



**Jefferson County  
Board of Zoning Appeals  
Special Meeting  
Friday, April 24, 2020 at 2:00 p.m.**

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

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**In compliance with the Jefferson County Health Department Executive Order 20-20 Shelter in Place directive to avoid gatherings of more than five individuals in an effort to slow the spread of COVID-19, the Board of Zoning Appeals Meeting will be held virtually via ZOOM.**

**This meeting will NOT be a LIVE broadcast on our website. Instead, it will be accessible live through ZOOM Meeting. If you wish to participate in public comment for one of the agenda items, please type your name, address, and agenda item # in the chat function at the start of the meeting.**

**Please use the following information to join the ZOOM Meeting:**

**<https://zoom.us/j/350018773>**

**Meeting ID: 350 018 773**

**Dial by your location:**

**+1 301 715 8592 US**

**Meeting ID: 350 018 773**

**Find your local number: <https://zoom.us/u/adbn1jR3Kf>**

**Access from desktop, laptop, iPad, or from a phone. You will be prompted to download the software. If accessing from a phone, you must have the ZOOM app.**

**Please mute yourself when you are not talking. When participating, remember that your video is streaming to others.**

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

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**Approval of Minutes: February 27, 2020**

**Public Hearing – Administer Oath**

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**ITEM #1      FILE #: 20-6-ZV – Postponed from March 26, 2020**  
Request:      Variance to reduce the side setback from 15' to 1' along the northern boundary to replace a 24' x 24' detached garage that was destroyed by fire.  
Owner:        Terry and Margaret Walker  
Parcel Info:   10179 Leetown Rd, Kearneysville, WV  
Parcel ID: 07001400060001; Size: 17.93 acres; Zoning District: Rural

**ITEM #2 FILE #: 20-2-CUP - Postponed from March 26, 2020**

**Request:** Request by Church Without Walls Ministries of Jefferson County for a Conditional Use Permit to operate a Nonprofit Commercial Use. The subject application is a proposal to operate an outreach ministry to serve the community by offering free clothing, food, financial assistance, etc. The ministry would also focus on outreach projects to benefit youth and senior citizens. Proposed hours of operation would be Tuesdays and Thursdays, 9:00 a.m. – 1:00 p.m.; and Saturdays, 10:00 a.m. – 2:00 p.m. There will be a minimum of two volunteers per shift. A 5' (wide) x 2.5' (high) freestanding sign face is proposed to be located west of the existing structure (if facing the structure, the sign would be to the right). Parking requirements will be met on-site.

**Applicant:** Church Without Walls Ministries of Jefferson County  
**Owner:** Charles A II & Virgie A Moore  
**Parcel Info:** 194 Huyett Rd, Charles Town, WV  
Parcel ID: 06001300040000; Size: .50 acres; Zoning District: Rural

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**ITEM #3 FILE #: 20-9-ZV - Postponed from March 26, 2020**

**Request:** Variance from Section 4.6B and Appendix B to reduce the distance requirement from 75' to 0' on all sides; to reduce the setbacks from 25' to 0' on the eastern property line and 25' to 20' on the northern property line (front); and, to reduce the parking and drive aisle setback from 4' to 0' along the western property line for Church Without Walls Ministries of Jefferson County to operate in an existing residential structure (File #20-2-CUP). No new structures or additions are proposed.

**Applicant:** Church Without Walls Ministries of Jefferson County  
**Owner:** Charles A II & Virgie A Moore  
**Parcel Info:** 194 Huyett Rd, Charles Town, WV  
Parcel ID: 06001300040000; Size: .50 acres; Zoning District: Rural

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**ITEM #4 FILE #: 20-7-ZV - Postponed from March 26, 2020**

**Request:** Variance from Section 4.11 and Appendix B to allow a 50' unscreened buffer (where achievable) in lieu of the required planted landscaping per Standard Detail M-53; and Section 4.6 to reduce the distance requirement from 75' to 40' from the front property line.

**Owner:** Shepherdstown Public Library  
**Parcel Info:** Lowe Dr. (to be extended), Shepherdstown, WV  
Parcel ID: 09000800110000; Size: 4.33 acres; Zoning District: Residential Growth

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**ITEM #5 FILE #: 20-8-ZV - Postponed from March 26, 2020**

**Request:** Variance from Section 4.6B to reduce the distance requirement from 75' to 50' along the western boundary (rear) and from 75' to 25' along the northern boundary (right side); and from Appendix B to reduce the commercial building setback from 25' to 20' along the northern boundary (right side); and to reduce the parking setback from 4' to 0' along the western (rear) and northern (right side) boundaries to allow for the operation of Potomac Crossroads Counseling per File #20-1-CUP.

**Applicant:** Kathy Morotti, Potomac Crossroads Counseling, LLC  
**Owner:** Kenneth F. Lowe Jr., Rev Trust  
**Parcel Info:** 4781 Kearneysville Pike, Shepherdstown, WV  
Parcel ID: 09000800230007; Size: .71 acres; Zoning District: Residential Growth

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**ITEM #5      FILE #: 20-10-ZV**

Request:      Variance from Section 9.7 to reduce the rear setback from 50' to 38' along the western boundary to construct a 12' x 12' deck.

Applicant:    Paul Raco, P.J. Raco Consulting, LLC

Owner:        William Hoak

Parcel Info:   675 Jefferson Orchard Road, Kearneysville, WV 25430

Parcel ID: 07001100260003; Size: 2.75 acres; Zoning District: Rural

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**Zoning Administrator Report**

- a. Monthly Zoning Certificate Activity Report

**Legal Update**

- a. Possible executive session on the following pending lawsuits. None
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions

**Meeting: February 27, 2020**

1. Variance from Section 9.7. Owner: Newman Sisk, Jr.. File: 20-1-ZV.
2. Variance from Appendix A. Owner: Michael and Peggy Julian. File: 20-2-ZV.
3. Variance from Section 9.7. Owner: Robert Graham. File: 20-3-ZV.
4. Variance from Section 5.7D.2.b.i(b). Owner: Lutman Land Development, LLC. File: 20-4-ZV
5. Request by Potomac Crossroads Counseling for a Conditional Use Permit to operate a Medical/Dental/Optical Office and/or Professional Office. Owner: Kenneth F. Lowe Jr., Rev Trust. Applicant: Kathy Morotti, Potomac Crossroads Counseling. File: 20-1-CUP.



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

1 Meeting Date: February 27, 2020  
2 Meeting Location: Charles Town Library Conference Room  
3 200 East Washington Street, Charles Town, West Virginia  
4 Board Members Present: Jeffrey Bannon, Chair; Tyler Quynn, Vice Chair; Matthew McKinney;  
5 and Leeds Corbin  
6 Board Members Absent: Deirdre Catterton  
7 Staff members present: Alexandra Beaulieu, Zoning Administrator; and Jennilee Hartman,  
8 Zoning Clerk.

9 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

10 Mr. Quynn moved to call the meeting to order at 2:00 pm. Mr. Bannon called for a vote, which  
11 carried unanimously. Mr. Bannon explained to the public how the meeting would be conducted.

12 **Approval of Minutes: January 23, 2020**

13 Mr. McKinney moved to approve the minutes. Mr. Bannon called for a vote, which carried  
14 unanimously.

15 **Public Hearing – Administer Oath**

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

17 **ITEM #1 FILE #: 20-1-ZV**

18 Request: Variance from Section 9.7 to reduce the side setback from 15' to 0' to convert an  
19 accessory structure into a residential dwelling unit; and, to reduce the rear setback  
20 from 50' to 28' to allow for a 36' x 44' attached garage.

21 Owner: Newman Sisk, Jr.

22 Parcel Info: Border Road and Southard Lane, Kearneysville, WV

23 Parcel ID: 07000500120004; Size: 6.18 acres; Zoning District: Rural

24 Mr. Newman Sisk, Jr. was present to represent the request. Ms. Beaulieu provided an overview of  
25 her staff report explaining that a boundary line adjustment was processed in 2013; however, the  
26 boundary line adjustment did not create any setback violations because the property lines which  
27 were subject to the merger did not include the subject side property line. Ms. Beaulieu further  
28 explained that the existing structure appeared to pre-date zoning requirements and appeared to have  
29 been constructed on the property line. Mr. Sisk explained the nature of the request. The Board  
30 inquired as to whether or not the proposed addition could be shifted forward to comply with the rear  
31 setback requirement. Mr. Sisk stated that he would prefer to align the proposed addition with the  
32 front of the existing structure for aesthetics. The Board discussed the request.

33

34 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the  
35 public hearing.

36 Mr. Quynn moved to go into deliberative session at 2:16 pm. Mr. Bannon called for a vote, which  
37 carried unanimously.

38 Mr. Quynn moved to go back into session at 2:31 pm. Mr. Bannon called for a vote, which carried  
39 unanimously.

40 Mr. McKinney moved to approve the variance as requested, noting that the applicant was bound by  
41 their testimony. Mr. Quynn seconded the motion. Mr. Bannon called for a vote, which carried  
42 unanimously.

1 **ITEM #2 FILE #: 20-2-ZV**

2 Request: Variance from Appendix A to reduce the two front setbacks from 20' to 19' (Lace  
3 Leaf Way) and from 20' to 13' (unnamed right-of-way); and the side setback from 8'  
4 to 7' to complete the construction of a home with an attached garage.

5 Owner: Michael and Peggy Julian

6 Parcel Info: 27 Lace Leaf Way, Charles Town, WV

7 Parcel ID: 02010D00270000; Size: .50 acres; Zoning District: Residential-Light  
8 Industrial-Commercial

9 Mr. Michael and Ms. Peggy Julian were present to represent the request. Ms. Beaulieu provided an  
10 overview of her staff report clarifying that the existing structure was only 4" into the side setback.  
11 Ms. Beaulieu explained that the property was not considered a corner lot as the adjacent unnamed  
12 road is identified as a right-of-way as opposed to an easement. Mr. Julian explained the nature of  
13 the request to the Board stating that the contractor had erroneously identified the boundary lines,  
14 which created the current setback violation.

15 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the  
16 public hearing.

17 Mr. Quynn moved to approve the variance as requested. Mr. Bannon called for a vote, which  
18 carried unanimously.

19 **ITEM #3 FILE #: 20-3-ZV**

20 Request: Variance from Section 9.7 to reduce the side setback from 8' to 4' for a 24' x 24'  
21 attached garage.

22 Owner: Robert Graham

23 Parcel Info: 1191 Tuscawilla Dr., Charles Town, WV

24 Parcel ID: 02011A00290000; Size: .37 acres; Zoning District: Residential Growth

25 Mr. Robert Graham was present to address the Board. Ms. Beaulieu provided an overview of her  
26 staff report to the Board, noting that the proposed garage would be erected where the existing  
27 driveway was located. Ms. Beaulieu also noted that the applicant had provided letters of support  
28 from the neighboring property owners. Mr. Graham explained the nature of the request, stating that  
29 the primary reason for the request was for safety reasons. He explained that a neighbor had recently  
30 slipped on ice in their own driveway and that they hoped to alleviate this concern on their own  
31 property.

32 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the  
33 public hearing.

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

36 **ITEM #4 FILE #: 20-4-ZV**

37 Request: Variance from Section 5.7D.2.b.i(b) to allow the required 50% green space to be  
38 allocated on each of the individual lots within the cluster.

39 Owner: Lutman Land Development, LLC

40 Parcel Info: Vacant. Old Cave Road, East of Cave Quarter Estates Subdivision

41 Parcel ID: 02001600120000; Size: 23.47 acres; Zoning District: Rural

42 Mr. David Lutman, property owner, and Mr. Paul Raco, consultant with P.J. Raco Consulting, LLC,  
43 were present to address the Board. Ms. Beaulieu provided an overview of her staff report to the  
44 Board by explaining the cluster requirement for green space acreage. Ms. Beaulieu stated that the

1 applicant was proposing to allocate the required green space acreage on each of the proposed lots in  
2 the form of a conservation easement. Mr. Raco and Mr. Lutman explained the nature of the request  
3 to the Board, stating that the intent of the Ordinance would be upheld as the required green space  
4 acreage would be protected by the conservation easements on each lot. Mr. Raco stated that the  
5 current Ordinance allows for the green space parcel to be further subdivided through the Family  
6 Transfer process. He also noted that structures are permitted on the green space parcel; however,  
7 structures would not be permitted within the conservation easement area. Mr. Lutman clarified that  
8 while structures would not be permitted in the proposed conservation area that fencing would be  
9 permitted to allow the property owner to operate a farmette if desired.

10 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the  
11 public hearing.

12 Mr. McKinney moved to approve the variance as requested conditioned upon the applicant platting  
13 the conservation easement as proposed and that the applicants were bound by their testimony. Mr.  
14 Bannon called for a vote, which carried unanimously.

15 **ITEM #5 FILE #: 20-1-CUP**

16 Request: Request by Potomac Crossroads Counseling for a Conditional Use Permit to operate a  
17 Medical/Dental/Optical Office and/or Professional Office as defined in Article 2. The  
18 proposal consists of operating a counseling facility with approximately eight therapists  
19 that meet with not more than eight clients during one appointment time. Parking  
20 requirements will be met on-site.

21 Applicant: Kathleen Morotti, Potomac Crossroads Counseling, LLC

22 Owner: Kenneth F. Lowe Jr., Rev Trust

23 Parcel Info: 4781 Kearneysville Pike, Shepherdstown, WV

24 Parcel ID: 09000800230007; Size: .71 acres; Zoning District: Residential Growth

25 Ms. Kathleen Morotti, contract purchaser, and Mr. Paul Raco, consultant with P.J. Raco Consulting,  
26 LLC, were present to represent the request. Ms. Beaulieu provided an overview of her staff report to  
27 the Board outlining how the applicant was proposing to address the conditional use permit criteria.  
28 Ms. Beaulieu noted that the Ordinance would have allowed for this proposal to operate as a  
29 permitted Cottage Industry (Article 4A); however, Ms. Morotti did not intend to reside in the home.

30 Ms. Morotti explained in detail the nature of the services to be offered at the proposed location.  
31 Ms. Morotti noted that all of the staff would not typically be on site at the same time. She stated  
32 that there would be a few sessions held in the evening. Ms. Morotti stated that she believed this  
33 location was ideal because Shepherd students and local residents could potentially walk or bike  
34 ride to the property.

35 Mr. Raco provided a brief history of the conditional use process. Mr. Raco argued how the proposed  
36 land use was compatible with the Comprehensive Plan and noted that the subject parcel is located  
37 within the Shepherdstown Growth Management Boundary. Mr. Raco entered into the record five (5)  
38 letters of support from the following residents: Eileen Elliott, Margaret Cogswell, Paul Kradel, Sybil  
39 Shiffman, and Melissa Crawford. Mr. Raco also provided pictures of the existing buffer along the  
40 property lines. Mr. Raco addressed questions from the Board regarding parking.

41 Mr. Bannon opened the public hearing. Ms. Sue DeVall and Mr. Kenneth Lowe were in support of  
42 the request. Mr. Lowe, current property owner, explained that the home had been used for a variety  
43 of nonresidential uses in the past and that parking and traffic had not been an issue. Mr. Sam Fink  
44 and Mr. Rob Smith, residents of Hartzell Gardens, spoke in opposition to the request stating that

1 they were not opposed the specific land use; however, were more concerned about the general  
2 commercialization of the area. Additionally, the residents expressed concerns regarding parking and  
3 traffic safety. Ms. Diana Eldridge spoke in support of the request noting that she frequently drives  
4 along Lowe Drive and Route 480 and has not experienced any traffic issues. Mr. Bannon closed the  
5 public hearing.

6 Mr. Peter Chakmakian, attorney for the applicant, spoke in rebuttal to the opposing comments. Mr.  
7 Chakmakian argued that a conditional use is a land use that is permitted, provided that it meets  
8 certain conditions. Mr. Chakmakian also stated that concerns regarding traffic should be considered  
9 a matter of opinion.

10 Mr. Raco concluded the presentation by arguing that a conditional use permit is more preferable to a  
11 rezoning as it restricts the property to the use specifically identified in the application. Mr. Raco  
12 reiterated the fact that the subject parcel has a history of commercial land uses.

13 Mr. Quynn moved to go into deliberative session at 4:13 pm. Mr. Bannon called for a vote, which  
14 carried unanimously.

15 Mr. Quynn moved to go back into regular session at 4:23 pm. Mr. Bannon called for a vote, which  
16 carried unanimously.

17 Mr. McKinney moved to approve the Conditional Use Permit as requested with the following  
18 conditions:

- 19 1. Any sign proposed for the land use shall be brought back to the Board for review.
- 20 2. All renovations shall follow all applicable rules and regulations of the Ordinance.
- 21 3. The applicants are bound by their testimony.
- 22 4. The proposed use shall adhere to all other applicable ordinances and/or regulations.

23 Mr. Bannon called for a vote, which carried unanimously.

#### 24 **Zoning Administrator Report**

25 a. Monthly Zoning Certificate Activity Report. The Report was included in the mailed packet.

26 Ms. Beaulieu updated the Board on the status of text amendment ZTA19-03 regarding Solar  
27 Energy Facilities stating that on February 11, 2020 the Planning Commission formed a  
28 committee to draft the amendment. Ms. Beaulieu also stated that a public hearing on the  
29 reorganization of the Subdivision Regulations and Zoning Ordinance (Phase 1) has not yet  
30 been scheduled.

31 Ms. Beaulieu informed the Board that their next meeting would be March 26, 2020.

#### 32 **Legal Update**

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

34 b. Discussion with possible deliberative session and signing of draft Findings/Decisions

#### 35 **Meeting: January 23, 2020**

36 1. Variance from Sec. 5.4B.1 and App. A. Owner: Beallair Homes LLC. File: 19-33-ZV.

37 2. Variance from Sec. 4.11A, 5.8C.2 and App. B. Owner: SAB Real Estate 2. File: 19-37-ZV.

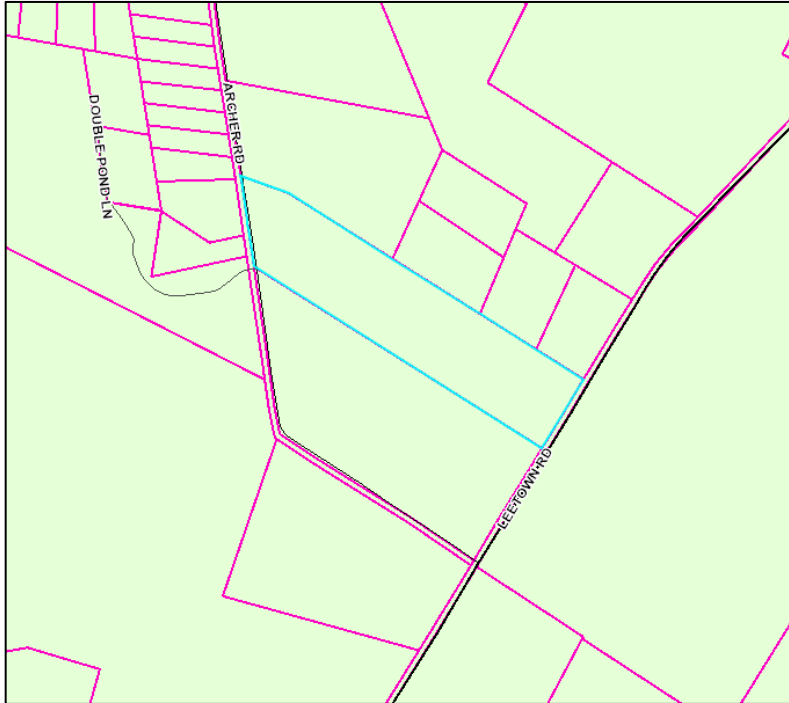
38 3. Variance from Sec. 4B.7.J.2.a. Owner: Richard Childs. Applicant: New Cingular Wireless  
39 PCS, LLC d/b/a AT&T Mobility, LLC Attn: Joseph Prieto. File: 19-38-ZV.

- 1 Mr. Cochran provided the Findings for Mr. Bannon to review and sign.
- 2 Mr. Quynn moved to adjourn the meeting at 4:29 pm, which carried unanimously.



Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 24, 2020  
 (Postponed from March 26, 2020)  
**Walker Variance Request (#20-6-ZV)**

Item #2 Variance from Section 9.7 to reduce the side setback from 15' to 1' to replace a 24' x 24' detached garage that was destroyed by fire.

Applicant:	Terry Walker
Owner:	Same as above
Developer:	N/A
Consultant:	Frank Ymbert, Potomac Valley Building Restoration
Location:	10179 Leetown Rd, Kearneysville, WV
Parcel Information and Zoning District:	<p style="text-align: center;">Parcel ID: 07001400060001; Size: 17.93 acres;          Zoning District: Rural</p> 
Surrounding Properties:	Zoning Map Designation: <i>North &amp; South: Rural      East and West: Rural</i>
History:	Survey Plat Recorded in Deed Book 255, Page 131 (July 30, 1962)
Waivers/Variations:	None
Approved Activity:	Single Family Residence
Site Visit Conducted:	No

**Summary of Request and Purpose of Ordinance Requirements**

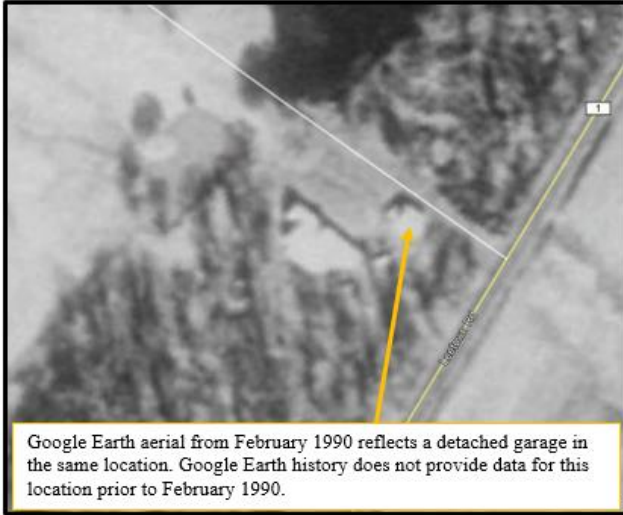
Variance from Section 9.7 to reduce the side setback from 15' to 1' to replace a 24' x 24' detached garage that was destroyed by fire.

