828.8215
Fax 206/350.1097

CONFIDENTIALITY NOTICE: The information contained in this communication is confidential, and is intended only for the use of the recipient(s) named above. You are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, to any other party, is strictly prohibited. If you have received this communication in error, please return it to the sender immediately and delete the original message and any copy of it from your computer system. If you have any questions concerning this message, please contact sender. If this email was sent to you in error, do not forward it to others, or include others in your email traffic to reply. Dissemination and or distribution of this email to anyone other than the sender is prohibited unless you are the purchaser of this information.

From: Zoning <Zoning@jeffersoncountywv.org>

Sent: Monday, January 28, 2019 11:34 AM

To: 'Tracey Diehl ' <tracey@expeditethediehl.com>

Subject: RE: MCDONALDS MENU BOARD SIGNS.

Ms. Diehl,

In reviewing the Conditional Use Permit application to upgrade the McDonald's Drive Thru menu board, please provide specific sign details/dimensions. The sketch paperwork submitted has conflicting information regarding what exists and what is proposed. It looks like there is information for a single panel and a double panel menu board.

If you have a specific sign detail that can be included in the application, please provide to our Office (electronic submission is acceptable). Additionally, the sketch you have provided states that the sign brightness will be 2,500 nits. Please clarify whether there will be any brightness reduction during evening hours.

While the Ordinance does not address menu signs specifically, it may be prudent to review the Electronic Sign provisions so you are prepared to address the BZA if any questions arise. A Conditional Use Permit is subject to conditions of approval from the Board; therefore, the BZA may choose to apply some standards from Section 10.7 as part of the approval process.

Thank you,

Alexandra Beaulieu
Zoning Administrator
Jefferson County Office of Planning and Zoning
www.jeffersoncountywv.org
304-728-3228

From: Tracey Diehl [<mailto:tracey@expeditethediehl.com>]

Sent: Friday, January 25, 2019 5:13 PM

To: Zoning <Zoning@jeffersoncountywv.org>

Subject: RE: MCDONALDS MENU BOARD SIGNS.

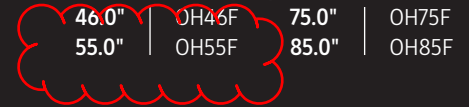
Thank you.

Sincere Regards,

Tracey Diehl
Owner

 **Expedite The Diehl LLC**
Office 614/828.8215
Fax 206/350.1097

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Any message, any weather, any environment.

OHF Series Outdoor Signage

Even on the brightest, hottest days of summer and the rainiest, snowiest days of winter, your message will come through clear and bright. The Samsung OHF Series outdoor signage solution is a completely integrated, self-contained ultra-slim display with an embedded power box, housed in an impact-resistant enclosure and thermally protected by a patent-pending steady cooling system. With technologies and design features that deliver reliable 24/7 performance, they're ideal for impactful information delivery. No matter where you want to deliver it.



Key Features



A Complete, All-in-One Outdoor Signage Solution

The OHF Series features an ultra-slim 85mm Samsung panel with embedded power box housed in a thin, durable and impact-resistant enclosure that's built to withstand harsh weather and vandalism. All that's required is a simple metal enclosure or optional stand.



High Visibility and Brightness Make Messages Easy to See

High 2,500-nit brightness, an auto brightness sensor that optimizes brightness, and 5,000:1 contrast ratio (3,000:1 for 85" display) work together to deliver easily seen messages even in direct sunlight. Innovative anti-reflective Magic Glass helps cut glare, and Samsung's circular polarizing technology allows content to be easily viewed even while wearing polarized sunglasses.



Reliable in the Harshest Environments, 24/7

Samsung OHF Series displays employ a patent-pending steady cooling system with heat exchanger that allows them to withstand extreme temperatures of -22° F to 122° F without requiring a supplemental heating or cooling system. They're also IP56-certified, to withstand wind-driven dust, hose-driven water, rain, sleet, snow and corrosion.



Designed for Durability

For greater peace of mind, the OHF Series is built to withstand abuse. The 5mm (0.19") tempered Magic Glass features IK10-certified durability.¹ In addition, a gap between the Magic Glass and the LCD panel is designed to protect the panel from impacts to the Magic Glass.



Easy Content Management

The easy-to-integrate content management platform features an integrated SoC media player, HDBase-T connection, Samsung's cloud-based 4th Generation Smart Signage Platform, and MagicInfo Solutions.



Lower Total Cost of Ownership (TCO)

With an embedded network hub and Wi-Fi functionality, there's no need to purchase a router when linking displays. The filter-less advanced cooling system is easy to manage, and the reliable housing means you don't have to worry about damage from heat, cold or water.

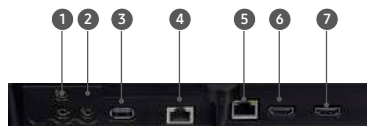
Samsung OHF Series Displays



		OH46F	OH55F	OH75F	OH85F	
Display	Diagonal Size	46"	55"	75"	85"	
	Class	Measured	Measured	Measured	Measured	
	Measured	45.9" / 116.8cm	54.6" / 138.7cm	74.5" / 189.3cm	84.5" / 214cm	
	Type	120Hz E-LED BLU	120Hz E-LED BLU	120Hz D-LED Local Dim. BLU	60Hz D-LED Local Dim. BLU	
	Resolution	1920 x 1080 (16:9)	1920 x 1080 (16:9)	1920 x 1080 (16:9)	3840 x 2160 (16:9)	
	Brightness (Typ.)	2,500 nits	2,500 nits	2,500 nits	2,500 nits	
	Contrast Ratio (Typ.)	5000:1	5000:1	5000:1	3000:1	
	Viewing Angle (H / V)	178/178	178/178	178/178	178/178	
	Response Time (G-to-G)	6ms	6ms	6ms	8ms	
Operation Hour	24/7	24/7	24/7	24/7		
Connectivity	Input	RGB	N/A	N/A	N/A	
		VIDEO	HDMI 1.4 (2), HDBaseT (LAN Common)	HDMI 1.4 (2), HDBaseT (LAN Common)	HDMI 1.4 (2), HDBaseT (LAN Common)	HDMI 1.4 (2) @UHD 30Hz, HDBaseT
		HDCP	HDCP 2.2	HDCP 2.2	HDCP 2.2	HDCP 1.4
		USB	USB 2.0 (1)	USB 2.0 (1)	USB 2.0 (1)	USB 2.0 (1) (Only for FW Update)
	Output	AUDIO	Stereo Mini Jack	Stereo Mini Jack	Stereo Mini Jack	Stereo Mini Jack
External Control		RS232C (In / Out), RJ45 (In / Out), HDBaseT	RS232C (In / Out), RJ45 (In / Out), HDBaseT	RS232C (In / Out), RJ45 (In / Out), HDBaseT	RS232C (In), RJ45, HDBaseT	
Power	Type	Internal	Internal	Internal	Internal	
	Power Supply	AC 100 - 240 V~ (+/- 10 %), 50/60 Hz	AC 100 - 240 V~ (+/- 10 %), 50/60 Hz	AC 100 - 240 V~ (+/- 10 %), 50/60 Hz	AC 100 - 240 V (+/- 10 %), 50/60 Hz	
	Power Consumption	Max [W / H]	468	554	TBD	1,600
		Typical [W / H]	440	510	TBD	TBD
		Sleep Mode	< 0.5W	< 0.5W	TBD	< 0.5W
Off Mode		< 0.5W	< 0.5W	TBD	< 0.5W	
Dimensions	Set (WxHxD)	42.09" x 24.55" x 3.35"	49.63" x 28.80" x 3.35"	69.91" x 41.50" x 4.72"	78.90" x 46.65" x 4.72"	
	Package (WxHxD)	45.51" x 28.07" x 7.87"	53.46" x 33.27" x 9.06"	TBD	85.63" x 54.45" x 19.49"	
Weight	Set	89.3 lbs	116.0 lbs	TBD	359.4 lbs	
	Package	97.7 lbs	128.1 lbs	TBD	465.2 lbs	
Mechanical Spec.	Mounting Hole	39.17" x 19.69" (Basic) 1000 x 400 (VESA Bracket Option)	39.17" x 19.69" (Basic) 1000 x 400 (VESA Bracket Option)	TBD	39.37" x 44.03" (M8 x 8 Hole)	
	Protection Glass	Yes (5T Tempered Glass)	Yes (5T Tempered Glass)	Yes (6T Tempered Glass)	Yes (5T Tempered Glass)	
	Bezel Width (mm)	24.9 / 24.9 / 24.9 / 24.9 mm	24.9 / 24.9 / 24.9 / 24.9 mm	59.8 / 59.8 / 59.8 / 59.8 mm	62 / 62 / 62 / 62 mm	
Environmental Conditions	Operating Temperature	-30°C ~ 50°C (-22°F - 122°F)	-30°C ~ 50°C (-22°F - 122°F)	-30°C ~ 50°C (-22°F - 122°F)	-30°C ~ 50°C (-22°F - 122°F)	
	Operating Humidity	10 ~ 80%	10 ~ 80%	10 ~ 80%	10 ~ 80%	
	IP Certificate	IP56	IP56	IP56	IP56	
Features	Special	IP56 Certified for Simple Enclosure Outdoor, Protection Glass (IK-10 Level, Anti Graffiti, Infrared Reduce), Polarized Sun Glasses Viewable in any direction, HD Base T for Long Distance Installing, Portrait / Landscape Installation Support, Lamp Error Detection, Auto Brightness Control with Ambient Brightness Sensor, Temperature Sensor, RJ45 MDI, Auto Source Switching & Recovery, Clock Battery (80 hrs Clock Keeping), Kensington Lock				
	Processor	Cortex-A12 1.3GHz Quad Core CPU, 2.5GB, 3 Channel 96 bit DDR3-933, 8GB (3.75GB Occupied by O/S, 4.25GB Available), Tizen 2.4 (VDLinux), USB 2.0	Cortex-A12 1.3GHz Quad Core CPU, 2.5GB, 3 Channel 96 bit DDR3-933, 8GB (3.75GB Available), Tizen 2.4 (VDLinux), USB 2.0	Cortex-A12 1.3GHz Quad Core CPU, 2.5GB, 3 Channel 96 bit DDR3-933, 8GB (3.75GB Available), Tizen 2.4 (VDLinux), USB 2.0	N/A	
Accessories	Included	Quick Setup Guide, Regulatory Guide, Warranty Card, Power Cord, Remote Controller, Batteries		Quick Setup Guide, Regulatory Guide, Warranty Card, Remote Controller, Batteries		

Connectivity

1. RS232C In Out
2. Audio Out
3. USB
4. RJ45 (LAN Out)
5. HDBT (LAN In)
6. HDMI In 1
7. HDMI In 2



Learn More

samsung.com/business insights.samsung.com samsung.com/b2bdigitalsignage

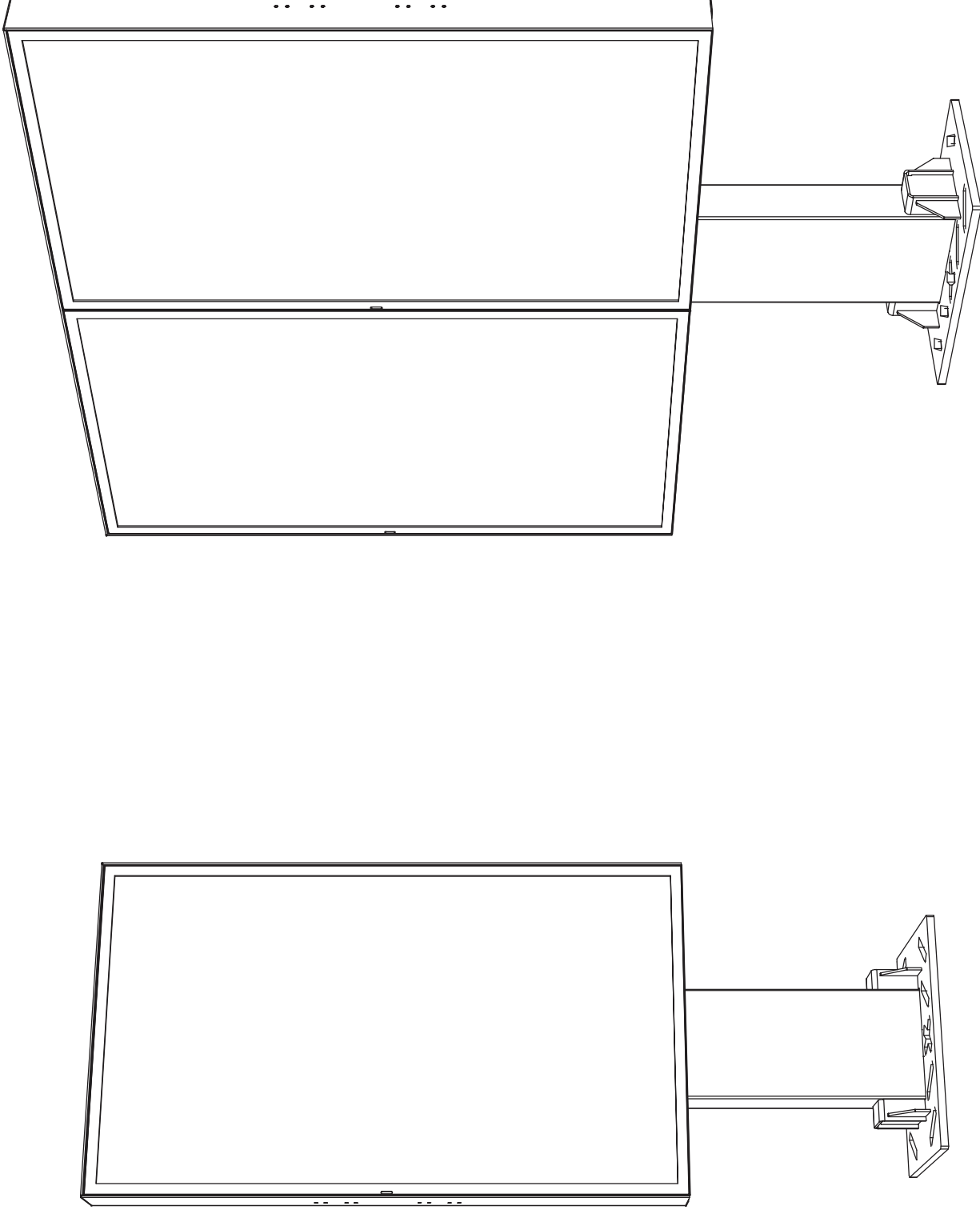
Product Support

1-866-SAM4BIZ

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SAMSUNG



55" Outdoor digital menuboard

02-55-2S/D Outdoor Menu Board
Permitting Unit Information

Coates ODMB Single screen unit



Area of display

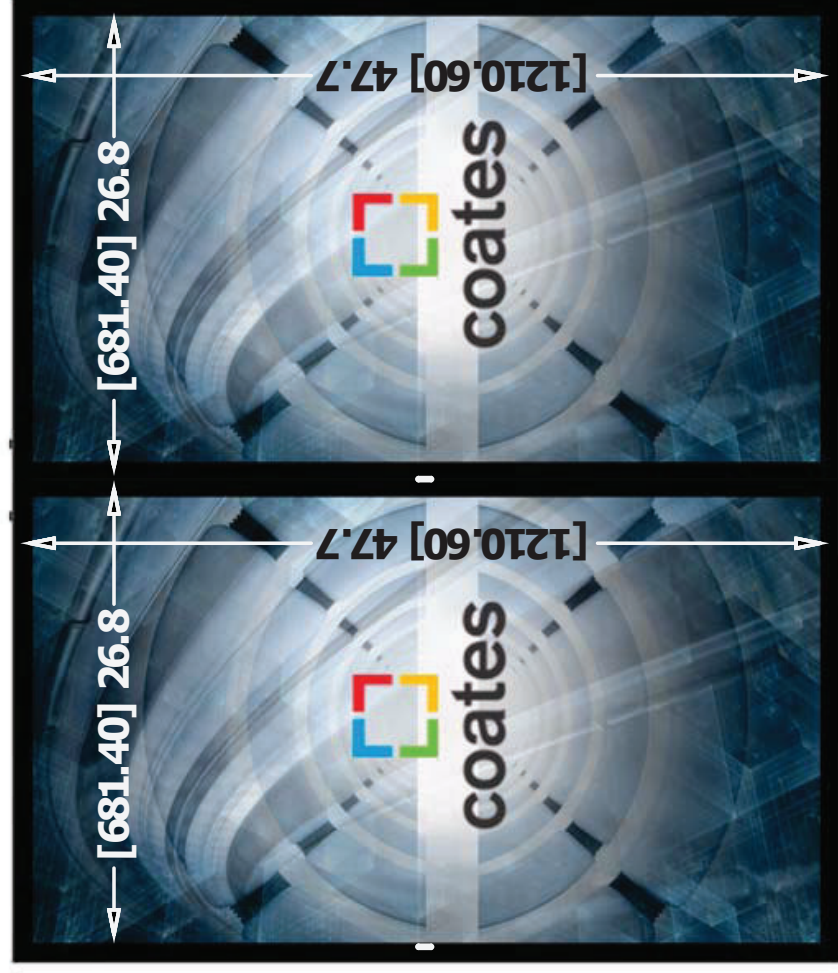


Coates ODMB

Double screen unit

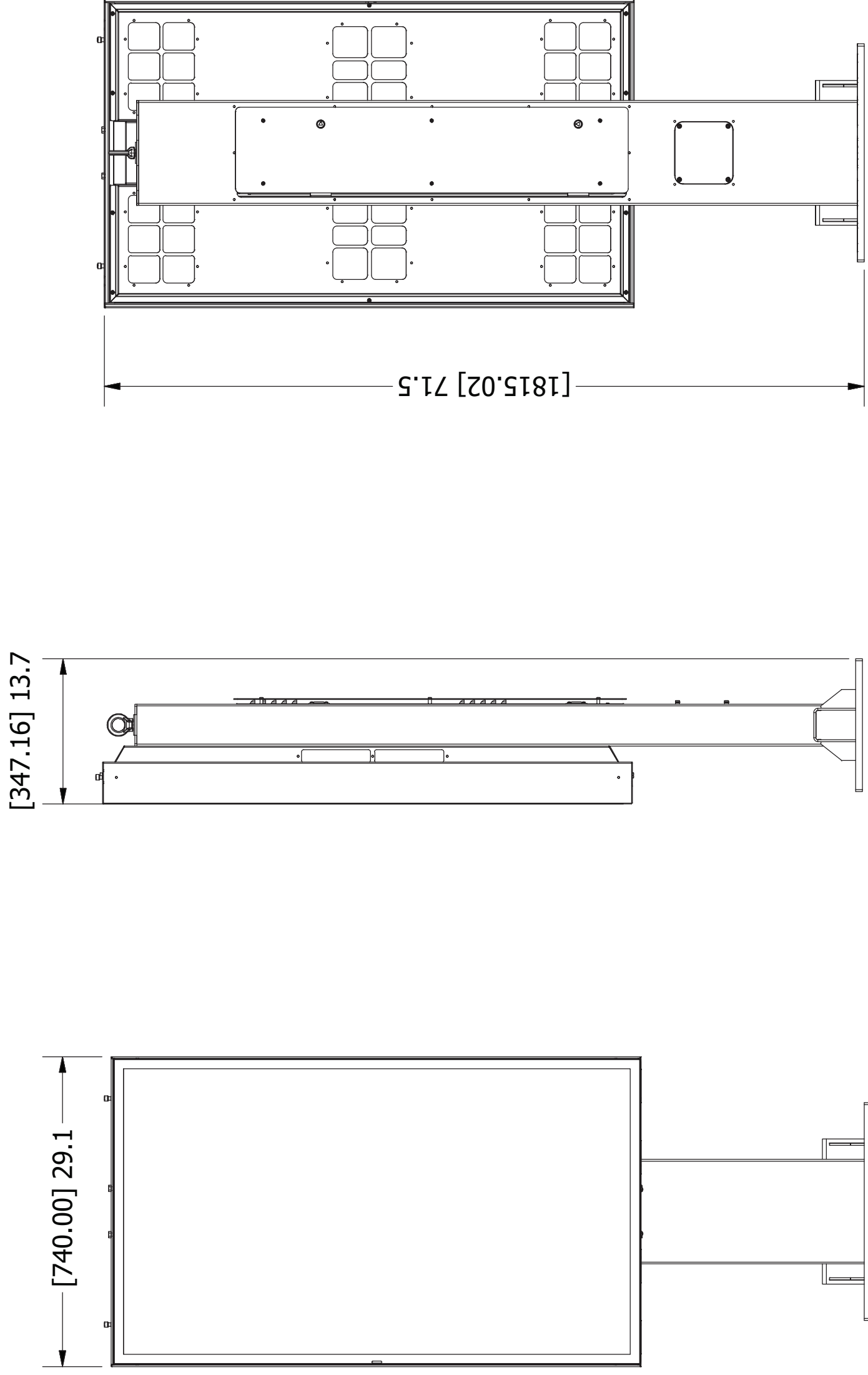


Area of display

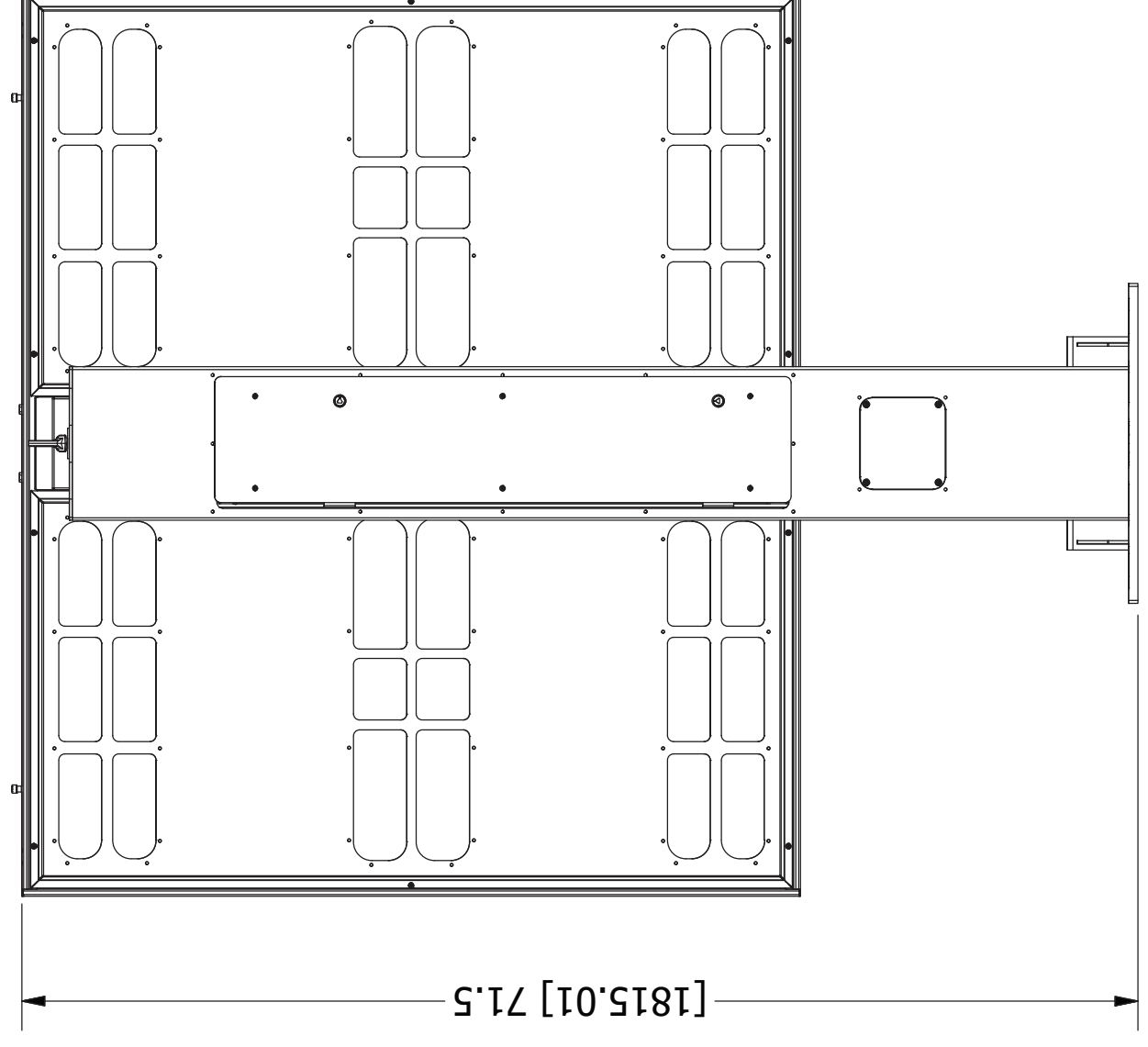
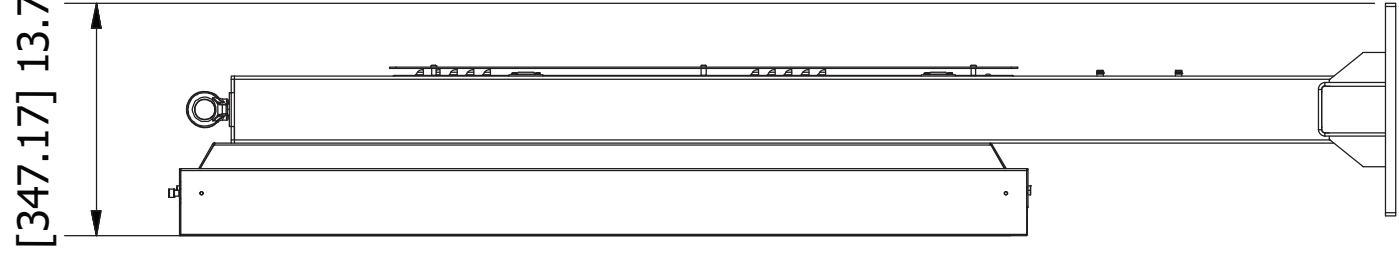
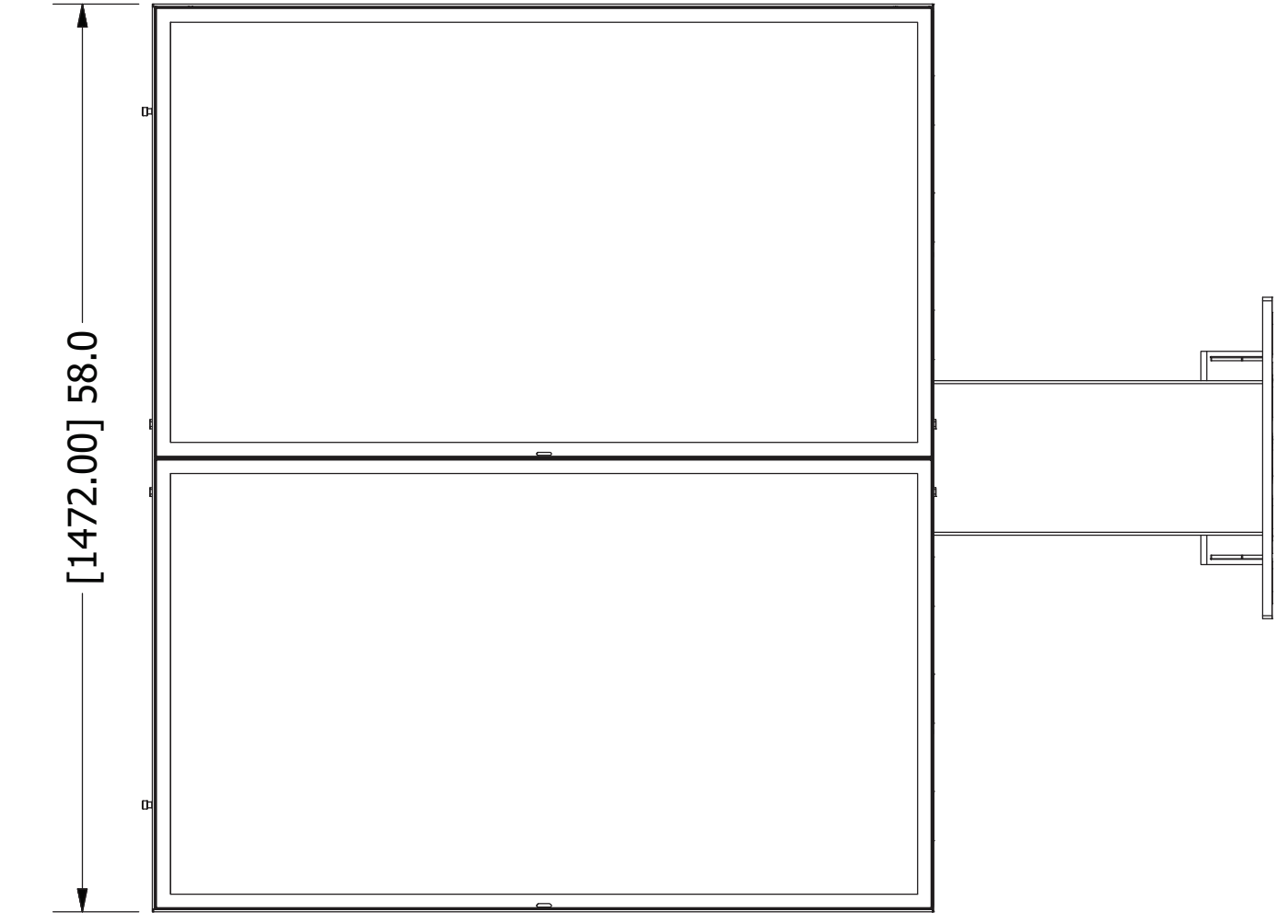


Coates ODMB

Single screen unit

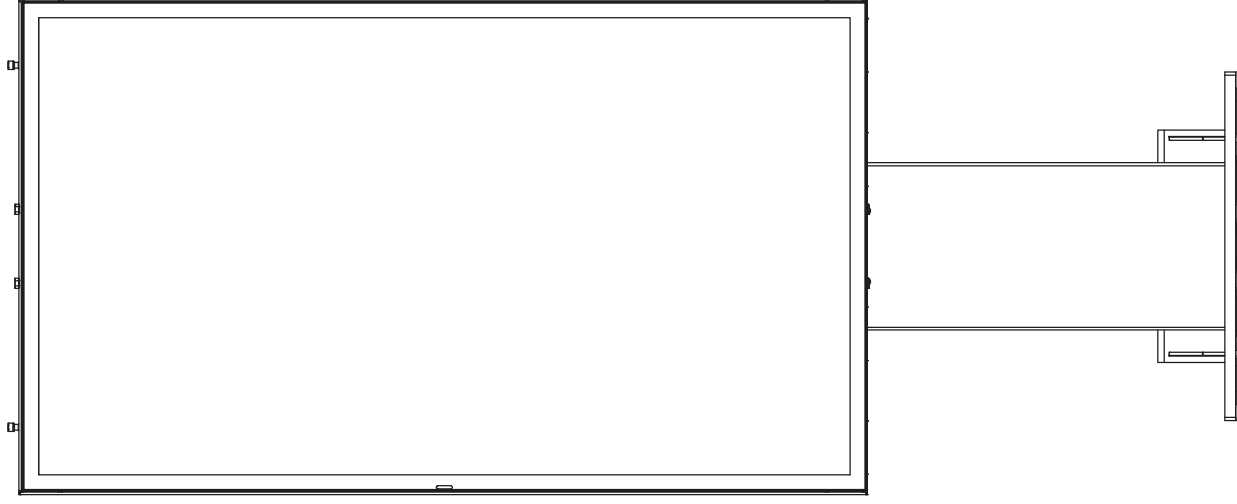


Coates ODMB
Double screen unit

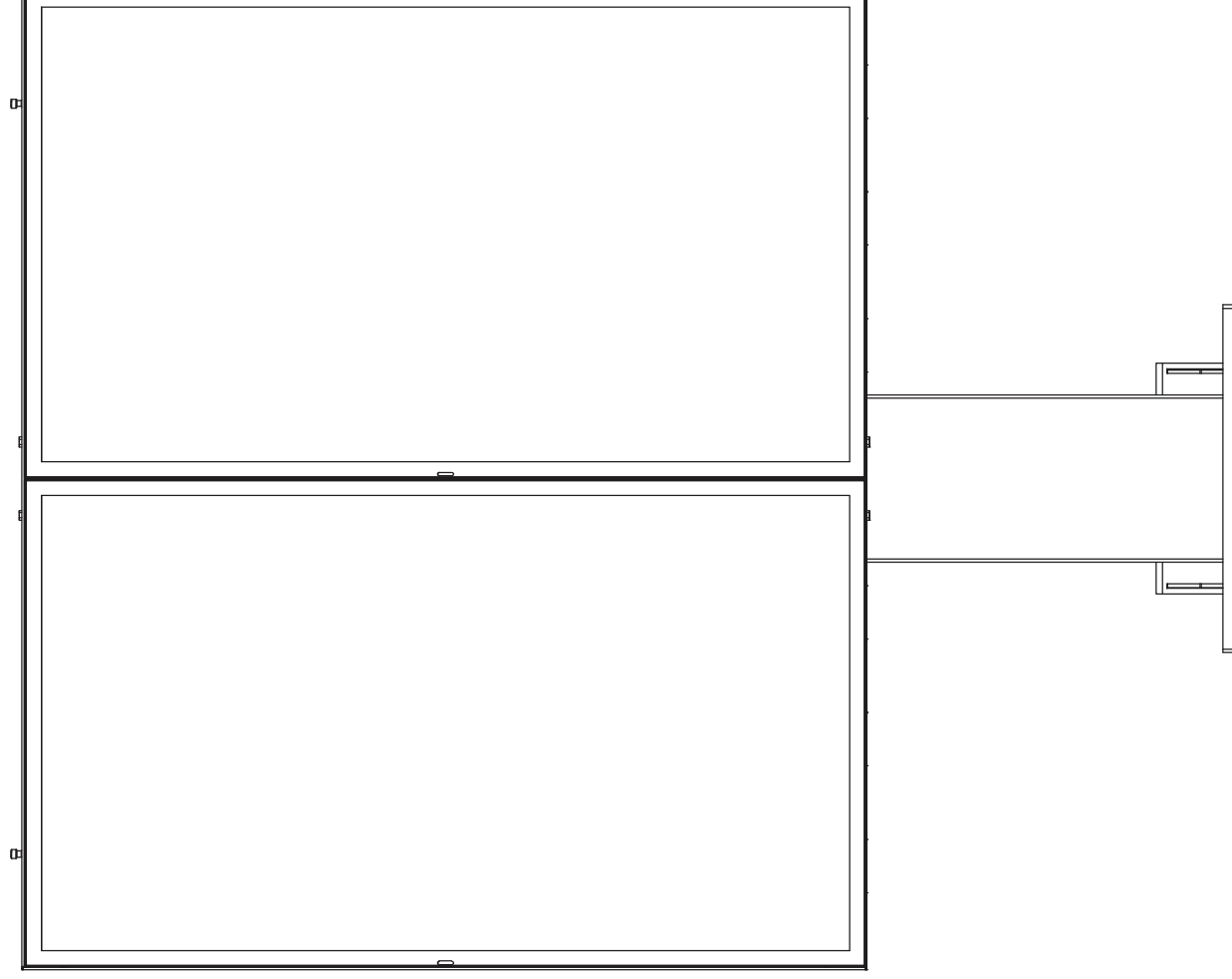


Coates ODMB

Power draw



Max potential draw 5.7A @110V



Max potential draw 9.8A @110V



UL48 Electric sign

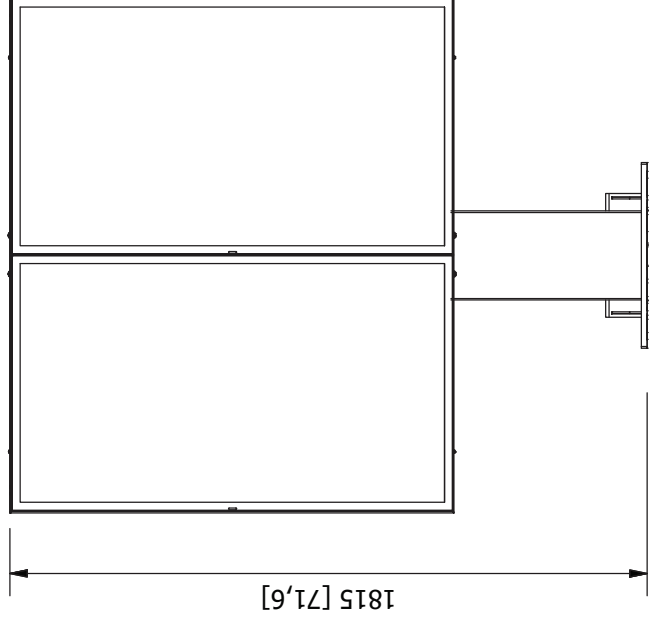
Coates ODMB Height variations



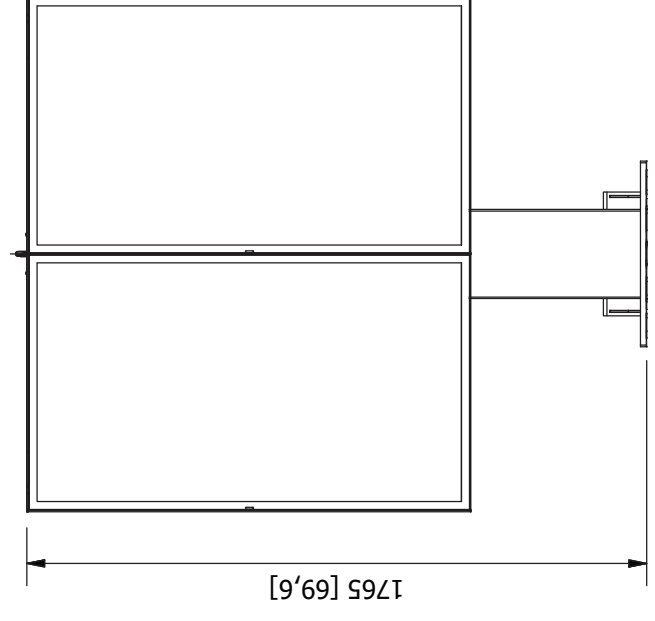
Existing design has multiple fixture points already built in for brackets and screens allow for lowering in 2 additional increments.



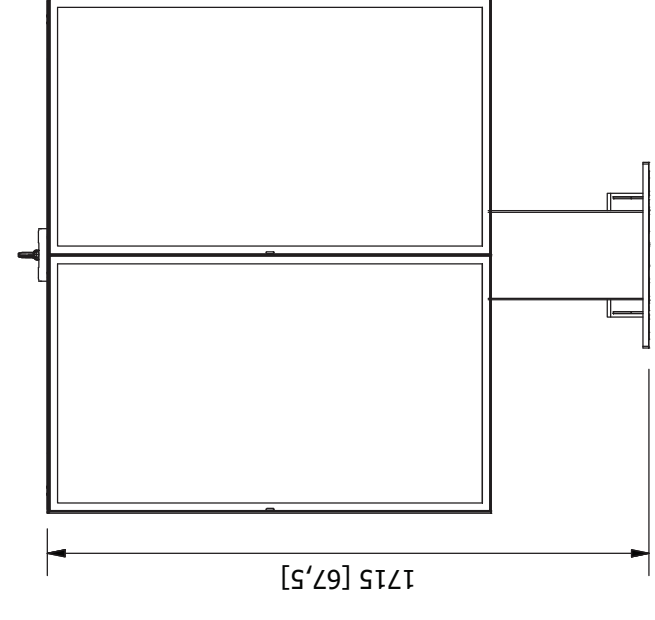
Coates standard height to meet McD screen height requirements



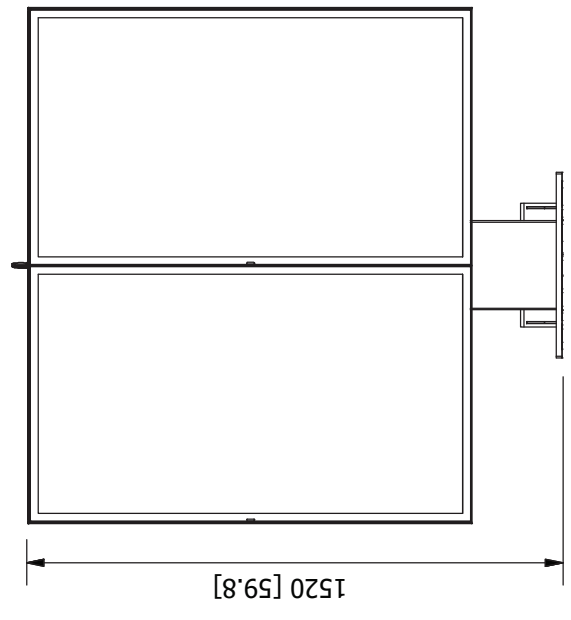
1st alternate fixture points allow .50mm/2" drop



2nd alternate fixture points allow 100mm/4" drop

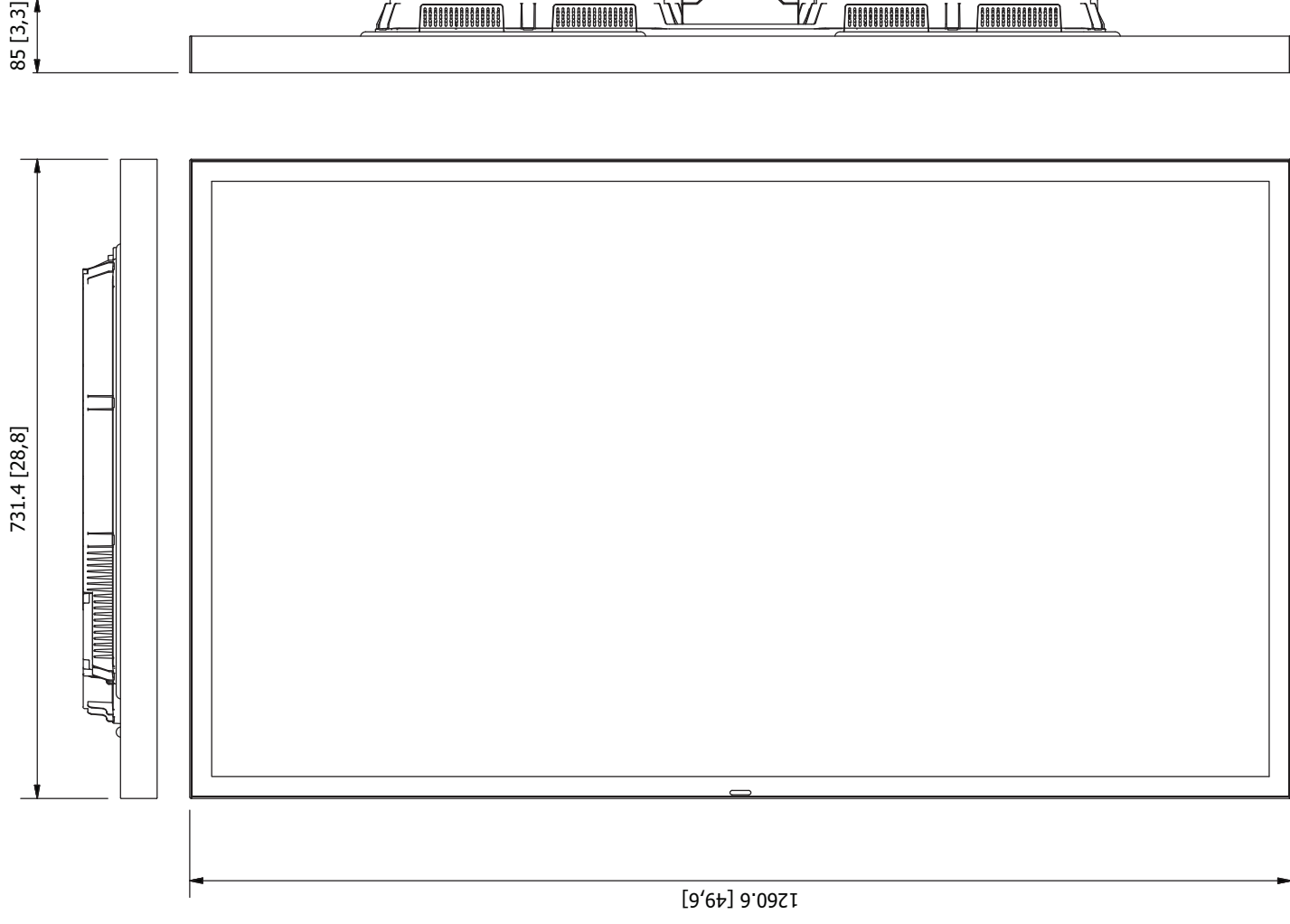


Lower central pole for 10" + drop



Current Unit

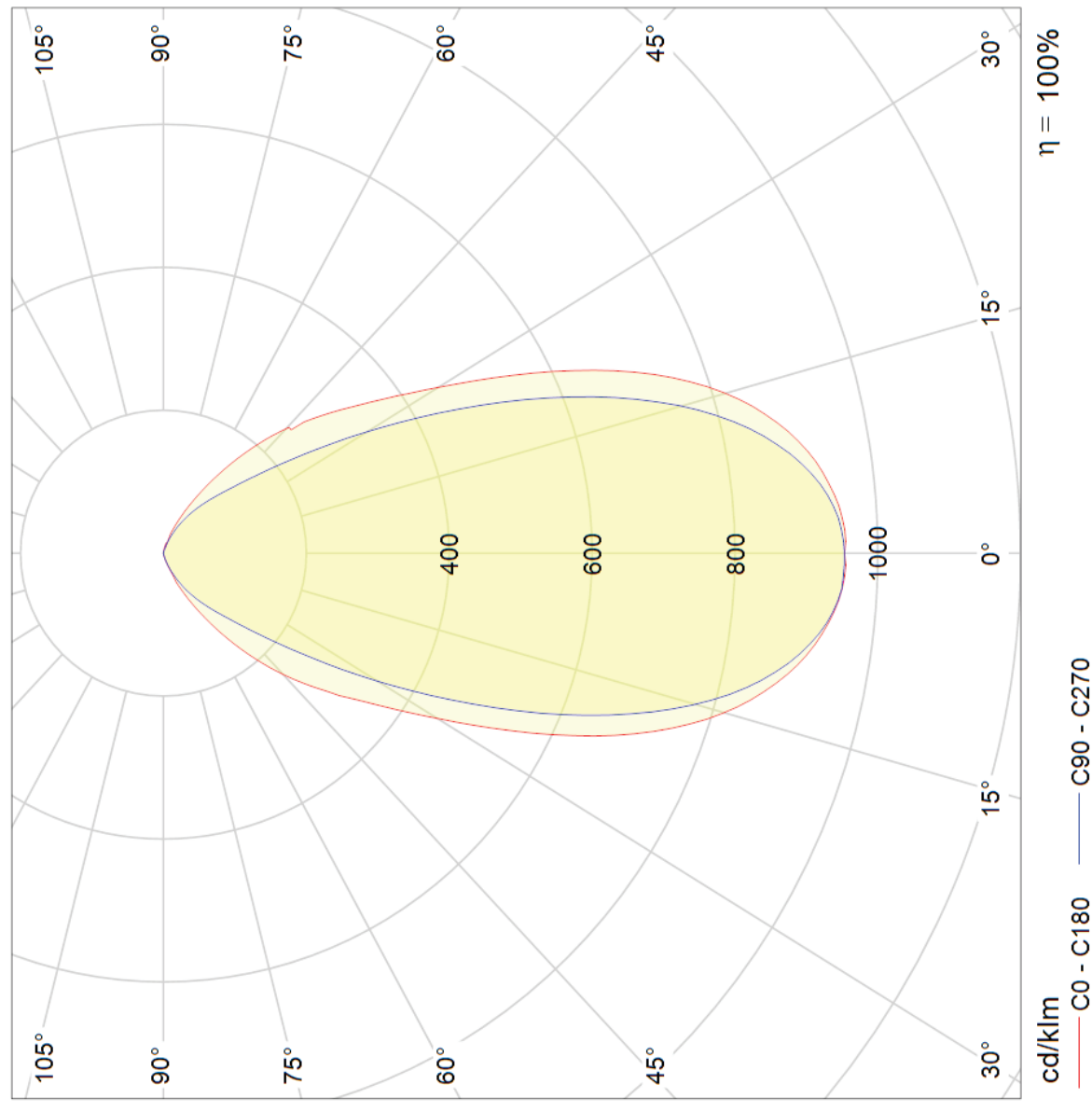
New Pole



Samsung 550HF

Diagonal Size	55"
Brightness	2500 NIT
Weight	52.6 Kg [118.2 lbs]
Mechanical Specification	
Glass	5T Tempered Glass
Bezel Width	24.9mm [0.98"]
Operation Temperature	-40°C ~ 50 °C [-40 F ~ 122 F]
Certification	UL : CUL60950-1 (GO)

Display specification Lumen output

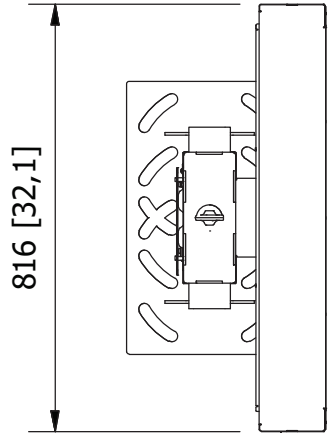


The attached is the max potential light output of the screen (see accompanying IES file)
The units have inbuilt ambient light sensors
These light sensors dim the brightness of the screen based on the light surrounding it
The screens can dim from full brightness 2500nit (Fig1.) all the way down to 500nit to prevent excessive output (glare) in low light and night time environments

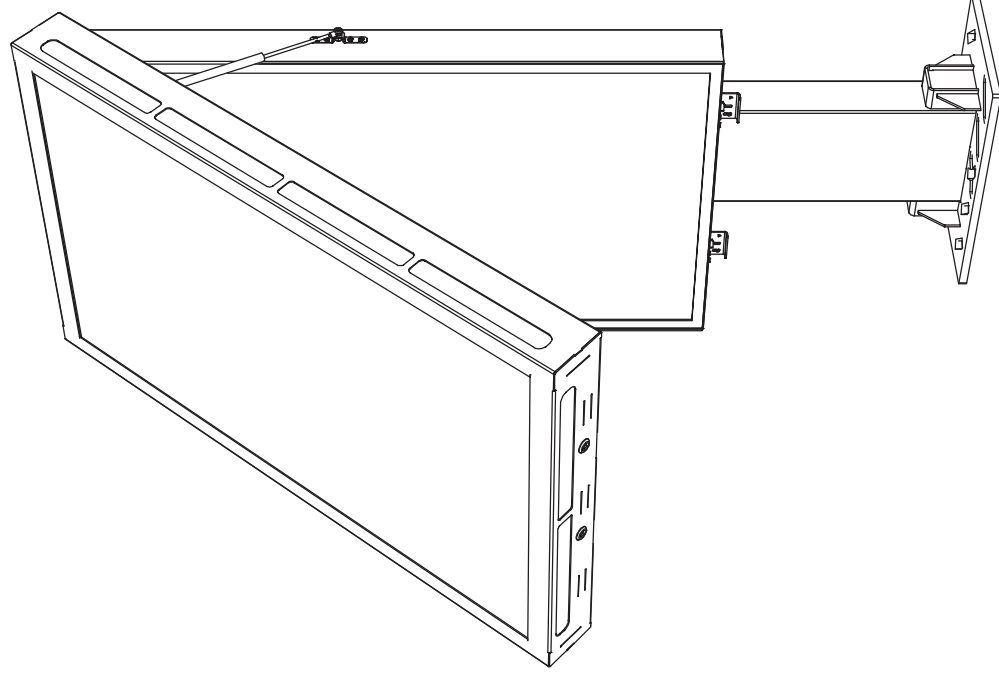
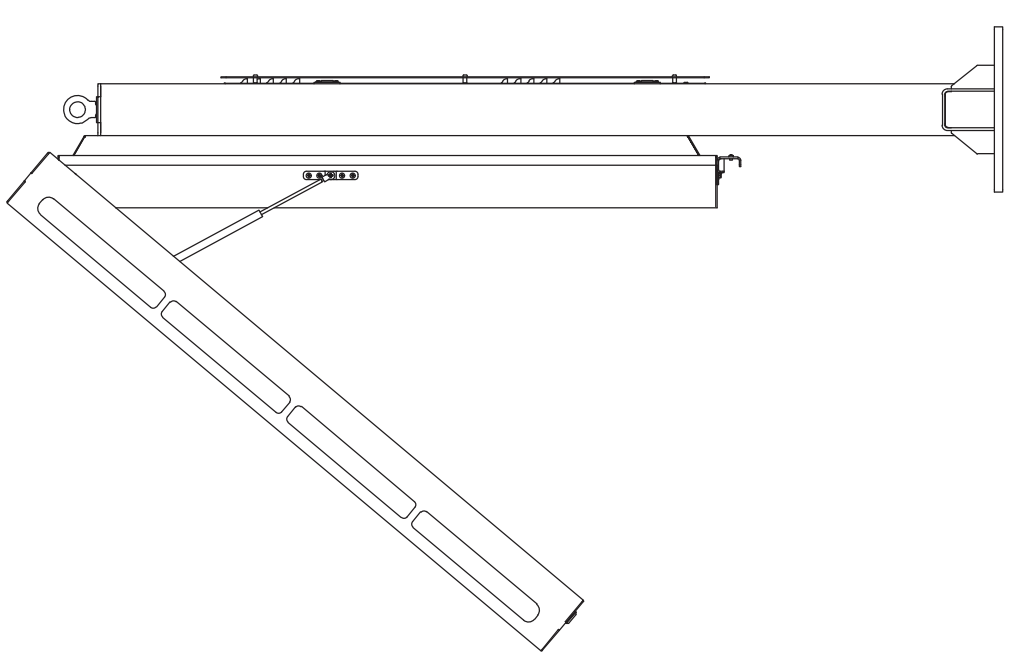
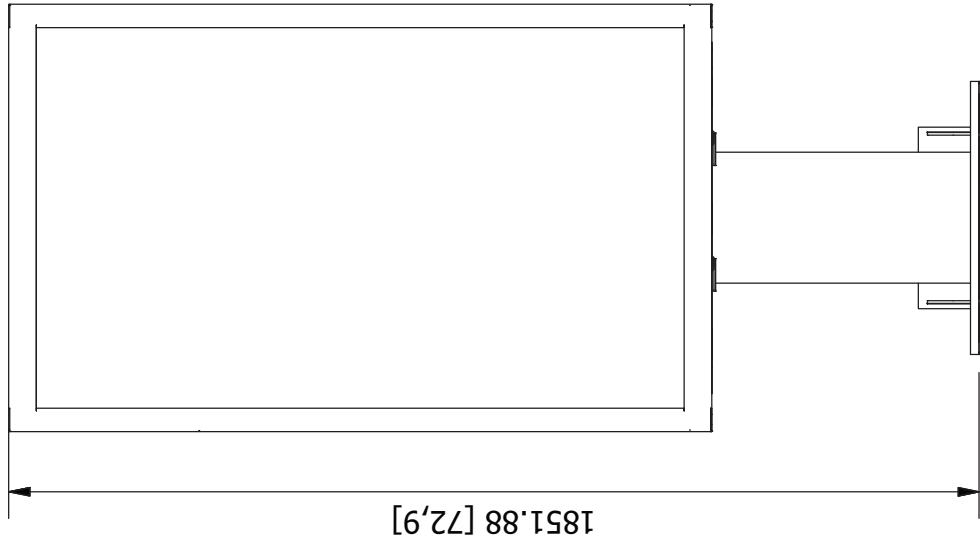
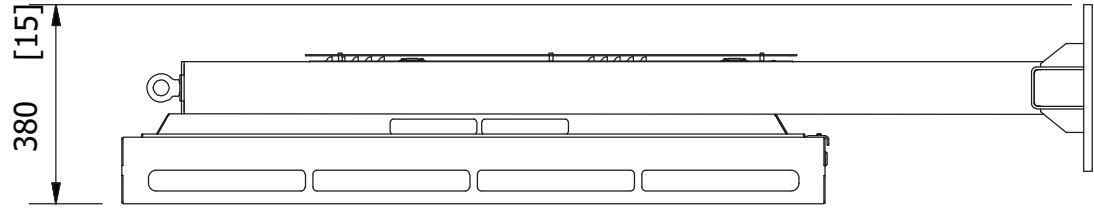
Fig 1.0

Coates ODMB

Single with additional security glass

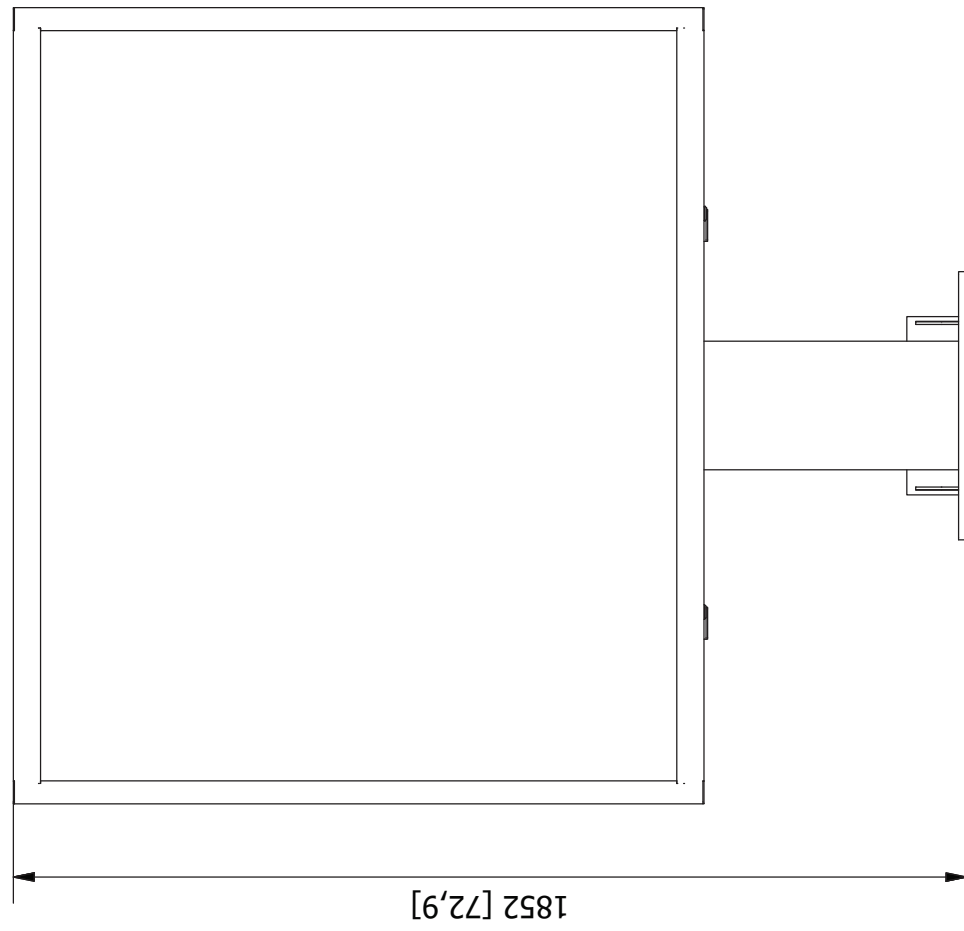
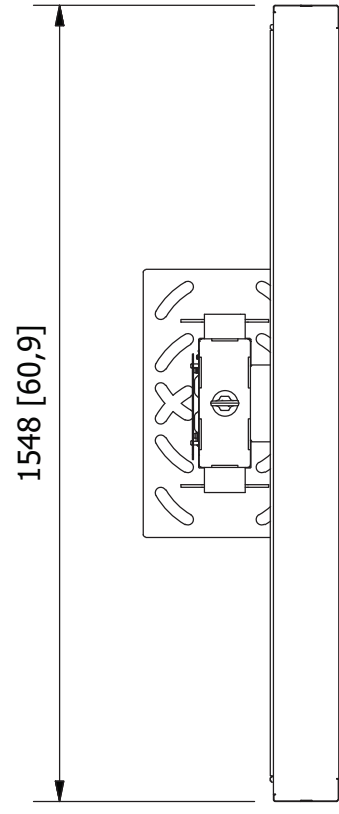


Optional tempered glass security cover
6mm tempered glass

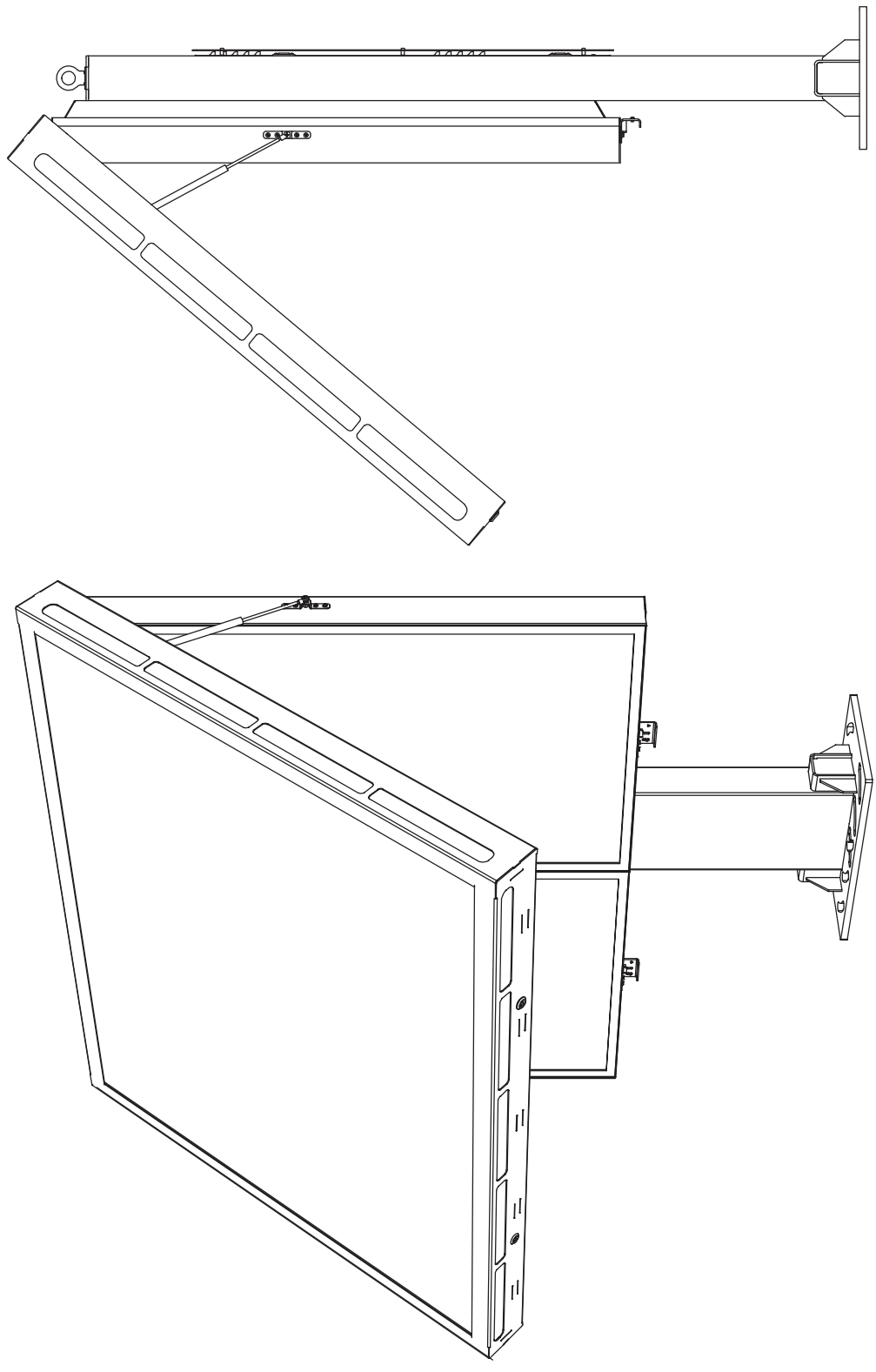
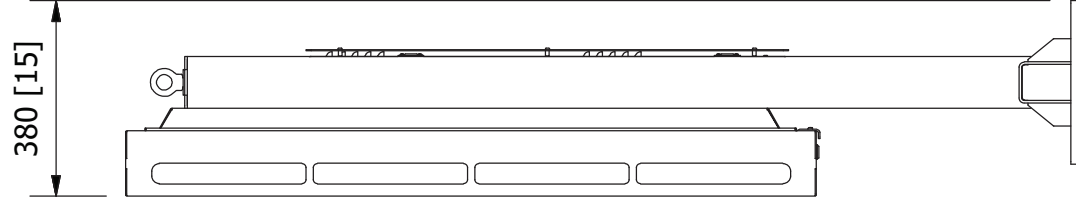


Coates ODMB

Double with additional security glass



Optional tempered glass security cover
6mm tempered glass

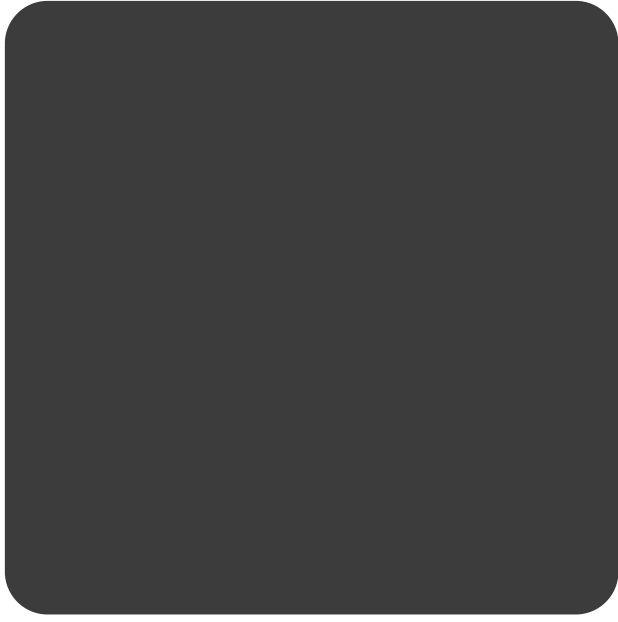


Coates ODMB
Additional security glass



Coates ODMB

Color specification



Unit powder coat color Coates dark grey
Match Pantone: 446C
Gloss specification: 7-12 units @60deg

Menu Design & Content: Clarity & Flexibility

Our New Menus Are:

- An ordering device to help confirm orders
- Smaller & Streamlined menus, simplified for our Customers
- Static/Limited Motion - can be controlled by Restaurant
- Cleaner visuals, easier to read products, price and items
- Still change throughout the day to support our menus (just like our old print menus)



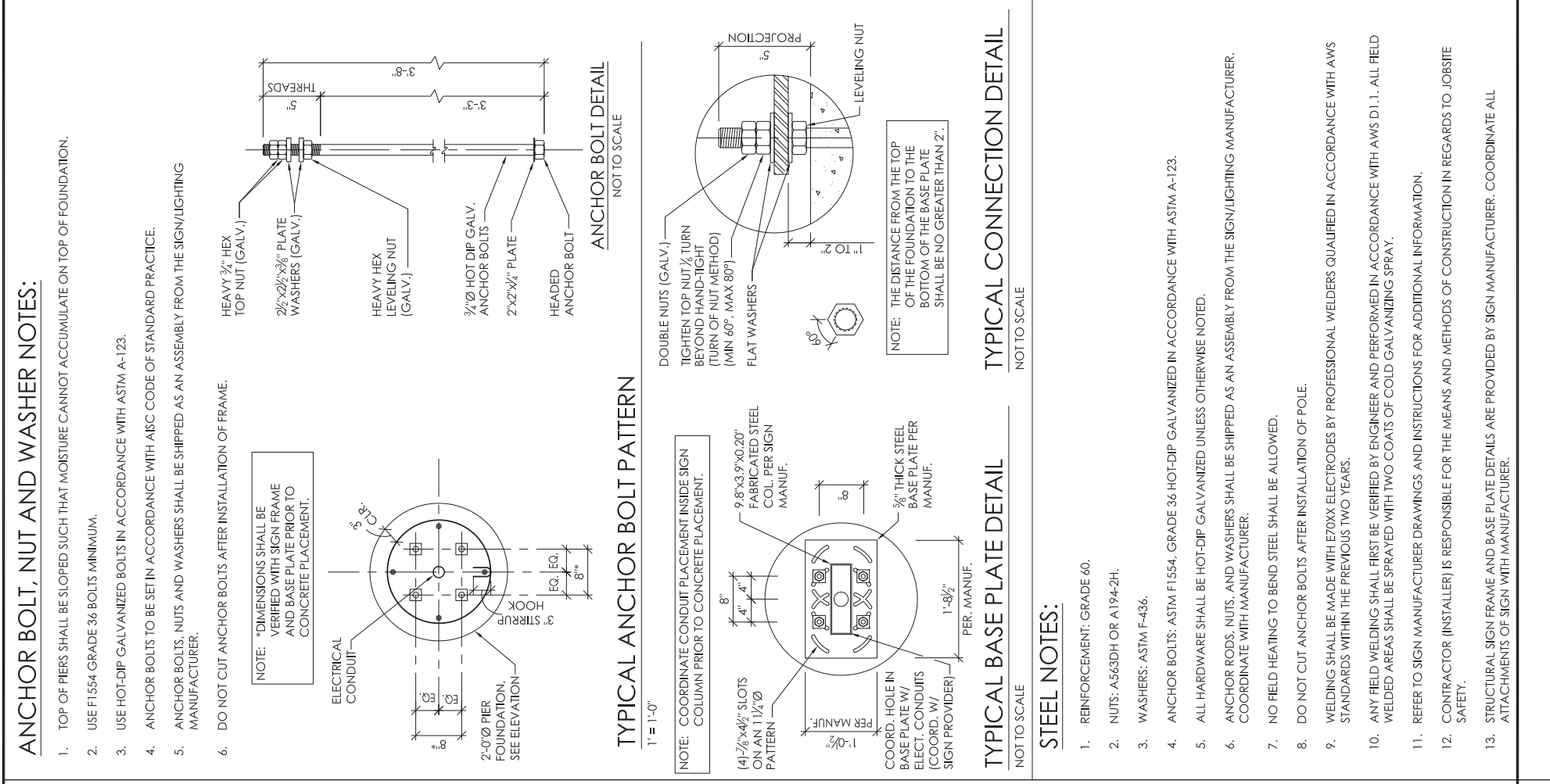
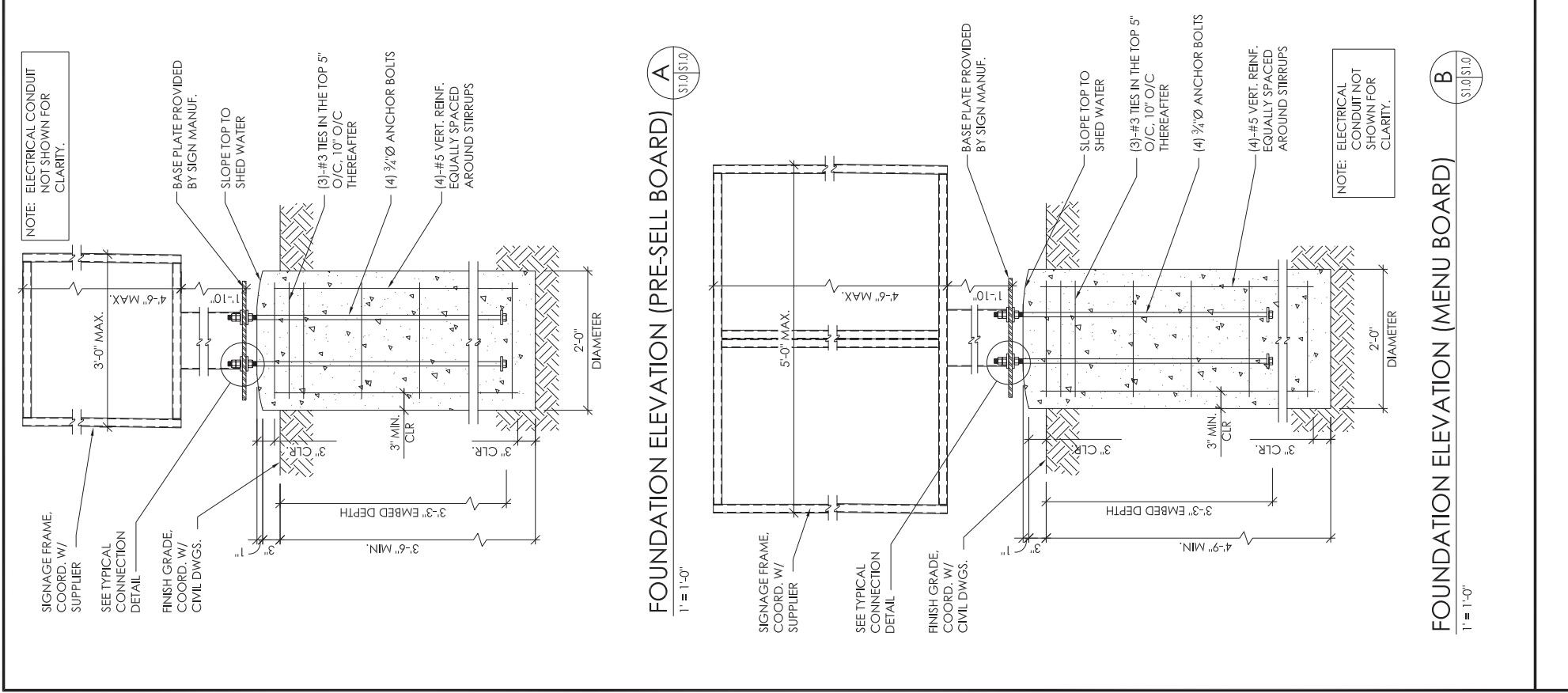
Our New Menus Are NOT:

- **Not** an advertising channel or billboard
- **Not** full video or motion to distract drivers or slow down our drive thru
- **Not** flashy, bright images or colors (ie. Vegas-style)
- **No** additional sound or speakers



Menu Board Flexibility (if desired or requested)

- Turn on and off their menus
- Stop movement or motion
- Manually control/pre-set brightness or set automatically to adjust brightness based upon daylight



GENERAL NOTES:

- THE FOLLOWING CODES WERE USED IN DESIGN:
WEST VIRGINIA UNIFORM BUILDING CODE, IBC 2015 AND ASCE-7 (2010).
- STRUCTURAL LOADINGS:
WIND:
WIND (3 SECOND GUST)..... V_{ult} = 115 MPH
 V_{ASD} = 90 MPH
EXPOSURE.....
RISK CATEGORY.....
WIND BASE SHEAR..... V_b = 400 LBS (PRE-SELL BOARD)
 V_b = 700 LBS (MENU BOARD)

SEISMIC:

SEISMIC IMPORTANCE FACTOR (I_b).....1.0
 MAPPED SPECTRAL RESPONSE ACCELERATIONS: S_s0.128g
 S_10.052g
 S_20.137g
 S_30.083g
 S_40.083g

DESIGN SPECTRAL RESPONSE ACCELERATIONS

SITE CLASS:.....D

SEISMIC DESIGN CATEGORY:.....B

SEISMIC RESPONSE COEFFICIENT (C_s):.....0.039

COMPONENT RESPONSE MODIFICATION FACTOR (R_p): 3.5

SEISMIC DESIGN FORCE (F_p):.....0.01 KIPS (PRE-SELL BOARD)
0.03 KIPS (MENU BOARD)

FROST DEPTH:.....3'-4"

- ALL FOOTING EXCAVATIONS ARE TO BE CLEAR OF WATER AND FOREIGN MATTER BEFORE PLACING CONCRETE.
- PRESUMING MINIMUM ALLOWABLE LATERAL SOIL BEARING PRESSURE (S₀) OF 150 PSF. CONTRACTOR SHALL HIRE A GEOTECHNICAL ENGINEER TO CONFIRM AN ALLOWABLE BEARING PRESSURE (S₀) OF 1500 PSF AND SHALL SUBMIT GEOTECHNICAL REPORT TO ARCHITECT AND STRUCTURAL ENGINEER OF RECORD. ALLOWABLE BEARING PRESSURE SHALL BE VERIFIED PRIOR TO CONCRETE PLACEMENT.
- FOUNDATION SHALL NOT BE PLACED ON OR AT THE TOP OF A SLOPE EXCEEDING 3:1 WITHOUT EVALUATION BY A PROFESSIONAL LICENSED IN THAT STATE. DO NOT PLACE FOUNDATION IN FILL MATERIAL.
- DEPTH OF PIER FOUNDATIONS MAY BE LOWERED IF NEEDED TO OBTAIN LOCAL FROST DEPTH ELEVATIONS OR IF REQUIRED DUE TO POOR SOIL CONDITIONS. VERIFY FROST DEPTH ELEVATIONS WITH LOCAL BUILDING CODE OFFICIAL.
- ELECTRICAL CONTRACTOR TO PROVIDE INFORMATION ON CONDUIT AND ELECTRICAL REQUIREMENTS AND CONTRACTOR (INSTALLER) SHALL COORDINATE PLACEMENT TO MAINTAIN 2" CLEAR TO ANCHOR BOLTS.
- COORDINATE LOCATIONS OF SIGNS AND FOUNDATIONS WITH SITE PLAN.
- CONTRACTOR SHALL CUT EXCESS SONOTUBE FROM AROUND THE PERIMETER OF THE PIER FOUNDATION AFTER PLACEMENT OF BOARD (PRIOR TO LEAVING SITE).
- CONTRACTOR SHALL NOT DEVIATE FROM STRUCTURAL DRAWING WITHOUT PRIOR WRITTEN CONSENT AND INSTRUCTIONS REGARDING ANY CHANGE TO THE CONTRACT DRAWINGS. ANY DEVIATION FROM THIS DESIGN OR FROM ANY PART OF THIS DRAWING WITHOUT PRIOR WRITTEN CONSENT OF THIS ENGINEER SHALL VOID ALL LIABILITY ASSOCIATED WITH THIS WORK.

