

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

- 1 Meeting Date: June 27, 2019  
2 Meeting Location: Charles Town Library Conference Room  
3 200 East Washington Street, Charles Town, West Virginia  
4 Board Members Present: Jeffrey Bannon, Vice Chair, Matthew McKinney, Deirdre Catterton and  
5 Leeds Corbin  
6 Members absent: Tyler Quynn, Chair with notification  
7 Staff members present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, Assistant  
8 Prosecuting Attorney; and Rachael Burke, Planning Clerk.  
9 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

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

11 **Public Hearing – Administer Oath**

12 Ms. Burke swore in members of the public who indicated they would be providing testimony.

13 **Approval of Minutes: May 23, 2019**

14 Mr. McKinney moved to approve the minutes as presented. Mr. Corbin seconded the motion, which  
15 carried unanimously.

16 Mr. Bannon explained to the public how the meeting would be conducted.

17 ITEM #1      FILE #: 19-11-ZV

- 18 Request: Variance from Section 9.6C & 9.7 to reduce the front setback from 40' to 10' for a  
19 30' x 50' garage with 12' x 50' lean-to and 8' x 8' stoop.  
20 Applicant: Frank and Sandy Kovach  
21 Parcel Info: Wheeler Subdivision, Lot B, 73 Wheeler Manor, Harpers Ferry, WV  
22 Parcel ID: 09001800330000; Size: 2.12 ac; Zone: Rural

23 Mr. Frank and Ms. Sandy Kovach, property owners, were present to address the Board. Ms. Beaulieu  
24 provided an overview of her staff report noting that the existing right-of-way to the rear of the  
25 property appeared to serve two properties. Mr. Kovach explained the nature of the request stating that  
26 the intent of the garage was for personal use to restore vehicles as a hobby. Mr. Bannon opened the  
27 public hearing. There was no public comment. Mr. Bannon closed the public hearing.

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

30

31 ITEM #2      FILE #: 19-12-ZV

- 32 Request: Variance from Appendix B to reduce the side and rear setback from 50' to 5' for a  
33 1,060 sq. ft. addition to an existing church.  
34 Applicant: Saint James Lutheran Church  
35 Parcel Info: 4338 Shepherdstown Pike, Shepherdstown WV  
36 Parcel ID: 09002000150000; Size: .31 ac; Zone: Rural

37 Mr. Edwin Fitzpatrick, Church representative, was present to address the Board. Ms. Beaulieu  
38 provided an overview of her staff report explaining that the original structure was nonconforming as  
39 it was built prior to the adoption of zoning. Ms. Beaulieu stated that the existing structure was  
40 approximately 50' from the property line and therefore, it was not feasible to construct an addition  
41 within the required setback. She stated that the location of the cemetery also limited the Church's  
42 ability to expand. Ms. Beaulieu noted that the Church owned the adjoining properties which would

1 be impacted by the request. Addressing the Board's inquiry as to the feasibility of a boundary line  
2 adjustment, Mr. Fitzpatrick stated that the Church's attorney had advised them not to consolidate  
3 their parcels into one legal lot. Mr. Fitzpatrick explained the nature of the request stating that the  
4 existing structure was built in the 1800s and did not include restroom facilities. The proposed  
5 expansion would include restrooms and a classroom. Mr. Fitzpatrick stated the Church was working  
6 with an architect to ensure the expansion would match the character of the original structure.  
7 Mr. Fitzpatrick confirmed that if the Church were to liquidate its assets that all parcels would be  
8 sold together as the septic for the church is on a separate lot. Mr. Bannon opened the public hearing.  
9 There was no public comment. Mr. Bannon closed the public hearing.

10 Mr. Corbin moved to approve the variance as requested. Mr. Bannon called for a vote, which  
11 carried unanimously.

12

13 ITEM #3      FILE #: 19-13-ZV

14 Request:      Variance from Appendix B to reduce the required landscape buffer from 20' to 10'  
15                      for a portion of a drive aisle.

16 Applicant:    Fellowship Bible Church

17 Parcel Info:   160 Daniel Rd, Shenandoah Junction, WV

18                      Parcel ID: 02000300040005; Size: 50 ac; Zone: Rural

19 Mr. Richard Beddow, property supervisor, was present to address the Board. Ms. Beaulieu  
20 provided an overview of her staff report noting that the applicant had recently requested a setback  
21 reduction for an expansion to the existing church and that the request was granted based on the fact  
22 that a substantial landscape buffer was in place. Ms. Beaulieu pointed out that should the current  
23 request be granted that this buffer could be negatively impacted. Mr. Beddow explained the nature  
24 of the request and stated that should any trees be damaged during construction that they would be  
25 replaced. Mr. Beddow noted that there would be approximately 10' between the proposed drive  
26 aisle and the property line where the existing trees (cedars) are planted. Mr. Bannon opened the  
27 public hearing. There was no public comment. Mr. Bannon closed the public hearing.

