



**Jefferson County  
Board of Zoning Appeals  
Thursday, September 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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**By order of the Jefferson County Board of Zoning Appeals, Jeffrey Bannon, Chair, this 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://us02web.zoom.us/j/81547045229>**

**Meeting ID: 815 4704 5229**

**Dial by your location:**

**+1 301 715 8592 US**

**Meeting ID: 815 4704 5229**

**Find your local number: <https://us02web.zoom.us/u/kb65f6MrBt>**

**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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**All requests are pursuant to the Zoning & Land Development Ordinance.**

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

**Public Hearing – Administer Oath**

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**ITEM #1 FILE #: 20-28-ZV**

**Request:** Variance from Section 5.4B of the Zoning Ordinance (amended 05/01/03) to reduce the side setback from 12' to 8' and the rear setback from 20' to 8' for a 12' x 16' (192 sf) accessory structure (shed).

**Owner:** Lance and Michelle Paul

**Parcel Info:** Demory Farms Subdivision, Lot 37; 70 Killian Lane, Charles Town, WV;  
Parcel ID: 02009B00370000; Size: .23 ac; Zoning District: Residential Growth

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**ITEM #2 FILE #: 20-29-ZV**

**Request:** Variance from Section 5.4B of the Zoning Ordinance (amended 01/10/02) to reduce the side setback from 12' to 7' and the rear setback from 20' to 11' for a 12' x 20' (240 sf) accessory structure.

**Owner:** Kimberly Purvis

**Parcel Info:** Spruce Hill Subdivision, Lot 14; 30 Balsam Ct., Charles Town, WV;  
Parcel ID: 06003C00140000; Size: 1.23 ac;  
Zoning District: Residential-Light Industrial-Commercial

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**ITEM #3 FILE #: 20-30-ZV**

Request: Variance from Section 5.4B of the Zoning Ordinance (amended 05/01/03) to reduce the rear setback from 20' to 11' for a 16' wide deck.  
Owner: Sharon Neubauer  
Applicant: Matthew Lidoco, LRS, LLC  
Parcel Info: Colonial Hills Subdivision, Lot 14; 59 Swearingen Way, Shepherdstown, WV;  
Parcel ID: 09008E00140000; Size: .09 ac; Zoning District: Residential Growth

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**ITEM #4 FILE #: 20-7-CUP**

Request: Request for a Conditional Use Permit to operate an Automotive Repair, Sales and Service shop, as defined in Article 2. The proposal includes construction of a 4,000 sf building with associated parking and a freestanding business sign.  
Owner: Bret de Pedro  
Parcel Info: Vacant parcel on Summit Point Road across from with Hardesty Road, Summit Point, WV;  
Parcel ID: 06001600030000; Size: 14.69 ac; Zoning District: Rural

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**ITEM #5 FILE #: 20-31-ZV**

Request: Variance from Section 5.7D.2.b.i(b) to allow the required 50% green space to be allocated on each of the individual lots within the cluster subdivision (maximum of five lots proposed).  
Owner: Lutman Land Development, LLC  
Parcel Info: 2751 Engle Molers Rd Harpers Ferry, WV;  
Parcel ID: 09001800170000; Size: 24.91 ac; 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:**  
**August 27, 2020**

1. Variance from Section 9.7. Owner: Joseph R Lee. File: 20-25-ZV.
2. Variance from Section 9.7. Owner: Cage, LLC. File: 20-26-ZV.
3. Request for a CUP for Valley Used Cars. Owner: I&K Farms, LLC. File: 20-5-CUP.
4. Request for a CUP for a Restaurant. Owner: Andrew & Nariman Main. File: 20-6-CUP.
5. Variance from Section 4.16. Owner: Asbury United Methodist Church. File: 20-27-ZV.

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

1 Meeting Date: August 27, 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; Leeds Corbin and  
5 Matt McKinney  
6 Board Members Absent: Deirdre Catterton with notification  
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: July 23, 2020**

13 Mr. Corbin moved to approve the July 23, 2020 meeting minutes as presented. Mr. Bannon called  
14 for a vote, which carried unanimously.

15 **Public Oath**

16 Due to technical issues with ZOOM, Ms. Hartman swore in members of the public who indicated  
17 they would be providing testimony at the beginning of each item.

18 **ITEM #1 FILE #: 20-25-ZV**

19 Request: Variance from Section 9.7 to reduce the front setback from 40' to 20' to construct a  
20 single-family dwelling unit.

21 The applicant was not present at the onset of the meeting; however, was available to address the  
22 Board after Item #4.

23 **ITEM #2 FILE #: 20-26-ZV**

24 Request: Variance from Section 9.7 to reduce the side setback for proposed Lot 11A from 8'  
25 to 5.4'; and, to reduce the front setback for proposed Lot 12A from 20' to 2' to allow  
26 for a proposed boundary line adjustment.

27 The applicant was not present at the onset of the meeting; however, was available to address the  
28 Board after Item #5.

29 **ITEM #3 FILE #: 20-5-CUP**

30 Request: Request by Valley Used Cars for a Conditional Use Permit to operate an Automobile  
31 Repair, Sales, and Service business, to include the repair and sale of used cars. No  
32 new buildings or additions are proposed at this time. Site improvements include  
33 expansion of gravel area and replacement of existing sign in the same location.

34 Owner: I & K Farms, LLC

35 Applicant: Clarence Haymaker

36 Parcel Info: 5409 Charles Town Road, Kearneysville, WV; Parcel ID: 07000300010001;

37 Size: 5.35 acres; Zoning District: Village

38 Mr. Clarence Haymaker, real estate agent for the property owner, was present to address the Board.  
39 Ms. Beaulieu provided an overview of her staff report explaining the history of the property and  
40 reviewed the conditional use permit criteria. Ms. Beaulieu reviewed various conditions of approval  
41 should the Board grant the request. Mr. Haymaker concurred with Ms. Beaulieu's representation of  
42 the request.