CONCRETE NOTES:

- ALL FOOTINGS SHALL BEAR ON FIRM UNDISTURBED RESIDUAL SOIL AND/OR ENGINEERED EARTH FILL COMPACTED TO 95% OF ITS MAXIMUM DRY DENSITY AS PER ASTM D698 (STANDARD PROCTOR) UNLESS NOTED OTHERWISE. A LICENSED GEOTECHNICAL ENGINEER SHALL CONFIRM SOIL CAPACITY PRIOR TO CONCRETE PLACEMENT.
- ALL PIERS TO EXTEND TO FROST DEPTH AS DETERMINED BY LOCAL JURISDICTION. VERIFY WITH LOCAL BUILDING OFFICIAL.
- TOP OF PIERS SHALL BE SLOPED SUCH THAT MOISTURE CANNOT ACCUMULATE.
- ALL CONCRETE CONSTRUCTION SHALL BE IN ACCORDANCE WITH ACI 301 "STRUCTURAL CONCRETE FOR BUILDINGS" AND ACI 318 "BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE."
- ALL CAST-IN-PLACE CONCRETE SHALL ATTAIN AN ULTIMATE COMPRESSIVE STRENGTH (f_c) OF 3000 PSI AT AN AGE OF 28 DAYS UNLESS OTHERWISE NOTED.
- ALL REINFORCING STEEL SHALL BE ASTM A 615. GRADE 60 DEFORMED BARS, UNLESS OTHERWISE NOTED.
- CONCRETE PROTECTION FOR REINFORCING AS WELL AS PLACING AND FABRICATION OF REINFORCING SHALL BE IN ACCORDANCE WITH THE "THE AMERICAN CONCRETE INSTITUTE BUILDING CODE REQUIREMENTS" (ACI 318).
- ALL CAST-IN-PLACE CONCRETE SHALL BE AIR-ENTRAINED TO 6% (±1/2%). WATER/CEMENT RATIO SHALL NOT EXCEED 0.48.
- THE MINIMUM CONCRETE COVER FOR THE PROTECTION OF REINFORCEMENT SHALL BE AS NOTED.
- BEFORE PLACING CONCRETE, ALL EMBEDDED ITEMS SHALL BE PROPERLY PLACED, ACCURATELY POSITIONED, AND MAINTAINED SECURELY IN PLACE. NO "WET SETTING" IS ALLOWED.
- AGGREGATES IN NORMAL WEIGHT CONCRETE SHALL CONFORM TO ASTM C-33 (HARD ROCK).
- PORTLAND CEMENT SHALL BE TYPE II FOR ALL CONCRETE CONFORMING TO ASTM C150. LOW ALKALI.
- FLY ASH OR OTHER POZZOLANS CONFORMING TO ASTM C618 CLASS N OR F MAY BE USED AS A PARTIAL SUBSTITUTION FOR PORTLAND CEMENT UP TO A MAXIMUM OF 25% TOTAL CEMENTITIOUS MATERIALS BE WEIGHT IF THE MIX DESIGN IS PROPORTIONED PER ACI 318, SECTION 5.3. CONTRACTOR SHALL FORWARD DESIGN MIX TO ARCHITECT AND STRUCTURAL ENGINEER OF RECORD.
- CONCRETE MIXING OPERATIONS, ETC. SHALL CONFORM TO ASTM C94.
- DO NOT USE ANY CONCRETE OR GROUT CONTAINING CHLORIDES. WATER USED IN MIX SHALL BE CLEAN AND POTABLE.

DATE	3/28/2018
PROJECT	18274-8
DESIGNED	BUS
DRAWN	WPH
CHECKED	DLE

McDonald's USA, LLC
 © 2017 McDonald's USA, LLC
 NSN 13445
 SHEPHERDSTOWN, WV 25443
 31 MADDEX SQUARE DR
 SHEPHERDSTOWN, WV 25443
 SITE ADDRESS:

RRMM ARCHITECTS
 Professional Corporation
 1317 Executive Blvd, Suite 200
 Chesapeake, VA 23320
 (757) 622-2828 Fax: (757) 622-8865

Donald L. Broyles, P.E.
 STATE OF VIRGINIA
 PROFESSIONAL ENGINEER
 No. 15263
 9/22/18

PRE-SELL / MENU BOARD
FOUNDATIONS
S1.0

508 Taylor Court
 Chesapeake, Virginia 23320

1" = 1'-0" (Scale: 0, 3', 6', 12')

MINUTES
JEFFERSON COUNTY PLANNING & ZONING COMMISSION
MAY 11, 1993

The Jefferson County Planning & Zoning Commission met on Tuesday, May 11, 1993, with the President, H. Richard Flaherty, presiding. Other Planning Commission members present were: Page Wright, Jim Knode, Carolyn Hoffman, Scott Coyle, Rosella Kern, Betty Roper, Sam Donley, Ernie Benner and Cam Tabb. Staff members present were Paul Raco, Paula Markstrom and Becky Burns.

Dick Flaherty called the meeting to order at 7:30 p.m. Scott Coyle motioned to accept the Minutes of the April 27, 1993 meeting. Jim Knode seconded the motion which carried unanimously.

1. Final Plat Public Hearing for the Thomas M. Stokes Estate Subdivision was held. Carolyn Hoffman arrived (7:32 p.m.) during the public hearing. The Staff and Engineer recommended the final plat be accepted contingent upon a note being added to the final plat restricting building in the floodway and floodplain, the necessary signed original copies being submitted and recordation in the Clerk's Office within ninety (90) days of this final plat public hearing (August 11, 1993). There was no public comment. Ernie Benner motioned to accept the final plats subject to the Staff's contingencies. Rosella Kern seconded the motion which carried with a vote of 7 for and 1 abstention (Carolyn Hoffman).

2. Public Hearing on Conditional Use Permit for McDonalds Corporation was held. Page Wright arrived (7:34 p.m.) during Paul's reading of the Staff Report. Paul read from Article 7, Section 7.6 of the Zoning Ordinance outlining the purpose of the public hearing on the unresolved items. Dick reiterated that the public hearing was to address the unresolved items only. Paul read the Staff Report as a result of the Neighborhood Compatibility Hearing. Shannon Brown, attorney for McDonalds Corporation stated they had no problem with the Staff Report. And that item #5 regarding landscaping was an agreement to agree to the landscaping plan with the citizens.

Shannon presented the sign that had been agreed upon by McDonalds and Pam Berry on behalf of the citizens. The sign agreed upon will be monumented; constructed of the same brick as the building and will be 8' x 3 1/2' with a nonlit McDonalds arch on top. There would also be two roof signs located on the building neither of which are to face Route 45. Pam Berry stated they (citizens) agreed to the proposed signs in terms of design as presented to the Commission.

The Staff recommended issuance of the Conditional Use Permit contingent upon the nine resolved items listed in the Staff Report and the sign proposal being apart thereof. Page Wright motioned to issue the Conditional Use Permit subject to the Staff's recommendation. Scott Coyle seconded the motion which carried unanimously.

3. Request by Renny Travers Smith on behalf of Crystal Lake Property Owners Association (Bakerton Quarry) to discuss the road situation at the Valley View Subdivision. Bob Murto presented the request and handed out copies to the Commission. Mr. Murto stated

STAFF REPORT
PROJECT: McDonalds at Maddex
DATE: April 30, 1993

On March 31, 1993, at 10:00 A.M. in the County meeting room an advertised compatibility meeting was held on the above captioned project. Shannon Brown, counsel for McDonalds, made the developer's presentation. The proposal is detailed in File #Z93-1 which can be found in the Planning Commission's office at 104 E. Washington Street, Charles Town.

Many concerns were aired by the public, including; landscaping, buffering, screening, dumpster location, signage, entrances, playgrounds, traffic, traffic controls, turning lanes, orientation of drive-through and menu board, lighting (height and orientation), drainage, construction material, and height and type of flags.

The following items were resolved between the Public and McDonalds;

The developer agreed to:

1. Buffer the dumpsters' from the road and residential structures with a green planting screen;
2. Orientate the menu board east and west and screen such;
3. Direct the lighting downward;
4. Limit the height of the lights to 20' high and not make them any higher than the ones in the existing shopping center;
5. Work out the landscaping plan directly with Pam Berry;
6. Not have an entrance or exit directly on Route 45;
7. Locate any playground on the northern side of the building provided that it does not affect the required pervious surface; and that it would meet all site plan and ordinance standards in effect at that time;
8. Not fly a McDonald's flag;
9. Limit the height of the American and West Virginia flag to no higher than the existing lights in Maddex Square.

The next items are unresolved.

The developer did not agree to;

1. Eliminate free standing sign.

A Public Hearing has been scheduled for May 11, 1993, at 7:30 p.m. to hear testimony on the unresolved item.

This report was prepared by Paul J. Raco.

Paul J. Raco 4/30/93

JEFFERSON COUNTY PLANNING AND ZONING COMMISSION

CONDITIONAL USE PERMIT

This is to certify that effective May 11, 1993 the property described as:

Property Owner: Maddex Square Associates Limited Partnership
for McDonald's Corporation
Address: P. O. Box 1714, Henderson, North Carolina 27536
McDonald's Corporation, 3015 Williams Drive
Fairfax, Virginia 22031
Tax Map Reference: Shepherdstown District Tax Map 8C Parcel 66
Deed Book Reference: Deed Book 646 Page 642
Subdivision Name: McDonald's Corporation
Zoning District: Residential/Light Industrial/Commercial
Other Descriptions: _____

has been granted permission to use said property in the following way:

McDonald's Fast Food Restaurant.

Conditional upon:

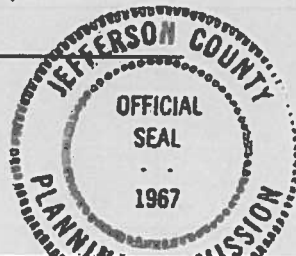
1. Buffer the dumpsters from the road and residential structures with a green planting screen;
2. Orientate the menu board east and west and screen such;
3. Direct lighting downward;
4. Limit the height of the lights to 20' high and not make them any higher than the ones in the existing shopping center;
5. Work out the landscaping plan directly with Pam Berry;
6. Not have an entrance or exit directly on Route 45;
7. Locate any playground on the northern side of the building provided that it does not affect the required pervious surface; and that it would meet all site plan and ordinance standards in effect at that time;
8. Not fly a McDonald's flag;
9. Limit the height of the American and West Virginia flags to no higher than the existing lights in Maddex Square; and,
10. Free standing monumented sign constructed of the same brick as the building which is to be 8' x 3 1/2' in size with a lighted McDonald's arch on top. There will also be two roof signs located on the building neither of which are to face Route 45.

In the event construction or use is not commenced by November 11, 1994, said permission will expire unless an extension is granted. Extensions must be formally requested of the Jefferson County Zoning Board of Appeals.

This certification in no way relieves the owner, applicant or user from any requirements of Jefferson County Ordinances unless appropriate variances are granted by the appropriate County authority.

P. W. Raw
Zoning Administrator

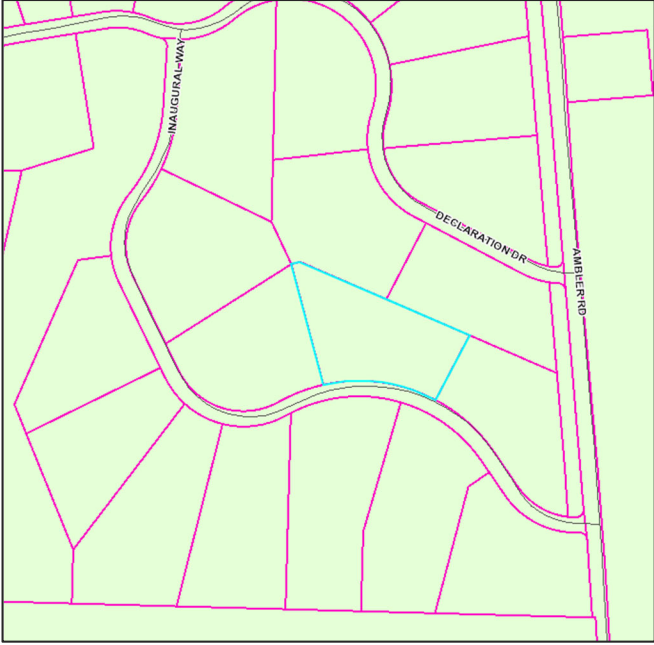
Planning Commission Seal



May 11, 1993
Date

Staff Report
 Jefferson County Board of Zoning Appeals
 May 23, 2019
Jenkins Variance Request (#19-8-ZV)

Item #2 Variance from Section 5.7(b) to reduce the rear setback from 50' to 18' to install a 54' x 22' in-ground pool with surrounding concrete patio.

Applicant:	R.L. Jenkins
Owner:	Same as above
Developer:	N/A
Consultant:	N/A
Parcel Information and Zoning District:	<p style="text-align: center;">Barleywood Subdivision, Lot 9, 146 Inaugural Way, Charles Town Parcel ID: 02006A00090000; Size: 3.08 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:	Recorded: 12/29/05 Barleywood Subdivision (PB: 22; PGs 63, 63A-G)
Waivers/Variations:	None
Approved Activity:	Single-Family Residence

STAFF EVALUATION OF REQUEST

Summary of Request and Purpose of Ordinance Requirements

The applicant is requesting a variance from Section 5.7(b) to reduce the rear setback from 50' to 18' to install a 54' x 22' in-ground pool with surrounding concrete patio.

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.

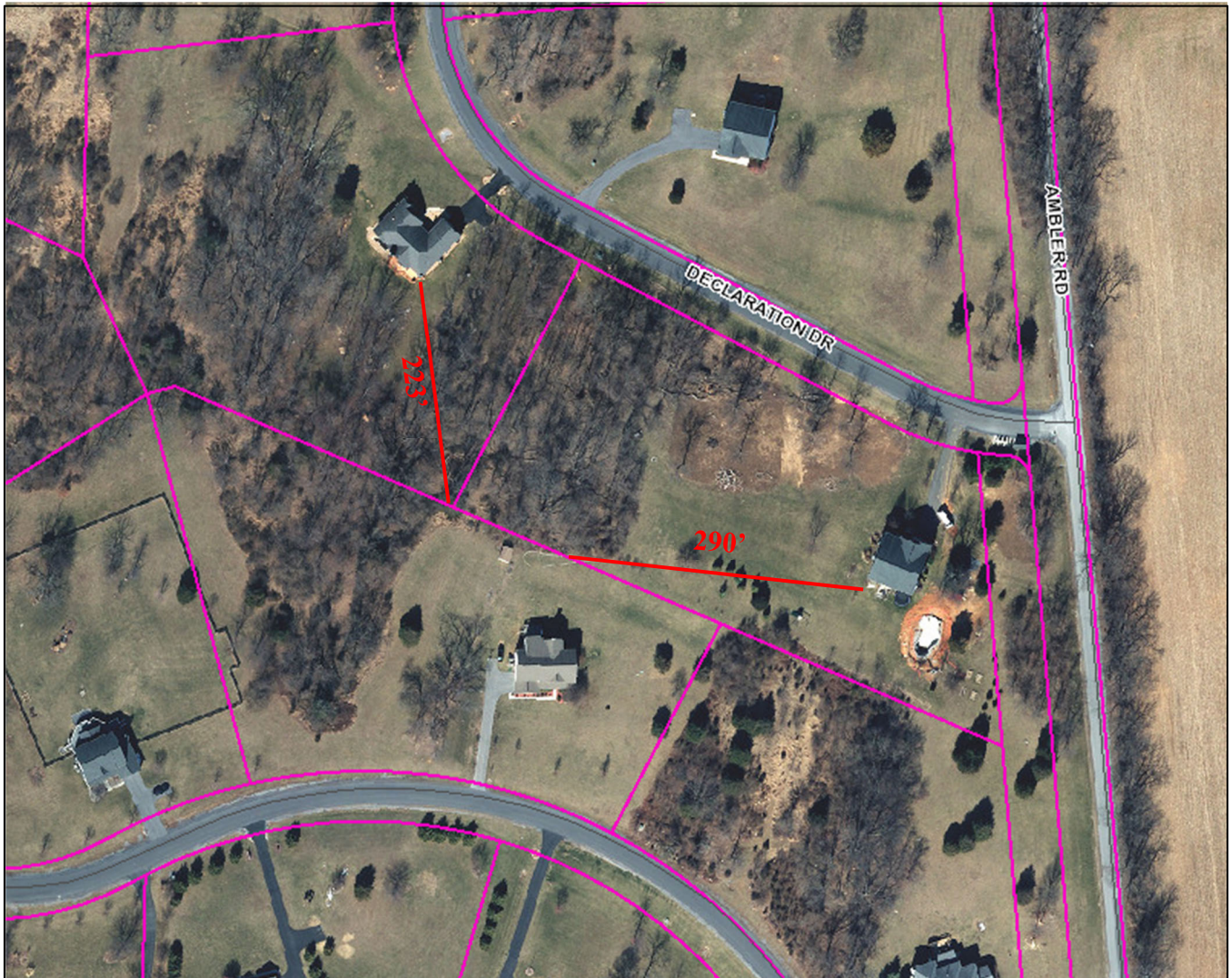
Staff Report
Jefferson County Board of Zoning Appeals
May 23, 2019
Jenkins Variance Request (#19-8-ZV)

Unique characteristics of property

The subject parcel is Lot 9 of the Barleywood Subdivision, which was recorded in 2005 (PB: 22; PG 63). As depicted in the applicant's request, there is a significant rock outcropping toward the rear of the home, which the applicant has stated limits where the pool can be located.

Impact on adjacent properties

A setback reduction to 18' feet along the rear property line would likely have minimal impact on the neighboring properties as each home is over 200' from the subject property line.



Staff Report
Jefferson County Board of Zoning Appeals
May 23, 2019
Jenkins Variance Request (#19-8-ZV)

Feasibility of complying with the ordinance by other means

It may be feasible to orient the pool so that it is parallel to the house as opposed to perpendicular. Another option may be to select a smaller sized pool to comply with the required setbacks. These options may impact the overall functionality of the pool to the homeowner.

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:

5.7 Rural District

B. Minimum Lot Area, Lot Width and Yard Requirements²³

1. Minimum lot sizes, lot width, and yard requirements for principal permitted uses are shown in Table 5.7-1.
2. For any residential use that complies with the Development Review System, the setbacks and lot size shall be as outlined in Article 5.4.⁵

Table 5.7-1 – Lot Area, Width, and Yard Requirements for Principal Permitted Uses in the Rural District

Land Use	Lot Area	Lot Width	Front Yard Depth	Side Yard Depth	Rear Yard Depth
Dwellings	40,000 sq. ft.	100	40	15	50



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: 19-8-ZV
 Staff Initials: SM
 Meeting Date: 05/23/19
 Fees Paid (\$100 or \$150): 100

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: R L Jenkins
 Mailing Address: _____
 Phone Number: 304 596 0363 Email: hmann2cv@yahoo.com

Applicant Contact Information

Name: Heather H. Mann
 Mailing Address: PO Box 266 Kearneysville WV 25430
 Phone Number: 304 596 - 0363 Email: hmanacv@gmail.com

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

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

Physical Property Details

Physical Address: #9 Barleywood Preserve
 City: Charles Town State: WV Zip Code: 25414
 Tax District: 02 Map No: 6A Parcel No: 9
 Parcel Size: 3.08 acres Deed Book: 1190 Page No: 360

Zoning District (please check one)

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input checked="" type="checkbox"/>	Residential- Light Industrial- Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
<p align="center">RECEIVED</p> <p align="center">APR 25 2019</p> <p align="center">JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING</p>			Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

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

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

Reference the section of the Zoning Ordinance pertaining to this request: 5.7B

Briefly describe the nature of the variance request:
To reduce the rear setback for installation of an inground 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 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:

The Setback will not adversely affect public health, safety, or welfare, or the rights of adjacent property owners. The rear property line is ~~at~~ tree and ~~is~~ full of rocks.

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 variance is requested due to the geology of the lot to include multiple rock ledge outcrops identified in the included pictures.

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

It will reduce the necessity to blast the rock outcrops which would cause significant cost.

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

Granting of the variance will allow the ordinance to be upheld and the adjacent property is freed in.

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.

Rusel Juleis 4/25/19
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).

05/23/19
Date of Public Hearing

05/08/19
Advertising Date

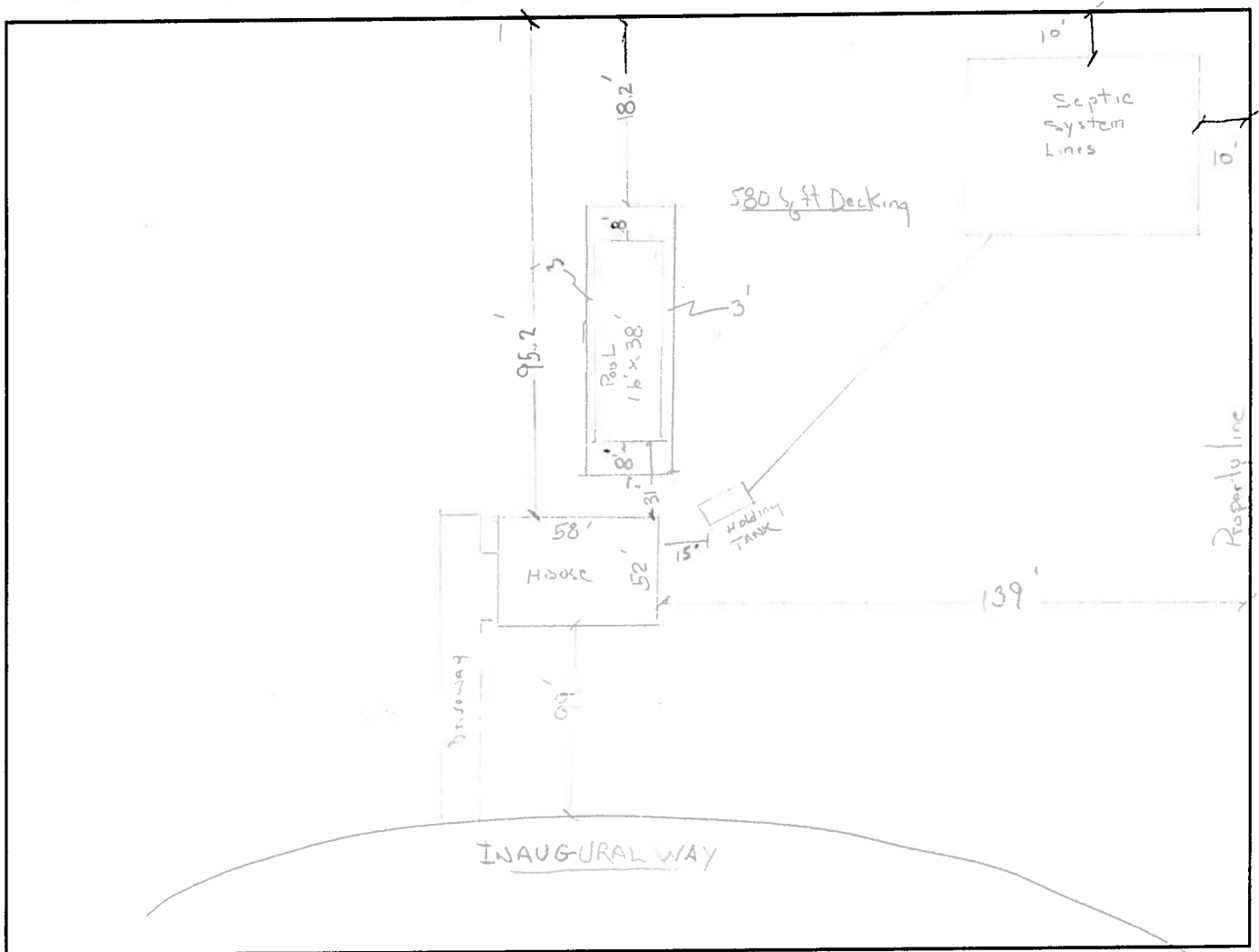
05/08/19
Placard Posting Date

Property & Swimming Pool or Spa SKETCH SHEET

Sketch the shape and location of the lot and show the following:

1. All existing roads with names and/or route numbers.
2. All rights-of-way and/or easements.
3. Septic reserve areas.
4. Location of the intended construction or land use; and show the building setback lines and the distances from the property line to the setback lines; and the distance from the property line to the pool/deck.
5. Show the size and height of the pool/deck.
6. Show all existing buildings/structures on the parcel/property.
7. Above ground pools shall indicate the location of the ladder meeting the applicable requirements of the building code.
8. In-ground pools shall show the location of the minimum 48" high fence/barrier around the pool with a minimum 48" high self-latching gate; all meeting the applicable requirements of the building code.

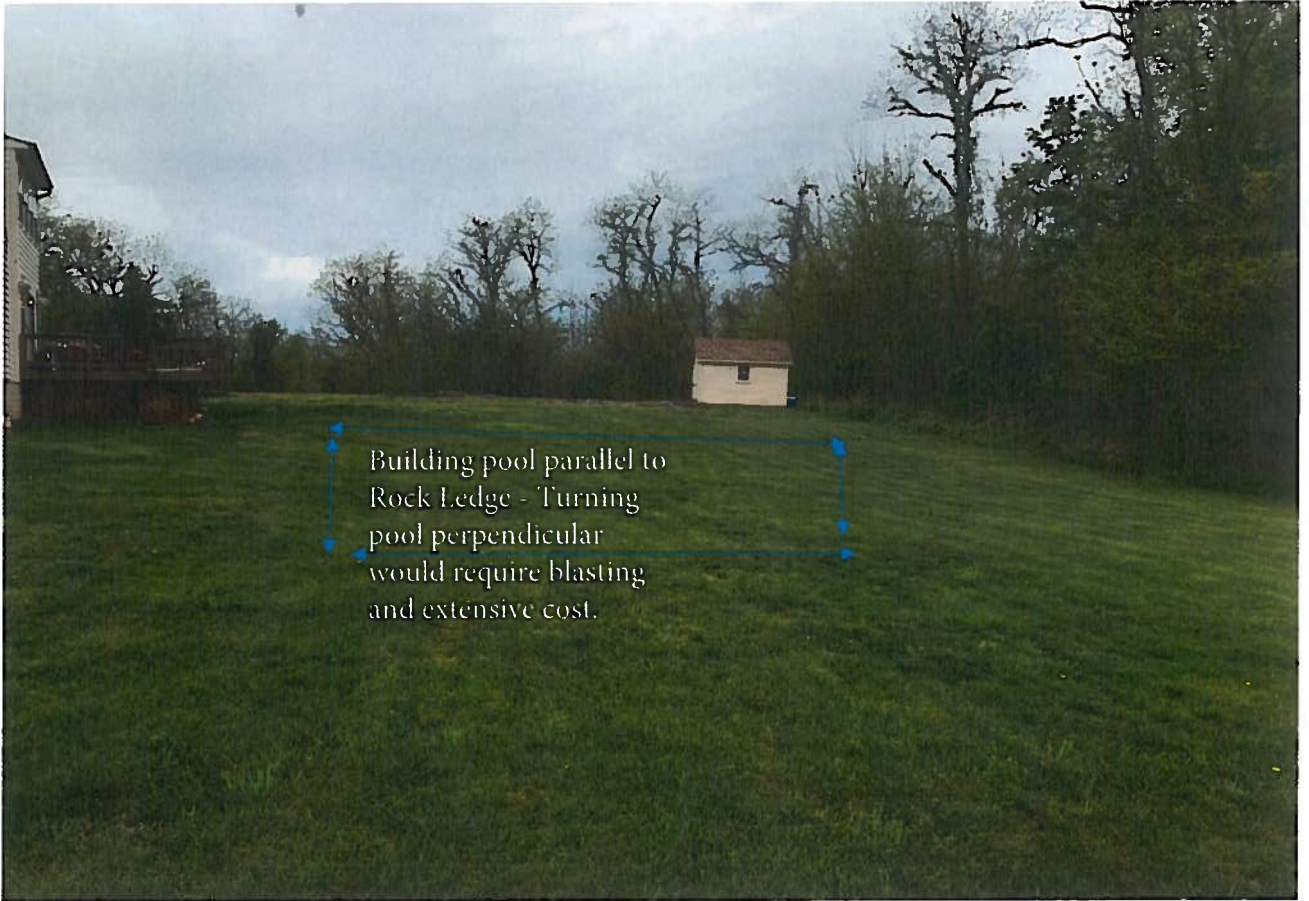
Note: The sketch may be on a separate sheet; however, it shall be signed and dated by the applicant.



Russell Jokin's







Building pool parallel to
Rock Ledge - Turning
pool perpendicular
would require blasting
and extensive cost.

**Preserve at Barleywood Unit Owners Association, Inc.
APPLICATION FOR ARCHITECTURAL CHANGE**

Submit to: Preserve at Barleywood Unit Owners Association, Inc.

Email to: barleywoodwvarc@gmail.com and copy to dee.griffith@pmpbiz.com If

by Mail: c/o PMP
340 Edmond Road, Suite E
Kearneysville, WV 25430

Applicant Name: RL Jenkins

Property Address: 146 Inaugural Way,
Charles Town WV 25414

Email hmann2cu@gmail.com

Home Phone: 304-596-0363

Work Phone: N/A

Directions: (Please print or type)

Please use area below to outline in detail proposed improvements, alterations or changes to your property. Please include details by sketches, drawings, clippings, pictures, colors, size materials other pertinent information. Attach a sketch of proposed alteration. You must submit a copy of your plat with this request. Indicate exactly where on the plat the improvement will be located. You will be notified in writing of the committee's decision within thirty (30) days of receipt.

___ A 16x38 in ground pool with patio, fence, and possible shed. The fence will be 4 feet high
aluminum, either black or brown. _____

Signatures:

Please obtain two (2) signatures of property owners who are most affected by your change; neighbors that are adjacent to and/or have a view of your change/addition. Should one of your neighbors have comment regarding your project, please note it in the comments section. **Their signatures indicate an awareness of your intent and do NOT constitute approval or disapproval on their part.**

Name: Debra Taylor

Name: Aarna McLaughlin

Address: 141 Inaugural Way

Address: 40 Inaugural Way

Signature: [Signature]

Signature: [Signature]

Phone: 304 725 3541

Phone: (304) 906-8508

* Questions or comments by neighbors can be emailed to the ARC at barleywoodwvarc@gmail.com

Comments: _____

Owner's Acknowledgements:

1. I understand and agree ... that nothing herein contained shall be construed to represent that any alterations to land or buildings in accordance with these plans shall violate any of the provisions of building and zoning codes of the count to which the above property is subject. Further, nothing herein contained shall be construed as a waiver or modification of any said restriction.

(see next page)

2. ...**NO work on this request shall commence until written approval of the Architectural Review Committee has been received by applicant.**

3. ... Any construction or exterior alteration undertaken by applicant or on the applicant's behalf before approval of this application is not allowed: that, if alterations are made, the applicant may be required to return the property to its former condition at the applicant's expense if this application is disapproved wholly or in part and that I may be required to pay a fine to the Association and all legal expenses incurred.

4... Any approval is contingent upon construction or alterations being completed in a workman like manner. By approving this request, the committee is not assuming any responsibility for safety, construction, operation, maintenance, accident, injury or claim that may arise from the change or use of this improvement.

5... Members of the Architectural Control Committee and or the Property Manager are permitted to make routine inspection.

6... There are architectural requirements covered by the Covenants and a review board process as established by the Board of Directors.

7... The alteration authority granted by this application will be revoked automatically if the alterations requested have not commenced within 180 days of the approved date of this application and/or completed by any date specified by the Committee.

8... All proposed improvements must meet county codes. Applicant understands it is their responsibility to contact ALL government agencies to obtain required approvals and notifications that apply to the project. Applicant's signature indicates that these standards have been approved by county and meet code. I understand that application for all required building permit(s) are my responsibility and must be obtained prior to work beginning on project. I understand I am responsible to contact MISS Utility. If approved, I agree to make the changes under the term and conditions specified in the letter of approval. I agree to maintain all improvements, at my expense, as long as I own any portion of the property. If any portion of the Association property is disturbed or damaged by either myself or my contractor, I agree to be responsible for and to restore the common elements to original or better condition(s).

9... Any variation from the original application must be resubmitted for approval.

Owner/Applicant Signature:  Date: 4/8/19

Attachments: (1) Sketch, photo, catalog illustrations, etc.
(2) Copy of survey marked with Change being requested

AR Committee Use Only (below line):

Date Received: 04/18/2019


Approved

Approved according to the conditions on attached letter
(Letter on file for Lot # 9 showing height of possible shed at 12' 10")

Pending receipt of additional information _____

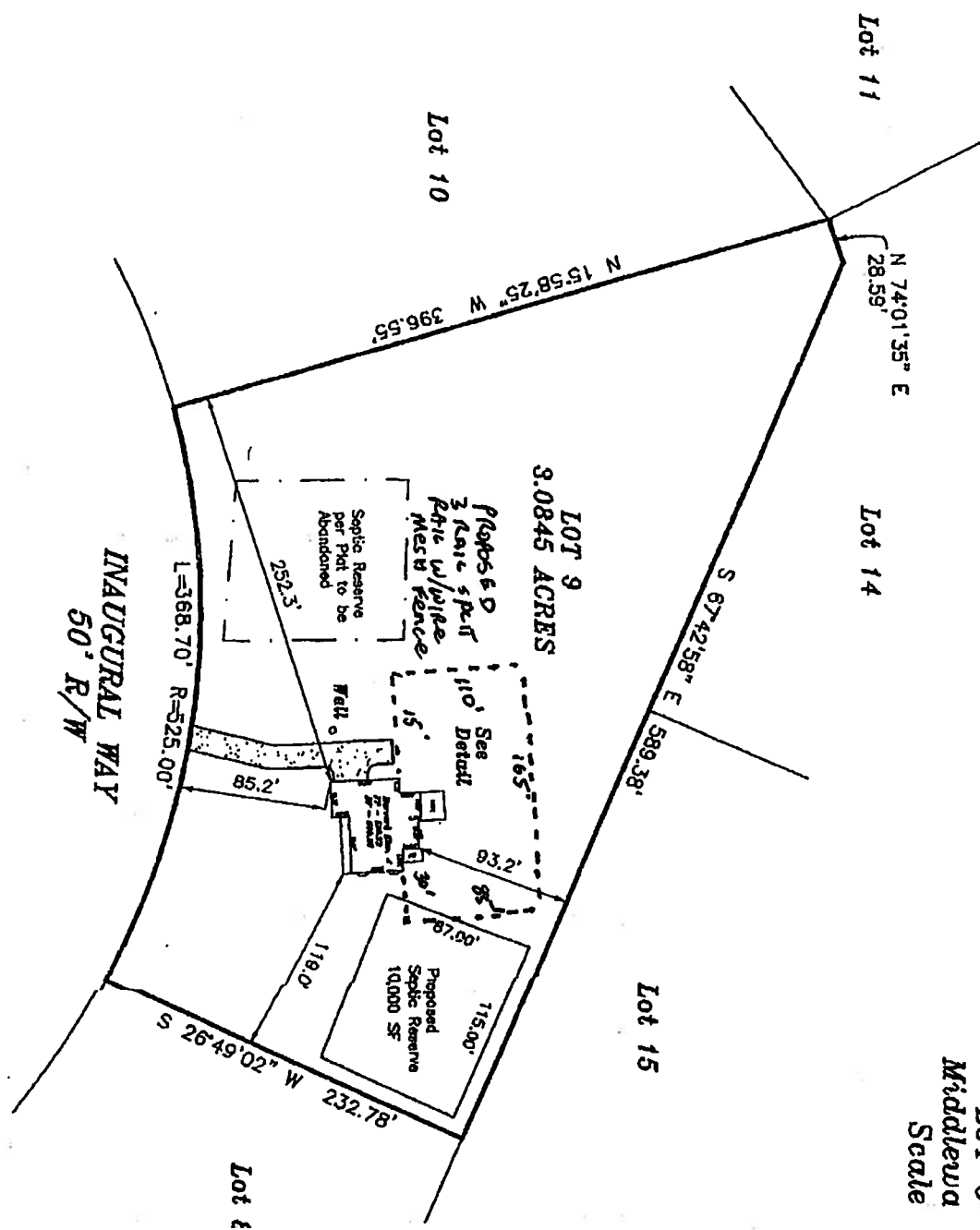
Disapproved

04/20/2019 Approval/Denial Date

Approved / Denied By: 



BRLS: Front - 40'
Side - 15'
Rear - 50'



LOT 9
Middleway
Scale

Note - Elevations shown are based on topography supplied by others.



INSPECTION TO BE PRINTED OR TYPED

Jefferson Co HEALTH DEPARTMENT ON-SITE SEWAGE DISPOSAL SYSTEM INSPECTION FORM

Permit No.: ST-19-067-71

Tax Map: Parcel #:

County Road:

County: Jefferson

Name of Owner: Don Ryan Installer: A Manone

Address:

Property Location: Barleywood #9

Type of Facility: House Facility is: New (X) Existing () Lot Size: 3 Sq. Ft. (Acres)

Design Loading in gpd/No. Bedrooms: 4 Source of Water Supply: Well

SEWAGE TANK COMPONENT

Capacity in Gallons: 1000 Material: concrete Manufacturer: Markensburg

Distances (in feet) of Tank to: Dwelling: 15 Private ()/Public () Water Source: +50 Property Line: +10

39' 18" 30.6" 77' 54" 24.3"

ON-SITE DISPOSAL SYSTEM

Class I Systems: Standard Soil Absorption Trenches () or Bed () Gravelless Pipe (), Diameter: inches Chamber Soil Absorption Trenches (X) 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: 3 Length (in feet) of Each: 87, 87, 87

Width of Trenches: 3 inches/feet Depth to Bottom of Field: 20 inches 6ft

If Bed, Dimensions (in Feet): If Chamber System, Name: No. of Units: 42

Approved and Adequate Materials Used? Yes (X) No () Size Equates to: 1200 Square Feet of Standard Gravel Field.

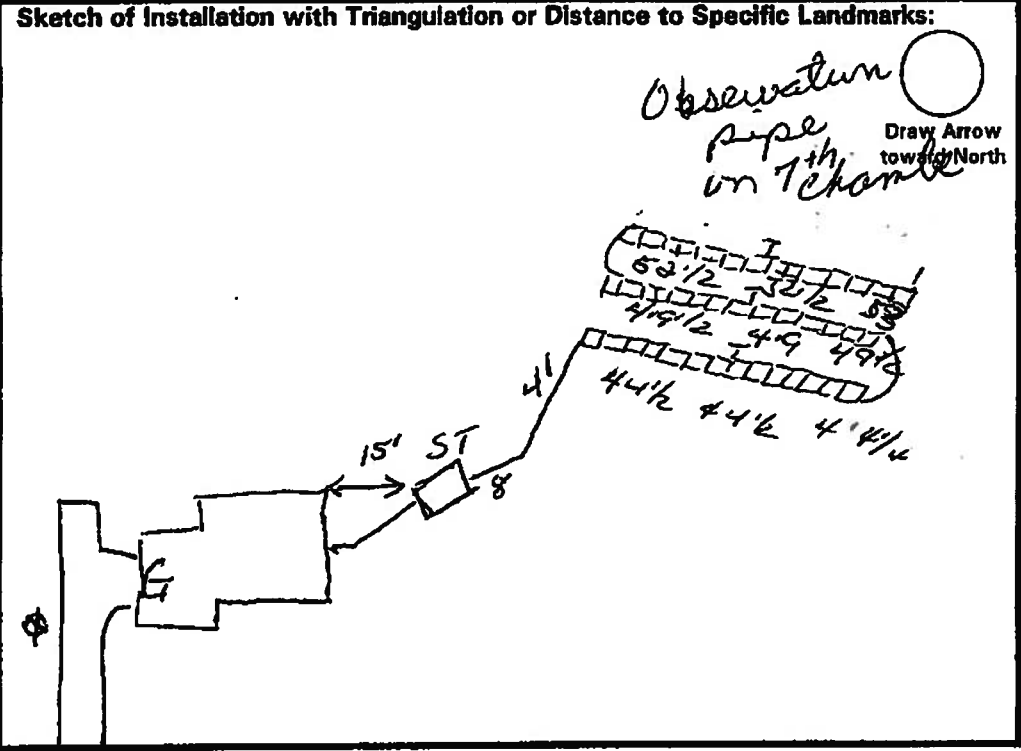
Distances (in feet) of System to: Dwelling: 105 Private ()/Public () Water Source: +100 Property Line: +10

Remarks: Crossover

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.

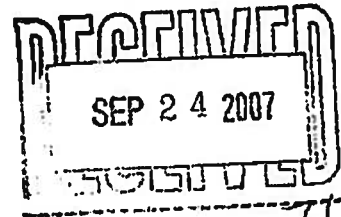
Although many factors contribute to the successful functioning of a sewage disposal system, this office recommends water conservation and maintaining an even usage of water throughout the week.



Visit Date(s): 2/15/08 Final Inspection Date: 12/15/08

Sanitarian: Aloncoster, RS

WV Department of Health and Human Resources
 Bureau for Public Health
 Office of Environmental Health Services
 ENVIRONMENTAL ENGINEERING DIVISION



SW258

WELL COMPLETION REPORT

Date(s) 9/17/07 - 9/18/07 County Jefferson Permit #: DW-A-0607-42
 Town: _____ Area Name/Location Barleywood Lot 9
 Well Owner: Dan Ryan Builders Address: 60 Thomas Johnson Dr.
 Telephone Number: 301-696-0200 Frederick, MD. 21702
 Well Driller: Valley Drilling Corporation Address: 9172 John S. Mosby Hwy
 Telephone Number: 540-592-3239 Upperville, VA. 20184

WELL LOG

DEPTH IN FEET	FORMATIONS: KIND, THICKNESS, AND IF WATER BEARING	REMARKS:
0-24	Overburden	Type of Well: <u>Domestic</u> Drilling Method: <u>Rotary Rig 2</u>
24-380	Limestone	Well Diameter: <u>6"</u> Casing O.D.: <u>6 5/8"</u>
315-326	Waterbearing, 35 GPM	Well Depth: <u>380'</u> Date Completed: <u>9/18/07</u>
		CASING: Length <u>63</u> Feet Height above ground <u>±2</u> Feet
		<input checked="" type="checkbox"/> Steel <input type="checkbox"/> Plastic <input type="checkbox"/> Cast Iron
		Other _____ Type _____
		SCREEN
		<input checked="" type="checkbox"/> None Installed
		Type _____ Diameter _____
		Slot/Gauge _____ Length _____
		Set Between _____ Ft. and _____ Ft.

PUMPING OR BAILING TEST

DETAILS	#1	#2	#3
Static Water Level (Ft. Below Grade)	<u>30'</u>		
Pumping Rate (GPM)	<u>35 GPM</u>		
Pumping Level (Ft. Below Grade)			
Duration of Test (In Hours)			
Recovery Time to Static Level (In Hours)			

WELL HEAD

Pitless Adapter: Type, Make, Etc. _____
 Well Cap: Type, Make, Etc. Watertight
 Well Seal: Type, Make, Etc. _____
 Well Platform:
 Length _____ Width _____ Thickness _____
 Grouting: Yes No pressure Bentonite
 All Public Water Supplies must be grouted.

I hereby certify that this well was drilled and constructed under my supervision, in compliance with all requirements of the referenced permit, and that this record is true to the best of my knowledge and belief.

DW Singh 511
 Name Certification No.
Valley Drilling Corporation
 Registered Business Name
DW Singh 9/19/07
 Signed Date

SEWAGE DISPOSAL SYSTEM INFORMATION

Application is for a permit to: Install Modify
Check all that apply: Septic Tank Absorption Field Holding Tank Pit Privy Vault Privy
 Alternate System (attach detailed plans) Chemical/Composting Toilet Other: _____

Septic Tank: Capacity (gallons) 1000 Material Concrete Manufacturer MART

Absorption Field: Equivalent to 1200 sq.ft. of conventional gravel trench system.

Trench System: No. of lines 3 Lengths 81, 81, 81 ft. Pipe ASTM No. _____

Gravel Trench Width _____ inches; or Gravelless Pipe Diameter _____ inches.

Chamber System: Manufacturer _____ No. of Chambers 40

Soil Absorption Bed (Requires oversizing of bottom surface area by 30%.)

If soil absorption bed: Length _____ feet by Width _____ feet Pipe ASTM No. _____

If chamber system: Manufacturer _____ No. of Chambers _____

Distances in feet (to nearest) Septic tank to: Bldg. foundation 10' Property line 10' Water supply 50'

Absorption field to: Bldg. foundation 10' Property line 10' Water supply 100'

Percolation Test: Test Holes #1 = 150 mins. #2 = 150 mins. #3 = 150 mins. #4 = 150 mins.

Total minutes = 600 divided by 24 = 25 average time for water to fall one inch.

Six-foot hole free of water or solid rock? Yes No Test conducted on (date) 2/15/08

The undersigned certifies that the percolation test was conducted by the owner, or a certified installer, using approved procedures as outlined in the design standards. In the event that the percolation rate has received previous approval in a subdivision application to the health department, the owner's signature shall certify acceptance of the percolation test results for purposes of system design.

Date: 2/15/08 Signature of Owner: [Signature]

I hereby certify that the installation or modification of all parts of the sewage disposal system, including required material standards, will be done in compliance with applicable design standards issued by the Office of Environmental Health Services, and appropriate manufacturer's recommended procedures and practices.

Installer (please print) Albert MARRADE Telephone 279 8461

Business Address 667 Shirley RD Summit Point GA 30546

Installer's Certification Number 99-926220 Expiration Date 8/11

Dept. of Labor Contractor's License No. 41043322 Exp. Date 10/8 Issued to V. STAR

Date: 2/15 Signature of Installer: [Signature]

SKETCH - Please draw a sketch of the property showing existing or proposed well location, location of structures, existing or proposed sewage systems within 200 feet of well location, slope of site and lot dimensions. Locate animal pens, barnyards, or any other factors which can be a possible source of contamination for the water supply.

House -x- Water supply line Water Supply ||||| Trees Percolation test site ST Septic tank
— Soil absorption line → Direction of ground slope _____ Property line MH Mobile Home

Barleywood *Lot 9*

STATE OF WEST VIRGINIA

JEFFERSON COUNTY HEALTH DEPARTMENT
ON-SITE SEWAGE DISPOSAL SYSTEM PERMIT

Permit No.: ST - 19 0607 - 71NH
Tax Map _____ Parcel # _____
County Road No.: _____

JEFFERSON COUNTY
PRINTED OR TYPED

Owner: DAN RYAN BUILDERS
Address: 60 THOMAS JOHNSON DRIVE
FREDERICK MARYLAND 20702

Certified Installer: ALBERT MARRONE
Address: 667 SHIRLEY ROAD
SUMMITPOINT WV 25446

You are hereby issued a permit to: install, or modify an on-site sewage disposal system located:
BARLEYWOOD LOT 9

Facility: HOUSE Design Flow: 4 BDRM Lot Size: 3.084 Sq. Ft./Acres Water Source: WELL

BASED UPON REVIEW OF THE INFORMATION OF YOUR SUBMITTED APPLICATION, DATED 9/22/06, AND THE PROPER INSTALLATION OF THE HEREIN DESCRIBED SYSTEM, THE SYSTEM SHALL BE IN COMPLIANCE WITH APPLICABLE WEST VIRGINIA SEWAGE SYSTEM RULES AND DESIGN STANDARDS.

The sewage system shall consist of a:

Septic tank - Capacity: 1000 gallons or more, ^{As} constructed of: PRECAST CONCRETE.
 Soil disposal system with a minimum equivalency of 1600 square feet of conventional gravel trench area.

Depth to the bottom of the trench or bed installation shall be: MAX 36 inches from original ground surface.

Gravel system: Lengths of lines: _____, _____, _____, _____, _____ feet, Width: _____ inches.

Chamber system: Number of units: 3, Length of lines: 80, 80, 80, 80, _____ units,
Manufacturer of chamber: _____

Bed system: Gravel, Chamber; Length: _____ feet, Width: _____ feet.

Other: 40 CHAMBERS/2" CLEAN GRAVEL TO BE PUT ON TOP AND SIDES OF CHAMBERS/ PORT ACCE
TO BE INSTALLED ON CHAMBERS/ SYSTEM TO BE INSTALLED IN EXACT LOCATION AS SHOWN ON
APPROVED SITE.

This permit is non-transferable and automatically expires 12 months after issue date.

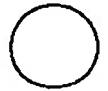
This permit is NULL and VOID when official inspection reveals conditions different than those stipulated on the permit or facts are later found that would indicate non-compliance with applicable rules.

All systems must be inspected and approved prior to being covered with earth or placed into use.

The applicant or his agent must notify this department: 72 hours or more prior to planned inspection time.

Sketch of system:

SEE ATTACHED



Draw Arrow
Toward North

*Renewed
Exp 9/22/08
AM*

SEPTEMBER 22, 2006

Issue Date

JEFFERSON/728-8415

County Office / Phone Number

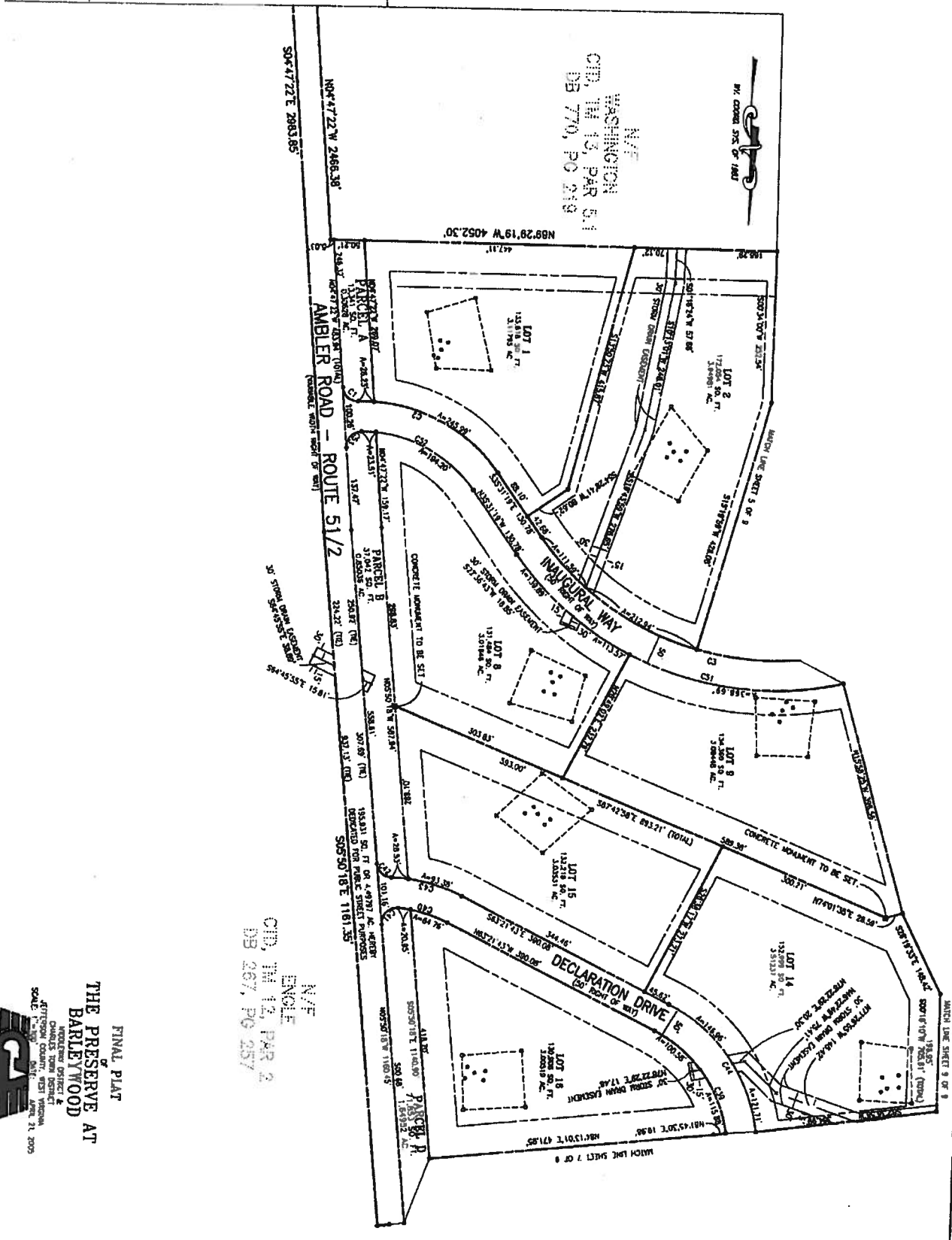
Additional specifications
on reverse:

Albert Marrone

Health Officer or Sanitarian

Copyright 2007. No reproduction or use of this drawing is allowed in part or in whole by any process without prior written authorization from William H. Gordon Associates, Inc.

MATCH LINE SHEET 5 OF 9



N/E
 WASHINGTON
 CID, TR 12, PAR 5.1
 DB 770, PG 219

N/E
 ENGLE
 CID, TR 12, PAR 2
 DB 267, PG 257



FINAL PLAT
 OF
 THE PRESERVE AT
 BARLEYWOOD

WILLIAM H. GORDON ASSOCIATES, INC.
 ENGINEERS - SURVEYORS - LAND PLANNERS - LANDSCAPE ARCHITECTS

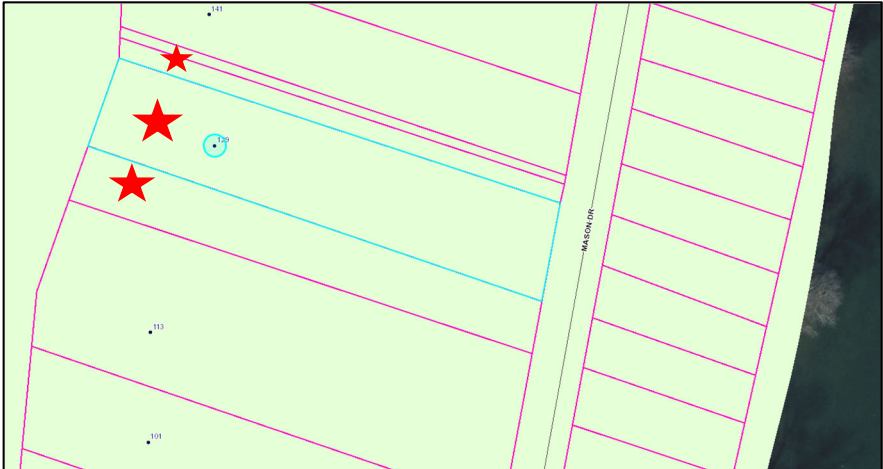
1100 EAST MAIN STREET, SUITE A
 BARLEYWOOD, VIRGINIA 22611
 PHONE: (540) 725-4455 FAX: (540) 545-1273
 WWW.WHGA.COM

2157-0181 3/04 MET 1/00 MET 1/05-0101-0101/04/04 SHEET 2 OF 9

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 May 23, 2019

Kelly – Reestablish a Nonconforming Residential Accessory Structure (#19-9-ZV)

Item #3 Variance request per Section 4.3H to allow for the reconstruction of a nonconforming 28' x 32' garage to be located 3' from the side property line.

Applicant:	Gregory Kennedy
Owner:	Michael G. Kelly and Michael G. Kelly, Jr.
Developer:	N/A
Consultant:	N/A
Property Location:	129 Mason Drive, Harpers Ferry, WV 25425
Legal Description & Zoning District:	<p style="text-align: center;">Glen Haven Subdivision, Lots 10, 11, and part of 12 Tax District: Harpers Ferry (04); Tax Map: 3C; Parcels: 11.1, 12, + 13.1 Size: .56± acres; Zone: Rural</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation: <i>North: Rural South: Rural</i> <i>East: Rural West: Rural</i></p>
History:	
Waivers/Variations:	None previously granted.
Approved Activity:	Residential

STAFF EVALUATION OF REQUEST

Summary of Request and Purpose of Ordinance Requirements

This request is a variance to reestablish a nonconforming use per Section 4.3H of the Zoning Ordinance, which reads,

“A nonconforming structure or use destroyed by a natural or unnatural calamity cannot be rebuilt without approval of the Board of Zoning Appeals upon application by the owner and pursuant to the variance and appeal procedures outlined in Article 6. This provision will not apply to existing residential dwelling units.”

The Zoning Administrator determined that the new detached accessory structure required approval from the Board of Zoning Appeals.

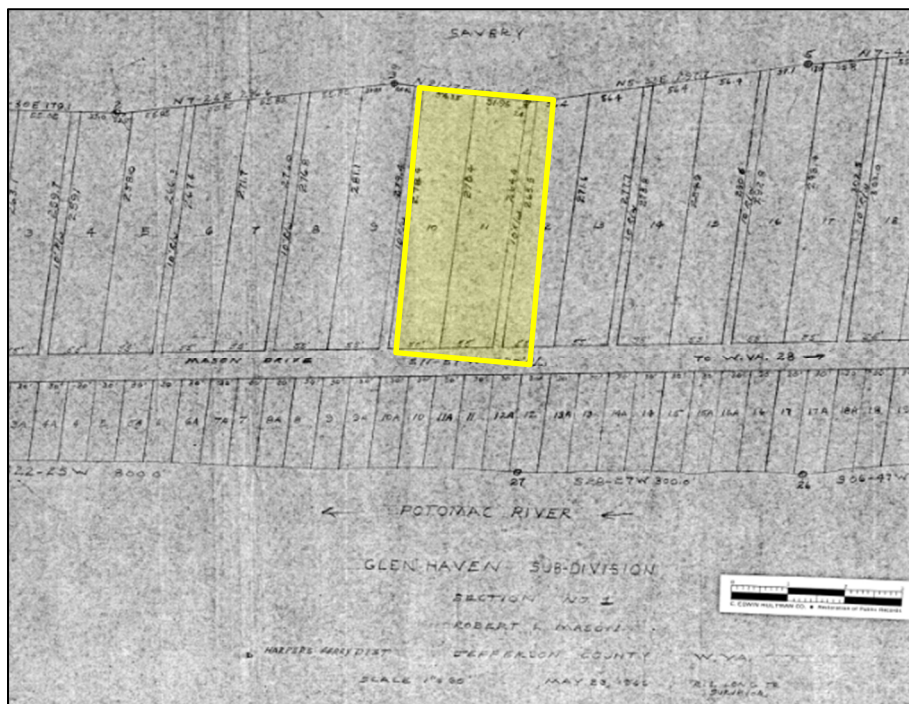
Staff Report
Jefferson County Board of Zoning Appeals Meeting
May 23, 2019

Kelly – Reestablish a Nonconforming Residential Accessory Structure (#19-9-ZV)

Unique characteristics of property

Glen Haven Section I, which was recorded on July 14, 1966 (DB 281, PG 361 / Slide 615A), was recorded prior to the adoption of the Subdivision Ordinance and the Zoning Ordinance; therefore, the lots are considered nonconforming in that they do not comply with the County’s land development standards.