The purpose of building 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  
April 24, 2020  
(Postponed from March 26, 2020)  
**Walker Variance Request (#20-6-ZV)**

**Staff Evaluation of Request**

The subject parcel is located off of Leetown Road and was created prior to the adoption of zoning in 1962 (DB 255, PG 129). Setbacks were not established as part of the creation of the subject lot; therefore, the setbacks listed in Section 9.7 of the Zoning Ordinance apply.



Aerial imagery and the subject application indicate that the detached garage has historically existed in the referenced location. Through aerial imagery, Staff verified the structure existed in February 1990; however, data was not available before this timeframe. The applicant indicated that the subject garage was destroyed by fire in November 2019.

Based on the history of the structure and that the adjacent property to the north (most directly impacted by a setback reduction) is a densely wooded lot, it appears that impact on adjacent properties would be minimal. The closest residential dwelling unit is approximately 465' from the proposed garage.

It is feasible to comply with the Ordinance by other means by constructing a new garage elsewhere on the property; however, the applicant has represented that they would like to reuse the existing foundation from the previous garage.



Staff Report  
Jefferson County Board of Zoning Appeals  
April 24, 2020  
(Postponed from March 26, 2020)  
**Walker Variance Request (#20-6-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 9.7 Other Exceptions<sup>3</sup>**

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:<sup>23</sup>

Rural Agricultural and Industrial Commercial

Single Family Residences

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





**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 20-6-ZV  
 Staff Initials: GH  
 Meeting Date: 03/26/20  
 Fees Paid (\$100 or \$150): 100-

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

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: Terry Walker  
 Mailing Address: 10179 Leetown Rd Kearneysville W.V 25430  
 Phone Number: 304-279-9299 Email: \_\_\_\_\_

**Applicant Contact Information**

Name: Frank Yumbert / Potomac Valley Building Restoration  
 Mailing Address: 19946 National Pike Hagerstown MD 21740  
 Phone Number: 301-491-1533 Email: frank.potomac.valley@myactiv.com

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

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 10179 Leetown Rd  
 City: Kearneysville State: WV Zip Code: 25430  
 Tax District: 07 Map No: 14 Parcel No: 6.1  
 Parcel Size: 17.93 Deed Book: 940 Page No: 146

**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"><b>RECEIVED</b></p> <p align="center"><b>MAR 02 2020</b></p> <p align="center">JEFFERSON COUNTY PLANNING ZONING &amp; 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: Sec. 9.7 - GH

Briefly describe the nature of the variance request:

Replace a 24'x24' detached garage to pre-existing addition due to fire damage insurance claim

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

Front Setback  Side Setback  Rear Setback  Reduction From 15' to 1'

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:

Structure has been there pre-zoning. Adjacent neighbor will be submitting letter of approval to reconstruct garage.

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?

Fire destroyed existing structure

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

To allow existing homeowner to reuse existing slab and foundation. That has been approved by insurance company

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

To allow existing homeowner to reuse existing slab and foundation, will be applying for building permit meeting all requirements

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] 3/2/2020  
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).

03/26/20  
Date of Public Hearing

03/11/20  
Advertising Date

03/11/20  
Placard Posting Date

NOTE: THE HOUSE LOCATED HEREON IS NOT IN A 100 YEAR FLOOD PLAIN AS PER F.I.R.M. MAP 540065 004 2 B DATED OCTOBER 1980. SAID HOUSE IS LOCATED IN ZONE "C" (AREA OF MINIMAL FLOODING).

20-6-ZV

William Rinker  
885/454  
MAP 19 P.G.7

ALFRED OWENS  
683/108  
MAP 18 P.G.5

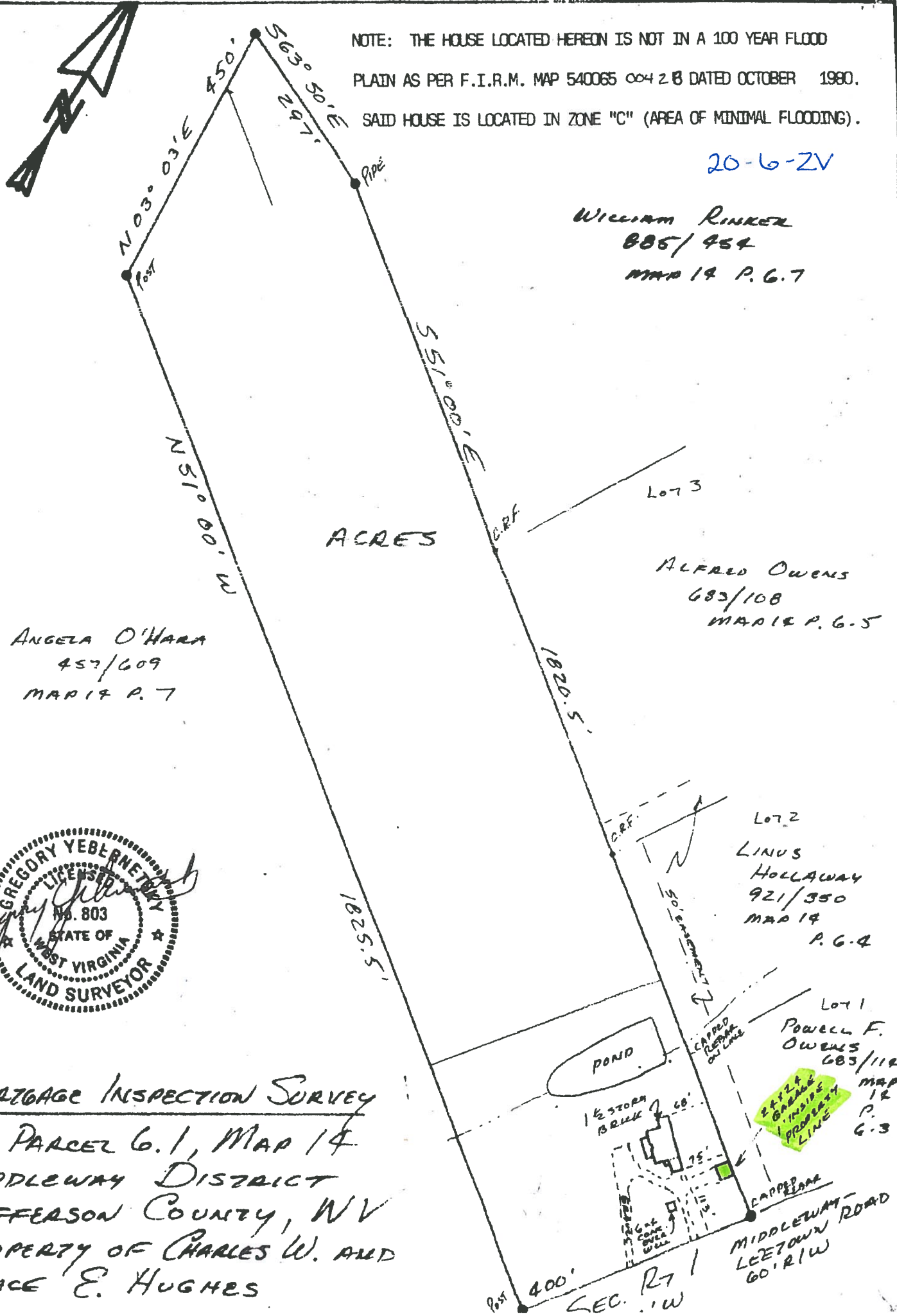
ANGELA O'HARA  
457/609  
MAP 19 P.7

LOT 2  
LINUS  
HOLLOWAY  
921/350  
MAP 19  
P.G.4

LOT 1  
POWELL F.  
OWENS  
683/112  
MAP 18  
P.G.3



MORTGAGE INSPECTION SURVEY  
TAX PARCEL 6.1, MAP 14  
MIDDLEWAY DISTRICT  
JEFFERSON COUNTY, WV  
PROPERTY OF CHARLES W. AND  
GRACE E. HUGHES



SEC. 27  
1/4 W  
MIDDLEWAY ROAD  
60' R/W  
CAPPED PILE  
5' x 2 1/2' GARAGE INSIDE PROPERTY LINE  
1/2 STORY BRICK  
POND  
CAPPED PILE ON LINE  
50' EASEMENT



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 24, 2020

(Postponed from March 26, 2020)

**Church Without Walls Ministries of Jefferson County  
 Conditional Use Permit Request (#20-2-CUP)**

Item #4 Request by Church Without Walls Ministries of Jefferson County for a Conditional Use Permit to operate a Nonprofit Commercial Use. The subject application is a proposal to operate an outreach ministry to serve the community by offering free clothing, food, financial assistance, etc. The ministry would also focus on outreach projects to benefit youth and senior citizens. Proposed hours of operation are Tuesdays and Thursdays, 9:00 a.m. – 1:00 p.m.; and Saturdays, 10:00 a.m. – 2:00 p.m. There would be a minimum of two volunteers per shift. A 5' (wide) x 2.5' (high) freestanding sign face is proposed to be located west of the existing structure. Parking requirements would be met on-site.

Applicant:	Church Without Walls Ministries of Jefferson County
Owner:	Charles A II & Virgie A Moore
Developer:	Same as applicant
Consultant:	N/A
Parcel Information and Zoning District:	<p style="text-align: center;">194 Huyett Rd, Charles Town, WV          Parcel ID: 06001300040000; Size: .50 acres; Zoning District: Rural</p>
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:          North &amp; South: Rural      East &amp; West: Rural</p>
Approvals:	None
Site Visit Conducted:	Yes – 03-16-2020

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 24, 2020

(Postponed from March 26, 2020)

**Church Without Walls Ministries of Jefferson County  
Conditional Use Permit Request (#20-2-CUP)**

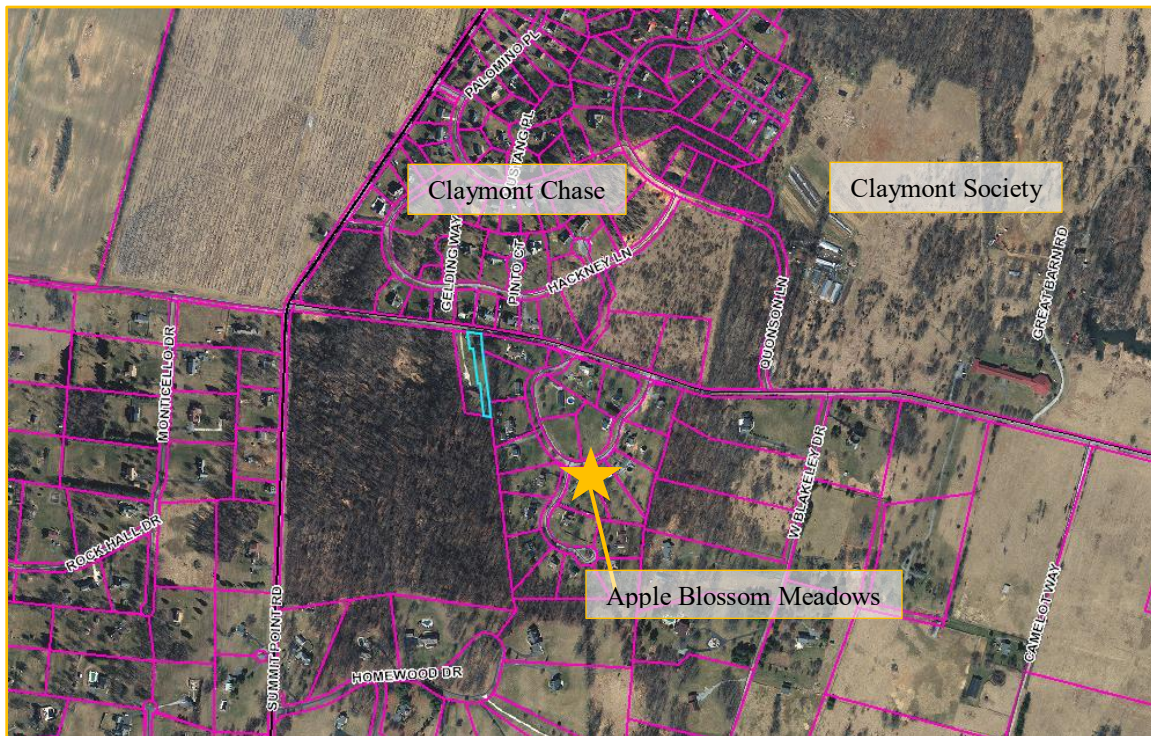
**Summary of Request and Purpose of Ordinance Requirements**

Request by Church Without Walls Ministries of Jefferson County for a Conditional Use Permit to operate a Nonprofit Commercial Use. The subject application is a proposal to operate an outreach ministry to serve the community by offering free clothing, food, financial assistance, etc. The ministry would also focus on outreach projects to benefit youth and senior citizens. Proposed hours of operation are Tuesdays and Thursdays, 9:00 a.m. – 1:00 p.m.; and Saturdays, 10:00 a.m. – 2:00 p.m. There would be a minimum of two volunteers per shift. A 5' (wide) x 2.5' (high) freestanding sign face is proposed to be located west of the existing structure. Parking requirements would be met on-site.

Article 2 defines Commercial as: “Any wholesale, retail or service business activity established to carry on trade whether or not for profit.”

**Property Description**

The subject parcel contains an existing residential dwelling unit with an existing gravel parking area. It is surrounded primarily by residential development. The parcel immediately to the west is under the same ownership as the subject parcel, and to the west of that is a 36 acre, vacant, wooded lot, which borders the southern portion of the subject parcel as well. To the east, is the residential subdivision Apple Blossom Meadows. To the north, across Huyett Road, is the residential subdivision Claymont Chase. Within close proximity is Claymont Society for Continuing Education.



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 24, 2020

(Postponed from March 26, 2020)

**Church Without Walls Ministries of Jefferson County  
Conditional Use Permit Request (#20-2-CUP)**

**Impact on adjacent properties**

Based on the applicant's description of the proposed use, it is expected that the impact on adjacent properties would be minimal. Access is available directly off of Huyett Road, which is a State maintained road (i.e. not a private / HOA subdivision road). A change in use from a residential property to the proposed non-residential land use does not appear to pose a significant change in traffic patterns, based on the proposed hours of operation and the number of volunteers. Additionally, the applicant has verbally stated that they will require clients to schedule appointments to receive services as a means to mitigate traffic and parking concerns.



During a site visit, Staff did note that the proposed access and parking area may not be suitable for a non-residential use. The above photo reflects the County's vehicle parked in the proposed parking area, which required backing out onto Huyett Road. During the site visit, traffic was minimal; however, site visibility was limited. Staff's recommendation, as noted below, would be to require the parking area to be located further onto the property and that a turnaround area be provided in order to ensure the safety of motorists.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 24, 2020  
(Postponed from March 26, 2020)  
**Church Without Walls Ministries of Jefferson County  
Conditional Use Permit Request (#20-2-CUP)**

**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:”

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. (Sec. 6.3A.1)**

The subject parcel is shown as “Low Density Residential” on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide (see below) and outside of the County’s urban growth boundary; however, one of the Plan’s goals is to allow Conditional Use Permits to process in the Rural district for non-residential uses which are compatible in scale and intensity with the rural environment.

“...allow the use of a more traditional CUP process in the Rural District for non-residential uses which are compatible in scale and intensity with the rural environment and that pose no threat to public health, safety, and welfare.” (Page 14, Goals and Objectives)

“...This Plan recommends eliminating the LESA system and modifying the CUP process for use exclusively for non-residential development projects in the Rural Zoning District.” (Page 24, Rural/Agricultural Areas)

“...This Plan further recommends amending the Zoning Ordinance to eliminate the LESA point system and to develop procedures that would allow the use of a more traditional CUP process in the Rural District for non-residential uses. This CUP process should require a public hearing before the Board of Zoning Appeals to determine if the use is compatible in scale and intensity with the rural environment and poses no threat to public health, safety, and welfare.” (Page 36, Rural Land Use)

“Amend the Zoning Ordinance to eliminate the Land Evaluation Site Assessment (LESA) system and to modify the Conditional Use Permit (CUP) process in the Rural Zoning District, which would be used for compatible non-residential development only.” (Page 39, Recommendation #4.b – Rural Land Use Planning Recommendations (Goal 2))

“While most of these types of Cottage Industries and Home Occupations are permitted by right in the Rural District, some more intense uses may require a CUP. This Plan recommends that the use of the CUP in the Rural District be limited to non-residential uses not permitted in the Rural District which are compatible in scale and intensity with the rural environment and that pose no threat to public health, safety, and welfare.” (Page 74, Rural Economic Activities)

“Recommendation 5: Amend the Zoning and Land Development Ordinance to permit additional non-residential rurally compatible uses.

Recommendation 5b: Amend local land use regulations to permit non-agriculturally related commercial uses by the Conditional Use Permit (CUP) process in the Rural zone

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 24, 2020

(Postponed from March 26, 2020)

**Church Without Walls Ministries of Jefferson County  
Conditional Use Permit Request (#20-2-CUP)**

if the use is agriculturally and rurally compatible in scale and intensity, poses no threat to public health, safety, and welfare, and if the use helps to preserve farmland and open space and continue agricultural operations. (Page 77, Agricultural and Rural Economy Recommendations (Goal 8))”



**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. (Sec. 6.3A.2)**

With regard to compatibility, the property is located off of State Route 13/3, Huyett Road. The property adjoins the Apple Blossom Meadows residential subdivision to the east; to the west is a residential parcel which is under the same ownership as the applicant, and beyond that to the west and south is a large, vacant, densely wooded parcel. The northern property line is bordered by Huyett Road, with Claymont Chase residential subdivision across the street. No additions or new structures are proposed and, with the exception of a proposed freestanding sign, there are no proposed changes to the exterior of the structure; therefore, the proposed land use appears to be compatible in scale and intensity with existing and potential land uses.

Staff Report  
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**Church Without Walls Ministries of Jefferson County  
Conditional Use Permit Request (#20-2-CUP)**

One potential safety concern Staff identified during a site visit was that the design of the parking area would require motorists to back up onto Huyett Road. The parking as represented in the application would likely not be approved by the County Engineer. Should the Board consider approving the subject request, a potential condition of approval could be to require that parking be located further onto the property (see exhibit below), contingent upon the Division of Highways granting approval for an entrance permit and approval of the parking plan by the County Engineer. The Division of Highways may have comments pertaining to ingress and egress from the subject location and will ultimately oversee the approval of an entrance permit for a change from a residential to a non-residential land use.



Should the Board consider approving the subject request, a potential condition of approval could be to require that parking be located further onto the property (see exhibit below), contingent upon the Division of Highways granting approval for an entrance permit and approval of the parking plan by the County Engineer. The Division of Highways may have comments pertaining to ingress and egress from the subject location and will ultimately oversee the approval of an entrance permit for a change from a residential to a non-residential land use.



While the application does not specify that clients will be by appointment only, the applicant verbally conveyed that the intent would be to require clients to schedule an appointment, which will manage the number of cars visiting the site at one time and maintain parking availability. Should the Board approve the subject request, a possible condition of approval could be to require that all clients be by appointment only.

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Conditional Use Permit Request (#20-2-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. (Sec. 6.3A.3)**

Based on the information provided, the proposed site development will not hinder nor discourage the appropriate development and 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. (Sec. 6.3A.4)**

Based on the information provided, the applicant would not be required to process a Site Plan because there are no new buildings or additions proposed. If new parking is required to be installed, the County Engineer will evaluate the parking plan to determine if the site disturbance complies with the “No Site Plan” criteria, as outlined in the Subdivision Regulations. When a project complies with the “No Site Plan” criteria of the Subdivision Regulations, landscaping and buffer requirements are not required to be installed.

Note: as part of the subject request, the applicant is requesting to eliminate the required 75’ distance requirement (File #20-9-ZV), which would typically serve as a buffer between residential land uses; however, because the proposed use would be established in an existing structure, it is not feasible to comply with this requirement. The Board may consider requiring that the applicant provide a landscape buffer or fence to be installed.

**5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of this Ordinance. (Sec. 6.3A.5)**

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

**6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan’s Highway Road Classification Map. (Sec. 6.3A.6)**

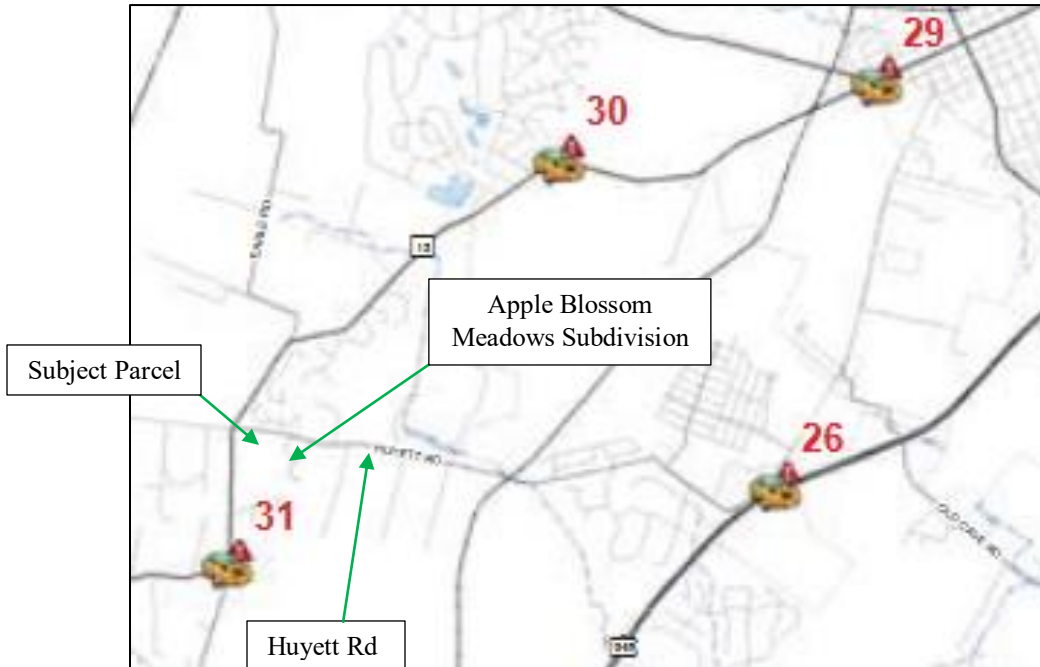
Staff initially determined that Huyett Road was classified as a Minor Arterial (Primary) Road based on GIS data; however, upon further research, it appears that Huyett Road is actually classified as a Local Road and therefore, would be subject to this criteria.