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

3 Mr. Corbin moved to approve the conditional use permit as requested with the following conditions:

- 4 1. A 20' wide buffer screen be retained along the perimeter of the subject two acres.
- 5 2. A 15' wide front setback applies to any customer/employee parking and inventory.
- 6 3. The applicant is bound by his testimony.

7 Mr. Quynn seconded the motion and amended the motion to include that the applicant is  
8 required to come back before the Board to evaluate the signage.

9 Mr. Corbin seconded the amendment.

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

11 **ITEM #4 FILE #: 20-6-CUP**

12 Request: Request by Andrew and Nariman Main for a Conditional Use Permit to operate a  
13 catering business, to include the distribution of baked goods to off-site vendors, as  
14 well as the preparation and on-site sale of grab-and-go items (such as sandwiches,  
15 salads, and baked goods). Seating is not proposed. The applicant is proposing to  
16 construct a 40' x 80' accessory structure, a portion of which is to be utilized for the  
17 proposed business. The proposed use includes a customer parking area and a modest  
18 sign. Land use classification in Appendix C: Restaurant.

19 Owner: Andrew & Nariman Main

20 Parcel Info: Grove Minor Subdivision, Lot 3; Vacant parcel located directly behind 2945  
21 Lewisville Road, Summit Point, WV; Parcel ID: 06001900180006; Size: .71 acre  
22 Zoning District: Rural

23 Mr. Andrew and Ms. Nariman Main, property owners, were present to address the Board. Ms.  
24 Beaulieu provided an overview of her staff report and reviewed the conditional use permit criteria.  
25 Mr. and Ms. Main provided a detailed overview of their request.

26 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the  
27 public hearing.

28 Mr. McKinney moved to approve the conditional use permit as requested with the condition that the  
29 applicants are bound by their testimony. Mr. Bannon called for a vote, which carried unanimously.

30 Noting that the applicant for Item # 1 was available, Mr. Bannon called on the applicant to address  
31 the request.

32 **ITEM #1 FILE #: 20-25-ZV**

33 Request: Variance from Section 9.7 to reduce the front setback from 40' to 20' to construct a  
34 single-family dwelling unit.

35 Owner: Joseph R Lee

36 Parcel Info: 206 Meadow Bluff Ln, Kearneysville, WV; Parcel ID: 07000600010021; Size: 8.88  
37 ac.; Zoning District: Rural

38 Mr. Joseph Lee, property owner, was present to address the Board. Ms. Beaulieu provided an  
39 overview of her staff report noting that the intent of the request was to ensure sufficient distance and  
40 elevation from the existing floodplain. Mr. Lee explained the nature of the request to the Board and  
41 reiterated Ms. Beaulieu's summary of the request.

1 Mr. Bannon opened the public hearing. Ms. Maryanne Caruso spoke in opposition to the request.

2 Ms. Caruso argued that the reduction in the front setback would place the proposed home too close  
3 to her existing home on the other side of Meadow Bluff Lane.

4 Mr. Lee stated that he had to leave the meeting; however, his wife was now in attendance to  
5 represent the request. In closing, Mr. Lee stated that by locating the home an additional 10' from the  
6 floodplain that it would increase the home's overall elevation and reduce the chance of flooding.

7 Ms. Amanda Lee, property owner, addressed the Board's questions. Ms. Beaulieu assisted in  
8 answering questions regarding the site's elevation utilizing the County's mapping software and  
9 clarified that Meadow Bluff Lane is 30' wide.

10 Mr. Young, the former property owner of Ms. Caruso's property, spoke in opposition to the request.

11 Mr. McKinney moved to approve the variance with the condition that the applicants were bound by  
12 their testimony. Mr. Bannon called for a vote, which carried three (3) in support and one (1)  
13 opposed (Mr. Corbin).

14 **ITEM #5 FILE #: 20-27-ZV**

15 Request: Variance from Section 4.16 of the Zoning Ordinance, as amended 03/10/11 to  
16 reduce the side landscape buffer and the side setback from 50' to 25' for a 1,200 sf  
17 storage building.

18 Owner: Asbury United Methodist Church

19 Applicant: Arturo Gales, Head Trustee

20 Parcel Info: 4257 Kearneysville Pike, Shepherdstown, WV. Parcel ID: 09000800070002;  
21 Size: 4.98 ac.; Zoning District: Residential Growth

22 Mr. Arturo Gales, Mr. Vernon Hunter, Mr. Carl Fask, representatives for Asbury Church, and Mr.  
23 Corey Jackson, contractor with Minghini's General Contractor, were present to address the Board.

24 Ms. Beaulieu provided an overview of her staff report. Ms. Beaulieu explained that the current  
25 Ordinance would allow the structure to be located 25' from the property line; however, the  
26 previously approved site plan (S11-05) delineated a 50' unscreened buffer. Ms. Beaulieu clarified  
27 that the request was to allow the proposed structure to be located within the platted 50' unscreened  
28 buffer. Mr. Gales and Mr. Jackson explained the nature of request and argued that the proposed  
29 location was optimal for the type of storage intended for the structure.

30 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the  
31 public hearing.

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

34 Noting that the applicant for Item #2 was available, Mr. Bannon called on the applicant to address  
35 the request.

36 **ITEM #2 FILE #: 20-26-ZV**

37 Request: Variance from Section 9.7 to reduce the side setback for proposed Lot 11A from 8'  
38 to 5.4'; and, to reduce the front setback for proposed Lot 12A from 20' to 2' to allow  
39 for a proposed boundary line adjustment.