Setbacks were not established as part of the Section I; therefore, the setbacks listed in Section 9.7 of the current Zoning Ordinance apply. The accessory structure does not comply with the 6’ side and rear setback requirement.



Impact on adjacent properties

Aerial imagery and the subject application indicate that a structure has historically existed in this location. Pursuant to Section 4.3H, BZA approval is required to reestablish a nonconforming structure that has been destroyed.

Based on the fact that the structure has historically existed in this location and the similar site development of adjacent properties, a detached garage in this location would likely have minimal impact on adjacent properties.

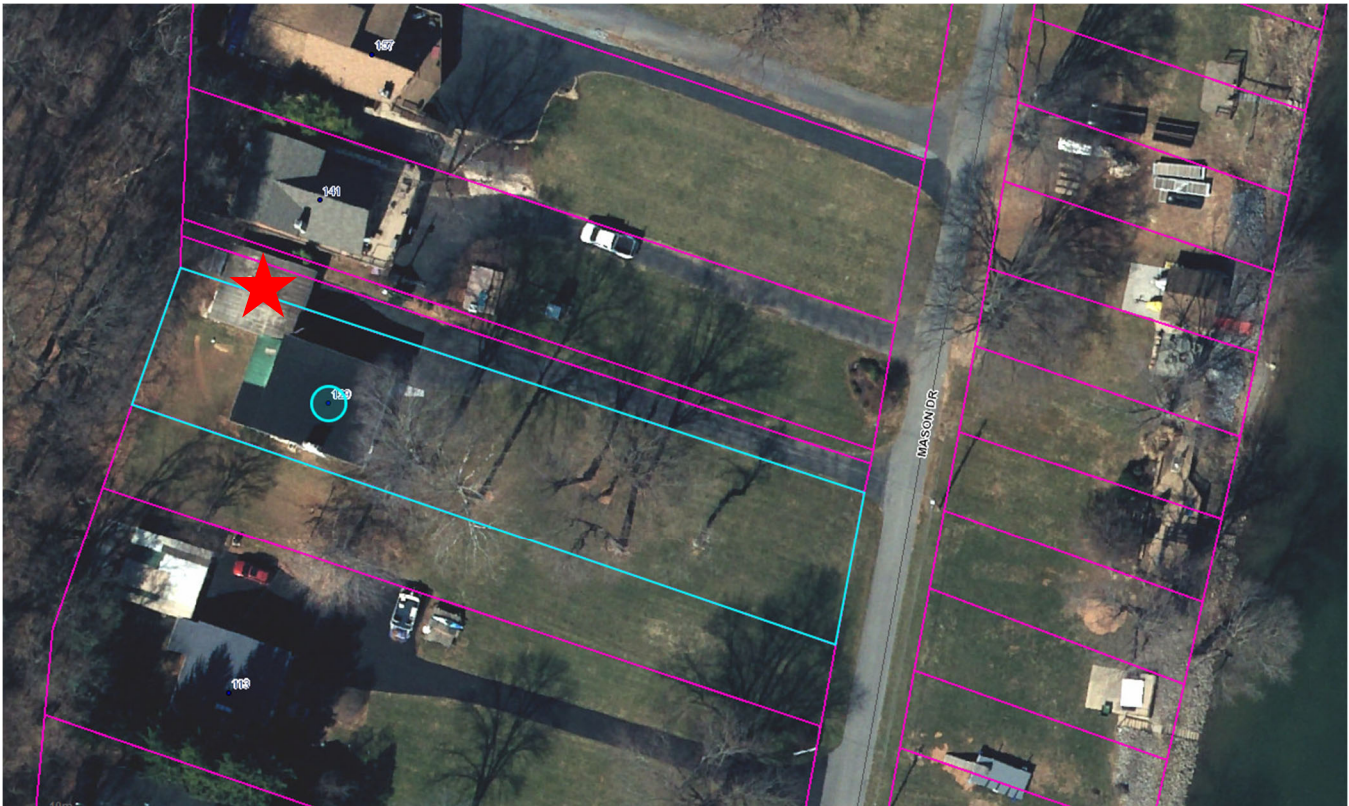
Feasibility of complying with the ordinance by other means

One other option would be to request a variance to reduce the setbacks required by the Ordinance. A Variance carries with the land; therefore, if the structure were torn down in the future, and the property owner wanted to rebuild a structure of the same size in the same location, it would be permitted (if the setback reduction were granted).

A boundary line adjustment on the northern side of the property is not feasible. Since the structure was already built, it may be difficult to relocate the structure elsewhere on the property.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
May 23, 2019

Kelly – Reestablish a Nonconforming Residential Accessory Structure (#19-9-ZV)



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 4.3 Nonconforming Uses

Any building, structure or premises lawfully existing at the time of the adoption of this Ordinance, or lawfully existing at the time that this ordinance is subsequently amended, may continue to be used even though such building, structure, or premises does not conform to use, setbacks or dimensional regulations of the zoning district in which it is located; subject, however, to the following provisions:^{7, 32}

- H. A nonconforming structure or use destroyed by a natural or unnatural calamity cannot be rebuilt without approval of the Board of Zoning Appeals upon application by the owner and pursuant to the variance and appeal procedures outlined in Article 6. This provision will not apply to existing residential dwelling units.^{12, 17, 21, 23, 32}



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: 19-9-ZV
 Staff Initials: GH
 Meeting Date: 5/23/19
 Fees Paid (\$100 or \$150): 150-

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: MICHAEL G. KELLY + MICHAEL G. KELLY JR.
 Mailing Address: 1209 B NORTH EAST STREET FREDERICK, MD 21701
 Phone Number: 301 639 1947 Email: _____

Applicant Contact Information

Name: GREGORY E. KENNEDY
 Mailing Address: 100 SOUTH QUONSET POINT SUITE 200 MARTINSBURG, WV 25401
 Phone Number: 304 596 2279 Email: GKENNEDY@FAUDP.NET.COM

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

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

Physical Property Details

Physical Address: 129 MASON DRIVE HARRIS FERRY, WV 25425
 City: HARRIS FERRY State: WV Zip Code: 25419
 Tax District: HARRIS FERRY Map No: 3C Parcel No: 45, 44, 43, 13.1, 12, 11.
 Parcel Size: +/- 2 AC. Deed Book: 1130 Page No: 561

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"/>

RECEIVED

APR 26 2019

JEFFERSON COUNTY PLANNING, ZONING & 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: 4.3 H

Briefly describe the nature of the variance request: SEE ATTACHED

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

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: 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.

[Signature] 4/26/19
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).

05/23/19
Date of Public Hearing

05/08/19
Advertising Date

05/08/19
Placard Posting Date

100 S. Queen Street
Suite 200
Martinsburg, WV 25401
304.596.2277
304.596.2111 Fax

Gregory E. Kennedy, Esq.
gkennedy@fandpnet.com
Admitted in West Virginia

April 26, 2019

Ms. Alexandra Beaulieu, Zoning Administrator
Jefferson County Board of Zoning Appeals
Jefferson County Planning and Zoning Department
116 East Washington Street
Charles Town, West Virginia 25414

RECEIVED

APR 26 2019

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

RE: Variance Request
Property of Michael G. Kelly *et al.*
Tax Map 3C – Harpers Ferry District
Parcels 45, 44,43,13.1, 12, and 11.1
129 Mason Drive, Harpers Ferry, WV 25425
Jefferson County, West Virginia

Greetings,

This correspondence is intended to accompany the Zoning Variance Request that is submitted on behalf of the above referenced property owners and property located at 129 Mason Drive, Harpers Ferry, West Virginia 25425.

To begin, my clients, Michael G. Kelly and Michael G. Kelly, Jr., are the record owners of the above referenced real property, which is improved with a single family dwelling, garage, and other site improvements (“Structure”). In fact, my clients’ family has been the record owner of the property since the late 1960’s. A review of the Jefferson County Assessor’s Office indicates that the Structure was constructed in 1968, and is part of the Glen Haven river community. The Glen Haven river community, like other communities, was platted and developed prior to the enactment of zoning in Jefferson County, West Virginia.

In the fall of 2018, my clients sought to perform work on the Structure which was focused on the replacement of rotted and outdated portions of the garage. My client retained the services of M. H. Crites, LLC for the proposed work (“Contractor”). The Contractor began work, and on November 17, 2018 a Notice of Violation was issued by the Jefferson County Engineering Department. Subsequently, I attended several meetings which focused on engineering/permit matters pertaining to foundation, roof truss, framing, and wind bracing issues; flood plain matters pertaining to base flood elevation and flood proofing issues; and zoning matters pertaining to the nonconforming structure and setback issues. As a result, it is my belief that the engineering/ permit matters and the flood plain matters have been resolved; thus,

leaving the zoning matters to be addressed. (Copies of applicable materials are attached as Exhibit "A").

My clients' property is currently classified as Rural (R) District, and is depicted on the Plot Plan attached hereto as Exhibit "B." The Rural District permits a single family dwelling as a permitted use, and a garage as a permitted accessory use, either attached or detached. Moreover, Appendix A to the Jefferson County Zoning and Land Development Ordinance details side yard setbacks for single family dwellings as eight (8) feet, and residential accessory structures as six (6) feet. To that end, my clients' Plot Plan details that the garage currently is set back 3.9 feet and 4.1 feet respectively from the northern lot line. Thus, my clients' garage is a valid conforming use, but the northern lot line setback makes my clients' garage a legal nonconforming structure of record.

In that regard, Article 4, Section 4.3 of the Jefferson County Zoning and Land Development Ordinance establishes certain provisions regarding nonconforming uses. I have previously submitted a determination request to the Zoning Administrator dated March 26, 2019, wherein I requested that the Zoning Administrator allow my clients to obtain a building permit without a variance, as the garage was an attached garage that was being upgraded and repaired pursuant to the aforementioned Ordinance section. In response, the Zoning Administrator advised that my clients would need to go before the Board of Zoning Appeals to request a variance to re-establish the nonconforming structure under Section 4.3H of the Ordinance, as the garage was destroyed. (Copies of the Determination Request and Response are attached as Exhibit "C").

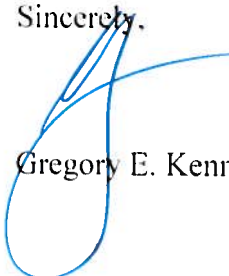
As the Board is aware, Section 4.3 establishes that any building, structure or premises lawfully existing at the time of the adoption of this Ordinance, or lawfully existing at the time that this Ordinance is subsequently amended, may continue to be used subject to the following provisions. Specifically, Section 4.3 A provides that nonconforming structures may be upgraded or repaired, or alterations made to the facilities, and Section 4.3 B provides that repair includes the following: replacement of the same size (+/- 35%) porches, awnings, decks roofs, overhangs, patios, or any other similar construction as approved by the Zoning Administrator. As detailed hereinabove, my clients' garage was built in the late 1960's, and as such, it lawfully existed at the time the Ordinance was adopted. Additionally, the rot and decay was so extensive that my clients were concerned with the overall structural integrity of the garage, as well as the safety of his family and invitees. Thus, my clients sought the services of the Contractor, with the intent to establish a scope of work for the garage that was both a repair and upgrade of existing materials, and a replacement of the same size as clearly permitted by Section 4.3 A and B.

Therefore, this application is brought to the Board pursuant to Section 4.3 H which prohibits the reconstruction of my clients' garage without approval of the Board of Zoning Appeals. Specifically, Section 4.3 H provides that "[a] nonconforming structure or use destroyed by a natural or unnatural calamity cannot be rebuilt without the approval of the Board of Zoning Appeals upon application by the owner and pursuant to the variance and appeal procedures outlined in Article 6. Specifically, as required by Section 6.2A, the approval of my client's Zoning Variance Request: 1) will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners because it permits the reconstruction of an existing garage that

was a valid structure before it rotted and decayed; 2) arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance because the garage was built prior to the enactment of the Ordinance and was a valid nonconforming structure which succumbed to years of rot and decay and the garage was originally sited in its current location because of the unique characteristics of the property; 3) would eliminate an unnecessary hardship and permit a reasonable use of the land because the orientation and unique nature of the property renders any other location for a garage impracticable and would impose an unnecessary hardship, unless reconstructed in the current location which would allow a reasonable use of the land; and 4) will allow the intent of the Ordinance to be observed and substantial justice done because the garage constitutes a building that lawfully existed at the time of the adoption of the Ordinance and may be continued and rebuilt if destroyed pursuant to the variance and appeal procedures outlined in the Ordinance.

In summary, I request that my clients Zoning Variance Request be approved by the Board for the foregoing reasons that clearly comport with elemental requirements established in Section 4.3 and Section 6 of the Ordinance.

Sincerely,



Gregory E. Kennedy

Enclosure

19.9.2V

CUSTOM CREATION DESIGNS

SYMBOLS	ABBREVIATIONS
<p>1. ELEVATION: (SEE EXTERIOR ELEVATION)</p> <p>2. FRONT ELEVATION</p> <p>3. DETAIL NUMBER</p> <p>4. ELEVATION NOTATION</p> <p>5. ELEVATION NUMBER</p> <p>6. CENTER LINE</p> <p>7. FOUNDATION WALL</p> <p>8. FOUNDATION WALL</p> <p>9. FOUNDATION WALL</p> <p>10. FOUNDATION WALL</p> <p>11. FOUNDATION WALL</p> <p>12. FOUNDATION WALL</p> <p>13. FOUNDATION WALL</p> <p>14. FOUNDATION WALL</p> <p>15. FOUNDATION WALL</p> <p>16. FOUNDATION WALL</p> <p>17. FOUNDATION WALL</p> <p>18. FOUNDATION WALL</p> <p>19. FOUNDATION WALL</p> <p>20. FOUNDATION WALL</p> <p>21. FOUNDATION WALL</p> <p>22. FOUNDATION WALL</p> <p>23. FOUNDATION WALL</p> <p>24. FOUNDATION WALL</p> <p>25. FOUNDATION WALL</p> <p>26. FOUNDATION WALL</p> <p>27. FOUNDATION WALL</p> <p>28. FOUNDATION WALL</p> <p>29. FOUNDATION WALL</p> <p>30. FOUNDATION WALL</p> <p>31. FOUNDATION WALL</p> <p>32. FOUNDATION WALL</p> <p>33. FOUNDATION WALL</p> <p>34. FOUNDATION WALL</p> <p>35. FOUNDATION WALL</p> <p>36. FOUNDATION WALL</p> <p>37. 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REVISIONS	DRAWING INDEX
<p>1. NEW 24'X24' DETACHED GARAGE TO BE BUILT IN FRED. COUNTY VA</p> <p>DATE: _____</p> <p>DESCRIPTION: _____</p>	<p>A1- COVER</p> <p>A2- ELEVATIONS</p> <p>A3- FOUNDATION</p> <p>A4- MAIN FLOOR</p> <p>A5- WALL SECTION</p>

129 Mason Drive
Harpers Ferry, WV

TRUE NORTH

SQUARE FOOTAGE
GARAGE 576 SQ FT
TOTAL (FINISHED)

OWNER ADDRESS:
2400 VALLEY AVE, SUITE#1
WINCHESTER, VA 22601

THESE DRAWINGS AND SPECIFICATIONS ARE ON EXCEPT AS NOTED AND SHALL BE SUBJECT TO THE TERMS AND CONDITIONS OF THE CONTRACT.

RECEIVED APR 26 2018

BRIAN SMITH
CUSTOM CREATION
DESIGNS, LLC
2400 Valley Ave, Suite 1
Winchester, VA 22601
(540)-550-0992

COVER PAGE

HOMEPLANS

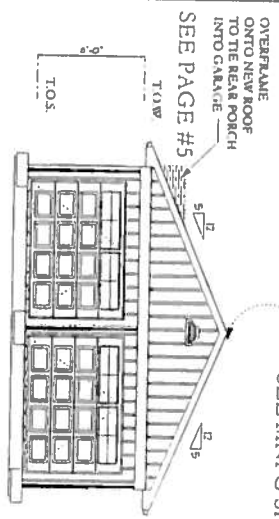
EXHIBIT A

NOTE: ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.

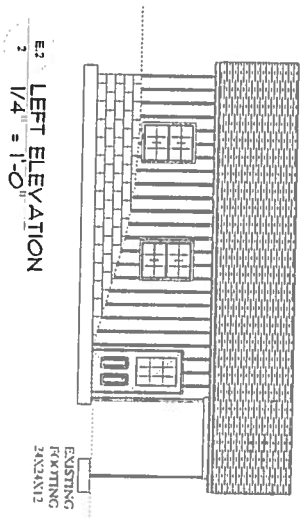
" ELEVATION PLANS "

NEW TRUSSES
 @ 24" O.C. SPACING
 SEE MFG SPECS TYP.

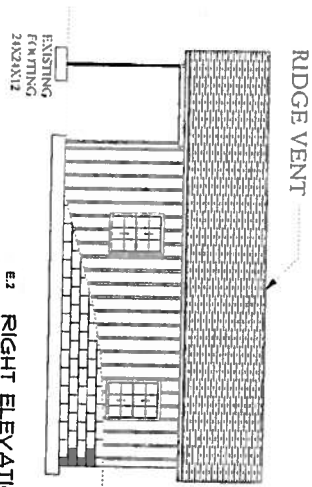
EXISTING CONDITION



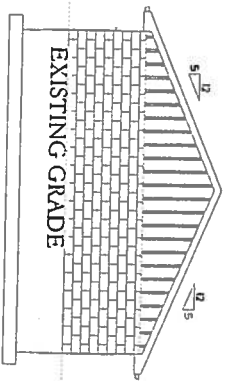
E2 FRONT ELEVATION
 2 1/4" = 1'-0"



E2 LEFT ELEVATION
 2 1/4" = 1'-0"



E2 RIGHT ELEVATION
 2 1/4" = 1'-0"



E2 REAR ELEVATION
 2 1/4" = 1'-0"

2400 VALLEY AVE STE#1
 WINCHESTER, VA 22601
 CUSTOM CREATION
 DESIGNS, LLC

ALL ENGINEERING DOCUMENTS MUST
 HAVE A W. VIRGINIA ENGINEERS SEAL
 AND BE ON SITE FOR INSPECTION
 Trusses must be installed according to manufacturer's
 instructions. Do not cut or alter trusses.

LOAD BEARING HEADERS

ALL LOAD BEARING HEADERS TO BE @ 2X10 @ 25' OC
 W/ (7) PCS 7/16" OR 1/2" WYW ROD, UNLESS NOTED
 OTHERWISE.



4-26-2018

CUSTOM CREATION
 DESIGNS
 2400 Valley Avenue Ste#1
 Winchester, VA 22601
 (540)-550-0992

ELEVATIONS



NO.	DATE	DESCRIPTION

" FLOOR PLAN "

EXT WALLS ARE
2X4 SPF @ 16" O.C.
SPACING W/ 7/16" OSB
SHEATHING TYP.
TYVEK WRAP AND
VINYL SIDING
SET ON 2X6 P.T. PLATE
W/ SILL SEALER FOAM

EXISTING GARAGE
ROOF #1

EXISTING GARAGE
ROOF #2

ENTIRE EXISTING ROOF TO
BE REMOVED FROM TOP
NEW ENG. TRUSSES TO BE
INSTALLED @ 24" O.C.
SEE ANNO SPFS TYP.

REMOVE EXISTING POSTS
AND REPLACE W/ NEW 3"
METAL SOLID COL. BOLTED
TO NEW SOLID 2X10 BEAM
W/ 3/8X2" LAGS MIN. GALV.
W/ WASHERS

TRUSS ROOF 5/12 PITCH
24" O.C. ENG. TRUSSES
TYPICAL.

EXISTING FOUNDATION
/ CONC. SLAB TO RETAIN
NEW ROOF / EXTERIOR
RENOVATION TO BE DONE

NEW 2-PLY 2X10 SPF #2
/ HEADER

BUILD FRONT WALL
TO MATCH REAR WALL
HEIGHT

FRAME NEW
WALL FRONT WALL
INFILL FRAME @ SIDE
ON TOP BLOCK W/
2X6 P.T. PLATE
ANCHOR BOLT
1/2" DIA MORTAR
INTO BLOCK CELL

LOAD BEARING HEADERS

ALL LOAD BEARING HEADERS TO BE @ 2X10 #2 SPF
W/ (U) PCS 7/16" OR 1/2" PLYWOOD, UNLESS NOTED
OTHERWISE.

NOTE: LOCATE BEAMS
ON ALL LOAD
BEARING WALLS

2400 VALLEY AVE STE#1
WINCHESTER, VA 22601
CUSTOM CREATION
DESIGNS, LLC.



4-25-2018



CUSTOM CREATION
DESIGNS
2400 Valley Avenue Ste#1
Winchester, VA 22601
(540)-550-0992

FLOOR PLAN



1	2
3	4
5	6
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9	10
11	12
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95	96
97	98
99	100



MiTek USA, Inc.
818 Soundside Rd
Edenton, NC 27932

Re: 18080012-01
Garage-Roof

The truss drawing(s) referenced below have been prepared by MiTek USA, Inc. under my direct supervision based on the parameters provided by Carter Lumber.

Pages or sheets covered by this seal: E12181595 thru E12181596

My license renewal date for the state of West Virginia is December 31, 2018.

West Virginia COA: CO1351-00



September 10, 2018

Lassiter, Frank

IMPORTANT NOTE: Truss Engineer's responsibility is solely for design of individual trusses based upon design parameters shown on referenced truss drawings. Parameters have not been verified as appropriate for any use. Any location identification specified is for file reference only and has not been used in preparing design. Suitability of truss designs for any particular building is the responsibility of the building designer, not the Truss Engineer, per ANSI/TPI-1, Chapter 2.

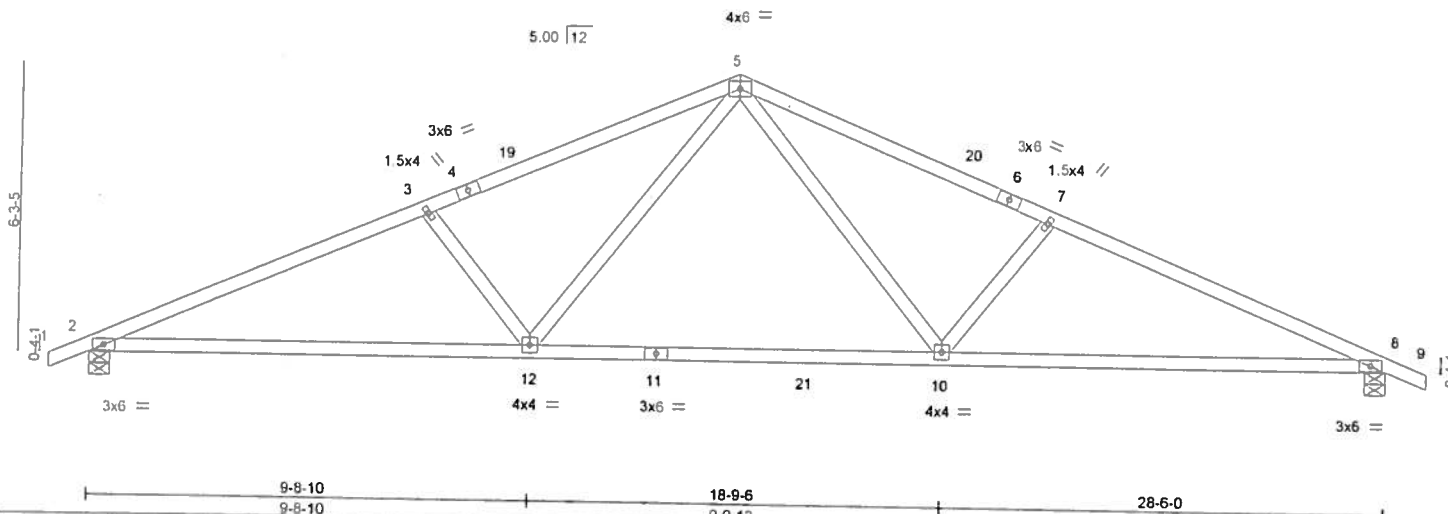
Job 18080012-01	Truss T01	Truss Type Common	Qty 16	Ply 1	Garage-Roof	E12181595
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Carter Lumber, Hagerstown, MD - 21740,

8.220 s May 24 2018 MITek Industries, Inc. Mon Sep 10 08:12:57 2018 Page 1

ID:0HLVmkZDAwa2bxcoqlq8dfyqEDo-l3luldgyUR7neEIIxYwul4w0z3uzpXjoxUNKRPyf5Ga
21-0-10 28-6-0 28-4-8
6-9-10 7-5-6 0-10-8

Scale = 1:48.5



LOADING (psf)	SPACING-	CSI.	DEFL.	PLATES	GRIP
TCLL (roof) 30.0	2-0-0	TC 0.99	in (loc) l/defl L/d	MT20	244/190
Snow (Pf/Pg) 20.8/30.0	Plate Grip DOL 1.15	BC 0.78	Vert(LL) -0.26 10-12 >999 240		
TCDL 10.0	Lumber DOL 1.15	WB 0.22	Vert(CT) -0.44 12-15 >783 180		
BCLL 0.0	Rep Stress Incr YES	Matrix-MSH	Horz(CT) 0.09 8 n/a n/a		
BCDL 10.0	Code IRC2015/TPI2014			Weight 124 lb	FT = 20%

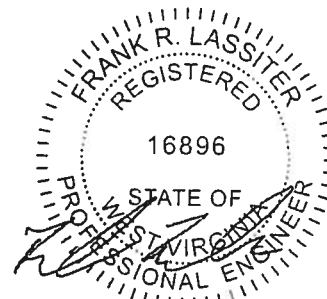
LUMBER-
TOP CHORD 2x4 SP No 2 *Except*
 1-4,6-9: 2x4 SP No 1
BOT CHORD 2x4 SP No 1
WEBS 2x4 SP No 2

BRACING-
TOP CHORD Sheathed
BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.

REACTIONS. (lb/size) 2=1216/0-5-8, 8=1216/0-5-8
 Max Horz 2=49(LC 15)
 Max Grav 2=1495(LC 2), 8=1495(LC 2)

FORCES. (lb) - Max. Comp /Max. Ten. - All forces 250 (lb) or less except when shown.
TOP CHORD 2-3=-2893/415, 3-5=-2551/382, 5-7=-2551/382, 7-8=-2893/415
BOT CHORD 2-12=-307/2616, 10-12=-127/1715, 8-10=-310/2616
WEBS 5-10=-83/897, 7-10=-630/218, 5-12=-83/897, 3-12=-630/218

- NOTES-**
- Unbalanced roof live loads have been considered for this design.
 - Wind: ASCE 7-10; Vult=115mph (3-second gust) Vasd=91mph; TCCL=4.2psf; BCDL=6.0psf; h=25ft; Cat. II; Exp B; Enclosed; MWFRS (envelope) and C-C Exterior(2) zone; cantilever left and right exposed; end vertical left and right exposed, C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.33
 - TCLL: ASCE 7-10; Pr=30.0 psf (roof live load; Lumber DOL=1.15 Plate DOL=1.15); Pg=30.0 psf (ground snow); Pf=20.8 psf (flat roof snow; Lumber DOL=1.15 Plate DOL=1.15); Category II; Exp B; Fully Exp.; Ct=1.10
 - Unbalanced snow loads have been considered for this design.
 - This truss has been designed for greater of min roof live load of 12.0 psf or 2.00 times flat roof load of 20.8 psf on overhangs non-concurrent with other live loads.
 - * This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-6-0 tall by 2-0-0 wide will fit between the bottom chord and any other members, with BCDL = 10.0psf.



September 10, 2018

WARNING - Verify design parameters and READ NOTES ON THIS AND INCLUDED MITEK REFERENCE PAGE MII-7473 rev. 10/03/2015 BEFORE USE.
 Design valid for use only with MITek® connectors. This design is based only upon parameters shown, and is for an individual building component, not a truss system. Before use, the building designer must verify the applicability of design parameters and properly incorporate this design into the overall building design. Bracing indicated is to prevent buckling of individual truss web and/or chord members only. Additional temporary and permanent bracing is always required for stability and to prevent collapse with possible personal injury and property damage. For general guidance regarding the fabrication, storage, delivery, erection and bracing of trusses and truss systems, see ANSI/TPI-1 Quality Criteria, DSB-89 and BCSI Building Component Safety Information available from Truss Plate Institute, 218 N. Lee Street, Suite 312, Alexandria, VA 22314.



818 Soundside Road
 Edenonton, NC 27932

Job 18080012-01	Truss T01G	Truss Type Common Supported Gable	Qty 2	Ply 1	Garage-Roof	E12181596
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Carter Lumber, Hagerstown, MD - 21740,

8.220 s May 24 2018 MITek Industries, Inc. Mon Sep 10 08:13:00 2018 Page 1

ID:0HLVmKzDAwa2bxcoqtq8dfyqEDo-AeR1xfiqnMWLVUKD44bMiYIEG6E0wVfSb_2kyf5GX

28-6-0 29-4-6 0-10-8

Scale = 1/49.0

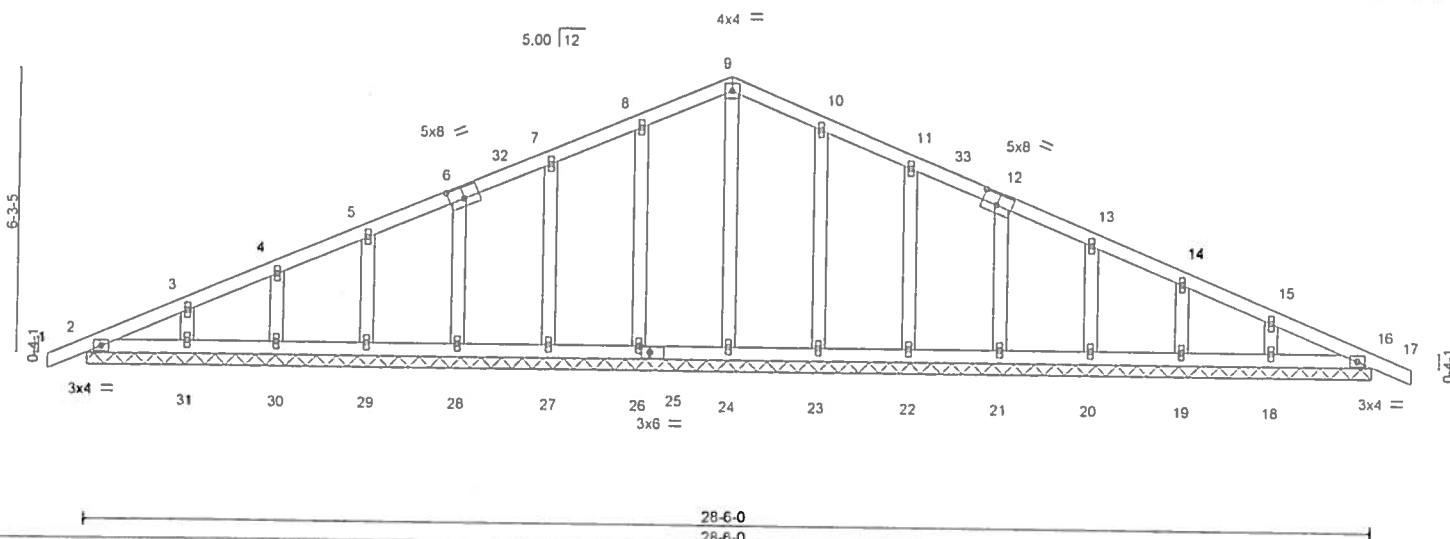


Plate Offsets (X,Y)-- [6-0-4-0-0-3-0], [12-0-4-0-0-3-0], [25-0-2-4-0-1-6]

LOADING (psf)	SPACING-	CSI.	DEFL.	PLATES	GRIP
TCLL (roof) 30.0	2-0-0	TC 0.09	in (loc) l/defl L/d	MT20	244/190
Snow (Pf/Pg) 20.8/30.0	Plate Grip DOL 1.15	BC 0.04	Vert(LL) -0.00 16 n/r 120		
TCDL 10.0	Lumber DOL 1.15	WB 0.09	Vert(CT) 0.00 16 n/r 120		
BCLL 0.0	Rep Stress Incr YES	Matrix-SH	Horz(CT) 0.00 16 n/a n/a		
BCDL 10.0	Code IRC2015/TPI2014			Weight: 150 lb	FT = 20%

LUMBER-
 TOP CHORD 2x4 SP No.2
 BOT CHORD 2x4 SP No.2
 OTHERS 2x4 SP No.2

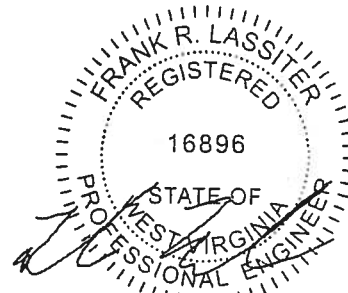
BRACING-
 TOP CHORD Sheathed or 6-0-0 oc purlins.
 BOT CHORD Rigid ceiling directly applied or 10-0-0 oc bracing.

REACTIONS. All bearings 28-6-0
 (lb) - Max Horz 2=49(LC 15)
 Max Uplift All uplift 100 lb or less at joint(s) 2, 26, 27, 28, 29, 30, 31, 23, 22, 21, 20, 19, 18, 16
 Max Grav All reactions 250 lb or less at joint(s) 2, 24, 26, 27, 28, 29, 30, 31, 23, 22, 21, 20, 19, 18, 16

FORCES. (lb) - Max. Comp./Max. Ten. - All forces 250 (lb) or less except when shown.

NOTES-

- 1) Unbalanced roof live loads have been considered for this design.
- 2) Wind: ASCE 7-10; Vult=115mph (3-second gust) Vasd=91mph; TCCL=4.2psf; BCDL=6.0psf; h=25ft; Cat. II; Exp B; Enclosed; MWFRS (envelope) and C-C Exterior(2) zone; cantilever left and right exposed; end vertical left and right exposed; C-C for members and forces & MWFRS for reactions shown; Lumber DOL=1.60 plate grip DOL=1.33
- 3) Truss designed for wind loads in the plane of the truss only. For studs exposed to wind (normal to the face), see Standard Industry Gable End Details as applicable, or consult qualified building designer as per ANSI/TPI 1.
- 4) TCLL: ASCE 7-10; Pr=30.0 psf (roof live load; Lumber DOL=1.15 Plate DOL=1.15); Pg=30.0 psf (ground snow); Pf=20.8 psf (flat roof snow; Lumber DOL=1.15 Plate DOL=1.15); Category II; Exp B; Fully Exp.; Ci=1.10
- 5) Unbalanced snow loads have been considered for this design.
- 6) This truss has been designed for greater of min roof live load of 12.0 psf or 2.00 times flat roof load of 20.8 psf on overhangs non-concurrent with other live loads.
- 7) All plates are 1.5x4 MT20 unless otherwise indicated.
- 8) Gable requires continuous bottom chord bearing.
- 9) Gable studs spaced at 2-0-0 oc.
- 10) * This truss has been designed for a live load of 20.0psf on the bottom chord in all areas where a rectangle 3-6-0 tall by 2-0-0 wide will fit between the bottom chord and any other members.
- 11) Provide mechanical connection (by others) of truss to bearing plate capable of withstanding 100 lb uplift at joint(s) 2, 16.
- 12) One RT8A USP connectors recommended to connect truss to bearing walls due to UPLIFT at j(s) 26, 27, 28, 29, 30, 31, 23, 22, 21, 20, 19, and 18. This connection is for uplift only and does not consider lateral forces.
- 13) Beveled plate or shim required to provide full bearing surface with truss chord at joint(s) 2, 16.



September 10, 2018

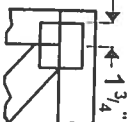
WARNING - Verify design parameters and READ NOTES ON THIS AND INCLUDED MITEK REFERENCE PAGE MI-1473 rev. 10/03/2015 BEFORE USE.
 Design valid for use only with MITek® connectors. This design is based only upon parameters shown, and is for an individual building component, not a truss system. Before use, the building designer must verify the applicability of design parameters and properly incorporate this design into the overall building design. Bracing indicated is to prevent buckling of individual truss web and/or chord members only. Additional temporary and permanent bracing is always required for stability and to prevent collapse with possible personal injury and property damage. For general guidance regarding the fabrication, storage, delivery, erection and bracing of trusses and truss systems, see ANSITPI Quality Criteria, DSB-89 and BCSI Building Component Safety Information available from Truss Plate Institute, 218 N. Lee Street, Suite 312, Alexandria, VA 22314.



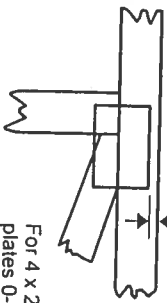
818 Soundside Road
 Edenton, NC 27932

Symbols

PLATE LOCATION AND ORIENTATION



Center plate on joint unless x, y offsets are indicated. Dimensions are in ft-in-sixteenths. Apply plates to both sides of truss and fully embed teeth.



For 4 x 2 orientation, locate plates 0- 1/16" from outside edge of truss.



This symbol indicates the required direction of slots in connector plates.

* Plate location details available in MITek 20/20 software or upon request.

PLATE SIZE

4 X 4

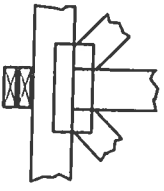
The first dimension is the plate width measured perpendicular to slots. Second dimension is the length parallel to slots.

LATERAL BRACING LOCATION



Indicated by symbol shown and/or by text in the bracing section of the output. Use T or I bracing if indicated.

BEARING



Indicates location where bearings (supports) occur. Icons vary but reaction section indicates joint number where bearings occur. Min size shown is for crushing only.

Industry Standards:
ANSI/TPI 1.

National Design Specification for Metal Plate Connected Wood Truss Construction.

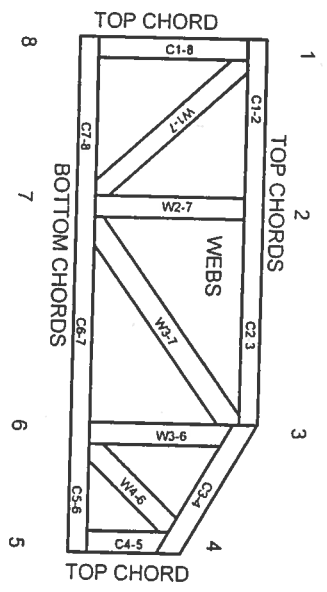
DSB-89:

Design Standard for Bracing.

Building Component Safety Information, Guide to Good Practice for Handling, Installing & Bracing of Metal Plate

Connected Wood Trusses.

Numbering System



JOINTS ARE GENERALLY NUMBERED CLOCKWISE AROUND THE TRUSS STARTING AT THE JOINT FARTHEST TO THE LEFT.

CHORDS AND WEBS ARE IDENTIFIED BY END JOINT NUMBERS/LETTERS.

PRODUCT CODE APPROVALS

ICC-ES Reports:

ESR-1311, ESR-1352, ESR1988
ER-3907, ESR-2362, ESR-1397, ESR-3282

Trusses are designed for wind loads in the plane of the truss unless otherwise shown.

Lumber design values are in accordance with ANSI/TPI 1 section 6.3. These truss designs rely on lumber values established by others.

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General Safety Notes

Failure to Follow Could Cause Property Damage or Personal Injury

1. Additional stability bracing for truss system, e.g. diagonal or X-bracing, is always required. See BCSI.
2. Truss bracing must be designed by an engineer. For wide truss spacing, individual lateral braces themselves may require bracing, or alternative Tor 1 bracing should be considered.
3. Never exceed the design loading shown and never stack materials on inadequately braced trusses.
4. Provide copies of this truss design to the building designer, erection supervisor, property owner and all other interested parties.
5. Cut members to bear tightly against each other.
6. Place plates on each face of truss at each joint and embed fully. Knots and wane at joint locations are regulated by ANSI/TPI 1.
7. Design assumes trusses will be suitably protected from the environment in accord with ANSI/TPI 1.
8. Unless otherwise noted, moisture content of lumber shall not exceed 19% at time of fabrication.
9. Unless expressly noted, this design is not applicable for use with fire retardant, preservative treated, or green lumber.
10. Camber is a non-structural consideration and is the responsibility of truss fabricator. General practice is to camber for dead load deflection.
11. Plate type, size, orientation and location dimensions indicated are minimum plating requirements.
12. Lumber used shall be of the species and size, and in all respects, equal to or better than that specified.
13. Top chords must be sheathed or purlins provided at spacing indicated on design.
14. Bottom chords require lateral bracing at 10 ft. spacing, or less, if no ceiling is installed, unless otherwise noted.
15. Connections not shown are the responsibility of others.
16. Do not cut or alter truss member or plate without prior approval of an engineer.
17. Install and load vertically unless indicated otherwise.
18. Use of green or treated lumber may pose unacceptable environmental, health or performance risks. Consult with project engineer before use.
19. Review all portions of this design (front, back, words and pictures) before use. Reviewing pictures alone is not sufficient.
20. Design assumes manufacture in accordance with ANSI/TPI 1 Quality Criteria.



ELEVATION CERTIFICATE

Important: Follow the instructions on pages 1-9.

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

SECTION A – PROPERTY INFORMATION				FOR INSURANCE COMPANY USE	
A1. Building Owner's Name Michael G. Kelly				Policy Number:	
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 129 Mason Drive				Company NAIC Number:	
City Harpers Ferry		State West Virginia		ZIP Code 25425	
A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.) Lots 11, 10' R/W & P/O Lots 10 and 12 - Deed Book 1130, Page 561 - Tax Map 3C, Parcels 11.1 & 12 - Harpers Ferry District					
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) <u>Non-Residential</u>					
A5. Latitude/Longitude: Lat. <u>39-21-33.05</u> Long. <u>77-44-38.27</u> Horizontal Datum: <input type="checkbox"/> NAD 1927 <input checked="" type="checkbox"/> NAD 1983					
A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.					
A7. Building Diagram Number <u>1B</u>					
A8. For a building with a crawlspace or enclosure(s):					
a) Square footage of crawlspace or enclosure(s) _____ sq ft					
b) Number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above adjacent grade _____					
c) Total net area of flood openings in A8.b _____ sq in					
d) Engineered flood openings? <input type="checkbox"/> Yes <input type="checkbox"/> No					
A9. For a building with an attached garage:					
a) Square footage of attached garage _____ sq ft					
b) Number of permanent flood openings in the attached garage within 1.0 foot above adjacent grade _____					
c) Total net area of flood openings in A9.b _____ sq in					
d) Engineered flood openings? <input type="checkbox"/> Yes <input type="checkbox"/> No					
SECTION B – FLOOD INSURANCE RATE MAP (FIRM) INFORMATION					
B1. NFIP Community Name & Community Number Jefferson County -- 540065			B2. County Name Jefferson		B3. State West Virginia
B4. Map/Panel Number 54037C 0175	B5. Suffix E	B6. FIRM Index Date 12/18/2009	B7. FIRM Panel Effective/ Revised Date	B8. Flood Zone(s) A	B9. Base Flood Elevation(s) (Zone AO, use Base Flood Depth) 304.0
B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9: <input type="checkbox"/> FIS Profile <input type="checkbox"/> FIRM <input checked="" type="checkbox"/> Community Determined <input type="checkbox"/> Other/Source _____					
B11. Indicate elevation datum used for BFE in Item B9: <input type="checkbox"/> NGVD 1929 <input checked="" type="checkbox"/> NAVD 1988 <input type="checkbox"/> Other/Source _____					
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? <input type="checkbox"/> Yes <input type="checkbox"/> No Designation Date: _____ <input type="checkbox"/> CBRS <input type="checkbox"/> OPA					

ELEVATION CERTIFICATE

OMB No. 1660-0008
Expiration Date: November 30, 2018

IMPORTANT: In these spaces, copy the corresponding information from Section A.			FOR INSURANCE COMPANY USE
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 129 Mason Drive			Policy Number:
City Harpers Ferry	State West Virginia	ZIP Code 25425	Company NAIC Number

SECTION C – BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: Construction Drawings* Building Under Construction* Finished Construction

*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1–A30, AE, AH, A (with BFE), VE, V1–V30, V (with BFE), AR, AR/A, AR/AE, AR/A1–A30, AR/AH, AR/AO. Complete Items C2.a–h below according to the building diagram specified in Item A7. In Puerto Rico only, enter meters.

Benchmark Utilized: Off-Site GPS BM Vertical Datum: NAVD 88

Indicate elevation datum used for the elevations in items a) through h) below.

NGVD 1929 NAVD 1988 Other/Source: _____

Datum used for building elevations must be the same as that used for the BFE.

Check the measurement used.

- | | | |
|---|--------------|--|
| a) Top of bottom floor (including basement, crawlspace, or enclosure floor) | <u>300.2</u> | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| b) Top of the next higher floor | _____ | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| c) Bottom of the lowest horizontal structural member (V Zones only) | _____ | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| d) Attached garage (top of slab) | _____ | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| e) Lowest elevation of machinery or equipment servicing the building
(Describe type of equipment and location in Comments) | _____ | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| f) Lowest adjacent (finished) grade next to building (LAG) | <u>300.1</u> | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| g) Highest adjacent (finished) grade next to building (HAG) | <u>304.2</u> | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |
| h) Lowest adjacent grade at lowest elevation of deck or stairs, including structural support | _____ | <input checked="" type="checkbox"/> feet <input type="checkbox"/> meters |

SECTION D – SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Were latitude and longitude in Section A provided by a licensed land surveyor? Yes No Check here if attachments.

Certifier's Name Michael S. Roberts	License Number WV 799		
Title Professional Surveyor			
Company Name Roberts Land Surveying			
Address 2068 Palmer Road			
City Hedgesville	State West Virginia		ZIP Code 25427
Signature Michael S. Roberts <small>Digitally signed by Michael S. Roberts Date: 2018.11.09 13:25:37 -0500</small>	Date 11/09/2018		Telephone (304) 671-5406

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments (including type of equipment and location, per C2(e), if applicable)

1. Plot Plan Attached
2. OPUS GPS Bench Mark Solution
3. FIRM Site Map

ELEVATION CERTIFICATE

OMB No. 1660-0008
Expiration Date: November 30, 2018

IMPORTANT: In these spaces, copy the corresponding information from Section A.			FOR INSURANCE COMPANY USE	
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P. O. Route and Box No. 129 Mason Drive			Policy Number:	
City Harpers Ferry	State West Virginia	ZIP Code 25425	Company NAIC Number	

SECTION E – BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)

For Zones AO and A (without BFE), complete Items E1–E5. If the Certificate is intended to support a LOMA or LOMR-F request, complete Sections A, B, and C. For Items E1–E4, use natural grade, if available. Check the measurement used. In Puerto Rico only, enter meters.

- E1. Provide elevation information for the following and check the appropriate boxes to show whether the elevation is above or below the highest adjacent grade (HAG) and the lowest adjacent grade (LAG).
- a) Top of bottom floor (including basement, crawlspace, or enclosure) is _____ . _____ feet meters above or below the HAG.
- b) Top of bottom floor (including basement, crawlspace, or enclosure) is _____ . _____ feet meters above or below the LAG.
- E2. For Building Diagrams 6–9 with permanent flood openings provided in Section A Items 8 and/or 9 (see pages 1–2 of Instructions), the next higher floor (elevation C2.b in the diagrams) of the building is _____ . _____ feet meters above or below the HAG.
- E3. Attached garage (top of slab) is _____ . _____ feet meters above or below the HAG.
- E4. Top of platform of machinery and/or equipment servicing the building is _____ . _____ feet meters above or below the HAG.
- E5. Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance? Yes No Unknown. The local official must certify this information in Section G.

SECTION F – PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. The statements in Sections A, B, and E are correct to the best of my knowledge.

Property Owner or Owner's Authorized Representative's Name
Michael S. Roberts

Address 2068 Palmer Road	City Hedgesville	State West Virginia	ZIP Code 25427
-----------------------------	---------------------	------------------------	-------------------

Signature Michael S. Roberts <small>Digitally signed by Michael S. Roberts Date 2018.11.09 13:25:12 -05'00'</small>	Date 11/09/2018	Telephone (304) 671-5406
---	--------------------	-----------------------------

Comments

Check here if attachments.

ELEVATION CERTIFICATE

OMB No. 1660-0008
Expiration Date: November 30, 2018

IMPORTANT: In these spaces, copy the corresponding information from Section A.			FOR INSURANCE COMPANY USE
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 129 Mason Drive			Policy Number:
City Harpers Ferry	State West Virginia	ZIP Code 25425	Company NAIC Number

SECTION G – COMMUNITY INFORMATION (OPTIONAL)

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below. Check the measurement used in Items G8–G10. In Puerto Rico only, enter meters.

- G1. The information in Section C was taken from other documentation that has been signed and sealed by a licensed surveyor, engineer, or architect who is authorized by law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)
- G2. A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.
- G3. The following information (Items G4–G10) is provided for community floodplain management purposes.

G4. Permit Number	G5. Date Permit Issued	G6. Date Certificate of Compliance/Occupancy Issued
-------------------	------------------------	---

- G7. This permit has been issued for: New Construction Substantial Improvement
- G8. Elevation of as-built lowest floor (including basement) of the building: _____ feet meters Datum _____
- G9. BFE or (in Zone AO) depth of flooding at the building site: _____ feet meters Datum _____
- G10. Community's design flood elevation: _____ feet meters Datum _____

Local Official's Name _____ Title _____

Community Name _____ Telephone _____

Signature _____ Date _____

Comments (including type of equipment and location, per C2(e), if applicable)

Check here if attachments.

BUILDING PHOTOGRAPHS

ELEVATION CERTIFICATE

See Instructions for Item A6.

OMB No. 1660-0008

Expiration Date: November 30, 2018

IMPORTANT: In these spaces, copy the corresponding information from Section A.			FOR INSURANCE COMPANY USE
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 129 Mason Drive			Policy Number:
City Harpers Ferry	State West Virginia	ZIP Code 25425	Company NAIC Number

If using the Elevation Certificate to obtain NFIP flood insurance, affix at least 2 building photographs below according to the instructions for Item A6. Identify all photographs with date taken, "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8. If submitting more photographs than will fit on this page, use the Continuation Page.

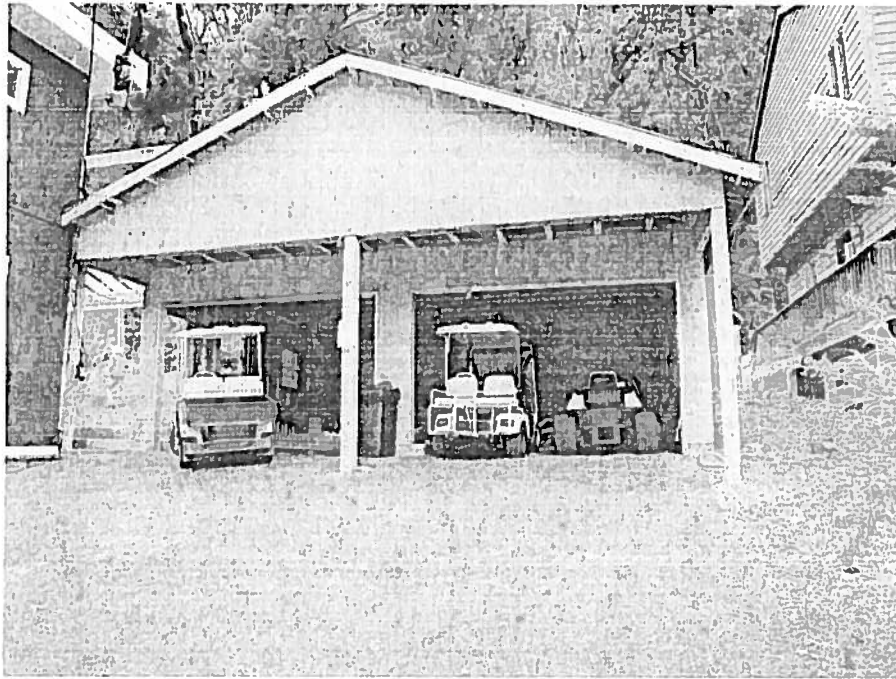


Photo One

Photo One Caption Garage Front



Photo Two

Photo Two Caption Garage Back

OPUS-RS solution : log0922s.tps OP1506296767763

opus

Sun 9/24/2017 7:50 PM

To: roberts_bradley@hotmail.com <roberts_bradley@hotmail.com>;

FILE: log0922s.tps OP1506296767763

NGS OPUS-RS SOLUTION REPORT

=====

All computed coordinate accuracies are listed as 1-sigma RMS values.
For additional information: <https://www.ngs.noaa.gov/OPUS/about.jsp#accuracy>

USER: roberts_bradley@hotmail.com DATE: September 24, 2017
RINEX FILE: log0265s.17o TIME: 23:49:52 UTC

SOFTWARE: rsgps 1.38 RS58.prl 1.99.3 START: 2017/09/22 18:03:10
EPHEMERIS: igr19675.eph [rapid] STOP: 2017/09/22 19:33:30
NAV FILE: brdc2650.17n OBS USED: 5949 / 8685 : 68%
ANT NAME: TPSHIPER_PLUS NONE QUALITY IND. 27.19/ 40.62
ARP HEIGHT: 1.536 NORMALIZED RMS: 0.486

REF FRAME: NAD_83(2011)(EPOCH:2010.0000) IGS08 (EPOCH:2017.72543)

X: 1048279.413(m) 0.008(m) 1048278.541(m) 0.008(m)
Y: -4825630.761(m) 0.023(m) -4825629.321(m) 0.023(m)
Z: 4023262.186(m) 0.020(m) 4023262.126(m) 0.020(m)

LAT: 39 21 33.04948 0.003(m) 39 21 33.08072 0.003(m)
E LON: 282 15 21.72632 0.005(m) 282 15 21.70350 0.005(m)
W LON: 77 44 38.27368 0.005(m) 77 44 38.29650 0.005(m)
EL HGT: 54.706(m) 0.031(m) 53.437(m) 0.031(m)

* ORTHO HGT: 88.271(m) 0.035(m) [NAVD88 (Computed using GEOID12B)]

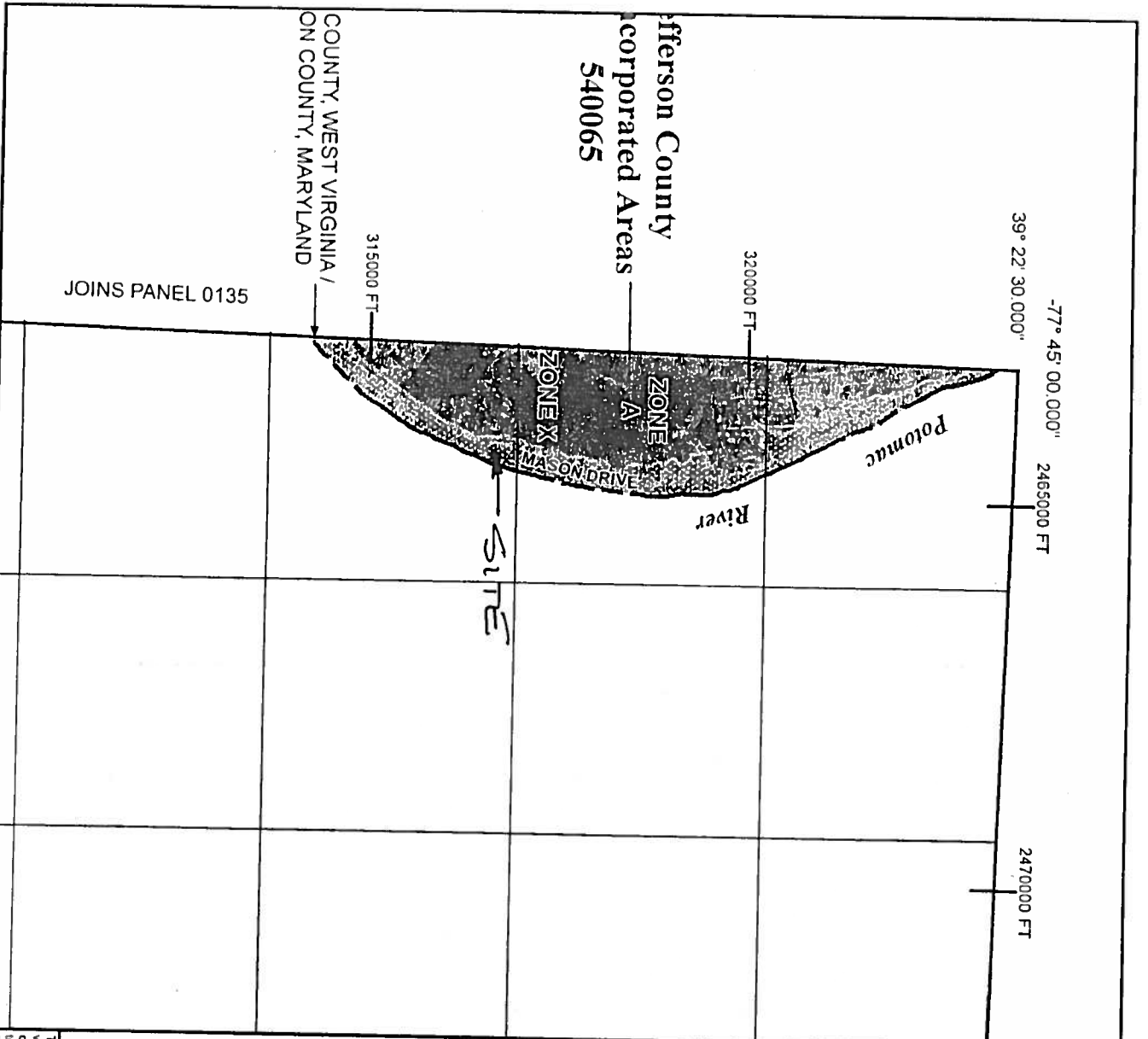
289.60

UTM COORDINATES STATE PLANE COORDINATES

UTM (Zone 18) SPC (1900 MD)

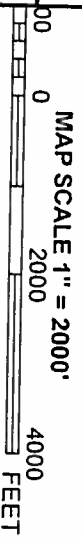
Northing (Y) [meters] 4360228.151 188141.921
Easting (X) [meters] 263583.372 335881.747
Convergence [degrees] -1.74097246 -0.46693777
Point Scale 1.00028823 0.99998537
Combined Factor 1.00027964 0.99997679

US NATIONAL GRID DESIGNATOR: 18STJ6358360228(NAD 83)



-77° 45' 00.000"
39° 22' 30.000"

2465000 FT
2470000 FT



NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0175E

FIRM
FLOOD INSURANCE RATE MAP
JEFFERSON COUNTY,
WEST VIRGINIA
AND INCORPORATED AREAS
PANEL 175 OF 245
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
BOLIVAR TOWN OF	540030	0175	E
HARRIS FERRY TOWN OF	540087	0175	E
JEFFERSON COUNTY	540065	0175	E

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number and the above should be used on insurance applications for the map to community.

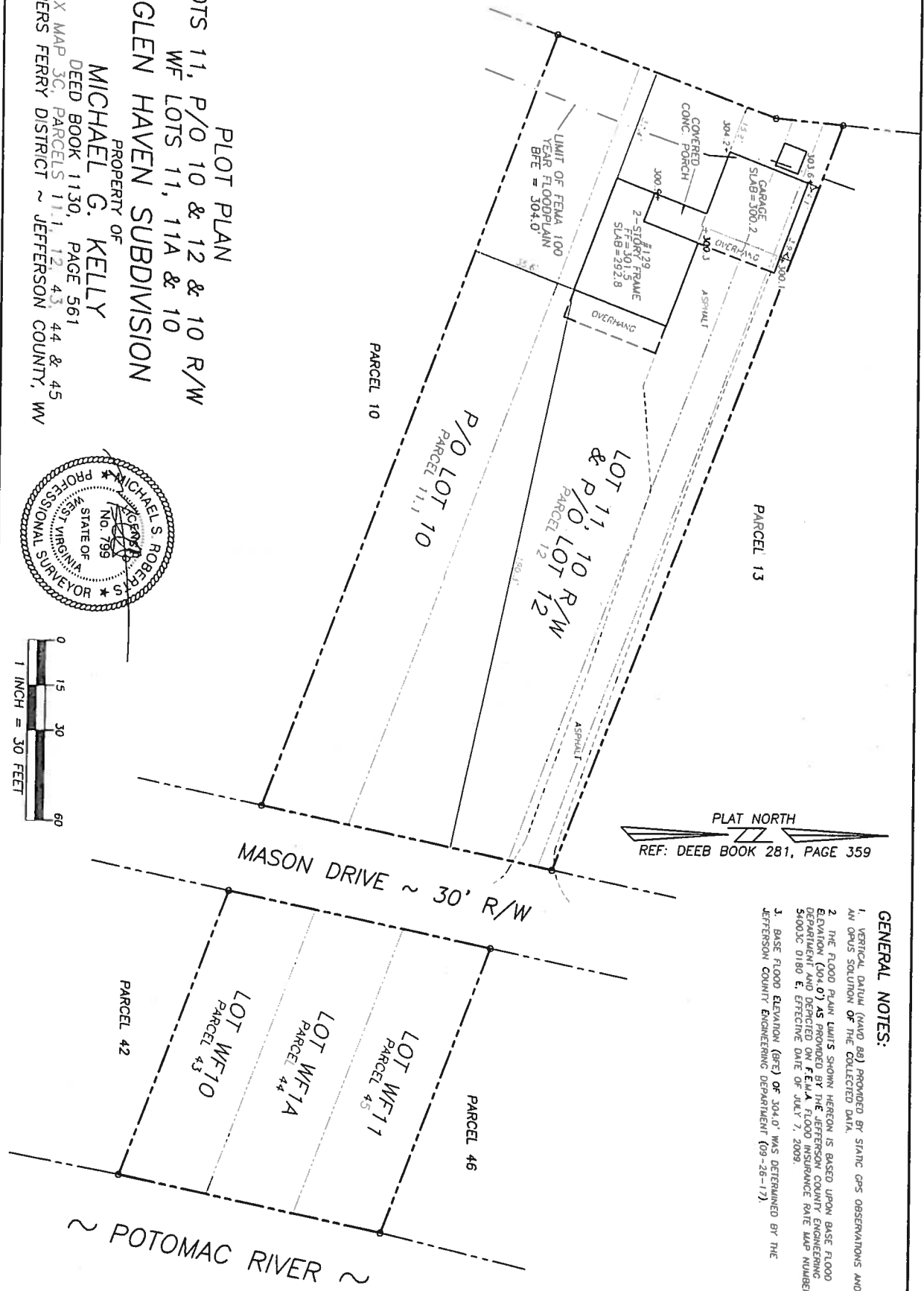
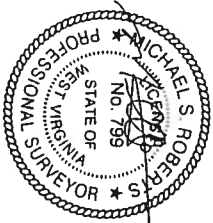
MAP NUMBER
54037C0175E
EFFECTIVE DATE
DECEMBER 18, 2009

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT Op-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

PROPERTY OF
MICHAEL G. KELLY
 DEED BOOK 1130, PAGE 561
 TAX MAP 3C, PARCELS 11.1, 12, 43, 44 & 45
 HARPERS FERRY DISTRICT ~ JEFFERSON COUNTY, WV

PLOT PLAN
 LOTS 11, P/O 10 & 12 & 10 R/W
 W/F LOTS 11, 11A & 10
GLEN HAVEN SUBDIVISION



- GENERAL NOTES:**
1. VERTICAL DATUM (HAND 88) PROVIDED BY STATIC GPS OBSERVATIONS AND AN OPUS SOLUTION OF THE COLLECTED DATA.
 2. THE FLOOD PLAIN LIMITS SHOWN HEREON IS BASED UPON BASE FLOOD ELEVATION (304.0') AS PROVIDED BY THE JEFFERSON COUNTY ENGINEERING DEPARTMENT AND DEPICTED ON F.E.M.A. FLOOD INSURANCE RATE MAP NUMBER 54000C 0180 E, EFFECTIVE DATE OF JULY 7, 2009.
 3. BASE FLOOD ELEVATION (BFE) OF 304.0' WAS DETERMINED BY THE JEFFERSON COUNTY ENGINEERING DEPARTMENT (09-26-17).

DATE: 11-09-18
 REV: 11-26-18
 DRAWN: MSR
 CHECKED: MSR
 SCALE: 1"=30'

ROBERTS LAND SURVEYING
 2068 PALMER ROAD - HEDGESVILLE, WV 25427
 304.671.5406 miker002395@frontier.com

Kimberly J. Petrucci, P.E.
59 Collins Drive
Martinsburg, WV 25403
240.527.7530

February 11, 2019

Jefferson County Department of Engineering, Planning & Zoning
116 East Washington Street, Suite 200
Charles Town, WV 25414

Re: Property of Michael G. Kelly
Harpers Ferry District, Tax Map 3C, Parcels 11.1, 12, 43, 44 & 45, Lots 11, P/O 10 & 12 &
10 R/W WF Lots 11, 11A & 10
Floodplain Permit Application

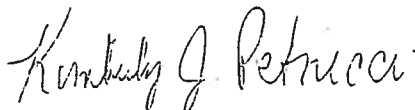
Dear Mason,

An Elevation Certificate prepared by Michael Roberts, a licensed surveyor in the State of West Virginia shows a base flood elevation of 304.0. The constructed bottom floor of the existing garage is 300.2. The 780 sq.ft. garage will require 4 – 200 sq.in.min. flood vents. Two shall be placed on the north side of the garage and two shall be placed on the south side of the garage. The bottom of all openings shall be no higher than one foot above the grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

The flood proofed structure will be constructed with methods and practices that minimize flood damage and be in compliance with the Jefferson County Floodplain Ordinance.

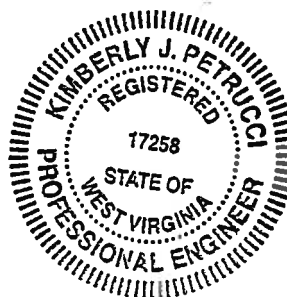
Please review this letter and advise if any additional information or explanations are required. My seal on this letter certifies that generally accepted engineering principles have been utilized in the preparation of this letter and that I am a duly licensed professional engineer under the laws of the State of West Virginia.

Best Regards,



Kimberly J. Petrucci, P.E.

WV License Number: 17258
Expiration Date: 31 December 2019



Kimberly J. Petrucci, P.E.
59 Collins Drive
Martinsburg, WV 25403
240.527.7530

March 1, 2019

Jefferson County Department of Engineering, Planning & Zoning
116 East Washington Street, Suite 200
Charles Town, WV 25414

Re: Property of Michael G. Kelly
Harpers Ferry District, Tax Map 3C, Parcels 11.1, 12, 43, 44 & 45, Lots 11, P/O 10 & 12 &
10 R/W WF Lots 11, 11A & 10
Floodplain Permit Application

Dear Mason,

An Elevation Certificate prepared by Michael Roberts, a licensed surveyor in the State of West Virginia shows a base flood elevation of 304.0. The constructed bottom floor of the existing garage is 300.2. The 730 sq.ft. garage will require 4 – 200 sq.in.min. flood vents. Two shall be placed on the north side of the garage and two shall be placed on the south side of the garage. The bottom of all openings shall be no higher than one foot above the grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. Once the vents are installed, we understand an updated Flood Elevation Certificate will be completed and submitted.

The flood proofed structure will be constructed with methods and practices that minimize flood damage and be in compliance with the Jefferson County Floodplain Ordinance.