In referencing the Traffic Generation Manual, the average daily trip calculation for a 1,000 square foot church on a weekday is 9.11 trips; with peak hour trips being .87 trips. On a Saturday, the average daily trip calculation is 10.37 trips and the peak hour trips is 3.54. Please note, when referencing the Traffic Generation Manual, non-profit/community service, etc. was not listed. Staff deferred to the calculations for a church; however, obviously the proposed use is far less intense than a church with an active congregation.

As a reference, a traffic county study was conducted by the Department of Transportation in 2017. The study reflects that the average daily trips on Huyett Road by Washington High School (Station ID 193043) was 2,702 and the average daily trips along Summit Point Road, south of the Huyett Road intersection (Station ID 193064) was 2,529 (Source: [2017 WVDOT AADT – Traffic Count Study](#)). The proposed land use would create a minimal increase in average daily trip when considering these numbers.

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Below is an excerpt from the Comprehensive Plan's Highway Problem Areas Map.



**#26** - Augustine intersection with US 340 – Adjacent intersection with Huyett Road may lead to stacking during peak hours.

**#31** - Summit Point Road Intersection with Lloyd Road – 90 Degree Turn

*\*See Highway Problem Areas Map and Table (Pages 98 and 99 of the Envision Jefferson 2035 Comprehensive Plan [attached].*

The proposed use does not comply with the home occupation or cottage industry land uses because the property owner does not reside on premises and the type of land use does not appear to comply with the description of a home based business; however, when evaluating trip generation data, it is worth noting that the Cottage Industry provision allows a maximum of 60 trips per week with a maximum of 15 business-related visits per day. Any homeowner could potentially operate a Cottage Industry from their home without processing a Conditional Use Permit.

**7. Historic Landmarks Commission's Findings related to the proposed land use. (Sec. 6.3A.7)**

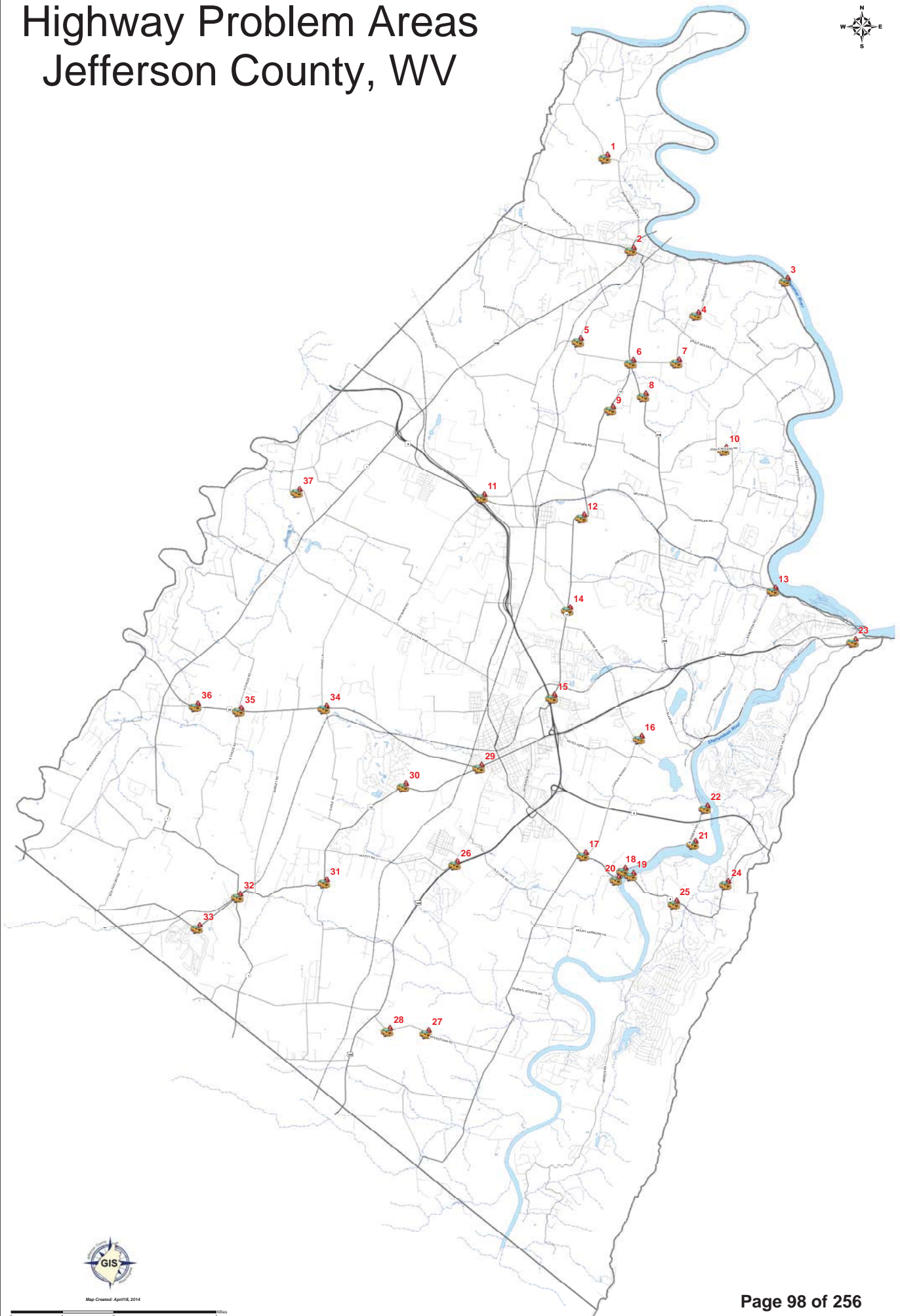
The subject property does not contain any Category I or II historic sites as defined by the Zoning Ordinance; therefore, this criteria does not apply.

**8. Any signs associated with the proposed Conditional Use shall be reviewed by the Board in accordance with Section 10.6. (Sec. 6.3A.8)**

Signs accessory to a Conditional Use are subject to Section 10.6 of the Zoning Ordinance, which 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 provided a description and sketch of the potential sign associated with the proposed land use. Depending upon the configuration of the sign, a variance may be required from Section 10.4 which states that business signs shall not face an adjoining residence.

# Highway Problem Areas Jefferson County, WV



Map Created: April 8, 2014



Highway Problem Areas in Jefferson County			
Number	Route/Road	Location	Problem
1	Scrabble Road	1/4 mile West of Sheperherd Grade Road	90 Degree turn
2	WV 45	Intersection with WV 480, WV 45 and WV 230	Road width through historic area limits turn movements
3	River Road	Near Potomac Ridge Lane	Prone to flooding
4	Trough Road	One mile east of WV 230	90 Degree turn
5	Ridge Road	Intersection with Gardners Lane	Poor intersection angle causing poor visibility
6	Intersection of WV 230 and Flowing Springs Road	Intersection of WV 230, Flowing Springs Road, Gardners Lane and Trough Road	High number of access and turning movements, visibility constraints
7	Trough Road	1/2 mile north of Engle Molers	Two 90 degree turns
8	WV 230	1 mile south of Flowing Springs Rd	S Curve
9	Flowing Springs Road	Approximately 1 south of WV 230 intersection	Curve
10	Engle Molers Road	1/4 mile south of Uvilla	Two 90 degree turns
11	Luther Jones Road	Intersection with Wiltshire Road and Old Charlestown Road	Limited stacking area at light due to tracks. Development is expected to take place in this area over next two decades
12	Flowing Springs Road	Approximately 700 feet north of Shenandoah Junction Road	Two 90 degree turns
13	Bakerton Road	Bakerton Road Tunnel	Sharp Curve, Poor Sight Distance, One Lane Tunnel
14	Daniel Road	Intersection with Flowing Springs Road just north of Old Country Club Road	Poor intersection angle causing poor visibility
15	Sun Road	Intersection with WV 9 West	No merge lane on Route 9
16	Cattail Run Road	Intersection with Marlow RD and Cattail RD	90 Degree turn
17	Cattail Run Road	At intersection with WV 115	Poor sight distance pulling onto WV 115
18	Bloomery Road	1,000 north of WV 115	Within 100 Year Floodplain, periodic flooding
19	Wilt Road	From WV 115 at to dead end	Within 100 Year Floodplain, periodic flooding
20	John Rissler Road	From WV 115 at Bloomery to dead end	Within 100 Year Floodplain, periodic flooding
21	Bloomery Road	2,500 South of Rt. 9 tunnel	90 Degree turn
22	Bloomery Road	1,250 north of WV 115	90 Degree turn
23	US 340 and Chestnut Hill Road	Intersection with Chestnut Hill Road	Inadequate Turning Area onto Chestnut Hill Road; Poor intersection angle causing poor visibility, steep slope
24	WV 115	At Chestnut Hill	Poor intersection angle causing poor visibility
25	WV 115	At Mission Road	Multiple Accident Location Long dead-end road with only 1 point of ingress/egress
26	Augustine Ave	Intersection with US 340	Adjacent intersection with Hyuett Road may lead to stacking during peak hours.
27	Meyerstown Road	One mile east of US 340	Two 90 degree turns
28	Meyerstown Road	1/2 mile east of US 340	90 degree turn
29	Summit Point Road	Intersection with WV 51 (Washington St)	Poor intersection angle causing poor visibility, intersection at capacity
30	Summit Point Road	Near Lindsay Drive	90 Degree turn
31	Summit Point Road	Intersection with Lloyd Road	90 Degree Turn
32	Summit Point Road	At intersection with Leetown Road and Summit Point Road	Poor intersection angle causing poor visibility
33	Summit Point Road	In vicinity of Summit Point Raceway	90 Degree turn
34	WV 51	Intersection with Earl and Darke Lane	Misalignment of intersection
35	WV 51	Intersection with Childs Road	Poor sight distance turning onto WV 51
36	Old Middleway Road	Intersection with WV 51	Poor sight distance and intersection angle
37	Paynes Ford Road	3,500 feet west of Leetown Road	Two 90 degree turns



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

File #: CUP 20-2  
 Mtg. Date: 3/26/20  
 Fee Paid: \$ 300.00  
 Staff Int.: SH

Email: [zoning@jeffersoncountywv.org](mailto: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** Church Without Walls Ministries of Jefferson County

**Property Owner Information**

Name: Virgie Moore  
 Business Name: Church Without Walls Ministries of Jefferson County  
 Mailing Address: 170 Huyett Road, Charles Town, WV 25414 Mail  Yes  
 Phone Number: 304-839-8491 Email Response: scwvm@gmail.com Response:  No

**Applicant Information**

Name: \_\_\_\_\_  
 Business Name: Same As Above  
 Mailing Address: \_\_\_\_\_ Mail  Yes  
 Phone Number: \_\_\_\_\_ Email Response: \_\_\_\_\_ Response:  No

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

Name: \_\_\_\_\_  
 Business Name: N/A  
 Mailing Address: \_\_\_\_\_ Mail  Yes  
 Phone Number: \_\_\_\_\_ Email Response: \_\_\_\_\_ Response:  No

**Physical Property Details**

Physical Address: 194 Huyett Road, Charles Town  
 Tax District: Kabletown (06) Map No: 13 Parcel No. 4  
 Parcel Size: .48 ac. Deed Book: 1041 Page No: 176

**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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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: Huyett Road / State Route 13/3

**RECEIVED**

**MAR 02 2020**

**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.**

See Attached Description  
Non profit commercial use

**Please provide any information or known history regarding this property.**

Property is childhood/family home of Applicant and 9 other siblings since 1953. Applicant became owner of Property in 2007.

**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 Proposed use is compatible. The rural landscape will be preserved and enhanced to be suitable for the lifestyles of the community

**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**

Proposed use will pose no threat to public health, safety or welfare of adjoining properties. The utmost respect and privacy will be upheld for residents in the community.

**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**

Proposed site will definitely not hinder/discourage development and use of adjacent land and buildings with its intended use and purpose.

**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**

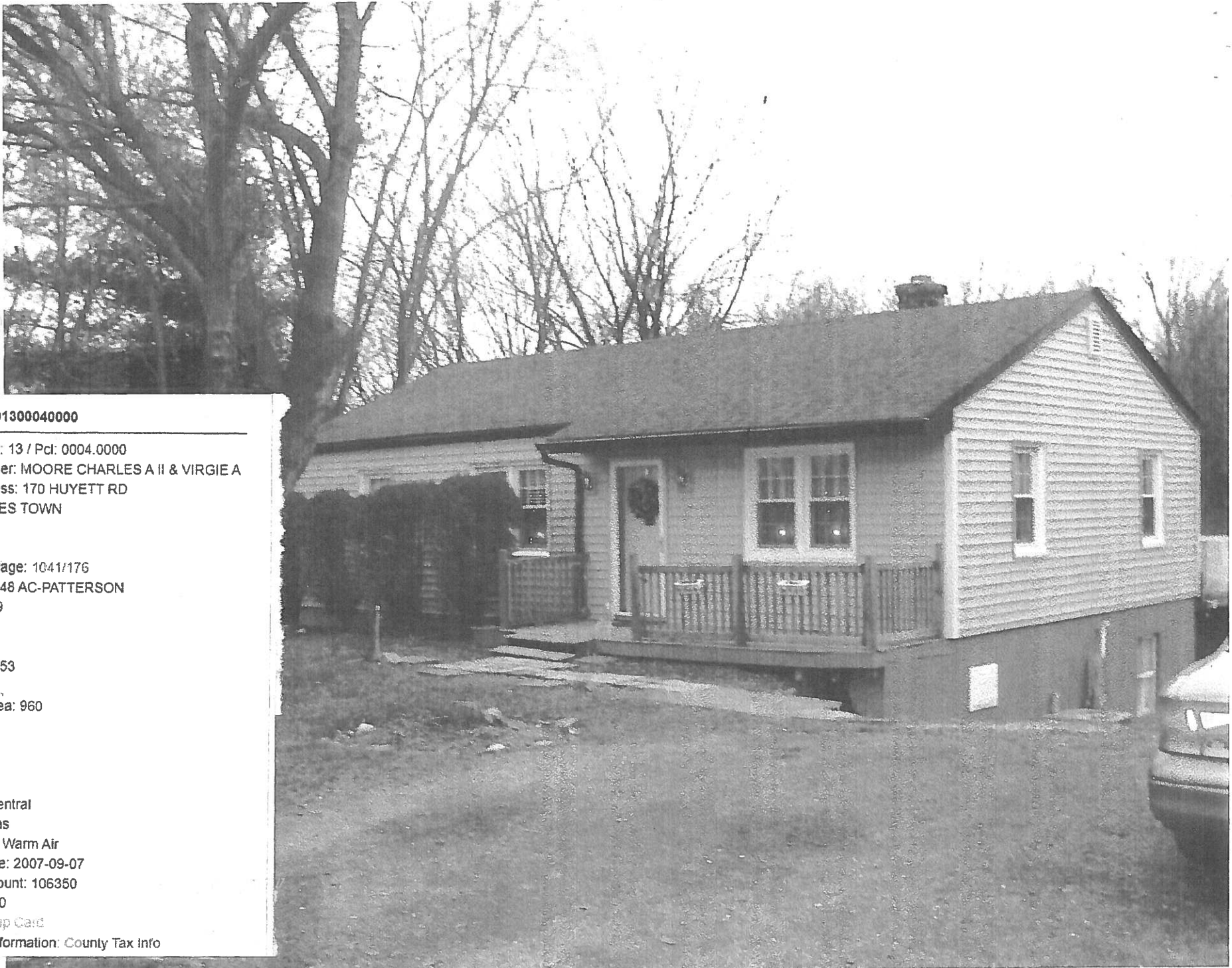
Applicable (Trip Generation Data attached)

Not Applicable

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

Terrie Moore 2/29/20  
Property Owner Date

Terrie Moore 2/29/20  
Property Owner Date



Street  
Light  
Located  
on  
pole.

Parcel: 06001300040000

TD: 06 / Map: 13 / Pci: 0004.0000  
Deeded Owner: MOORE CHARLES A II & VIRGIE A  
Owner Address: 170 HUYETT RD  
City: CHARLES TOWN  
State: WV  
Zip: 25414  
Deed Book/Page: 1041/176  
Description: .48 AC-PATTERSON  
Lot Size: 0.49  
Tax Class: 3  
Living Unit: 1  
Year Built: 1953  
Stories: 1  
First Floor Area: 960  
Rooms: 6  
Bedrooms: 3  
Full Baths: 1  
Half Baths: 0  
Heat Type: Central  
Fuel Type: Gas  
Heat System: Warm Air  
Last Sale Date: 2007-09-07  
Last Sale Amount: 106350  
Tax Year: 2020  
Map Card: Map Card  
County Tax Information: County Tax Info

194 Huyett Road - Proposed Location of ministry

APPLICATIONS COMPLETED AND MAILED TO THE FOLLOWING:

OFFICE OF STATE FIRE MARSHALL 2/27/20

WV DEPARTMENT OF HIGHWAYS (ENTRANCE PERMIT) 2/27/20

HEALTH DEPARTMENT – N/A DISTRIBUTION OF NON-PERISHABLE ITEMS ONLY  
NO MEAL PREPARATION

REQUEST FOR WAIVER OF APPLICATION RELATED TO C.U.P., VARIANCE, AND/OR  
BUILDING PERMIT SUBMITTED TO COUNTY COMMISSION ON 2/27/20 FOR  
INCLUSION ON MARCH 5<sup>TH</sup> AGENDA

INITIAL PRE-PROPOSAL CONFERENCE WITH ZONING HELD ON WEDNESDAY,  
FEBRUARY 26<sup>TH</sup>.

PROPOSED USE OF LAND/BUILDING

AS STATED IN THE CONFERENCE, CHURCH WITHOUT WALLS MINISTRIES OF  
JEFFERSON COUNTY IS A NON-PROFIT OUTREACH MINISTRY THAT WILL SERVE  
THE COMMUNITY BY OFFERING FREE CLOTHING, FOOD, FINANCIAL ASSISTANCE  
AND OTHER IMPORTANT NEEDS. WE WILL BE PARTNERING WITH OTHER  
MINISTRIES, CHURCHES AND AGENCIES TO HELP THOSE IN NEED. THE MINISTRY  
WILL BE OPENED TO INDIVIDUALS AND FAMILIES. THERE WILL BE AT LEAST 2  
VOLUNTEERS.

THERE IS AMPLE SPACE FOR STANDARD PARKING, 1 SPACE PER 400 SQ FT FLOOR  
SPACE. PARKING WILL BE ON GRAVEL AND GRASS AREA IN THE FRONT, REAR  
AND SIDE OF BUILDING.

CHURCH WITHOUT WALLS MINISTRIES' PREVIOUS LOCATION WAS IN THE  
MARTINSBURG, WV AREA. THE MINISTRY IS LICENSED TO DO BUSINESS IN THE  
STATE OF WV. (LICENSE AND NON-PROFIT CERTIFICATE ARE ATTACHED).

# State of West Virginia



## Certificate

*I, Betty Ireland, Secretary of State of the State of West Virginia, hereby certify that*

**CHURCH WITHOUT WALLS MINISTRIES, INC.**

**Control Number: 76143**

has filed its application for "Certificate of Incorporation" in my office according to the provisions of the West Virginia Code. I hereby declare the organization to be registered as corporation from its effective date of May 19, 2005 until a certificate of dissolution has been filed with Secretary of State.

Therefore, I hereby issue this

### CERTIFICATE OF INCORPORATION



*Given under my hand and the Great Seal of the State of West Virginia on this day of May 19, 2005*

*Betty Ireland*

*Secretary of State*

**WEST VIRGINIA  
STATE TAX DEPARTMENT  
BUSINESS REGISTRATION  
CERTIFICATE**

ISSUED TO:  
**CHURCH WITHOUT WALLS MINISTRIES INC  
120 & 122 W MARTIN ST  
MARTINSBURG, WV 25401-3231**

**BUSINESS REGISTRATION ACCOUNT NUMBER: 1003-8694**

This certificate is issued on: 08/16/2010

*This certificate is issued by  
the West Virginia State Tax Commissioner  
in accordance with Chapter 11, Article 12, of the West Virginia Code*

*The person or organization identified on this certificate is registered  
to conduct business in the State of West Virginia at the location above.*

This certificate is not transferrable and must be displayed at the location for which issued.

This certificate shall be permanent until cessation of the business for which the certificate of registration was granted or until it is suspended, revoked or cancelled by the Tax Commissioner. \_\_\_\_\_

Change in name or change of location shall be considered a cessation of the business and a new certificate shall be required.

TRAVELING/STREET VENDORS: Must carry a copy of this certificate in every vehicle operated by them.  
CONTRACTORS, DRILLING OPERATORS, TIMBER/LOGGING OPERATIONS: Must have a copy of this certificate displayed at every job site within West Virginia.