40 Owner: Cage, LLC

41 Parcel Info: 171 Euclid Avenue, Charles Town, WV; Parcel ID: 02010A00920000; Size: 15,000  
42 square feet; Zoning District: Residential Growth

1 Mr. Geremey Engle, property owner, was present to address the Board. Ms. Beaulieu provided an  
2 overview of her staff report. Ms. Beaulieu explained that the existing garage had been converted  
3 into a dwelling unit without obtaining a building permit by the previous property owner. Ms.  
4 Beaulieu stated that the purpose of the boundary line adjustment was to reconfigure the lot lines to  
5 allow the existing house and converted garage apartment to be located on individual lots. Mr. Engle  
6 explained the nature of the request and reiterated that the subject parcel currently consists of two  
7 legal lots and that there would still be two legal lots after the boundary line adjustment.

8 Mr. Bannon opened the public hearing. Ms. Sandra Sokol stated she was in support of the request  
9 after gaining a better understanding of the request from the presentation. Mr. Bannon closed the  
10 public hearing.

11 Mr. Quynn moved to go into deliberative session at 4:00 pm. Mr. Bannon called for a vote, which  
12 carried unanimously.

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

15 Mr. McKinney moved to approve the variance with the condition that the applicant is bound by his  
16 testimony. Mr. Bannon called for a vote, which carried unanimously.

#### 17 **Zoning Administrator's Report**

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

19 Ms. Beaulieu updated the Board on the status of the following amendments: Solar Energy Facilities  
20 (ZTA19-03), the Reorganization of the Zoning Ordinance and the Subdivision Regulations by  
21 Greenway Engineering, and Commercial Cemeteries (ZTA20-01).

22 Ms. Beaulieu stated that the next Board meeting would be on September 24, 2020.

#### 23 **Legal Update**

24 a) Possible executive session on the following pending lawsuits. None.

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

#### 26 **Meeting: July 23, 2020**

27 1. Variance from Section 4.3H. Owner: I&K Farms, LLC. File: 20-23-ZV.

28 2. Request by Richalie Demaine for a CUP to operate a Homebased Federal Firearms  
29 Business [custom manufacturing]. Owner: Richalie Demaine. File: 20-4-CUP.

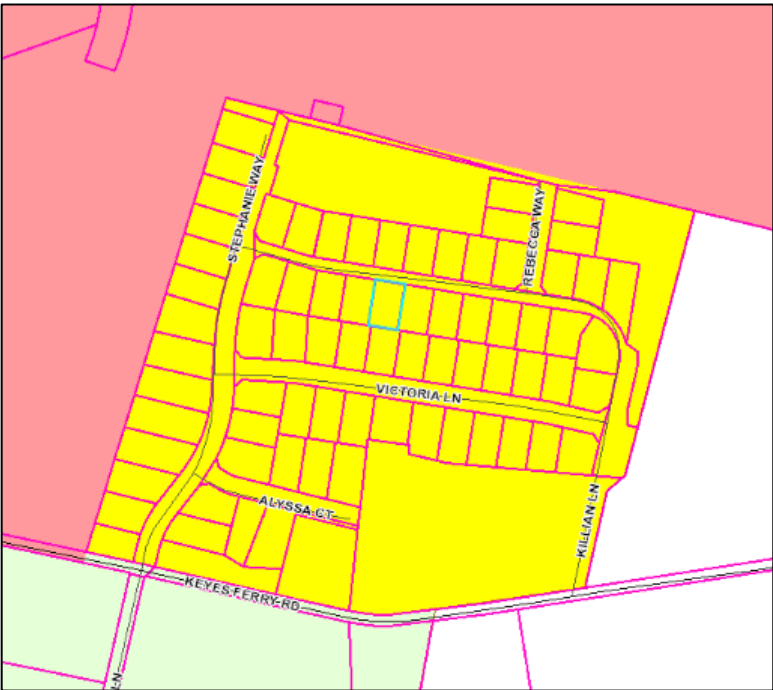
30 3. Variance from Section 4.6B. Owner: Richalie Demaine. File: 20-24-ZV.

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

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

Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 24, 2020  
**Paul Variance Request (#20-28-ZV)**

Item #1 Variance from Section 5.4b of the Zoning Ordinance (amended 05/01/03) to reduce the side setback from 12' to 8' and the rear setback from 20' to 8' for a 12' x 16' accessory structure.

Applicant:	Lance A & Michelle L Paul
Owner:	Same
Developer:	N/A
Consultant:	N/A
Location:	Demory Farm Subdivision, Lot 37, 70 Killian Lane, Charles Town, WV
Parcel Information and Zoning District:	<p style="text-align: center;">Parcel ID: 02009B00370000; Size: .23 acres;          Zoning District: Residential Growth</p> 
Surrounding Properties:	Zoning Map Designation: <i>North, South, East and West: Residential Growth</i>
History:	Demory Farms Subdivision (recorded in <a href="#">Plat Book 21, Page 79</a> on 03/11/05)
Waivers/Variances:	No
Approved Activity:	Single family residence
Site Visit Conducted:	No

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

The applicant is seeking a variance from Section 5.4b to reduce the side setback from 12' to 8' and the rear setback from 20' to 8' for a 12' x 16' (192 sf) accessory structure.

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.