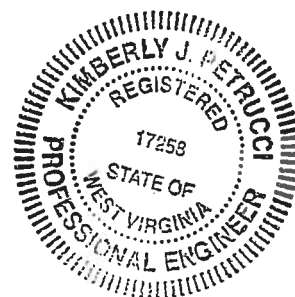
Please review this letter and advise if any additional information or explanations are required. My seal on this letter certifies that generally accepted engineering principles have been utilized in the preparation of this letter and that I am a duly licensed professional engineer under the laws of the State of West Virginia.

Best Regards,



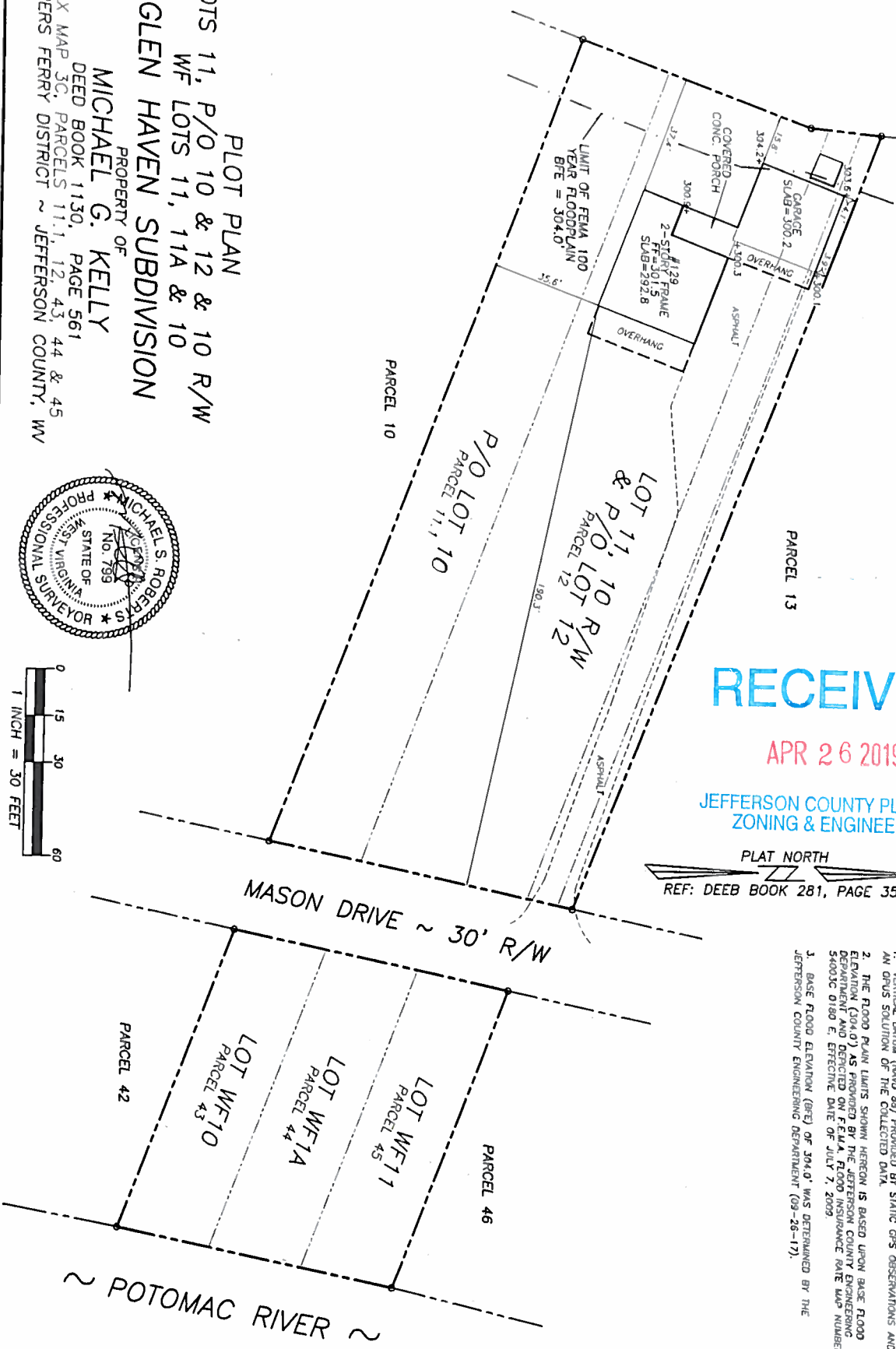
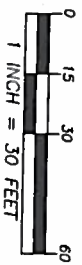
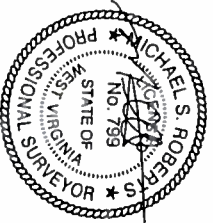
Kimberly J. Petrucci, P.E.

WV License Number: 17258
Expiration Date: 31 December 2019



19-9-2V

PLOT PLAN
LOTS 11, P/O 10 & 12 & 10 R/W
WF LOTS 11, 11A & 10
GLEN HAVEN SUBDIVISION
PROPERTY OF
MICHAEL G. KELLY
DEED BOOK 1130, PAGE 561
TAX MAP 30, PARCELS 11.1, 12, 43, 44 & 45
HARPERS FERRY DISTRICT ~ JEFFERSON COUNTY, WV



RECEIVED

APR 26 2019

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

PLAT NORTH
REF: DEEB BOOK 281, PAGE 359

GENERAL NOTES:

1. VERTICAL DATUM (NAVD 83) PROVIDED BY STATIC GPS OBSERVATIONS AND AN OPUS SOLUTION OF THE COLLECTED DATA.
2. THE FLOOD PLAIN LIMITS SHOWN HEREON IS BASED UPON BASE FLOOD ELEVATION (304.0) AS PROVIDED BY THE JEFFERSON COUNTY ENGINEERING DEPARTMENT AND DERIVED ON FEMA FLOOD INSURANCE RATE MAP NUMBER 59000C 0180 E, EFFECTIVE DATE OF JULY 7, 2009.
3. BASE FLOOD ELEVATION (BFE) OF 304.0' WAS DETERMINED BY THE JEFFERSON COUNTY ENGINEERING DEPARTMENT (09-26-17).

M.G.K.

DATE: 11-09-18
REV.: 11-26-18
DRAWN: MSR
CHECKED: MSR
SCALE: 1"=30'

ROBERTS LAND SURVEYING
2068 PALMER ROAD - HEDGESVILLE, WV 25427
304.671.5406 miker002395@frontier.com

tabbot

EXHIBIT

B

100 S. Queen Street
Suite 200
Martinsburg, WV 25401
304.596.2277
302.596.2111 Fax

Gregory E. Kennedy
gkennedy@fandpnet.com
Admitted in West Virginia

March 26, 2019

Via Hand Delivery Only

Ms. Alexandra Beaulieu, Zoning Administrator
Jefferson County Planning and Zoning Department
116 East Washington Street
Charles Town, West Virginia 25414

RE: Determination Request
Property of Michael G. Kelly et al.
Tax Map 3C – Harpers Ferry District
Parcels 45, 44.43, 13.1, 12, and 11.1
129 Mason Drive, Harpers Ferry, WV 25425
Jefferson County, West Virginia

RECEIVED

APR 26 2019

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

Dear Ms. Beaulieu,

Thank you very much for your time in discussing the above referenced real property with me on March 20, 2019. As a result, I offer the following.

To begin, and as you are aware, my client is the record owner of the above referenced real property, which is improved with a single family dwelling and attached garage, and other site improvements ("Structure"). In fact, my client's family has been the record owner of the property since the late 1960's. A review of the Jefferson County Assessor's Office indicates that the Structure was constructed in 1968, and is part of the Glen Haven river community. The Glen Haven river community, like other communities, was platted and developed prior to the enactment of zoning in Jefferson County, West Virginia.

In the fall of 2018, my client sought to perform work on the Structure which was focused on the replacement of rotted and outdated portions of the attached garage. My client retained the services of M. H. Crites, LLC for the proposed work ("Contractor"). The Contractor began work, and on November 17, 2018 a Notice of Violation was issued by the Jefferson County Engineering Department. Subsequently, I attended several meetings which focused on engineering/permit matters pertaining to foundation, roof truss, framing, and wind bracing issues; flood plain matters pertaining to base flood elevation and flood proofing issues; and zoning matters pertaining to the nonconforming structure and setback issues. As a result, it is my belief that the engineering/ permit matters and the flood plain matters have been resolved; thus, leaving the zoning matters to be addressed.



My client's property is currently classified as Rural (R) District, and is depicted on the Plot Plan attached hereto as Exhibit "A." The Rural District permits a single family dwelling as a permitted use, and a garage as a permitted accessory use, either attached or detached. Moreover, Appendix A to the Jefferson County Zoning and Land Development Ordinance details side yard setbacks for single family dwellings as eight (8) feet, and residential accessory structures as six (6) feet. To that end, my client's Plot Plan details that the Structure currently is set back 3.9 feet and 4.1 feet respectively from the northern lot line. Thus, my client's Structure is a conforming use, but the northern lot line setback makes my client's Structure a legal nonconforming structure of record if you deem the garage to be detached.

To begin, Article 4, Section 4.3 of the Jefferson County Zoning and Land Development Ordinance establishes certain provisions regarding nonconforming uses. As we have discussed, I believe that the aforementioned provisions of Section 4.3 allow my client's building permit to be issued without further delay; however, you believe that a variance is necessary because you state that the attached garage was destroyed (Section 4.3 H), and that the accessory use attached garage is not part of the single family dwelling because the attached garage does not have any part of a wall in common with the dwelling (Section 2.2 Terms Defined): thus, making the same a detached garage.

Section 4.3 establishes that any building, structure or premises lawfully existing at the time of the adoption of this Ordinance, or lawfully existing at the time that this Ordinance is subsequently amended, may continue to be used subject to the following provisions. Specifically, Section 4.3 A provides that nonconforming structures may be upgraded or repaired, or alterations made to the facilities, and Section 4.3 B provides that repair includes the following: replacement of the same size (+/- 35%) porches, awnings, decks roofs, overhangs, patios, or any other similar construction as approved by the Zoning Administrator. As detailed hereinabove, my client sought the services of the Contractor due to the extent of rot and decay that existed in the attached garage as of the summer of 2018. The rot and decay were so extensive that my client was concerned with the overall structural integrity of the attached garage, as well as the safety of his family and invitees. The scope of work intended to be performed on the attached garage clearly constituted work that was both a repair and upgrade of existing materials, and a replacement of the same size as clearly permitted by Section 4.3 A and B. Thus, I believe that you can approve the same under the authority granted in Section 4.3 A and B of the Jefferson County Zoning and Land Development Ordinance.

However, you have indicated that you believe that the attached garage portion of the Structure was destroyed, and that Section 4.3 H prohibits the reconstruction of the same without approval of the Board of Zoning Appeals. Specifically, Section 4.3 H provides that "[a] nonconforming structure or use *destroyed by a natural or unnatural calamity* cannot be rebuilt without the approval of the Board of Zoning Appeals upon application by the owner and pursuant to the variance and appeal procedures outlined in Article 6. *This provision will not apply to existing residential dwelling units.*" (emphasis added). In the absence of defined terms, we must look to the common meanings of the words at issue. To begin, destroy means to ruin the structure, organic existence or condition of a thing; to demolish; to injure or mutilate beyond the possibility of use; to nullify. See Black's Legal Dictionary Sixth Edition. Additionally, calamity means any

great misfortune or cause of loss or misery, often caused by natural forces (e.g. hurricane, flood or the like). *Id.* Therefore, the plain language of Section 4.3 H would apply only to nonconforming structures that are demolished or nullified due to an act of god, such as a hurricane, flood or the like. I believe that this plain reading of Section 4.3 H is consistent with Section 4.3 A and B, when read *pari-material*, because the latter provides for repair, upgrade, and alterations of the same size or no larger than a 35% increase in size or similar construction as approved by the Zoning Administrator. Thus, I would request that you determine that the improvements made by client to the Structure are repairs and upgrades to an existing residential dwelling unit, and as such Section 4.3 H does not apply.

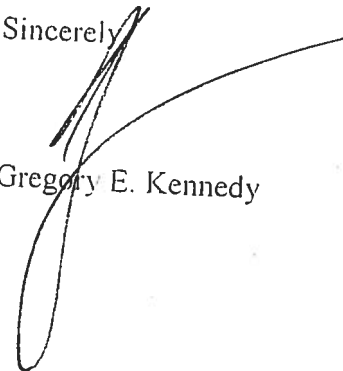
Now, we must turn to your determination of the term wall as it relates to the Structure. As you are aware, Section 2.2 defines an Accessory Use, and more importantly states that accessory structure includes garages, and that “[a]n accessory structure having any part of a wall in common with a dwelling is considered part of the main building and must meet those setbacks.” The term wall is not defined by the Jefferson County Zoning and Land Development Ordinance. Again, in the absence of defined terms, we must look to the common meanings of the word at issue. Wall means an erection of stone, brick, or other material, raised to some height, and intended for purposes of privacy, security or inclosure. *See Black’s Legal Dictionary Sixth Edition.* Jefferson County has adopted the West Virginia State Building Code (2003 Edition, International Building Code), which has many types of walls defined therein (“Building Code”). Specifically, Section 1602.1 of the Building Code defines a load bearing wall as any metal or wood stud wall that supports more than 100 pounds per linear foot of vertical load in addition to its own weight, and Section 1402.1 defines an exterior wall as a wall, bearing or nonbearing, that is used as an enclosing wall for a building, other than a fire wall, and that has a slope of 60 degrees or greater with the horizontal plane, and an exterior wall envelope as a system or assembly of exterior wall components, including exterior wall finish materials, that provides protection of the building structural members, including framing and sheathing materials and conditioned interior space, from the detrimental effects of the exterior environment. *See West Virginia 87CSR4.* I believe that a quick review of the photographs attached as Exhibit “B” clearly establish that the historical construction of the Structure, as well as the repairs and upgrades completed by the Contractor establish that a common exterior wall that connects the single family dwelling and the attached garage.

I believe that the historical photographs and the current photographs establish a common exterior wall by and between the single family dwelling and the attached garage. This common exterior wall is part of an exterior wall envelope that includes exterior wall finish materials, and that provides protection of the building structural members, including framing and sheathing materials from the detrimental effects of the exterior environment. This exterior wall not only provides integral support for the attached garage, but it also provides support for the shed roof that provides protection from the detrimental effects of the exterior environment for a covered walkway and covered living area. Additionally, the photographs show that the structural wall member that extends between the single family dwelling and the attached garage is a laminated support beam that provides support in excess of 100 pounds per lineal foot of vertical load in addition to its own weight and has a slope in excess of 60 degrees. Finally, the mere fact that the wall in question is open is not repugnant to the above referenced definitions, as the Building Code allows unlimited

fenestration in a wall as long as support is provided, and the Building Code also permits cantilevered walls between structures that also provide for open spaces, as long as the same is protected from the detrimental effects of the exterior environment.

In summary, it is my position that the Structure is in fact a residential dwelling unit with an attached garage, as the subject wall of the attached garage is in common with the dwelling as contemplated in the Section 2.2 defined term of Accessory Use. In turn, the Structure, as a residential dwelling unit, is exempt from any analysis of Section 4.3 H, and as such, all repairs, upgrades, and alterations can be approved as long as the northern side yard setback is not further expanded. Finally, I would request that you issue a determination consistent with my position so that my client can obtain a building permit in short order. Should you have any questions in regard to my request, or need further clarification, please do not hesitate to contact me at your earliest convenience.

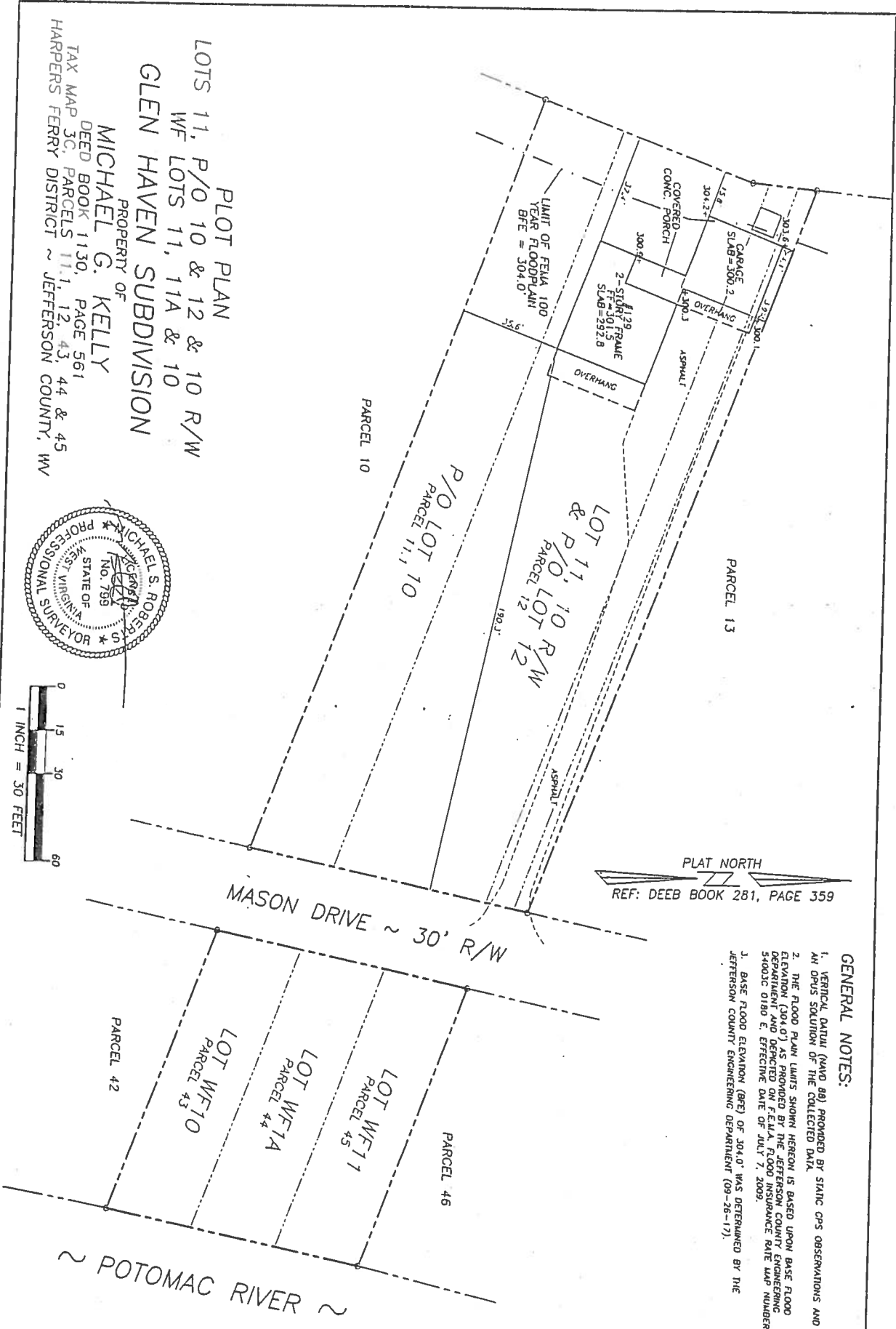
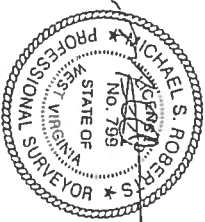
Sincerely,



Gregory E. Kennedy

GEK/kdj
Enclosures

PLOT PLAN
 LOTS 11, P/O 10 & 12 & 10 R/W
 W/F LOTS 11, 11A & 10
 GLEN HAVEN SUBDIVISION
 PROPERTY OF
MICHAEL G. KELLY
 DEED BOOK 1130, PAGE 561
 TAX MAP 3C, PARCELS 11.1, 12.43, 44 & 45
 HARPERS FERRY DISTRICT ~ JEFFERSON COUNTY, WV



PLAT NORTH
 REF: DEEB BOOK 281, PAGE 359

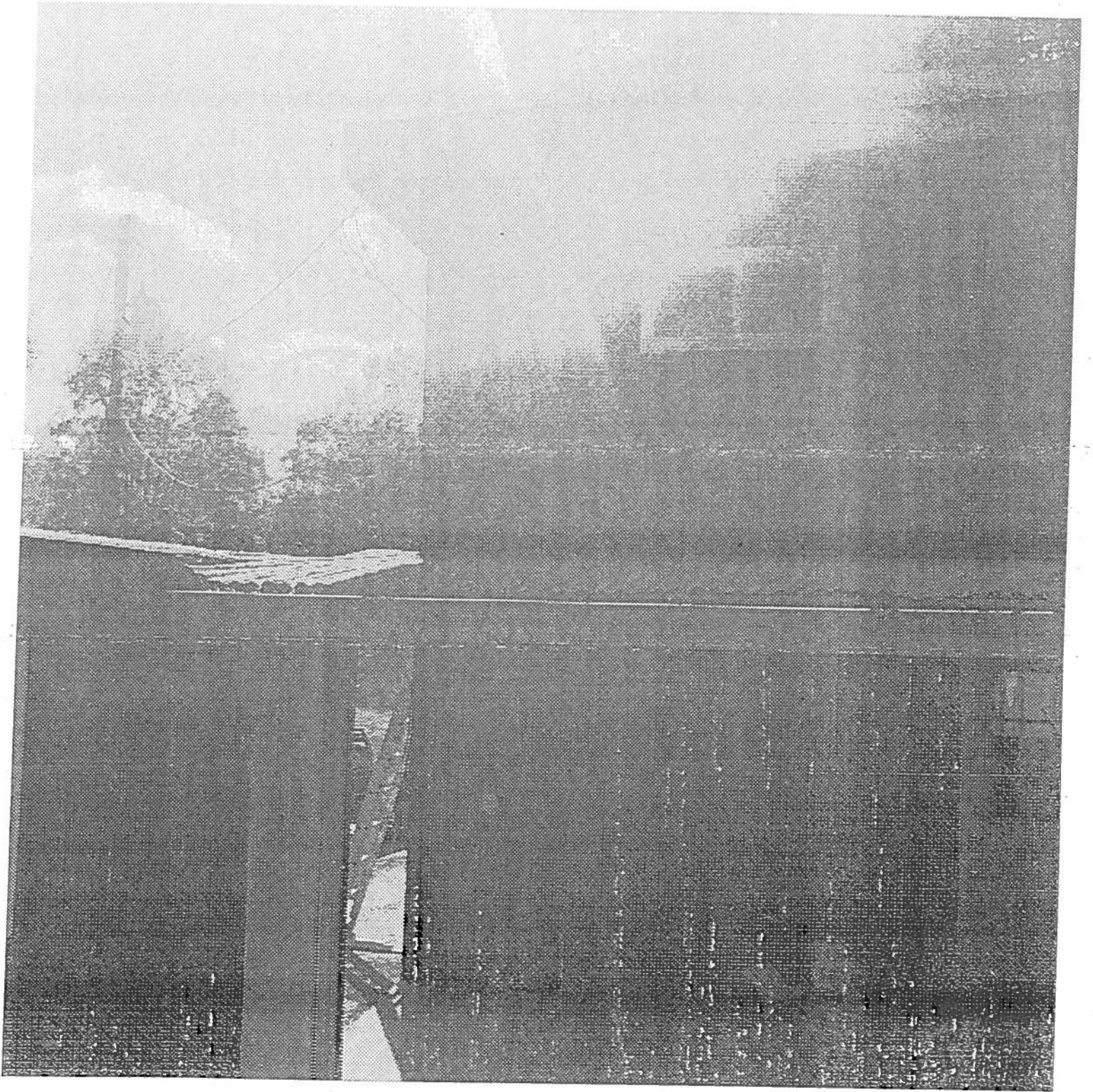
- GENERAL NOTES:**
1. VERTICAL DATUM (NAVD 89) PROVIDED BY STATIC GPS OBSERVATIONS AND AN ORIPUS SOLUTION OF THE COLLECTED DATA.
 2. THE FLOOD PLAIN LIMITS SHOWN HEREON IS BASED UPON BASE FLOOD ELEVATION (304.0') AS PROVIDED BY THE JEFFERSON COUNTY ENGINEERING DEPARTMENT AND DERIVED FROM THE FLOOD INSURANCE RATE MAP NUMBER 54003C 0180 E, EFFECTIVE DATE OF JULY 7, 2009.
 3. BASE FLOOD ELEVATION (BFE) OF 304.0' WAS DETERMINED BY THE JEFFERSON COUNTY ENGINEERING DEPARTMENT (09-28-17).

DATE: 11-09-18
 REV.: 11-26-18
 DRAWN: MSR
 CHECKED: MSR
 SCALE: 1"=30'

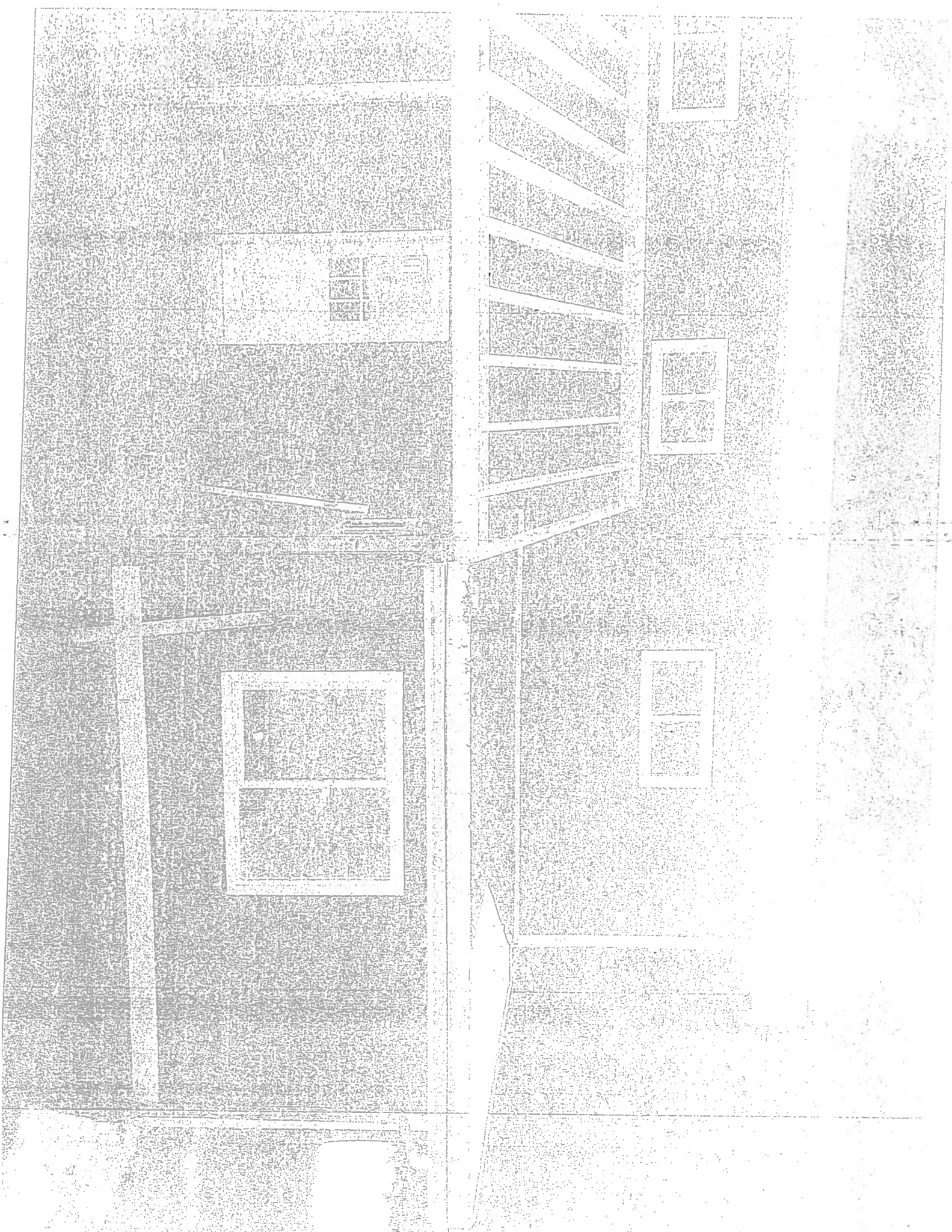
ROBERTS LAND SURVEYING
 2068 PALMER ROAD - HEDGESVILLE, WV 25427
 304.671.5406 miker002395@frontier.com

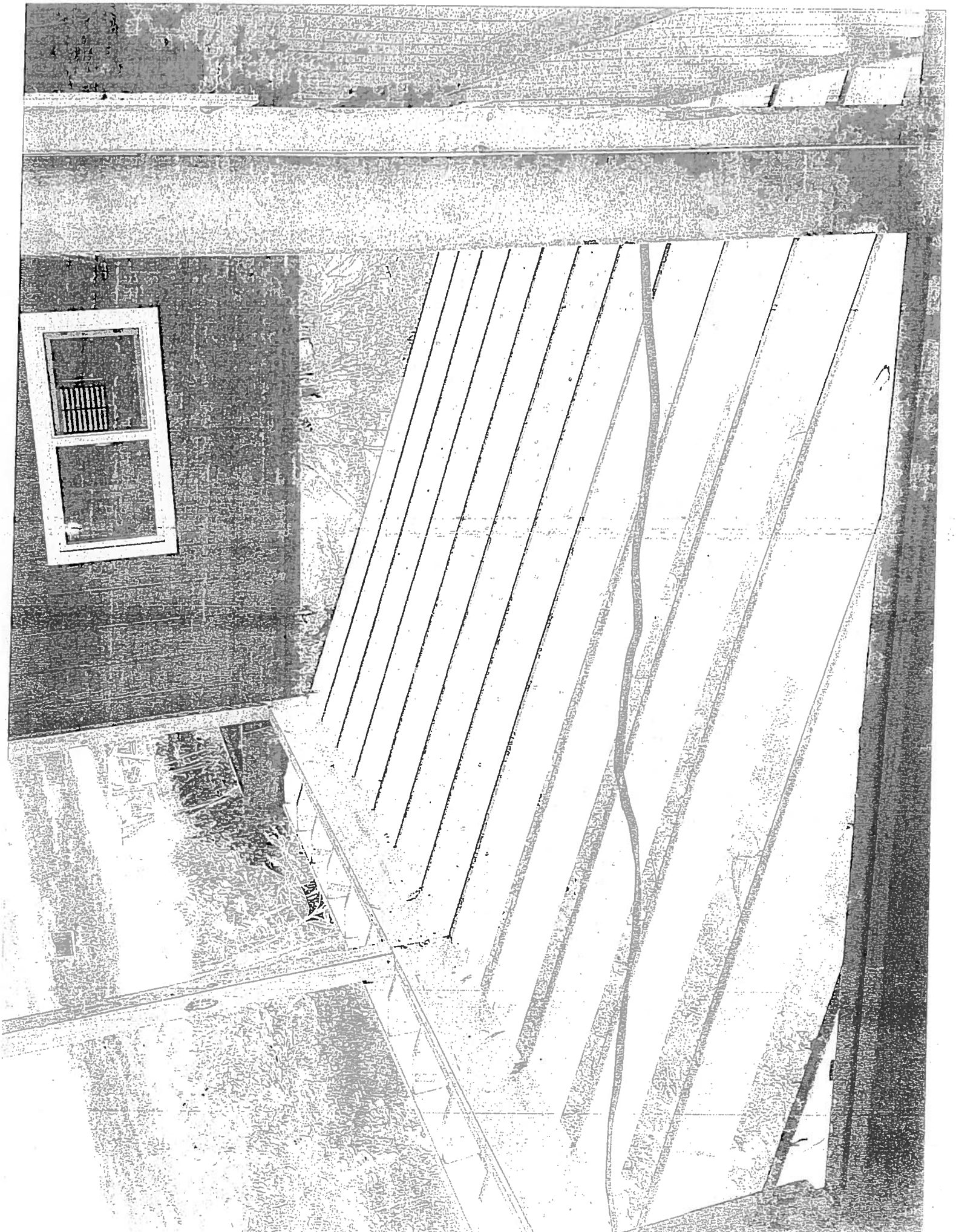




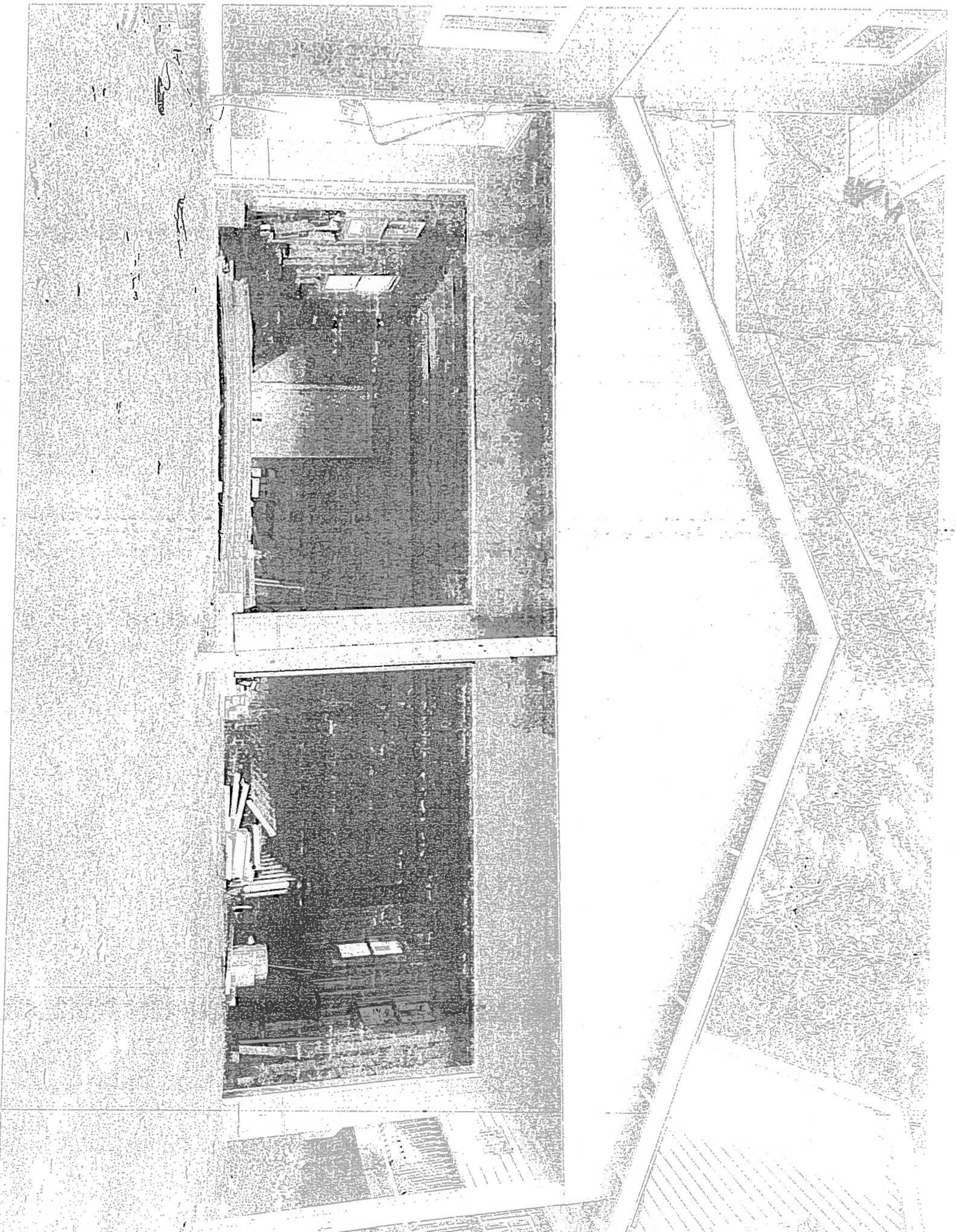


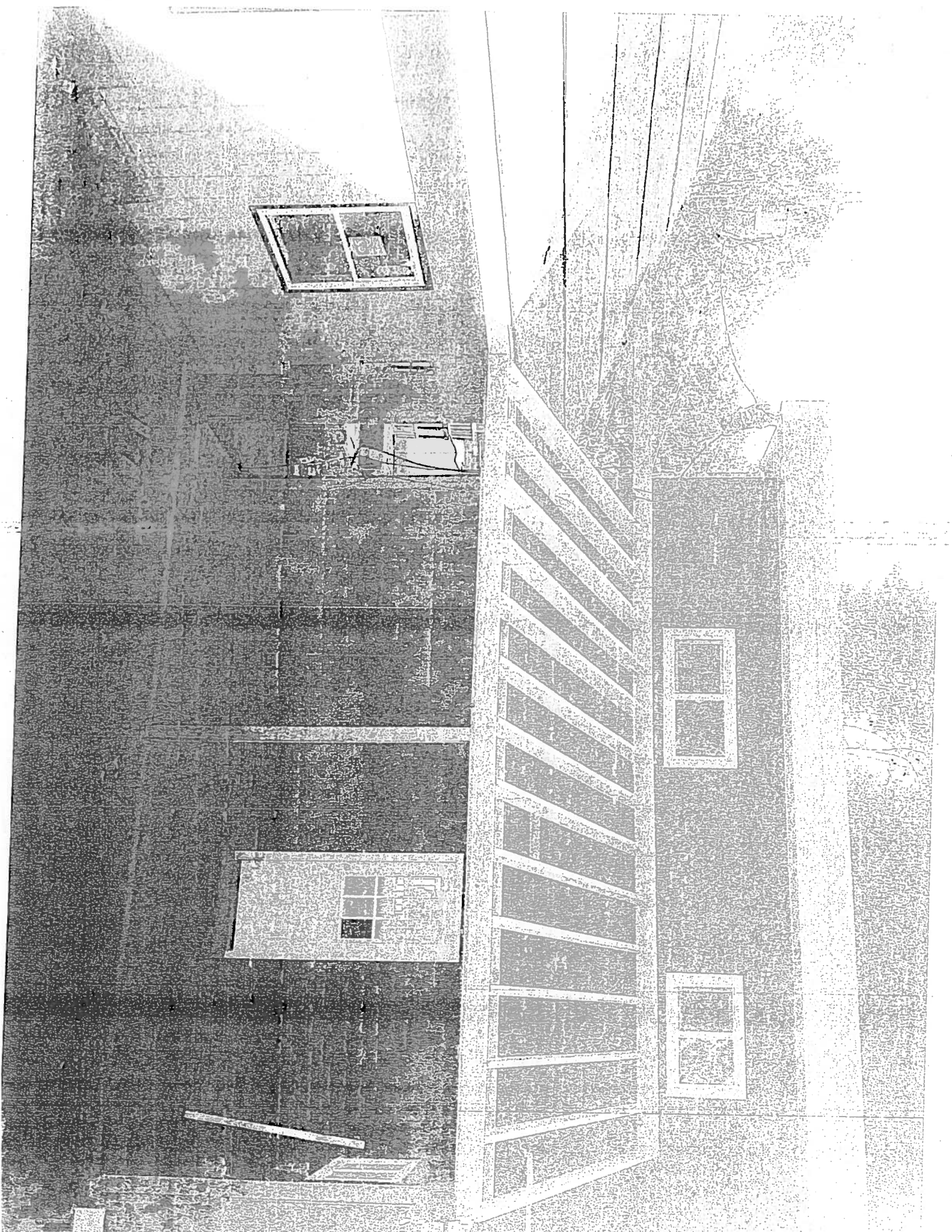


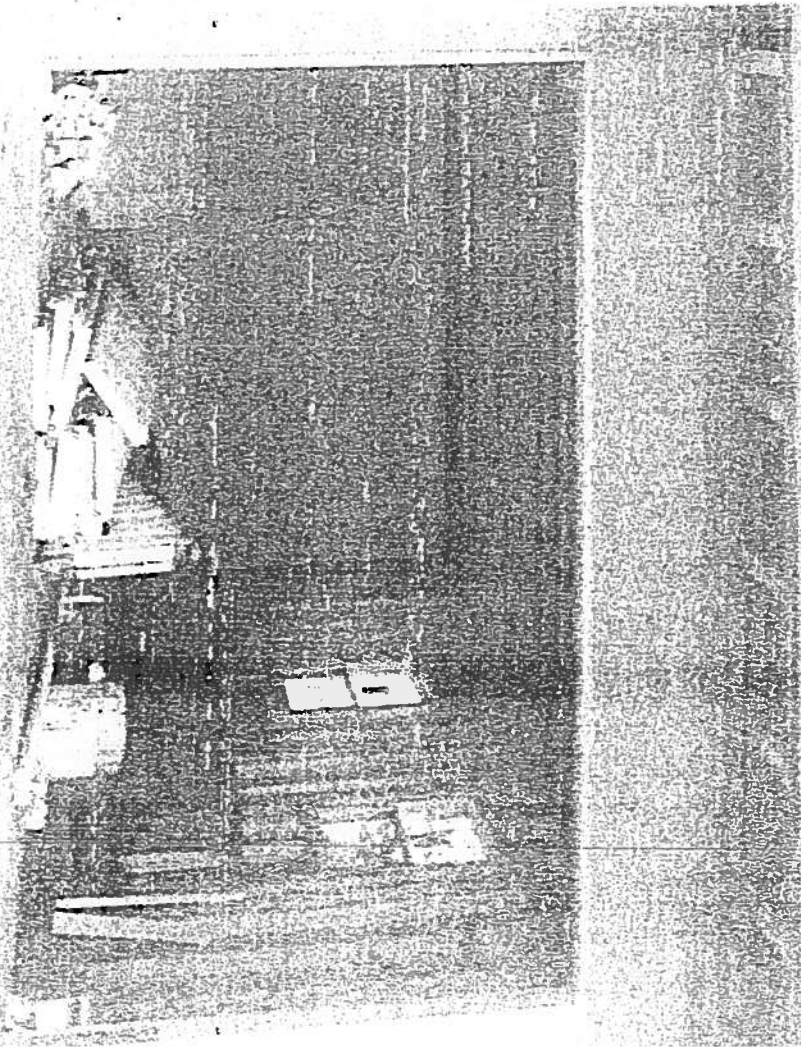
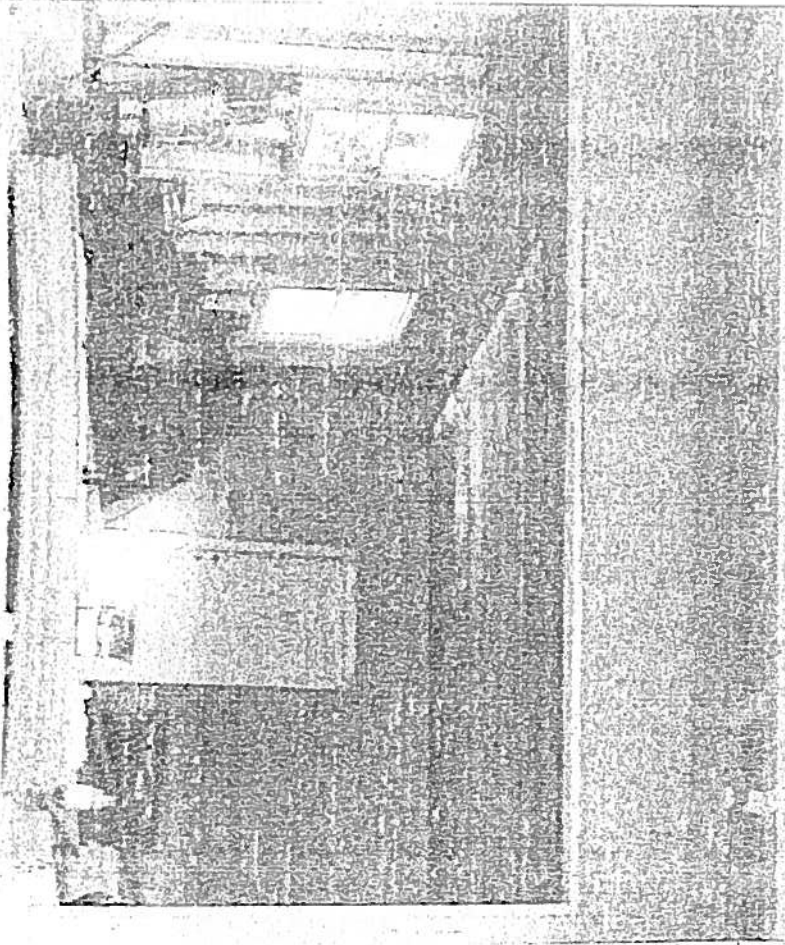


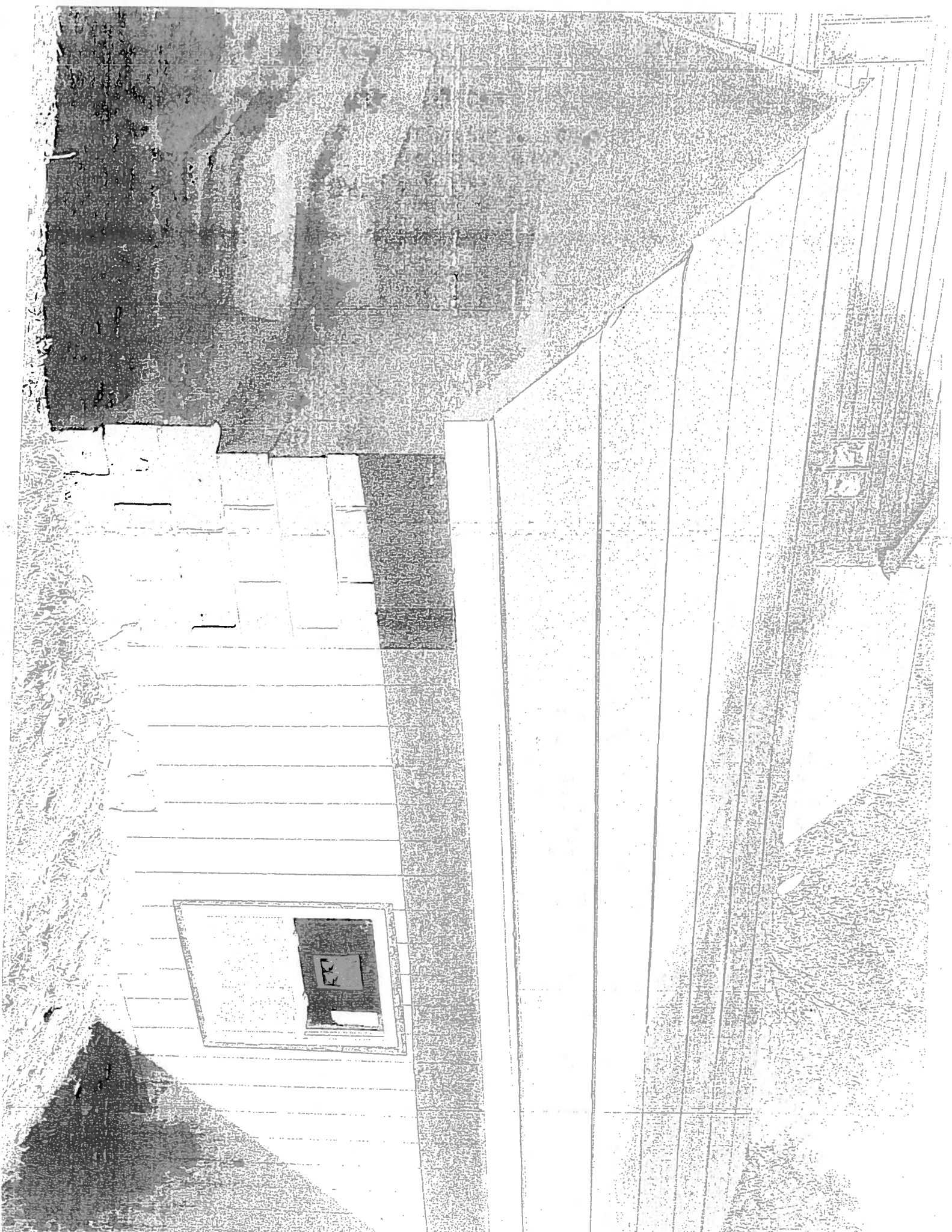


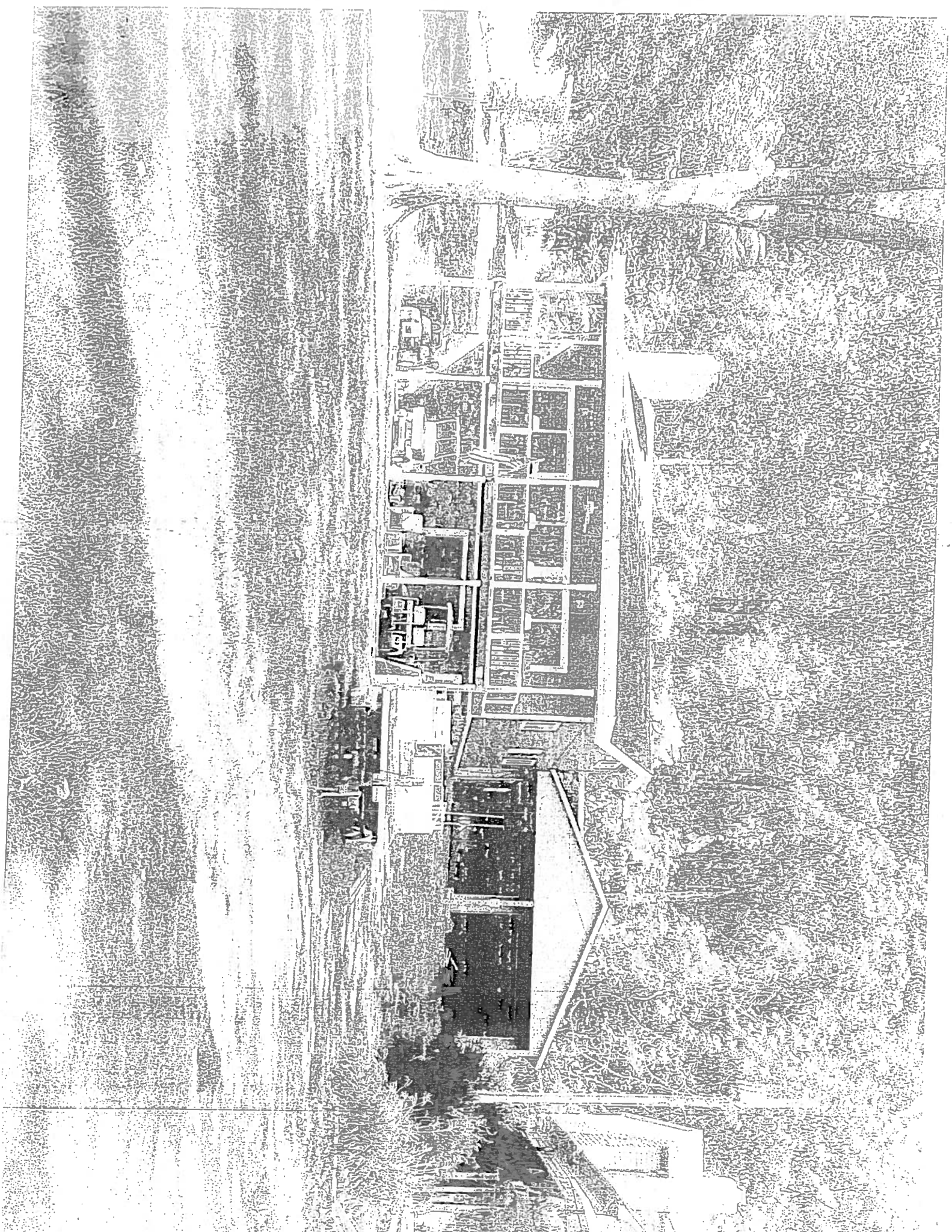


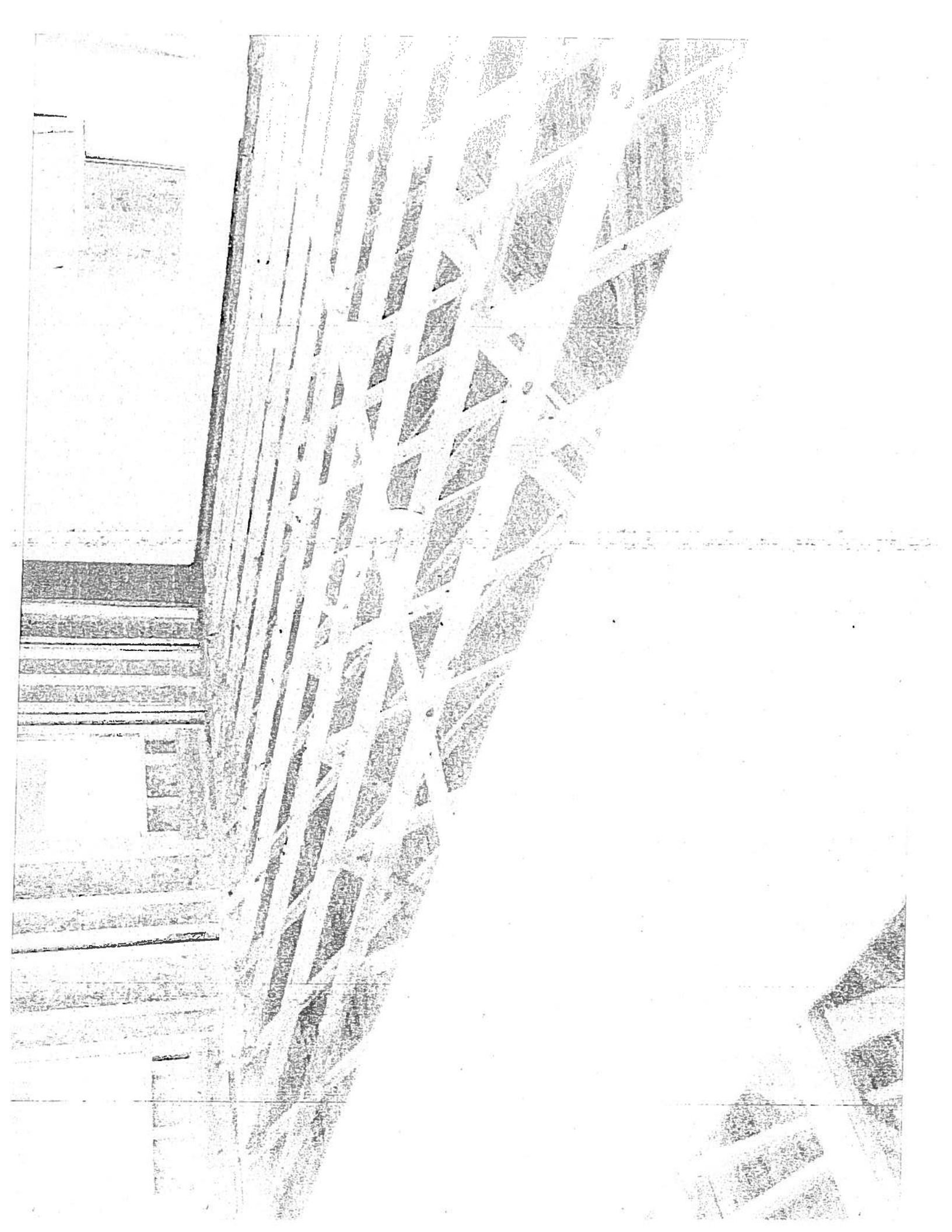


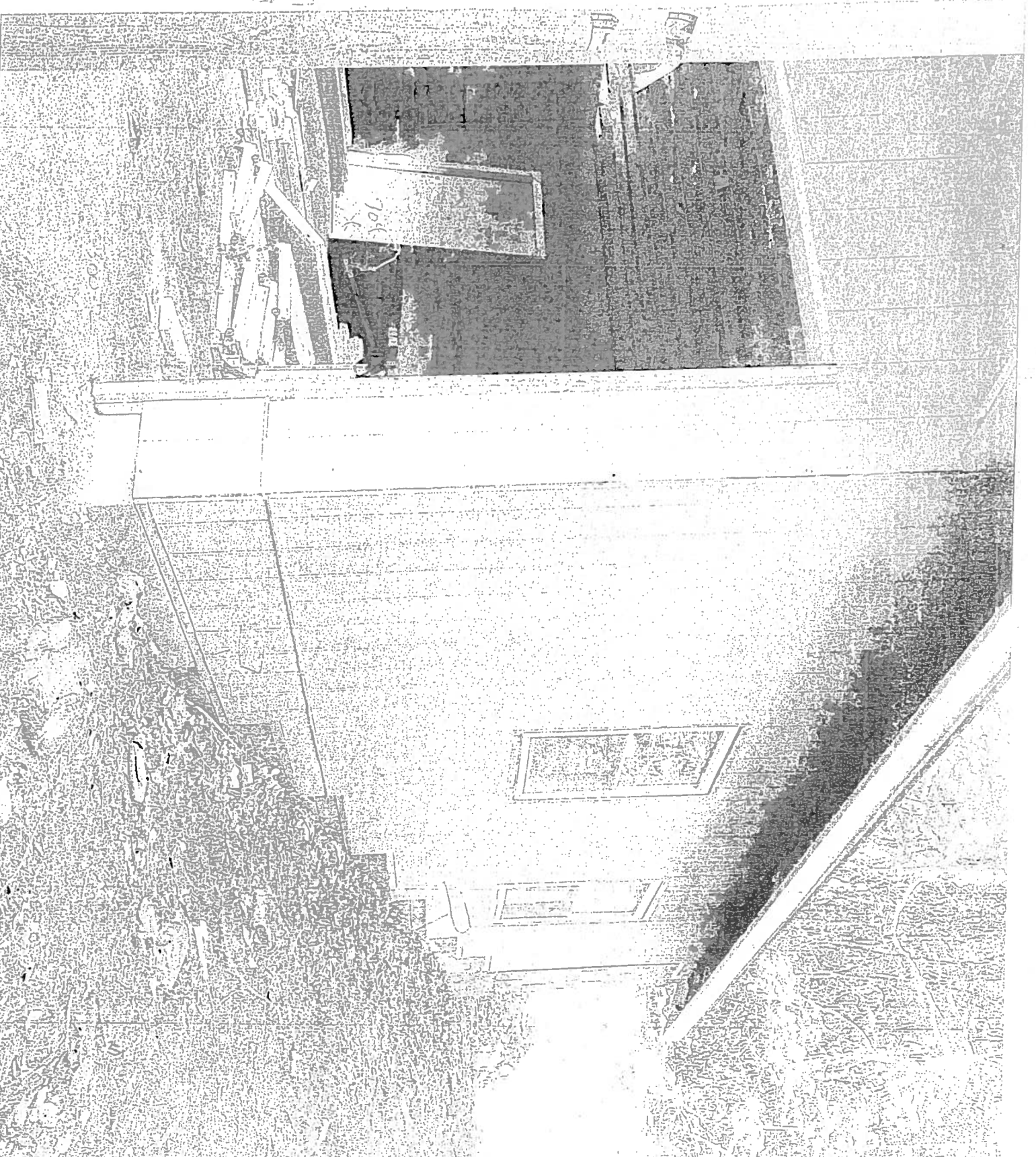
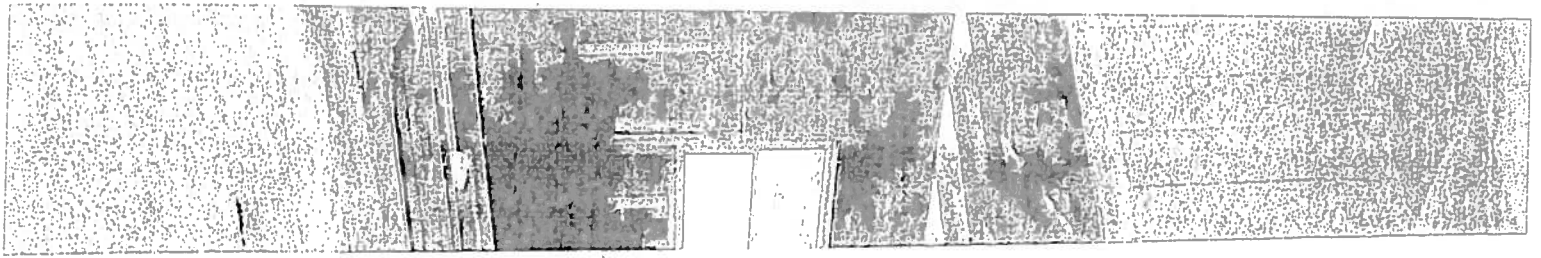














Gregory E. Kennedy

19-9-ZV

From: Zoning <Zoning@jeffersoncountywv.org>
Sent: Monday, April 15, 2019 11:30 AM
To: Gregory E. Kennedy
Cc: Permits Engineering Dept
Subject: 129 Mason Drive

RECEIVED

APR 26 2019

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

Mr. Kennedy,

Thank you for your request for a determination regarding your client's property located at 129 Mason Drive (Parcel ID 04003C0012).

After reviewing the documentation you submitted to my office, I have determined that your client will need to go before the Board of Zoning Appeals to request a variance to reestablish the nonconforming structure under 4.3H or to reduce the setbacks listed in Section 9.7 for an accessory structure.

I am unable to consider your first proposal to allow the new structure to be considered an upgrade or improvement under Sections 4.3A and B because the improvements made were not to a porch, awning, deck, roof, overhang, or patio. While this section allows "similar construction" to be considered, I do not interpret this section to apply to a garage or storage shed, etc..

While the new garage that is currently in violation may have been built to share some structural elements with the residential dwelling unit, the documentation submitted did not verify that the **original** structure had any shared elements with the residential dwelling unit. The photo labeled "Exhibit B" from your proposal reflects that the original structure was not enclosed, it was a pole-structure, and may have been smaller than what is currently there (although, difficult to surmise the dimensions of the structure in Exhibit due to size of photograph). I often rely on aerial imagery to assist in determining what existed at the adoption of zoning (1988); however, the aerial imagery available to me on Google Maps for this property is obstructed by the foliage. The current configuration of the garage is a moot point as Sec. 4.3 applies to structures which existed prior to the adoption of Zoning.

I believe our Office has historically interpreted Sec. 4.3H to mean that a natural calamity pertains to weather related incidents (tornado, wildfire, flooding due to excessive rainfall, etc.) and an unnatural calamity is something that may have been caused by human error (i.e. electrical fire, flooding due to pipes). This Office has also allowed this section to apply to the removal of nonconforming structures in instances where the structure was no longer usable and the property owner wanted to rebuild. Based on the argument you submitted pertaining to the definition of calamity, I would have to come to the conclusion that someone who willfully removes a structure would not be permitted to apply for a variance to reestablish a nonconforming use/structure under Sec. 4.3H because he willfully removed the structure, which is not an act of god per the definition of calamity that you provided. If the intent of Sec. 4.3H is to only allow a structure which was destroyed by an act of god/natural force as you described in your proposal, then the intent of Sec. 4.3H would be such that if a structure is willfully demolished, it would not be permitted to be rebuilt as a nonconforming structure and would be required to comply with the current rules and regulations in effect. That being the case, a Variance to reduce the required setbacks would be required for the existing garage, as it does not meet the setback requirements described in Section 9.7, which is 6' side and rear for a detached accessory structure.

The second part of your argument is that the exception to allow existing residential uses to be reestablished administratively should be applied to the garage, which you argue is attached to the dwelling unit. While your



argument is that the garage should be considered part of the main structure, I do not believe the garage meets the definition of sharing a wall in common with the dwelling because there is no access to the dwelling through the garage. In order for the garage to be considered attached, it would need to have a shared wall with a door into the garage or a breezeway connecting the house to the garage – the key element being accessibility to the house through the garage. The current configuration of the garage does not provide access to the house through the garage; however, I go back to my first point in this email that the current configuration of the garage is moot as it is the configuration of the original structure which existed before the adoption of zoning that would be considered nonconforming and it appears the original, nonconforming garage (carport) was detached (per exhibit B of your proposal).

As we discussed, you have two options available to you. The first, you can appeal my determination to the Board of Zoning Appeals within 30 days of this email. I provided you with a paper copy of the application, but it is also available on our website [[click here](#)]. The fee for an appeal of my decision is \$100.

A second option is to apply for a Zoning Variance to either reestablish the nonconforming structure under Sec. 4.3H (as this Office has historically allowed) or to request a reduction of the side setback per Section 9.7. The fee for the variance application is \$150. I provided a paper copy of the application to you, but it is also available on our website [[click here](#)].

Both the appeal process and the variance process are public hearings. Please note, that should the Board of Zoning Appeals uphold my determination, a variance would still be required.

Alexandra Beaulieu
Zoning Administrator
Jefferson County Office of Planning and Zoning
www.jeffersoncountvawv.org
304-728-3228

Staff Report
 Jefferson County Board of Zoning Appeals
 May 23, 2019

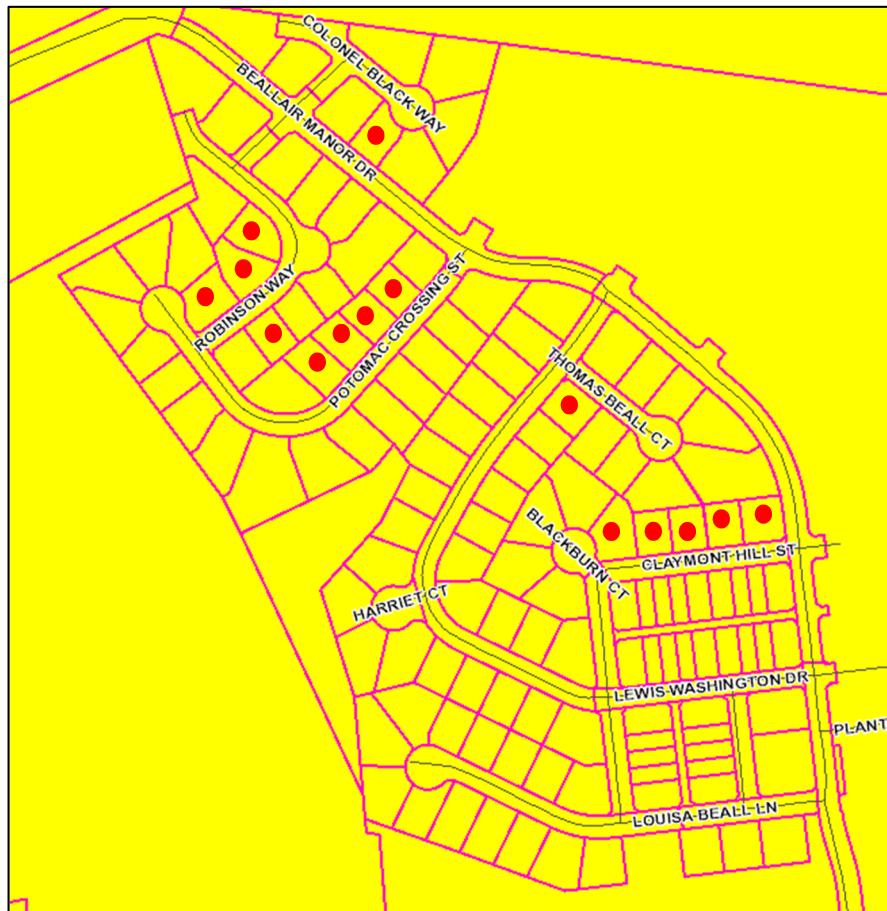
Beallair Variance Request (#19-10-ZV)

Item #4 Variance from Section 5.4(b) to reduce the front setback from 25' to 20'; the side setback from 12' to 10'; and, the rear setback from 20' to 15' for Lots 68-72, 78, 106-108, 118, 121-124, and 129.

