

Minutes
Jefferson County Board of Zoning Appeals

- 1 Meeting Date: April 24, 2020 (Special Meeting)
2 Meeting Location: In compliance with the Jefferson County Health Department
3 Executive Order 20-20 Shelter in Place directive to avoid gatherings
4 of more than five individuals in an effort to slow the spread of
5 COVID-19, the Board of Zoning Appeals Meeting was held virtually
6 via ZOOM.
7 Board Members Present: Jeffrey Bannon, Chair; Tyler Quynn, Vice Chair; and, Matt
8 McKinney
9 Board Members Absent: Deirdre Catterton and Leeds Corbin (absent with notification)
10 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran,
11 Assistant Prosecuting Attorney; and, Rachael Burke, Planning Clerk

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

13 Mr. Quynn called the meeting to order at 2:00 pm. Mr. Bannon called for a vote, which carried
14 unanimously.

15 Ms. Beaulieu briefly explained how the Zoom meeting would be conducted. Mr. Bannon stated
16 Items #2 and #3 would be moved to the end of the Agenda.

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

18 Mr. Bannon requested the following edits:

19 a) Page 1, Line 41: change *their* to *his*.

20 b) Page 4, Line 1: insert the word *the* after *opposed to*; and, insert the word *they* after *however*.

21 Mr. Quynn moved to accept Mr. Bannon's edits to the minutes. Mr. Bannon called for a vote, which
22 carried unanimously.

23 Ms. Beaulieu swore in members of the public who indicated they would be providing testimony.

24 **ITEM #1 FILE #: 20-6-ZV – Postponed from March 26, 2020**

25 Request: Variance to reduce the side setback from 15' to 1' along the northern boundary to
26 replace a 24' x 24' detached garage that was destroyed by fire.

27 Owner: Terry and Margaret Walker

28 Parcel Info: 10179 Leetown Rd, Kearneysville, WV, Parcel ID: 07001400060001; Size: 17.93
29 acres; Zoning District: Rural

30 Mr. John "J.P." Aliveto with Potomac Valley Building Restoration and Mr. Terry Walker were
31 present to address the Board. Ms. Beaulieu provided an overview of her staff report noting that the
32 previous garage, which was destroyed by fire in November 2019, was considered a nonconforming
33 structure because it was constructed prior to the adoption of zoning and there were no setback
34 requirements when it was originally constructed. Mr. Aliveto explained the nature of the request
35 stating that the insurance company has agreed to only cover the cost of replacing the garage on the
36 existing foundation slab. Mr. Aliveto explained that should the Board deny the request, the
37 applicant would have to pay for the relocation of the structure, which would be cost prohibitive. Mr.
38 Aliveto stated that the adjacent property owners, Thomas and Karen Moon, have submitted a letter
39 of support.

40 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the
41 public hearing. Mr. McKinney moved to approve the variance as requested. Mr. Bannon called for a
42 vote, which carried unanimously.

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

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

6 Owner: Shepherdstown Public Library

7 Parcel Info: Lowe Dr. (to be extended), Shepherdstown, WV, Parcel ID: 09000800110000; Size:
8 4.33 acres; Zoning District: Residential Growth

9 Mr. Ryan Perks with Gordon, and Robert Keller and Linda Shea, representatives for the Library,
10 were present to address the Board. Ms. Beaulieu provided an overview of her staff report and
11 explained that there is a conflict in the Ordinance between the text pertaining to landscaping and
12 buffer requirements and Appendix B, the Non-Residential Site Development Standards Table. She
13 noted that when there is a conflict, the requirements in Appendix B apply; therefore, the applicant
14 would be required to install a vegetative buffer. Ms. Beaulieu noted that the request does not appear
15 to create an adverse impact on the adjoining properties. Mr. Perks explained the nature of the
16 request noting that the Ordinance is unclear with regard to buffer and distance requirements for
17 Institutional Uses; therefore, the applicant is requesting to utilize an unscreened buffer as opposed
18 to the buffer required in Standard Detail M-53.

19 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the
20 public hearing. Mr. McKinney moved to approve the variance as requested, Mr. Bannon called for a
21 vote, which carried unanimously.