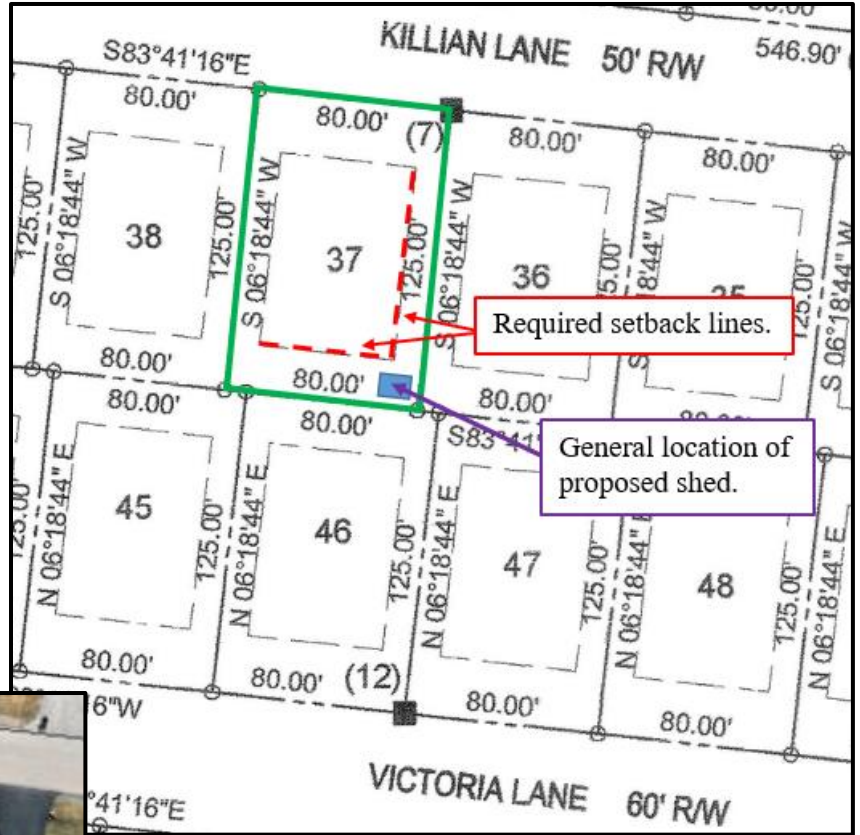
Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 24, 2020  
**Paul Variance Request (#20-28-ZV)**

**Staff Evaluation of Request**

The subject parcel is Lot 37 of the Demory Farm Subdivision, which was recorded on March 11, 2005 in Plat Book 21 at Page 79.

The neighbor to the rear, Lot 46, was granted a similar variance back in 2011, to reduce the side and rear setbacks to 8' for a shed of the exact same dimensions. Staff has been in contact with the President of the Homeowners Association, who has indicated that the HOA has approved the proposed placement, contingent upon County approval.

Based on the size of the structure, it would appear that impact on adjoining properties would be minimal.



It is feasible to comply with the Ordinance by other means; however, the applicant has indicated that placement in this location is preferred to allow continued use of the backyard area. Placement in this location is also consistent with configuration of accessory structures on surrounding lots in the subdivision.

**Conditions of Approval**

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

1. No conditions of approval have been identified.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 24, 2020  
**Paul Variance Request (#20-28-ZV)**

**SECTION OF ORDINANCE TO BE CONSIDERED:**

SECTION 5.4b RESIDENTIAL GROWTH DISTRICT  
 HEIGHT AND YARD REQUIREMENTS

<u>Development Type</u>	<u>Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)</u>	<u>Required Yards</u>	<u>Maximum Building Height*</u>
1. Single family detached dwelling	6,000 sq. ft. ADU**		
Public/Central water and sewer	10,000 sq. ft. MLA	25 ft. front	40 ft.
Public/Central water or sewer	20,000 sq. ft. MLA	12 ft. side	
No Public/Central water or sewer	40,000. Sq. ft. MLA	20 ft. 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: 20-28-ZV  
 Staff Initials: AE  
 Meeting Date: 09-24-20  
 Fees Paid (\$100 or \$150): WAIVED

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: Lance and Michelle Paul  
 Mailing Address: 70 Killian Lane; Charles Town, WV 25414  
 Phone Number: \_\_\_\_\_ Email: wvducker@yahoo.com

**Applicant Contact Information**

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

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

Name: N/A  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 70 Killian Lane  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: Charles Town (02) Map No: 9B Parcel No: 37  
 Parcel Size: .23 acre Deed Book: 1076 Page No: 551

**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**

**AUG 21 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 5.4B

Briefly describe the nature of the variance request:

Side & Rear yard setback reduction for placement of a 192 sq ft accessory structure (storage shed)

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

Front Setback  Side Setback  Rear Setback  Reduction From 12' S / 20' R to 8' 8'

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:

Placement of the structure in the proposed location will still provide sufficient area to conduct maintenance on the structure as well as the existing fence. Additionally, placement of the shed in this location will be consistent with several surrounding properties, which have placed sheds closer than the required 20' setback.

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 Zoning Administrator stated that the setback requirement was 6' and therefore, we purchased the shed and construction materials for placement in this location.

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

The size of all of the lots in Demory Farm are small and adhering to the setback requirements would significantly reduce the usable area of the lot.

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

Placement of the structure in the proposed location will allow for adequate maintenance of the structure and existing fence.

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.

Lawrence Paul 08/18/2020 Michelle L. Paul 8/18/20  
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).

