

Minutes
Jefferson County Board of Zoning Appeals

1 Meeting Date: July 23, 2020
2 Meeting Location: By order of the Chair, the Board of Zoning Appeals meeting was held
3 virtually via ZOOM.
4 Board Members Present: Jeffrey Bannon, Chair; Tyler Quynn, Vice Chair; Deirdre Catterton,
5 Leeds Corbin and Matt McKinney
6 Board Members Absent: None
7 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran,
8 Assistant Prosecuting Attorney; and, Jennilee Hartman, Zoning Clerk
9 All requests were pursuant to the Jefferson County Zoning and Land Development Ordinance.

10 Mr. Corbin called the meeting to order at 2:00 pm. Mr. Bannon called for a vote, which carried
11 unanimously.

12 **Approval of Minutes: June 25, 2020**

13 Mr. Quynn moved to approve the June 25, 2020 meeting minutes as presented. Mr. Bannon called
14 for a vote, which carried unanimously.

15 **Public Oath**

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

17 **ITEM #1 FILE #: 20-23-ZV**

18 Request: Variance request from Section 4.3H to increase the number of approved fuel pump
19 islands from two to four for a proposed Citgo gas station (previously Sheetz).
20 Owner: I & K Farms, LLC
21 Applicant: Clarence Haymaker
22 Parcel Info: 5437 Charles Town Rd., Kearneysville, WV; Parcel ID: 07003B00450000;
23 Size: .70+ ac; Zoning District: Village

24 Mr. Mohammad Ghuman, property owner; Mr. Clarence Haymaker, real estate agent; Mr. Ryan
25 Perks, an engineer with Gordon; Mr. C.R. Newlin, contractor; and, Allen Campbell with Citgo were
26 all available to represent the request. Ms. Beaulieu provided an overview of her staff report
27 explaining that the Board had previously approved a request to reestablish the nonconforming gas
28 station utilizing two (2) fuel island pumps. Ms. Beaulieu further explained that a variance from
29 Section 4.3H was required as the increase in fuel pumps from two to four would expand the
30 nonconforming use by more than 35%. Ms. Beaulieu noted that the previous gas station had
31 originally consisted of three (3) fuel islands. Mr. Haymaker explained the nature of the request
32 stating that the purpose of the additional pumps was to provide a variety of alternative fuels to the
33 customer. Mr. Haymaker noted that there was a lack of ethanol free gasoline in the area and that the
34 owner would be offering this product. Mr. Perks and Mr. Newlin answered the Board's questions
35 regarding the accessibility and layout of the pumps. Mr. Bannon opened the public hearing. There
36 was no public comment. Mr. Bannon closed the public hearing.

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

1 **ITEM #2** **FILE #: 20-4-CUP**

2 Request: Request for a Conditional Use Permit to establish a homebased federal firearms
3 business (Green Monstah Firearms, LLC) to include limited gunsmithing from an
4 existing dwelling unit (proposed land use as listed in Appendix C: Custom
5 Manufacturing). The business is primarily internet based. Business hours are by
6 appointment only, with limited customer visits (approximately four per month). No
7 employees other than the residents of the property. No signs are proposed. No new
8 structures or additions to existing structures are proposed.

9 Owner: Richalie Demaine

10 Parcel Info: The Estate of Frances Lloyd Minor Subdivision, Lot 2; 79 Rehoboth Lane,
11 Summit Point, WV, Parcel ID: 06001200020021; Size: 3 ac.; Zoning District: Rural

12 Ms. Richalie Demaine, property owner, was present to address the Board. Ms. Beaulieu provided an
13 overview of her staff report and reviewed the conditional use permit criteria. Mr. Quynn inquired
14 about Staff's opinion of private covenants and restrictions. Ms. Beaulieu explained that the
15 Department does not enforce private covenants and restrictions. Ms. Demaine provided a detailed
16 overview of her proposed business. Ms. Demaine reviewed the Alcohol, Tobacco, and Firearms
17 (ATF) licensing criteria for the Board. Ms. Demaine addressed questions from the Board.