Applicant:	Beallair Homes, LLC
Owner:	Same as above
Developer:	N/A
Consultant:	Piedmont Design Group

Beallair Subdivision, Lot 68 Claymont Hill St.; Parcel ID: 04010A00680000; Size: 9,429 sf; Lot 69 Claymont Hill St.; Parcel ID: 04010A00690000; Size: 8,000 sf; Lot 70 Claymont Hill St.; Parcel ID: 04010A00700000; Size: 8,000 sf; Lot 71 Claymont Hill St.; Parcel ID: 04010A00710000; Size: 8,000 sf; Lot 72 Claymont Hill St.; Parcel ID: 04010A00720000; Size: 11,246 sf; Lot 78 Lewis Washington Dr.; Parcel ID: 04010A00780000; Size: 9,880 sf; Lot 106 Robinson Way; Parcel ID: 04010A01060000; Size: 11,284 sf; Lot 107 Robinson Way; Parcel ID: 04010A01070000; Size: 11,158 sf; Lot 108 Robinson Way; Parcel ID: 04010A01080000; Size: 10,327 sf; Lot 118 Robinson Way; Parcel ID: 04010A01180000; Size: 8,353 sf; Lot 121 Potomac Crossing St.; Parcel ID: 04010A01210000; Size: 10,457 sf; Lot 122 Potomac Crossing St.; Parcel ID: 04010A01220000; Size: 9,467 sf; Lot 123 Potomac Crossing St.; Parcel ID: 04010A01230000; Size: 8,511 sf; Lot 124 Potomac Crossing St.; Parcel ID: 04010A01240000; Size: 8,185 sf; Lot 129 Colonel Black Way; Parcel ID: 04010A01290000; Size: 9,215 sf; Zone: Residential Growth

Parcel Info and Zoning District:



Staff Report
 Jefferson County Board of Zoning Appeals
 May 23, 2019
Beallair Variance Request (#19-10-ZV)

Surrounding Properties:	Zoning Map Designation: <i>North:</i> RG <i>South:</i> RG <i>East:</i> RG <i>West:</i> RG
History:	09/14/04: PC approved Final Plat for Beallair Phase I (#02-36) 10/24/06: PC approved Final Plat for Beallair Phase II (#05-41) 02/26/08: PC approved CIS for Beallair West (#07-30) 10/27/09: PC approved Final Plat (#08-21)
Subdivision Variances:	03/25/03: PC approved the following variances: <ul style="list-style-type: none"> • Reduce finished road width from 20’ to 15’ for one-way rear access drives w/ no shoulders; • No curb & gutter in alleys; or, the one-way rear access drives; • Allow an inverted crown for drainage in one-way rear access drives; • Allow two (2) side-by-side, on-site parking spaces; • Reduce ROW width from 50’ to 44’ in the main road passing through the TND villa areas; and, • Reduce one-way rear access drives from 50’ to 20’ to serve the garages. 03/23/04: PC approved the following variances: <ul style="list-style-type: none"> • Min. finished road width from 24’ to 15’ for rear access drives; • No curbs included with the rear access drives; • No sidewalks on the one-war rear access drives; • A reduction from 3’ to 2.5’ for the back of the curb from the edge of the pavement; • No buffer screening between common areas & adjoining single family lots. 09/12/06: PC approved a variance to extend the 24-month provision for a period of 12 months to 09/12/07. 08/26/08: PC approved a variance to extend the 24-month provision for a period of 12 months to 08/26/09.
Zoning Variances:	BZA approved the following variances: 07-19-12: Reduce the rear setback from 20’ to 17’ for the construction of a 12’ x 16’ screened porch (ZV12-24). 07-24-14: Reduce the rear setback from 20’ to 3’ to construct a deck. 04-28-16: Reduce the rear setback from 20’ to 10’ to construct a deck (ZV16-09). 07-28-16: Reduce rear setback from 20’ to 12’ for Lots 112, 127, and 128 (ZV16-12). 07-28-16: Allow a staffed model home on Lot 111 (ZV16-13). 10/27/16: Allow a staffed model townhome on Lot 51 (ZV16-21). 03/23/17: Allow a staffed model townhome on Lots 50-67 (ZV17-02). 09/28/17: Reduce front setback from 25’ to 10’ along Clover Lea Way for Lots 50-67 (ZV17-14). 09/28/17: Reduce the 25’ front setback to the following: to 10’ along the S boundary for Lots 283-289; to 10’ along the E boundary for Lot 283; to 10’ along the N boundary for Lots 290-296; 10’ along the E boundary for Lot 296; to 10’ along the S boundary for Lots 297-304; to 18’ along the E boundary for Lot 297 (ZV17-15). 09/27/18: Reduce the rear setback from 20’ to 18’ to allow for a home (ZV18-14). 04/25/19: Allow a staffed model home on Lot 68 (19-7-ZV).
Approved Activity:	Single-Family Residence

Staff Report
Jefferson County Board of Zoning Appeals
May 23, 2019
Beallair Variance Request (#19-10-ZV)

RELEVANT INFORMATION:

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.

Beallair Subdivision Phasing



STAFF EVALUATION OF REQUEST

Summary of Request and Purpose of Ordinance Requirements

The applicant is requesting a variance from Section 5.4(b) to reduce the front setback from 25' to 20'; the side setback from 12' to 10'; and, the rear setback from 20' to 15' for Lots 68-72, 78, 106-108, 118, 121-124, and 129.

A key purpose of front yard setback requirements is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that sight visibility is not impaired for drivers along the right-of-way.

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
Jefferson County Board of Zoning Appeals
May 23, 2019
Beallair Variance Request (#19-10-ZV)

Unique characteristics of property

As the applicant noted, Beallair Phases I and II is comprised of 133 lots for detached single family dwellings and townhomes. The subject request is to reduce the setbacks for the remaining 15 unsold lots, which remain under the ownership of Beallair.

Lots 68-71 are each approximately 8,000 square feet. As the applicant has noted, they are directly across the street from a row of townhome units.

Lot 72 is considered a corner lot, as it has two fronts. One along Claymont Hill Street and the other along Blackburn Court.

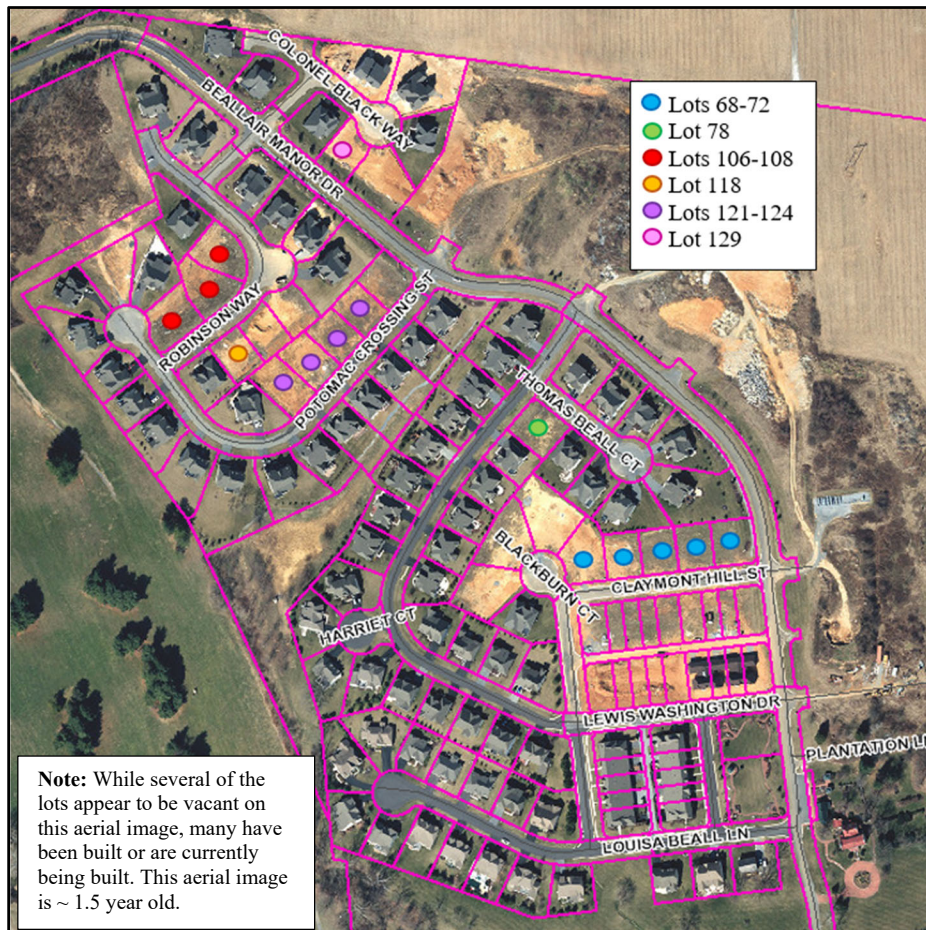
Lot 78 is considered a corner lot, as it has two fronts. One along Lewis Washington Drive and the other along Thomas Beall Court.

Lots 106 is considered a corner lot, as it has two fronts. One along Potomac Crossing Street and the other along Robinson Way.

Lots 107 & 108 are slightly irregular shapes.

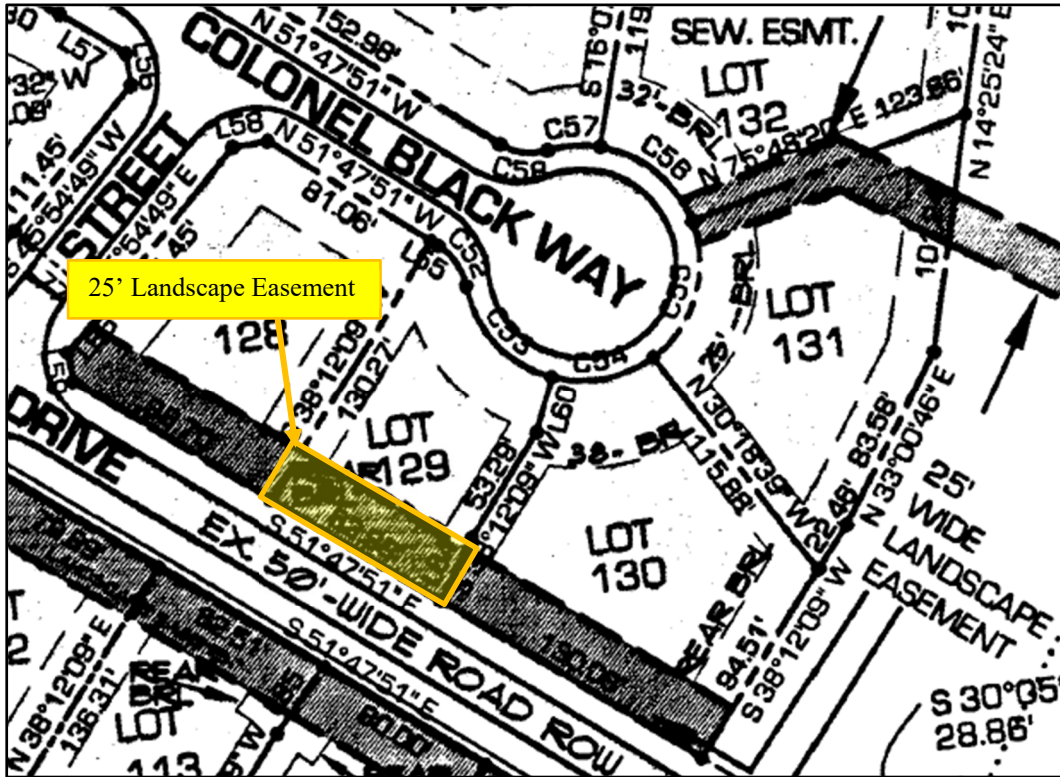
Lot 118 is the only vacant lot in this row.

Lots 121-124 are all in a row, with built out lots on each end of the row.



Staff Report
Jefferson County Board of Zoning Appeals
May 23, 2019
Beallair Variance Request (#19-10-ZV)

Lot 129 is a vacant lot in between two built lots. It is important to note that a 25' wide landscape easement exists along the rear of this property; therefore, should the Board vote to grant the setback reductions, the applicant should be aware that the landscape easement exists and nothing can be built within that area.



Impact on adjacent properties

Impact on adjacent properties should be minimal.

Feasibility of complying with the ordinance by other means

It may be difficult to situate the size and/or style of houses that are in demand for the current market; however, the subject parcels are vacant and therefore, it is feasible to comply with the Ordinance as it is written.

As the applicant noted, the Ordinance does not provide a maximum lot size for the Small Lot provision. It is certainly a flaw; however, when a request for a determination was submitted, the Zoning Administrator determined that the maximum lot size under this provision would be capped at 6,000 square feet, which is the minimum lot size for the next category for single family setbacks.

Conditions of Approval

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

1. No conditions of approval have been identified.

Staff Report
 Jefferson County Board of Zoning Appeals
 May 23, 2019
Beallair Variance Request (#19-10-ZV)

SECTION OF ORDINANCE TO BE CONSIDERED:

SECTION 5.4b RESIDENTIAL GROWTH DISTRICT
 HEIGHT AND YARD REQUIREMENTS
 [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1999]

<u>Development Type</u>	<u>Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)</u>	<u>Required Yards</u>	<u>Maximum Building Height*</u>
1. Single family detached dwelling	6,000 sq. ft. ADU**	25 ft. front 12 ft. side 20 ft. rear	40 ft.
Public/Central water and sewer	10,000 sq. ft. MLA		
Public/Central water or sewer	20,000 sq. ft. MLA		
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: 19-10-ZV
 Staff Initials: JH
 Meeting Date: 05/23/19
 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: Beallair Homes LLC
 Mailing Address: 5283 Corporate Drive, Suite 300, Frederick, MD 21703
 Phone Number: 301/788-2217 Email: c/o pjraco.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: pjraco.consulting@gmail.com

Physical Property Details

Physical Address: See Attached for Lots, Descriptions and Streets
 City: Charles Town State: WV Zip Code: 25414
 Tax District: Harpers Ferry Map No: 10A Parcel No: see attached
 Parcel Size: Approx 8000 -12,000 sq ft +- see attached 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"/>

***Rec'd 04-29-19. This application replaces the originally signed application from 04-29-19.**

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"/>

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 5.4B.1

Briefly describe the nature of the variance request:

Rear Setbacks variances from 20 feet down to 15 feet. Side Setback variances from 12' to 10'
Front Setback Variances from 25' to 20' from each Street Side Front

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

Front Setback Side Setback Rear Setback Reduction From see to above

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.

*Rec'd 04-29-19. This application replaces the originally signed application from 04-29-19.

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).

05/23/19

Date of Public Hearing

05/08/19

Advertising Date

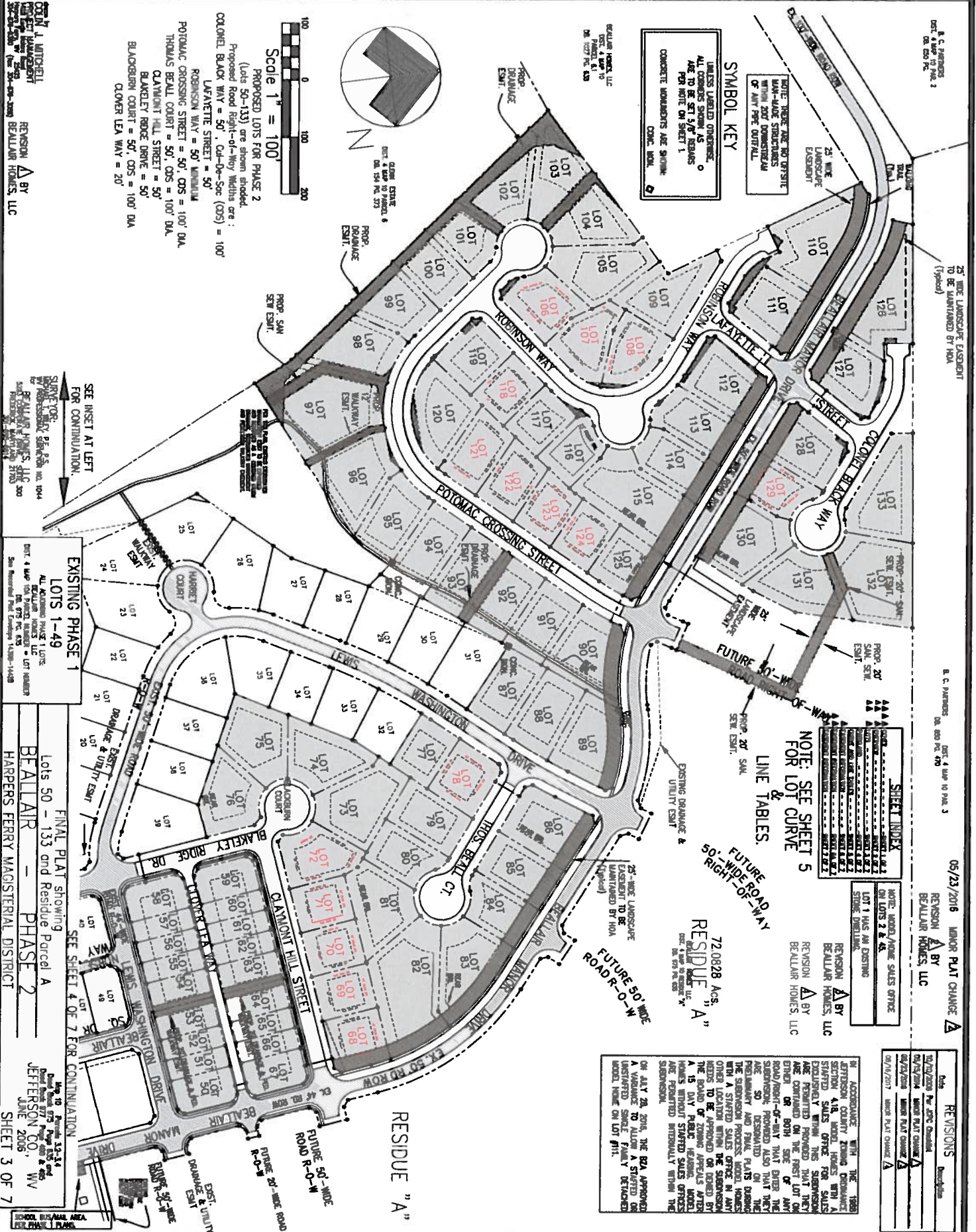
05/08/19

Placard Posting Date

Beallair Homes, LLC
DBA Wormald Homes at Beallair, LLC
Beallair Subdivision Phase 2
Lots 68-72; 78; 106-108; 118;121-124; 129
Request for Variance
Article 5, Sections 5.4B(1)
Jefferson County Zoning Ordinance
April 29, 2019

Property Description:

Lot 68 Claymont Hill Street Charles Town Map 10A, Parcel 68	9,429 sq. ft.
Lot 69 Claymont Hill Street Charles Town Map 10A, Parcel 69	8,000 sq. ft.
Lot 70 Claymont Hill Street Charles Town Map 10A, Parcel 70	8,000 sq. ft.
Lot 71 Claymont Hill Street Charles Town Map 10A, Parcel 71	8,000 sq. ft.
Lot 72 Claymont Hill Street Charles Town Map 10A, Parcel 72	11,246 sq. ft.
Lot 78 Lewis Washington Drive Charles Town Map 10A, Parcel 78	9,880 sq. ft.
Lot 106 Robinson Way Charles Town Map 10A, Parcel 106	11,284 sq. ft.
Lot 107 Robinson Way Charles Town Map 10A, Parcel 107	11,158 sq. ft.
Lot 108 Robinson Way Charles Town Map 10A, Parcel 108	10,327 sq. ft.
Lot 118 Robinson Way Charles Town Map 10A, Parcel 118	8,353 sq. ft.
Lot 121 Potomac Crossing Street Charles Town Map 10A, Parcel 121	10,457 sq. ft.
Lot 122 Potomac Crossing Street Charles Town Map 10A, Parcel 122	9,467 sq. ft.
Lot 123 Potomac Crossing Street Charles Town Map 10A, Parcel 123	8,511 sq. ft.
Lot 124 Potomac Crossing Street Charles Town Map 10A, Parcel 124	8,185 sq. ft.
Lot 129 Colonel Black Way Charles Town Map 10A, Parcel 129	9,215 sq. ft.



SYMBOL KEY

UNLESS DETAILED OTHERWISE, ALL CONCRETE STRUCTURES ARE TO BE FINISHED WITH 200 COMBINATION WIRE MESH CONCRETE & 4" MIN. CONC. COVER.

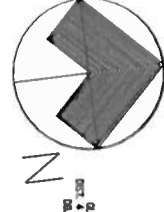
CONCRETE FOUNDATIONS ARE SHOWN CONC. WALL.

NOTE: THERE ARE NO OFFSITE WAREHOUSE STRUCTURES WITHIN 200' OF THE SUBDIVISION & 100' FROM DRIVEWAY.

Scale 1" = 100'

PROPOSED LOTS FOR PHASE 2 (Lots 50-133) are shown shaded. Proposed Road Right-of-Way Widths are:

- COLONEL BLACK WAY = 50', Ord-De-Sec (ODS) = 100'
- LAVANETTE STREET = 50'
- ROBINSON WAY = 50', UNIMULCH
- POTOMAC CROSSING STREET = 50', ODS = 100' DIA.
- THOMAS BEAL COURT = 50', ODS = 100' DIA.
- CLAMMONT HILL STREET = 50'
- BLAKEY RIDGE DRIVE = 50'
- BLOOMSBURN COURT = 50', ODS = 100' DIA.
- CLOVER LEA WAY = 20'



SHEET INDEX

Sheet No.	Description
1	EXISTING PHASE 1 LOTS 1-49
2	PROPOSED LOTS 50-133
3	RESIDUE "A"
4	RESIDUE "B"
5	RESIDUE "C"
6	RESIDUE "D"
7	RESIDUE "E"
8	RESIDUE "F"
9	RESIDUE "G"
10	RESIDUE "H"
11	RESIDUE "I"
12	RESIDUE "J"
13	RESIDUE "K"
14	RESIDUE "L"
15	RESIDUE "M"
16	RESIDUE "N"
17	RESIDUE "O"
18	RESIDUE "P"
19	RESIDUE "Q"
20	RESIDUE "R"
21	RESIDUE "S"
22	RESIDUE "T"
23	RESIDUE "U"
24	RESIDUE "V"
25	RESIDUE "W"
26	RESIDUE "X"
27	RESIDUE "Y"
28	RESIDUE "Z"

NOTE: SEE SHEET 5 FOR LOT CURVE LINE TABLES.

REVISION A BY BEALLAIR HOMES, LLC

REVISION B BY BEALLAIR HOMES, LLC

REVISION C BY BEALLAIR HOMES, LLC

REVISION D BY BEALLAIR HOMES, LLC

REVISION E BY BEALLAIR HOMES, LLC

REVISION F BY BEALLAIR HOMES, LLC

REVISION G BY BEALLAIR HOMES, LLC

REVISION H BY BEALLAIR HOMES, LLC

REVISION I BY BEALLAIR HOMES, LLC

REVISION J BY BEALLAIR HOMES, LLC

REVISION K BY BEALLAIR HOMES, LLC

REVISION L BY BEALLAIR HOMES, LLC

REVISION M BY BEALLAIR HOMES, LLC

REVISION N BY BEALLAIR HOMES, LLC

REVISION O BY BEALLAIR HOMES, LLC

REVISION P BY BEALLAIR HOMES, LLC

REVISION Q BY BEALLAIR HOMES, LLC

REVISION R BY BEALLAIR HOMES, LLC

REVISION S BY BEALLAIR HOMES, LLC

REVISION T BY BEALLAIR HOMES, LLC

REVISION U BY BEALLAIR HOMES, LLC

REVISION V BY BEALLAIR HOMES, LLC

REVISION W BY BEALLAIR HOMES, LLC

REVISION X BY BEALLAIR HOMES, LLC

REVISION Y BY BEALLAIR HOMES, LLC

REVISION Z BY BEALLAIR HOMES, LLC

REVISIONS

Date	Description
05/23/2016	MINOR PLAT CHANGE A
05/23/2016	MINOR PLAT CHANGE B
05/23/2016	MINOR PLAT CHANGE C
05/23/2016	MINOR PLAT CHANGE D
05/23/2016	MINOR PLAT CHANGE E
05/23/2016	MINOR PLAT CHANGE F
05/23/2016	MINOR PLAT CHANGE G
05/23/2016	MINOR PLAT CHANGE H
05/23/2016	MINOR PLAT CHANGE I
05/23/2016	MINOR PLAT CHANGE J
05/23/2016	MINOR PLAT CHANGE K
05/23/2016	MINOR PLAT CHANGE L
05/23/2016	MINOR PLAT CHANGE M
05/23/2016	MINOR PLAT CHANGE N
05/23/2016	MINOR PLAT CHANGE O
05/23/2016	MINOR PLAT CHANGE P
05/23/2016	MINOR PLAT CHANGE Q
05/23/2016	MINOR PLAT CHANGE R
05/23/2016	MINOR PLAT CHANGE S
05/23/2016	MINOR PLAT CHANGE T
05/23/2016	MINOR PLAT CHANGE U
05/23/2016	MINOR PLAT CHANGE V
05/23/2016	MINOR PLAT CHANGE W
05/23/2016	MINOR PLAT CHANGE X
05/23/2016	MINOR PLAT CHANGE Y
05/23/2016	MINOR PLAT CHANGE Z

BEALLAIR HOMES, LLC
 25 WIRE LANDSCAPE EASEMENT TO BE MAINTAINED BY HOA (Typical)

REVISION A BY BEALLAIR HOMES, LLC

REVISION B BY BEALLAIR HOMES, LLC

REVISION C BY BEALLAIR HOMES, LLC

REVISION D BY BEALLAIR HOMES, LLC

REVISION E BY BEALLAIR HOMES, LLC

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REVISION X BY BEALLAIR HOMES, LLC

REVISION Y BY BEALLAIR HOMES, LLC

REVISION Z BY BEALLAIR HOMES, LLC

DATE: 05/23/2016

TIME: 10:30 AM

PROJECT: BEALLAIR HOMES, LLC

LOT: 1-133

PHASE: PHASE 2

SHEET: 3 OF 7

Beallair Homes, LLC
DBA Wormald Homes at Beallair, LLC
Beallair Subdivision Phase 2
Lots 68-72; 78; 106-108; 118;121-124; 129
Request for Variance
Article 5, Sections 5.4B(1)
Jefferson County Zoning Ordinance
April 29, 2019

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. There are approximately 15 lots remaining that aren't committed for a sale or single-family house at this time. The developer of the Subdivision and the Applicant are subsidiaries of the same company operating under Wormald.

As the Board knows, the Beallair Community was the first development in Jefferson County that developed under the concept of small lots with large amounts of Community and Open Space. The community includes a Manor House that has been turned over to the HOA and is in the process of converting the Use from Residential to Assembly and Business Use, so that the HOA can continue to hold functions in the Historic Washington Home.

The Community was processed and approved in the early 2000s and the Final Plat was recorded for Phase I in 2004 and Phase 2 was recorded in 2007. Since then the Ordinances have adapted to allow more creativity for these types of developments including small lots with small setbacks, alleyways, parkland, and other design considerations. Since Beallair was basically the first Community in Jefferson County to use more neotraditional design, the County understood that there would be variances needed as the project was being built. Now that the Development is down to essentially the 15 remaining lots that have some unique features for house siting, the Applicant's representative met with the Zoning Administrator to discuss options to hopefully come to the Board for one final variance. It was agreed that this would be a better approach for all involved rather than coming back for individual variances as the houses were being proposed.

The other complicating factor is that with the housing downturn in the mid-2000s, the Community is taking much more time to built out and complete. The good news is that this developer and builder has remained committed to this Community and has provided a long term and stable ownership in Beallair. Many other developments were not finished, and the developer moved on and the banks had to look for new owners to continue the developments. Beallair's continued ownership and consistent builder, along with the HOA has made Beallair a beautiful and well-organized community. The downside is that due to housing and marketing trends and multiple changes in the Building Code over the last 15 years, necessitates some modifications to setbacks on the remaining unique lots that are the smallest lots, corner lots with two front setbacks, utility or drainage easements and odd shapes.

Most of these lots only need slight modifications for eaves, porches, overhangs, steps, etc. Again, to make it easier for Staff, Board, Residents, and Applicant, we hope that

this will address the remaining lots without the need to come back before the Board. The request is to vary the remaining Front Setbacks from 25 Feet to 20 Feet, the remaining Side Setbacks from 12 Feet to 10 Feet and the remaining Rear Setbacks from 20 Feet to 15 Feet. Here are the Lots involved and the unique characteristics necessitating a variance.

Lots 68-71: These are the smallest lots in Beallair each around 8,000 sq. ft. For this section, they are all in a row and are across the street from the townhouse/villa units. This is the denser area and Lots 68-71 would provide a good transition area between the townhouse/villa units and the balance of the single family detached Lots.

Lot 72: Has an irregular shape and is on a cul-de-sac. As a cul-de-sac lot, the front setback is a semi-circle that cuts into the typical setback. This lot is also across from the denser townhouse/villa units.

Lot 78: Has two greater Front Setbacks and a greater Rear Setback than the typical Side Setback. In a Lot that has two Front Setbacks, one of the remaining sides must be a Rear Setback. In this case, it would prevent similar houses to the area to be constructed.

Lots 106-108: All these lots are located on a cul-de-sac and/or a curve which produces an irregular building footprint. So, while the proposed houses may be similar in size, a typical square house, as found in the development, won't fit in the existing building envelopes.

Lot 118: This Lot is one of the smallest Lots at just over 8,000 sq. ft. Again, most likely, a slight reduction as requested will allow porches, etc. to fit on the lot.

Lots 121-124: These are all in a row. Lot 124 is next to Lot 125 which was just granted a variance to allow the house to fit. Lots 123 and 124 are the smaller lots in this row and Lots 121 and 122 are larger. Most likely, the houses should fit on these two lots, but the Applicant thought since this was the remaining group of lots for the entire Phase 2, they should be included to make it consistent on the whole street in this area.

Lot 129: This Lot has a large landscaping easement on the property, and it is also on a cul-de-sac. Combined, these two constraints very much reduce the building envelope. Again, for houses to be consistent in this area, the modest requested variances should achieve this goal.

The purpose of this one-time standardized reduction in Front, Side and Rear Setbacks on the more challenging lots is to avoid multiple requests to the Board and to avoid minor shifts in the building while being constructed that necessitates a variance after a violation may occur as did for Lot 125.

Finally, there is a provision in the Ordinance for lesser setbacks for 'Single Family, Small Lot'. The definition is attached. Essentially, the Ordinance does not list a maximum size for these Small Lots. The Ordinance lists a minimum of 3,200 sq. ft. but is silent on the maximum. These 'Small Lots' allow setbacks of 20' Front (10' if the Front doesn't contain a driveway), 5' Sides, and 20' Rear and 5'. While the Zoning Administrator acknowledges that the Ordinance mistakenly fails to list a maximum size to apply the 'Small Lot' setbacks, she decided to make it 6,000 sq. ft., based on the next category for

single family setbacks. The Zoning Administrator has said that the Applicant can Appeal the decision since the maximum size for 'Small Lots' is not expressly in the Ordinance. Instead of the Appeal approach, the Applicant has chosen to seek a variance for the remaining lots; but, wants to note that lots that are between 3,200 sq. ft. and 6,000 sq. ft. can apply setbacks as low as 10' in the Front and 5' on all Side Setbacks. Some of these lots could be split in half or decreased in size by as little as 2,000 sq. ft. and the setbacks would be much lessor for much smaller lots. The Ordinance should be modified to address the Small Lot Setback and Size provisions in order to be clear for the future.

The Applicant believes that due to the uniqueness of the remaining 15 lots, combined with the intent of the Ordinance, the neo-traditional style of type of the Beallair Community and the emerging housing trends over the last 15 years that Beallair has been building in this Community, all justifies the request for a variance that applies to the remaining lots. Accordingly, and respectfully, the Applicant asks the Board to grant the remaining Lots' variance as requested.

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Thank you for your consideration of the request.

Beallair Homes, LLC
DBA Wormald Homes at Beallair, LLC
Beallair Subdivision Phase 2
Lots 68-72; 78; 106-108; 118;121-124; 129
Request for Variance
Article 5, Sections 5.4B(1)
Jefferson County Zoning Ordinance
April 29, 2019

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 these Lots are in a well maintained, actively developing community. Currently, the subject lots are the remaining Lots in the original, groundbreaking Neo-Traditional Community that was atypical of the types of developments that were being processed in Jefferson County. The County, Staff and Developer understood there would be the need for variances in the future to accommodate this type of development as the Community was being built. As explained in the Description, these remaining Lots have unique characteristics that support the reduction of setbacks. Most of these lots are the smaller lots, have two Front setbacks, have easements, are odd shaped or are around cul-de-sacs that have different needs for reduced setbacks. These reductions do not affect the Building Code requirements for Fire Safety and other safety elements of the Code.

Regarding these safety standards, the construction of the houses will meet all Building Code Standards, as well as all Health Department Standards. The construction of a small portions of the houses up to two feet into the 12-foot side setbacks and up to 5 feet into the Front and Rear setbacks do not affect the safety of the general public at all. These Lots and this project were created with a sense of Community with large, open common areas that promote neighborhood gatherings and block parties. Lots in these types of subdivisions in other jurisdictions sometimes have 0' (Zero) Side Front and Side Setbacks in order to put the houses closer to the streets and sidewalks like a traditional urban community. They offset the smaller lots and lessor setbacks with larger, community oriented open and common spaces. In Beallair's case, they have well maintained green areas and the Historic Manor House to gather. Additionally, if the variance is granted, the construction of houses on the remaining Lots in this section would be completed in a quicker manner, which would minimize any disruption in the neighborhood and allow another section be developed with other modern tools in the Ordinance, such as the 'Small Lot' provisions, as modified.

Many of the existing dwellings within the Beallair Community were granted setback variances to accommodate little portions of a house to fit on these lots. This variance will allow the Public, Board and Applicant to act in a manner to

finish the construction on these Lots without the need of coming back for individual variances for a foot here and there for porches, eaves, jut-outs, bay windows, etc.

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 still the owner of the remaining 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 special circumstances include the type of development and the uniqueness of the remaining Lots including the sizes, shapes, two Fronts, Landscape Easements and location around the cul-de-sacs. As the Applicant got down to these remaining Lots and their constraints for similar house construction, the Applicant looked at the Ordinance and the possibility to apply the Small Lot Setbacks described in the Ordinance. This was one of the provisions that were written to accommodate Communities such as Beallair. Since the Small Lot setbacks would work on the remaining Lots, the Applicant was hoping to proceed under those provisions. After conversations with the Zoning Administrator, it was clear that the Small Lot provisions need refined including the need for a defined maximum lot size. The County Staff recognizes the need to modernize the Zoning Ordinance to allow more flexible design standards to accommodate changing housing and design trends. Many developments, such as Beallair, use unconventional designs that call for the need for flexible setbacks as little as 0' Front and Side Lot Lines. This is a very Historic Community that includes an extremely historical house. Developments in other Historic areas around the Country allow for more traditional (old city style) housing and setbacks. This variance will allow the more traditional style to continue on the remaining lots.

The Applicant has not left this Community after 15 years of changing housing needs, a severe recession and many changes to the ordinance and market trends. However, because of the longtime commitment to Jefferson County, there have been changing, and emerging design, housing and marketing needs that necessitate tweaks in County Ordinances or variances that need to be granted over the years. This Community needs to be finished and the setback variances on the remaining lots will allow the Community to be completed.

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 Community to be finished after 15 years of development. While this is a very community-oriented development, the Applicant believes that the sooner Phase 2 (approved in 2007) is completed with the house construction on the remaining lots, the sooner the construction traffic, equipment and workers can be removed from this Phase. The unnecessary hardship of the uniqueness of the remaining Lots making it harder for similar house construction on these Lots, continues to disrupt the community of Beallair in Phases 1 and 2. The Applicant and Community would like the development to be completed in these two existing Phases. The remaining Phases in other areas will be developed under current Ordinances and will more reflect more flexible design characteristics. The County is working on a Proposal to rewrite the Zoning and Subdivision Ordinances that have not had a major rewrite since around the time that Beallair was first created. It will be an enhancement to add design standards in the Ordinance that have been learned from the experiences in Beallair.

This property is 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. This means there is an accepted need to have smaller lot sizes and more dense setback requirements in these preferred urban growth areas. 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 setbacks to be more consistent with the setbacks permitted on even smaller lots would be helpful to complete the houses on the remaining Lots. While smaller houses can be accommodated on these lots, the Applicant is confident that the existing residents of the larger houses do not want a shift to smaller houses in this community that may adversely affect their property values. With the revised setback, the Lots and development will still conform with that original vision and County approval. This is especially true since the County now allows even lessor setbacks on smaller lots.

Finally, if the variance was denied, the hardship would be that the Community takes even longer to be completed which would keep the construction ongoing in this part of the Neighborhood. This will continue to disrupt the lives of people that have lived in the Community for over 10 years. Also, the hardship for both the Applicant and Residents will be that smaller houses will need to be placed on these lots that don't necessarily fit in the neighborhood. As such, they would not be compatible from an aesthetical or property value standpoint.

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 properties for each of the lots have no issue with Fire Safety or Access. Three sets of these lots are 3 to 5 lots in a row. There would be no adverse effect to allow the reduced setbacks that are already allowed for smaller lots with less open space that exists in Beallair. Additionally, regarding 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 variance will allow similar types of houses to be built on the remaining unique lots. The setback reductions are to accommodate houses with some things like front porches on lots that have odd building envelopes, without modifying the intent of the Ordinance.

The Ordinance was modified to allow setbacks as small as 10' for Fronts and 5' sides on even smaller lots. Therefore, the intent of the ordinance is to allow the flexibility of more house on a lot while requiring more community space. Beallair very much meets and exceeds the increased requirement for open, common space. This intent of the Ordinance is met with the granting of the variance for the remaining lots.

Substantial justice would be to approve the requested variance, so that the Lots and houses can be completed with no further disruption in the neighborhood. The County and Applicant knew that this Community would be a changing community that would need variances from a traditional zoning ordinance in order to accommodate this newer style of development. As the Board can see from the sketch, the remaining Lots are unique enough in shape and frontage, that each would need some type of modification to accommodate a similar style house in each neighborhood. So, instead of coming back on an individual Lot by Lot basis to extend the time, cost and disruption to the community of appearing monthly at the Board Meeting, the Staff and Applicant have agreed to process the remaining lots in this manner. Hopefully, the Board agrees with this approach.

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

Dry Cleaning and Laundry Facility²⁷

A facility at which clothing and other fabrics are dry-cleaned or laundered for customers, utilizing processes which are in compliance with applicable state and federal laws.

Dry Cleaning and Laundry Services²⁷

The use of a site for customer drop-off and pickup of clothing or fabrics, to be laundered or dry-cleaned at an offsite location. This use does not include use of a site as a Dry Cleaning and Laundry Facility.

Dwelling Unit^{7, 23}

One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, occupied by no more than one family, and containing no more than one independent food preparation area together with facilities for sleeping and bathing.

Dwelling, Detached


A building containing only one single family dwelling unit surrounded by yards or other open area on the same zoning lot.

Dwelling, Duplex²³

A combination of no more than two single-family dwelling units, with each individual dwelling unit located on its own legal lot, and sharing a common lot line and a common vertical wall.

Dwelling, Multi-Family²³

A building containing three or more dwelling units, which may include rental or condominium residential units.

 Dwelling, Single Family, Small Lot²⁷

A single-family detached dwelling meeting the site development standards for a Dwelling, Single Family, Small Lot (as required by this Ordinance).

Dwelling, Single Family^{23, 32}

A detached building containing not more than one dwelling unit and not occupied by more than one family. A Single Family Dwelling shall include modular, manufactured and mobile homes as defined herein.

Dwelling, Townhouse

One of a series of three or more attached dwelling units separated from one another by continuous vertical party walls without openings from basement floor to roof.

Dwelling, Two-Family

A building located on one zoning lot containing not more than two dwelling units, arranged one above the other or side by side, and not occupied by more than two families.

Easement

A lawfully acquired right or privilege to use a parcel of land or a portion thereof for a specified purpose. An easement is retained by a person other than the owner of the land parcel.

Electric Vehicle Charging Station^{27, 32}

A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle. Electric Vehicle Charging Stations at single family residences for use by the residents is permitted wherever single family residences are permitted.

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 Drive Backs	Screened Buffers Sec. 4.11
							Front	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	
	Small Lot Single-Family Detached Dwelling	Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"	
	Duplex Dwelling Unit	No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"	N/A
	Townhouse Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20	
	Multi-Family Dwelling (See Section 4.12)	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20	
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Public/Central water and sewer	N/A	10,000	N/A	"	"	"	"	"	
	Dwellings	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20	12 side 15 front 15 rear
Rural (R) (See Sec. 5.7)	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 sq. ft.	20,000	2,000	N/A	40	25	12**	15	30	N/A
	Dwellings	Under 30,000 sq. ft.	N/A	N/A	N/A	40	25	12	†	12	
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Under 30,000 sq. ft.	N/A	N/A	N/A	40	20	10	†	12	
Village (V)	Cluster Subdivision	Over 2 acres	40,000	N/A	100	45	40	15	†	50	
	Residential uses	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	N/A	N/A	N/A	45	40	15	†	50	
	Residential uses	Dwellings	N/A	N/A	N/A	45	25	12	†	12	
	Residential uses	Dwellings	N/A	N/A	N/A	45	20	10	†	12	
	Residential uses	Dwellings	N/A	N/A	N/A	45	20	10	†	12	
	Residential uses	Dwellings	N/A	N/A	N/A	45	20	10	†	12	
	Residential uses	Dwellings	N/A	N/A	N/A	45	20	10	†	12	
	Residential uses	Dwellings	N/A	N/A	N/A	45	20	10	†	12	
	Residential uses	Dwellings	N/A	N/A	N/A	45	20	10	†	12	
	Residential uses	Dwellings	N/A	N/A	N/A	45	20	10	†	12	
Industrial-Light Industrial-Commercial (RLIC)	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
Neighborhood Commercial (NC)	Residential uses	See Rural setbacks for lots not previously stipulated by the Planning Commission.	See Rural setbacks for lots not previously stipulated by the Planning Commission.	See Rural setbacks for lots not previously stipulated by the Planning Commission.	See Rural setbacks for lots not previously stipulated by the Planning Commission.	See Rural setbacks for lots not previously stipulated by the Planning Commission.	See Rural setbacks for lots not previously stipulated by the Planning Commission.	See Rural setbacks for lots not previously stipulated by the Planning Commission.	See Rural setbacks for lots not previously stipulated by the Planning Commission.	See Rural setbacks for lots not previously stipulated by the Planning Commission.	See Rural setbacks for lots not previously stipulated by the Planning Commission.
	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
General Commercial (GC)	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
Highway Commercial (HC)	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
Light Industrial (LI)	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
Major Industrial (MI)	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
Office / Commercial Mixed Use (OC)	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
	Residential uses	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
Planned Neighborhood Development (PND)	Residential uses	See RG District. Note: Planning Commission may amend development standards for developments in the PND District (see Article 5).	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District
	Residential uses	See RG District. Note: Planning Commission may amend development standards for developments in the PND District (see Article 5).	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG District	See RG 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.
 For all lots approved prior to Sept. 1, 1989, lots under 40,000 sq. ft. side & rear setbacks for residential accessory structures shall be 6'. NOTE: In RG district side & rear setbacks for accessory structures under 144 sq. ft. shall be 6'.
 See Article 8 of the Zoning and Land Development Ordinance for building setbacks for certain land uses.

All dimensions are in feet unless otherwise indicated.
 † In the RLIC and RG districts, townhouse lots with a lot depth of 110 linear feet or less and/or a lot area of 3,500 square feet or less, the rear setback of a deck for a townhouse may be reduced to 10', if the adjacent property located to the rear of the subject lot is a dedicated easement or common area and is not a lot that includes a residence.
 ‡ See setback requirements noted in Sec. 2.2, definition of "Lot, Corner."
 * Maximum height subject to Section 9.2
 ** Exterior side only.

*** The balance square footage between the ADU and the MLA shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.
 **** The front setback for a Small lot single-family detached dwelling may be reduced to 10' if the front yard does not contain a driveway.

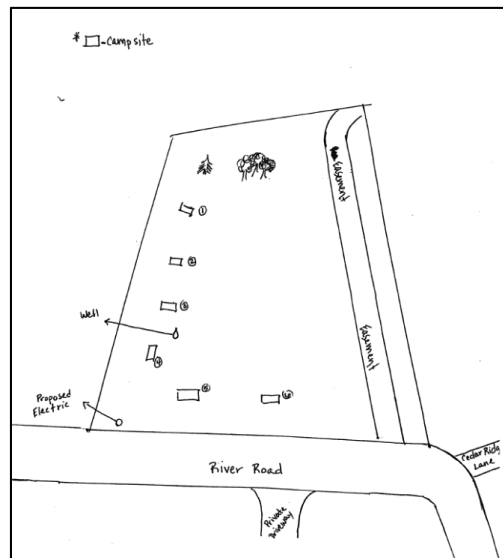
Staff Report
Jefferson County Board of Zoning Appeals
May 23, 2019
Tiny Haven Appeal (#19-1-AP)

understood the 180 day restriction. Based on the property owners' acknowledgement of this criteria, the Zoning Administrator continued to review the request under the campground provisions and allowed the variance request to proceed to the Board of Zoning Appeals.

On March 28, 2019, the Board of Zoning Appeals heard the applicants' request and held a public hearing. Following the public hearing, the Board granted the variance to reduce the required acreage for a six site campground from ten acres to six acres. The Board also denied the request to waive the requirement to process a Site Plan; therefore, the property owners are responsible for hiring a West Virginia licensed engineer to design a site plan which reflects compliance with the County's site development standards (road design, landscaping and buffer requirements, setbacks, etc.). Upon approval of said site plan, the property owners would be permitted to operate a commercial campground with any type of permitted camping unit as defined by Article 2 of the Zoning Ordinance.

On April 1, 2019, Mr. Chris Stroech emailed the Zoning Administrator to express concern that Ms. LaRock and Mr. Carnill were in violation of the Board's approval, stating that "...the BZA expressly stated that tiny homes are not permitted."

On April 2, 2019, the Zoning Administrator responded to Mr. Stroech's email, stating that the Board's motion was to approve the variance to reduce the minimum acreage required for the proposed campground and that the Board did not place a condition of approval limiting the types of camping units as part of their motion. The Zoning Administrator also stated that Mr. Quynn's clarification at the end of the meeting, after the motion was made, was to reiterate that the campground could not be a mobile home park or a tiny home park for long term residential use and that the clarification was provided to address concerns expressed during the public comment period.



BOARD OF ZONING APPEALS ROLE

ARTICLE 6: Board of Zoning Appeals Applications³²

The Board of Zoning Appeals, in accordance with the procedures outlined in this Section, shall review and consider the following applications: Appeals, Variances, Conditional Use Permits, Seasonal Use Permits, and Special Exceptions.

Staff Report
Jefferson County Board of Zoning Appeals
May 23, 2019

Tiny Haven Appeal (#19-1-AP)

In exercising its power and authority, the Board of Zoning Appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as the Board deems appropriate.^{17, 21}

Any party may appeal any decision of the Board of Zoning Appeals to the Circuit Court of Jefferson County within 30 days of the Board's decision, pursuant to Chapter 8A of the West Virginia Code, as amended.^{2, 17, 21}

Nothing in this Section shall be construed as permitting the Board of Zoning Appeals to exercise any power or refrain from the performance of any duty not authorized or directed by the provisions of Chapter 8A of the West Virginia Code, as amended, which provisions of the Code are hereby incorporated herein by reference.^{14, 17}

Section 6.1 Appeals³²

The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.

A. Filing an Appeal

1. An appeal to the Board may be taken by any person, board, associate, corporation or official allegedly aggrieved by any administrative decision based or claimed to be based, in whole or in part, upon the provisions of this Ordinance. The property owner of the subject appeal shall sign the application or an affidavit allowing an agent for the property owner to file the application which shall be submitted.
2. Such appeal shall be filed with the Board within 30 days from the decision appealed.

B. Notification

1. 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.^{5, 17, 21}
2. The subject property shall be posted conspicuously by a zoning notice no less than 28 inches by 22 inches in size, at least 15 days before the hearing. The sign will be prepared by the Office of Planning and Zoning but posting the sign is the responsibility of the applicant. The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.

C. Public Hearing

1. The Board shall hold a hearing within 45 days of the date the appeal is received in the Office of Planning and Zoning. At the hearing, any party may appear and be heard in person or by agent or attorney.^{5, 8, 17, 21}
2. The Board shall render its determination on the application no more than 30 days following the public hearing by registered mail.

D. Continuance of Hearing

The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session. Any hearing continued shall be held within 30 days from the initial hearing.

From: [Zoning](#)
To: "[Christopher Stroech](#)"
Subject: RE: LaRock / Carnill Zoning Variance Request
Date: Tuesday, April 2, 2019 11:53:00 AM

Good morning,

The BZA approved the variance to reduce the required acreage from ten acres to six acres for a six site campground. The Ordinance allows various types of camping units, either with a foundation or without a foundation. As discussed during the meeting, the two units that the applicants currently have on their property are Recreational Vehicles. They are licensed by the DMV and permitted Camping Units.

Article 2 defines Camping Units as, "Individual units designed for temporary occupancy within an approved campground such as trailers, self-propelled campers, recreational vehicles, tents, cabins, camping cabins, fifth wheels, pop-up campers, and/or lodges."

Ty's clarification with the applicants at the end of the meeting, after the motion was made, was to reiterate that the campground could not be a mobile home park or tiny home park for residential purposes (exceeding 180 days / or for long term use by their family), as was an expressed concern by the public during the hearing. The Board did not place any limitations on the types of camping units that could be utilized for the campground.

Presently, the applicants have not rented out the units to the public and therefore, they are not in violation of anything. Additionally, the property owners may store the units on the property for personal use without violation of the Ordinance.

I hope this clarifies. If you have additional questions or concerns, please let me know.

Alex

Alexandra Beaulieu
Zoning Administrator
Jefferson County Office of Planning and Zoning
www.jeffersoncountywv.org
304-728-3228

From: Christopher Stroech [mailto:cstroech@arnoldandbailey.com]
Sent: Monday, April 1, 2019 9:55 AM
To: Zoning <Zoning@jeffersoncountywv.org>
Subject: Re: LaRock / Carnill Zoning Variance Request

Alex:

LaRock / Carnill have posted the following on their facebook page:

"We are approved to be a six site campground and tiny houses on wheels are welcome!"

This is concerning as the BZA expressly stated that tiny homes are not permitted.

I believe that LaRock / Carnill are in violation of the BZA's ruling and applicable regulations by currently having two (2) tiny homes on site. I would ask that this violation be addressed. thanks,

Christopher P. Stroech, Esq.
Arnold & Bailey, PLLC
208 N. George Street
Charles Town, WV 25414
304-725-2002
304-725-0282 (Fax)
cstroech@arnoldandbailey.com

THIS MESSAGE IS PRIVILEGED AND CONFIDENTIAL AND FOR THE INTENDED RECIPIENT ONLY. IF THIS MESSAGE WAS SENT IN ERROR, PLEASE CONTACT THE SENDER IMMEDIATELY.

DEBT COLLECTION NOTICE: THE PURPOSE OF THIS COMMUNICATION AND OTHERS FROM ME MAY BE TO COLLECT AN ALLEGED DEBT OWED, AND ANY INFORMATION OBTAINED IN RESPONSE MAY BE USED FOR THAT PURPOSE. WE WILL ASSUME THE DEBT TO BE VALID UNLESS YOU DISPUTE THE VALIDITY OF ALL OR ANY PART OF THE DEBT WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS NOTICE. IF YOU NOTIFY US IN WRITING THAT YOU DISPUTE ANY OR ALL OF THE DEBT, WE WILL OBTAIN AND SEND VERIFICATION OF THE DEBT AND PROVIDE YOU CONTACT INFORMATION FOR THE ORIGINAL CREDITOR, IF APPLICABLE.



JEFFERSON COUNTY, WEST VIRGINIA

Office of Planning and Zoning

116 East Washington Street, 2nd Floor, P.O. Box 338

Charles Town, WV 25414

www.jeffersoncountywv.org

Appeal Number: 19-1-AP
Staff Initials: SKJ
Fees Paid (\$100): \$ 100.00

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Appeal Form - Board of Zoning Appeals

Pursuant to Section 3.4 of the Jefferson County Zoning and Land Development Ordinance, the Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or any ordinance adopted thereto. The property owner of the subject appeal shall sign the application or an affidavit allowing an agent for the property owner to file the application which shall be submitted. Such appeal shall be filed with the Board within thirty (30) days from the decision appealed.

Name and/or File Number of Project

Name of Project: LaRock / Carnill "Tiny Home" Campground File Number: 19-3-ZV

Appellant Information

Appellant Name: Wayne & Ann Bavry / Neal & Alice Barkus
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Phone Number: _____ Email: _____

Appellant Representative(s) Information

Company Name: Arnold & Bailey, PLLC
Representative Name(s): Christopher P. Stroech, Esq.
Mailing Address: 208 N. George Street
City: Charles Town State: WV Zip Code: 25414
Phone Number: 304-725-2002 Email: cstroech@arnoldandbailey.com

Appellant Physical Property Details

Physical Address: 1407 River Road & 1328 River Road
City: Shepherdstown State: WV Zip Code: 25443
Tax District: _____ Map No: _____ Parcel No: _____
Size: _____ Deed Book: _____ Page No: _____

Zoning District (please check one)

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

RECEIVED

MAY 01 2019

Only if applicable to your request, provide a sketch showing the shape and location of the lot indicating all roads, rights of ways, 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 and submit with this form.

Decision Being Appealed

Zoning Administrator Decision that "tiny homes" are permitted Camping Units for the subject property, as set forth in her email dated April 2, 2019.

Type of Appeal

Administrative Decision LESA Point Score Other

If other, please describe: _____

Please explain reasons/justifications for appeal and desired action by Board, in numerical order. Use a separate sheet of paper if necessary.

Please see attached Memorandum of Law

Original signature is required. The information given is correct to the best of my knowledge.

 5/1/19
Signature of Appellant Date Signature of Appellant 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 twenty-eight (28) inches by twenty-two (22) inches in size, at least 15 days before the hearing (pursuant to Zoning and Land Development Ordinance Section 3.4A(3)(b)).

05/23/19
Date of Public Hearing

05/08/19
Advertising Date

05/08/19
Placard Posting Date

NAME OF PROJECT: LaRock / Carnill “Tiny Home” Campground

FILE NUMBER: 19-3-ZV

MEMORANDUM OF LAW IN SUPPORT OF BAVRY / BARKUS APPEAL

The Appellants, Wayne & Ann Bavry and Neal & Alice Barkus, hereby appeal a decision of the Zoning Administrator (“ZA”) as set forth in an email dated April 2, 2019, attached hereto as Exhibit A. Specifically, the ZA has determined that “tiny homes” are indeed permitted Camping Units. This decision was made notwithstanding the evidence adduced at the subject BZA hearing but also an express condition that the subject campground is not to be a mobile home or tiny home park.¹ See Variance Approved with Conditions attached hereto as Exhibit B. The Appellants contend that the tiny homes, as defined by the Applicants and evidence presented, are not permitted Camping Units.

As defined in both the Jefferson County Zoning and Land Development Ordinance (“ZDO”) and Subdivision and Land Development Regulations (“SLDR”):

Campground. An area or premises located on a single lot, operated as a commercial enterprise, generally providing space in the form of campsite pads for seasonal accommodations for transient occupancy or use by customers occupying camping units. A campground shall be designed for seasonal occupancy, as opposed to permanent year-round occupancy, and shall be not be construed to mean a Mobile Home Park (as defined in the Zoning Ordinance). All campgrounds shall comply with the defined uses and regulations in sections 2.2 and 8.17 of the Zoning Ordinance and relevant sections of these Subdivision Regulations. See Section 2.2, ZDO; Division 26.200, SLDR.

As defined in the ZDO:

Camping Units. Individual units designed for temporary occupancy within an approved campground such as trailers, self-propelled campers, recreational vehicles, tents, cabins, camping cabins, fifth wheels, pop-up campers, and/or lodges.

¹ Following the BZA hearing held on March 28, 2019, the Applicants posted the following on their Facebook page: “We are approved to be a six site campground and tiny houses on wheels are welcome!”

Campsite. Generally means an area where an individual, family, or group can pitch or place a camping unit; a campground may contain many campsites.

Campsite Pad. An area within a campsite intended for the exclusive occupancy by a camping unit or units under the control of a camper.

As defined by the Applicants and supported by their evidence presented, tiny homes are not recreational vehicles and therefore not permitted Camping Units. The textbook definition of a “recreational vehicle” is “a vehicle designed for recreational use (as in camping).” *See* www.merriam-webster.com. W.Va. State Code defines a “recreational vehicle” as “a motorboat, motorboat trailer, all-terrain vehicle, travel trailer, fold-down camping trailer, motor home, snowmobile or utility-terrain vehicle.” W.Va. Code 17A-6-1(31) (2019). The tiny homes, as described by the Applicants, do not meet either definition.

The ZA found persuasive certain testimony that since a tiny home is licensed by the West Virginia Department of Motor Vehicles (“DMV”), then it is a recreational vehicle and a permitted Camping Unit.² However, the DMV classifies all on-road travel trailers as Class R, or “[t]railers designed to provide temporary living quarters for recreation, travel or camping use.” *See* DMV Classifications attached hereto as Exhibit C. More notably, upon information and belief, the DMV also issues licenses for mobile homes or manufactured homes. *See* DMV Licensing Information attached hereto as Exhibit D. The fact that the DMV issues a license for a “tiny home,” as it does for anything that moves on a highway, in no way confirms that it is a recreational vehicle and permitted Camping Unit for Applicants’ purposes.

To the contrary, the Applicants have clearly stated that the tiny homes are intended to serve as primary residences. The on-line marketing and messaging information submitted by the Appellants as attachments to their counsel’s letter dated March 20, 2019 confirm that “Tiny

² The ZA has offered no other explanation for her finding that a tiny home is a recreational vehicle and permitted Camping Unit.

Haven” is a residential community. *See* Stroeck letter attached hereto as Exhibit E. The following statements were made by the Applicants at the BZA hearing held on March 28, 2019, as set forth in the Transcript attached hereto as Exhibit F:

- The proposal for the campground came up – or the idea of a campground came up during a [PBC] meeting with the county. Overall, our intentions are – although we’ve applied for a campground status, Tiny Haven is not a traditional campground. We would like this to feel like a community. We want to live a simple and peaceful life. We plan to have no more than six spaces for tiny houses on wheels and maintain the pastoral aesthetic that we’ve enjoyed living in this area for over 24 years. Pgs. 29-30;
- We currently own two tiny houses on wheels as well as a trailer to build a third. These tinies are for our family use. We also want to provide a space for other tiny homeowners to have a place to stay in their homes up to 180 days per campground regulation, therefore, we have applied for a zoning variance to be a campground on our six acres. Pg. 30;
- We do not foresee our tiny houses creating any more noise than a typical family home. Pg. 31;
- We plan to have an interview process for those who wish to bring their tiny homes to Tiny Haven for temporary stays. Pg. 31;
- The tiny homes that are and will be on our property are built with the quality of a regular stick-built home but are also built certified as RVs.³ Once they are set up, we will create landscaping and covers around the trailer portion that will make these tinies look like regular houses on foundations. Pg. 32;
- Tiny house owners are not like other RV homeowners. Tinies can weigh up to some them 10,000 pounds or more and it’s not the easiest thing to move. Many tiny homeowners only move their tiny homes once a year, therefore, we do not foresee any significant increase in traffic on River Road due to people bringing tiny homes in and out of the property like a typical campground. Pg. 33;
- ...Basically most people who live in tiny houses it’s going to be one or two people so we’re estimating 6 to 12 people because if there were two people per tiny house, six tiny houses, and within that two of those would be us so basically it would be us and we’re estimating at maximum ten other people on the property. Pg. 34;

³ Upon information and belief, the Applicants were informed by Staff that the tiny homes were certified recreational vehicles. This is hearsay and not supported by the evidence and arguments set forth herein.

- That is our plan. What we have intended with these two tinies is we want to live in them so we're kind of going through the process of finding a way that we can do that legally. Pg. 35;
- We have moved both tiny houses. We have lived in them while we're moving but we bought the property specifically for the purpose of living in the tiny houses. Pg. 36;
- ...I don't have an exact number, but there are tiny house communities around the country so there are other places to bring them. Some campgrounds let you bring tiny houses. Some don't permit tiny houses. Like, when I talked to Nahkeeta, Nahkeeta Campground, I don't know what their reason is, but they don't allow tiny houses on wheels. Pg. 37;
- Our primary purpose for this is for tiny houses. That is what we would prefer to have on our property. We're not opposed to other RVs or other tent campers, but really what we would like is to create a space specifically for people who have tiny houses on wheels to come and be able to park their tiny house. Pg. 37;
- ...I don't know if there is a way to grant a zoning variance for a campground in saying that we're not going to have tent campers. I don't know if that's possible but our intentions is not to use it for that. Pg. 38.

The Applicants are bound by their testimony, and based upon the same, it is clearly evident that these tiny homes are primary residences for their occupants. The tiny home concept is based upon small and simple living, not recreational purposes. As set forth in Section 8.17A.6 of the ZDO, “[a] **campground shall not be used as a primary residence on either a temporary or permanent basis, except as provided for a caretaker residence.**”

When questioned by Chair Quynn, Applicant Carnill admitted that a tiny home is indeed a mobile home:

CHAIR QUYNN: I've got a couple questions. What's a trailer?

CARNILL: What's a trailer?

CHAIR QUYNN: Yeah.

CARNILL: A typical –

CHAIR QUYNN: Give me the definition of a trailer.

CARNILL: Definition of a trailer is a structure that you attach to another vehicle to – that has wheels on it that pulls weight – pulls a load.

CHAIR QUYNN: Okay. It’s got wheels on it to transport something; correct?

CARNILL: Yes, correct.

CHAIR QUYNN: That makes the mobile, doesn’t it?

CARNILL: Yeah.

CHAIR QUYNN: What’s the definition of a home or dwelling unit?

CARNILL: Home or dwelling unit?

CHAIR QUYNN: Manufactured housing or an (inaudible) where people live, where people live, what’s the definition of a home?

LAROCK: As we understand, like, a manufactured home or traditional stick-built house would be on a foundation.

CHAIR QUYNN: Well, I didn’t ask you if it was on a foundation. I asked you what’s the definition of a home[?]

CARNILL: Something you live in.

CHAIR QUYNN: So if you put something you live in and it’s a home on a trailer and it’s mobile, what do you have? They’re okay. What do you have?

CARNILL: I have a mobile home. A home that you live in that’s mobile. Mobile home. Exhibit F, Pgs. 38-39.

The BZA approved the variance as related to the minimum required acreage for a campground. It did so, however, with the express condition “that it is a campground with six (6) sites and not a mobile home park or tiny home park.” Exhibit B, Pg. 4. Chair Quynn qualified this condition:

...The request as it’s stated is an approval for campground sites, okay? Campground sites. It’s not an approval for a mobile home park or a tiny home park or anything like that. It’s campground sites. To pursue this you have to go

through a regular site plan process which will cover a lot of the issues that were brought up today. It's kind of unfortunate the – the tiny home concept I've heard about if for a long time. It's been around. I'm a member of ICC. I've watched that for 35 years. Stuff comes up all the time. Its' unfortunate. This is one of those items that's not addressed in the zoning ordinance specifically and when zoning ordinances are updated just like the comprehensive plan you can't catch everything. That's why we're here so we're not either opposed or for more tiny homes. This is – we're looking at this in the ordinance as a campground site request. We are going to ask the Board – going to ask the zoning administrator to follow up with the planning commission, maybe the county commissioners to pursue whatever is necessary to address tiny homes in the ordinance and I'm sure you all can work together in that. I wanted to say those things and I will let it be at that. Exhibit F, Pgs. 82-83.

Neither the BZA nor the ZA is empowered to make law. They are to interpret the law as passed by the Planning Commission, even if they are inclined to support a particular request.

The ZA has committed a clear error in determining that a “tiny home,” as defined by the Applicants herein, is a recreational vehicle and therefore a permitted Camping Unit. The Appellants request that that BZA reverse this decision of the ZA.

WAYNE & ANN BAVRY / NEAL & ALICE BARKUS
Appellants, By Counsel



Christopher P. Stroech, Esq. (WVSB #9387)
Arnold & Bailey, PLLC
208 N. George Street
Charles Town, WV 25414
304-725-2002
304-725-0282 (Fax)
cstroech@arnoldandbailey.com

Subject: RE: LaRock / Carnill Zoning Variance Request
Date: Tuesday, April 2, 2019 at 11:53:57 AM Eastern Daylight Time
From: Zoning
To: Christopher Stroech

Good morning,

The BZA approved the variance to reduce the required acreage from ten acres to six acres for a six site campground. The Ordinance allows various types of camping units, either with a foundation or without a foundation. As discussed during the meeting, the two units that the applicants currently have on their property are Recreational Vehicles. They are licensed by the DMV and permitted Camping Units.

Article 2 defines Camping Units as, "Individual units designed for temporary occupancy within an approved campground such as trailers, self-propelled campers, recreational vehicles, tents, cabins, camping cabins, fifth wheels, pop-up campers, and/or lodges."

Ty's clarification with the applicants at the end of the meeting, after the motion was made, was to reiterate that the campground could not be a mobile home park or tiny home park for residential purposes (exceeding 180 days / or for long term use by their family), as was an expressed concern by the public during the hearing. The Board did not place any limitations on the types of camping units that could be utilized for the campground.

Presently, the applicants have not rented out the units to the public and therefore, they are not in violation of anything. Additionally, the property owners may store the units on the property for personal use without violation of the Ordinance.

I hope this clarifies. If you have additional questions or concerns, please let me know.

Alex

Alexandra Beaulieu
Zoning Administrator
Jefferson County Office of Planning and Zoning
www.jeffersoncountywv.org
304-728-3228

From: Christopher Stroech [mailto:cstroech@arnoldandbailey.com]
Sent: Monday, April 1, 2019 9:55 AM
To: Zoning <Zoning@jeffersoncountywv.org>
Subject: Re: LaRock / Carnill Zoning Variance Request

Alex:

LaRock / Carnill have posted the following on their facebook page:

"We are approved to be a six site campground and tiny houses on wheels are welcome!"

This is concerning as the BZA expressly stated that tiny homes are not permitted.

I believe that LaRock / Carnill are in violation of the BZA's ruling and applicable regulations by currently having two (2) tiny homes on site. I would ask that this violation be addressed. thanks,



Christopher P. Stroech, Esq.
Arnold & Bailey, PLLC
208 N. George Street
Charles Town, WV 25414
304-725-2002
304-725-0282 (Fax)
cstroech@arnoldandbailey.com

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From: Zoning <Zoning@jeffersoncountywv.org>
Date: Wednesday, March 27, 2019 at 10:34 AM
To: Christopher Stroech <cstroech@arnoldandbailey.com>
Subject: RE: LaRock / Carnill Zoning Variance Request

We have not received any additional documentation from the applicants. I did verify with them that their intent is not to exceed the 180 day occupancy restriction and advised that if they intended to provide long-term residency in the units, they would need to pursue another avenue (subdivision, etc). You can see our email exchange (attached). It was also included in the BZA Agenda Packet [[click here](#)].

If you have additional questions, please let me know.

Alex

Alexandra Beaulieu
Zoning Administrator
Jefferson County Office of Planning and Zoning
www.jeffersoncountywv.org
304-728-3228

From: Christopher Stroech [<mailto:cstroech@arnoldandbailey.com>]
Sent: Wednesday, March 27, 2019 10:12 AM
To: Zoning <Zoning@jeffersoncountywv.org>
Subject: Re: LaRock / Carnill Zoning Variance Request

Thank you.

Has any additional documentation been submitted by the Applicants?

Christopher P. Stroech, Esq.
Arnold & Bailey, PLLC
208 N. George Street
Charles Town, WV 25414

304-725-2002
304-725-0282 (Fax)
cstroech@arnoldandbailey.com

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From: Zoning <Zoning@jeffersoncountywv.org>
Date: Tuesday, March 26, 2019 at 3:48 PM
To: Christopher Stroech <cstroech@arnoldandbailey.com>
Subject: RE: LaRock / Carnill Zoning Variance Request

Mr. Stroech,

The Chair presides over the meeting and will announce how the time is allocated at the beginning of the meeting. Historically, a representative speaks on behalf of a group of people who will make the same comment and is provided with more time, as opposed to multiple people making the same comment.

Section 5.7 of the Rules of Procedure state, "The Chairperson shall preside at the hearing and shall make such rulings as may be necessary to conduct a hearing in an efficient and orderly manner including, but not limited to, the imposition of time limitations and the exclusion of irrelevant, repetitive, or cumulative evidence or testimony...."

I've attached the Rules of Procedure for your reference.

Please let me know if you have additional questions.