09-24-20

Date of Public Hearing

09-09-20

Advertising Date

09-09-20

Placard Posting Date

PROPERTY SKETCH SHEET

RECEIVED

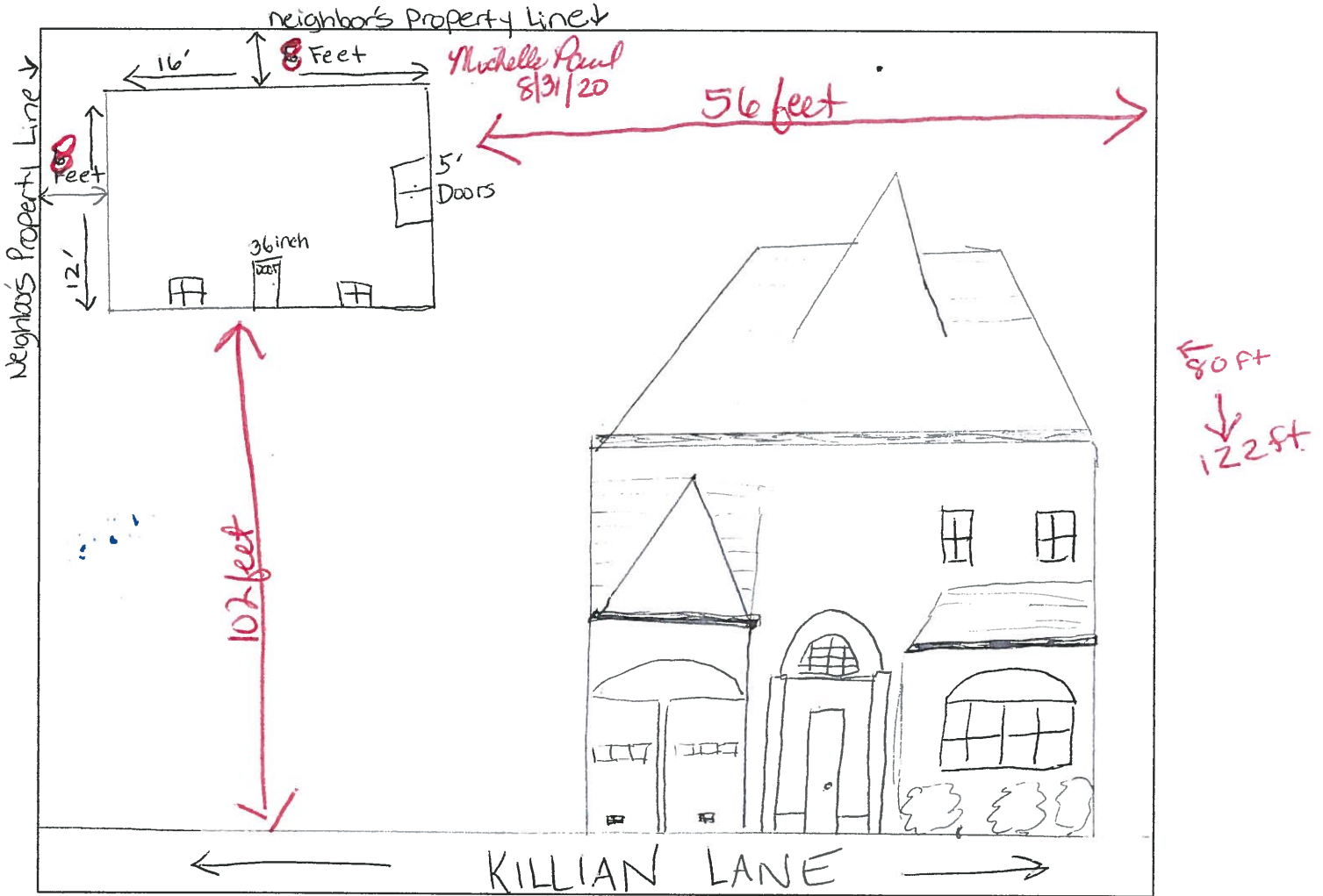
AUG 31 2020

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

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

1. All existing roads with names and/or route numbers.
2. All rights-of-way and/or easements.
3. Septic reserve areas.
4. Location of the intended construction or land use; and show the building setback lines and the distances from the property line to the setback lines; and the distance from the property line to the structure.
5. Show the size and height of the structure. For a sign, indicate the length of the building frontage.
6. Show all existing buildings/structures on the parcel/property.
7. On Renovation's and Addition; Please indicate number of bedrooms and if adding a kitchen.

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

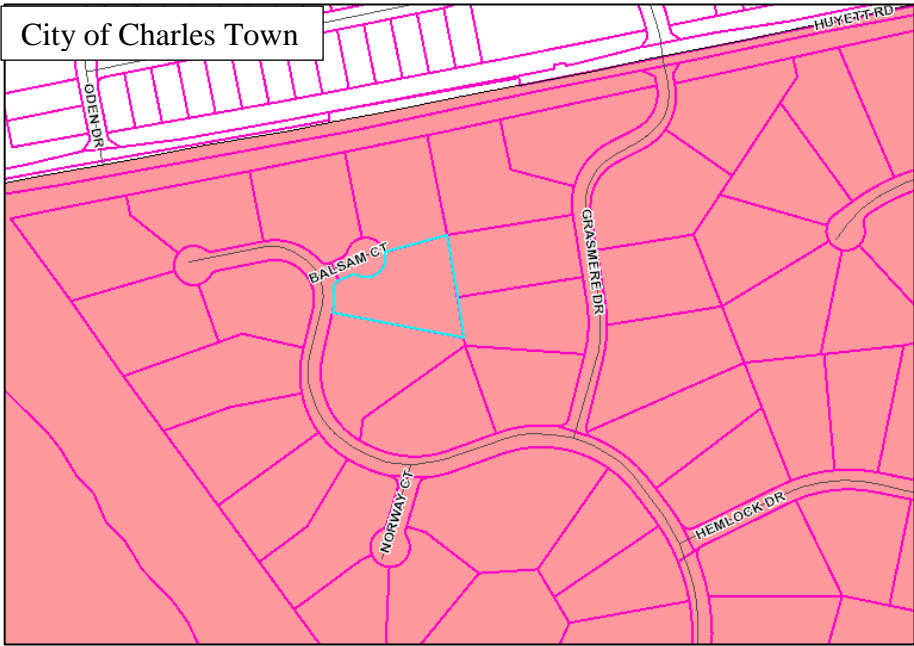


Property Owner/Applicant's Signature: Lance Paul Date: 06/22/2020



Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 24, 2020  
**Purvis Variance Request (#20-29-ZV)**

Item #2 Variance from Section 5.4b of the Zoning Ordinance (amended 01/10/02) to reduce the side setback from 12' to 7' and the rear setback from 20' to 11' for a 12' x 20' accessory structure.