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

23 Request: Variance from Section 4.6B to reduce the distance requirement from 75' to 50' along
24 the western boundary (rear) and from 75' to 20' along the northern boundary (right
25 side); and from Appendix B to reduce the commercial building setback from 25' to
26 20' along the northern boundary (right side); and to reduce the parking setback from
27 4' to 0' along the western (rear) and northern (right side) boundaries to allow for the
28 operation of Potomac Crossroads Counseling per File #20-1-CUP.

29 Applicant: Kathy Morotti, Potomac Crossroads Counseling, LLC

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

31 Parcel Info: 4781 Kearneysville Pike, Shepherdstown, WV, Parcel ID: 09000800230007; Size:
32 .71 acres; Zoning District: Residential Growth

33 Mr. Paul Raco, P.J. Raco Consulting, LLC, was present to address the Board. Ms. Beaulieu
34 provided an overview of her staff report noting that the Board approved a Conditional Use Permit
35 for the subject location during their February meeting. Ms. Beaulieu explained that because the
36 property is in the Residential Growth zoning district, the applicant is required to seek separate
37 approval from the Board for any deviations pertaining to site development. Ms. Beaulieu noted that
38 the request does not appear to create an adverse impact on the adjoining properties as the subject
39 structure has existed since the 1960s. Ms. Beaulieu added that the property owner has
40 acknowledged that previous nonresidential uses have operated from this site without any known
41 negative impact. Mr. Raco explained the nature of the request and reiterated that the subject parcel
42 had previously operated as a nonresidential land use. Mr. Raco stated that the existing structure and
43 parking area should not create a negative impact on the adjacent neighbors.

1 Mr. Bannon opened the public hearing. Mr. Ken Lowe, property owner, spoke in favor of the
2 request. Mr. Bannon closed the public hearing. Mr. Quynn moved to approve the variance as
3 requested, Mr. Bannon called for a vote, which carried unanimously.

4 **ITEM #6 FILE #: 20-10-ZV**

5 Request: Variance from Section 9.7 to reduce the rear setback from 50' to 38' along the
6 western boundary to construct a 20' x 12' deck.
7 Applicant: Paul Raco, P.J. Raco Consulting, LLC
8 Owner: William Hoak
9 Parcel Info: 675 Jefferson Orchard Road, Kearneysville, WV 25430, Parcel ID:
10 07001100260003; Size: 2.75 acres; Zoning District: Rural

11 Mr. Paul Raco, P.J. Raco Consulting, LLC, was present to address the Board. Ms. Beaulieu
12 provided an overview of her staff report explaining that the applicant is proposing to replace an
13 existing mobile home and would like to attach a new deck on the new mobile home. Ms. Beaulieu
14 noted that the new mobile home would meet the required setbacks; however, the new deck would
15 not. Ms. Beaulieu added that the 155-acre parcel to the rear is vacant and owned by the U.S. Fish
16 and Wildlife Service; therefore, the request did not appear to have a negative impact. Mr. Raco
17 explained the nature of the request stating that the subject parcel was a nonconforming mobile home
18 park that currently consists of three (3) mobile homes. Mr. Raco noted that the parcel is particularly
19 narrow which reduces the buildable area. Mr. Raco added that the required setback for parcels less
20 than two acres is [12']; therefore, he believed the request to reduce the required 50' setback down to
21 38' would still uphold the intent of the Ordinance.

22 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the
23 public hearing. Mr. Quynn moved to approve the variance as requested, Mr. Bannon called for a
24 vote, which carried unanimously.

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

26 Request: Request by Church Without Walls Ministries of Jefferson County for a Conditional
27 Use Permit to operate a Nonprofit Commercial Use. The subject application is a
28 proposal to operate an outreach ministry to serve the community by offering free
29 clothing, food, financial assistance, etc. The ministry would also focus on outreach
30 projects to benefit youth and senior citizens. Proposed hours of operation would be
31 Tuesdays and Thursdays, 9:00 a.m. – 1:00 p.m.; and Saturdays, 10:00 a.m. – 2:00
32 p.m. There will be a minimum of two volunteers per shift. A 5' (wide) x 2.5' (high)
33 freestanding sign face is proposed to be located west of the existing structure (if
34 facing the structure, the sign would be to the right). Parking requirements will be met
35 on-site.
36 Applicant: Church Without Walls Ministries of Jefferson County
37 Owner: Charles A II & Virgie A Moore
38 Parcel Info: 194 Huyett Rd, Charles Town, WV, Parcel ID: 06001300040000; Size: .50 acres;
39 Zoning District: Rural