28 Mr. Corbin moved to approve the variance as requested with the condition that the applicant  
29 replace any damaged trees within the existing 10' buffer (tree line) to match what is currently  
30 planted. Mr. Bannon called for a vote, which carried unanimously.

31 **Zoning Administrator Report**

32      a. Request for an extension of Conditional Use Permit #CUP17-05 for Blossman Gas which  
33                      expires July 18, 2019.

34                      Mr. Jason Gerhart with Gordon was present to address the Board. Ms. Beaulieu explained  
35                      that the building permit had already been reviewed and issuance was pending approval of  
36                      the site plan. Additionally, Ms. Beaulieu noted that the site plan was in its final review.  
37                      Mr. Gerhart confirmed that an 18-month extension would be optimal. Mr. McKinney  
38                      moved to extend the expiration date for the Conditional Use Permit #CUP17-05 for  
39                      Blossman Gas for an additional 18-months (from July 18, 2019 until January 18, 2021).  
40                      Mr. Bannon called for a vote, which carried unanimously.

41      b. Request for Clarification regarding the Beallair Zoning Variance (19-10-ZV).

42                      Mr. Michael Wiley, Professional Engineer for Wormald, was present to address the Board.  
43                      Mr. Wiley requested that the Board allow Section 9.5A Projections into the Yard to apply  
44                      to the lots that were subject to variance request 19-10-ZV. Mr. Wiley explained it had

1 always been their intent to be able to utilize this provision of the Ordinance as it relates to  
2 the construction of stoops, porches, etc. Ms. Beaulieu noted that as part of the application  
3 and verbal testimony during the May 23, 2019 meeting it was specifically stated that  
4 granting of the setback variance would allow construction on the subject lots “without the  
5 need of coming back for individual variances for a foot here and there for porches, eaves,  
6 jut-outs, bay windows, etc.”. She stated that it was her opinion that the subject lots would  
7 not be able to utilize Section 9.5A.

8 Mr. Corbin moved to go into deliberative session at 2:54 pm. Mr. McKinney seconded the  
9 motion, which carried unanimously.

10 Ms. Catterton moved to come out of deliberative session at 3:25 pm. Mr. Corbin seconded  
11 the motion, which carried unanimously.

12 Mr. Corbin moved to permit roof overhangs in accordance with Section 9.5A; however,  
13 any additional projections into the [reduced] setback shall necessitate another variance.  
14 Mr. Cochran requested for clarification of the record, that it was Mr. Corbin’s intent to  
15 uphold Ms. Beaulieu’s recommendation in her memo. Mr. Corbin agreed. Mr. Bannon  
16 called for a vote, which carried unanimously.

17 c. Monthly Zoning Certificate Activity Report. The Report was included in the mailed packet.

18 Ms. Beaulieu informed the Board that their next meeting would be July 25, 2019. Ms. Beaulieu also  
19 informed the Board of pending text amendments.

## 20 Legal Update

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

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

23 Meeting: May 23, 2019

24 1. Request for a CUP for an existing Drive-Through, Fast Food Restaurant (McDonald's)  
25 to replace and upgrade the exterior menu boards with digital menu boards. Applicant:  
26 Expedite The Diehl. Owner: McDonald’s Corporation. File: 19-1-CUP.

27 2. Variance from Section 5.7(b). Owner: R. L. Jenkins. File: 19-8-ZV.

28 3. Variance from Section 4.3H. Owners: Michael Kelly & Michael Kelly Jr. File: 19-9-ZV.

29 4. Variance from Section 5.4 (b). Owner: Beallair Homes, LLC. File: 19-10-ZV.

30 5. Appeal of the Zoning Administrator’s determination that “tiny homes” are permitted  
31 Camping Units as it related to the proposed campground associated with 19-3-ZV.  
32 Appellants: Wayne and Ann Bavry and Neal and Alice Barkus. Files: 19-1-AP.

33 Mr. Quynn was not present at the meeting to sign the above referenced Findings.

34 Ms. Catterton moved to adjourn the meeting at 3:31 pm. Mr. McKinney seconded the motion,  
35 which carried unanimously.