## LIST OF ADJOINING PROPERTIES

APPLE BLOSSOM DEVELOPMENT

RESIDENTIAL

LOCATED AT HUYETT ROAD AND APPLE BLOSSOM ROAD

PEMBROKE GROVE DEVELOPMENT

RESIDENTIAL

LOCATED AT SUMMIT POINT ROAD AND PEMBROKE WAY @ HUYETT ROAD

SPRING VALLEY DEVELOPMENT

RESIDENTIAL

LOCATED AT SUMMIT POINT ROAD AND PAINT WAY

## TRAFFIC CHARACTERISTICS – TRAFFIC FLOW

TRAFFIC VARIES AT DIFFERENT HOURS OF THE DAY

MON-FRI

7 AM – 9 AM FREQUENT (SCHOOL AND WORK TRAFFIC)

9 AM – 3 PM INFREQUENT (REGULAR TRAFFIC)

3 PM – 5 PM FREQUENT (SCHOOL AND WORK TRAFFIC)

5 PM – 7 AM INFREQUENT (REGULAR TRAFFIC)

SAT – SUN

INFREQUENT TRAFFIC (REGULAR TRAFFIC)

THERE WILL NO SCHOOL TRAFFIC FLOW DURING SCHOOL CLOSINGS

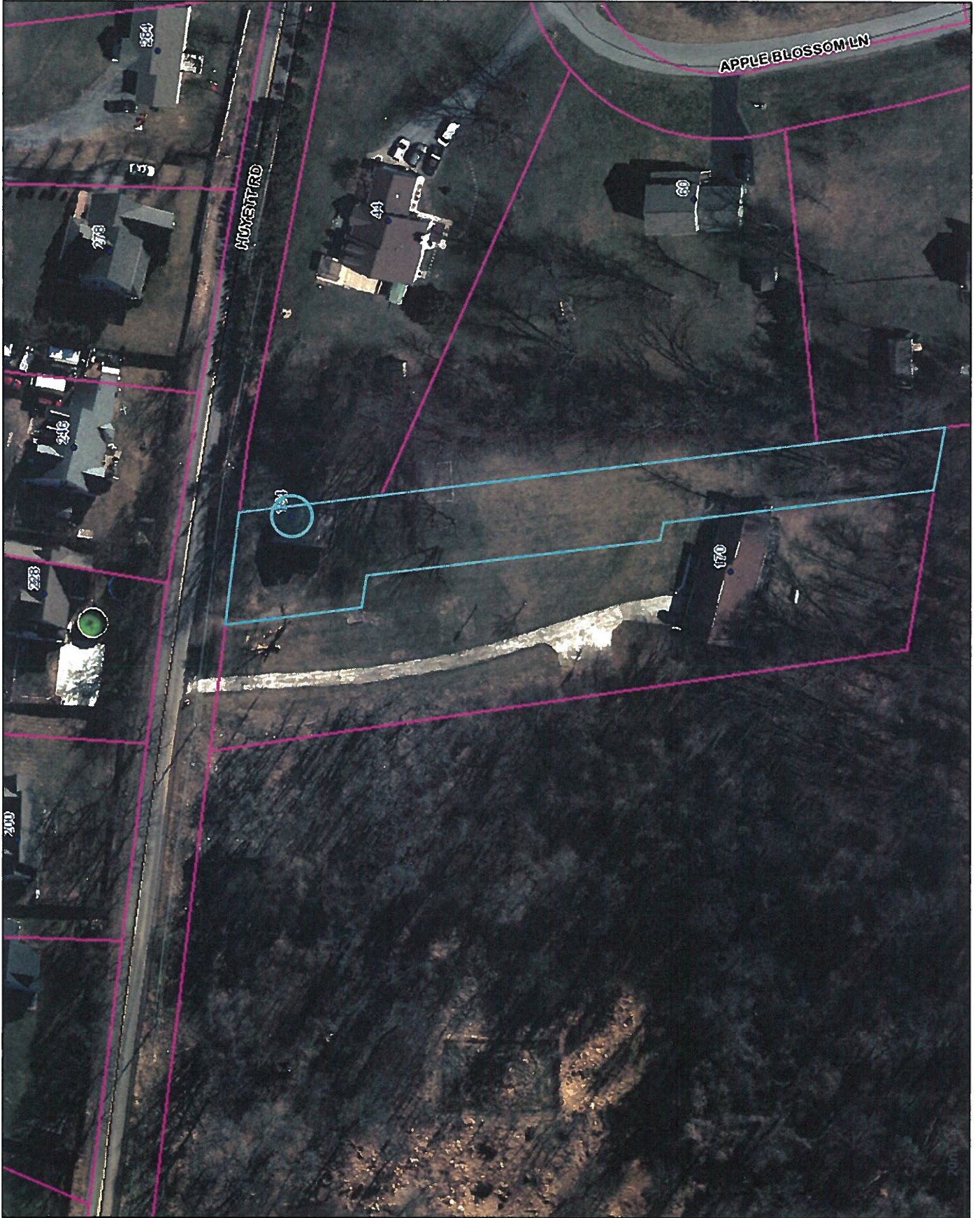
PROPOSED HOURS OF OPERATION FOR NON-PROFIT WILL BE AS FOLLOWS:

TUESDAYS & THURSDAYS 9 AM – 1 PM

SATURDAYS 10 AM – 2 PM

Apple Blossom

Spring Valley



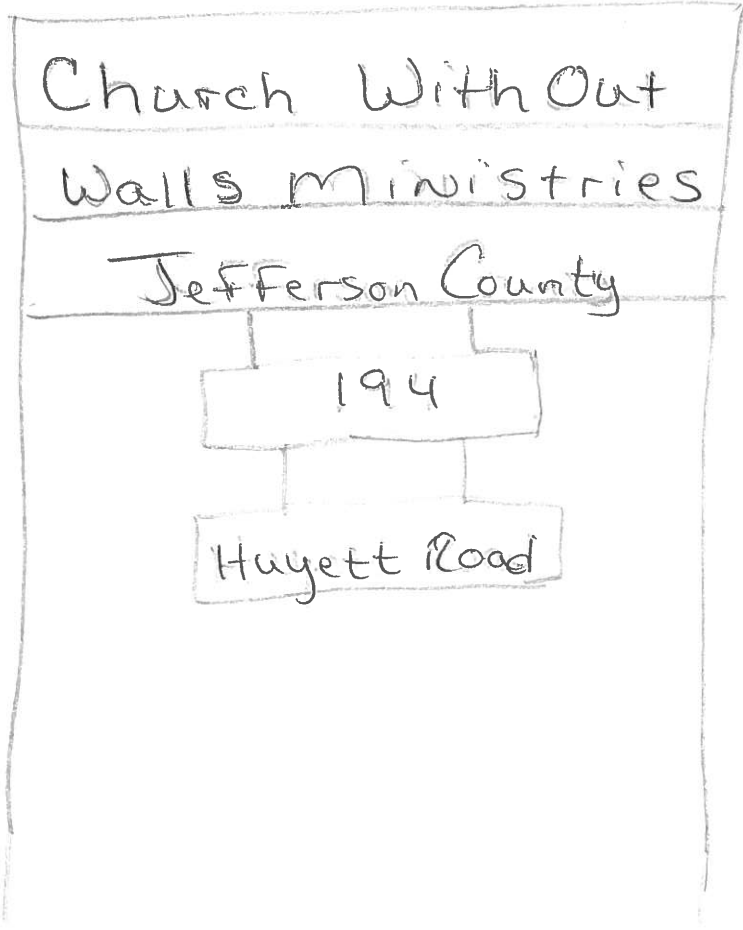
Pombrake Grove

Parking Areas: front + side of 15149  
Gravel/Grass



SIGN INFORMATION

THERE WILL BE A SIGN POSTED IDENTIFYING THE MINISTRY (SEE BELOW). THIS SIGN WAS MADE BY THE BOY SCOUTS OF AMERICA AS THEIR EAGLE PROJECT WHICH UPON APPROVAL AND COMPLETION OF ALL REQUIREMENTS THEY WILL BE ABLE TO VISIT THE LOCATION TO INSTALL.



Dimensions  
60" wide  
30" high

Color  
White background  
with yellow  
and purple  
Lettering!

Sign will be Placed Required distance From highway away From the ministry building! Sign is available for viewing.

\* Sign would be placed to right of Bldg.





The following pages are public comments pertaining to 20-2-CUP and 20-9-ZV.

## Zoning

---

**From:** Zoning  
**Sent:** Wednesday, March 18, 2020 4:31 PM  
**To:** 'JOANN BAILEY'  
**Subject:** RE: Concerning Petition by Church Without Walls

Ms. Bailey,

Our Office is in receipt of your written comment pertaining to the Church Without Walls Ministries Conditional Use Permit application. As you are aware, the public hearing was originally scheduled for Thursday, March 26; however, the County recently adopted a policy in response to COVID-19 and all County Offices are currently closed to the public. The BZA meeting scheduled for March 26 has been cancelled. At this point in time, my understanding is that all applications scheduled for March 26 will be postponed until the April 23 meeting.

We will include your comment as part of the April meeting packet.

If you have any questions, please let me know.

Respectfully,

Alexandra Beaulieu  
Zoning Administrator  
Jefferson County Office of Planning and Zoning  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)  
304-728-3228

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**From:** JOANN BAILEY [mailto:joann\_bailey@comcast.net]  
**Sent:** Tuesday, March 17, 2020 11:45 AM  
**To:** Zoning <Zoning@jeffersoncountywv.org>  
**Subject:** Concerning Petition by Church Without Walls

200 Hackney Lane  
Charles Town, WV 25414  
March 17, 2020  
Alexander Beaulieu  
Office of Planning and Zoning  
115 East Washington Street  
Charles Town, WV 25414

Dear Mr. Beaulieu:

I am writing in regard to the proposed Church Without Walls Ministries of Jefferson County on 194 Huyett Road, Charles Town, WV. I am adamantly against this proposal for the following reasons:

1. We have Community Ministries already in Jefferson County which addresses the needs of the poor and is in a good central location for easy access. I see people standing around outside the Community Ministries and I do not want to see people loitering near my house. I would not feel safe.
2. I bought this property for the country setting and I do not want to look out my back yard and see a sign advertising the Church Without Walls. My property is elevated and I could easily see it.
3. Huyett Road is a narrow country road and we do not want or need more traffic using it.
4. Ranson has a wonderful facility to address the needs of our youth and there is a senior center to address the

needs of senior citizens. We do not need another facility so far from town to duplicate services.

5. If a variance is granted to reduce the distance requirement on all sides; to reduce the setbacks on property lines; and to reduce the parking set back, this would set a permanent precedent. What is to prevent others wanting the same variances all along Huyett Road? You would have to grant for anyone else seeking the same variances.

I just learned today about this proposal from my neighbor and I hope that you will consider my reasons for not allowing the Church Without Walls Ministries of Jefferson County to operate. Thank you.

Sincerely, JoAnn Bailey, 200 Hackney Lane, Charles Town, WV 25414

## Zoning

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**From:** POOLE, SANDI <SandiPoole@allstate.com>  
**Sent:** Thursday, April 2, 2020 3:29 PM  
**To:** Zoning  
**Subject:** Proposed Church Without Walls Ministries of Jefferson County at 194 Huyett Rd

We, Apple Blossom Meadows HOA, feel very strongly that this variance should not be given. We bought our houses based on being in a rural area not to have commercial usage right next to our property. I am sorry that the ministry in Martinsburg did not receive enough funding to stay open but we do not want a financial unstable ministry next to our HOA. The owners have not even done a survey of the land to see where the property line actual is and they are asking for a zero variance? How could the county even entertain that idea? No water run off study, no parking study for a road that handles over 500 cars a day many being students at the local high school and buses carrying our children to and from school.

Not to mention that no public transportation is offered to this location so how can they state only 2 people will be there at a time? 5 people get a ride at the same time what are they going to do, turn people away?

The owner also owns the lot directly behind them and if they get this exception will both lots turn into a commercial gathering place?

Charles Town already offers commercial areas that help feed and cloth the homeless which many of our HOA members volunteer at and we believe Church Without Walls Ministry of Jefferson County should team up with those organization not try to reinvent the wheel in a rural setting that is not and should never be zoned for commercial usage.

Please do not approve this during a national crisis and if not voting no on this issue, please table so that our HOA along with Pembroke HOA, Claymont Chase HOA and Homewood HOA can have legal counsel to fight this in person.

Sincerely  
Sandi Poole  
Apple Blossom Meadows HOA President  
301 656 8898

P.S. please confirm by email and or phone that you have received this email



**LIFE INSURANCE IS AN ACT OF LOVE ASK ME FOR INFORMATION TODAY**

## Zoning

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**From:** u <lpm799@aol.com>  
**Sent:** Tuesday, April 7, 2020 9:51 AM  
**To:** Zoning  
**Cc:** engineering; jjcompton05@gmail.com  
**Subject:** OPPOSITION to Rezoning Request of Parcel ID: 06001300040000

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Donald Scott & Lisa P. Webb  
44 Apple Blossom Lane  
Charles Town, WV 25414

April 7, 2020

Ms. Alexandra Beaulieu  
Zoning Administrator  
Board of Zoning Appeals  
116 East Washington Street, 2nd floor  
P.O. Box 716  
Charles Town, WV 25414

RE: **OPPOSITION** to Rezoning Request of Parcel ID: 06001300040000

Dear Ms. Beaulieu,

WE are writing as EXTREMELY CONCERNED neighbors of Charles A. II and Virgie A. Moore (THE APPLICANTS). Our properties join directly next to one another along Huyett Road in Charles Town, West Virginia.

THE APPLICANTS are proposing a CONDITIONAL USE PERMIT TO OPERATE A NON-PROFIT COMMERCIAL USE BUSINESS and to CHANGE SETBACK REQUIREMENTS to serve the community in an outreach ministry, to be located at 194 Huyett Road, in an area ZONED RURAL.

As concerned neighbors, homeowners and residents, WE cannot express enough, OUR OPPOSITION

to this UNSETTLING REQUEST by THE APPLICANTS to REDUCE setback distance requirements to ZERO, particularly on the EASTERN PROPERTY LINE for the following reasons:

- o Eastern property line borders Apple Blossom Meadows Community.
- o Directly affects OUR back yard. We installed a solid 6 foot high fence which runs along OUR PROPERTY (APPLICANTS bldg. on other side just yards away). OUR home sits higher than the 194 Huyett Rd. property, therefore, providing no PRIVACY from a COMMERCIAL FACILITY. WE look directly down on APPLICANT'S property.
- o NO SURVEY has been done as of 3/13/2020 when WE received a certified letter (one of 3 issued in OUR community, 3 that back to APPLICANTS property). Received shy of two week notification.
- o APPLICANTS thought WE (OUR HOA) could tell them where the property line is.
- o Setbacks will retain respect, fairness, and create space between properties, AS THEY WERE INTENDED TO DO.

As for the permit to operate a non-profit COMMERCIAL USE BUSINESS in a RURAL ZONE:

- o APPLICANTS own two homes that back to OUR Community (one behind the other).
- o Both homes SHARE ONE DRIVEWAY.
- o They could join both properties for gatherings; put up tents, pavilions, out buildings, have LARGE gatherings.
- o Joining 2 lots for gatherings is Unacceptable to OUR HOA and the 3 that surround us.
- o APPLICANTS already requesting ("A MINIMUM") of volunteer workers per shift.

Additionally, the Summit Point and Huyett Road intersection is a short distance away from this property. It is:

- o A high risk intersection for heavy traffic flow, misaligned streets, unclear views around corners.
- o Lanes at intersection are narrow, do not accommodate wider turns, especially delivery trucks.

This intersection and route that cars travel going east and west on Huyett Road is heavily traveled, with a lot of speeding around curves and blind spots. It is also heavily traveled by surrounding neighborhood students commuting to and from many surrounding schools.

- o Community has had SEVERAL CLOSE CALLS; cars coming up over hill too fast which creates a lack of perception to the proximity of OUR

COMMUNITY'S entrance.

- o OUR CHILDREN load and unload the Jefferson County school buses

DIRECTLY on Huyett Road, OVER THE HILL, in front of Apple Blossom Meadow's entrance.

- o THE PROPOSED BUSINESS, in our RURAL ZONE, is ON THE OTHER SIDE OF THE HILL.

The significant increase in traffic flow along this route, that will result if THE APPLICANT'S property is re-zoned, is a NOTABLE RISK to our communities and their families. We don't have the infrastructure to support a BUSINESS of this scope IN THIS COMMUNITY.

- o If planned development (current AND FUTURE) is completed, the residential neighborhoods surrounding the property will witness even a more dramatic increase in traffic on an already highly traveled road.

- o Will lead to more accidents, injuries and fatalities.

- o WE also ran the solid fence along our property along Huyett Road to block out some of the traffic noise. So loud at times that we cannot hear one another speaking and we're standing next to each other.

- o APPLICANTS wants off road parking in front of building. Vehicles would have to back out onto Huyett Road to get out.

- o How will delivery trucks, donation trucks, cars, etc. turn around with one driveway.
- o QUIET ZONE...what about the continual beeping when a truck backs up. Air break noise when some trucks downshift is so annoying.
- o Large groups of people will gather with the services proposed.

How will this affect the environment:

- o Removal of wood line separating properties (APPLICANTS also asked our HOA President what WE (HOA) were going to do with the trees, not knowing where property lines are located).
- o Wildlife
- o Roads, transportation, water and sewage (well and septic requirements for COMMERCIAL BUSINESS), runoff.

There are security and noise concerns:

- o Proper lighting.
- o Fencing
- o Quiet zone stipulation

Another KEY POINT is the FACT that our PROPERTY VALUES WILL DECLINE due to:

- o The integrity of the neighborhood and surrounding changes.
- o Our communities would be going from a single family setting

in a RURALLY ZONED area, to a CITY PERCEPTION.

- o Our communities and their families take great pride in their properties;  
abiding by the HOA Rules and Regulations.

We are not opposed to providing services to those in need in our communities. In fact, many people serve through their churches, places of worship, through our schools, jobs, volunteering, etc.

There are other organizations in the area that Church Without Walls Ministries of Jefferson County could connect with.

THE APPLICANTS are seeking to move their ministry from Martinsburg, WV, to their family residence in OUR neighborhood which:

- o Martinsburg business failed due to financial reasons.
- o Martinsburg business was denied funding.
- o Why would WE support a NON-SOUND COMMERCIAL BUSINESS in our back yards.
- o APPLICANTS want to offer free food, clothing and "FINANCIAL ASSISTANCE, ETC."
- o Will funding be provided to this ministry here, in our RURALLY ZONED back yards, when it was not granted funding at the Martinsburg BUSINESS location.

Therefore, ladies and gentlemen of the Board of Zoning Appeals, for the foregoing reasons, WE IMPLY you to vote **AGAINST** this proposed Conditional Use Permit to operate a Non-profit Commercial Use BUSINESS in a RURAL ZONE, **DENYING** re-zoning, that is up for consideration by the Board of Zoning Appeals, at the scheduled hearing on April 23, 2020, or at any rescheduled hearing thereafter.

Thank you for your consideration in this matter.

Sincerely,

Donald Scott Webb  
Homeowner, Apple Blossom Meadows  
Meadows

Lisa P. Webb  
Homeowner, Apple Blossom

cc: Mr. Roger Goodwin, County Engineer  
Mr. Josh Compton, County Commissioner, Charles Town District

April 7, 2020

RECEIVED  
April 7, 2020  
Jefferson County  
Office of Planning and Zoning

Subject: Church Without Walls Ministries of Jefferson County Zoning request

Dear Ms. Alexandra Beaulieu,

We are writing in reference to the zoning changes the Church without Walls Ministry is requesting. Below are several concerns/objections we have with the zoning requests, the possible future operations with this property and the affect it could potentially have for our property which sits directly adjacent to this.

- We moved to this RURAL area for a nice quiet neighborhood to raise our family in. Now that is being threatened by the idea of a COMMERCIAL property going in, directly behind our house. There are other commercial areas that this property could be put on.
- No environmental survey of the land has been done to see the impact it will have on the surrounding houses, land, animals, etc.
- Due to the slope of the land of the property in question, all water run off could potentially come directly into our property, causing a swamp like area in our backyard.
- Is the septic for the property in question large enough to withstand the need for which this property will be used for? Larger amount of people coming and going and using the facilities. Potential for other septic problems and other run off coming into our backyard or even getting into our well water and contaminating it.
- Other health concerns: More cars coming in going down Hyuett and in/out of this property means more exhaust from those cars. Parking lot being put in would be directly behind our house/backyard. More exhaust into our yard where our children and dogs play outside.
- Safety is another major concern of ours. We understand this is a ministry meant to help people in need, but what type of people will be coming/going on a daily basis? This is a quiet neighborhood with several kids that love to play outside, their safety is our priority. How will we be assured that these people coming and going from the property in question will not come through our neighborhood, or our backyards? If these are people in need what type of background do they have? Do we have the risk of ex-partners coming around causing a riot, or anyone from prison that has a troubled background that could cause trouble?
- Other safety concerns are with Hyuett Road that the majority of traffic will be traveling down to get to this property which will cause more congestion on Hyuett. Many high schoolers travel this road to get to school, the buses stop on

Hyuett to pick up the kids from this neighborhood. More traffic leads to higher risk of accidents or roads destroyed if any type of tractor trailers are coming/going bringing supplies. This is not the type of road for large trucks to be traveling on.