40 Ms. Virgie Moore, property owner, was present to address the Board. Ms. Beaulieu reviewed her
41 staff report which highlighted each of the required criteria for a conditional use permit application.
42 Ms. Beaulieu noted that the onsite parking did not appear suitable for a nonresidential land use as it
43 would require customers to back out onto the state road. Ms. Beaulieu acknowledged that while the
44 trip generation for the subject use was not extensive that staff would recommend the parking area to
45 be located further into the property. Ms. Moore explained the nature of the request stating that she

1 and her siblings had grown up in the subject house and use of the subject structure would help save
2 in overhead expenses. She stated that an alternative site would be cost prohibitive for their nonprofit
3 organization. Ms. Moore confirmed that the ministry would operate by appointment only. Ms.
4 Moore noted that the West Virginia Division of Highways stated the ministry could not utilize the
5 existing parking area. She stated that she was currently working on a plan to relocate the parking
6 area. Ms. Moore added that her adjacent property [to the west] could be used for overflow parking if
7 necessary. Ms. Moore stated that because they would not be cooking food that West Virginia Health
8 Department approval was not required. Ms. Moore also stated she would provide a letter from the
9 West Virginia Fire Marshal, which stated there would not be any improvements required by their
10 Office for the proposed use.

11 Mr. Bannon opened the public hearing. The following homeowners in the adjacent Apple Blossom
12 Meadows Subdivision spoke in opposition to the request: Ms. Sandi Poole, President of the Apple
13 Blossom Meadows Homeowners Association; Ms. Sandra Thomas (Lot #12); Mr. Donald and Ms.
14 Lisa Webb (Lot #10); and Mr. Sasha and Ms. Jennifer Lupinacci (Lot #11). The homeowners
15 expressed their concerns regarding traffic and neighborhood safety, impact on the residential
16 character of the area, the potential for additional commercial uses, the slope of the subject parcel in
17 relation to Apple Blossom Meadows, and the potential for negative environmental impacts. Ms.
18 Beaulieu noted that Ms. Cindy Bennett, homeowner in the Claymont Chase Subdivision, submitted
19 a letter of opposition. Mr. Bannon closed the public hearing.

20 Ms. Moore provided a rebuttal explaining that the subject parcel existed prior to the development of
21 the neighboring subdivisions. Ms. Moore stated that while she offers similar services to other
22 agencies in the area, she felt that the proposed land use would benefit more members of the
23 community. Ms. Moore also reiterated that the required parking would be minimal.

24 Mr. Bannon explained that the Board would most likely need a deliberative session to evaluate the
25 request and suggested that the Board hear the related variance, Item #3, and then go into
26 deliberative session. Mr. Quynn agreed with Mr. Bannon's assessment.

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

28 Request: Variance from Section 4.6B and Appendix B to reduce the distance requirement
29 from 75' to 0' on all sides; to reduce the setbacks from 25' to 0' on the eastern
30 property line and 25' to 20' on the northern property line (front); and, to reduce the
31 parking and drive aisle setback from 4' to 0' along the western property line for
32 Church Without Walls Ministries of Jefferson County to operate in an existing
33 residential structure (File #20-2-CUP). No new structures or additions are proposed.
34 Applicant: Church Without Walls Ministries of Jefferson County
35 Owner: Charles A II & Virgie A Moore
36 Parcel Info: 194 Huyett Rd, Charles Town, WV, Parcel ID: 06001300040000; Size: .50 acres;
37 Zoning District: Rural

38 Ms. Virgie Moore was present to address the Board. Ms. Beaulieu provided an overview of her staff
39 report noting that all aspects of the proposed use would occur within the existing structure. Ms.
40 Beaulieu clarified that since filing for the variance application staff discovered a survey that
41 provided the exact dimensions for the location of the existing home and as such the need for a zero-
42 foot reduction in building setbacks and distance requirements was no longer accurate. Ms. Beaulieu
43 stated that the actual distances would be eight (8) feet along the eastern boundary. Ms. Beaulieu
44 also explained that the survey reflected the front of the house as being 30' from the front property
45 line and therefore, the request to reduce the front setback was no longer required. Ms. Beaulieu

1 stated that the proposed signage would be the only change to the exterior of the property. Ms.
2 Beaulieu highlighted the fact that as the hours of operation were limited to the daytime, glare from
3 headlights should not be an issue for adjacent property owners. Ms. Beaulieu suggested that should
4 the Board grant the request, a possible condition of approval could be that appointment times are
5 required for all clients. Ms. Moore stated she would be willing to comply with whatever the Board
6 requires.