Alexandra Beaulieu
Zoning Administrator
Jefferson County Office of Planning and Zoning
www.jeffersoncountywv.org
304-728-3228

From: Christopher Stroech [<mailto:cstroech@arnoldandbailey.com>]
Sent: Tuesday, March 26, 2019 11:34 AM
To: Zoning <Zoning@jeffersoncountywv.org>
Subject: Re: LaRock / Carnill Zoning Variance Request

Ms. Harman:

Can you please confirm that both myself and my clients, if elected, will each have three (3) minutes to address the Board? Thanks,

Christopher P. Stroech, Esq.
Arnold & Bailey, PLLC

208 N. George Street
Charles Town, WV 25414
304-725-2002
304-725-0282 (Fax)
cstroech@arnoldandbailey.com

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From: Zoning <Zoning@jeffersoncountywv.org>
Date: Wednesday, March 20, 2019 at 5:06 PM
To: Christopher Stroech <cstroech@arnoldandbailey.com>
Subject: RE: LaRock / Carnill Zoning Variance Request

Good afternoon,

Please note that our office is in receipt of your email and your comments will be included in the Board's mailed packet for the upcoming March 28, 2019 Board of Zoning Appeals meeting. This packet will be made available on the County's [webpage](#) by close of business on Friday, March 22, 2019.

Thank you,

Jennilee Hartman, Zoning Clerk
Office of Planning and Zoning
www.jeffersoncountywv.org
304-728-3228

From: Christopher Stroech [<mailto:cstroech@arnoldandbailey.com>]
Sent: Wednesday, March 20, 2019 4:07 PM
To: Zoning
Subject: Re: LaRock / Carnill Zoning Variance Request

Please see attached.

Please confirm that we do not need to mail or hand-deliver a copy. thanks,

Christopher P. Stroech, Esq.
Arnold & Bailey, PLLC
208 N. George Street
Charles Town, WV 25414
304-725-2002
304-725-0282 (Fax)
cstroech@arnoldandbailey.com

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From: Zoning <Zoning@jeffersoncountywv.org>
Date: Tuesday, March 19, 2019 at 11:50 AM
To: Christopher Stroech <cstroech@arnoldandbailey.com>
Subject: RE: LaRock / Carnill Zoning Variance Request

Good morning,

To date, we have not received any additional documents or requests from Ms. LaRock or Mr. Carnill and we have not received any documents in support of the request.

Alexandra Beaulieu
Zoning Administrator
Jefferson County Office of Planning and Zoning
www.jeffersoncountywv.org
304-728-3228

From: Christopher Stroech [<mailto:cstroech@arnoldandbailey.com>]
Sent: Monday, March 18, 2019 2:02 PM
To: Zoning <Zoning@jeffersoncountywv.org>
Subject: Re: LaRock / Carnill Zoning Variance Request

Ms. Beaulieu:

As of today's date, have any additional requests been made by LaRock / Carnill and/or any additional documents been submitted in support? thanks,

Christopher P. Stroech, Esq.
Arnold & Bailey, PLLC
208 N. George Street
Charles Town, WV 25414
304-725-2002
304-725-0282 (Fax)
cstroech@arnoldandbailey.com

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THE ORIGINAL CREDITOR, IF APPLICABLE.

From: Zoning <Zoning@jeffersoncountywv.org>
Date: Monday, February 25, 2019 at 1:36 PM
To: Christopher Stroech <cstroech@arnoldandbailey.com>
Subject: RE: LaRock / Carnill Zoning Variance Request

Mr. Stroech,

There are two variance applications in our Office for this property. I have attached the second variance application for your review.

At present, there is no other documentation related to these two variance applications. The applications will be placed on the March 28, 2019 BZA agenda. Any documentation that you or your client would like to provide to the Board of Zoning Appeals must be submitted to our Office no later than noon on March 21, if you or your client would like said documentation included in the BZA packet for their review in advance of the meeting. Otherwise, public comment may be made in person the day of the meeting.

If you have additional questions, please contact our Office.

Alexandra Beaulieu
Zoning Administrator
Jefferson County Office of Planning and Zoning
www.jeffersoncountywv.org
304-728-3228

From: Christopher Stroech [<mailto:cstroech@arnoldandbailey.com>]
Sent: Monday, February 25, 2019 1:13 PM
To: Zoning <Zoning@jeffersoncountywv.org>
Cc: Christopher Stroech <cstroech@arnoldandbailey.com>
Subject: Re: LaRock / Carnill Zoning Variance Request

Please be advised that I represent Wayne and Ann Bavry, owners of property located adjacent to the property owned by LaRock / Carnill. Please refer to the attached Zoning Variance Request.

The Bavrys, along with many other adjacent or nearby landowners, are adamantly opposed to this variance request.

Can you please send, or make available for pick-up, any file documents related to his request? thanks,

Christopher P. Stroech, Esq.
Arnold & Bailey, PLLC
208 N. George Street
Charles Town, WV 25414
304-725-2002
304-725-0282 (Fax)
cstroech@arnoldandbailey.com

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**THE BOARD OF ZONING APPEALS
OF
JEFFERSON COUNTY, WEST VIRGINIA**

Variance from Section 8.17B.1 to reduce the required acreage for a six (6) site campground from 10 acres to six (6) acres. Property Owners: Danielle LaRock and Johnathon Carnill. Location: Vacant parcel on the northwest corner of River Road and Cedar Ridge Lane, Shepherdstown, WV, Parcel ID: 09001000070000; Size: 6.06 ac; Zone: Rural.

File # 19-3-ZV

VARIANCE APPROVED WITH CONDITIONS

On the 28th day of March, 2019, before the Board of Zoning Appeals (hereinafter "BZA") came the applicant for a variance request from Section 8.17B.1 to reduce the required acreage for a six (6) site campground from 10 acres to six (6) acres. The Board was present by members Tyler Quynn, Deirdre Catterton, and Leeds Corbin.

Ms. Danielle LaRock and Mr. Johnathon Carnill, owners, were present to address the Board. Ms. Alexandra Beaulieu, the Jefferson County Zoning Administrator, provided an overview of her staff reports to the Board regarding the applicant's request to waive the requirement of a site plan. Ms. Beaulieu stated that should the Board grant the request, the applicants would still be required to obtain approvals from any outside agencies such as the Health Department and the Division of Highways.

Ms. LaRock and Mr. Carnill provided the Board with a packet that outlined their proposal named Tiny Haven. Ms. LaRock noted that of the six units proposed, only two were likely to be occupied by non-family members. The applicants stated that the proposed campground would have guidelines that included quiet hours and the required 180-day occupancy limitation. The applicants further explained that they would follow all environmental laws, install landscaping and fencing as a buffer along the perimeter of the property, and noted that the units would utilize composting toilets as septic systems. The applicants stated that they did not believe the traffic



would be significantly increased as their intent is to rent spaces to tenants who wish to stay for the full 180 days allowed by the occupancy limitation, thereby minimizing significant ingress and egress to the property. The applicants answered various questions by the Board.

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

In their rebuttal, Ms. LaRock and Mr. Carnill addressed the neighbors' concerns pertaining to complying with setbacks by explaining that each unit is typically about 160 square feet and therefore it would not be an issue to meet the required setbacks. Ms. LaRock also stated that the site would be adequately buffered so the visual impact to the neighbors should be minimal. Ms. Beaulieu confirmed Mr. Quynn's inquiry that per zoning, a mobile home would be permitted to locate on the property and that it appeared the subject parcel did possess development rights to be subdivided into three (3) lots and each lot could have a dwelling unit and an In-Law Suite. Ms. Beaulieu noted that such a subdivision could process administratively. Mr. Quynn closed the public hearing.

Mr. Corbin moved to approve variance request #19-3-ZV to reduce the required acreage for a campground from ten (10) acres to six (6) acres with the condition that the campground is limited to six (6) camp sites. Mr. Cochran requested clarification that the motion was to allow for

a maximum of six (6) camp sites, which the Board confirmed. Ms. Catterton seconded the motion, which carried unanimously. Mr. Quynn requested that the applicants come forward and reiterated that the Board had approved their request for a campground with six (6) sites and not for a mobile home park or tiny home park. Mr. Quynn further advised that the campground could only operate once they had processed a site plan. The applicants acknowledged that they understood the proceedings and the BZA ruling.

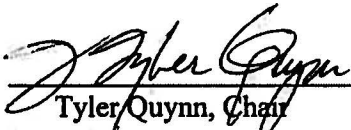
The portion of the record of the BZA meeting pertaining to the application and the official minutes thereof are incorporated herein by references as if set forth in full herein.

Whereupon, in consideration of the foregoing, the BZA made the following conclusions of law:

1. The property in question is zoned rural.
2. Campgrounds are principal permitted use in the rural districts.
3. Based on the Zoning Administrator / Staff report, during the drafting of the campground regulations, both the Jefferson County Planning Commission and the Jefferson County Commission intended for the BZA to hear and decide on requests for a variance regarding campground size, and the BZA finds that this request is within the parameters of the 4 part test for a variance more fully set forth in Section 8A-7-11 of the West Virginia Code and the relevant ordinance.
4. A campground on 10 acres is allowed 150 sites.
5. The BZA finds that if 15 sites per acre are allowed by right on 10 acres, that one site per acre, or, six sites on six acres was a reasonable request, if all other necessary provisions of the ordinance could be met.
6. The BZA does not determine what constitutes a camping unit, as that was not the request before the Board.
7. Based upon the staff report, the testimony received and the evidence presented, the BZA concludes that the Appellant has met the 4 part test of a variance more fully set forth in Section 8A-7-11 of the West Virginia Code and the relevant ordinance.

8. Based upon the staff report, the testimony received and the evidence presented, the BZA finds that the variance request from Section 8.17B.1 to reduce the required acreage for a six (6) site campground from 10 acres to six (6) acres should be granted.
9. WHEREFORE, for the reasons set forth herein, the applicant's request for the variance is hereby, APPROVED WITH THE FOLLOWING CONDITIONS:
 - a. that the campground is limited to six (6) camp sites;
 - b. that it is a campground with six (6) sites and not a mobile home park or tiny home park; and
 - c. that the campground could only operate once the applicants had processed a site plan.
 - d. That the applicants are bound by their testimony and representations to the BZA.

Jefferson County Board of Zoning Appeals,

By: 
Tyler Quynn, Chair

25 April 2019
Date

CLASSIFICATIONS

Class A • Cars & Trucks

Passenger motor vehicles with a gross vehicle weight of 10,000 pounds or less

Class B • Trucks

Trucks, truck tractors, or road tractors with a gross vehicle weight of 10,001 pounds or more

Class C • Trailers & Semi Trailers

Trailers and semitrailers with a gross vehicle weight of more than 2,000 pounds, excluding house trailers, trailers, or semitrailers that are designated to be drawn by class A motor vehicles

Class G • Motorcycles

Motor driven cycles and mopeds with a saddle and no more than three wheels

Class H • Buses

Motor vehicles designed to carry more than seven passengers including for transporting persons for compensation, excluding taxicabs

Class J • Taxi Cabs

Motor vehicles used for the transportation of persons for compensation.

Class M • Mobile Equipment

Self-propelled vehicles, not designed or used primarily for the transportation of persons or property over the highway, including farm equipment, implements of husbandry, well-diggers, cranes, and wood-sawing equipment that may infrequently travel on the highway among job sites, to equipment, storage sites, or repair sites

Class R • Travel Trailers

Trailers designed to provide temporary living quarters for recreation, travel, or camping use

Class T • Trailers

Trailers, boat trailers, or semi-trailers with a gross vehicle weight of less than 2,000 pounds that are designed to be drawn by class A motor vehicles

Class V • Antique Motor Vehicles

Motor vehicles that were manufactured at least 25 years prior to the current calendar year

Class X • Farm Trucks

Motor vehicles used exclusively for the transportation of farm products and supplies by a farmer

Class Y • Boats

Watercrafts and vessels designed for travelling on water



MOTOR VEHICLE REGISTRATION FEES



dmv.wv.gov

Rev 8/2017

BASIC REGISTRATION INFO

All registered motor vehicles are required to be covered by a motor vehicle liability insurance policy. A Statement of Insurance MUST be submitted with each application for registration on all classes of motor vehicles EXCEPT Classes C, R, and T. The DMV will also accept a copy of your Certificate of Insurance (WV-1).

A one dollar (\$1.00) litter fee and fifty cents (.50c) insurance enforcement fee has been included in the schedule of fees, as required.

The Statement of Insurance or Certificate of Insurance (WV-1) for the vehicle being registered MUST contain the following information:

- Vehicle Description
- Vehicle Identification Number (VIN)
- Policy Number
- National Association of Insurance Commissioners (NAIC) Number
- Name of the Insurance Company
- Name of the Insurance Agent

For all registration renewals or transfers, a vehicle owner must provide a copy of their personal property tax receipt or an Affidavit of Assessor (DMV-178-TR) from the County Assessor. One year registrations require proof of payment for the previous tax year. Two year registrations require proof of payment for the previous two tax years.

Personal property taxes are assessed by the County Assessor and collected by the County Sheriff. If you have any questions about your personal property taxes contact your local County Assessor.

Contact your County Courthouse with any questions concerning personal property taxes.

All Terrain Vehicles (ATVs) and Side by Sides may not be licensed; however, they must be titled.

EXHIBIT



Wounded in the Line of Duty Education is a Right

CLASS A | CARS & TRUCKS UP TO 10,000 LBS NON-PERSONALIZED PLATE PRICES

LICENSE PLATE DETAIL	NEW PLATE PRICE	RENEWAL PRICE
Standard Graphic	\$51.50	\$51.50
Graphic Plate	\$64.50	\$51.50
Sequel/Continuation (available for a limited term only)	\$51.50	\$51.50
Unlimited Mile Standard	\$64.50	\$51.50
Whichever is Higher	\$76.50	\$64.50
Whichever is Higher / Character Education (Anytime)	\$76.50	\$64.50
4th / FFA	\$76.50	\$64.50
9/11 Commemorative	\$76.50	\$64.50
Domestic Life / Organ Donor	\$76.50	\$64.50
Domestic Cancer Awareness	\$76.50	\$64.50
AIH Recruit	\$76.50	\$64.50
Classic Car	\$76.50	\$64.50
Antique (non-abstract)	\$76.50	\$64.50
Antique Designer	\$76.50	\$64.50
Industry Inspector	\$76.50	\$64.50
Emergency Medical Services (EMS)*	\$76.50	\$64.50
Firefighter / Volunteer Firefighter / Certified Firefighter	\$76.50	\$64.50

FOR A FIRST-TIME TWO-YEAR REGISTRATION YOU PAY BOTH THE RENEWAL PRICE AND THE NEW PLATE PRICE. FOR A TWO-YEAR REGISTRATION RENEWAL YOU PAY DOUBLE THE RENEWAL PRICE LISTED ABOVE. PLATES INDICATED WITH AN APOSTROPHES (') REQUIRE ADDITIONAL CERTIFICATION.

EXCHANGE PRICING: CHANGE TO PERSONALIZED PLATE LICENSE STANDARD PATRIOTIC OR UNIFORM

LICENSE PLATE DETAIL	STANDARD GRAPHIC	PATRIOTIC OR UNIFORM	EXCHANGE CHARGE	NASCAR OR 9/11
Plate begins with 1	\$64.50	\$76.50	\$91.50	\$101.50
Plate begins with 2	\$64.50	\$76.50	\$91.50	\$101.50
Plate begins with 3	\$64.50	\$76.50	\$91.50	\$101.50
Plate begins with 4	\$64.50	\$76.50	\$91.50	\$101.50
Plate begins with 5	\$64.50	\$76.50	\$91.50	\$101.50
Plate begins with 6	\$64.50	\$76.50	\$91.50	\$101.50
Plate begins with 7	\$64.50	\$76.50	\$91.50	\$101.50
Plate begins with 8	\$64.50	\$76.50	\$91.50	\$101.50
Plate begins with 9	\$64.50	\$76.50	\$91.50	\$101.50
Plate begins with O	\$64.50	\$76.50	\$91.50	\$101.50
Plate begins with N	\$64.50	\$76.50	\$91.50	\$101.50
Plate begins with D	\$64.50	\$76.50	\$91.50	\$101.50
Renewal Fee	\$64.50	\$76.50	\$91.50	\$101.50

CLASS G | MOTORCYCLES MOTORCYCLE PLATE REGISTRATIONS

LICENSE PLATE DETAIL	NEW PLATE PRICE	RENEWAL PRICE
Standard Motorcycle	\$16.00	\$16.00
Personalized (Includes \$15.00 by Annual Renewal Fee)	\$31.00	\$31.00
Headstocked	\$16.00	\$16.00
Vintage	\$26.00	\$16.00
Vertical	\$41.00	\$16.00

FOR A FIRST-TIME TWO-YEAR REGISTRATION YOU PAY BOTH THE RENEWAL PRICE AND THE NEW PLATE PRICE. FOR A TWO-YEAR REGISTRATION RENEWAL YOU PAY DOUBLE THE RENEWAL PRICE LISTED ABOVE.

CLASS B | TRUCKS 10,001 LBS AND OVER GROSS WEIGHT LBS.

WEIGHT LBS.	FULL YEAR (7/1 - 6/30)	3/4 YEAR (10/1 - 12/31)	1/2 YEAR (1/1 - 12/31)	1/4 YEAR (4/1 - 6/30)
10,001 - 11,000	\$34.50	\$36.25	\$36.25	\$36.25
11,001 - 12,000	\$39.50	\$40.00	\$40.00	\$40.00
12,001 - 13,000	\$44.50	\$43.75	\$43.75	\$43.75
13,001 - 14,000	\$49.50	\$47.50	\$47.50	\$47.50
14,001 - 15,000	\$54.50	\$51.25	\$51.25	\$51.25
15,001 - 16,000	\$59.50	\$55.00	\$55.00	\$55.00
16,001 - 17,000	\$64.50	\$58.75	\$58.75	\$58.75
17,001 - 18,000	\$69.50	\$62.50	\$62.50	\$62.50
18,001 - 19,000	\$74.50	\$66.25	\$66.25	\$66.25
19,001 - 20,000	\$79.50	\$70.00	\$70.00	\$70.00
20,001 - 21,000	\$84.50	\$73.75	\$73.75	\$73.75
21,001 - 22,000	\$89.50	\$77.50	\$77.50	\$77.50
22,001 - 23,000	\$94.50	\$81.25	\$81.25	\$81.25
23,001 - 24,000	\$99.50	\$85.00	\$85.00	\$85.00
24,001 - 25,000	\$104.50	\$88.75	\$88.75	\$88.75
25,001 - 26,000	\$109.50	\$92.50	\$92.50	\$92.50
26,001 - 27,000	\$114.50	\$96.25	\$96.25	\$96.25
27,001 - 28,000	\$119.50	\$100.00	\$100.00	\$100.00
28,001 - 29,000	\$124.50	\$103.75	\$103.75	\$103.75
29,001 - 30,000	\$129.50	\$107.50	\$107.50	\$107.50
30,001 - 31,000	\$134.50	\$111.25	\$111.25	\$111.25
31,001 - 32,000	\$139.50	\$115.00	\$115.00	\$115.00
32,001 - 33,000	\$144.50	\$118.75	\$118.75	\$118.75
33,001 - 34,000	\$149.50	\$122.50	\$122.50	\$122.50
34,001 - 35,000	\$154.50	\$126.25	\$126.25	\$126.25
35,001 - 36,000	\$159.50	\$130.00	\$130.00	\$130.00
36,001 - 37,000	\$164.50	\$133.75	\$133.75	\$133.75
37,001 - 38,000	\$169.50	\$137.50	\$137.50	\$137.50
38,001 - 39,000	\$174.50	\$141.25	\$141.25	\$141.25
39,001 - 40,000	\$179.50	\$145.00	\$145.00	\$145.00
40,001 - 41,000	\$184.50	\$148.75	\$148.75	\$148.75
41,001 - 42,000	\$189.50	\$152.50	\$152.50	\$152.50
42,001 - 43,000	\$194.50	\$156.25	\$156.25	\$156.25
43,001 - 44,000	\$199.50	\$160.00	\$160.00	\$160.00
44,001 - 45,000	\$204.50	\$163.75	\$163.75	\$163.75
45,001 - 46,000	\$209.50	\$167.50	\$167.50	\$167.50
46,001 - 47,000	\$214.50	\$171.25	\$171.25	\$171.25
47,001 - 48,000	\$219.50	\$175.00	\$175.00	\$175.00
48,001 - 49,000	\$224.50	\$178.75	\$178.75	\$178.75
49,001 - 50,000	\$229.50	\$182.50	\$182.50	\$182.50
50,001 - 51,000	\$234.50	\$186.25	\$186.25	\$186.25
51,001 - 52,000	\$239.50	\$190.00	\$190.00	\$190.00
52,001 - 53,000	\$244.50	\$193.75	\$193.75	\$193.75
53,001 - 54,000	\$249.50	\$197.50	\$197.50	\$197.50
54,001 - 55,000	\$254.50	\$201.25	\$201.25	\$201.25
55,001 - 56,000	\$259.50	\$205.00	\$205.00	\$205.00
56,001 - 57,000	\$264.50	\$208.75	\$208.75	\$208.75
57,001 - 58,000	\$269.50	\$212.50	\$212.50	\$212.50
58,001 - 59,000	\$274.50	\$216.25	\$216.25	\$216.25
59,001 - 60,000	\$279.50	\$220.00	\$220.00	\$220.00
60,001 - 61,000	\$284.50	\$223.75	\$223.75	\$223.75
61,001 - 62,000	\$289.50	\$227.50	\$227.50	\$227.50
62,001 - 63,000	\$294.50	\$231.25	\$231.25	\$231.25
63,001 - 64,000	\$299.50	\$235.00	\$235.00	\$235.00
64,001 - 65,000	\$304.50	\$238.75	\$238.75	\$238.75
65,001 - 66,000	\$309.50	\$242.50	\$242.50	\$242.50
66,001 - 67,000	\$314.50	\$246.25	\$246.25	\$246.25
67,001 - 68,000	\$319.50	\$250.00	\$250.00	\$250.00
68,001 - 69,000	\$324.50	\$253.75	\$253.75	\$253.75
69,001 - 70,000	\$329.50	\$257.50	\$257.50	\$257.50
70,001 - 71,000	\$334.50	\$261.25	\$261.25	\$261.25
71,001 - 72,000	\$339.50	\$265.00	\$265.00	\$265.00
72,001 - 73,000	\$344.50	\$268.75	\$268.75	\$268.75
73,001 - 74,000	\$349.50	\$272.50	\$272.50	\$272.50
74,001 - 75,000	\$354.50	\$276.25	\$276.25	\$276.25
75,001 - 76,000	\$359.50	\$280.00	\$280.00	\$280.00
76,001 - 77,000	\$364.50	\$283.75	\$283.75	\$283.75
77,001 - 78,000	\$369.50	\$287.50	\$287.50	\$287.50
78,001 - 79,000	\$374.50	\$291.25	\$291.25	\$291.25
79,001 - 80,000	\$379.50	\$295.00	\$295.00	\$295.00

CLASS C | TRAILERS & SEMI TRAILERS Permanent & Non-Transferable License Fee - \$51.00

WEIGHT LBS.	FULL YEAR (7/1 - 6/30)	3/4 YEAR (10/1 - 12/31)	1/2 YEAR (1/1 - 12/31)	1/4 YEAR (4/1 - 6/30)
10,001 - 11,000	\$34.50	\$36.25	\$36.25	\$36.25
11,001 - 12,000	\$39.50	\$40.00	\$40.00	\$40.00
12,001 - 13,000	\$44.50	\$43.75	\$43.75	\$43.75
13,001 - 14,000	\$49.50	\$47.50	\$47.50	\$47.50
14,001 - 15,000	\$54.50	\$51.25	\$51.25	\$51.25
15,001 - 16,000	\$59.50	\$55.00	\$55.00	\$55.00
16,001 - 17,000	\$64.50	\$58.75	\$58.75	\$58.75
17,001 - 18,000	\$69.50	\$62.50	\$62.50	\$62.50
18,001 - 19,000	\$74.50	\$66.25	\$66.25	\$66.25
19,001 - 20,000	\$79.50	\$70.00	\$70.00	\$70.00
20,001 - 21,000	\$84.50	\$73.75	\$73.75	\$73.75
21,001 - 22,000	\$89.50	\$77.50	\$77.50	\$77.50
22,001 - 23,000	\$94.50	\$81.25	\$81.25	\$81.25
23,001 - 24,000	\$99.50	\$85.00	\$85.00	\$85.00
24,001 - 25,000	\$104.50	\$88.75	\$88.75	\$88.75
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28,001 - 29,000	\$124.50	\$103.75	\$103.75	\$103.75
29,001 - 30,000	\$129.50	\$107.50	\$107.50	\$107.50
30,001 - 31,000	\$134.50	\$111.25	\$111.25	\$111.25
31,001 - 32,000	\$139.50	\$115.00	\$115.00	\$115.00
32,001 - 33,000	\$144.50	\$118.75	\$118.75	\$118.75
33,001 - 34,000	\$149.50	\$122.50	\$122.50	\$122.50
34,001 - 35,000	\$154.50	\$126.25	\$126.25	\$126.25
35,001 - 36,000	\$159.50	\$130.00	\$130.00	\$130.00
36,001 - 37,000	\$164.50	\$133.75	\$133.75	\$133.75
37,001 - 38,000	\$169.50	\$137.50	\$137.50	\$137.50
38,001 - 39,000	\$174.50	\$141.25	\$141.25	\$141.25
39,001 - 40,000	\$179.50	\$145.00	\$145.00	\$145.00
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46,001 - 47,000	\$214.50	\$171.25	\$171.25	\$171.25
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52,001 - 53,000	\$244.50	\$193.75	\$193.75	\$193.75
53,001 - 54,000	\$249.50	\$197.50	\$197.50	\$197.50
54,001 - 55,000	\$254.50	\$201.25	\$201.25	\$201.25
55,001 - 56,000	\$259.50	\$205.00	\$205.00	\$205.00
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66,001 - 67,000	\$314.50	\$246.25	\$246.25	\$246.25
67,001 - 68,000	\$319.50	\$250.00	\$250.00	\$250.00
68				

Mobile Homes, House Trailers, and Manufactured Homes

All mobile homes, manufactured homes, and house trailers are issued a certificate of title when ownership is established.

Prior to February 14, 2006, based on the size and build, some mobile homes, house trailers, and manufactured homes were issued more than one certificate of title.

As of February 14, 2006, due to change in legislation, the DMV began issuing only one certificate of title per mobile home, house trailer, or manufactured home; Regardless of its size and build. For this reason, all multiple certificates of title or Manufacturer's Certificates of Origin will be converted to one certificate of title when processed by the WV DMV.

New / Dealer Purchases

When a house trailer or manufactured home is purchased from a dealer, they will provide you with a *Mobile Home Certificate of Ownership (MCO)* signed over to the purchaser. The purchaser must submit the MCO and completed **Certificate of Title for a Motor Vehicle (DMV-1-TR)** ([/DMV/DMVFormSearch/DMV-1-TR_Certificate-for-Title-of-Motor-Vehicle-wf.pdf](#)).

No taxes on the transaction are paid to DMV. The fees required are a \$15.00 title fee and \$10.00 per lien (if applicable).

Used / Private Party Purchases

For a private party purchase, the owner will sign the certificate of title on the back side as seller. The buyer would complete the back of the certificate title and sign as the purchaser. All out of state titles must be accompanied by a completed **Certificate of Title for a Motor Vehicle (DMV-1-TR)** ([/DMV/DMVFormSearch/DMV-1-TR_Certificate-for-Title-of-Motor-Vehicle-wf.pdf](#)) in addition to the reassigned certificate of title.

No taxes on the transaction are paid to DMV. The fees required are a \$15.00 title fee and \$10.00 per lien (if applicable).

Duplicate Titles (Lost Title Replacement)

To apply for a duplicate certificate of title the owner of record needs to complete the form **Request for Duplicate Title (DMV-4-TR)** ([/DMV/DMVFormSearch/DMV-4-TR_Application-for-Duplicate-Title-for-a-Motor-Vehicle-wf.pdf](#)), with a lien release (if applicable), and include a copy of the owner's driver's license.

The fee for a duplicate title is \$15.00.

If a title was never issued or the owner never obtained a certificate of title, they will be required to obtain one. They will need to provide the following documents in order to obtain one:

- Ownership documents such as:
 - Loan contract
 - Insurance policy
 - Personal property tax receipts, for the previous five years
- A **VIN Verification (DMV-1-B)** ([/DMV/DMVFormSearch/DMV-1B-Verification-of-VIN-wf.pdf](#)) completed and signed by a law enforcement officer
- A completed **Certificate of Title for a Motor Vehicle (DMV-1-TR)** ([/DMV/DMVFormSearch/DMV-1-TR_Certificate-for-Title-of-Motor-Vehicle-wf.pdf](#))



- A completed **Owner and Purchasing Affidavit (MB-12/13)** ([/DMV/DMVFormSearch/MB-12-13_Owner-and-Purchasing-Affidavit-wf.pdf](#))
- \$15.00 title fee

No person may transfer, purchase, or sell a mobile home, house trailer, or manufactured home without a certificate of title.

Transporting

To transport a mobile home, house trailer, or manufactured home on public roads within West Virginia you must obtain a permit from DMV. A **Transporters Application for House Trailer One Trip Permits (DMV-126-1)** ([/DMV/DMVFormSearch/MV-126-TR-1_Application-for-a-House-Trailer-One-Trip-Permit.pdf](#)) is to be completed in order to obtain a permit for the mobile home. The permit must be affixed to the rear or right side window of the mobile home, house trailer, or manufactured home when it is being transported. If the mobile home, house trailer, or manufactured homes are transported in pieces, each piece will need a separate permit.

There is a fee of \$2.00 per permit.

To transport a mobile home from another state into West Virginia, the state it is travelling from will have to issue the trip permit.

Conversion to Real Property

A titled owner of a mobile home, house trailer, or manufactured home has the option to convert their home to real property and obtain a deed in place of a certificate of title if it has been permanently affixed to real property.

All mobile homes, house trailers, manufactured, or factory built homes are required to be titled before they can be converted to real property; regardless of whether the home has a permanent foundation, it must be titled before it can be deeded.

The owner must submit the certificate(s) of title, a \$15.00 cancellation fee, and a completed **Application for Cancellation of Title for a Mobile or Manufactured Home Affixed to Real Property (DMV-2-TR)** ([/DMV/DMVFormSearch/DMV-2_Application-for-Cancellation-of-Title-for-a-Mobile-Home-Affixed-to-Real-Property-wf.pdf](#)) to the DMV. Any outstanding liens must be listed on the DMV-2-TR.

The transaction may be processed at any DMV regional office; however the title cancellation occurs when the paperwork is received and completed at DMV headquarters. Once your request is completed by DMV, and your title is cancelled, you will receive a copy of the *Application for Cancellation of Title for a Mobile or Manufactured Home Affixed to Real Property (DMV-2-TR)* by mail. DMV will notify the county clerk of the presiding county, where they will proceed to record the home as real property with a deed.

PLEASE NOTE: Once a certificate of title is cancelled on a mobile home, house trailer, or manufactured home, a new title cannot be resissued. When a manufactured home is deeded and affixed to "real property", it can no longer be considered as "personal property" and is no longer eligible for a certificate of title.



S. Andrew Arnold, Esq. PARTNER
Gregory A. Bailey, Esq. PARTNER
J. Daniel Kirkland, Esq. ATTORNEY
Christopher P. Stroech, Esq. ATTORNEY

208 N. George Street
Charles Town, WV 25414

T: 304 725 2002
F: 304 725 0282

VIA EMAIL ONLY

March 20, 2019

Jefferson County Board of Zoning Appeals
116 East Washington Street, Suite 200
PO Box 716
Charles Town, WV 25414

Re: Zoning Variance Request 19-3-ZV / LaRock-Carnill
Zoning Variance Request 19-4-ZV / Larock-Carnill
PUBLIC HEARING 03/28/19

Dear Members of the Jefferson County Board of Zoning Appeals:

Please be advised that I have been retained to jointly represent the interests of Wayne and Ann Bavry, owners of certain real property located at 1407 River Road, Shepherdstown, West Virginia; and Neal and Alice Barkus, owners of certain real property located at 1328 River Road, Shepherdstown, West Virginia. Both Bavry and Barkus strenuously object to the above-referenced zoning variance requests for the reasons as set forth herein.

I understand that LaRock and Carnill are seeking to develop a “campground” upon their six (6)-acre parcel, with six (6) tiny mobile homes and the presumed related infrastructure. However, a review of their social media posts indicate that these homes are not intended for transient camping use but rather for permanent or temporary residences of smaller scale. See attached social media posts. To this end, they are seeking two (2) variances requests from the Board: 1) a variance from the ten (10)-acre minimum acreage requirement for a “campground” set forth in Section 8.17B.1 of the Jefferson County Zoning and Land Development Ordinance (“ZDO”) and 2) a variance from preparing a formal Site Plan required in Section 4.10 of the ZDO.

As this Board is aware, the standard for approving these variance requests is set forth in Section 6.2 of the ZDO:

- A. The Board shall approve a variance request if the Board finds that a variance:
1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owner or residents;
 2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;



3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

First and foremost, the intended use is simply not permitted on the subject parcel. As set forth in Section 8.17A.6 of the ZDO, “[a] **campground shall not be used as a primary residence on either a temporary or permanent basis, except as provided for a caretaker residence.**” As confirmed by the attached documents and presumed testimony from the Applicants, the six (6) tiny mobile homes are intended to be used, sold or leased as residences, both for themselves and other family units, on either a temporary or permanent basis.

Applicants are essentially developing a tiny mobile home park. As defined in the ZDO and the Subdivision and Land Development Regulations (“SLDR”), mobile or manufactured homes are defined as single-family detached structures built in a factory. *See* Section 2.2, ZDO; Division 26.200, SLDR. The “tiny homes” ordered and obtained by the Applicants were built off-site, at locations specializing in tiny home construction, and were delivered, by trailer, to the subject parcel. Hence, these are mobile or manufactured homes.

More to the point, as defined in both the ZDO and SLDR:

Campground. An area or premises located on a single lot, operated as a commercial enterprise, generally providing space in the form of campsite pads for seasonal accommodations for transient occupancy or use by customers occupying camping units. **A campground shall be designed for seasonal occupancy, as opposed to permanent year-round occupancy, and shall be not be construed to mean a Mobile Home Park (as defined in the Zoning Ordinance).** All campgrounds shall comply with the defined uses and regulations in sections 2.2 and 8.17 of the Zoning Ordinance and relevant sections of these Subdivision Regulations. *See* Section 2.2, ZDO; Division 26.200, SLDR (emphasis added).

As a tiny mobile home park, the Applicants must follow the requirements and standards for mobile home parks set forth in Division 7.0 of the SLDR. This type of development is not permitted on the subject parcel, as mobile home parks are not a permitted use in a Rural District. *See* Appendix C, ZDO.

Aside from the non-permitted use determination, campgrounds otherwise have stringent requirements and standards that the Applicants seem unable or unwilling to meet. As defined in Section 8.17 of the ZDO, campground residency shall be temporary, limited to 180 days per calendar year, and campgrounds shall generally consist of campsites and campground amenities “for the use and enjoyment of campers.” A “campsite...generally means an area where an

individual, family, or group can pitch or place a camping unit.” Campgrounds must submit both Concept Plans and Site Plans pursuant to the ZDO and SLDR. Indeed, campgrounds shall follow all standards relating to safe access; storm water control; erosion and sediment control; sanitation, well and septic placement; parking requirement and setback provisions, among others *See* Section 8.2, SLDR. The Applicants are unable or unwilling to provide any such information.

Regarding the factors that the BZA must consider in granting a variance, the Applicants bear the burden of proving each of these factors. The Variance Applications are utterly void of any specific and sound reasons for the requested variances. Regarding the requested variance to prepare a Site Plan, the Applicants simply claim financial hardship. Such hardship, created by them, is not a legal basis for a variance. More importantly, it would be dangerous precedent for this Board to grant any variance based solely on financial hardship. The Applicants otherwise claim that they are not altering the property and will install “nice” features to improve the viewshed. Again, this is not a relevant nor legal basis for a variance.

The Board should note that the Applicants seek to reduce the required minimum acreage for a campground by Forty Percent (40%). Taking into consideration the easement area and area between the easement and road, along with any required well, septic and general setbacks, the usable acreage is likely less than five (5) acres, thereby doubling the residential or use density. Without a Site Plan, the Applicants have failed to demonstrate how the usable acreage will be adequate for their intended purposes.

Assuming it further necessary to address the required specific variance factors:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owner or residents:

As demonstrated by submissions made to the BZA, the development of a tiny mobile home park will affect the safety, welfare and rights of adjacent property owners. Indeed, such a development will increase traffic and noise; alter the viewshed from neighboring properties, create safety concerns due to increased residential density and may therefore result in a diminution in property values.

2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance:

The Applicants created the condition they are seeking relief from by purchasing a parcel of land in the Rural District, thereby prohibiting their intended use as a tiny mobile home park and/or by purchasing too small a parcel, thereby prohibiting their expected use a campground.

Their claimed financial hardship was further created by them and should not be excused by this Board.

3. Would eliminate an unnecessary hardship and permit a reasonable use of the land:

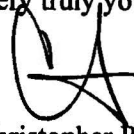
The development of a tiny mobile home park is not a reasonable use of property located in a Rural District. The development of a campground with only one-half of the required usable acreage is not a reasonable use of property located in a Rural District. "The purpose of this district [Rural] is to provide a location for *low density* single family residential development in conjunction with providing continued farming activities." Section 5.7, ZDO.

4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done:

For the reasons set forth herein above, the intent of the ZDO will not be observed if these variances are granted.

I encourage the BZA to review the provided materials and listen carefully to the neighboring property owners that will be directly impacted by the proposed development. These variance requests should be denied.

Very truly yours,



Christopher P. Stroeck, Esq.

cc: Wayne & Ann Bavry
Neal & Alice Barkus

of the 50 states (gotta get me some Idaho, Maine, Montana, New Hampshire, Oklahoma, Arkansas, and Alaska!)

2. **I've raised six figures for children's cancer research.**

Over \$23,000 of that was from [shaving my head!](#) The rest was from leading fundraising events for [St. Baldrick's Foundation.](#)

3. **I'm a total dog mom** to [Baxter](#) the mixed dachshund and Sinclair the pitbull.

4. We are more than mildly obsessed with **tiny homes on wheels** and starting a farm called [Tiny Haven WV](#)

5. Country music is my jam. I really love the song ["Standing Outside the Fire"](#) by Garth Brooks.

tinychavenwv

Following



tinychavenwv • Following
Jefferson County, West Virginia

tinychavenwv For all those who want to know what we are planning with Tiny Haven, there is a public hearing at the Charlestown library conference room on Thursday March 28 at 2:00pm.

Jonathan and I are the owners of Tiny Haven. We currently own two tiny houses on wheels. We want to use our Tins for our family and provide a space for others to have a place to stay in their tiny homes.

The tiny house movement promotes simplicity, working together, connection with nature, and financial integrity. We want to bring this movement to Shepherdstown WV. • We are applying to be a "campground" because within the zoning, this is how we best fit. We plan to have six spaces for tiny

41 likes



Add a comment



tinhavenwv Following ...



tinhavenwv • Following
Jefferson County, West Virginia

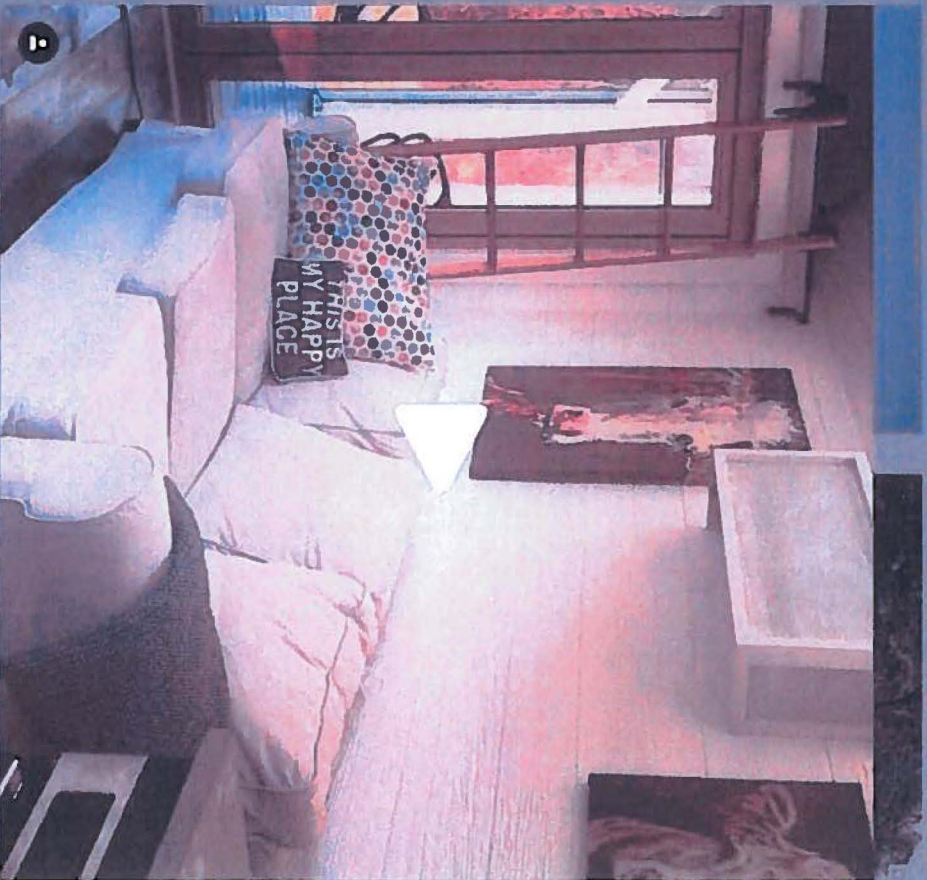
What is zoning and how is it different in Shepherdstown WV. •

We are applying to be a "campground" because within the zoning, this is how we best fit. We plan to have six spaces for tiny houses on wheels and maintain the pastoral aesthetic that we've enjoyed after living in this area for over 24 years.

We recognize what we are doing is different but we hope the Shepherdstown community will appreciate that we do have common values and we just want to create a beautiful addition to Jefferson County. • If you're local, feel free to repost so others know what is going on.

41 likes

Add a comment...



 **tinhavenwv** • Following
Perch & Nest-A Tiny Home Company

tinhavenwv Just a tiny house kind of morning ☀️ Thanks to @perchandnest for the beautiful place to stay while we get Gypsy the airstream set up for Airbnb at the farm in Winston-Salem!

#tinhavenwv #roost36 #tinyhouse
#tinhouseonwheels
#tinhouuselivingroom #tinhousekitchen
#smegfridge #tinhousewv
#tinhouseadventure
vanturinglove

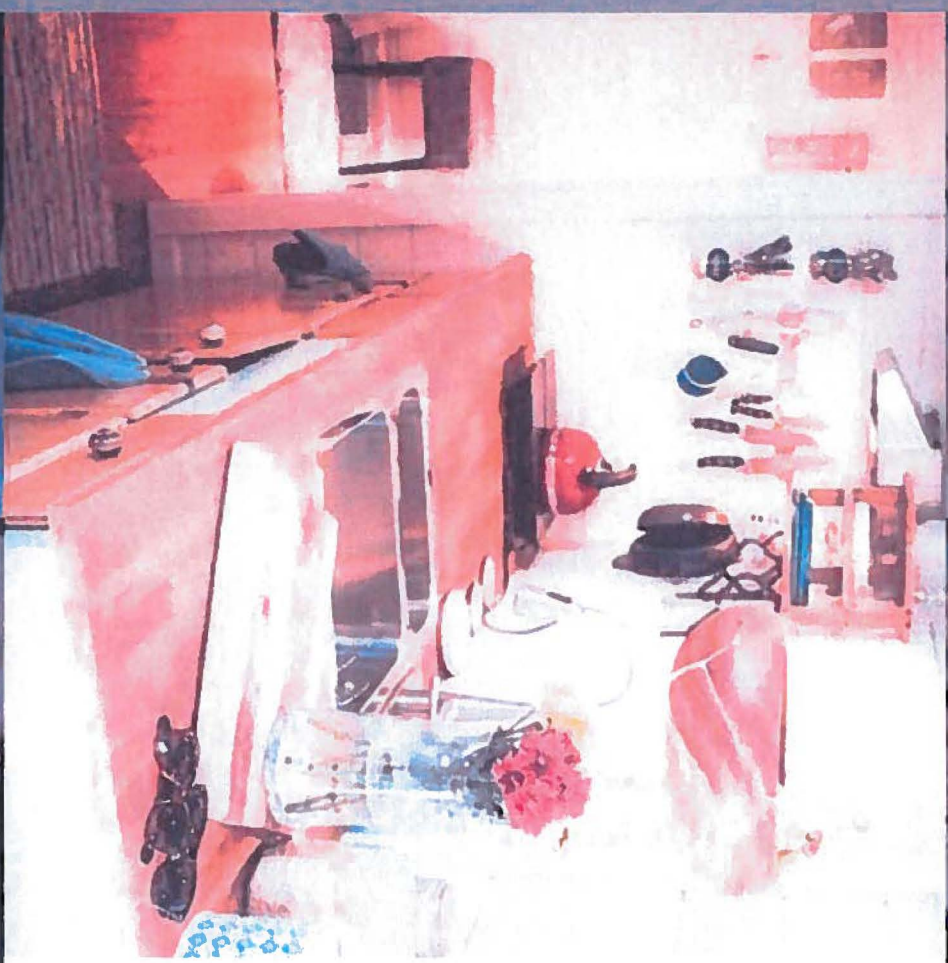
   

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tinyhavenwv Ok y'all, we've had requests to see the inside of our little white tiny! Here's a view of the kitchen (well prior to towing, everything be packed away now! This is a photo from the original owner).

We've got a beautiful butcher block countertop, super cute hand built cabinets, and for cooking we've got a microwaved induction cooktops (can be stored away when not in use), and a portable convection oven. The double basin sink works great too! We love the amount of counterspace here and how the former owner/builder kept it really clean. More photos to come!

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[riverscompass](#) Love it! Looks so homey!

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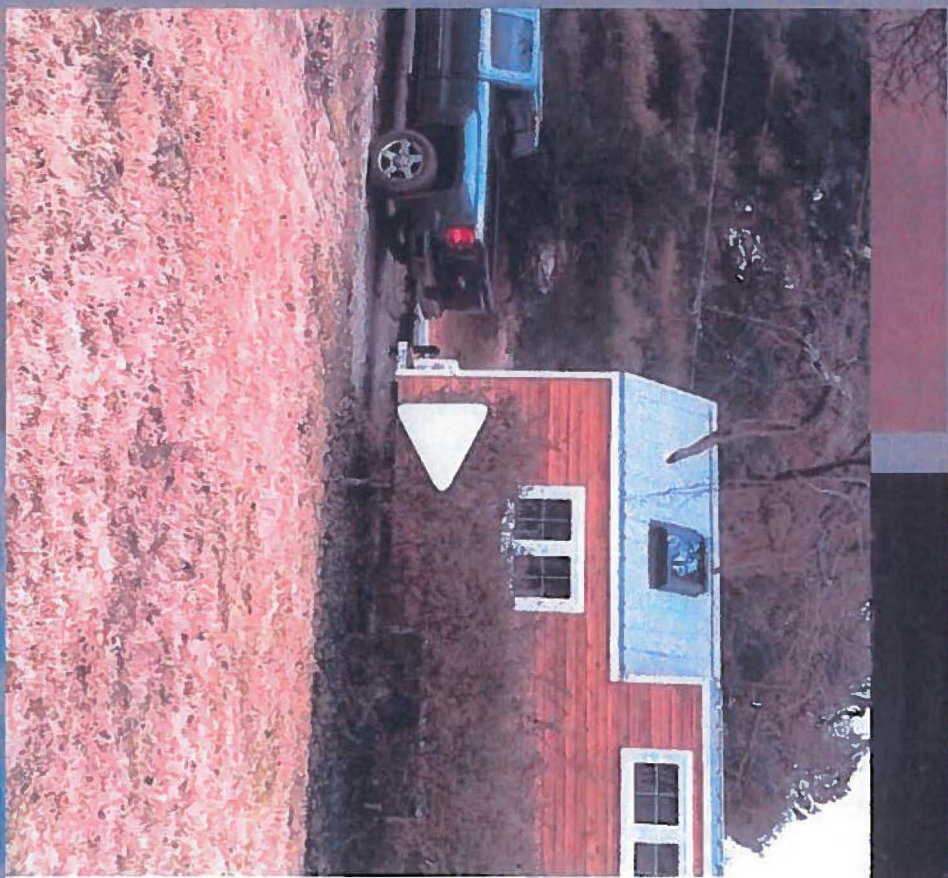


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tinyhavenwv Our newest member of our tiny family "Ginger" rolling out of @perchandnest on her journey home to Tiny Haven WV! Thank you @perchandnest for all your hard work, patience, and ability to create our dream tiny. We are in love!

tinyhavenwv #tinypouseonwheels
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The Haven

tinyhavenwv Happy New Year from Tiny Haven WV! 🐾 We hope all your dreams come true this year. Remember, tiny steps lead to big accomplishments!

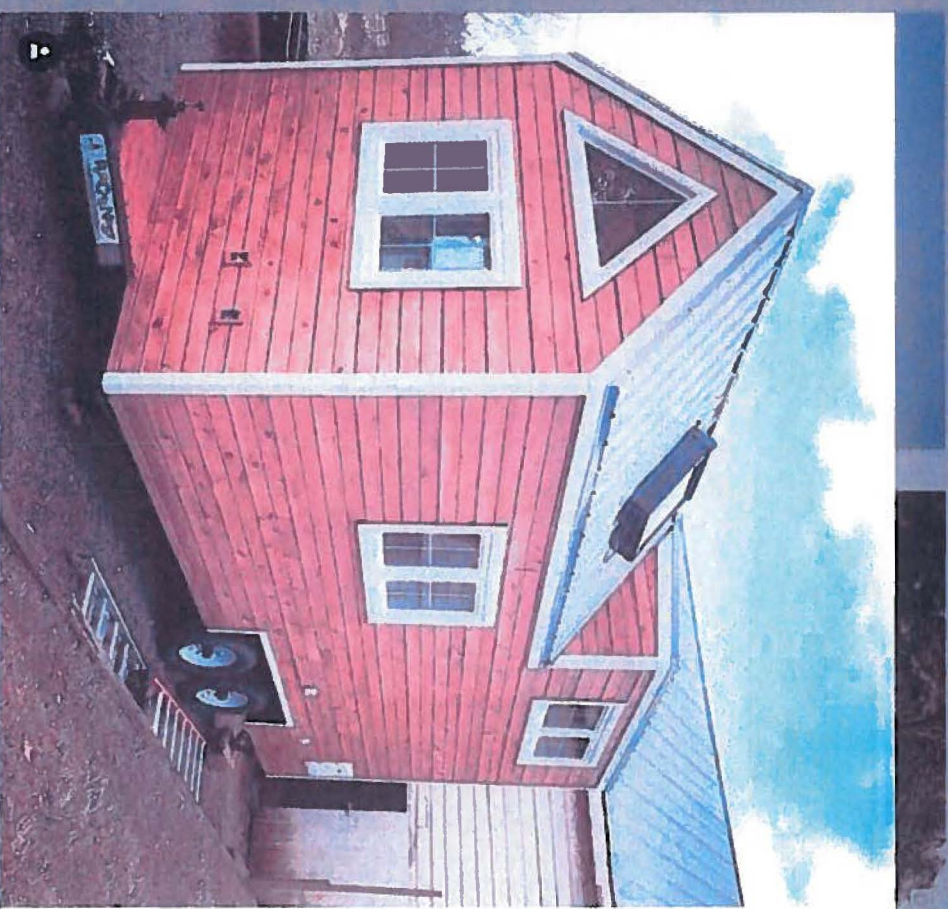
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- goforyourdreams #tinyhavenwv



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tinhavenwv Merry Christmas 🎄 from "Ginger" our @perchandnest #tinhouse!!! She's nearly complete - coming home to West Virginia after Jan 4! May your holidays be warm, cozy, and full of tiny wonderful surprises.

tinhavenwv #christmasseave
#gingertheliny #tinhouse
#tinhouseonwheels #tinhome
#homewhereyourheartis #tinhavenwv
riverscompass Yay!! Ginger it is!! 🎄 Have the most wonderful holidays. Merry Christmas! 🎄❤️



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DECEMBER 24, 2015

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tinychavenwv The shell of our tiny being built by @perchandnest Green looks good on her 🥰👍

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JEFFERSON COUNTY BOARD OF ZONING APPEALS

March 2019



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1 CHAIR QUYNN: Can I have order, please. Entertain a
2 motion.

3 BOARD MEMBER: I make a motion that we start this
4 session.

5 CHAIR QUYNN: All in favor, say aye.

6 (Board members answered in the affirmative.)

7 CHAIR QUYNN: The Jefferson County Zoning Board of
8 Appeals is officially in session for March of 2019. As a
9 matter of protocol, there should be a sign up sheet in the
10 back of the room. I'm starting to have a mental blank.
11 We will address our minutes. We'll follow our agenda.
12 After we address our minutes we will move into the public
13 cases that we have today. I think we have five variances
14 and a CUP, Conditional Use Permit.

15 When I call a case I will ask for the applicant or the
16 applicant's representative to move to the podium and
17 identify themselves. After they identify themselves Staff
18 will give a summary of the request for everybody that's
19 here. The applicant will then be given the opportunity to
20 present their case. After the applicant presents their
21 case we'll ask for a public input from the audience,
22 first, anybody that would be in support of the application
23 or for it and anybody that would be opposed to the
24 application or against it.

1 After we hear from the public the applicant will be
2 given an opportunity for rebuttal. We'll move through all
3 of our cases. The Board may or may not choose to go into
4 what's called a deliberative session. If we do that, we
5 will ask that the room be vacated. Everybody take their
6 belongings. The Board will then deliberate. Somebody
7 will come out in the hall and we will move back into a
8 public session and make our decision.

9 Miss anything, Jennilee?

10 Members, have you had a chance to review the minutes?

11 BOARD MEMBER: Yes.

12 CHAIR QUYNN: I know that you will (inaudible) since
13 you weren't here (inaudible) entertain a motion.

14 BOARD MEMBER: I make a motion that we approve the
15 minutes from the meeting January 24, 2019.

16 CHAIR QUYNN: All in favor, say aye.

17 (Board members answered in the affirmative.)

18 CHAIR QUYNN: The minutes are approved. I'm going to
19 rearrange the schedule so item four and five will be heard
20 after item six so we're going to go through one, two,
21 three, six, and then four and five.

22 Item number one postponed from February 28th is a
23 request for a Conditional Use Permit for an existing
24 drive-thru fast food restaurant, McDonald's, to replace

1 and upgrade the exterior menu boards with digital menu
2 boards. Applicant is Tracy Diehl, Expedite the Diehl.
3 Parcel information is McDonald's Corporation. The address
4 is 31 Maddox Square, Shepherdstown. The parcel ID
5 09008C00680000, .88 acres in size. The zone is
6 residential-light-industrial-commercial. May I have an
7 applicant?

8 STAFF: I have two things. The applicant
9 representative did e-mail our office and request to
10 postpone it until May due to awaiting permission from the
11 corporate office. The other point I wanted to make is we
12 didn't administer the oath.

13 (Witnesses sworn in.)

14 CHAIR QUYNN: What was the date, the next meeting?

15 STAFF: Wants to be postponed until the next meeting.

16 CHAIR QUYNN: Okay. I will entertain a motion from
17 the Board to postpone item number one until our next
18 regularly scheduled meeting.

19 BOARD MEMBER: I make a motion that we postpone item
20 one scheduled for today to continue until May, our next
21 scheduled (inaudible).

22 CHAIR QUYNN: All in favor, say aye.

23 (Board members answered in the affirmative.)

24 CHAIR QUYNN: Meeting is postponed. Item number two

1 also postponed from February is a variance request from
2 Section 5.7(b) to reduce the rear setback from 50 feet to
3 20 feet for an in ground pool 31 by 57 feet and the
4 surrounding concrete patio. Parcel information the owner
5 John and Dawn Grinstead, 33 -- who's doing the talking?
6 33 Eldridge Lane, Charles Town, West Virginia, parcel ID
7 is 06000900190021. It's 2.08 acres in size and it's a
8 rural zone. May I have an applicant, please.

9 JOHN GRINSTEAD: John Grinstead, owner of the
10 property.

11 STAFF: As stated, the request before you today is a
12 variance from Section 5.7(b) to reduce the rear setback
13 from 50 feet to 20 feet for the installation of a 31 by 57
14 in ground pool and surrounding concrete patio. The
15 subject parcel is the residue of the Eldridge Minor
16 Subdivision which processed in 2006. The house is located
17 to the rear of the property which is limited the buildable
18 area for the construction of an in ground pool in the
19 backyard. You can see the image. I tried to highlight
20 the property lines and the building envelope and then you
21 can see where the location of the house is.

22 A setback reduction to 20 feet along the rear property
23 line would likely have minimal impact on the neighboring
24 property. The property to the rear appears to be an

1 agricultural operation and does not contain any
2 addressable structures at this time.

3 It may be feasible to orient the pool so that it is
4 parallel to the house as opposed to perpendicular.
5 Another option may be to select a smaller size pool to
6 comply with the required setbacks. These options may
7 impact the overall functionality of the pool to the
8 homeowner.

9 As far as conditions of approval, Staff had no
10 recommended conditions of approval.

11 CHAIR QUINN: Any questions for Staff? For Staff.
12 Any questions for Staff?

13 Okay, sir, explain the application, please.

14 JOHN GRINSTEAD: Explain the application?

15 STAFF: And if you can just make sure you speak into
16 the microphone. Thank you.

17 JOHN GRINSTEAD: Sorry about that.

18 STAFF: That's okay.

19 JOHN GRINSTEAD: So we had the contractor come out and
20 we asked for the pool to be going -- extending out from
21 the back window to give it a better view and we found that
22 we needed a variance and it was 50 feet. If we ended up
23 with less than two acres it would be 12 feet so we have
24 asked for it to be reduced to 20. We did ask the neighbor

1 who owns the property behind us and to the left side if it
2 would be okay. They were fine. We had a signed letter
3 that we submitted as well from them. It was subdivided
4 prior to our buying the property so we weren't actually
5 knowledgeable of the subdivision.

6 BOARD MEMBER: You're not opposed to maybe working
7 with a little closer to the house and turning the pool a
8 short distance?

9 JOHN GRINSTEAD: Well, we thought about it and when we
10 started to do that, the power lines run diagonal so they
11 actually get pretty close to the pool so then you would
12 have to reduce the size. You want to maintain the patio
13 going out so that it doesn't -- water doesn't come back
14 onto the house so with all of that going on and that we
15 initially started this in September, we thought we would
16 just go ahead and apply and see if we could just have it
17 as is.

18 CHAIR QUINN: Do you have any questions?

19 BOARD MEMBER: No.

20 BOARD MEMBER: And your bordering neighbor, does he
21 have any objection to it?

22 JOHN GRINSTEAD: No. I've talked to both, but as I
23 said, the one that owns the property right behind us is
24 also to our left and we did ask them to sign a letter

1 saying that they had no problem with it.

2 BOARD MEMBER: Do you want to see that letter
3 (Inaudible)?

4 BOARD MEMBER: I see it now.

5 JOHN GRINSTEAD: The other neighbor to the right has
6 probably I would say hundreds of feet in between us so.

7 BOARD MEMBER: Would you have any objection if
8 somebody next to you wanted to put a pool in?

9 JOHN GRINSTEAD: No, not at all. In fact, the
10 neighbor does have a pool.

11 CHAIR QUINN: Staff. Okay, I see the location of the
12 pool. Property beside it looks like it was built on. Is
13 that correct? Is that, like, a dwelling right in the
14 corner of that irregular shaped lot?

15 BOARD MEMBER: The one to the rear of the property
16 didn't have any addressable structures.

17 CHAIR QUINN: On that part behind it, there's nothing
18 there, is there?

19 STAFF: It looks like maybe a barn. I'm not sure --

20 CHAIR QUINN: That looks like it could be on a
21 different lot even. Anyway, that's quite a distance from
22 the pool location, isn't it?

23 STAFF: Yes. And that is the only parcel that would
24 be impacted by this reduction because the other ones are

1 subject to the side setbacks so the only parcel that's
2 impacted by a rear setback reduction is this property here
3 and as you can see there's -- it appears it is just a barn
4 and that, I believe, is the neighbor that did sign.

5 JOHN GRINSTEAD: Yes, that is correct.

6 CHAIR QUINN: Any other questions, Board Members, for
7 the applicant?

8 Stay there.

9 Is there anybody in the audience that would like to
10 speak for this application? Is there anybody in the
11 audience that is opposed to it? Would anybody like to
12 speak towards the application at all?

13 You feel like you need any rebuttal?

14 Entertain a motion.

15 BOARD MEMBER: I make a motion that we approve item
16 two, a variance, from Section 5.7(b) to reduce the rear
17 setback from 50 feet to 20 feet for 31 x 57 foot in ground
18 pool and surrounding concrete patio for John and Dawn
19 Grinstead, parcel ID 06000900190021, size 2.08 acres,
20 zoned rural. Our file number 19-1-ZV.

21 CHAIR QUINN: Entertain a second.

22 BOARD MEMBER: I second it.

23 CHAIR QUINN: All in favor, say aye.

24 (Board members answered in the affirmative.)

1 CHAIR QUINN: Anybody opposed? Your request is
2 granted, sir.

3 Item number three. Our file number is 19-2-ZV. It
4 was postponed also from February 28th. Variance request
5 from the following: Section 5.6D to reduce the perimeter
6 setbacks from 25 feet to 1 foot for an existing 7 foot
7 tall fence, proposed parcel 35, and to reduce the side
8 setback from 25 feet to 21 feet for an existing 75 foot
9 tall cell tower, proposed on parcel 36. The purpose of
10 the request is to allow for a boundary line adjustment
11 between the two parcels, 35 and 36.

12 The applicant is the same as the owner, Paul and Donna
13 Ashbaugh, 121 and 125 Ashland Woods Drive, Harpers Ferry.

14 Is this part of our new -- all these zeros in there?

15 Parcel ID is 02002100350000 and 020021003600002

16 (inaudible) and 95 acres respectively in a rural zone.

17 May I have an applicant?

18 PAUL ASHBAUGH: I'm Paul Ashbaugh.

19 STAFF: As stated, the request before you today is to
20 reduce the perimeter setbacks from 25 feet to 1 foot for
21 an existing 7 foot tall fence on proposed parcel 35 and to
22 reduce the side setback from 25 feet to 21 feet for an
23 existing 75 foot tall cell tower, proposed parcel 36.

24 The purpose of the request is to allow for a boundary

1 line adjustment between parcels 35 and 36. Parcel 35 was
2 originally created through a series of boundary line
3 adjustments approved in 2006. On September 20th, 2012,
4 CTI Towers, the easement lessee, requested a setback
5 reduction to allow for the installation of a 7 foot
6 privacy fence and closure to be attached to an existing 11
7 foot by 15 foot telecommunications building and the
8 construction of a 28 square foot concrete pad within the
9 enclosure. The Board approved the variance with no
10 additional conditions.

11 Parcel 36 is the remaining acreage from the boundary
12 line adjustments that created parcel 35. This parcel has
13 also historically been used as a wireless
14 telecommunication facility location.

15 You can see I zoomed into the site that is subject to
16 this boundary line adjustment and on the next page here
17 outlined in red is the proposed new boundary lines. They
18 have been working to process a boundary line adjustment
19 through our office and Staff identified the need for this
20 variance request. There are no residential structures on
21 the proposed parcel 35 which would become the larger one
22 so a reduction to the request of the setbacks would likely
23 have minimal impact on the neighboring properties as they
24 would be interior to the larger wooded parcel. And it

1 would not be feasible to create the desired property line
2 and meet the required setbacks as the structures are
3 existing. Did you have any questions for Staff?

4 CHAIR QUINN: Deirdre, you're first. Any questions
5 for Staff? Posted -- property posted?

6 BOARD MEMBER: Yes, sir.

7 CHAIR QUINN: Okay. All right, sir, want to tell us
8 anything?

9 PAUL ASHBAUGH: Well, I own all the property around it
10 and, besides, nothing else can be built up there because
11 the park service got an easement on the -- I own the
12 property but there's an easement on 11 acres that
13 surrounds it. So there's no residence can never be up
14 there anyway.

15 STAFF: He's talking about if you look on page 3 of my
16 staff report you can see a dashed line. That's the
17 Appalachian Trail scenic easement to the rear of the
18 property.

19 CHAIR QUINN: What's the ownership that's small we
20 can't read on this side -- is it within the dash lines?

21 STAFF: I'm sorry, which one are you pointing to?

22 CHAIR QUINN: Right here.

23 STAFF: I'm not certain. It's a neighboring property.
24 I don't believe that he owns it. Staubs is the last name

1 on there.

2 PAUL ASHBAUGH: It's down at west end of the property
3 down at the foot of the mountain. It's over a thousand
4 feet away.

5 CHAIR QUINN: (Inaudible) adjacent to it.

6 STAFF: It is an adjoining parcel. Just to clarify,
7 the yellow outline is what currently exists and then the
8 small parcel at the front of the property in red that
9 parcel also exists. Those -- the red lines at the front
10 of the property there will be vacated and shifted up to
11 the top of the property to create that new small parcel
12 there so it will still be two parcels and each will
13 continue to have a telecommunication tower on it. He's
14 basically shifting the acreage. Does that clarify?

15 CHAIR QUINN: Yes. Any other questions for the
16 applicant? Stay tight. Is there anybody in the audience
17 that would like to speak towards this request for or
18 against it? Need to say anything else, sir?

19 PAUL ASHBAUGH: That's about it.

20 CHAIR QUINN: Entertain a motion.

21 BOARD MEMBER: Motion we pass this.

22 CHAIR QUINN: Motion is to (inaudible) variance
23 request that was postponed from February 28th, file number
24 19-2-ZV. It's a variance request for the following:

1 Section 5.6D to reduce the setbacks from 25 to 1 for an
2 existing 7 foot tall fence, proposed parcel 35, and to
3 reduce the side setback from 25 feet to 21 feet for an
4 existing 75 foot tall cell tower, proposed parcel 36. The
5 purpose is for a boundary line adjustment between parcels
6 35 and 36. Address 121 and 125 Ashton Woods Drive,
7 Harpers Ferry, 2 acres and 95 acres in the rural zone.

8 All in favor, say aye.

9 (Board members answered in the affirmative.)

10 CHAIR QUINN: Anybody opposed? The request is
11 granted.

12 PAUL ASHBAUGH: Thank you.

13 CHAIR QUINN: Item six is a variance from section 5.7B
14 to reduce the front setback from 40 feet to 5 feet and 20
15 feet to 21 feet for an accessory structure.

16 STAFF: The setback is from 40 feet to 5 feet.

17 CHAIR QUINN: Five feet.

18 STAFF: Yes.

19 CHAIR QUINN: For 20 by 21 foot accessory structure.
20 What did I say?

21 STAFF: I heard -- I could have misheard you but I
22 heard that it was two reductions. I just wanted to make
23 sure it was clear.

24 CHAIR QUINN: Okay. Parcel information Mark and

1 Elaine Boyd, 12615 Leetown Road in Kearneysville. The
2 parcel ID is 07000800020018, one and a half acres inside
3 in the rural zone.

4 May I have an applicant, please.

5 STAFF: Your name for the record.

6 MARK BOYD: Mark Boyd.

7 CHAIR QUINN: Pardon?

8 MARK BOYD: Mark Boyd.

9 CHAIR QUINN: You're Mr. Boyd?

10 MARK BOYD: Yes. Yes, sir.

11 STAFF: As stated, the applicant is requesting a
12 variance to reduce the front setback from 40 feet to 5
13 feet for the purpose of installing a 20 foot by 21 foot
14 accessory structure. The subject parcel was created as a
15 child to parent lot in 2009 from the residue parcel of the
16 Sunset Ridge Subdivision which processed in 2006. The
17 1979 subdivision ordinance required a 100-foot vegetative
18 buffer along Leetown Road. As a result of this
19 requirement when the child to parent lot was created in
20 2009 this buffer was reflected on the subject parcel, lot
21 nine. The vegetative buffer significantly impacts the
22 buildable area for this parcel. It should also be noted
23 that under the current zoning ordinance the subject parcel
24 would be considered a corner lot and the side setback of

1 15 feet could apply to proposed structure.