- It has been found that the Church has already encountered financial troubles in the past with acquiring another property for the use of this commercial use. How will they be able to sustain making any changes that would be needed for the upkeep of the property (i.e. septic may need to be upgraded, managing parking, basic upkeep, etc.)
- Future concerns would be the depreciation of value to our house. How will we be able to sell in the future with a commercial property directly behind us. People move out here for quiet rural place to live, not with a commercial building directly behind their property.
- Other future concerns would be if we allow this commercial property to come into this area, then others will be able to do the same with other land right in this area, changing the state of the property around here on Hyuett and Summit roads.
- There are multiple other church groups and non-profits around that could potentially help with setting this ministry up, there has got to be another piece of property this could be run on instead of a residential piece of land.

Thank you for your time and reconsideration of this request by Church without Walls Ministry. We would greatly appreciate if a final decision on this matter could be delayed until a proper meeting can be held by all and give us our due process and allow us to voice our opinions on this matter in person. It seems only fair to give everyone involved a chance to have their voice heard in person and not just by emails. Again, thank you for your time.

Sincerely,

Sasha and Jennifer Lupinacci  
Apple Blossom Lane

## Zoning

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**From:** Dawn Rodgers <dmbynaker@gmail.com>  
**Sent:** Tuesday, April 14, 2020 7:52 PM  
**To:** Zoning  
**Subject:** Zoning issue

Good day,

I am writing as a concerned homeowner in the housing development Apple Blossom Meadows. The property 194 Huyett Rd. Charles Town WV 25414 would like to make a home a commercial property. This property is directly beside our development and backs to one of our neighbors. Our main concern with this property being commercial is that they want 0 easement from our neighborhood property to theirs. If they plan to have a parking lot, how will the water flow when it rains? Will there be lighting that isn't there now? Also, most importantly to me, the driveway is right passed the bus stop for our neighborhood. There are hills on both sides and visibility is low. It is already a dangerous situation for the bus to be stopped there with normal traffic. What happens when there is a business there drawing more people in and out of that area?

Please take into consideration our neighborhood concerns. This business will directly affect many people.

Thank you,

Dawn Rodgers

April 15, 2020

Ms. Alexandra Beaulieu  
Zoning Administrator  
Board of Zoning Appeals  
116 East Washington Street, 2<sup>nd</sup> Floor  
P. O. Box 716  
Charles Town, WV 25414

Dear Ms. Beaulieu:

This is our response as neighboring property owners to the Application for a Conditional Use Permit, CUP 20-2, made by the Church Without Walls Ministries of Jefferson County.

Firstly, we applaud the intention of the applicants, Virtgie and Charles Moore, to provide the stated support services for those in need. Our concerns are with some of the details. The applicants do not address in sufficient detail the information requested by the application form. In particular,

Item 1: How is the proposed use compatible with the strictly residential neighboring communities?

Item 2: Intensity and scale. Additional detail on the scale of projected use (number of clients and vehicles) per day would be helpful and needed to assess the impact, although I do note that their days and hours of operation are limited. I am, though, concerned.

Item 4: The change to a commercial use, however, well-intentioned, may change the character of the surrounding properties, potentially negatively affecting property values. I make no exact judgement on this issue, but would like to hear expert opinion.

Setback and distance requirements: I'm not sure what is the difference between distance and setbacks. We feel that the variance for reducing these requirements for the eastern side should not be granted. It is not clear from the application and accompanying photographs why that variance would be needed. The landscape buffer could still be provided.

If parking will be on the west or south sides of the building, why is a variance requested for the east side. We oppose a parking or vehicular access from the east side because of the potential for water runoff onto adjacent properties.

The aerial photograph and boundary lines make no sense. It looks like the boundary line runs right through the house.

At this point in time, given the deficiencies in the application, we oppose the granting of the Conditional Use Perrmit. (This last sentence as added at \$:40 pm on April 15, 2020)

Richard L.Bell and Tara L. Bell  
94 Shady Meadows Court  
Charles Town, WV 25414

Apple Blossom Meadows Lot 17

To whom it may concern, April 8, 20  
 We, the undersigned homeowners in Apple Blossom Meadows subdivision are opposed to the requested Zoning Change at 194 Hayett Rd. / Conditional use permit VARIANCE..

Address	Signature	Date
43 Apple Blossom Lane	Lewis A. Richards	April 8, 20
135 Shady Meadows Ct	<del>Lewis A. Richards</del>	4/8/2020
135 Shady Meadows Ct	Dayanna Payne	4/8/20
215 Apple Blossom Lane	Joyce Blue	4/8/2020
129 Shady Meadows Ct.	Stacy O'G	4-9-20
78 Shady Meadows Ct.	M. Mat	4-9-20
60 Apple Blossom Ln.	Jennifer Lupini	4/9/2020
61 SHADY MEADOWS CT	SARINA POOK	4/9/2020
118 Apple Blossom Lane	<del>Lewis A. Richards</del>	4/9/2020
243 Apple Blossom Ln	R. Terrell	4/11/2020
44 Apple Blossom Ln.	Lisa Neble	4/11/20
143 Shady Meadows Ct	Cory B. B.	4/12/20
202 APPLE BLOSSOM LANE	<del>Lewis A. Richards</del>	4/15/20
202 Apple Blossom Lane	Mary Culhan	4/15/20
180 APPLE BLOSSOM LANE	A. Dickson	4/15/20

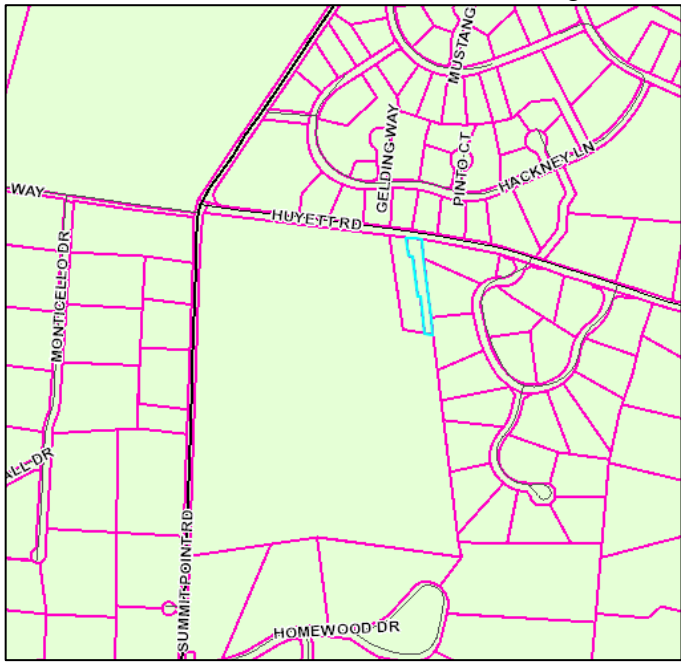
RECEIVED  
 APRIL 16, 2020  
 JEFFERSON COUNTY  
 Engineering, Planning, & Zoning



Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 24, 2020  
 (Postponed from March 26, 2020)

**Church Without Walls Ministries of Jefferson County Variance Request (#20-9-ZV)**

Item #4 Variance from Section 4.6B and Appendix B to reduce the distance requirement from 75' to 0' on all sides; to reduce the setbacks from 25' to 0' on the eastern property line and 25' to 20' on the northern property line (front); and, to reduce the parking and drive aisle setback from 4' to 0' along the western property line for Church Without Walls Ministries of Jefferson County (File: 20-2-CUP) to operate in an existing residential structure.

Applicant:	Church Without Walls Ministries of Jefferson County
Owner:	Charles A II & Virgie A Moore
Developer:	Same as applicant
Consultant:	N/A
Parcel Information and Zoning District:	<p style="text-align: center;">194 Huyett Rd, Charles Town, WV          Parcel ID: 06001300040000; Size: .50 acres; Zoning District: Rural</p> 
Surrounding Properties:	<b>Zoning Map Designation:</b> North & South: Rural      East & West: Rural
Approvals:	None
Site Visit Conducted:	Yes – 03-16-2020

**Summary of Request and Purpose of Ordinance Requirements**

The applicant is requesting a variance from Section 4.6B to reduce the distance requirement from 75' to 0' on all sides. Additionally, they are requesting a variance from Appendix B to reduce the building setbacks from 25' to 0' on the eastern property line and 25' to 20' on the northern property line (front); and, to reduce the parking and drive aisle setback from 4' to 0' along the western property line for Church Without Walls Ministries of Jefferson County (File: 20-2-CUP) to operate in an existing residential structure. All Non-Residential Site Development Standards referenced in these sections are found in Appendix B of the Zoning Ordinance.

Staff Report  
Jefferson County Board of Zoning Appeals  
April 24, 2020  
(Postponed from March 26, 2020)

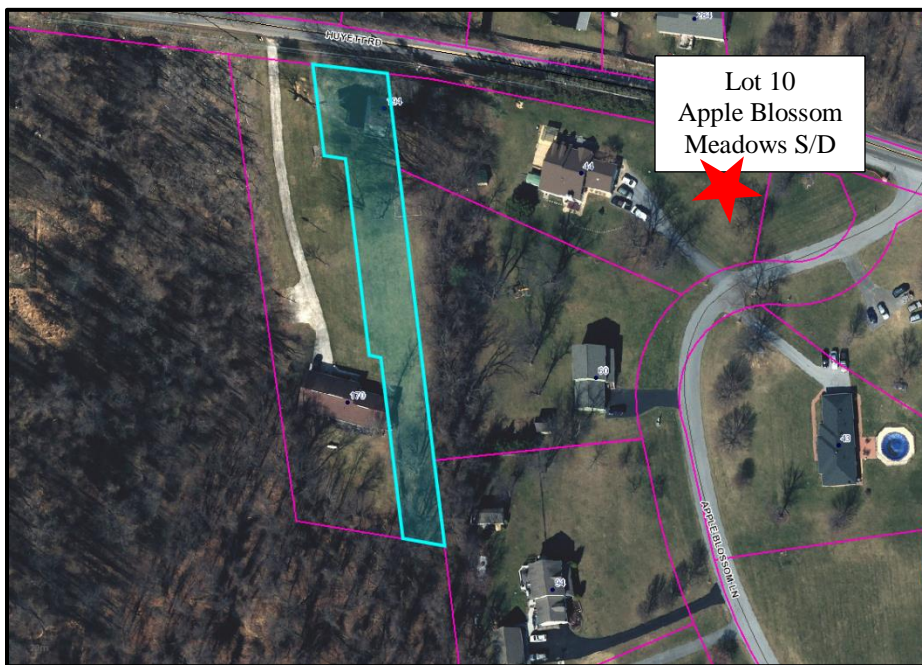
**Church Without Walls Ministries of Jefferson County Variance Request (#20-9-ZV)**

The purpose of the distance requirement is typically to lessen the impact of a non-residential use on a residential use, church, institution of human care, or historic site, including the visual impact created from the glare of exterior lights.

The purpose for building 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.

The purpose of parking and drive aisle setbacks is to reduce negative interactions between vehicles, as well as pedestrians, traveling on the roadway and using the parking area. Parking setbacks also serve to reduce the impact that a land use might have on an adjacent property, such as the bright lights from headlights and engine noise.

**Staff Evaluation of Request**



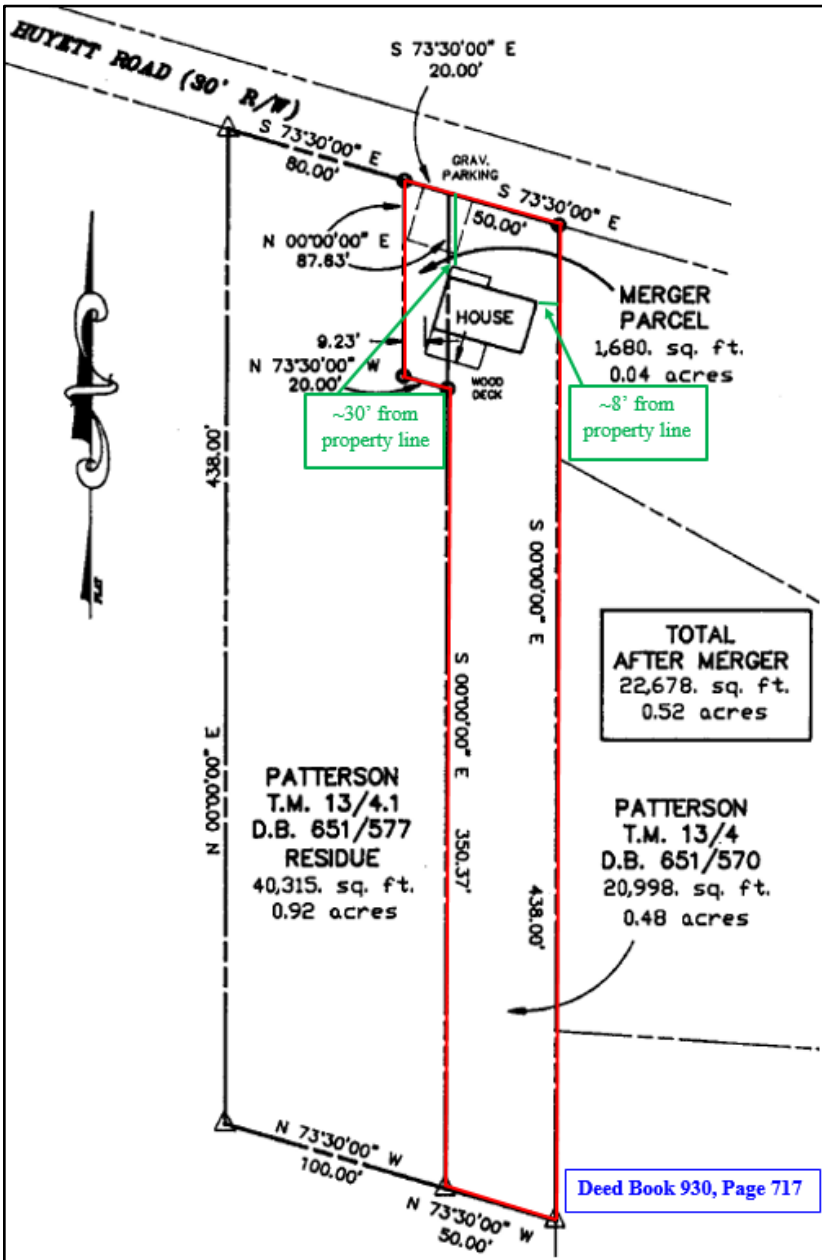
The applicant, Church Without Walls Ministries of Jefferson County is simultaneously requesting the Board to consider a Conditional Use Permit to operate a Non-Profit Commercial Use (see request File: 20-2-CUP). The proposed endeavor cannot comply with the non-residential site development standards because the proposal includes converting an existing residential structure, which cannot be relocated to comply with setbacks and distance requirements.

The existing structure is located within close proximity to the eastern property line which adjoins Lot 10 of the Apple Blossom Meadows Subdivision. A merger plat, which processed in September 1999 (DB 930, PG 717), reflects the subject residential structure as being approximately 8' from the eastern property line (see exhibit on page 3).

Eliminating the required 75' distance requirement would likely have minimal impact on the adjoining property to the east since there is no outside lighting proposed and the hours of operation are limited to morning and early afternoon, three days a week (Tuesday & Thursday, 9:00 a.m. – 1:00 p.m.; and Saturday, 10:00 a.m. – 2:00 p.m.). Additionally, with the exception of installing a freestanding sign on the property (subject to approval), the applicant is not proposing any aesthetic changes to the exterior of the structure. Based on the 1999 survey, the front of the house is approximately 70' from the lot to the north (~30' from the northern boundary line + 30' right of way (Huyett Road) + 10' road improvement easement = 70').

Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 24, 2020  
 (Postponed from March 26, 2020)

**Church Without Walls Ministries of Jefferson County Variance Request (#20-9-ZV)**



At the time that the application was submitted, Staff was unable to verify the proximity of the structure to the front and side (eastern) property lines utilizing aerial imagery; therefore, the applicant, at Staff's recommendation, requested to reduce the required 25' setback to 0' along the side (eastern) property line and to 20' along the front (northern) property line. Upon further research, Staff located a merger plat that was recorded in 1999 which reflects the residential structure as being approximately 8' from the side (eastern) property line and  $\sim 30'$  from the front (northern) property line. With this information, it appears the reduction for the front setback requirement is no longer necessary for the Board's consideration.

The dwelling unit, as a residential use, complies with the required 8' residential side setback. If the applicant resided on premises, a home occupation or cottage industry business could potentially be operated from the premises, including limited daily trips, without special approval; however, the applicant does not reside on premises and therefore, compliance with the non-residential site development standards is required. It does not appear that a reduction from 25' to 8' along the side (eastern) property line would have an adverse impact on the adjoining residential property because the structure has always existed in this

location and was constructed prior to the creation of the Apple Blossom Meadows Subdivision. The proposed non-residential use has limited hours of operation and a moderate size staff, which would appear to have no greater impact than operating a home-based daycare.

With regard to the requested reduction for the parking and drive aisle setback from 4' to 0', it is expected that there would be no significant impact on the adjoining property to the west because it is under the same ownership as the applicant and their dwelling is located to the rear of the property. Additionally, the hours of operation are limited to morning and early afternoon; therefore, it is not anticipated that there would be any offensive glare created from headlights on vehicles.

Staff Report  
Jefferson County Board of Zoning Appeals  
April 24, 2020  
(Postponed from March 26, 2020)

**Church Without Walls Ministries of Jefferson County Variance Request (#20-9-ZV)**

Due to the fact that the structure is existing and that the parcel is long and narrow, it does not appear to be feasible to comply with the Ordinance by any other means.

**Conditions of Approval**

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

1. Clients shall be required to schedule an appoint and walk-in clients are not permitted.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 4.6 Distance Requirements**

- B. Commercial uses are subject to this subsection, unless otherwise specified in this Ordinance. Adjacent uses (not including parking) or buildings subject to compliance with this Section shall be located at least 75 feet from:<sup>7, 27</sup>
  1. Any lot in the Residential Growth District;
  2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building;
  3. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.<sup>23</sup>

**Section 5.7 Rural (R) District<sup>23, 32</sup>**

- A. Minimum Lot Area, Lot Width and Yard Requirements<sup>23</sup>
  1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance.<sup>27</sup>
  2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.<sup>23</sup>

**Section 5.6 Industrial - Commercial (IC) District<sup>23, 32</sup>**

**D. Development Standards**

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance.<sup>5, 23, 27</sup>
2. Compliance with Section 4.11 and Section 8.9A(1-9)<sup>7, 23</sup>
3. Distance Requirements
  1. Commercial shall comply with Section 4.6B
  2. Industrial shall comply with Section 4.6A<sup>7, 23</sup>

Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 24, 2020  
 (Postponed from March 26, 2020)

**Church Without Walls Ministries of Jefferson County Variance Request (#20-9-ZV)**

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

Zoning District	Development Type <sup>9</sup>	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							
											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		
						Front	Side	Rear	Front	Side	Rear	Distance Front Side Rear	Front	Side & Rear	Front	Side & Rear	Front	Side & Rear
Industrial – Commercial (IC)**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25			15	4	4	75	Street Trees	Narrow Buffer Detail No. M-54	N/A	10(S)	N/A	10(S)
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25			15	10	10	75	Street Trees	Medium Buffer Detail No M-53	N/A	10(S)	N/A	10(S)
	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												
Rural (R)	Churches	2 acres	200	45	N/A	25	50	50	See IC District for commercial sites			N/A	50(U) or 15 (S)		N/A	10(S)	N/A	10(S)
	Schools, Grades K-12	K-4: 10 ac+ 5-8: 20 ac+ 9-12: 30 ac+	500	45	N/A	100						N/A	N/A		N/A	N/A	N/A	N/A
	Hospitals	10 ac	500	45	N/A	100						N/A	N/A		N/A	N/A	N/A	N/A
	Other Rural principal permitted uses	40,000	100	45	N/A	40	50	50				N/A	See I-C District for commercial or industrial use; Otherwise, N/A					
	Commercial or Industrial**	See IC District																

Staff Report  
Jefferson County Board of Zoning Appeals  
April 24, 2020  
(Postponed from March 26, 2020)  
**Church Without Walls Ministries of Jefferson County Variance Request (#20-9-ZV)**



**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: 20-9-ZV  
 Staff Initials: JH  
 Meeting Date: 3/26/20  
 Fees Paid (\$100 or \$150): 100-

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

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: Charles A II & Virgie A Moore  
 Mailing Address: 194 Huyett Rd, Charles Town, WV  
 Phone Number: 304-839-8491 Email: jccwwm@gmail.com

**Applicant Contact Information**

Name: Church Without Walls Ministries of Jefferson County  
 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: 194 Huyett Rd, WV  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: 06 Map No: 13 Parcel No: 4  
 Parcel Size: .50 Deed Book: 1041 Page No: 176

**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"><b>RECEIVED</b></p> <p align="center"><b>MAR 05 2020</b></p> <p align="center"><b>JEFFERSON COUNTY PLANNING ZONING &amp; ENGINEERING</b></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: Section 4.6B and Appendix B

*Briefly describe the nature of the variance request:*

To reduce the distance requirement from 75' to 0' on all sides; to reduce the setbacks from 25' to 0' on the eastern property line and 25' to 20' on the northern property line (front); and to reduce the parking setback from 4' to 0' along the western property line for Church Without Walls Ministries of Jefferson County to operate in an existing residence.

*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:*

The applicant is also the property owner of the adjacent western parcel. The parcel to the south is a 36 acre wooded parcel. The home on this parcel is approx. 650' from the subject home. The property line to the east has natural vegetation to provide a buffer to this neighbor.

*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 house is existing with no proposed expansion to the structure. The operation will be contained entirely within the dwelling. Vehicles will park in the existing driveway. Any expansion of the parking lot will adhere to the no site plan criteria provisions.

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

The variance will allow Church Without Walls Ministries of Jefferson County to continue as proposed. Without the variance the land use cannot move forward.

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

The proposed land use will be a benefit to the community and will generally provide for the residents. The land use will also not be operating full time.