7 Mr. Bannon opened the public hearing. The following homeowners in the adjacent Apple Blossom
8 Meadows Subdivision spoke in opposition to the request: Mr. Donald and Ms. Lisa Webb (Lot
9 #10); Ms. Sandra Thomas (Lot #12); Mr. Sasha and Ms. Jennifer Lupinacci (Lot #11); and Ms.
10 Sandi Poole, President of the Apple Blossom Meadows Homeowners Association, spoke in
11 opposition to the request. The homeowners expressed their concerns regarding the close proximity
12 of the land use to their parcels and inquired about the necessity of the variance. Ms. Beaulieu and
13 the Board members explained the purpose of the variance application process.

14 Ms. Moore provided a rebuttal and reiterated that she would abide by whatever conditions the
15 Board may require.

16 Mr. Quynn moved to go into deliberative session at 3:57 pm. Mr. Bannon called for a vote, which
17 carried unanimously. Ms. Beaulieu requested that all participants remain on the video conference
18 and await the Board's return.

19 Mr. Quynn moved to come out of deliberative session at 4:21 pm. Mr. Bannon called for a vote,
20 which carried unanimously.

21 Mr. McKinney moved to approve Item #2 for a Conditional Use Permit for Church Without Walls
22 of Jefferson County. Mr. McKinney stated that the approval was conditioned upon the following:

- 23 a) The ministry being operated by appointment only.
- 24 b) Approval from the WV Division of Highways for an entrance permit.
- 25 c) Approval of the parking area by the County Engineer.
- 26 d) That the land use meet any other requirements of the Ordinances; and
- 27 e) The applicant is bound by her testimony.

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

29 Mr. McKinney moved to approve Item #3 as requested. Mr. McKinney stated that the approval was
30 conditioned upon the following:

- 31 a) That the land use meet any other requirements of the County's Ordinances; and
- 32 b) The applicant is bound by her testimony.

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

34 The Board and Staff addressed the neighboring property owner's questions regarding filing an
35 appeal.

36 **Zoning Administrator's Report**

- 37 a) Monthly Zoning Certificate Activity Report. The Report was included in the mailed packet.
- 38 Ms. Beaulieu provided a status update on the proposed reorganization of the Zoning Ordinance and
39 the Subdivision Regulations that is being drafted by Greenway Engineering.

1 Ms. Beaulieu informed the Board that their next meeting would be May 28, 2020. She also noted
2 that Staff was uncertain as to when County Offices may reopen to the public. Ms. Beaulieu stated
3 that the County Commission would meet on April 30, 2020 to discuss their policy regarding
4 COVID-19 directives and the public could follow updates on the County's website.

5 **Legal Update**

- 6 a) Possible executive session on the following pending lawsuits.
7 b) Discussion with possible deliberative session and signing of draft Findings/Decisions.

8 **Meeting: February 27, 2020**

- 9 1. Variance from Section 9.7. Owner: Newman Sisk, Jr.. File: 20-1-ZV. 2.
10 2. Variance from Appendix A. Owner: Michael and Peggy Julian. File: 20-2-ZV. 3.
11 3. Variance from Section 9.7. Owner: Robert Graham. File: 20-3-ZV. 4.
12 4. Variance from Section 5.7D.2.b.i(b). Owner: Lutman Land Development, LLC. File: 20-
13 4-ZV
14 5. Request by Potomac Crossroads Counseling for a Conditional Use Permit to operate a
15 Medical/ Dental/Optical Office and/or Professional Office. Owner: Kenneth F. Lowe Jr.,
16 Rev Trust. Applicant: Kathy Morotti, Potomac Crossroads Counseling. File: 20-1-CUP.

17 Mr. Bannon stated that he had the signed the Findings and would deliver them to the Office.

18 Mr. McKinney moved to adjourn the meeting at 4:32 pm. Mr. Bannon called for a vote, which
19 carried unanimously.