18 Mr. Bannon opened the public hearing. Neighboring property owners, Cara McCormick, Esther Sue
19 and Richard Lloyd, and Kelley and James Fitzwater, and real estate broker Jeanne Morton, spoke in
20 opposition to the request, noting several concerns including: the negative impact that a firearms
21 business could have on property values; the potential threat to public safety; the increased traffic
22 and delivery on private roads; and the conflict with existing private covenants and restrictions
23 imposed on the subject parcel.

24 Ms. Pilar Goicoechea, the applicant's real estate agent, spoke in favor of the request and argued that
25 in her opinion, the property values should not be negatively impacted.

26 Mr. Bannon closed the public hearing.

27 Ms. Demaine provided a rebuttal and addressed each of the concerns raised by the surrounding
28 neighbors. Ms. Demaine also proffered to remove her address from her website and Google
29 (business) listings.

30 Mr. Quynn moved to go into deliberative session at 3:00 pm. Mr. Bannon called for a vote, which
31 carried unanimously.

32 Mr. Quynn moved to go back into regular session at 3:23 pm. Mr. Bannon called for a vote, which
33 carried unanimously.

34 Mr. McKinney moved to approve the conditional use permit as requested with the condition that the
35 applicant be bound by her testimony. Mr. Bannon called for a vote, which carried unanimously.

1 **ITEM #3** **FILE #: 20-24-ZV**

2 Request: Variance from Section 4.6B to reduce the 75' distance requirement to 50' along the
3 rear property line for the purpose of operating a homebased federal firearms business
4 from an existing dwelling unit (no new structures or additions are proposed). See
5 Conditional Use Permit File #20-4-CUP.

6 Owner: Richalie Demaine

7 Parcel Info: The Estate of Frances Lloyd Minor Subdivision, Lot 2; 79 Rehoboth Lane, Summit
8 Point, WV; Parcel ID: 06001200020021; Size: 3 ac.; Zoning District: Rural

9 Ms. Richalie Demaine, property owner, was present to address the Board. Ms. Beaulieu provided a
10 brief overview of her staff report. Ms. Beaulieu noted that the land use would not necessitate a site
11 plan, which would have required a landscaped buffer; however, the Board may place a condition of
12 approval to require a fence or vegetative buffer. Ms. Demaine explained the nature of her request
13 and noted that the proposed business would be primarily located within the existing garage, which
14 was actually 80+ feet from the subject property line. Ms. Beaulieu acknowledged this fact and
15 explained that the distance requirement was from the entire structure and not only the portion
16 utilized by the business. Ms. Deamine stated that while the cars may be visible to adjacent property
17 owners that the customers would enter her home from the garage, which is angled away from the
18 neighboring properties.

19 Mr. Bannon opened the public hearing. Jeanne Morton, real estate broker, and neighboring property
20 owner Esther Sue Lloyd, spoke in opposition to the request. Mr. Bannon closed the public hearing.
21 Ms. Demaine stated that she intended to plant some shrubs along the property line to help provide a
22 buffer.

23 Mr. Quynn moved to approve the variance as requested with the condition that the applicant be
24 bound by her testimony. Mr. Bannon called for a vote, which carried unanimously.

25 **Zoning Administrator's Report**

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

27 Ms. Beaulieu updated the Board on the status of the following amendments:

28 a) Solar Energy Facilities: Ms. Beaulieu stated the County Commission would be holding a
29 public workshop to receive public comment on the proposed text amendment

30 b) Reorganization of the Zoning Ordinance and the Subdivision Regulations by Greenway
31 Engineering: Ms. Beaulieu stated that staff was continuing to work on the proposed
32 reorganization.

33 c) Commercial Cemeteries: Ms. Beaulieu explained that the Planning Commission had
34 accepted the proposed amendment into their work plan and would be scheduling a public
35 workshop to receive input on proposed amendment.

36 Ms. Beaulieu stated that the next Board meeting would be on August 27, 2020.

1 **Legal Update**

2 a) Possible executive session on the following pending lawsuits.

3 b) Discussion with possible deliberative session and signing of draft Findings/Decisions

4 **Meeting: June 25, 2020**

5 1. Variance from Section 5.4(b). Owner: Todd Landis. File: 20-21-ZV.

6 2. Variance from Section 5.4(b). Owner: Scott and Kelly Meisenzahl. File: 20-22-ZV.

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

8 Mr. Quynn moved to adjourn the meeting at 3:37 pm. Mr. Bannon called for a vote, which carried

9 unanimously.