2 Impact on adjacent properties. Lot 10 is currently
3 vacant, however, should a residence be constructed in the
4 future, placement of the storage building five feet from
5 the access easement would likely have minimal impact on
6 lot 10.

7 Feasibility of complying with the ordinance by other
8 means. It is feasible to comply with the ordinance by
9 changing the location of the proposed storage building or
10 opting for a smaller size structure. No conditions of
11 approval were identified.

12 Did you have any questions for me?

13 CHAIR QUINN: I have one. Deirdre, do you have any?
14 Any questions for Staff? For Staff, not the applicant.

15 BOARD MEMBER: So they're moving -- want it five feet
16 away from the right-of-way right now?

17 STAFF: Correct. So it would still be 45 feet from
18 the property line because that's a 40-foot access easement
19 here.

20 BOARD MEMBER: Is the right-of-way considered in the
21 setback distance or not?

22 STAFF: It's in access easement and it is permitted to
23 be along the property line so the setback has to be from
24 the edge of that 40-foot access.

1 BOARD MEMBER: (Inaudible).

2 STAFF: Right. So he's requesting the reduction so it
3 doesn't have to be 40 feet from that easement. It can be
4 as close as five feet from the edge of the easement.
5 That's the request.

6 BOARD MEMBER: Looking at this drawing you have right
7 now he has room to put it in the back and still have
8 setback (inaudible).

9 STAFF: That's what it appeared to me.

10 BOARD MEMBER: Is there any reason for you not to set
11 it in the backyard?

12 MARK BOYD: It's not practical. I mean, it's
13 really sloped really, really bad because of the swale for
14 the water to drain and I got room to set it on the other
15 side of the house, but like I say, it's not practical over
16 there. Where I was wanting to put it I was wanting to
17 center between my property line and my house to make it
18 look nice, but come to find out, I didn't know that there
19 was a 40-foot easement there.

20 BOARD MEMBER: So you wouldn't be willing to give
21 distance between the house and the building?

22 MARK BOYD: No. I just don't want to put it in the
23 back.

24 BOARD MEMBER: I mean, if you slide it away from the

1 right-of-way say the 15 feet from the right-of-way versus
2 five feet from the right-of-way then you would still have
3 25 feet to the house.

4 MARK BOYD: Yes. Yes, correct.

5 BOARD MEMBER: I mean, you wouldn't be willing to give
6 up a little bit of that?

7 MARK BOYD: I mean, I can slide it over a little bit
8 more, but it starts to get a little hilly through there
9 and I was trying to more or less --

10 BOARD MEMBER: (Inaudible).

11 MARK BOYD: Yeah.

12 BOARD MEMBER: That's all the questions I have.

13 CHAIR QUINN: Where is your driveway right now? Does
14 your driveway run into the front of the proposed building?

15 MARK BOYD: Yes. My driveway right now my builder
16 he's got my driveway where that easement is now and then
17 it makes -- it goes right into my two car garage on the
18 side of the house.

19 BOARD MEMBER: You use your easement to get to your
20 house too?

21 MARK BOYD: Yes, correct.

22 CHAIR QUINN: So the two-car garage, is it in the
23 front of your house or the rear of your house?

24 MARK BOYD: It's in the side of the house.

1 CHAIR QUINN: Yeah, but it's on the side but the front
2 side or the rear?

3 MARK BOYD: Front side.

4 CHAIR QUINN: Front side. So if I put in the garage
5 where it is right here it gives a clear pathway --

6 MARK BOYD: Yes.

7 CHAIR QUINN: -- still just the way it is.

8 MARK BOYD: Yes.

9 CHAIR QUINN: Okay. I'm okay with. And then back to
10 Staff, it was a parent to child subdivision so is the
11 residue on the other side of it? In other words, when
12 they did the parent to child --

13 STAFF: Yeah, but neither one of these lots could be
14 divided further because they're both less than two acres
15 so unless public water and sewer is ever out there I don't
16 see it being further subdivided.

17 CHAIR QUINN: Well, no. What I was thinking of the
18 residue -- in other words, when they took off the two lots
19 parent to child however they did the minor subdivision, I
20 mean, was it indicated -- wasn't it indicated that was for
21 residential development, isn't that the idea of it?

22 STAFF: Yes. It was restricted to single family, yes.

23 CHAIR QUINN: So even if you had a building envelope
24 on the other side you're still --

1 STAFF: Both will be single family residence, yes.

2 CHAIR QUINN: Any other questions of the applicant?
3 Anybody in the audience like to speak to this request
4 either for or against? Would you like to say anything
5 else?

6 MARK BOYD: No, sir.

7 CHAIR QUINN: I'll entertain a motion.

8 BOARD MEMBER: I say we pass this.

9 CHAIR QUINN: Okay. Motion on the floor is to approve
10 the variance request file number 19-5-ZV from section --
11 it's a variance from Section 5.7B to reduce the front
12 setback from 40 feet to 5 feet for a 20 foot by 21 foot
13 accessory structure. It's for Mr. Mark and Elaine Boyd,
14 12615 Leetown Road, Kearneysville, West Virginia. Parcel
15 ID is 07000800020018, acre and a half in size in the rural
16 zone. Do I have a second?

17 BOARD MEMBER: Second.

18 CHAIR QUINN: All in favor, say aye.

19 (Board members answered in the affirmative.)

20 CHAIR QUINN: Anybody opposed? Your request is
21 granted.

22 MARK BOYD: Thank you.

23 CHAIR QUINN: Is there any reason we can't talk about
24 these two at the same time?

1 STAFF: I mean, you can review them --

2 CHAIR QUINN: We can make a motion if we're going
3 to --

4 STAFF: -- simultaneously. It will need to be two
5 separate motions for sure, yes.

6 CHAIR QUINN: We can have this thing addressed at the
7 same time. The next two items on the agenda, number one,
8 is -- the first one is item four, file number 19-3-ZV.
9 It's a variance request from Section 8.17B.1 to reduce the
10 required acreage for a six-site campground from ten acres
11 to six acres. The owners are Danielle LaRock and
12 Johnathon Carnill. It's a vacant parcel on the northwest
13 corner of River Road and Cedar Ridge Lane, Shepherdstown,
14 West Virginia. The parcel ID is 09001000070000, 6.06
15 acres in size. It is in the rural zone. At the same
16 time -- that's a variance request to reduce acreage.

17 Then item five the file number is 19-4-ZV pertaining
18 to the same property as a variance from section 4.10A to
19 weigh the requirement for a site plan to process a
20 six-site campground. Same owners, Danielle LaRock and
21 Johnathon Carnill. Vacant parcel on northwest corner
22 River Road and Cedar Ridge Lane, Shepherdstown, West
23 Virginia. Same ID as previous six acres. It is a rural
24 zone.

1 May I have an applicant, please. Identify yourself
2 and we'll have a summary of the request.

3 JOHNATHON CARNILL: Johnathon Carnill. And this is
4 Danielle LaRock.

5 CHAIR QUYNN: She can speak for herself. Your name,
6 ma'am.

7 DANIELLE LAROCK: Danielle LaRock.

8 STAFF: As stated, the first request before you is to
9 request a variance from section 8.17B1 to reduce the
10 required acreage for a six-site campground from ten acres
11 to six acres. Generally the purpose of section 8.17 is to
12 provide design guidelines that both protect adjacent
13 property owners and create a profitable endeavor for the
14 private property owner. The campground regulations were
15 written as a means to promote tourism in the county. The
16 campground is listed as a principal permitted use in the
17 rural zoning district.

18 Minimum acreage is typically required to ensure that
19 adequate buffering between uses can be provided and that
20 sufficient space exists to accommodate infrastructure and
21 amenities. As part of the design guidelines, the
22 ordinance requires that all campsites be located a minimum
23 setback of 50 feet from existing property lines and that a
24 10-foot vegetative buffer existing or planted be provided.

1 The subject parcel is comprised of six acres. It is a
2 relatively flat parcel and does not contain any permanent
3 structures. There is a 20-foot access easement that runs
4 along the northeastern boundary line which provides access
5 to parcel 8.5.

6 Impact on adjacent properties. Adjacent properties
7 may be impacted by an increase in traffic. Natural
8 vegetation is sparse, therefore, noise associated with the
9 campground could have a negative impact on adjacent
10 properties. Based on the applicant's sketch and the
11 project description no campground amenities is defined in
12 Article II such as gathering halls, bath houses, pools,
13 retail stores, etcetera, are proposed.

14 The request before you is to reduce the minimum
15 acreage requirement from 10 acres to 6 acres to allow a
16 six-site campground to operate. If the parcel were 10
17 acres the property owners could install a 150-site
18 campground by right. Therefore, it appears that the
19 request before you to limit the campground to six sites on
20 six acres decreases the potential impact on adjacent
21 properties.

22 Feasibility of complying with the ordinance by other
23 means. It is not feasible to comply with the minimum
24 acreage requirement unless a merger is processed to

1 increase the acreage to 10 acres. It should be noted that
2 while the campground regulations were being drafted, the
3 planning commission and the county commission intended to
4 include a provision stating that a variance to the minimum
5 campground size could be granted by the Board. The
6 statement was removed at Staff's recommendation due to the
7 fact that any standard in the ordinance may be varied by
8 the Board of Zoning Appeals. I did provide a copy of that
9 draft as it was going through with Staff's comments on
10 there.

11 It appears that a six-site campground on six acres
12 could be designed to accommodate the development
13 guidelines listed in Section 8.17B of the zoning ordinance
14 and the dimensional requirements listed in section 8.2B of
15 the subdivision regulations thus meeting the intent of the
16 ordinance.

17 I did include some conditions of approval should the
18 Board choose to approve the request. The applicant shall
19 commit documentation. If a waiver of site plan is granted
20 then a zoning certificate with a sketch would be required.
21 Reflecting compliance with Section 8.17B of the zoning
22 ordinance and Appendix B Section 8.2B of the subdivision
23 regulations to ensure adequate buffering from adjacent
24 properties is provided in order to protect and encourage

1 the health safety and general welfare of the neighbors.
2 Then I have the various sections that pertain to
3 campground development from both the zoning ordinance, the
4 subdivision regulations, and then the standard details
5 that are referenced by the zoning ordinance.

6 Would you prefer that I go ahead and do the review of
7 the second request as well?

8 CHAIR QUINN: Let me see. Members, Board Members,
9 (inaudible) do you have any questions for Staff on this
10 part?

11 BOARD MEMBER: Not so far.

12 CHAIR QUINN: Go ahead.

13 STAFF: So the second request before you 19-4-ZV, the
14 applicant is requesting to waive the requirement of a site
15 plan to process a six-site campground. The purpose of a
16 site plan is to ensure compliance with the zoning
17 ordinance, subdivision regulations and storm water
18 management ordinance and to satisfy legal requirements of
19 the state. The characteristics are the same. A waiver of
20 site plan would eliminate the process to ensure compliance
21 with the development standards such as landscaping and
22 buffering outlined in Section 8.17 of the zoning ordinance
23 as well as the designed standards found in Appendix B
24 including storm water management.

1 This particular proposal is for a six-site campground
2 and does not include any amenities, therefore, it is
3 expected that the impact would be significantly less than
4 a large campground such as a KOA which provides several
5 amenities including a small store, a pool, entertainment
6 space, etcetera.

7 The feasibility of complying with the ordinance by
8 other means. It is feasible to comply with the ordinance
9 by hiring a West Virginia licensed engineer to design a
10 site plan.

11 Conditions of approval. Should the Board choose to
12 approve this request possible conditions of approval
13 include a sketch depicting compliance with the landscaping
14 and buffer requirements outlined in Section 8.17B of the
15 zoning ordinance that should be submitted to the Office of
16 Planning and Zoning as part of the zoning certificate
17 application. Campsites shall conform to the minimum
18 setback requirement of 50 feet from all property lines and
19 that should be reflected on the sketch, and the applicant
20 shall provide documentation to the Office of Planning and
21 Zoning, that the Division of Highways and the health
22 department have issued approvals for the proposal. These
23 permits are typically required as part of the site plan
24 process.

1 I just want to clarify that condition of approval that
2 even without you requiring that those documents be
3 submitted to our office the applicants would still be
4 required to gain those -- obtain those approvals from
5 those agencies. We do not have the authority to waive
6 approvals outside of our purview.

7 That concludes my Staff report for the second
8 variance. If you have any questions I will be happy to
9 answer them.

10 CHAIR QUINN: Questions for Staff, Deirdre?

11 BOARD MEMBER: No.

12 CHAIR QUINN: Any questions? All right. Before we
13 get started you're going to have up to 15 minutes to
14 present your testimony. Anybody in the audience that
15 wants to speak for this, we're going to give you three
16 minutes if it's an individual. If it's more than an
17 individual if you're going to speak for more than one
18 person identify that in the beginning. It's going to
19 be -- looks like all you people here I'm assuming, my
20 conjecture or whatever, that you're here for this so the
21 whole idea and the intent of this meeting is to get
22 information and facts and especially to allow minorities
23 the opportunity. Looks like you might be in the minority
24 right about now so go ahead and present your case.

1 DANIELLE LAROCK: All right. We have these, I don't
2 know, I guess they're kind of, like, a proposal packet
3 when we were organizing our thoughts about this. This is
4 what we came up with so basically everything that we
5 anticipate presenting today is in this packet.

6 CHAIR QUINN: Have you guys read the Staff report all
7 the way through?

8 BOARD MEMBER: Yes.

9 CHAIR QUINN: Good.

10 DANIELLE LAROCK: We read the Staff report and we read
11 all of the public comments and we've also taken into
12 account any conversations that we've had with the
13 neighbors that we had them with.

14 So I would like to just say that we appreciate the
15 chance to share our intentions for Tiny Haven with you all
16 today. We do sincerely want to address the concerns that
17 have been brought up regarding our tiny houses and the
18 proposal, the variance request that we put in. We do
19 honestly care about our neighbors and we care about what
20 the county needs as well and we do want to find an
21 equitable solution.

22 The proposal for the campground came up -- or the idea
23 of the campground came up during a PBC meeting with the
24 county. Overall, our intentions are -- although we've

1 applied for a campground status, Tiny Haven is not a
2 traditional campground. We would like this to feel like a
3 community. We want to live a simple and peaceful life.
4 We plan to have no more than six spaces for tiny houses on
5 wheels and maintain the pastoral aesthetic that we've
6 enjoyed living in this area for over 24 years.

7 We currently own two tiny houses on wheels as well as
8 a trailer to build a third. These tinies are for our
9 family use. We also want to provide a space for other
10 tiny homeowners to have a place to stay in their homes up
11 to 180 days per campground regulation, therefore, we have
12 applied for a zoning variance to be a campground on our
13 six acres.

14 We want to address any concerns our neighbors and
15 community may have. Concerns we have heard include peace
16 and quiet, safety, environmental conservation, appearance
17 and aesthetics, property values, traffic, and maintaining
18 the pastoral scenery the River Road area is known for.

19 Regarding peace and quiet, we chose River Road because
20 we also enjoy the pastoral landscape and the peace and
21 quiet it provides. If we do indeed have six tiny homes on
22 our property at one time, this would be the equivalent of
23 6 to 12 people on the property. We plan to have quiet
24 hours. We also have in the packet we've included a draft

1 of community guidelines for our campground and we don't
2 plan to throw any loud parties. We do not foresee our
3 tiny houses creating any more noise than a typical family
4 home.

5 Safety. We care about our neighbors' safety and our
6 own. We plan to have an interview process for those who
7 wish to bring their tiny homes to Tiny Haven for temporary
8 stays. Johnathon and I will also be living at Tiny Haven
9 as caretakers. If we go out of town we have family who
10 will look after the property.

11 Environmental conservation. We care very much about
12 the environment which is one of the reasons that we
13 decided to pursue tiny living. I have a masters in
14 environmental science so I am well aware that we need to
15 follow appropriate standards for sanitation, water, and
16 runoff as well as any other -- anything else related to
17 environmental conservation. We are willing and able to
18 comply with all laws regarding this. The impact that,
19 again, at most, six tiny houses on wheels would have on
20 the surrounding environment I would say would be less than
21 a traditional single family house. There will be less
22 erosion, less potential for groundwater contamination and
23 less waste. To be in compliance as a campground we will
24 also plant a vegetative buffer which means there will be

1 many more trees. If anything, Tiny Haven is working to do
2 its part to care for our environment and to support living
3 with a lower ecological footprint.

4 JOHNATHON CARNILL: The next thing that we have on our
5 little thing is sanitation. Our tinies have composting
6 toilets and waste is safe to dispose of in a landfill. We
7 also have a septic field staked out on our property since
8 at some point we would like to build a standard home or
9 maybe a community building with all the regular standards.

10 Appearance and aesthetics. We value aesthetics and
11 appearance in ensuring that our property looks nice. We
12 are aware that our property currently is very open. With
13 proper landscaping and fencing I think we can create a
14 natural buffer that creates more privacy both for us and
15 all of our neighbors. The tiny homes that are and will be
16 on our property are built with the quality of a regular
17 stick-built home but are also built certified as RVs.
18 Once they are set up, we will create landscaping and
19 covers around the trailer portion that will make these
20 tinies look like regular houses on foundations. We plan
21 to keep our property in good order, free of trash, debris,
22 overgrowth, anything like that. We also plan to plant
23 landscaping and install traditional farm-like fencing to
24 create greater privacy, sound barriers and road appeal.

1 Property values. Neither of us really have the
2 background or the information to speak to property values
3 so we feel that we will be able to create more than
4 adequate official buffers to enclose our property and to
5 create greater privacy, and we plan to maintain a clean
6 aesthetic that keeps with the way that River Road already
7 looks so I would hope that property values would not
8 plummet because of our project.

9 Traffic. Tiny house owners are not like other RV
10 homeowners. Tinies can weigh up to some of them 10,000
11 pounds or more and it's not the easiest thing to move.
12 Many tiny homeowners only move their tiny house once a
13 year, therefore, we do not foresee any significant
14 increase in traffic on River Road due to people bringing
15 tiny homes in and out of the property like a typical
16 campground. We hope to rent out the spaces that are not
17 ours to those who wish to stay for the full 180 days it is
18 allotted for a campground thus hopefully there will not be
19 tiny homes moved down the road but twice per year, maybe.

20 Compliance. We plan to and will comply with all rules
21 and regulations that pertain to campground zoning and
22 operation. We have requested a site plan variance because
23 we do not foresee significantly altering the natural
24 landscape for this project; however, this does not mean

1 that we wish to do anything subpar or out of compliance.
2 We are responsible landowners, business owners and
3 citizens and we do not wish to cause any harm if a site
4 plan or other conditions are required to move forward with
5 this zoning as a campground. We will absolutely comply.

6 The tiny house movement is a whole promote simplicity
7 working together, connection with nature, environmental
8 sustainability and financial integrity. We want to bring
9 those types of things in this movement to Shepherdstown,
10 West Virginia. We recognize that what we are doing is a
11 little bit different but we hope the community will
12 appreciate that we do care and are responsible and that
13 Tiny Haven would be a valuable contribution to Jefferson
14 County. Thank you.

15 BOARD MEMBER: Just one question. I thought I
16 understood you to say that at all times there would be
17 only between 6 to 12 people maximum on the property?

18 DANIELLE LAROCK: That is our estimation. Basically
19 most people who live in tiny houses it's going to be one
20 to two people so we're estimating 6 to 12 people because
21 if there were two people per tiny house, six tiny houses,
22 and within that two of those would be us so basically it
23 would be us and we're estimating at maximum ten other
24 people on the property.

1 BOARD MEMBER: That's all I have.

2 CHAIR QUINN: Who next?

3 BOARD MEMBER: So you all will be living permanently
4 on the spot -- on the site.

5 DANIELLE LAROCK: We do not live permanently on the
6 site right now. We bought the property the end of
7 November of 2018. We live in Shepherdstown right now.

8 BOARD MEMBER: If you get this (inaudible) you will be
9 there.

10 DANIELLE LAROCK: That is our plan. What we have
11 intended with these two tinies is we want to live in them
12 so we're kind of going through the process of finding a
13 way that we can do that legally.

14 BOARD MEMBER: So you will have two units on
15 (inaudible).

16 DANIELLE LAROCK: We currently have two and then we
17 have a third that we have a trailer to build on so we
18 basically have -- we would be in two to three out of the
19 six spaces.

20 JOHNATHON CARNILL: To answer the initial question,
21 yes, we will be out there living in a tiny house full-
22 time.

23 BOARD MEMBER: Have you all ever moved this any other
24 place and lived at any other place?

1 DANIELLE LAROCK: We have moved both tiny houses. We
2 have lived in them while we're moving but we bought the
3 property specifically for the purpose of living in the
4 tiny houses.

5 BOARD MEMBER: I just want to know where you park them
6 when you moved them originally or where you were when you
7 camped in there or lived in these houses, what type of
8 area was it in?

9 DANIELLE LAROCK: Right. When we have the two that
10 we've purchased, we purchased in two different locations
11 in North Carolina and Louisiana. They were both in a --
12 originally in a rural area so the --

13 BOARD MEMBER: A very rural area? A very, very rural
14 area?

15 DANIELLE LAROCK: One is -- the white one, we call her
16 Dixie because we got her in Louisiana, definitely a rural
17 area for sure. Most of the neighbors in that case were
18 family members so we acknowledge that. The other one, the
19 tan colored one, we call her Ginger, that one was built by
20 a tiny house company in Winston-Salem, North Carolina, so
21 I would say the area that we stayed in in that one and
22 where they are building and Airbnb'ing these tiny houses is
23 more populated and higher density I would say than where
24 we are at River Road.

1 BOARD MEMBER: How many places are there -- if you got
2 on the Internet tomorrow and asked about places to move
3 these tiny houses to live in and what type of area it was,
4 how many places would you find?

5 DANIELLE LAROCK: There are some around the country.
6 We've actually included that in the packet as well so some
7 of them are much more readily accessible, like, in Flat
8 Rock, North Carolina, there is, like, a tiny house
9 community and they also have, like, tiny cottages there as
10 well so there -- I don't have an exact number, but there
11 are tiny house communities around the country so there are
12 other places to bring them. Some campgrounds let you
13 bring tiny houses. Some don't permit tiny houses. Like,
14 when I talked to Nahkeeta, Nahkeeta Campground, I don't
15 know what their reason is, but they don't allow tiny
16 houses on wheels.

17 BOARD MEMBER: Will you restrict it to tiny houses or
18 will you have tent camping or --

19 DANIELLE LAROCK: Our primary purpose for this is for
20 tiny houses. That is what we would prefer to have on our
21 property. We're not opposed to other RVS or other tent
22 campers, but really what we would like is to create a
23 space specifically for people who have tiny houses on
24 wheels to come and be able to park their tiny house.

1 BOARD MEMBER: If you have tent campers, how are you
2 going to address the sewage problem with the tent campers?

3 DANIELLE LAROCK: Okay. No. I get where you're going
4 with this. Again, it's not our -- it's not our primary
5 intention. I don't know if there is a way to grant a
6 zoning variance for a campground in saying that we're not
7 going to have tent campers. I don't know if that's
8 possible but our intention is not to use it for that.

9 JOHNATHON CARNILL: I'm not sure if it comes down
10 to -- I think that we would restrict to tiny homes so that
11 we could stay within all of the requirements that we need
12 to stay within. Tiny homes with composting toilets so
13 that we can process waste sanitarily, sending it to a
14 landfill, and we plan to use specific gray water filters
15 so we would need to restrict to tiny houses to stay within
16 the guidelines.

17 BOARD MEMBER: That's all the questions I have.

18 CHAIR QUINN: I've got a couple of questions. What's
19 a trailer?

20 JOHNATHON CARNILL: What's a trailer?

21 CHAIR QUINN: Yeah.

22 JOHNATHON CARNILL: A typical --

23 CHAIR QUINN: Give me the definition of a trailer.

24 JOHNATHON CARNILL: Definition of a trailer is a

1 structure that you attach to another vehicle to -- that
2 has wheels on it that pulls weight -- pulls a load.

3 CHAIR QUINN: Okay. It's got wheels on it to
4 transport something; correct?

5 JOHNATHON CARNILL: Yes, correct.

6 CHAIR QUINN: That makes them mobile, doesn't it?

7 JOHNATHON CARNILL: Yeah.

8 CHAIR QUINN: What's the definition of a home or a
9 dwelling unit?

10 JOHNATHON CARNILL: Home or dwelling unit?

11 CHAIR QUINN: Manufactured housing or an (inaudible)
12 where people live, what's the definition of a home?

13 DANIELLE LAROCK: As we understand, like, a
14 manufactured home or traditional stick-built house would
15 be on a foundation.

16 CHAIR QUINN: Well, I didn't ask you if it was on a
17 foundation. I asked you what's the definition of a home.

18 JOHNATHON CARNILL: Something you live in.

19 CHAIR QUINN: So if you put something you live in and
20 it's a home on a trailer and it's mobile, what do you
21 have? They're okay. What do you have?

22 JOHNATHON CARNILL: I have a mobile home. A home that
23 you live in that's mobile. Mobile home.

24 CHAIR QUINN: And that's the only thing I need to say

1 right now. You're going to have a rebuttal period to
2 everything but what we have to do up here is -- we have to
3 silence this cellphone first.

4 STAFF: Would you like definitions out of our zoning
5 ordinance? Okay.

6 CHAIR QUINN: I read the Staff report. It's very well
7 put together. Our job here is to take the information in
8 this meeting, the information in the Staff report, the
9 information that we get from you that we get from
10 everybody else and we have to apply it to the ordinance
11 and our decision and, you know, sometimes our decisions
12 they're not -- may or may not be based on what we like or
13 so on and so forth. That's what I'm trying to say and
14 we're going to hear from a few other people and you're
15 going to get to come back.

16 Is there any other questions from you guys? All
17 right. You guys have a seat. And can I see the sign up
18 sheet by any chance?

19 You all want to talk or do you want to get on with the
20 meeting? Okay, it looks like I have a Mr. Wayne
21 E. B-a-v-r-y.

22 WAYNE BAVRY: Bavry.

23 CHAIR QUINN: What is it, sir?

24 WAYNE BAVRY: I'm sorry?

1 CHAIR QUINN: What's the last name?

2 WAYNE BAVRY: Bavry.

3 CHAIR QUINN: Bavry, okay. Are you speaking for
4 yourself?

5 WAYNE BAVRY: I am speaking for myself.

6 CHAIR QUINN: Okay. You have three minutes. It
7 appears that there's significant amount of people that
8 want to speak to this.

9 WAYNE BAVRY: I will move it. I will move quickly.

10 CHAIR QUINN: But I want for the others that we don't
11 have -- you know, once we hear something two or three
12 times we just ask that we don't have repetitive testimony.
13 We've had 160 pages in the Staff report. I've read
14 through every one of them. There's a lot of well put
15 together information there so you're on.

16 WAYNE BAVRY: Okay. I live at 1407 River Road.

17 BOARD MEMBER: How much time?

18 CHAIR QUINN: Three minutes.

19 WAYNE BAVRY: Adjacent property. I'm on high ground.
20 I look down directly into the proposed campground. No
21 vegetative barrier would screen me from the campground.
22 It would have to be a forest that would take years to
23 create a barrier. I mean, the first point I wanted to
24 make we're talking about a defective trailer park being

1 shoehorned into zoning intended for traditional camping
2 and I don't have to make that point because it was just
3 made. I mean, we heard it from the applicants.

4 The camping regulation as I read it is intended to
5 promote traditional camping and tourism in Jefferson
6 County so in the briefing materials it was stated that out
7 of six tiny homes four would be occupied by family, two
8 would be occupied by these transients that would come and
9 go so we're really talking about the equivalent of two
10 motel rooms and I hardly see two motel rooms as a boon for
11 tourism. I have to say, I mean, we're talking about a
12 proposed social movement here and to me -- and this may be
13 philosophical. A social movement comes in the front door.
14 It does not come in the back door. When we're talking
15 about a variance to bring in something that's
16 substantially -- I mean, it's a trailer park but it's a
17 new concept. There should be zoning for that. It should
18 be a variance that brings a defective trailer park into
19 the midst of rural scenic housing.

20 I've talked to all my neighbors. Every neighbor,
21 every adjacent neighbor and every neighbor on the other
22 side of the street has written you on this issue. They
23 don't want to see it. They're concerned about their
24 property being devalued and we're talking about some

1 expensive properties. I put my life savings into my house
2 and I don't want to see it destroyed. I wouldn't want a
3 house if there were a tiny home community next door. If I
4 go to sell it I'm going to take a hit.

5 There's going to be collateral damage and I will give
6 you an example. One of my neighbors has a 94-acre
7 conservation easement in process. He has told me and he
8 told you in his letter that he plans to potentially cancel
9 that easement so that would be a tremendous loss to the
10 county.

11 There's no infrastructure. I have concerns of sewage
12 impact on well water. Where will all the human waste go?
13 I mean, we heard it could be hauled to a landfill. That
14 would require a licensed person to haul it. What seems
15 more likely to me is it will be put in piles on the
16 property and it will compost in place which would be a
17 serious health hazard.

18 The only entrance to my property is via an easement
19 across the subject property. It's a gravel road that I
20 maintain. I mean, we've already had two 10,000 pound
21 recreational vehicles coming up the driveway that have not
22 done too much damage but over time, I mean, it's going to
23 cost me to maintain a driveway.

24 CHAIR QUINN: Okay, got to wrap it up.

1 WAYNE BAVRY: Okay. And I will wrap it up with one
2 statement. When someone buys a property (inaudible) for
3 their requirements and turns around a couple months later
4 and wants it rezoned, is it fair that their poor planning
5 pushes the impact onto their neighbors? Thank you.

6 CHAIR QUINN: Let me make one comment to that. It
7 isn't a rezoning request. It's a variance.

8 WAYNE BAVRY: A variance request. I'm sorry.

9 CHAIR QUINN: I see where you're going with it. Thank
10 you very much. It looks like I have Mr. George looks like
11 Baker; is that right?

12 GEORGE BAKER: Yes.

13 CHAIR QUINN: Speaking for yourself, sir?

14 GEORGE BAKER: Yes, speaking for myself and, well, my
15 wife.

16 CHAIR QUINN: And your wife, okay.

17 GEORGE BAKER: I have a lot of questions that I
18 submitted to the Board and a lot of them have been
19 answered by the discussion, but it still seems to me that
20 this whole unanswered question about how this would all be
21 maintained, like, what's the road going to be like. They
22 must have to have a road for people to get in and out of
23 this structure. How do they plan to do the maintenance
24 and make sure that the houses that come in are -- meet

1 certain standards. There's just been no discussion of
2 that. And, well, I guess that was my real concern was
3 that there's really no definition of how all this is going
4 to work. To me, before I can say yes or no I would like
5 to know a lot more about how they intend to make this
6 work. That's what I -- that's my concern.

7 CHAIR QUINN: Okay. Hold up. Do you have any
8 questions for the gentleman?

9 BOARD MEMBER: Not really.

10 CHAIR QUINN: Do you have any questions?

11 BOARD MEMBER: How long have you owned your property?

12 GEORGE BAKER: We've been here since 1980.

13 CHAIR QUINN: Thank you. Christine Marshall.

14 CHRISTINE MARSHALL: I wanted to say while I don't
15 oppose tiny homes I do not believe a campground
16 designation is appropriate. If the six-acre campground is
17 approved for the submitted site layout, will future owners
18 of the property be restricted to the layout or can they
19 convert it to maximum campground density? That is
20 specified in the regulations about 90 units. Why was the
21 ten acres chosen as the minimum campground size in the
22 rural zone? Is six acres sufficient to accomplish the
23 rationale? If this is approved as a campground how will
24 the 180 day per year maximum residency time restriction be

1 enforced? How will sanitary waste that is urine/feces be
2 disposed, and how will trash be collected and removed for
3 disposal? What enforcement mechanism exists if this is
4 not done properly?

5 Currently I oppose the proposed campground designation
6 and the two variance waiver requests. That's all I have
7 right now.

8 CHAIR QUYNN: Thank you. Any questions?

9 BOARD MEMBER: No.

10 CHAIR QUYNN: Questions? Thank you, ma'am. Are they
11 all the same? Thank you. Richard, what is it, Nichol?

12 RICHARD NICHOL: Like five cents. Nichol.

13 CHAIR QUYNN: Nichol?

14 RICHARD NICHOL: Nichol. Five cents.

15 CHAIR QUYNN: Five cents, five pennies.

16 RICHARD NICHOL: Five pennies.

17 CHAIR QUYNN: All right. You got to be worth more
18 than that.

19 RICHARD NICHOL: I hope so. We'll find out after this
20 meeting. My name is Richard Nichol, I'm from Moler
21 Crossroads.

22 CHAIR QUYNN: Are you speaking for yourself?

23 RICHARD NICHOL: I'm from Moler Crossroads. My wife
24 and I have lived there for roughly 20 years. She was born

1 in Jefferson County roughly half a mile from Moler
2 Crossroads. She grew up in Jefferson County, went away,
3 married me and we came back 20 years ago.

4 CHAIR QUINN: Do you go to church there?

5 RICHARD NICHOL: I'm sorry, sir?

6 CHAIR QUINN: Crossroads. Do you go in the little
7 church there?

8 RICHARD NICHOL: We go to church there. I'm chairman
9 of the Board of Trust as a matter of fact and I encourage
10 you to come and visit us.

11 CHAIR QUINN: Don't let me slow you up. Don't waste
12 your time on me. There's plenty of other people out
13 there --

14 RICHARD NICHOL: I don't want to waste any time.

15 CHAIR QUINN: -- that need you.

16 RICHARD NICHOL: Moler Crossroads is a rural
17 agricultural area that's evolved into what it is today by
18 virtue of the orderly development of single family
19 detached homes of which there are quite a few and they
20 were all done in strict compliance with the (inaudible)
21 sale process or the minor subdivision process and strict
22 compliance with the subdivision ordinance and the planning
23 commission rules.

24 My concern is two-fold here. First with the variance

1 request for the formal site plan which as submitted is
2 completely non-responsive to the requirements of the
3 zoning department and the planning department. It's
4 incomplete and, in my opinion, unacceptable as submitted.

5 Just to make a long story short, the omissions are
6 numerous but foremost among them are the water supply
7 source which as shown as being an off-site well with the
8 associated distribution system to the respective
9 campsites, power distribution, telephone service, possibly
10 cable and TV and Internet service.

11 Another issue is a safe access and egress to the state
12 roads. None of this is shown on the site plan. The
13 presumption when you look at the site plan is that they
14 will enter the road through the easement to the earlier
15 talker's property.

16 No erosion and sediment control features because in
17 the application they state they cannot afford to hire an
18 engineer. Storm water quality and quantity control which
19 is a significant subject as well as compliance with the
20 zoning ordinance.

21 With respect to the variation in size, the subdivision
22 ordinance is very explicit that the size for a campground
23 such as this shall be ten acres minimum. And then the
24 applicant's application she makes no mention of planned

1 infrastructure other than mentioning she's going to have a
2 nice fence, a driveway, and a large landscaping.

3 Does that mean I'm through?

4 CHAIR QUINN: Is that three? Okay, you got to wrap it
5 up.

6 RICHARD NICHOL: Can I just say a couple of things?

7 CHAIR QUINN: Yes. Give us a conclusion.

8 RICHARD NICHOL: There's no reference in the
9 downgrading to the six-acre lot for a sewage collection
10 system, sewage (inaudible), septic tank, drain field,
11 septic tank reserve areas, water distribution system,
12 water supply lines, power distribution, telephone service,
13 safe access and egress to state roads, erosion and
14 sediment control, storm water and zoning ordinance
15 compliance. When you add all these things up it's
16 uncertain whether you can get a campground on this size
17 lot once you do everything that the ordinances require.

18 CHAIR QUINN: All right. We got it. Thank you.

19 RICHARD NICHOL: Thank you for your time.

20 CHAIR QUINN: Hold up. Hold up. Might get another
21 shot.

22 BOARD MEMBER: I'm okay.

23 CHAIR QUINN: Any questions?

24 BOARD MEMBER: No.

1 CHAIR QUINN: No questions.

2 RICHARD NICHOL: I forgot the last statement. I
3 recommend that you disapprove both variance requests.

4 CHAIR QUINN: All right. Let's be respectful to the
5 applicants.

6 Gregory Carnill. How do you say it? Tell me how you
7 say that. I've --

8 GREGORY CARNILL: Gregory Carnill.

9 CHAIR QUINN: Carnill. Sorry, sir.

10 GREGORY CARNILL: I'm here to speak in support. My
11 name is Gregory Carnill, father of Johnathon, past
12 executive director of the Berkeley County Farmland
13 Protection Board and Program, past director of the Potomac
14 Resource Conservation and Development District, past
15 president of the West Virginia Farmland Protection
16 Association.

17 I would be the other most present family member living
18 on the property in one of these tiny houses. I can assure
19 you that all of the things that Johnathon and Danielle
20 said are true as it addresses all the issues that just
21 this last speaker brought up.

22 The zoning officer mentioned that there would be
23 conditions and plans required, that there are other
24 agencies such as the health agency, and there's

1 electricity and water already underway which will go
2 forward whether the variance is permitted or not because
3 it's still a rural lot that can accept a single family
4 dwelling so I understand, especially with my background,
5 that this does not exactly fit the current zoning. It was
6 a suggestion of the zoning people because there isn't a
7 niche yet for tiny homes.

8 I would address your concern about mobile homes by
9 saying how many mobile homes in mobile home parks do you
10 know that are actually mobile anymore. They're
11 manufactured in a warehouse. They're transported under
12 special permit because they're wider than the road allows
13 to the site, put together, and left there essentially
14 permanently. Yes, they are put in an area that's been
15 approved for them.

16 I would also mention for the surrounding neighbors
17 that the adjacent lots three of them are smaller than this
18 lot. The other two are eight and ten acres other than the
19 20-acre parcels across the road. The viewshed despite the
20 concern of the owner is not a requirement of the zoning
21 ordinance that everybody's viewshed be protected and
22 actually the view as I understand our intendance for the
23 property would be improved so I would ask you to consider
24 the fact that this is something that ultimately will have

1 to be addressed.

2 We'll be happy to work with the zoning department in
3 developing appropriate ordinances for the appropriate
4 placement of tiny houses because they are uniquely
5 somewhere in between a single family home and a, quote,
6 traditional mobile home.

7 I would say lastly, my final point, tiny homes as
8 constructed either on the trailer or when placed on the
9 trailer after the fact are built entirely to the normal
10 building code used for a single family home. The only
11 difference is once they're on the trailer they're
12 certified as an RV because they're within the dimensions
13 of an RV and they can be pulled like an RV. Thank you.

14 CHAIR QUINN: Wait a minute. Any questions?

15 BOARD MEMBER: If you all put a house on the property
16 after the fact, do you think you would still have enough
17 room for six?

18 GREGORY CARNILL: No.

19 CHAIR QUINN: Reserved, septic reserves and all. You
20 will still have enough room for the six camping lots?

21 GREGORY CARNILL: I don't think it's our intent to
22 exceed the appropriate capacity of the property. If
23 Johnathon and Danielle reach the point they want to put a
24 permanent foundation structure on the property that would

1 eliminate at least one or two of the initial six mobile
2 sites that we're going in.

3 BOARD MEMBER: Is that --

4 CHAIR QUINN: Hold.

5 GREGORY CARNILL: Coming back up.

6 CHAIR QUINN: Hold up. Don't get out of (inaudible).
7 We're kind of getting out of the area, out of the purview,
8 but if you're talking about septic for a house, you're
9 talking about drain field. You know, the (inaudible) to
10 my knowledge still used 150 gallons a day (inaudible) 250
11 or whatever but they were talking about composting toilets
12 in the vehicles I'm going to call them right now so
13 anyway.

14 GREGORY CARNILL: The RVs would have composting
15 toilets. The house if it went in would have normal
16 plumbing and as Johnathon pointed out --

17 BOARD MEMBER: (Inaudible).

18 GREGORY CARNILL: They have a septic area already
19 delineated on the property.

20 BOARD MEMBER: Wonder if that would throw it out to
21 the fringe areas that -- the tiny homes would go out to
22 the fringe areas of the property and the main house would
23 be taking up most of the property and then we have the
24 tiny homes already allowed in the fringe areas right on

1 the outside perimeters.

2 GREGORY CARNILL: The buffer is going to be provided
3 so they're not going to be on the absolute fringe of the
4 property. If a permanent structure was built it is my
5 understanding in our discussions that it would still be
6 fairly small. They're interested in simple small living
7 so whether you build a small structure on a foundation and
8 it qualifies as a single family residence under the
9 existing zoning or whether you're living in a tiny house,
10 we're not talking about significantly different square
11 footages. Maybe the permanent structure would be, like,
12 two tiny houses in permanent square footage but a tiny
13 house is only 200 square feet.

14 CHAIR QUINN: Okay. Thank you. I've got a question
15 for Staff. I'm just saying, suppose there's a campground
16 on the parcel regardless of six spots or there's 26 spots,
17 it's approved somehow as site plan, maybe it's got 11
18 acres, they got by right, they can do it, they come in and
19 have a site plan, everything goes through the planning
20 commission, they're approved, they got a campground. Come
21 in -- and I'm not talking about the caretakers' house, and
22 then they want to come in and build a house. Where are
23 we?

24 STAFF: The way --

1 CHAIR QUYNN: We haven't addressed tiny homes but we
2 have addressed campgrounds somewhat in the ordinance.
3 From your perspective what would you do in that situation?

4 STAFF: Two principal permitted uses are permitted on
5 a single parcel of land so a single home, a single family
6 dwelling unit would be permitted in addition to having a
7 campground unless a condition of approval is that it's
8 restricted to those six sites and any further development
9 would require your approval.

10 BOARD MEMBER: What about a home and in-law suite?

11 STAFF: Well, a single family home -- on this
12 particular parcel a single family home would be permitted.

13 CHAIR QUYNN: One principal use.

14 STAFF: One principal use. And an in-law suite would
15 be permitted as well outright without any public hearings
16 without any site plans, but the request before you is for
17 the campgrounds to allow these RVs.

18 CHAIR QUYNN: But that would be another principal use.

19 STAFF: That's another principal permitted use.

20 CHAIR QUYNN: It could be -- that could be so in
21 theory technically if we're all correct, you could have a
22 campground with a caretakers' unit.

23 STAFF: A caretaker residence is permitted under the
24 campground provisions, that's correct.

1 CHAIR QUINN: And then we could have a house.

2 STAFF: That's correct.

3 CHAIR QUINN: I mean, if you can meet all the other
4 regulations.

5 STAFF: If you can meet all of those requirements. I
6 mean, they're, of course, setback requirements, yes.

7 CHAIR QUINN: Okay. Anyway, thank you. Anybody else
8 want to ask Staff questions? (Inaudible). I mean, your
9 handwriting is like. Bill L-i-c-l-i --

10 BILL LICHLITER: Lichliter.

11 CHAIR QUINN: Pardon? Lichliter.

12 BILL LICHLITER: Lichliter.

13 CHAIR QUINN: Maybe it was the pen.

14 BILL LICHLITER: I know. I've been told more than
15 once my handwriting is terrible.

16 I live across from the property where the variance is
17 being requested. I can see the whole six acres from my
18 front porch. I'm inclined by nature to allow people to do
19 whatever they want with their property, and I'm sure that
20 Danielle and Johnathon are great people. I would love to
21 have them as neighbors. They have a lot of good
22 intentions, but we all know that intentions pave the road
23 to some place unsavory. There are no guarantees that once
24 this -- if this parcel is -- this variance is approved

1 that any of the things will happen. There's no guarantee
2 that Danielle and Johnathon will live on the property.
3 There's no guarantees that they won't have three tiny
4 homes and the rest of the campsites have tents. I don't
5 know if on an approval like this if a variance could be
6 restrictive, but I also have one larger concern and it's
7 not just for my community of completely rural homes on the
8 surrounding parcels to this are all much larger than the
9 6.6 acres, but the issue is for the rest of the county.
10 If this variance gets passed then it opens the flood gates
11 to anybody buying a smaller parcel than ten acres.

12 I, myself, own 3.25 acres on River Road with 200 feet
13 of river frontage and I might be the next variance request
14 to put three tiny homes on that three acres. I have no
15 neighbors on either side. It's a perfect campsite but I
16 have a responsibility to my neighbors to put one home on
17 that property. I have a responsibility as a neighbor to
18 this parcel where the variance is being requested to
19 resist allowing this parcel be used as proposed because of
20 the impacts it may have on the rest of the county. I'm
21 not an attorney, I don't know if this is the very first
22 time a request to allow tiny homes on smaller parcels of
23 property that are allowed under the camping --

24 CHAIR QUINN: Zoning ordinance.

1 BILL LICHLITER: -- zoning ordinance if this is the
2 first one or not. I think it is. And once it's approved
3 the whole process will not -- will no longer be a request
4 for approval. It will be a request for why not on every
5 single piece of property that people own under ten acres.
6 That's all I have to say.

7 CHAIR QUINN: Questions? Thank you, sir. There's a
8 lady that just came in I think I don't know if you were
9 here but did you want to speak?

10 UNIDENTIFIED FEMALE: No.

11 CHAIR QUINN: Okay.

12 UNIDENTIFIED FEMALE: My husband spoke.

13 CHAIR QUINN: Okay. Neal Barkins -- Bowers.

14 NEAL BARKUS: Barkus.

15 CHAIR QUINN: Barkus. Okay.

16 NEAL BARKUS: Thank you very much.

17 CHAIR QUINN: Yes, sir.

18 NEAL BARKUS: I'm Neal Barkus, and along with my wife,
19 Alice, we live at 1328 River Road which is directly across
20 the street. My driveway empties out onto River Road right
21 across the street from the subject property. We've lived
22 there since 1998. We bought the property in '96 after
23 about an eight-month search for property in West Virginia
24 and Virginia. I still remember the day my wife called me

1 and said come look at this property, it's perfect. We
2 walked the property; it was perfect. We subsequently
3 built a home there and have developed the property into a
4 really beautiful place. We farm it and live on it.

5 Our use -- our split use of farming and residence is
6 consistent with the neighborhood. The size of our lot is
7 20 acres and we have a second 20-acre lot that is on the
8 other side of Mr. Lichliter. We're concerned about these
9 proposed variances and the -- they propose a campground
10 but this would clearly not be a campground. It is a
11 fiction. Apparently it was proposed by the Staff as a
12 solution to the problem of the regulations not dealing
13 with tiny homes.

14 Tiny homes are not campers. They're residences.
15 We've already heard that they're up to 10,000 pounds each
16 and the applicants intend to restrict this property to
17 tiny homes if they can. There is no intent for normal
18 tent campers according to Ms. LaRock. They're residences
19 on wheels just like mobile homes and so what's really
20 happening is we're trying to shoehorn a mobile home park
21 through the campground regulations which we oppose.

22 What's going to happen if it's approved is it will be
23 actually a high density residential development which are
24 not actually permitted in rural zones and I might say that

1 the applicants could not comply with the mobile home
2 regulations.

3 Six homes, however tiny, will mean at least 6 to 12
4 vehicles in and out every day. We're not just talking
5 about the trucks that drive them in there every six months
6 if, in deed, they will be removed every six months so
7 we're going to have people living in them, they're going
8 to go to work, they're going to go to the grocery store,
9 they're in and out, in and out. We will also have
10 visitors, service vehicles, UPS trucks in and out on a
11 regular basis.

12 The -- I heard the testimony of the applicants and to
13 the effect that they bought this property specifically for
14 a tiny home community so they knew in advance when they
15 bought this six acres that they were going to seek to
16 establish a tiny home community and needed a variance to
17 do it. So this is a problem entirely of their own making.
18 That's it?

19 CHAIR QUINN: Keep going. Wrap it up.

20 NEIL BARKUS: So, I would say, look, the zoning
21 regulations are protections for people and they are
22 designed to protect the expectations of the neighbors,
23 they're designed to prevent incongruous development and
24 they're designed to maintain the character of the

1 neighborhood and this would not do any of those things,
2 and I ask you as an appeal board to deny the variances.
3 Thank you.

4 CHAIR QUINN: Hold up. Okay. Thank you, sir.

5 Bryan Miller. Bryan, B-r-y --

6 UNIDENTIFIED FEMALE: He went outside to put money in
7 the meter.

8 CHAIR QUINN: How about John Noel. Do we have a John
9 Noel?

10 JOHN NOEL: I just wanted to go on record as saying
11 that I've lived in my property for since 2005 with my wife
12 and three daughters. I'm about approximately 400 yards
13 from the property. I drive by it two to four times a day,
14 I run by it, I bike by it. The scene that's been
15 described before the neighborhood is consistent. It's a
16 beautiful area.

17 The other people that use this road are people who
18 come to our county for tourism and if you sit -- if you
19 parked on the side of that road you would see the number
20 of cyclists and joggers and others that come to this
21 county. If campgrounds are approved and for the purpose
22 of promoting tourism then if I'm riding my bike around
23 here I don't want to see a campground on the side of this
24 road as I'm driving through this community looking at the

1 these farms, looking at the Potomac River seeing this nice
2 pastoral setting, rural setting, and then I have this
3 campground of these mobile homes which is really what they
4 are so it detracts from that.

5 It was also said earlier that viewshed is not a
6 requirement for consideration but it does have impact on
7 property values and that's where it is so it isn't
8 properly screened now. It would take a number of years to
9 be properly screened and the direct neighbors sit above it
10 and for years they are going to look down at that and that
11 should be impacted and it should be taken into account
12 because it will affect their property value when they go
13 to sell. There's no question about it.

14 The other issue is as a campground, you know, if they
15 have composting toilets and so forth if they go toward
16 tent camping we live in a carse geography there or
17 topography and you can -- you urinate, you do your
18 business outside, all that drains right down into the
19 ground and there are people that live downstream including
20 me who access the same aquifer so if there's known
21 sinkholes in the area of this on these properties and the
22 community knows that and it's a concern that I know has
23 been raised earlier in some of this and it's such a
24 significant variance -- if somebody was asking can I do it

1 on nine and a half acres, that's one thing. This is a 40
2 percent reduction in what the zoning is. It's too much.
3 You know, well intention but it's too much.

4 You know, I also just express concerns about what
5 happens when they don't live there. What happens down the
6 road when there are multiple campsites or they decide to
7 move because they don't want to live around campers in a
8 dense area. We can't predict the future and the people
9 that are going to be left holding the bag are going to be
10 the neighbors. And that concludes -- and I would just
11 like to say that I oppose both variances as well as my
12 wife. Thank you.

13 CHAIR QUINN: Hold up. Questions?

14 BOARD MEMBER: No, I'm good.

15 CHAIR QUINN: Okay. Thank you, sir.

16 The gentleman that just came in from outside, are you
17 Mr. Miller?

18 BRYAN MILLER: I am Mr. Miller.

19 CHAIR QUINN: Would you like to speak?

20 BRYAN MILLER: I would love to speak, thank you.

21 Afternoon. My name is Bryan Miller. I am the property
22 owner at 1227 River Road which is the property that is
23 exactly adjacent to the proposed variances. I will say
24 that on the record I am opposed to both variances

1 partially because if you look at the picture they have
2 four of the tiny homes basically just abutted right to my
3 property which is kind of interesting. I understand why
4 they might want to do that but -- it's kind of
5 interesting, I will say that I came to the property, saw
6 the first tiny white house which was kind of cool, I
7 really like (inaudible). They're awesome. They're very
8 cool. I think they should be allowed to put tiny homes
9 within the restrictions that the zoning allows them to do
10 so whatever that is. If it's two primary tiny homes and
11 then mother-in-law tiny homes, I guess that makes four,
12 right, and there's probably nothing we can do about that;
13 right?

14 UNIDENTIFIED FEMALE: Am I allowed to address that?

15 BRYAN MILLER: You don't have to. You can address it
16 later. But that's my statement. I think --

17 CHAIR QUINN: Present your case.

18 BRYAN MILLER: I live in a tiny home. I live -- my
19 house is 960 square foot prefab on blocks or on a crawl
20 space, and it's really fun getting underneath the crawl
21 space at my height. I have a well, I have a septic field.
22 I look straight across at those homes when I look out so I
23 just wanted to let you know for the record that I'm
24 opposed, okay?

1 CHAIR QUINN: Any questions? All right, thank you.

2 BRYAN MILLER: Thank you.

3 CHAIR QUINN: In other words, let me see if I heard
4 you right. You're not opposed to tiny homes in the
5 appropriate -- in an appropriate situation.

6 BRYAN MILLER: Absolutely.

7 CHAIR QUINN: It's the application here is what --

8 BRYAN MILLER: Yeah, it's the application that I have.

9 CHAIR QUINN: You answered it. I'm good. Thank you.

10 BRYAN MILLER: I mean, they're homes and they have the
11 same effect that regular homes do whether they're 200
12 square feet or 900 square feet or 4,000 square feet;
13 right?

14 CHAIR QUINN: Can I get Chris Colbert?

15 CHRIS COLBERT: Yes, sir.

16 CHAIR QUINN: Is there anybody out there that would
17 like to speak that is not on one of the lists? Raise your
18 hand if you're not on the list.

19 MR. STROECH: I should be on both.

20 CHAIR QUINN: You are on both. I'm leaving you for
21 last.

22 CHRIS COLBERT: I'm Chris Colbert. I live at 310
23 Cedar Ridge Lane which is adjacent to the property in
24 question. I don't have a lot to add that's already been

1 talked about. Everybody has done a very good job of
2 pointing out the issues. My -- what I would like to say
3 is my wife and I have lived in Shepherdstown all our lives
4 in and around Shepherdstown and we chose to live in
5 Jefferson County because it has zoning. Somebody said it
6 earlier, we have a sense of expectations as to what's
7 going on around us. The County has set those zoning
8 rules. It's ten acres for campground and that's what it
9 should be and this isn't even a campground. It's a mobile
10 home park that's being jammed or -- yeah, being jammed
11 into the campground policy. So that's basically it. It's
12 just a sense of expectations of what we want and where we
13 live. So that's it.

14 BOARD MEMBER: I'm good.

15 CHAIR QUINN: Thank you, sir.

16 Is there anybody out there besides Chris Stroeck, is
17 it?

18 MR. STROECK: Stroeck.

19 CHAIR QUINN: Stroeck?

20 MR. STROECK: Yes, sir.

21 CHAIR QUINN: Come on up here, sir. How many people
22 are you speaking for?

23 MR. STROECK: I represent four adjacent property
24 owners, Wayne and Ann Bavry, Neal and Alice Barkus. Two

1 have addressed you, two have not, so you can plan my time
2 accordingly.

3 CHAIR QUINN: So two have already spoken?

4 MR. STROECH: Yes.

5 CHAIR QUINN: You get three minutes for each one of
6 the ones that haven't spoken.

7 MR. STROECH: Yes, I understand and that would be
8 fine. Thank you.

9 CHAIR QUINN: I need -- your dissertation is in a
10 Staff report and well put together so you addressed
11 everything.

12 MR. STROECH: It is.

13 CHAIR QUINN: You're on, go ahead.

14 MR. STROECH: Thank you. Good afternoon. I would
15 rely heavily on my letter that I sent to you all dated
16 March 20th. It was in your packets and I think it sets
17 forth our legal reasons why we don't think this is
18 appropriate. As an initial point and it's already been
19 addressed to some extent, I think that there is a legal
20 hurdle here with these variance requests that the
21 applicants cannot overcome and I believe based upon the
22 admissions that we've heard --

23 CHAIR QUINN: Which variance?

24 MR. STROECH: Well, both of them, and I will tell you

1 why.

2 CHAIR QUINN: You said the. I thought you were
3 referring to just one of them. Go ahead. Keep going.

4 MR. STROECH: No. Both of them. Pursuant to Section
5 8.17A(6) of the ordinance, a campground shall not be used
6 as a primary residence on either a temporary or permanent
7 basis except for caretaker home. I think that provision
8 alone prevents these variance requests from going any
9 further. The information that we had prior to the hearing
10 today indicated that these tiny mobile homes were indeed
11 going to be homes, were indeed going to be residences and
12 I believe that the testimony of the applicants today have
13 confirmed that, that they will be either temporary or
14 permanent in nature. They will be primary homes for these
15 individuals, albeit, up to 180 days, but I would -- and I
16 find that interesting because I suspect that the 180 day
17 is more of a seasonal type of a rule where you're dealing
18 with a campground, for example, you may have an RV or
19 other type of campers that would head south for the winter
20 and go to some campground in Florida for six months and
21 stop and set up shop and then come back. That's not that
22 RV or camper's primary -- owner's primary residence. I
23 think that's something different and that's what that 180
24 days is speaking to.

1 Here we have tiny mobile homes and I think they meet
2 the definition of both the zoning and subdivision regs
3 that these are manufactured homes off site that will be
4 brought to the site for the purpose of residing therein.
5 As you all know, our regulations don't address this yet.
6 There are mobile home park subdivision regulations as you
7 know and there's a process that they are to go through.
8 In this case, however, mobile home parks are not a
9 permitted or a conditional use in the rural district so
10 even if they went through that process they would still, I
11 would contend, not be able to set up their mobile home
12 park on this parcel so I think that that primary issue is
13 a legal hurdle that by their own admissions they simply
14 can't overcome here.

15 If we do get past that I know that you all are very
16 familiar with the four factor test that -- for variances.
17 I'm not going to go through those. Again, I know you're
18 familiar with that, but I think there's some concern here
19 with the applications, both applications that these issues
20 were created by the applicants themselves.

21 There was an admission made today that they purchased
22 this parcel with the intent to develop this into a farm or
23 a tiny mobile home park so this is why they purchased it.
24 As far as the financial hardship that's claimed for the

1 site plan, again, these are issues that the applicant has
2 created and I don't think that the variance factors would
3 then allow even if we get to that point would allow the
4 granting of a variance.

5 As you've heard, they are multiple adjacent property
6 owners that have concerns with noise and traffic and other
7 safety and welfare concerns and health concerns and I
8 think that would also fall under the first factor of
9 whether or not this (inaudible) variance should be granted
10 both (inaudible) be granted. At the very least we don't
11 have a site plan. We have zero information. Even if this
12 was permitted as a campground use, which I don't think we
13 get there, but let's say we do, the proposal of the
14 variance from ten acres to six gets them to six acres.

15 You also have the easement road that crosses this
16 parcel and you have the area in between the easement road
17 and the adjoining properties. We can't use that space for
18 these homes so you're essentially starting with five
19 acres, I would argue, that would be usable property and
20 then from there you have to consider setbacks within the
21 campground regulations. Both from adjacent property
22 owners and if there are any well or septic setback issues
23 so the usable space here, we are condensing this at least
24 by half in crowding this lot with these tiny mobile homes

1 and that's not taking into consideration any buffer
2 requirements that -- I think that the minimum acreage for
3 campgrounds they contemplate having buffers whether that's
4 vegetation or fencing, things of that nature, and I think
5 if you, again, the density issue cutting this in half is
6 going to be a real concern for the neighboring property
7 owners. Noise, traffic and the viewshed itself. So while
8 the idea --

9 CHAIR QUINN: How does --

10 MR. STROECH: I'm sorry.

11 CHAIR QUINN: Elaborate a little bit on a viewshed.

12 MR. STROECH: Well, that's -- that would go to the
13 buffer zones that's required under camping regulations as
14 far as having fencing or trees and things of that nature,
15 but with the usable five acres or less, my point is then
16 where do you have to install the fencing. You got to
17 install the trees so you're taking away from additional
18 space so where are the homes and where are those setbacks
19 going to be. Where are they going to be placed.

20 CHAIR QUINN: Is that six?

21 BOARD MEMBER: Yes, sir.

22 CHAIR QUINN: Can you wrap it up?

23 MR. STROECH: I think I've made the points. Again, I
24 would rely heavily on my letter that I sent to you that

1 references the (inaudible) exhibits. I will take any
2 questions at this time.

3 CHAIR QUINN: Questions.

4 BOARD MEMBER: No questions. (Inaudible).

5 CHAIR QUINN: All right. Let's go past the say
6 financial hardship being grounds for a variance for the
7 one side and you're back to reducing your -- you're down
8 to your building envelope.

9 MR. STROECH: Yes.

10 CHAIR QUINN: What's their request for, what,
11 campground? It's for a campground; right?

12 MR. STROECH: That's what the request is.

13 CHAIR QUINN: That's what they say but now
14 notwithstanding all the (inaudible) mobile home, tiny home
15 or so on and so forth, could they have a campground
16 legally?

17 MR. STROECH: If it truly was a campground.

18 CHAIR QUINN: If it truly was a campground could they
19 have six spaces? I mean, let's say you take it
20 (inaudible).

21 MR. STROECH: (Inaudible).

22 CHAIR QUINN: You get it down to five acres or four
23 acres, whatever. Four times 15 is what? If you're asking
24 for a tenth of that if you're talking about a legitimate

1 campground space, how would you feel about that?

2 MR. STROECH: Well, if it truly was a campground and
3 not a tiny mobile home park then I think what I would have
4 to see would be a detailed site plan as to where all these
5 sites would be located so if we have a traditional
6 campground you're going to have the required amenities
7 whether that's a bath house or a dining hall or something.

8 CHAIR QUINN: Have to meet all the regulations.

9 MR. STROECH: They would have to meet all of those so
10 depending on a detailed site plan then perhaps it would be
11 permitted on that parcel, but again, that would be cutting
12 the minimum density in half and I would have some concern
13 even doing it in that fashion. Can you fit everything on
14 it. That's my concern.

15 CHAIR QUINN: You answered the question.

16 Are there no other questions?

17 BOARD MEMBER: No.

18 CHAIR QUINN: Thank you very much.

19 MR. STROECH: Thank you all.

20 CHAIR QUINN: One more time, is there anybody else?

21 Did I miss anybody that came in here that would like to
22 speak to this request for or against it? Applicants, you
23 have a rebuttal opportunity here.

24 DANIELLE LAROCK: So we do just want to --

1 CHAIR QUYNN: Hold up. Would you all allow these
2 people to speak, please, whoever is talking back there in
3 the (inaudible). Thank you. Go ahead.

4 DANIELLE LAROCK: We do just want to clarify a few
5 things. The proposed well would be on our property as
6 would the electric. The proposed driveway would come in
7 off of River Road. I also want to point out that these
8 are very tiny houses. They're 160 square feet footprint
9 so they're very small. I do not foresee us having any
10 issue with any setback on six acres.

11 On -- I did include a picture on page 6 of our
12 proposal which is basically a picture from the easement on
13 River Road of the houses so you can see how big the houses
14 are in comparison to the size of the property so they are,
15 I think my opinion they are very small. If someone
16 doesn't like them they might look larger because maybe we
17 don't -- we kind of point out the things that we don't
18 like.

19 I would also like to point out that the tiny houses
20 that we have on wheels when we talked with Jefferson
21 County they said that they are RVs. They are certified as
22 RVs. They do not meet Jefferson County's definition of a
23 mobile home.

24 When we bought that property, I was specifically

1 looking for an unrestricted parcel. I will admit, I'm 32
2 years old, I'm still learning about how to buy property.
3 I don't -- I did not completely understand all of the
4 zoning so everything that we've done has not been -- we
5 weren't trying to harm anybody or hurt anyone. I honestly
6 guess my own opinion of tiny houses made me think that
7 other people were going to like them and I didn't foresee
8 there being this level of opposition to them so that
9 was -- that's my mistake and that's me learning. So I
10 guess I just want to say that when we bought that parcel
11 it is an unrestricted parcel, my -- this could also be
12 incorrect, but my understanding of an unrestricted parcel
13 is in Jefferson County is that if we wanted to live in a
14 mobile home we could put a mobile home on that parcel. It
15 would be a single family. It would be considered our home
16 so we could -- like, if we don't do the thing with the
17 tiny houses, like, we could do that. That would be
18 allowed as far as I understand within zoning. That's not
19 what we want to do.

20 I think really what I want to say with this whole
21 process is that we do want to work with Jefferson County
22 to create zoning for tiny houses. If it's not a
23 campground, if this doesn't fit then we would like to work
24 with you to find a way that this could fit because there

1 are counties across the country that are making rules and
2 regulations around tiny houses on wheels. I would argue
3 especially in the Shepherdstown area, I think the
4 Shepherdstown area is known for being pretty progressive.
5 There are people who come out from Washington, DC. We've
6 had a lot of people also -- I know that they're not here
7 today so it doesn't really matter, but we have had a lot
8 of people say that what we're doing is kind of cool and
9 that they want to come see our tiny house, so again, I
10 know that that is not everyone's opinion and that's
11 absolutely completely fine. Everyone's points here are
12 valid and I guess we just want to say that we're just
13 doing the best that we can. I don't know if Johnathon
14 wants to add anything.

15 JOHNATHON CARNILL: I think whatever -- I think
16 whatever happens --

17 CHAIR QUINN: Push the button. I mean, I can hear
18 you --

19 JOHNATHON CARNILL: I think whatever happens, the take
20 away is whether we get to do what we would like to do with
21 the campground and whether that fits, whether you guys
22 think it's okay or whether we don't today, that either way
23 I think we would like to talk with Jefferson County about
24 creating zoning more specific to what we're talking about

1 today. I think you have all the information you need and
2 I appreciate your time today.

3 CHAIR QUINN: Don't -- hold up. Is there any reason
4 they can't have a mobile home on the lot? I'm just
5 curious. It's non-restrictive. Whether it's in a
6 covenant or something, I'm not talking about that.

7 STAFF: I don't know. We don't enforce covenants, but
8 by zoning they would be permitted to have a mobile -- we
9 don't have any maintenance -- we don't have any design
10 standards, size restrictions. A mobile home is considered
11 a dwelling unit and is permitted anywhere that a single
12 family residence is permitted.

13 Your question as to whether or not they could have
14 two. They can have a primary dwelling unit as well as an
15 in-law suite. The in-law suite is restricted to a family
16 member. The primary residence could then be rented out
17 essentially. That's what would be permitted on a single
18 parcel by zoning.

19 CHAIR QUINN: Right. So, technically, if they could
20 get the perks and they got two lots and a remainder, they
21 could have six.

22 STAFF: That's correct.

23 CHAIR QUINN: They could have six mobile homes.

24 STAFF: A minor subdivision to create two lots and

1 residue would allow -- there is a two-acre minimum
2 requirement for those in-law suites but it is six acres so
3 if you have three two-acre parcels each could then have
4 the primary residence and an in-law suite.

5 BOARD MEMBER: (Inaudible) minor subdivision.

6 STAFF: After processing a minor subdivision which is
7 administratively approved and it would still require
8 health department approval and Division of Highways
9 approval.

10 CHAIR QUINN: Okay. That was my question. Thank you
11 for answering it.

12 Any board members, any questions for --

13 BOARD MEMBER: You say your property is unrestricted.
14 On your deed there's no covenants or anything on that
15 property right now?

16 JOHNATHON CARNILL: Not on the deed that I received
17 from the lawyer that we went through. I haven't
18 researched that so if I need to go look at some of the
19 original deed documents I don't have all the information
20 on that to answer that accurately.

21 DANIELLE LAROCK: Actually, I meant to even provide a
22 copy of our deed but -- and we can provide that and so in
23 our deed it does not say anything specifically.

24 STAFF: The ordinance explicitly states that we don't

1 enforce private covenants.

2 CHAIR QUYNN: We don't deal with covenants.

3 STAFF: Yeah, that would become a civil matter.

4 CHAIR QUYNN: We deal with the ordinance.

5 STAFF: Correct.

6 CHAIR QUYNN: Covenants is a private matter. Okay.

7 Any other questions?

8 UNIDENTIFIED MALE: (Inaudible).

9 CHAIR QUYNN: No more. (Inaudible). All right, thank
10 you. Okay, I will entertain a motion.

11 BOARD MEMBER: I would like to make a motion that the
12 Board go into a deliberative session.

13 CHAIR QUYNN: Can I have a second?

14 BOARD MEMBER: Second.

15 CHAIR QUYNN: All in favor, say aye.

16 (Board members answered in the affirmative.)