*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.*

Luigi M. Oore 3/5/20  
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).

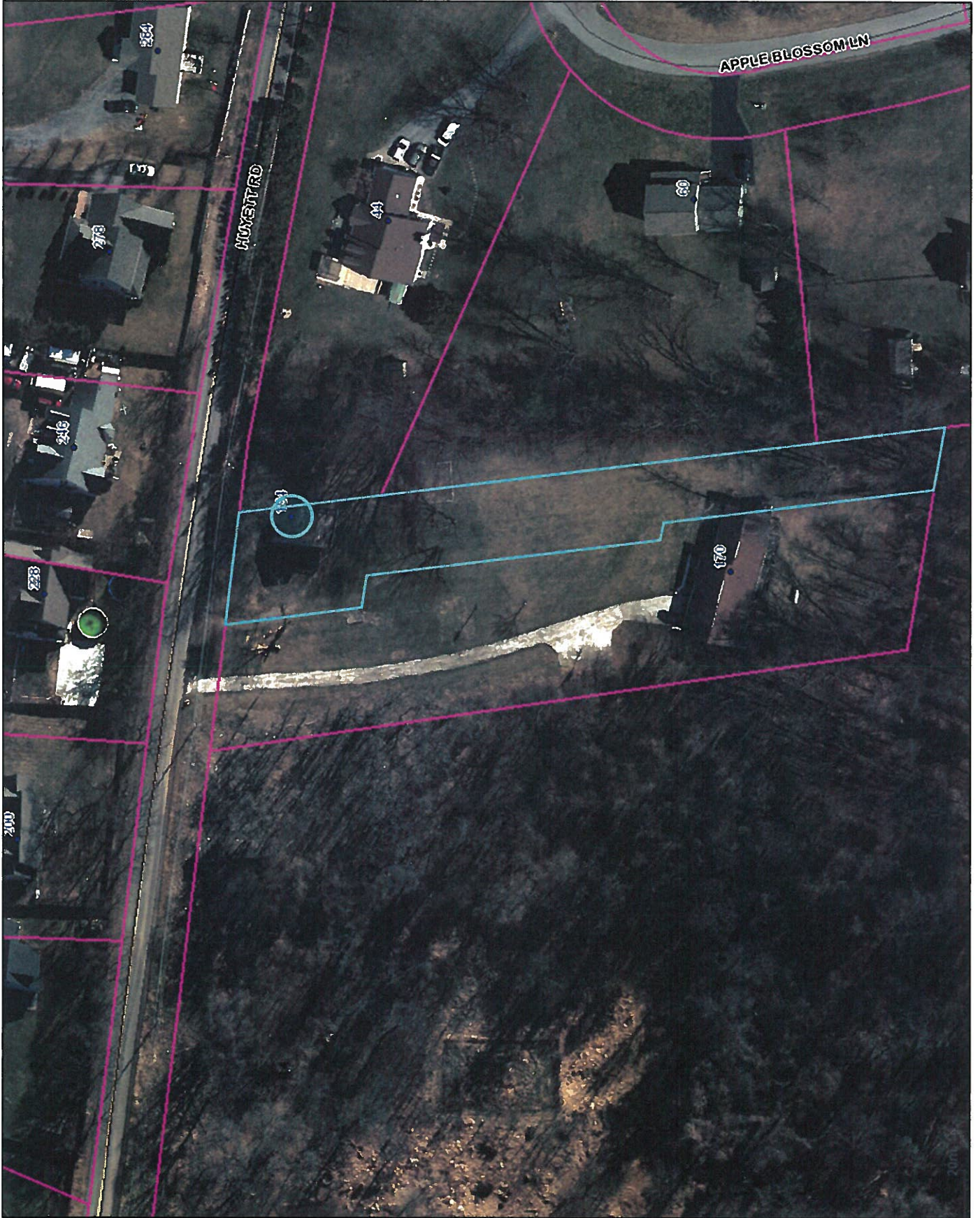
03/26/2020  
Date of Public Hearing

03/11/2020  
Advertising Date

03/11/2020  
Placard Posting Date

Apple Blossom

Spring Valley



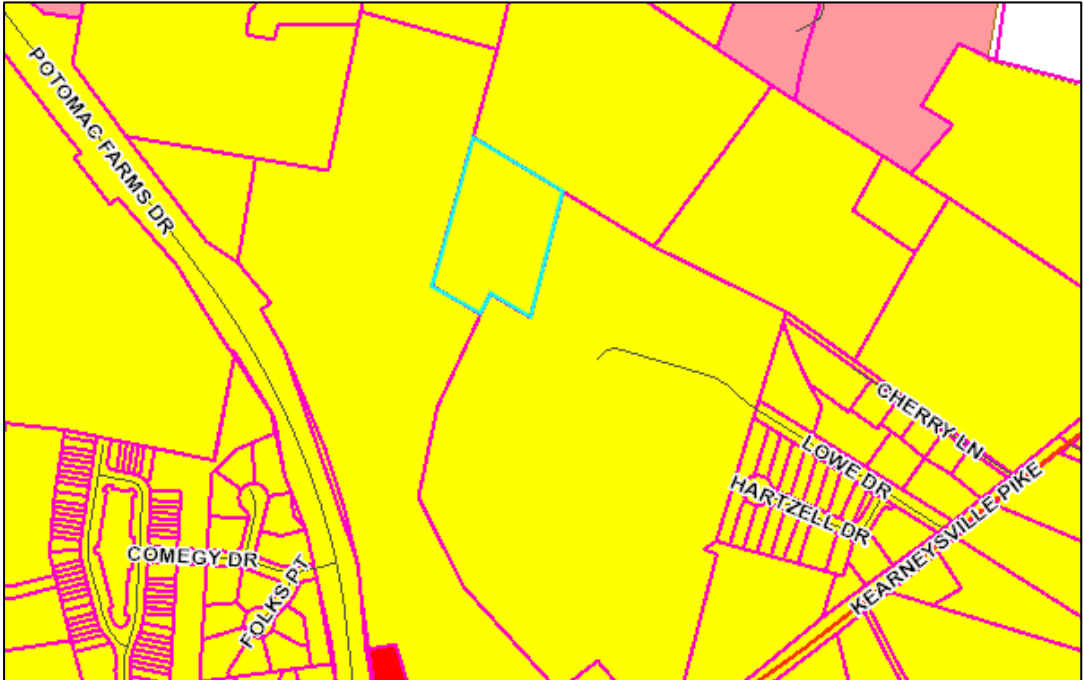
Pombrake Grove



Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 24, 2020  
 (Postponed from March 26, 2020)

**Shepherdstown Public Library Variance Request (#20-7-ZV)**

Item #4 Variance from Section 4.11 and Appendix B to allow a 50' unscreened buffer (where achievable) in lieu of the required planted landscaping per Stand Detail M-53; and from Section 4.6 to reduce the distance requirement from 75' to 40' from the front property line.

Applicant:	Shepherdstown Public Library
Owner:	Same as above
Developer:	N/A
Consultant:	Gordon
Location:	Lowe Dr (to be extended) Shepherdstown, WV
Parcel Information and Zoning District:	<p style="text-align: center;">Parcel ID: 09000800110000; Size: 4.33 acres          Zoning District: Residential Growth</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:</p> <p style="text-align: center;"><i>North &amp; South:</i> Residential Growth      <i>East and West:</i> Residential Growth</p>
Waivers/Variations:	PCW17-04 – Concept Plan 1 year extension to 10/13/18 (PC Approved 11/14/17) PCW18-14 Concept Plan 2 year extension to 10/13/20 (PC Approved 11/13/18)
Proposed Activity:	S15-05: 13,500 sq. ft. Cultural Facility / Public Library with associate parking. (Concept Plan Approved 10/13/15 / Site Plan Pending)
Site Visit Conducted:	No.

Staff Report  
Jefferson County Board of Zoning Appeals  
April 24, 2020  
(Postponed from March 26, 2020)

**Shepherdstown Public Library Variance Request (#20-7-ZV)**

**Summary of Request and Purpose of Ordinance Requirements**

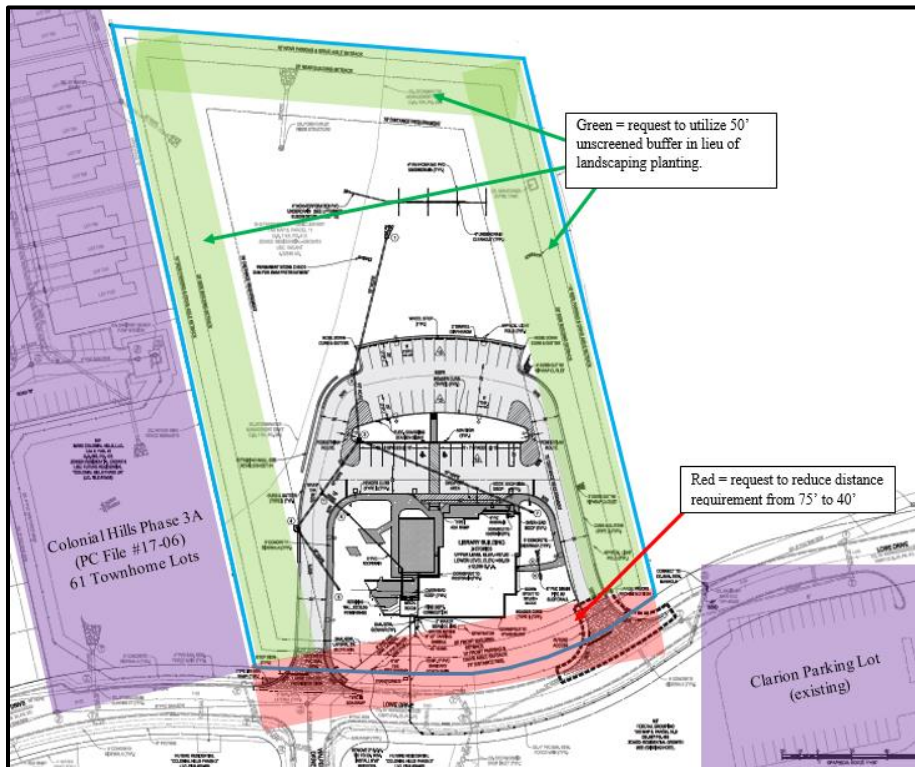
Variance from Section 4.11 and Appendix B to allow a 50' unscreened buffer (where achievable) in lieu of the required planted landscaping per Standard Detail M-53; and from Section 4.6 to reduce the distance requirement from 75' to 40' from the front property line.

The purpose of landscape buffer requirements is to reduce the impact that a land use might cause to an adjacent property by serving as a barrier to visibility, airborne particles, glare, or noise.

The purpose of the distance requirement is typically to lessen the impact of a non-residential use on a residential use, church, institution of human care, or historic site, including the visual impact created from the glare of exterior lights.

**Staff Evaluation of Request**

The applicant is currently processing a site plan to develop the subject parcel as the future location for the Shepherdstown Public Library. The site has been remediated from previous use as a landfill. The lot is located to the northwest of the Clarion Hotel and Conference Center and adjoins the future site of Colonial Hills Phase 3A (townhomes) to the west and Colonial Hills Phase 3 (single family homes) to the south.



Section 4.6B requires that all commercial uses adjacent to any lot in the Residential Growth district apply a 75' distance requirement. The distance requirement is intended for situations in which the proximity of a commercial use could have a negative impact on an adjacent property with a dwelling, school, church, institution for human care, or historic site. The applicant is requesting a reduction to 40' along the front property line; however, it should be noted that when taking into consideration the 60' Access Easement (Lowe Drive) the library building will be 100' from the closest

residential lot (Lot 30, Colonial Hills, which is currently vacant). Therefore, it is expected that a reduction to 40' would not have a negative impact on the adjoining properties.

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(Postponed from March 26, 2020)  
**Shepherdstown Public Library Variance Request (#20-7-ZV)**



With regard to landscaping standards, Staff is unclear as to whether the intent of the 2011 text amendment was to continue allowing the option to utilize a 50' unscreened buffer or if the intent was to require that all buffers be planted buffers. Section 4.11A.1 states that a 50' or greater unscreened green space buffer or a 15' screened green space buffer shall be installed along common property lines. Appendix B requires a medium buffer in accordance with Standard Detail M-53, which is a 20' wide buffer planting. Appendix B also states, "In the event of a conflict with the text, [Appendix B] shall prevail." Therefore, Staff did not have the discretion to allow the 50' unscreened buffer option to be utilized in lieu of the required medium buffer standard.

It appears that allowing a 50' unscreened buffer to be utilized in lieu of the required planting would still meet the intent of the ordinance.

It is feasible to comply with the Ordinance since the property has not yet been developed. However, granting the variance does not appear to adversely impact the adjoining properties.

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**Shepherdstown Public Library Variance Request (#20-7-ZV)**

Conditions of Approval

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

1. Staff did not identify any conditions of approval.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 4.6 Distance Requirements**

- A. Industrial uses are subject to this subsection, unless otherwise specified in this Ordinance. Any uses (not including parking) or buildings subject to compliance with this Section shall be located at least 200 feet from:<sup>27</sup>
  1. Any lot in the Residential Growth District;<sup>27</sup>
  2. A dwelling, school, church or institution for human care not located on the same lot as the said use or buildings;<sup>1</sup>
  3. Any lot which is part of a recorded subdivision; and
  4. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.
- B. Commercial uses are subject to this subsection, unless otherwise specified in this Ordinance. Adjacent uses (not including parking) or buildings subject to compliance with this Section shall be located at least 75 feet from:<sup>7, 27</sup>
  1. Any lot in the Residential Growth District;
  2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building;
  3. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.<sup>23</sup>

**Section 4.11 Landscaping, Screening and Buffer Yard Requirements**

Buffer yard requirements are as shown in Appendix A and B of this Ordinance, and are summarized in this section.<sup>27</sup>

**A. Commercial Development<sup>27</sup>**

2. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a 50 foot or greater unscreened green space buffer or a 15 foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.
3. All commercial development adjacent to all other uses must maintain ten foot side and rear yard landscape buffers.<sup>5</sup>

**B. Industrial Development<sup>27</sup>**

1. All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall have an unscreened buffer yard of no less than 200 feet. No structures, stored materials, or vehicular parking shall be permitted within the buffer yard.

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(Postponed from March 26, 2020)

**Shepherdstown Public Library Variance Request (#20-7-ZV)**

2. All industrial development adjacent to any use other than an industrial use shall have screened front yard buffers of no less than one-half ( $\frac{1}{2}$ ) the front yard building setback, which may be included within the 200-foot buffer required in this subsection.<sup>5, 7</sup>
  3. All industrial development adjacent to any use shall have 20 foot screened side and rear landscape buffers.
- C. Multi-family Development<sup>27</sup>
1. All multi-family adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have, along common property lines, screened green space buffers as follows:
    - a. Front and rear: a minimum of 15 feet
    - b. Side: a minimum of 12 feet
- D. In all buffer yards, the exterior width beyond the vegetative screen shall be planted with grass, seed, sod, or ground cover.
- E. All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare or noise. Such screen planting shall meet the following requirements.
1. Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least six (6) feet in height.<sup>7, 23, 27, 28</sup>

However, any development where a 10 foot side and/or rear yard vegetative landscaping buffer is required adjacent to proposed commercial uses and where no outdoor storage is being proposed or provided, the following standards shall be met:<sup>27, 28</sup>

    - a. One (1) deciduous or evergreen tree with a height of six (6) feet or more when planted, likely to reach a height of 20 feet or more at maturity, planted every 50 linear feet; at least every other tree shall be an evergreen;
    - b. One (1) ornamental tree with a height of four (4) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every 50 linear feet; and
    - c. Three (3) shrubs per each 25 feet along the property line, round upward.
    - d. These requirements shall be required on both sides of a property line for adjoining properties.
    - e. A 10 foot landscape area on the property unless shared parking is proposed. In the event shared parking is proposed, the required property line planting would be in addition to other plantings.<sup>7, 23, 26</sup>
  2. It will be the responsibility of the landowner to replace any trees that die and shall be so noted on the site plan.
  3. Screen planting shall be a minimum of ten (10) feet wide but shall be placed so that it is no closer than four (4) feet at maturity from a property line or from any street.
  4. No structure, fence, planting, or other obstruction shall be permitted which would interfere with traffic visibility.
- F. In any Commercial, Industrial, Institutional, or Residential development, all dumpsters shall be screened from any residences or from view of a public highway.<sup>23</sup>

Staff Report  
 Jefferson County Board of Zoning Appeals  
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 (Postponed from March 26, 2020)

**Shepherdstown Public Library Variance Request (#20-7-ZV)**

- G. All buffer yards shall be maintained by the property owner.
- H. All development adjacent to a Sensitive Natural Area shall have a buffer of natural vegetation. Environmental standards contained in Section 8.9A, 1 through 7, will apply. The buffer shall meet the current Federal standard except as required in Table 4.11 -1 below:<sup>23</sup>

**Table 4.11 -1 Wetland Size in Acres<sup>5, 8, 23</sup>**

Greater Than	Less Than	Buffer Width in Feet
0.05	0.10	30
0.10	0.16	35
0.15	0.21	40
0.20	0.26	50
0.25	0.31	55
0.30	0.36	60
0.35	0.41	65
0.40	0.46	70
0.45	0.51	75
0.50	0.66	80
0.65	0.81	85
0.80	0.96	90
0.95	1.21	95
1.20	--	100

- I. All required landscape plans shall contain the following elements:<sup>7</sup>
  - 1. Deciduous street trees for shade and aesthetics, planted at the following average spacing:<sup>23</sup>
    - 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.
  - 2. Evergreen buffer planting, as required, for full screening.
  - 3. Parking lot and internal drive plantings (mix of evergreen and deciduous) for partial screening and limited shade.
  - 4. Structure plants for aesthetics and limited shade.
  - 5. Schedule of plants including common name, scientific name, minimum size (height, caliper, etc.) quantity and specific limitation notes.
- J. Required landscape buffers for a non-residential use are indicated in Appendix B.<sup>27</sup>

Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 24, 2020  
 (Postponed from March 26, 2020)

**Shepherdstown Public Library Variance Request (#20-7-ZV)**

APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE <sup>27, 32, 35</sup>																			
Zoning District	Development Type <sup>9</sup>	Min Lot Area (MLA)	Min Lot Width	Max Building Height <sup>7</sup>	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	Narrow Buffer Detail No. M-54	Medium Buffer Detail No M-53	Wide Buffer Detail No. M-52	Front	Side & Rear	Front
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										
Rural (R)	Churches	2 acres	200	45	N/A	25	50	50	See IC District										
	Schools, Grades K-12	K-4: 10 ac+ 5-8: 20 ac+ 9-12: 30 ac+	500	45	N/A	100			See IC District for commercial sites										
	Hospitals	10 ac	500	45	N/A	100			See IC District for commercial sites										
	Other Rural principal permitted uses	40,000	100	45	N/A	40	50	50	See IC District for commercial sites										
	Commercial or Industrial**								See IC District										
Village (V)	Commercial <sup>Y</sup>	N/A	N/A	35	N/A	25	10	40	See IC District										
	Industrial**	See IC District			35	See IC District													
Residential Growth (RG)	Commercial or Industrial**	See IC District			35	See IC District													
Neighborhood Commercial (NC)	Commercial	N/A	N/A	35	70%	15 min 25 max	10 <sup>F</sup>	10 <sup>D</sup>	See I-C District			25	See IC District						
General Commercial (GC)	Commercial	N/A	N/A	75	80%	20	10	25	See IC District										
Highway Commercial (HC)	Commercial	N/A	N/A	75	80%	25	25	25	See IC District										
Light Industrial (LI)	Commercial or Industrial	N/A	N/A	75	80%	25	25	25	See IC District										
Major Industrial (MI)	Commercial	N/A	N/A	75	90%	25	10	50	See IC District										
	Industrial	3 ac ***	N/A	75	90%	25	50	50	See IC District										
Office/Commercial Mixed Use (OC)	Commercial	N/A	N/A	75	80%	15 min 25 max	10 <sup>F</sup>	10 <sup>D</sup>	See IC District										
Planned Neighborhood Development (PND)	Commercial	3 acres	See GC District Note: Planning Commission may amend development standards for developments in the PND District (see Article 5).																

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.





**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: 20-7-2V  
 Staff Initials: GH  
 Meeting Date: 3/26/20  
 Fees Paid (\$100 or \$150): 100-

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

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: Shepherdstown Public Library  
 Mailing Address: PO Box 278, Shepherdstown, WV 25443  
 Phone Number: 304-876-2786 Email: rockymarsh2@outlook.com

**Applicant Contact Information**

Name: Same as Property Owner  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name: GORDON  
 Mailing Address: 148 S. Queen Street, Suite 201, Martinsburg, WV 25401  
 Phone Number: 307-725-8456 Email: rperks@gordon.us.com

**Physical Property Details**

Physical Address: Low Drive  
 City: Shepherdstown State: WV Zip Code: 25443  
 Tax District: Shepherdstown Map No: 8 Parcel No: 11  
 Parcel Size: 4.33 acres Deed Book: 1085 Page No: 186

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

**RECEIVED**

MAR 02 2020

**JEFFERSON COUNTY PLANNING  
 ZONING & ENGINEERING**

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

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

Reference the section of the Zoning Ordinance pertaining to this request: Section 4.11.A, Appendix B, 24.6.B

Briefly describe the nature of the variance request:

Request is to allow landscape buffer requirements written in Section 4.11.A to be applied for a 50' unscreened buffer where achievable on the site boundary. Reduce distance requirement from 75' to 40' from the front property line common to the Federal Group.

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

Front Setback  Side Setback  Rear Setback  Reduction From 75' to 40'

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:

Public health, safety or welfare are not affected by buffering. Rights of adjacent property owners will be served by providing adequate unscreened buffer. All adjacent properties (with exception of hotel) are currently vacant and do not have residents. See additional information 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?