Applicant:	Kimberly Purvis
Owner:	Same
Developer:	N/A
Consultant:	N/A
Location:	Spruce Hill Subdivision, Lot 14, 30 Balsam Court, Charles Town, WV
Parcel Information and Zoning District:	<p style="text-align: center;">Parcel ID: 06003C00140000; Size: 1.23 acres;          Zoning District: Residential-Light Industrial-Commercial</p> 
Surrounding Properties:	Zoning Map Designation: <i>North, South, East and West: Residential-Light Industrial-Commercial</i>
History:	Spruce Hill Subdivision (recorded in <a href="#">Plat Book 19, Page 57</a> on 08/28/02) Minor Plat Change, Lot 14 – Relocated Septic Reserve Area (Recorded in Deed Book 1247, Page 83 on 08/20/20)
Waivers/Variances:	None
Approved Activity:	Single family residence
Site Visit Conducted:	No

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

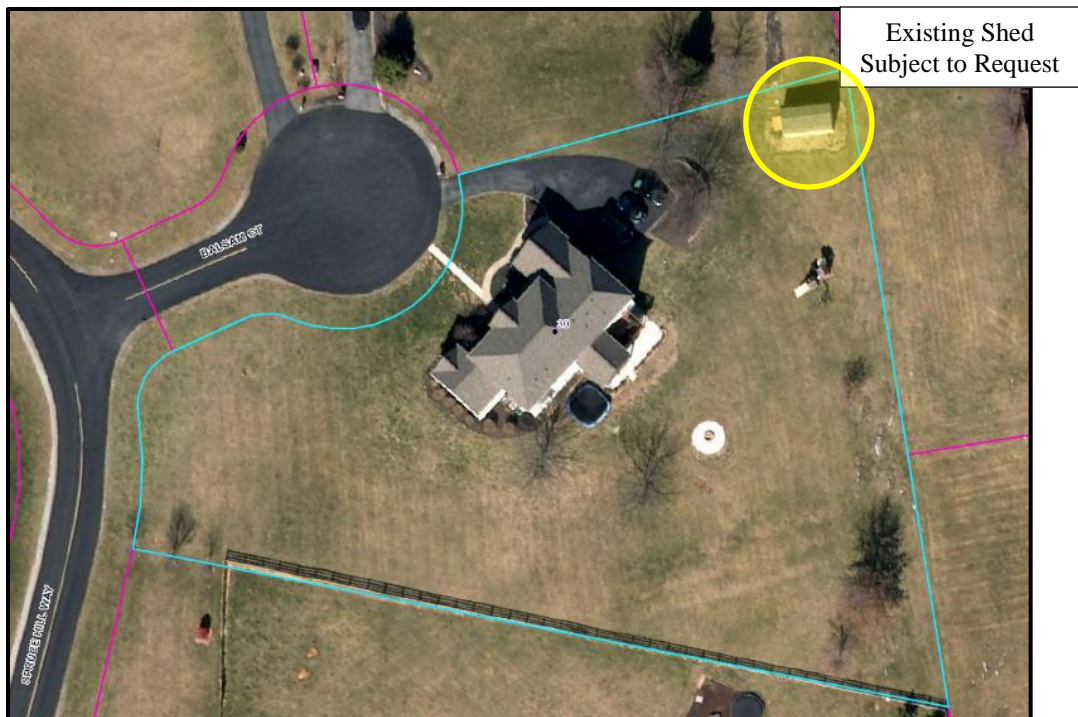
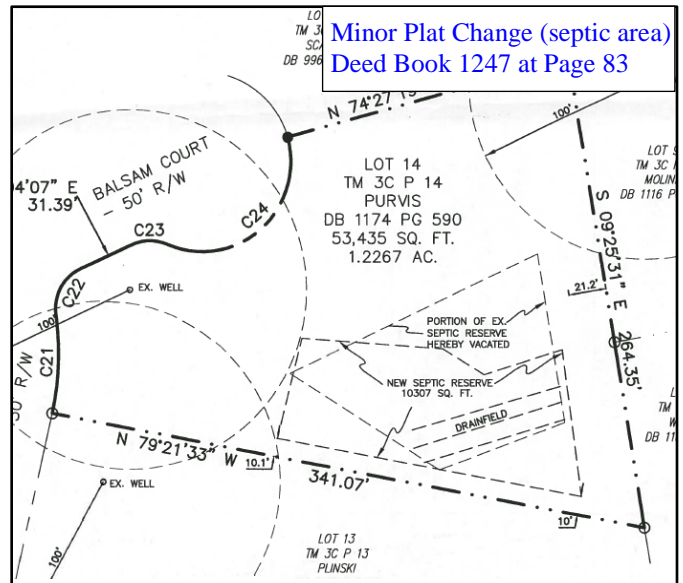
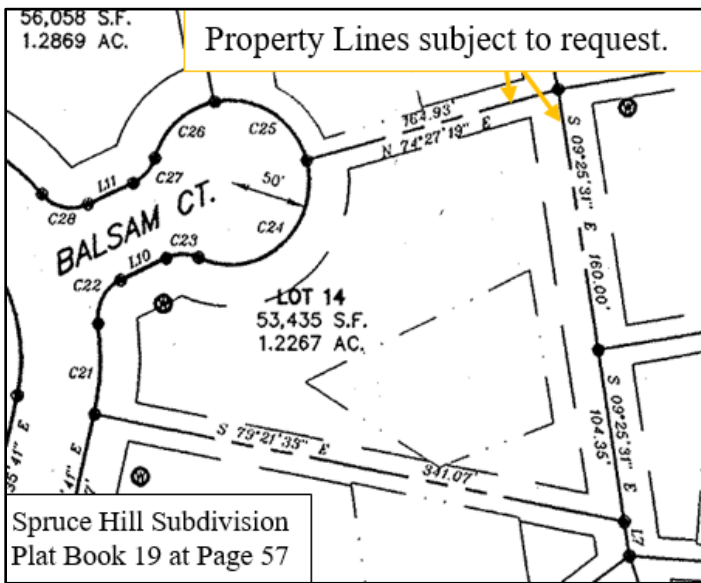
The applicant is seeking a variance from Section 5.4b to reduce the side setback from 12' to 7' and the rear setback from 20' to 11' for a 12' x 20' (240 sf) accessory structure.