17 CHAIR QUYNN: The Board is going to move into
18 deliberative session. We ask that the room be vacated.
19 We're going to deliberate. Somebody will come back out
20 into the hallway and let you know (inaudible).

21 MR. COCHRAN: Might I suggest that you ask them to
22 take all their belongings with them.

23 CHAIR QUYNN: Oh, yes, everybody please take your
24 belongings. I said --

1 (Board went into deliberative session.)

2 CHAIR QUINN: Entertain a motion to go back into
3 session -- public session.

4 BOARD MEMBER: I make a motion that the Board go back
5 into public session.

6 CHAIR QUINN: Do I have a second?

7 BOARD MEMBER: Second.

8 CHAIR QUINN: All in favor, say aye.

9 (Board members answered in the affirmative.)

10 CHAIR QUINN: Jefferson County Zoning Board of Appeals
11 is officially back in session for March 2019.

12 All right, we have in front of us two items here, item
13 four and item five. Item five is our file 19-4-ZV. It's
14 a variance from Section 4.108 to waive the requirement of
15 a site plan to process a six-site campground. Danielle
16 LaRock and Johnathon Carnill. It's a vacant parcel on the
17 northwest corner of River Road and Cedar Ridge Lane,
18 Shepherdstown, West Virginia, six acres in size in a rural
19 zone.

20 I will entertain a motion for that item, please.

21 BOARD MEMBER: I make a motion that the Board deny the
22 variance from Section 4.10A to waive the requirement of a
23 site plan as the applicant failed to demonstrate a
24 hardship that wasn't created by the applicant and that a

1 failure to process a site plan could adversely affect the
2 health, welfare and safety of the public.

3 CHAIR QUINN: Can I have a second?

4 BOARD MEMBER: Second.

5 CHAIR QUINN: All in favor, say aye.

6 (Board members answered in the affirmative.)

7 CHAIR QUINN: Opposed? Item four is denied.

8 Now we'll look at item five which is a request.

9 UNIDENTIFIED FEMALE: Can I clarify? Section 4.10A
10 was item number 5 so number 4 would be the next one. The
11 site plan was item number 5.

12 CHAIR QUINN: Right. Sorry.

13 UNIDENTIFIED FEMALE: That's okay. I just wanted to
14 clarify.

15 CHAIR QUINN: All right. So that's file 19-3-ZV. It
16 is a variance from Section 8.17B(1) to reduce the required
17 acreage for a six-site campground from ten acres to six
18 acres, same owners, same parcel. Parcel ID is
19 09001000070000, size 6.6 acres in rural zone. I will
20 entertain a motion for that item.

21 BOARD MEMBER: I make a motion to approve the site --
22 the plan from ten acres to six acres and with a limit of
23 six sites per site.

24 CHAIR QUINN: Six campground sites.

1 BOARD MEMBER: Limited to six campsites.

2 CHAIR QUYNN: Anything else? Any discussion?

3 MR. COCHRAN: Make sure you're saying six campgrounds
4 total?

5 BOARD MEMBER: Six total.

6 CHAIR QUYNN: Maximum of six sites. Did you get that,
7 Jennilee? All in favor, say aye.

8 (Board members answered in the affirmative.)

9 CHAIR QUYNN: Anybody opposed? All right. That is --
10 can I have the applicants come up here, please. The
11 request as it's stated is an approval for campground
12 sites, okay? Campground sites. It's not an approval for
13 a mobile home park or a tiny home park or anything like
14 that. It's campground sites. To pursue this you have to
15 go through a regular site plan process which will cover a
16 lot of the issues that were brought up today. It's kind
17 of unfortunate the -- the tiny home concept I've heard
18 about it for a long time. It's been around. I'm a member
19 of ICC. I've watched that for 35 years. Stuff comes up
20 all the time. It's unfortunate. This is one of those
21 items that's not addressed in the zoning ordinance
22 specifically and when zoning ordinances are updated just
23 like the comprehensive plan you can't catch everything.
24 That's why we're here so we're not either opposed or for

1 more the tiny homes. This is -- we're looking at this in
2 the ordinance as a campground site request.

3 We are going to ask the Board -- going to ask the
4 zoning administrator to follow up with the planning
5 commission, maybe the county commissioners to pursue
6 whatever is necessary to address tiny homes in the
7 ordinance and I'm sure you all can work together in that.
8 I wanted to say those things and I will let it be at that.

9 The Board is going to follow through with the rest of
10 their agenda. You can leave.

11 UNIDENTIFIED FEMALE: (Inaudible).

12 MR. COCHRAN: Mr. Quynn, are you through with
13 (inaudible). I'm presenting you with items for the last
14 (inaudible).

15 CHAIR QUYNN: I thought you had that.

16 STAFF: You jumped ahead (inaudible).

17 CHAIR QUYNN: She's got to go.

18 UNIDENTIFIED FEMALE: Can I go now?

19 STAFF: I think that that should be fine. I was just
20 going to give an update. I -- real quick since you made
21 the motion and I don't know that there's any real bearing,
22 but when I said the Conditional Use Permit item number one
23 wanted to postpone until April -- I'm sorry, I said they
24 wanted to postpone until May. I should have said April

1 and I apologize. I got ahead of myself so just to be
2 clear, they will be here for the April meeting. I don't
3 think it has any real bearing but I just want to clarify
4 that.

5 BOARD MEMBER: April is next month.

6 STAFF: I know. We both did it. I think you just
7 said it because I said May and I apologize for that.

8 BOARD MEMBER: Then I was thinking (inaudible).

9 CHAIR QUINN: Hey, give me a motion to adjourn so you
10 can go. I make a motion.

11 BOARD MEMBER: I make a motion that we adjourn this
12 meeting.

13 CHAIR QUINN: All in favor, say aye.

14 (Board members answered in the affirmative.)

15 (Meeting adjourned.)

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1 STATE OF WEST VIRGINIA,
2 COUNTY OF BERKELEY, TO WIT:

3
4 I, Tracy P. Herron-Rice, certified court reporter do
5 hereby certify that the said transcript was taken by
6 electronic means and reduced to typewriting under my
7 supervision to the best of my ability.

8 I further certify that the foregoing was prepared in
9 accordance with Code 51/7/4.

10 Given under my hand this 18th day of April 2019.

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Certified Court Reporter

19-1-AP, Respondent
Alexandra Beaulieu, Zoning Administrator

Staff Response to Appeal

Section 3.2 of the Zoning Ordinance addresses the role of the Zoning Administrator. It states,

“The Zoning Administrator shall administer and enforce the Zoning and Land Development Ordinance. This includes but is not limited to the following:

2. Interpret the provisions of the Ordinance as required by law.

Mr. Stroeck states, “Neither the BZA nor the ZA is empowered to make law. They are to interpret the law as passed by the Planning Commission, even if they are inclined to support a particular request. The ZA has committed a clear error in determining that a “tiny home,” as defined by the Applicants herein, is a recreational vehicle and therefore a permitted Camping Unit. The appellants request that that [sic] BZA reverse this decision of the ZA.” [Exhibit 1]

The allegation that the Zoning Administrator determined that the subject units met the criteria for a campground because she was “inclined to support a particular request” is without basis. The Zoning Administrator is tasked with enforcing the rules as they are written, and in this particular instance, the definition of camping unit allows temporary or permanent structures, and does not prohibit a particular type of structure based on materials, size, or appearance.

The Zoning Administrator determined that Ms. LaRock and Mr. Carnill’s “tiny home” structures were permitted camping units based on the definition of camping unit (see below) as provided in Article 2 and based on the fact that Jefferson County does not have design standards for structures to regulate appearance (i.e. color, shape, or materials) or minimum size.

Camping Units: Individual units designed for temporary occupancy within an approved campground such as trailers, self-propelled campers, recreational vehicles, tents, cabins, camping cabins, fifth wheels, pop-up campers, and/or lodges.

The Zoning Ordinance does not have a definition for a “tiny home” but it does have definitions for cabin and camping cabin (see below).

The property owners represented that the subject structures were on wheels and certified as recreational vehicles [Exhibit 2]; therefore, the Zoning Administrator determined that as a recreational vehicle, the units were permitted under the definition of Camping Unit. It should be noted that even if the units are not classified as recreational vehicles, the Ordinance allows for

19-1-AP, Respondent
Alexandra Beaulieu, Zoning Administrator

varying types of structures to be permitted as a camping unit and without design criteria, nearly any type of structure would be permitted as a camping unit.

Cabin: A temporary or permanent structure for the purposes expressly permitted in Article 8 of the Zoning Ordinance and Division 8 of the Subdivision Regulations. Cabins are intended for temporary occupancy, not permanent residency; and shall not sleep more than eight people per cabin. Cabins shall not be sold separately from the parent parcel without further processing under the appropriate land use ordinances in effect at that time. This structure shall at least provide a sleeping and bathroom area with appropriate campground Health Department approval for water and wastewater services and may provide an indoor kitchen/cooking area. Structures shall be built to current applicable Jefferson County Building Code with the issuance of a Building Permit. A cabin permitted under the Campground articles of the Jefferson County Ordinances, shall not need to be located on a separate parcel and multiple cabins can be located on the same parcel as the parent parcel.

Camping Cabin: A temporary or permanent structure for the purposes expressly permitted in Article 8 of the Zoning Ordinance and Division 8 of the Subdivision Regulations. A cabin which provided a sleeping area only, requires separate outdoor meal preparation, and the use of a common bathhouse. Such cabin may include heating and/or air conditioning. Structures shall be built to current applicable Jefferson County Building Code with the issuance of a Building Permit.

If in fact the subject structures are determined to not be recreational vehicles as represented by the property owners, the structures would still be permitted to locate on the property under the definition of camping unit because they are temporary (on wheels) or they could be modified to be placed on a permanent foundation. The fact that the property owners refer to the structures as “tiny homes” does not change how the structures are processed in accordance with the Zoning Ordinance.

19-1-AP, Respondent
Alexandra Beaulieu, Zoning Administrator

Further, if the structures are determined to not be recreational vehicles, by Zoning, the property owners would be permitted to locate both structures on the property and designate one structure as the principal dwelling unit and the second structure could be approved as an in-law suite. Processing as a dwelling unit with an in-law suite was originally not a viable option because Section 8.15 states, “RVs are prohibited as Accessory Dwelling Units”. Establishing an In-Law Suite would not necessitate approval from the Board of Zoning Appeals as the Ordinance allows an in-law suite to be established as a Principal Permitted Use on a parcel with a minimum of two acres.

Mr. Stroech states, “The ZA found persuasive certain testimony that since a tiny home is licensed by the West Virginia Department of Motor Vehicles (“DMV”), then it is a recreational vehicle and a permitted Camping Unit². ...²The ZA has offered no other explanation for her finding that a tiny home is a recreational vehicle and permitted Camping Unit.” (page 2 of Memorandum of Law [Exhibit 3].) Mr. Stroech’s email dated April 1, 2019 was not a request for a formal determination from the Zoning Administrator as to whether or not the structures were recreational vehicles. The request was to address an alleged violation; therefore, the basis of the appeal before you is unwarranted. Mr. Stroech submitted a complaint against the property owners and the Zoning Administrator’s response addressed the complaint, as is evident by the statement that the property owners were not in violation of anything and were permitted to store the units on the property for personal use [Exhibit 4]. A violation notice cannot be administered under the presupposition that an illegal activity may occur.

The Zoning Administrator did not determine that the proposed structures were recreational vehicles, but rather relied upon the property owners’ testimony that the structures were in fact certified recreational vehicles [Exhibits 2, 5, and 6]. As is evident by the Zoning Administrator’s email dated April 2, 2019, camping units may be temporary or permanent structures. The “tiny homes” on wheels would classify as temporary structures since they do not have a permanent foundation. Should the property owners choose to place the tiny homes on a permanent foundation, they would still comply with the definition of camping unit.

Finally, the property owners’ request was for a variance to reduce the minimum acreage required to operate a campground and was not a request for approval for the type of camping units to be utilized. The Zoning Administrator cannot enforce design criteria because the Zoning Ordinance

19-1-AP, Respondent
Alexandra Beaulieu, Zoning Administrator

does not provide any design criteria. The Board did not place any restrictions on the types of camping units that could be utilized; therefore, the Zoning Administrator did not have any reason to prohibit the property owners' "tiny homes" on wheels (recreational vehicles, temporary cabins, etc.).

Conclusion

The Zoning Administrator has not violated her responsibility to administer and enforce the Zoning Ordinance. Prohibiting the proposed structures based on their appearance would be a violation of the Zoning Administrator's responsibility and could be perceived as arbitrary and capricious since the definition of camping unit clearly allows both temporary and permanent structures.

The Zoning Administrator relied on the testimony of the property owners in determining that the proposed project could process as a campground. The property owners consistently represented that the tiny homes were recreational vehicles for temporary (limited to 180 days) occupancy; however, should the structures be determined to not be recreational vehicles, the Zoning Administrator believes that the structures would still meet the definition of camping unit, whether the structures remain on wheels (temporary) or are modified to be located on a permanent foundation.

Attachments:

1. Exhibit 1 – Page 6 of the Memorandum of Law, submitted by Mr. Christopher Stroeck, Esq.
2. Exhibit 2 – Pages 32 and 74 of meeting transcription submitted by appellants
3. Exhibit 3 – Page 2 of the Memorandum of Law, submitted by Mr. Christopher Stroeck, Esq.
4. Exhibit 4 – Email from Mr. Christopher Stroeck, dated April 1, 2019 with response from the Zoning Administrator, dated April 2, 2019.
5. Exhibit 5 – Danielle LaRock and Jonathan Carnill Pre-Proposal Conference Application
6. Exhibit 6 – Zoning Variance Application File #19-3-ZV
7. Support Documentation - Article 2, Definitions; Section 8.15 – Accessory Dwelling Unit;
Section 8.17 - Campgrounds

through a regular site plan process which will cover a lot of the issues that were brought up today. It's kind of unfortunate the – the tiny home concept I've heard about if for a long time. It's been around. I'm a member of ICC. I've watched that for 35 years. Stuff comes up all the time. Its' unfortunate. This is one of those items that's not addressed in the zoning ordinance specifically and when zoning ordinances are updated just like the comprehensive plan you can't catch everything. That's why we're here so we're not either opposed or for more tiny homes. This is – we're looking at this in the ordinance as a campground site request. We are going to ask the Board – going to ask the zoning administrator to follow up with the planning commission, maybe the county commissioners to pursue whatever is necessary to address tiny homes in the ordinance and I'm sure you all can work together in that. I wanted to say those things and I will let it be at that. Exhibit F, Pgs. 82-83.

Neither the BZA nor the ZA is empowered to make law. They are to interpret the law as

passed by the Planning Commission, even if they are inclined to support a particular request.

The ZA has committed a clear error in determining that a “tiny home,” as defined by the

Applicants herein, is a recreational vehicle and therefore a permitted Camping Unit. The

Appellants request that that BZA reverse this decision of the ZA.

WAYNE & ANN BAVRY / NEAL & ALICE BARKUS
Appellants, By Counsel



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1 many more trees. If anything, Tiny Haven is working to do
2 its part to care for our environment and to support living
3 with a lower ecological footprint.

4 JOHNATHON CARNILL: The next thing that we have on our
5 little thing is sanitation. Our tinies have composting
6 toilets and waste is safe to dispose of in a landfill. We
7 also have a septic field staked out on our property since
8 at some point we would like to build a standard home or
9 maybe a community building with all the regular standards.

10 Appearance and aesthetics. We value aesthetics and
11 appearance in ensuring that our property looks nice. We
12 are aware that our property currently is very open. With
13 proper landscaping and fencing I think we can create a
14 natural buffer that creates more privacy both for us and
15 all of our neighbors. The tiny homes that are and will be
16 on our property are built with the quality of a regular
17 stick-built home but are also built certified as RVs.

18 Once they are set up, we will create landscaping and
19 covers around the trailer portion that will make these
20 tinies look like regular houses on foundations. We plan
21 to keep our property in good order, free of trash, debris,
22 overgrowth, anything like that. We also plan to plant
23 landscaping and install traditional farm-like fencing to
24 create greater privacy, sound barriers and road appeal.

1 CHAIR QUYNN: Hold up. Would you all allow these
2 people to speak, please, whoever is talking back there in
3 the (inaudible). Thank you. Go ahead.

4 DANIELLE LAROCK: We do just want to clarify a few
5 things. The proposed well would be on our property as
6 would the electric. The proposed driveway would come in
7 off of River Road. I also want to point out that these
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10 issue with any setback on six acres.

11 On -- I did include a picture on page 6 of our
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15 I think my opinion they are very small. If someone
16 doesn't like them they might look larger because maybe we
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18 like.

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20 that we have on wheels when we talked with Jefferson
21 County they said that they are RVs. They are certified as
22 RVs. They do not meet Jefferson County's definition of a
23 mobile home.

24 When we bought that property, I was specifically

Campsite. Generally means an area where an individual, family, or group can pitch or place a camping unit; a campground may contain many campsites.

Campsite Pad. An area within a campsite intended for the exclusive occupancy by a camping unit or units under the control of a camper.

As defined by the Applicants and supported by their evidence presented, tiny homes are not recreational vehicles and therefore not permitted Camping Units. The textbook definition of a “recreational vehicle” is “a vehicle designed for recreational use (as in camping).” See www.merriam-webster.com. W.Va. State Code defines a “recreational vehicle” as “a motorboat, motorboat trailer, all-terrain vehicle, travel trailer, fold-down camping trailer, motor home, snowmobile or utility-terrain vehicle.” W.Va. Code 17A-6-1(31) (2019). The tiny homes, as described by the Applicants, do not meet either definition.

The ZA found persuasive certain testimony that since a tiny home is licensed by the West Virginia Department of Motor Vehicles (“DMV”), then it is a recreational vehicle and a permitted Camping Unit.² However, the DMV classifies all on-road travel trailers as Class R, or “[t]railers designed to provide temporary living quarters for recreation, travel or camping use.” See DMV Classifications attached hereto as Exhibit C. More notably, upon information and belief, the DMV also issues licenses for mobile homes or manufactured homes. See DMV Licensing Information attached hereto as Exhibit D. The fact that the DMV issues a license for a “tiny home,” as it does for anything that moves on a highway, in no way confirms that it is a recreational vehicle and permitted Camping Unit for Applicants’ purposes.

To the contrary, the Applicants have clearly stated that the tiny homes are intended to serve as primary residences. The on-line marketing and messaging information submitted by the Appellants as attachments to their counsel’s letter dated March 20, 2019 confirm that “Tiny

² The ZA has offered no other explanation for her finding that a tiny home is a recreational vehicle and permitted Camping Unit.

From: [Zoning](#)
To: "[Christopher Stroech](#)"
Subject: RE: LaRock / Carnill Zoning Variance Request
Date: Tuesday, April 2, 2019 11:53:00 AM

Good morning,

The BZA approved the variance to reduce the required acreage from ten acres to six acres for a six site campground. The Ordinance allows various types of camping units, either with a foundation or without a foundation. As discussed during the meeting, the two units that the applicants currently have on their property are Recreational Vehicles. They are licensed by the DMV and permitted Camping Units.

Article 2 defines Camping Units as, "Individual units designed for temporary occupancy within an approved campground such as trailers, self-propelled campers, recreational vehicles, tents, cabins, camping cabins, fifth wheels, pop-up campers, and/or lodges."

Ty's clarification with the applicants at the end of the meeting, after the motion was made, was to reiterate that the campground could not be a mobile home park or tiny home park for residential purposes (exceeding 180 days / or for long term use by their family), as was an expressed concern by the public during the hearing. The Board did not place any limitations on the types of camping units that could be utilized for the campground.

Presently, the applicants have not rented out the units to the public and therefore, they are not in violation of anything. Additionally, the property owners may store the units on the property for personal use without violation of the Ordinance.

I hope this clarifies. If you have additional questions or concerns, please let me know.

Alex

Alexandra Beaulieu
Zoning Administrator
Jefferson County Office of Planning and Zoning
www.jeffersoncountywv.org
304-728-3228

From: Christopher Stroech [mailto:cstroech@arnoldandbailey.com]
Sent: Monday, April 1, 2019 9:55 AM
To: Zoning <Zoning@jeffersoncountywv.org>
Subject: Re: LaRock / Carnill Zoning Variance Request

Alex:

LaRock / Carnill have posted the following on their facebook page:

"We are approved to be a six site campground and tiny houses on wheels are welcome!"

This is concerning as the BZA expressly stated that tiny homes are not permitted.

I believe that LaRock / Carnill are in violation of the BZA's ruling and applicable regulations by currently having two (2) tiny homes on site. I would ask that this violation be addressed. thanks,

Christopher P. Stroech, Esq.
Arnold & Bailey, PLLC
208 N. George Street
Charles Town, WV 25414
304-725-2002
304-725-0282 (Fax)
cstroech@arnoldandbailey.com

THIS MESSAGE IS PRIVILEGED AND CONFIDENTIAL AND FOR THE INTENDED RECIPIENT ONLY. IF THIS MESSAGE WAS SENT IN ERROR, PLEASE CONTACT THE SENDER IMMEDIATELY.

DEBT COLLECTION NOTICE: THE PURPOSE OF THIS COMMUNICATION AND OTHERS FROM ME MAY BE TO COLLECT AN ALLEGED DEBT OWED, AND ANY INFORMATION OBTAINED IN RESPONSE MAY BE USED FOR THAT PURPOSE. WE WILL ASSUME THE DEBT TO BE VALID UNLESS YOU DISPUTE THE VALIDITY OF ALL OR ANY PART OF THE DEBT WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS NOTICE. IF YOU NOTIFY US IN WRITING THAT YOU DISPUTE ANY OR ALL OF THE DEBT, WE WILL OBTAIN AND SEND VERIFICATION OF THE DEBT AND PROVIDE YOU CONTACT INFORMATION FOR THE ORIGINAL CREDITOR, IF APPLICABLE.



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

EXHIBIT 5

File #: PPC
 Date Rec'd: 2/15/19
 Mtg. Date: 2/13/19
 Mtg. Time: 2pm
 Staff Initials: RBB

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

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

Pre-Proposal Conference Application

Property Owner Information

Owner Name: Danielle LaRock and Jonathan Carnill
 Business Name: Tiny Haven WV
 Mailing Address: PO BOX 1610 Shepherdstown WV 25443
 Phone Number: 202 438 5287 / 304 268 5919 Email: danielle@daniellelarock.com / jon.carnill@gmail.com

Applicant Information

Same as Owner:

Applicant Name: Danielle LaRock and Jonathan Carnill
 Business Name: _____ * same as Above
 Mailing Address: _____
 Phone Number: _____ Email: _____

Consultant Information

Consultant Name: N/A
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details (click for an interactive [Tax Map](#))

Physical Address: N/A Vacant Lot:
 Tax District: Select District 09 Map No: 10 Parcel No: 07
 Parcel Size: 6.06 acres Deed Book: 1204 Page No: 5100

Zoning District (click for an interactive [Zoning Map](#))

Select Zone = Rural

Briefly describe the proposed development. Including the number of lots proposed or type of business. If relevant, provide any known history for the property.

We have two specialty RVs that we want to connect to electric and water for use for our farm. They are built on trailers and are self-contained. They are temporary for use by farm workers and us.

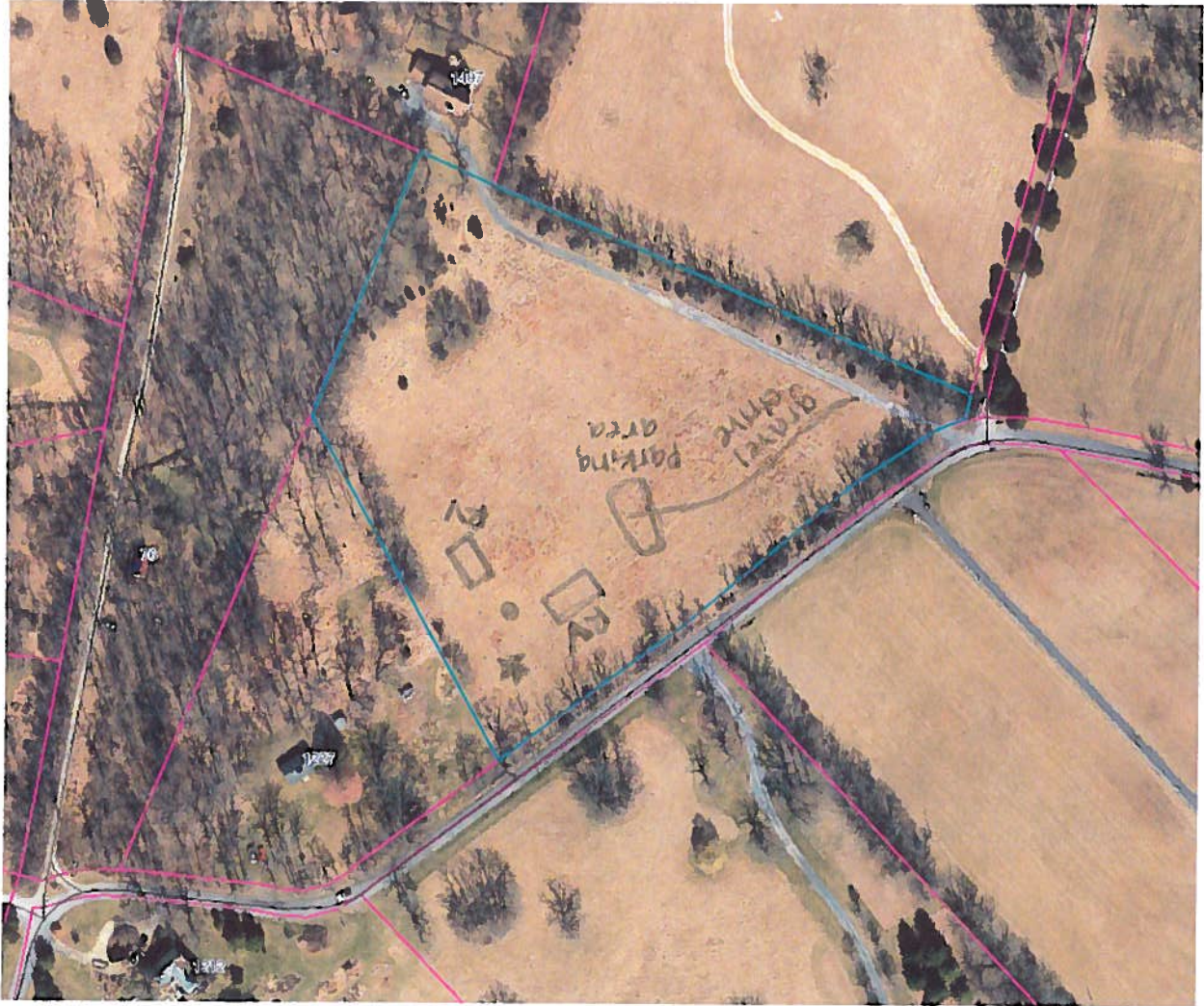
Non-Residential (Commercial) Proposals

Sketch depicting lot lines, existing and/or proposed building(s), parking, and signage. Include dimensions.

Subdivision Proposals

- Sketch depicting the current and proposed lot configuration (new lot lines, access easements, etc.)
- Provide deed book and page reference(s) going back to at least October 5, 1988.

Mail response to: Owner: Applicant: Consultant:



We have two specialty RVs that are 8.5 ft wide by 20 feet long

We plan to bring in electric from across the road to a pole at the ★ point in the corner of the property.

We plan to have a well drilled near the circle ● point on the property.

We plan to bring a gravel driveway and parking area off the current driveway easement that's on our property.



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

EXHIBIT 6

File Number: 19-3-ZV
 Staff Initials: PH
 Meeting Date: 3/28/19
 Fees Paid (\$100 or \$150): 100-

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: Danielle LaRock and Jonathan Carnill
 Mailing Address: P.O. Box 1610 Shepherdstown WV 25443
 Phone Number: 202-438-5287 | 304-268-5919 Email: danielle@daniellelarock.com | jon.carnill@gmail.com

Applicant Contact Information

Name: same as above
 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: _____
 City: Shepherdstown State: WV Zip Code: 25443
 Tax District: 9 Map No: 10 Parcel No: 7
 Parcel Size: 6.06 acres Deed Book: 1204 1215 Page No: 560 329

Zoning District (please check one)

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

RECEIVED

FEB 14 2019

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: Sec. 8.17B.1

Briefly describe the nature of the variance request:

We are requesting to reduce the requirement that a campground be on a minimum of 10 acres to 6 acres minimum.

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

Front Setback Side Setback Rear Setback Reduction From 10 acres to 6 acres

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:

We plan to maintain a safe quiet sanitary campground of only 6 aesthetically pleasing RVs/campers/THOWs. We plan to install a nice fence, driveway, and landscaping to create greater privacy for adjacent property owners.

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?

We would like to create this campground on our property on the scenic River Road and our property is only 6 acres (instead of 10)

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

This will allow us to use our land as a scenic campground on 6 acres. This land is in a prime location for this permitted activity as long as we are approved to have it on 6 acres instead of at least 10.

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 allow for supporting agricultural activities and encourage an improved appearance of Jefferson County, insuring that growth and development are both economically and environmentally sound. We want to contribute to

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

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] 2.13.19
Signature of Property Owner Date

[Signature] 2.13.19
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

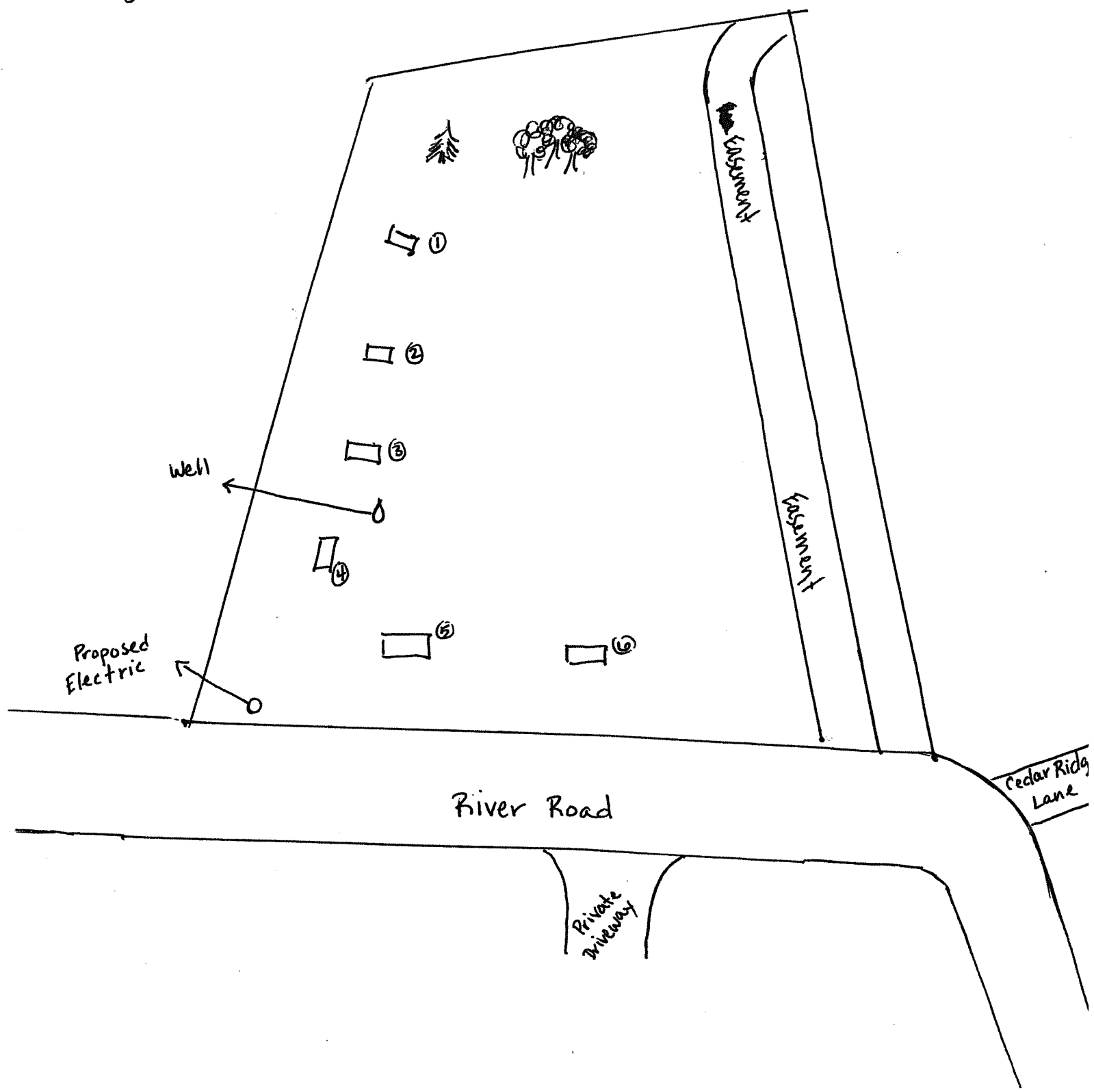
Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

03/28/19
Date of Public Hearing

03/13/19
Advertising Date

03/13/19
Placard Posting Date

* □ - Camp site



Business Equipment
Sales and Service²⁷

An establishment primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but excluding automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.

Cabin³¹

A temporary or permanent structure for the purposes expressly permitted in Article 8 of the Zoning Ordinance and Division 8 of the Subdivision Regulations. Cabins are intended for temporary occupancy, not permanent residency; and shall not sleep more than eight people per cabin. Cabins shall not be sold separately from the parent parcel without further processing under the appropriate land use ordinances in effect at that time. This structure shall at least provide a sleeping and bathroom area with appropriate campground Health Department approval for water and wastewater services and may provide an indoor kitchen/cooking area. Structures shall be built to current applicable Jefferson County Building Code with the issuance of a Building Permit. A cabin permitted under the Campground articles of the Jefferson County Ordinances, shall not need to be located on a separate parcel and multiple cabins can be located on the same parcel as the parent parcel.

Camping Cabin³¹

A temporary or permanent structure for the purposes expressly permitted in Article 8 of the Zoning Ordinance and Division 8 of the Subdivision Regulations. A cabin which provides a sleeping area only, requires separate outdoor meal preparation, and the use of a common bathhouse. Such cabin may include heating and/or air conditioning. Structures shall be built to current applicable Jefferson County Building Code with the issuance of a Building Permit.

Campground^{27, 31}

An area or premises located on a single lot, operated as a commercial enterprise, generally providing space in the form of campsite pads for seasonal accommodations for transient occupancy or use by customers occupying camping units. A campground shall be designed for seasonal occupancy, as opposed to permanent year-round occupancy, and shall not be construed to mean a Mobile Home Park (as defined in this Ordinance). All campgrounds shall comply with the defined uses and regulations in Section 8.17 of this Ordinance and relevant sections of the Subdivision Regulations.

Campground Amenities³¹

Uses or features which are clearly incidental to the use of the property as a campground and may include shelters, pavilions, gathering halls, bathhouses, pools, recreation areas, trails, fire pits, retail stores, laundry facilities, food service, amphitheaters, ponds, lakes, and other uses related to the needs of the campers.

Camping Units³¹

Individual units designed for temporary occupancy within an approved campground such as trailers, self-propelled campers, recreational vehicles, tents, cabins, camping cabins, fifth wheels, pop-up campers, and/or lodges.

Section 8.13 Dormitory²³

A dormitory shall be located on the same property or campus as the use it is intended to serve. A dormitory shall not offer accommodations to the general public or to persons who are visiting the property or campus primarily for the purpose of being a spectator at a sporting event or other gathering held at the facility. A dormitory may include one common kitchen or dining facility and common gathering rooms for social purposes for use only by its temporary occupants.

Section 8.14 Rural Reception/Event Facility²⁶

A Rural Reception/Event Facility is a facility within an existing structure and/or outdoor area for the hosting of events such as weddings and similar events. Such events proposed in the Rural, Village, Residential Growth, and Residential-Light Industrial-Commercial Districts are approved by the Board of Zoning Appeals following a public hearing. Such public hearing shall be conducted according to the requirements of Section 6.1C; may be continued according to the requirements of Section 6.1D; and is subject to the notification requirements of Section 6.1B.³²

Such a land use may be approved based on the Board's evaluation of the proposed frequency and size of the proposed events, adequacy of parking area, size of the subject property, adequacy of vehicular access to the property, impact on adjacent properties, and compatibility with the neighborhood. For events exceeding 300 persons, applicants shall provide a traffic control plan.³²

A Rural Reception/Event Facility, Small, is a Rural Reception/Event Facility in the Rural District only, for the hosting of events such as weddings with attendance not to exceed 75 cars, at a frequency of no more than one event per month. Such events are permitted administratively provided that if the facility would utilize a private, shared right-of-way, driveway or easement for vehicular access, a public hearing before the BZA is required.³²

Approvals of all Rural Reception/Event Facility and Rural Reception/Event Facility, Small shall include a provision that noise at the property line shall conform with Section 8.9A.1 of this Ordinance and shall apply the Residential Growth District Standard to all adjacent lots containing a residence as well as adjacent lots in the Rural District.

Note that any vendors and/or production staff are not counted in the trip generation for this Section.³²

Section 8.15 Accessory Dwelling Unit^{26, 32}

An Accessory Dwelling Unit is defined as a secondary dwelling unit that has a separate kitchen, bathroom, and sleeping area, and may be attached to the principal dwelling unit or detached and situated on the same lot as the principal dwelling unit. An accessory dwelling unit is part of the same property as the principal dwelling unit and cannot be bought or sold separately unless subdivided in accordance with the Subdivision Regulations and the Zoning Ordinance. The owner of the accessory dwelling unit is the owner of the principal dwelling unit. The property owner or immediate family member must occupy either the principal dwelling unit or the accessory dwelling unit. Such accessory dwelling unit is permitted only if it meets one of the following criteria:³²

- A. An "In-Law Suite" is an accessory dwelling unit for the purpose of housing a relative of the property owner and must be clearly subordinate to the principal dwelling unit and meet all of the following criteria:³²
 - (a) Secondary in size to the principal dwelling unit, with a maximum size of 1,700 heated square feet, gross floor area;³²
 - (b) For a detached accessory dwelling unit, must be located on a property of at least two acres;³²
 - (c) Limited to use by a relative*;³²

(d) Sufficient parking available; and³²

(e) Approved by the Health Department.³²

**Related by blood, marriage, or adoption. Should relative no longer require the use of the Accessory Dwelling Unit, the property owner may apply for a Special Exception before the Board of Zoning Appeals to allow for rental to non-relatives. The principal dwelling unit or accessory dwelling unit must be occupied by the property owner or immediate family member.³²*

B. An “Accessory Agricultural Dwelling Unit” for agricultural purposes is defined as a dwelling unit that is incidental and subordinate to the principal dwelling unit, which is located on the same lot as the principal building and meets all of the following criteria:³²

(a) is secondary in size to the principal dwelling unit, limited in size to a maximum of 1,700 heated square feet, gross floor area;³²

(b) is located on a property for which the primary use is an agricultural use as defined by this ordinance;

(c) is located on a property of at least ten acres in area;

(d) is limited to use by a person (and family) who performs agricultural work on the property or acts as a caretaker for the property; and

(e) is approved by the Health Department.³²

One of each type of Accessory Dwelling Unit as defined in this section may be permitted administratively for each property meeting the criteria of Section 8.15 on the effective date of this Amendment. Additional units may be permitted by Special Exception in accordance with Section 6.5.^{32, 35}

RVs are prohibited as Accessory Dwelling Units.³²

Section 8.16 Reserved³²

Section 8.17 Campgrounds³¹

Campground facilities provide tourism related accommodations for visitors of Jefferson County. The level of amenities at these facilities can vary greatly in relation to the type of camping facility proposed. Campground facilities may include both commercial and non-profit operations. Campgrounds are identified as Principal Permitted Uses in Appendix C in the General Commercial (GC), Residential-Light Industrial-Commercial (RLIC), Industrial-Commercial (IC), and Rural (R) zoning districts.

A. The following uses are identified as permitted uses within a campground:

1. Campsites, cabins, campers, and recreational vehicle sites, which shall not be divided into individual lots for sale.
2. Campground residency shall be temporary, limited to 180 days per calendar year.
3. Caretaker residence.
4. Shelters, gathering halls, bathhouses, pools, recreational areas, and other amenities related to the campground.
5. Such campground amenities may be rented out to the general public without the rental of a campsite; however, the primary use of the amenity must be for the use and enjoyment of campers. River access shall be restricted to use by the campers and their guests unless otherwise authorized by the campground management.

Any campground wishing to host an event or activity open to the public at the campground shall process a Zoning Certificate application prior to commencement. If the facility and parking for such event was included on the Site Plan and previously included in the Zoning Certificate, such separate Zoning Certificate shall not be required.

6. A campground shall not be used as a primary residence on either a temporary or permanent basis, except as provided for a caretaker residence.

B. Development Guidelines

1. Campgrounds shall be located on properties a minimum of ten acres in size and shall meet all of the following setbacks.
2. When campsites or amenities are within 1,000 feet of private property, the perimeter of all campgrounds must be defined by fencing, posting, natural barriers, or other methods to prevent unintentional trespass.
3. All campgrounds shall have direct access from WV state roads or roads that meet the Jefferson County Subdivision Regulations standards.
4. All campsites shall be located a minimum setback of 50 feet from existing property lines.
5. All campsites and amenities shall be screened by a ten foot vegetative buffer utilizing the Narrow Standard Detail; provided that if the campground abuts the river or has a mountain view, no vegetative screen is required in this area. A ten foot buffer of natural vegetation (evergreen or hardwood) may be administratively approved in place of a planted buffer.
6. Section 4.13 does not apply to campgrounds, which may be located within 500 feet of the Potomac and Shenandoah Rivers.
7. Campsites may be located within floodplain areas, provided all regulations applying to permanent structures are followed.
8. Campgrounds may be served by well and drain fields.

C. Regulatory Approval

1. Campground uses must submit a Concept Plan and be approved by the Planning Commission pursuant to a public hearing in accordance with the Jefferson County Subdivision Regulations.
2. Upon approval of the Concept Plan, if required, a Site Plan must be processed in accordance with the Jefferson County Subdivision Regulations.
3. All state regulations pertaining to the operation and licensing of a campground must be followed.

May 14, 2019

In response to the 19-1-AP appeal, we, Danielle LaRock and Jonathan Carnill, would like to reinforce the Zoning Administrator’s statement that tiny houses on wheels are recreational vehicles.

Tiny houses on wheels meet the definition of “camping units” in the Jefferson County, WV Zoning Ordinance:

Camping Units: Individual units designed for temporary occupancy within approved campground such as trailers, self-propelled campers, recreational vehicles, tents, cabins, camping cabins, fifth wheels, pop-up campers, and/or lodges.

West Virginia State Code defines a recreational vehicle as “a motorboat, motorboat trailer, all-terrain vehicle, travel trailer, fold-down camping trailer, motor home, snow mobile or utility-terrain vehicle.” W.Va. Code 17A-6-1(31) (2019).

Tiny houses on wheels meet this definition as they are licensed recreational vehicles and travel trailers.

Tiny houses on wheels are “trailers designed to provide temporary living quarters for recreation, travel, or camping use.”

The tiny houses on wheels on our property have Class R license plates. In addition, there is a seal on the tongue of the trailer that states the camper is RVIA certified. When we went to get the tiny houses on wheels registered, the WV DMV told us: “a camper is a trailer that has sleeping quarters in it, and that would need an R class plate.”



As stated in the original hearing for the zoning variance to be a six-site campground on six acres, we are not providing permanent residence in the tiny houses on wheels. We stated that, as a campground, we will adhere to the 180 day occupancy limit.

The only permanent occupants of the campground would be the caretakers, which is Jonathan and Danielle, and/or our family in our stead. In the Jefferson County WV Zoning Ordinance, it states that a permitted use in a campground is a “caretaker residence.” Campsite occupancy is limited to 180 days with the exception of a caretaker residence. The Zoning Administrator confirmed that we may use one of the six sites to use our tiny house on wheels as the caretaker residence.

As we understand, the Appellants are stating that our tiny house on wheels is a mobile or manufactured home. However, tiny houses on wheels do not meet any of the following definitions for Jefferson County, WV:

Manufactured Housing: a single family detached structure built in a factory according to Federal Manufactured Home Construction and Safety Standards, effective June 15, 1976. For the purpose of this Ordinance, a manufactured home shall be considered the same as any site-built, single-family detached dwelling.

Mobile Home: A manufactured single family detached home built prior to the Federal Manufactured Home Construction and Safety Standards which became effective June 15, 1976.

Modular Home: a single family detached structure built in a factory that meets the State or Local Building Codes where the homes will be sited.

This parcel is an unrestricted parcel and a mobile or manufactured home is permitted on our property, with an additional mobile or manufactured home as an approved ADU. If our tiny house on wheels did meet the definition of a mobile or manufactured home, we would not need to have a campground variance and could live in the tiny house on wheels full-time.

We would love for there to be a formal definition of a tiny house on wheels, but since it does not currently exist in the Jefferson County WV Zoning Ordinance, we agree with the Zoning Administration that tiny houses on wheels are recreational vehicles, travel trailers, and campers, and thus are permitted in campgrounds and as use as a recreational vehicle.

Sincerely,

Danielle LaRock and Jonathan Carnill



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 May 23, 2019

1) Request for Clarification regarding the Blossman Gas Conditional Use Permit (CUP17-05)

- See attached Memorandum

2) Text Amendments:

- On April 9, 2019 the Planning Commission, in accordance with Article 12 of the Zoning Ordinance, adopted into their work plan a request from Tina Reddington to initiate a text amendment to create provisions to allow event facilities to process.
- The Planning Commission created a volunteer committee to prepare an RFQ for the Subdivision Regulations and Zoning Ordinance updates. The committee is comprised of Mike Shepp, Donnie Fisher, and Steve Stolipher with Wade Louthan as an alternate.
 - On April 9, 2019, the Planning Commission recommended that the RFQ go before the County Commission for consideration.
 - On May 2, 2019 the County Commission approved the request to advertise the RFQ.

3) Upcoming BZA meeting

- The next regular meeting is scheduled for **June 27, 2019** (deadline for submissions is Monday, June 3, 2019)



JEFFERSON COUNTY, WEST VIRGINIA

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

P.O. Box 716

Charles Town, WV25414

www.jeffersoncountywv.org

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Fax: (304) 728-8126

MEMO

TO: Board of Zoning Appeals

FROM: Alexandra Beaulieu, Zoning Administrator

DATE: May 23, 2019

RE: Blossman Gas, Conditional Use Permit File # CUP17-05

On October 26, 2017, a Public Hearing was held to review and consider a Conditional Use Permit for Blossman Gas.

The Zoning Administrator determined that the proposed use to include two 30,000 gallon propane storage tanks for distribution was "Petroleum products refining or storage", which is listed as a heavy industrial use and subject to a Conditional Use Permit under Section 5.6B.

The size of the building that was presented to the Board of Zoning Appeals was listed as a 2,500 square foot structure. A site plan is currently under review and the proposed building size has increased from 2,500 square feet to 3,600 square feet.

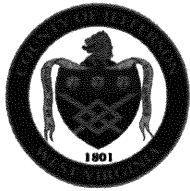
The Zoning Administrator would like clarification from the Board that since the Heavy Industrial Use (petroleum storage) was subject to the Conditional Use Permit, and the office/retail space is a principal permitted use in the Industrial-Commercial district, that the applicant would not be required to amend the Conditional Use Permit for the increase in building square footage.

If the Board determines that this increase is appropriate, then the applicant can continue processing the Site Plan as submitted and working towards approval.

Should the Board determine that this increase does not meet the intent of the Ordinance, then the applicant will need to revise their site plan to reflect the original square footage which was presented to the Board or seek another Conditional Use Permit to increase the building size.

The current Zoning Ordinance does not limit the number of uses which may occur on a single parcel. Whereas, under the previous version of the Zoning Ordinance a multi-use variance would have been required to establish more than one use on a single parcel, under the current Ordinance, multiple uses may be established. Therefore, the Zoning Administrator believes that a Principal Permitted Use may be permitted to operate concurrently on a parcel where a Conditional Use may exist, as long as the conditions of approval for the Conditional Use do not preclude additional uses from locating on the property.

However, the applicant did represent a specific building size to the Board of Zoning Appeals and therefore, the Zoning Administrator did not believe it was within her purview to approve the increased building size administratively.



JEFFERSON COUNTY, WEST VIRGINIA

OFFICE OF PLANNING AND ZONING

116 EAST WASHINGTON STREET

P.O. BOX 716

CHARLES TOWN, WV 25414

CONDITIONAL USE PERMIT

BLOSSMAN GAS - FILE #CUP17-05

This is to certify that effective January 19, 2018, a Conditional Use Permit has been issued for the following:

Project Name: Blossman Gas
 Owner: Jefferson County Development Authority
 Mailing Address: P.O. Box 237, Charles Town, WV 25414
 Applicant Name: Ellis Chapman, Blossman Gas, LLC
 Mailing Address: 107 W. Main St., Berryville, VA 22611
 Telephone Number: 540-955-4677
 Property Location: Burr Industrial Park, Lot 12, Kearneysville, WV 25430
 Tax Reference: District: Charles Town (02); Map: 1; Parcel: 65
 Deed Reference: Book: 1036; Page: 607
 Zoning District: Industrial-Commercial
 Parcel Size: 2.31 acres
 Approved Use: A propane distribution facility to consist of two (2) 30,000 gallon propane storage tanks for distribution to residential, commercial, and industrial properties; a 2,500 square foot structure to house an office, a warehouse and retail sales area; vehicle tank storage area; and associated customer/employee parking. Blossman Gas intends to employ approximately 20 people.

Pursuant to Article 6 of the Jefferson County Zoning and Land Development Ordinance the Board of Zoning Appeals held a public hearing on October 26, 2017 for the purpose of determining if the Conditional Use met the criteria outlined in Section 6.3A.1-6. Finding that the Conditional Use met all the criteria, the Board voted to **Grant** the requested Conditional Use Permit with the following conditions:

The applicant shall:

1. Comply with all Federal, State, and Local Fire Regulations;
2. Retain a 50' natural buffer between the daycare and Blossman Gas comprised of existing, mature vegetation; and
3. Educate neighboring businesses.

In the event that the operation of this land use has not commenced by July 18, 2019, this Permit will expire. Prior to the expiration date, an extension request must be submitted to the Office for consideration by the Board of Zoning Appeals. See Jefferson County Zoning and Land Development Ordinance, as amended March 16, 2017, Section 3.2G.

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

Alexandra Beaulieu

Alexandra Beaulieu
Zoning Administrator

01-19-18
Date





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

File #: CUP 17-05
 Mtg. Date: 10/26/17
 Fee Paid: \$ 400.00
 Staff Int.: gjt

Email: zoning@jeffersoncountywv.org

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

Application for a Conditional Use Permit

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

Project Name

Blossman Gas

Property Owner Information

Name: Jefferson County Development Authority
 Business Name: for Blossman Gas
 Mailing Address: P. O. Box 237, Charles Town, WV 25414 Mail Yes
 Phone Number: 304-728-3255 Email Response: john@jcda.net/janejones@jcda.net Response: No

Applicant Information

Name: Jefferson County Development Authority
 Business Name: for Blossman Gas
 Mailing Address: P. O. Box 237, Charles Town, WV 25414 Mail Yes
 Phone Number: 304-728-3255 Email Response: john@jcda.net/janejones@jcda.net Response: No

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

Name: n/a
 Business Name: _____
 Mailing Address: _____ Mail Yes
 Phone Number: _____ Email Response: _____ Response: No

Physical Property Details

Physical Address: PT LT 12 PHASE 1 BURR INDUSTRIAL PARK
 Tax District: Charles Town (02) Map No: 1 Parcel No: 65
 Parcel Size: 2.31 ac Deed Book: 1036 Page No: 607

Zoning District (please check one)

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

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

Name of Road and/or Route Number: _____

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Sketch Plan (see cover sheet for description)

Attached

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

Attached

State the proposed land use as listed in Appendix C and provide a description of the proposed use.

Petroleum products refining or storage. Blossman Gas is proposing to build a propane distribution facility.

Please provide any information or known history regarding this property.

Property is located in the Burr Business Park, Phase I

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

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

The property is located in the Burr Business Park which is designated for commercial/industrial uses.

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

The property is located in the Burr Business Park which is designated for commercial/industrial uses and will be surrounded by similar uses.

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

The property is located in the Burr Business Park which is designated for commercial/industrial uses and will be surrounded by similar uses.

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

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

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

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

Applicable (Trip Generation Data attached)

Not Applicable

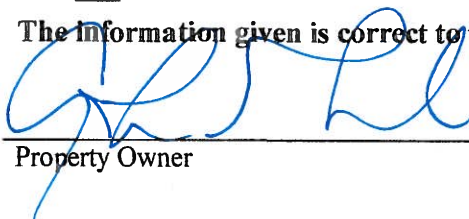
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The information given is correct to the best of my knowledge.

Original Signature Required



10/2/17

Property Owner

Date

Property Owner

Date

Narrative

Blossman Gas proposes to purchase lot 12 (Phase 1) the Burr Business Park to construct a building of approximately 2500 sq ft. The facility will house an office, warehouse, and retail space. In addition, Blossman Gas will also have 2 propane storage tanks of approximately 30,000 gallons each on site. They will distribute propane to the residential, commercial, and industrial marketplace. Blossman Gas intends to employ approximately 20 people which will include office personnel, retail sales staff and CDL drivers.

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OCT 06 2017

JEFFERSON COUNTY PLANNING,
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Alexandra Beaulieu

From: John Reisenweber <john@jcda.net>
Sent: Friday, October 06, 2017 4:04 PM
To: Alexandra Beaulieu
Subject: ***BULK*** Fwd: Burr Ind Park Lot 12 Access Entrance

Alex

Here is an exhibit the GIS office did to show where the entrance would go.
Obviously this would push the tanks a little east.

Thanks
John

Sent from my iPhone

Begin forwarded message:

From: "Jessica Gormont" <jgormont@jeffersoncountywv.org>
To: "John Reisenweber" <john@jcda.net>
Subject: Burr Ind Park Lot 12 Access Entrance

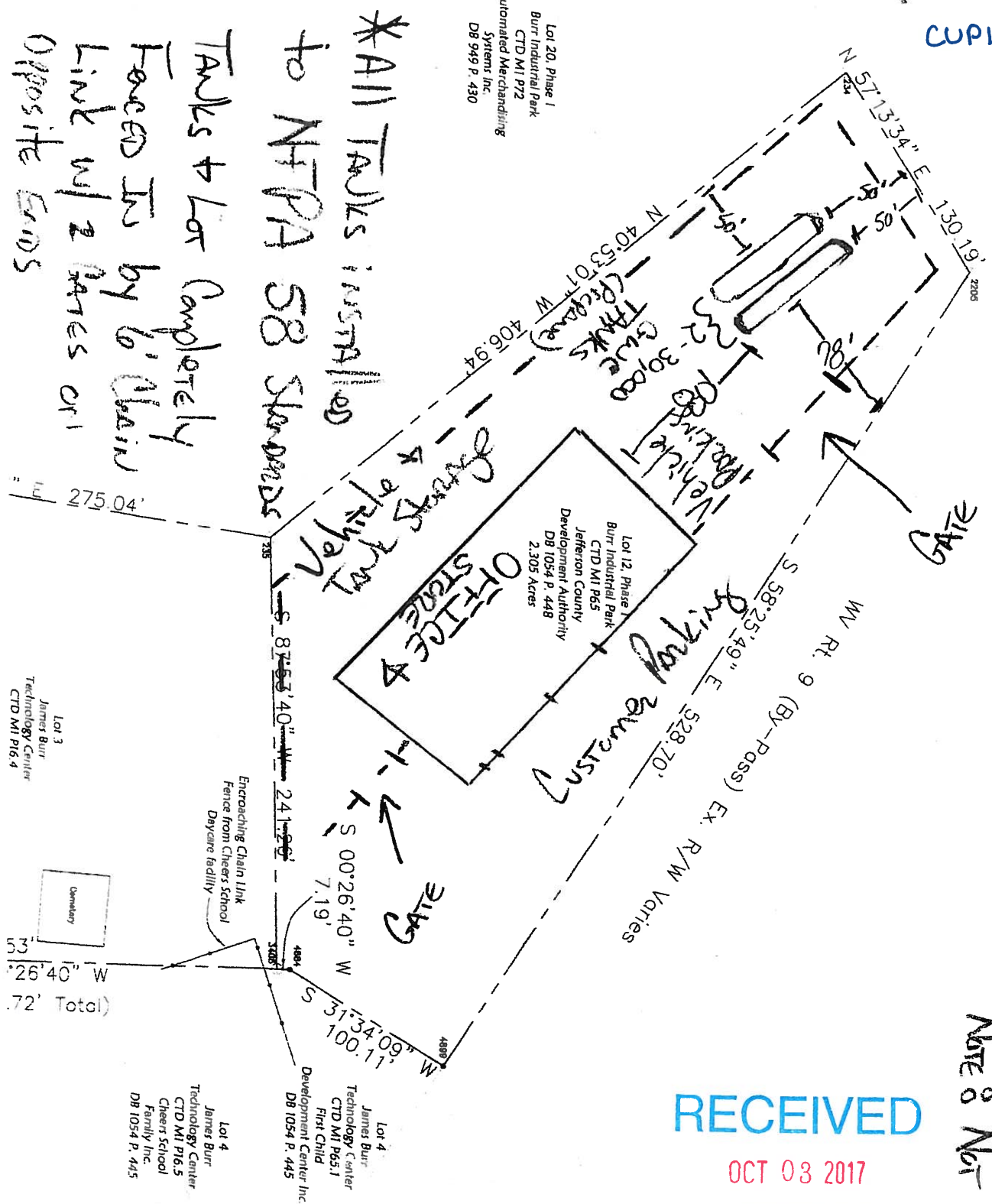
Hey John,

Here is the photo you requested.

Jessica Gormont, GISP
GIS Analyst
Jefferson County GIS/Addressing Office
Phone: 304-724-8986

Lot 20, Phase 1
Burr Industrial Park
CTD MI P72
Automated Merchandising
Systems, Inc.
DB 949 P. 430

*ALL TANKS installed
to NFPA 58 Standards
Tanks to Lot Completely
Fenced In by 6' Chain
Link w/ 2 Gates on
Opposite Ends

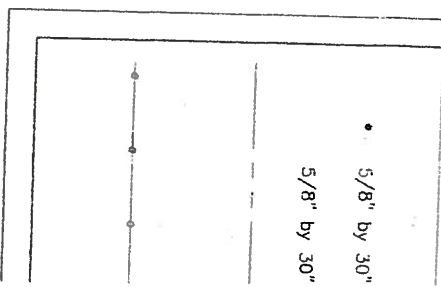


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Note: Not To Scale

1" = 18' APPROXIMATELY

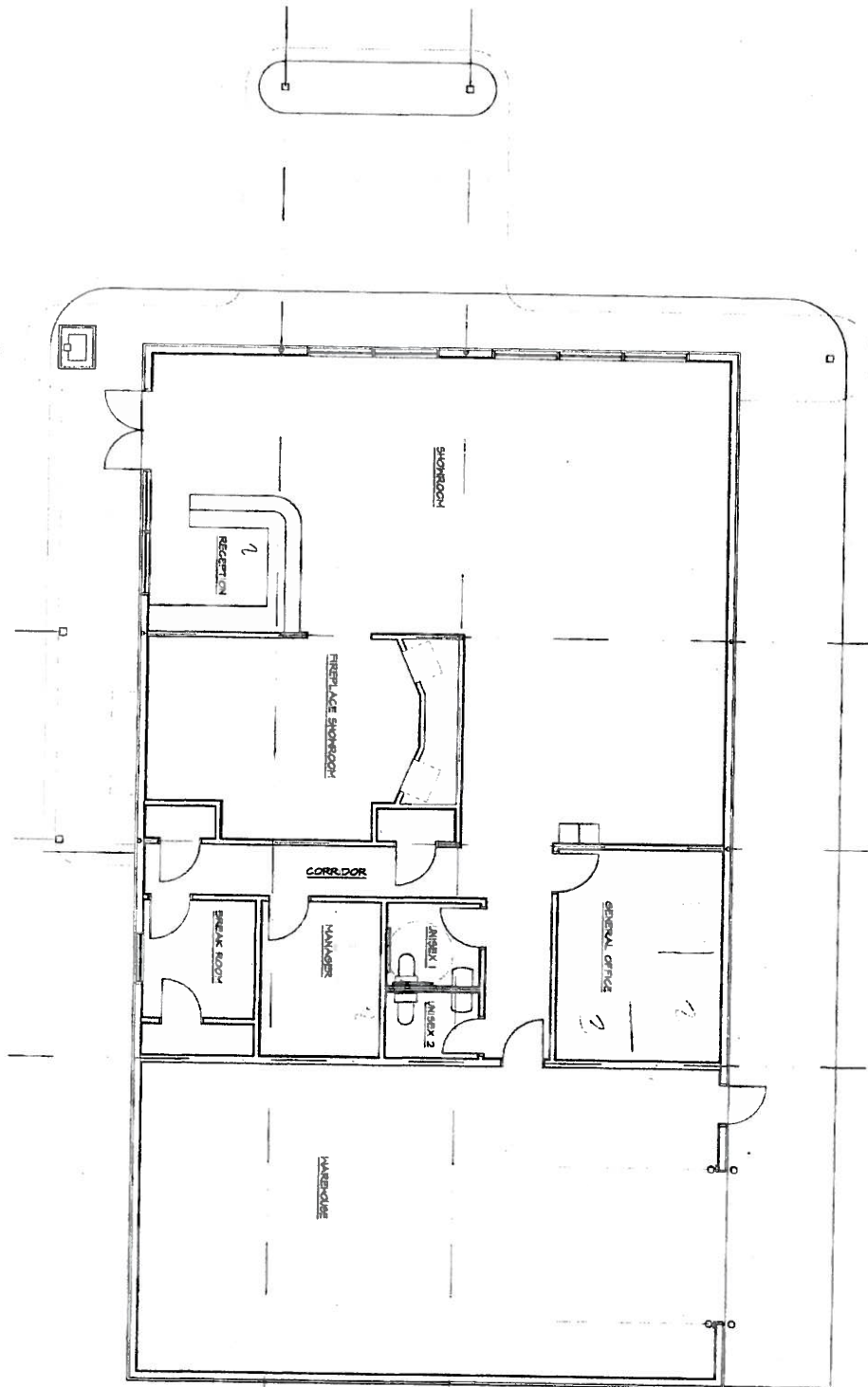
Notes:
1. Property corners are set unless otherwise



LEG

FLOOR PLAN

SCALE 1/4" = 1'-0"



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1

28 APR 17

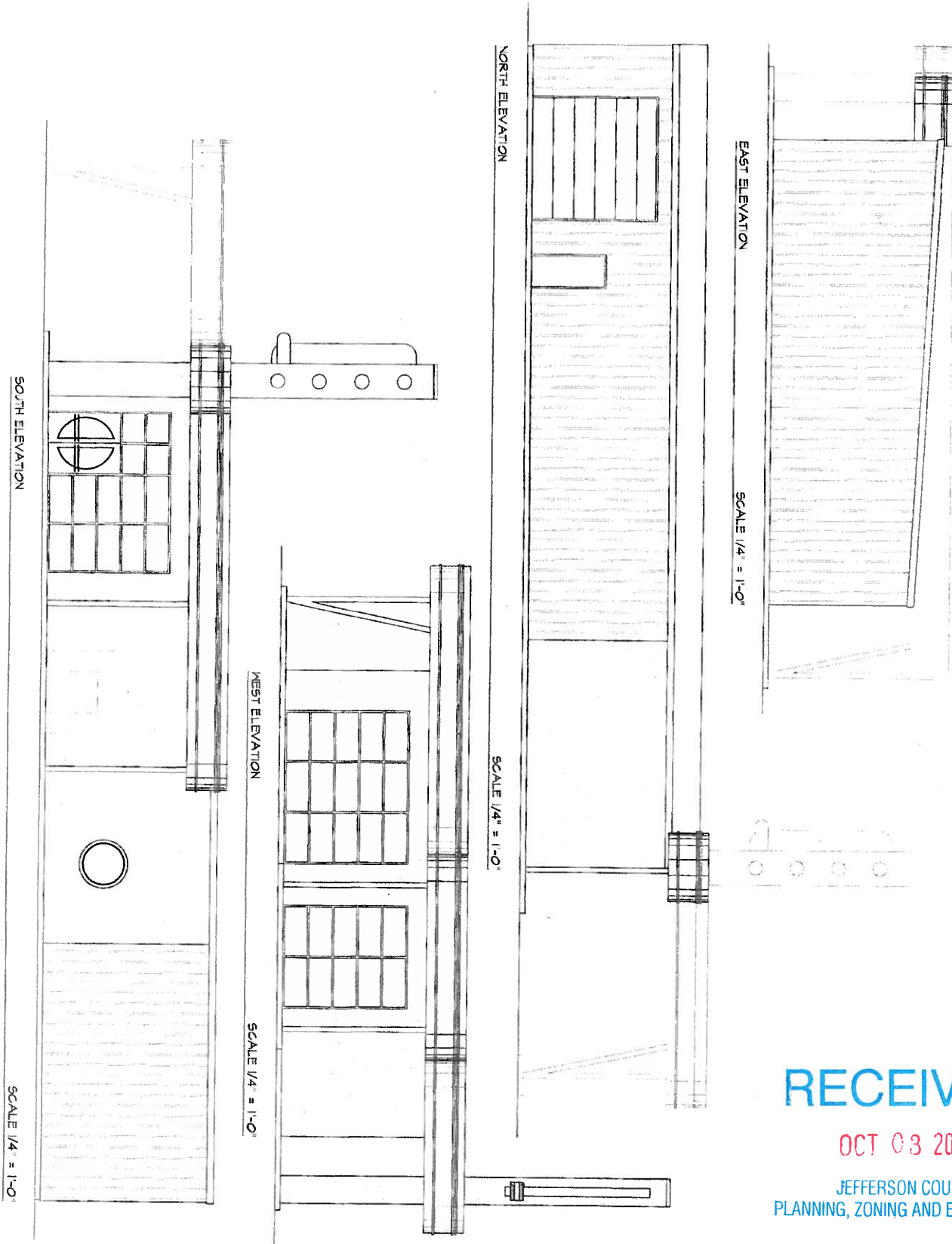
blossman gas

DISPLAY STORAGE BUILDING FOR BLOSSMAN GAS COMPANY
SPARTANBURG HIGHWAY - HENDERSONVILLE - NORTH CAROLINA
CAROLINA SPECIALTIES CONSTRUCTION, LLC

Design Group
ARCHITECTURAL & INTERIOR DESIGN

Member American Institute of Architects
118 FIFTH AVENUE WEST
HENDERSONVILLE, NC 28792
828-692-4891





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 PLANNING, ZONING AND ENGINEERING

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20 APR 17

blossman gas
 DISPLAY STORAGE BUILDING FOR BLOSSMAN GAS COMPANY
 SPARTANBURG HIGHWAY - HENDERSONVILLE - NORTH CAROLINA
 CAROLINA SPECIALTIES CONSTRUCTION, LLC

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 Hendersonville, NC 28792
 828-692-4891





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

May 2019

Zoning Certificate Activity Report

File # 19-6-ZC
Request: Publicly Owned Facility: Sam Michaels Park
Property Owner: Jefferson County Commission
Applicant: Jefferson County Parks and Recreation Commission
Parcel Info: 253 Sam Michaels Lane, Shenandoah Junction, WV 25442
Parcel ID: 02000300120000; Size: 136.6 ac; Zone: Rural
Issuance Date: 05/10/19

File # 19-9-ZC
Request: Existing non-conforming use: Office and Warehouse
Property Owner: Anderson & Perkins, LLC / Contact: Gene Perkins
Consultant: Paul J. Raco, P.J. Raco Consulting, LLC
Parcel Info: 182 Harry Shirley Road, Kearneysville, WV 25430
Parcel ID: 07001800150005; Size: 3.13 ac; Zone: Rural
Issuance Date: 05/10/19