Much of the north and west boundaries of the site are occupied by a shared stormwater management facility with the adjacent residential subdivision, which prohibits a landscaping screen installation. The SWM area will serve as a greenspace buffer per the intent of section 4.11.A. See attached

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

Request is to apply a portion of the ordinance as written. To apply landscape screening at the rear of the property where there is no visual impact from the site is an unnecessary use of resources. Section 4.11.A specifically provides the unscreened buffer option to allow for this scenario. See attached

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

The intent of the landscaping buffer provisions of the Zoning Ordinance is to buffer between adjacent uses. In the case of this site, where ample unimproved property remains at the perimeter, a 50' unscreened buffer can be provided, thus, the intent of the Ordinance is observed and justice will be done in granting the variance.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

Janene L. Krom 2/28/20  
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).

03/26/20  
Date of Public Hearing

03/11/20  
Advertising Date

03/11/20  
Placard Posting Date

**SHEPHERDSTOWN PUBLIC LIBRARY (FILE S15-05)**

**VARIANCE REQUEST SUPPLEMENTAL INFORMATION**

1. *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:*

**In regard to the variance request from distance requirements, this request applies only to the front property line common to the Federal Group property. The site meets the distance requirement for all other boundary lines. Public health, safety and welfare is not affected by distance requirements. The distance requirements are intended to be applied to lots that contain residential, school, church or institutions of human care to provide an additional buffer. As the Federal Group property does not contain any of these use types, but instead operates under a conditional use as a hotel and conference center, the rights of the property owner are upheld.**

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?*

**The impact of distance requirements is typically lessened on front property lines due to the presence of a full width road right-of-way separating the site from properties/lots across the road. Agreements between the adjoining property owners resulted in the portion of Lowe Drive on the Federal Group property being placed in and ingress/egress easement rather than a right-of-way.**

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

**Locating the building at the full distance requirement of 75' from the property line would result in an inefficient layout for the site, adding more impervious area and reducing green space at the rear of the site.**

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

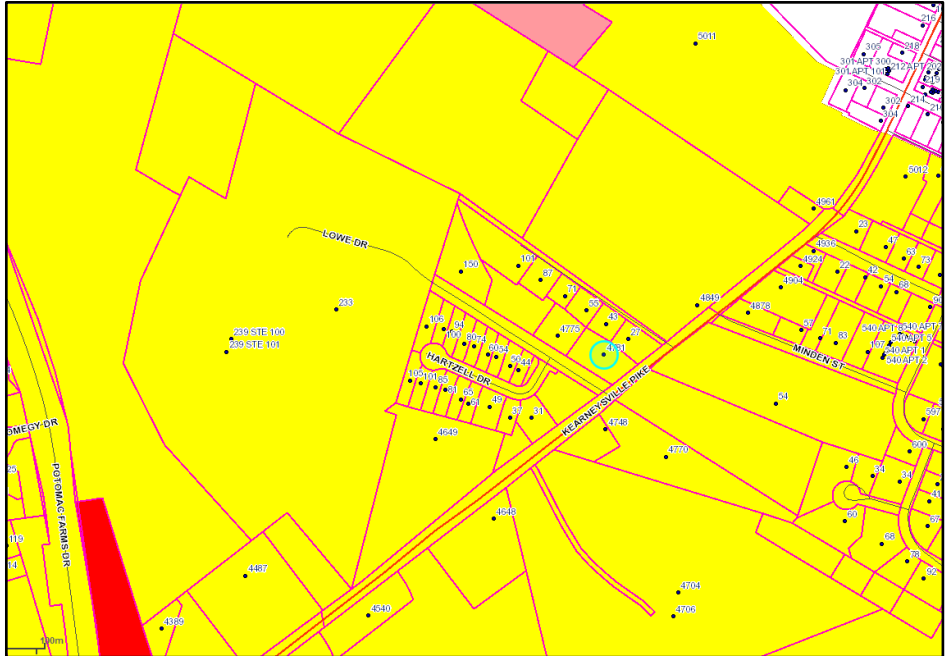
**Granting the variance from distance requirements will allow the intent of the Zoning Ordinance to be observed and substantial justice done as follows: (1) The distance requirements are intended to be applied to lots that contain residential, school, church or institutions of human care to provide an additional buffer. The Federal Group property operates under a conditional use as a hotel and conference center – and thus the need for a distance requirement is not present for this particular property. (2) As a permanent 60' wide ingress/egress easement for Lowe Drive is in place along the common property line with the Federal Group, the area of useable Federal Group property is actually 100' away from the Library Building.**



Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 24, 2020  
 (Postponed from March 26, 2020)

**Kathy Morotti, Potomac Crossroads Counseling, LLC Variance Request (#20-8-ZV)**

Item #4 Variance from Section 4.6B to reduce the distance requirement from 75' to 50' along the western boundary and from 75' to 20' along the northern boundary; and from Appendix B to reduce the commercial building setback from 25' to 20' along the northern boundary; and to reduce the parking setback from 4' to 0' along the western and northern boundaries to allow for the operation of Potomac Crossroads Counseling per File #20-1-CUP.

Applicant:	Kathy Morotti, Potomac Crossroads Counseling, LLC
Owner:	Kenneth F. Lowe Jr., Rev Trust
Developer:	Kathy Morotti, Potomac Crossroads Counseling, LLC
Consultant:	N/A
Parcel Information and Zoning District:	<p style="text-align: center;">4781 Kearneysville Pike, Shepherdstown, WV          Parcel ID: 09000800230007; Size: .71 acres          Zoning District: Residential Growth</p> 
Surrounding Properties:	<p style="text-align: center;"><b>Zoning Map Designation:</b>  <i>North:</i> Residential Growth, Residential-Light Industrial-Commercial, &amp; Corporation of Shepherdstown (area shown in white)  <i>South:</i> Residential Growth <i>East:</i> Residential Growth  <i>West:</i> Residential Growth &amp; General Commercial</p>
Approvals:	02/27/2020: Conditional Use Permit #20-1-CUP
Site Visit Conducted:	No.

**Summary of Request and Purpose of Ordinance Requirements**

The applicant is requesting a variance from Section 4.6B to reduce the distance requirement from 75' to 50' along the western boundary and from 75' to 20' along the northern boundary; and from Appendix B to reduce the commercial building setback from 25' to 20' along the northern boundary; and to reduce the parking setback from 4' to 0' along the western and northern boundaries to allow for the operation of Potomac Crossroads Counseling per File #20-1-CUP.

Staff Report  
Jefferson County Board of Zoning Appeals  
April 24, 2020  
(Postponed from March 26, 2020)

**Kathy Morotti, Potomac Crossroads Counseling, LLC Variance Request (#20-8-ZV)**

The purpose of the distance requirement is typically to lessen the impact of a non-residential use on a residential use, church, institution of human care, or historic site, including the visual impact created from the glare of exterior lights.

The purpose for building 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.

The purpose of parking and drive aisle setbacks is to reduce negative interactions between vehicles, as well as pedestrians, traveling on the roadway and using the parking area. Parking setbacks also serve to reduce the impact that a land use might have on an adjacent property, such as the bright lights from headlights and engine noise.

**Staff Evaluation of Request**



On February 27, 2020, the Board approved a Conditional Use Permit to operate a Medical Office and/or Professional Office as defined in Article 2 for the purpose of establishing Potomac Crossroads Counseling (20-1-CUP). The proposed operation cannot comply with the non-residential site development standards because the proposal includes converting an existing dwelling to a non-

residential use and utilizing an existing parking area.

The Board evaluated the land use operating from this location and determined the use was compatible with the surrounding properties; however, because the property is in the Residential Growth zoning district, deviations from the required standards cannot be included as part of the Conditional Use Permit application and are required to be submitted as a separate application. In order to meet the submission deadline for the February meeting, the applicant submitted the Conditional Use Permit application prior to meeting with Staff for a Pre-Proposal Conference meeting, during which it was determined that the proposed use would not comply with the required site development standards, but at that point, it was too late to submit a variance application for the same meeting.

The purpose of the distance requirement is typically to lessen the impact between adjacent land uses, including the visual impact of the glare created from exterior lighting. The applicant has not proposed any changes to the exterior of the building and it is not expected that outdoor lighting would provide any offensive glares beyond what is created from a residential use. Reducing the required 75' distance requirement to 50' along the western boundary line and to 20' along the northern property line would likely have minimal impact on the adjoining property owners. It should be noted that the Ordinance explicitly excludes parking from complying with the distance requirement and would allow parking to be as close as 4' along the side and rear property lines.

With regard to the requested setback reduction from 25' to 20' along the northern property line, granting the requested reduction does not appear to create any adverse effects on adjoining neighbors, since the structure has existed in this location since the 1960s. As represented during public comment during the

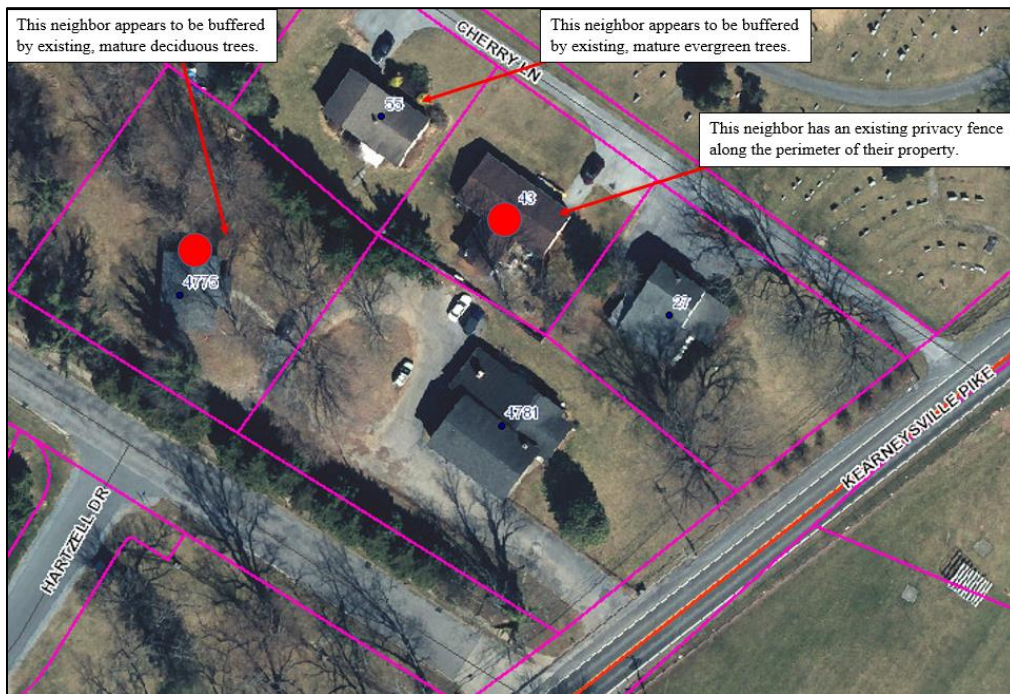
Staff Report  
Jefferson County Board of Zoning Appeals  
April 24, 2020  
(Postponed from March 26, 2020)

**Kathy Morotti, Potomac Crossroads Counseling, LLC Variance Request (#20-8-ZV)**

Conditional Use Permit meeting by the current property owner, non-residential uses have operated from the subject property over the years without creating an adverse impact on neighboring properties.

The request to eliminate the required 4' parking setback would likely have minimal impact on the adjoining neighbors to the north since the neighbor which backs up to the parking area has an existing privacy fence along the perimeter of their property. The neighbor to the west is buffered by deciduous trees.

It is not feasible to comply with the setback or distance requirements established in the Ordinance because the structure and parking are existing and cannot be relocated.



Staff Report  
Jefferson County Board of Zoning Appeals  
April 24, 2020  
(Postponed from March 26, 2020)

**Kathy Morotti, Potomac Crossroads Counseling, LLC Variance Request (#20-8-ZV)**

**Conditions of Approval**

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

1. Requiring the applicant to install a vegetative buffer or opaque fence along the northern perimeter of the property.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 4.6 Distance Requirements**

- B. Commercial uses are subject to this subsection, unless otherwise specified in this Ordinance. Adjacent uses (not including parking) or buildings subject to compliance with this Section shall be located at least 75 feet from:<sup>7, 27</sup>
1. Any lot in the Residential Growth District;
  2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building;
  3. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.<sup>23</sup>

**Section 5.4 Residential Growth (RG) District**

**B. Minimum Lot Area, Height, and Yard Requirements**

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance. The minimum lot area requirements are based on the availability of central or public water and sewer facilities and West Virginia Board of Health regulations.<sup>23, 27</sup>

**D. Standards for Commercial Uses<sup>23, 32</sup>**

1. Commercial uses are subject to the following access requirements:<sup>32</sup>
  - a. Such uses will not use adjacent residential roads for through traffic; and
  - b. Will connect to principal and major arterial highways as directly as feasible considering access restrictions.<sup>5</sup>
2. Commercial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.<sup>32</sup>

**Section 5.6 Industrial - Commercial (IC) District<sup>23, 32</sup>**

**D. Development Standards**

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance.<sup>5, 23, 27</sup>
2. Compliance with Section 4.11 and Section 8.9A(1-9)<sup>7, 23</sup>
3. Distance Requirements
  1. Commercial shall comply with Section 4.6B
  2. Industrial shall comply with Section 4.6A<sup>7, 23</sup>

Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 24, 2020  
 (Postponed from March 26, 2020)

**Kathy Morotti, Potomac Crossroads Counseling, LLC Variance Request (#20-8-ZV)**

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

Zoning District	Development Type <sup>9</sup>	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imper-vious Surface Limit	Building Setbacks		Parking/ Drive Aisle Setbacks			Buffers (Sec. 4.11) (Screened / Unscreened) Adjacent Use							
						Front	Side	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	Front	Side & Rear	Front	Side & Rear	Front	Side & Rear
Industrial – Commercial (IC)**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25			15	4	4	75	Street Trees	Narrow Buffer Detail No. M-54	N/A	10(S)	N/A	10(S)
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25			15	10	10	75	Street Trees	Medium Buffer Detail No M-53	N/A	10(S)	N/A	10(S)
	Industrial	3 ac ***	N/A	75	90%	50 or 25 if adjacent to Industrial Uses			25 or 20 if adjacent to Industrial Uses			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												
Rural (R)	Churches	2 acres	200	45	N/A	25	50	50				N/A	50(U) or 15 (S)	N/A	10(S)	N/A	10(S)	
	Schools, Grades K-12	K-4: 10 ac+ 5-8: 20 ac+ 9-12: 30 ac+	500	45	N/A	100						See IC District for commercial sites	N/A	N/A	N/A	N/A	N/A	
	Hospitals	10 ac	500	45	N/A	100						See IC District for commercial sites	N/A	N/A	N/A	N/A	N/A	
	Other Rural principal permitted uses	40,000	100	45	N/A	40	50	50				See IC District for commercial sites	See I-C District for commercial or industrial use; Otherwise, N/A					
	Commercial or Industrial**												See IC District					





**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 20-8-2V  
 Staff Initials: SH  
 Meeting Date: 3/26/20  
 Fees Paid (\$100 or \$150): 100

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

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: Lowe Kenneth F JR-REV Trust  
 Mailing Address: 4781 Kearneysville Pike Shepherdstown, WV 25443  
 Phone Number: (304) 279-7000 Email: ken@lrgwv.com

**Applicant Contact Information**

Name: Kathy Morotti  
 Mailing Address: PO Box 192 Shepherdstown, WV 25443  
 Phone Number: 304-676-8192 Email: klm\_pcc@frontier.com

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

Name: Jonathan Sherman  
 Mailing Address: Berkeley Home Technologies  
 Phone Number: 304-404-4248 Email: jonathan@berkeleyhometech.com

**Physical Property Details**

Physical Address: 4781 Kearneysville Pike  
 City: Shepherdstown State: WV Zip Code: 25443  
 Tax District: 09-Shepherdstown Map No: 8B Parcel No: 0007  
 Parcel Size: .71 Deed Book: 839 Page No: 731

**Zoning District (please check one)**

Residential Growth (RG) <input checked="" type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input 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"/>	
<div style="text-align: center;"> <h1>RECEIVED</h1> <p>MAR 02 2020</p> <p><b>JEFFERSON COUNTY PLANNING ZONING &amp; ENGINEERING</b></p> <p><small>Place Received Date Stamp Here</small></p> </div>			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: Section 4.6B

**Briefly describe the nature of the variance request:**

Reduction of the Distance Requirement for Commercial from 75' to 50' on the Western side (rear) and from 75' to 20' on the Northern side (right side)

Appendix B A reduction of the Building Setback for Commercial from 25' to 20' on the Northern (right) side .

Appendix B. A reduction of the parking setback for (W) rear and (N) side from 4' to 0'.

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

Front Setback  Side Setback  Rear Setback  Reduction From 75' and 25' to 50' and 20'

**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:**

There will be no impact on public health, safety or welfare, as this lot is identified as a residential growth area in the Envision Jefferson 2035 Comprehensive plan. The property is in an area and on one of the top 4 roads to be considered a prime area for urban level growth. Regarding safety standards, the structure will still need to meet all Building Code Standards and receive Fire Marshall approval. Therefore the setback reductions will not impact the public health and safety.

**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 property is approved for residential growth and has been approved for a conditional use permit. The building and parking have been used for mixed use in the past. There is existing parking and an existing building with no current plans for expansion. The current layout of property would allow parking on side along the existing tree buffer and in the back of property, which would allow for no parking in front (roadside) allowing existing aesthetic to remain.

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

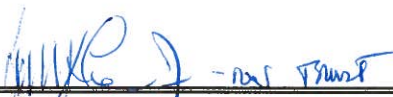
The granting of the variances would allow for the conditional use of property to occur without adding major restructuring of parking area. The structure sits in center of lot and does not impede or detract from adjacent properties, and would remain similar in look and feel without putting financial hardship on the applicant.

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

The purpose of building setbacks between lots and building is to protect property owners from uses that don't complement each other, as well as to provide enough room for fire safety and emergency service access. The subject property is in an area approved for preferred urban growth, which supports the use of existing structures to be utilized, rather than new structures. Furthermore, the existing ~~setbacks~~ buffers eliminate any privacy issues.

**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.

 - not signed 3/2/2020  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

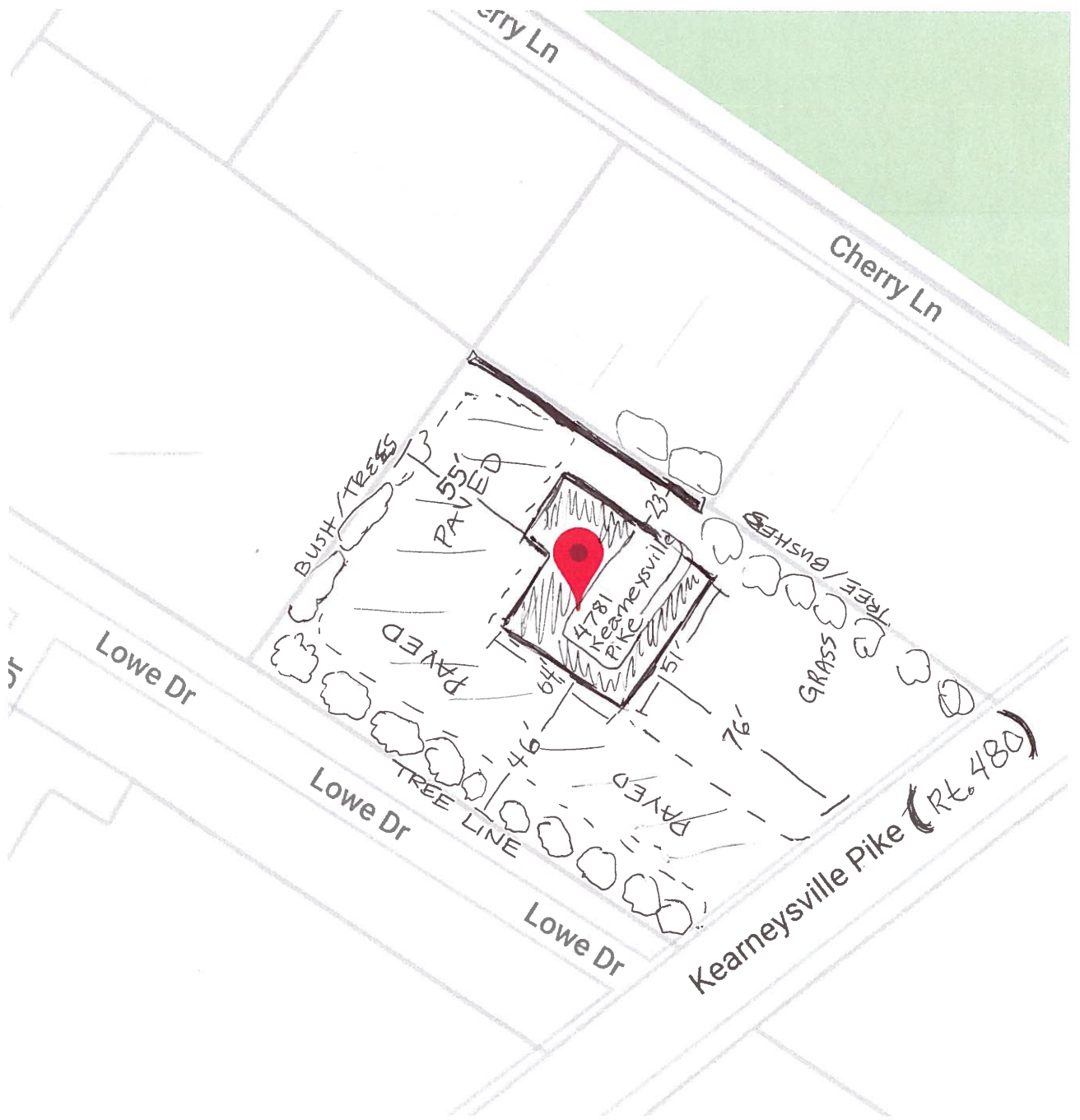
**Notification Requirements (to be completed by staff)**

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).