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 Report  
Jefferson County Board of Zoning Appeals  
September 24, 2020  
**Purvis Variance Request (#20-29-ZV)**

**Staff Evaluation of Request**

The subject parcel is Lot 14 of the Spruce Hill Subdivision, which was recorded on August 28, 2002 in [Plat Book 19 at Page 57](#). On August 20, 2020, the applicant recorded an approved minor plat change to relocate septic reserve area for the purpose of installing an above ground swimming pool. During the process of obtaining permits for the swimming pool, the applicants became aware that permits were required for sheds and informed the Office of Building Permits that they had placed a shed on their property after obtaining approval from their Homeowners Association. At that point, it was discovered that the shed had been placed within the required setback area. Staff advised that a variance would be required in order to keep the shed in the same location.



Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 24, 2020  
**Purvis Variance Request (#20-29-ZV)**

During Staff’s research for the variance, Staff noted that Subdivision Plat Note #23 requires a 10’ drainage and utility easement along the side and rear property lines for all lots within the Spruce Hill Subdivision. The applicant was informed that while the Board has the discretion to reduce building setbacks, they do not have the authority to reduce or eliminate platted easements. Therefore, if the Board is inclined to reduce the building setbacks for the shed, Staff recommends that a condition of approval be contingent upon the Planning Commission’s approval for placement of the structure within the easement. Such request has been submitted by the Applicant and is scheduled to be included on the October 13, 2020 Planning Commission meeting agenda.

Based on the size of the structure, it is expected that impact on adjoining properties would be minimal. The Homeowners Association approved the requested location back in March of 2019.

Because the structure is existing, it is not feasible to comply with the Ordinance by any other means unless the structure is relocated to another location. The applicant has represented that this would create a financial burden due to the existing concrete slab and the electrical work which was already completed on the shed.

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 5.4B RESIDENTIAL/GROWTH DISTRICT  
 HEIGHT AND YARD REQUIREMENTS

<u>Development Type</u>	<u>Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)</u>	<u>Required Yards</u>	<u>Maximum Building Height*</u>
&1 Single family detached dwelling	6,000 sq. ft. ADU**	25 ft. front	40’
Public/Central water and sewer	10,000 sq. ft. MLA	12 ft. side	
Public/Central water or sewer	20,000 sq. ft. MLA	20 ft. rear	
No Public/Central water or sewer	40,000 sq. ft. MLA		





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

File Number: 20-29-ZV  
 Staff Initials: AB  
 Meeting Date: 09-24-20  
 Fees Paid (\$100 or \$150): \$100.00

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: Kimberly Purvis  
 Mailing Address: 30 Balsam Court  
 Phone Number: 301 821 3090 Email: panta 420 @ hot mail com

**Applicant Contact Information**

Name: \_\_\_\_\_  
 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: 30 Balsam Court  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: @ Kabletown (06) Map No: 3C Parcel No: 14  
 Parcel Size: 1.22 Deed Book: 1174 Page No: 590

**Zoning District (please check one)**

- |                          |                            |                          |  |                          |                              |  |                                  |
|--------------------------|----------------------------|--------------------------|--|--------------------------|------------------------------|--|----------------------------------|
| Residential Growth (RG)  | Industrial Commercial (IC) | Rural (R)                | Residential-Light Industrial-Commercial (R-LI-C) | Village (V)              | Neighborhood Commercial (NC) | General Commercial (GC)                |                                  |
| <input type="checkbox"/> | <input type="checkbox"/>   | <input type="checkbox"/> | <input checked="" 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**

**AUG 24 2020**

**JEFFERSON COUNTY PLANNING ZONING & ENGINEERING**

Place Received Date Stamp Here

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

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

Reference the section of the Zoning Ordinance pertaining to this request: 5.4 B - GA

Briefly describe the nature of the variance request:

We are requesting a variance for our shed off our side & rear property line  
- 12' x 20' Building - GA

If this request is for a setback variance, please check one of the following: From: 12' to 7' <sup>(AB)</sup>

Front Setback  Side Setback  Rear Setback  Reduction From 20' to 11' <sup>(AB)</sup>

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 variance will still provide clearance between my structure and my property line.~~  
The variance will still provide clearance between my structure and my property line.

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 proposed location is the most leveled.

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

We installed our shed based on approval/guidance from our HOA and without the variance would cause a financial hardship.

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

There will be sufficient space to maintain structure and HOA has approved location.

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] 8/24/20  
Signature of Property Owner Date

[Signature] 8/24/20  
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).

September 24, 2020  
Date of Public Hearing

September 9, 2020  
Advertising Date

September 9, 2020  
Placard Posting Date

**Spruce Hill Estates Homeowner's Association, Inc.**  
**APPLICATION FOR ARCHITECTURAL CHANGE**

Submit Application To: Property Management People, Inc.  
 340 Edmond Road, Suite E  
 Kearneysville, WV 25430  
 Office: 681-252-0217  
 Email to: [SHEHOA.arc@gmail.com](mailto:SHEHOA.arc@gmail.com) and [dee.griffith@pmpbiz.com](mailto:dee.griffith@pmpbiz.com)

**FAXED COPIES WILL NOT BE ACCEPTED**  
**YOU MAY SCAN AND E-MAIL APPLICATION**

Applicant's Name: Kimberly Purvis E-Mail: panta420@hotmail.com  
 (Please include e-mail address for a more timely response)  
 Property Address: 30 Balsam Court.  
Charles Town, WV 25414  
 Owners Address (If not the same): \_\_\_\_\_  
 Home Phone: 301 821 3090 Work Phone: 301 717 9412

**Directions: (PLEASE PRINT NEATLY / LEGIBLY OR TYPE)**

Please use the area below to outline your proposed improvements, alterations and or changes to your existing property. Please include details by sketches, drawings, clippings, pictures, colors, size, materials or any other pertinent information. Attach a sketch of the proposed alteration. You must submit a copy of your plat (survey) with this request. Indicate on the plat the exact location of the improvement. Information must be submitted as it applies to complete your application. Your application will be returned if you do not submit the required material. You will be notified in writing of the committee's decision within thirty (30) days of receipt of a complete application.