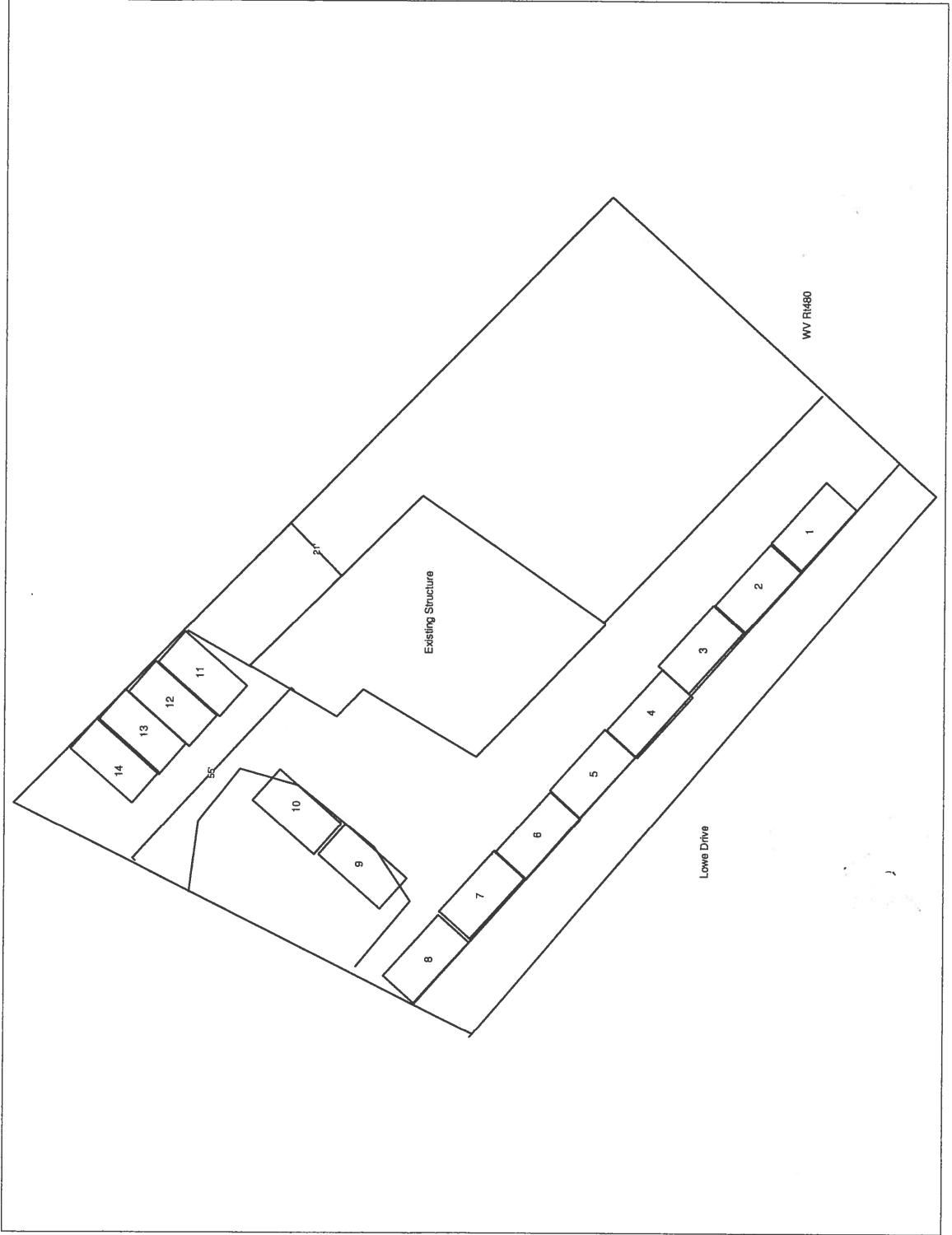
03/26/20  
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Placard Posting Date

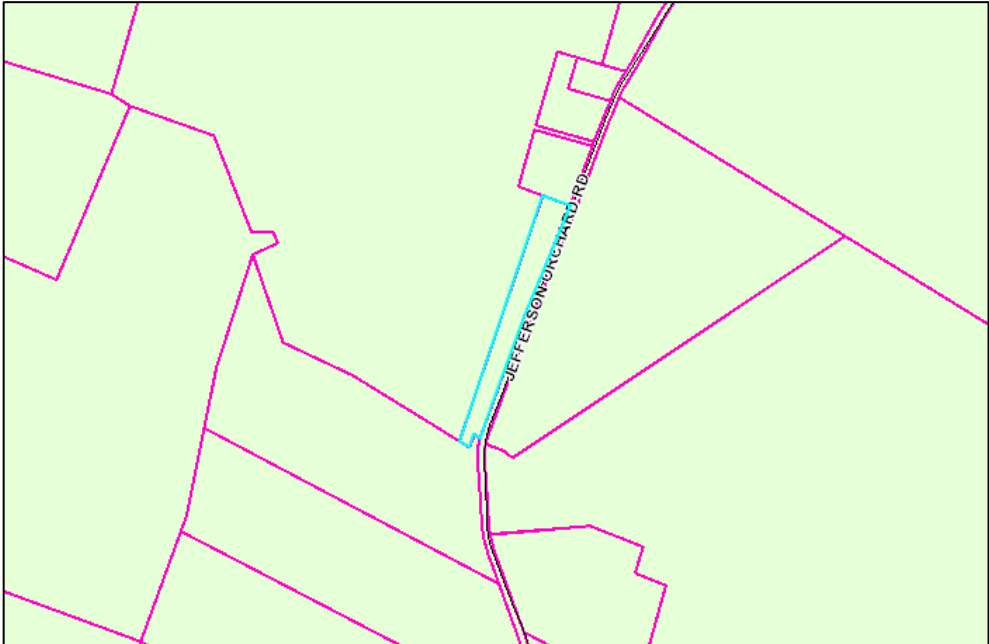


*[Handwritten Signature]* 3/4/2020



Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 24, 2020  
**Hoak Variance Request (#20-10-ZV)**

Item #3 Variance from Section 9.7 to reduce the rear setback from 50' to 38' along the western boundary to construct a 20' x 12' deck.

Applicant:	Paul Raco, P.J. Raco Consulting
Owner:	William Hoak
Developer:	N/A
Consultant:	Paul Raco, P.J. Raco Consulting
Location:	675 Jefferson Orchard Road, Kearneysville, WV 25430
Parcel Information and Zoning District:	<p style="text-align: center;">Parcel ID: 07001100260003; Size: 2.75 acres;          Zoning District: Rural</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:  <i>North &amp; South: Rural</i>  <i>East and West: Rural</i></p>
History:	Non-conforming Mobile Home Park (pre-dates the adoption of zoning); originally contained five mobile home sites. On January 8, 1980, the Planning Commission approved a request to eliminate two of the mobile home sites and replace with a stick-built home.
Waivers/Variations:	N/A
Approved Activity:	N/A
Site Visit Conducted:	No.

Staff Report  
Jefferson County Board of Zoning Appeals  
April 24, 2020  
**Hoak Variance Request (#20-10-ZV)**

**Summary of Request and Purpose of Ordinance Requirements**

The applicant is seeking a variance from Section 9.7 to reduce the rear setback from 50' to 38' for a 20' x 12' deck.

The purpose of side and rear 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 Evaluation of Request**

The subject parcel was created prior to the adoption of zoning. A survey of the property was completed in March 1972 and is recorded in Deed Book 342 at Page 222.

As the applicant has stated, a new mobile home will replace an existing mobile home and the applicant would like to construct a deck off the new home. While the mobile home appears to comply with the 50' rear setback, the proposed deck will encroach into the setback area by 12'. The applicant has represented that they would like to place the new mobile home in the same location as the one it is replacing to utilize the existing septic and site pad. Due to the narrow configuration of the parcel, it is not feasible to construct a deck along the rear of the home in the proposed location.

The adjoining property to the west is a 155± acre vacant, densely wooded parcel owned by U.S. Fish and Wildlife Service. It appears that a setback reduction from 50' to 38' would have no impact on the adjoining property.



Staff Report  
Jefferson County Board of Zoning Appeals  
April 24, 2020  
**Hoak Variance Request (#20-10-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 9.7 Other Exceptions<sup>3</sup>**

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:<sup>23</sup>

Rural Agricultural and Industrial Commercial

Single Family Residences

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





**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 20-10-ZV  
 Staff Initials: AB  
 Meeting Date: 04-23-2020  
 Fees Paid (\$100 or \$150): \$100.00

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: William Hoak  
 Mailing Address: 761 Jefferson Orchard Road, Kearneysville, WV 25430  
 Phone Number: c/o Paul Raco 304/676-8256 Email: \_\_\_\_\_

**Applicant Contact Information**

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

**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: 675 Jefferson Orchard Road  
 City: Kearneysville State: WV Zip Code: 25430  
 Tax District: Middleway Map No: 11 Parcel No: 26.3  
 Parcel Size: 2.75 Acres +- Deed Book: 1203 Page No: 231 234 AB

**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"/>		

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**MAR 24 2020**

**JEFFERSON COUNTY PLANNING  
 ZONING & ENGINEERING**

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

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

Reference the section of the Zoning Ordinance pertaining to this request: Appendix A

**Briefly describe the nature of the variance request:**

Replacing a Mobile Home and would like to add a deck on the mobile home. This mobile home will be placed in the similar location of the existing mobile home in an approved mobile home park. The new mobile home will have a deck with a slight encroachment. This area of the property is narrow, but is where the pad and septic is located.

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

Front Setback  Side Setback  Rear Setback  Reduction From 50 to 38

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

Federal Government Property is to the rear. The addition of a deck onto the mobile home will not impact the rights of the adjacent property owner at all. The deck will still be 38 feet away from the rear property line and there is nothing on the adjacent property within 100' of this property. The rear setback for smaller properties in this area is only 12'

**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 property was a long ago approved small mobile home park. It has Planning Commission and Health Department Approval. It is a narrow property that is approved for three mobile homes. This mobile home needs to be replaced because of the age of the mobile home. The variance is needed to accommodate the deck on the narrow portion of land

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

The mobile home could be moved to a wider section of the property, but the septic and mobile home pad is at this location. It would be costly to provide a new pad in a different part of the property that could accommodate a deck. Also, it is better in this location because of the existing septic system.

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

The Mobile Home Park is grandfathered and approved by both the Health Department and the Planning Commission. Allowing for an older mobile home to be replaced by a new one with a deck will allow the Mobile Home Park to remain in existence. Rear setbacks in this zone can be as small as 12', so a reduction to 38' will still meet the intent.

**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.

*See Attached*

Signature of Property Owner Date

Signature of Property Owner Date

**Notification Requirements (to be completed by staff)**

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

Date of Public Hearing

Advertising Date

Placard Posting Date

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

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

Reference the section of the Zoning Ordinance pertaining to this request: \_\_\_\_\_

Briefly describe the nature of the variance request:

\_\_\_\_\_  
\_\_\_\_\_

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:

\_\_\_\_\_  
\_\_\_\_\_

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?

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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.

William S. Holt      3/24/20  
Signature of Property Owner      Date

William S. Holt      3-24-20  
Signature of Property Owner      Date

Notification Requirements (to be completed by staff)

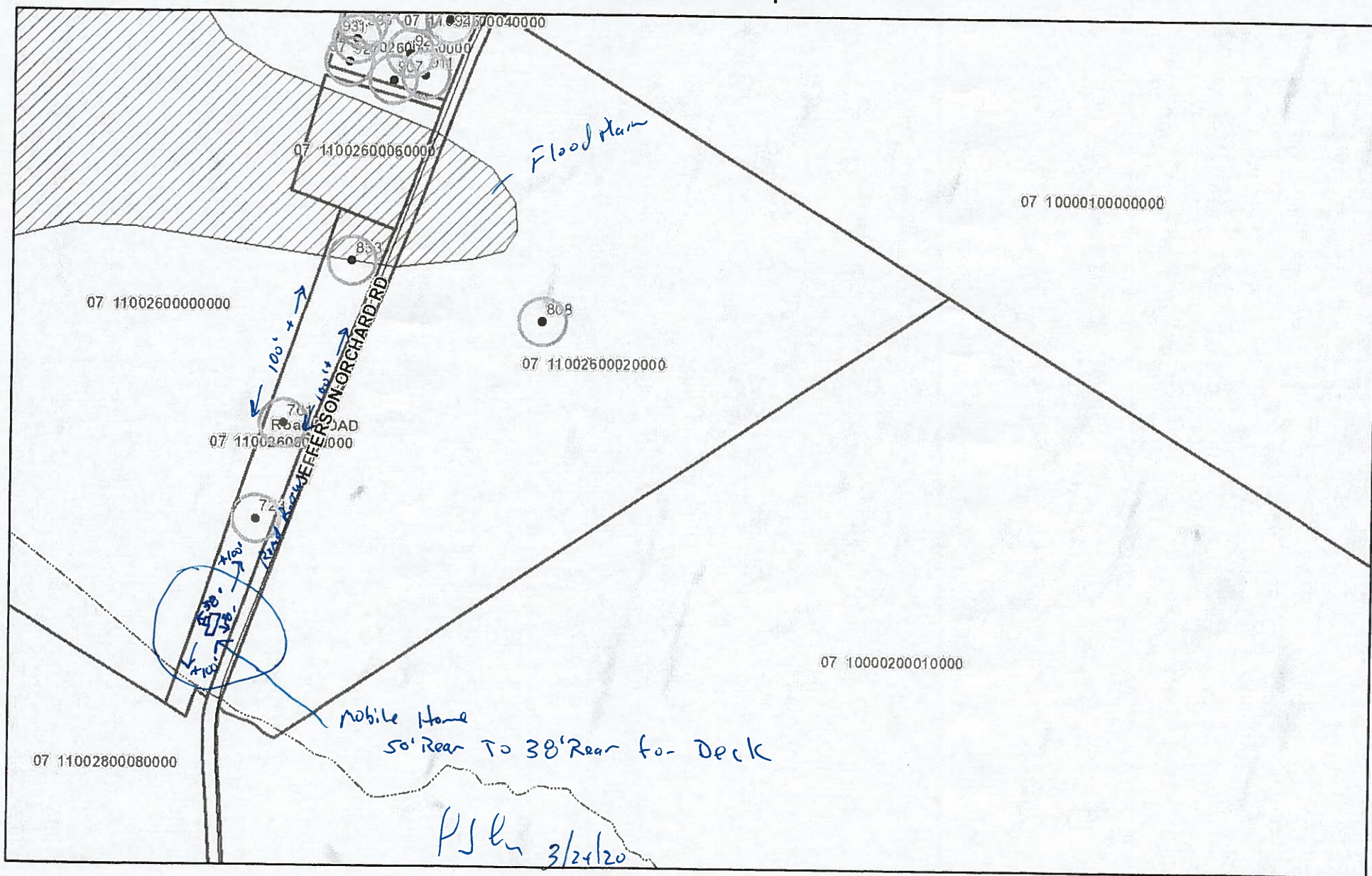
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\_\_\_\_\_  
Date of Public Hearing

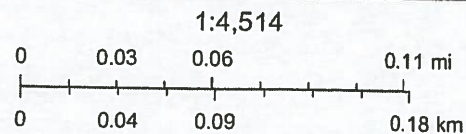
\_\_\_\_\_  
Advertising Date

\_\_\_\_\_  
Placard Posting Date

# Viewer Map



March 5, 2020



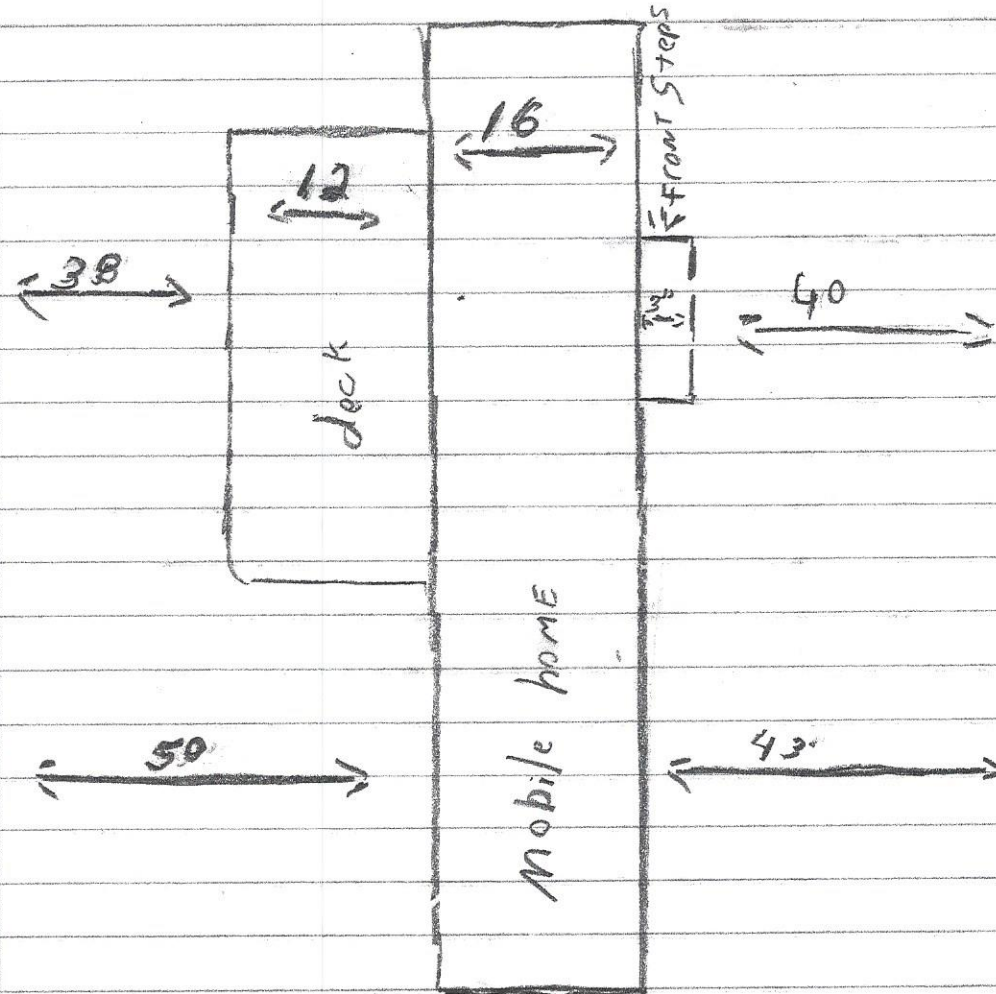
Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS,

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Jefferson County  
Engineering, Planning, and Zoning

PROPERTY LINE



REAR SETBACK LINE



FRONT SETBACK LINE

JEFFERSON ORCHARD RD

109





# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

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

P.O. Box 716

Charles Town, WV 25414

Email: [zoning@jeffersoncountyv.wv.org](mailto:zoning@jeffersoncountyv.wv.org)

Phone: (304) 728-3228

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## Zoning Administrator's Report Board of Zoning Appeals Meeting April 24, 2020

### 1) Text Amendments:

- ZTA19-03 – Solar Energy Facilities. The Planning Commission appointed committee continues to work on drafting a text amendment to create provisions to allow large scale solar energy facilities to process in the County. Once a text amendment has been submitted to the Planning Commission for their review, they will hold a Public Hearing in accordance with Article 12 of the Zoning Ordinance.
- Greenway Engineering continues to work on the reorganization of the Subdivision Regulations and Zoning Ordinance. A Public Hearing has not yet been scheduled for Phase I (reorganization).

### 2) Upcoming BZA meeting

- The next regular meeting is scheduled for **May 28, 2020** (deadline for submission is Monday, May 4, 2020).



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

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**March & April 2020**  
**Zoning Certificate Activity Report**

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File #	20-6-ZC
Request:	Equipment Modification Request on an existing telecommunications tower (S10-07).
Property Owner:	Summit Point Automotive Research Center, LLC C/O American Tower
Applicant:	Verizon / Attn: Kevin Feng
Parcel Info:	770 Hardesty Road, Summit Point, WV 25446; Parcel ID: 06001700020000; Size: 415.32 ac; Zoning District: Rural
Issuance Date:	04-03-2020
File #	20-8-ZC
Request:	Nature Center and Preserve (change in tenant) (S10-03)
Property Owner:	Potomac Valley Audubon Society, Inc.
Applicant:	Same
Parcel Info:	1469 Lloyd Road, Charles Town, WV 25414 Parcel ID: 06001300120003; Size: 62.64 ac; Zoning District: Rural; Plat Book: 26; Page: 72
Issuance Date:	03-19-2020
File #	20-9-ZC
Request:	Day Care Center, Small
Property Owner:	Joshua Bailey
Applicant:	Busy Bee Daycare, LLC / Brittany Bailey
Parcel Info:	21 Trotting Way, Charles Town, WV 25414; Lot 158, Breckenridge Subdivision Parcel ID: 02004F01580000; Size: .23 ac; Zoning District: Residential Growth; Plat Book: 19; Page: 11
Issuance Date:	04-10-2020
File #	20-10-ZC
Request:	Equipment Modification Request on an existing telecommunications tower (S97-4).
Property Owner:	Matthew Rushizky, Personal Representative
Applicant:	NBC, LLC on behalf of Shentel, Attn: Jennifer Tillet
Parcel Info:	8428 Shepherdstown Pike, Shepherdstown, WV 25443 Parcel ID: 09000900040000; Size: 205.97 ac; Zoning District: Rural
Issuance Date:	04-10-2020

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