**Description of improvement/alteration:**

The shed will be purchased from Backyard Solutions on 340 in Charles Town. We intend to purchase the lofted barn with a garage door. The shed will be 12x20 and will be placed on a 13x21 concrete pad in the NE corner of our property. We will work with the manufacturer to color match with our house to get as close as possible.

**Signatures:**

Please obtain signatures from property owners that are most affected because they are adjacent and/or have a view of your change. **NOTE: the signatures below simply indicates an awareness of the applicant's intentions to make changes, alterations and/or additions to their property and DOES NOT constitute any approval or disapproval by the Committee.** If any neighbor should object to the proposed project, please indicate the following in the "Comments" section... (1) Name / Address, (2) Reason for objection.

Name: Elizabeth Moline  
 Address: 104 Grassmere Drive  
 Signature: [Signature]  
 Phone: 571-730-7007

Name: Angela R. Watson  
 Address: 136 Grassmere Dr.  
 Signature: [Signature]  
 Phone: 801-809-0512

Name: Shirley Scaggs  
 Address: 31 Balsam Court  
 Signature: [Signature]  
 Phone: (703) 586-4802

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Phone: \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(Continued on page 2)

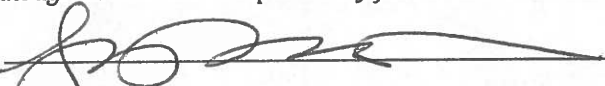
**OWNERS ACKNOWLEDGEMENTS**

I, Kimberly Purvis understand, acknowledge and agree that.....  
(Print Name)

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

- 1) I understand that approval from the Association does not constitute approval by the County, and nothing in this application process certifies compliance with any Federal, State or local laws or codes. It is my responsibility to obtain any required permits and comply with any applicable regulations.
- 2) Any approval is contingent upon construction or alterations being completed in a workman like manner. By approving this request the committee is not assuming any responsibility for safety, construction, operation, maintenance, accident, injury or claim that may arise from the change or use of this improvement.
- 3) Members of the Architectural Control Committee and/or the Property Manager are permitted to make routine inspections.
- 4) Any construction or exterior alteration undertaken by applicant or on the applicants behalf before approval of this application is not allowed: that, if alterations are made, the applicant may be required to return the property to its former condition at the applicants expense if this application is disapproved wholly or in part and that I may be required to pay all legal expenses incurred.
- 5) There are architectural requirements covered by the Covenants and a review board process as established by the Board of Directors.
- 6) The alteration authority granted by this application will be revoked automatically if the alterations requested have not commenced within 180 days of the approved date of this application and/or completed by any date specified by the Committee.
- 7) All proposed improvements must meet county codes. Applicant's signature indicates that these standards have been approved by county and meet code. I understand that application for all required building permit(s) are my responsibility and must be obtained prior to work beginning on project. If approved, I agree to make the changes under the terms and conditions specified in the letter of approval. I agree to maintain all improvements, at my expense, as long as I own any portion of the property. If any portion of the Association property is disturbed or damaged by either myself or my contractor, I agree to be responsible for and to restore the common elements to original or better condition(s).
- 8) Any variation from the original application must be resubmitted for approval.

*The Applicants signature below indicates that they agree to make the changes, additions and or alterations so noted herein under the terms and conditions specified by the letter of approval. They further agree to maintain all improvements at their expense as long as they own the property. If any portion of the Association's property is disturbed or damaged by either the property owner or their contractor(s), the applicant agrees to assume responsibility for and to restore such property to its original condition.*

Owner / Applicant Signature:  Date: 03/10/19

**Attachments: (1) Sketch, photo, catalog illustrations, etc. (2) Copy of property plat (survey) marked with location of change requested.**

\*\*\*\*\* DO NOT WRITE BELOW / FOR ARC USE ONLY \*\*\*\*\*

Date Received: \_\_\_\_\_

- Approved
- Approved with caveats (see below)
- Disapproved pending additional information (see below)
- Disapproved (see below)

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OWNERS ACKNOWLEDGEMENTS

I, Kimberly ARKIS understand, acknowledge and agree that \_\_\_\_\_  
(Print Name)

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

- 1) I understand that approval from the Association does not constitute approval by the County, and nothing in this application process certifies compliance with any Federal, State or local laws or codes. It is my responsibility to obtain any required permits and comply with any applicable regulations.
- 2) Any approval is contingent upon construction or alterations being completed in a workman-like manner. By approving this request the committee is not assuming any responsibility for safety, construction, operation, maintenance, accident, injury or claim that may arise from the change or use of this improvement.
- 3) Members of the Architectural Control Committee and/or the Property Manager are permitted to make routine inspections.
- 4) Any construction or sales for alteration undertaken by applicant or on the applicants behalf before approval of this application is not allowed; that, if alterations are made, the applicant may be required to return the property to its former condition at the applicants expense if this application is disapproved wholly or in part and that I may be required to pay all legal expenses hereunder.
- 5) There are architectural requirements covered by the Covenants and a review board process as established by the Board of Directors.
- 6) The alteration authority granted by this application will be revoked automatically if the alterations requested have not commenced within 180 days of the approved date of this application and/or completed by any date specified by the Committee.
- 7) All proposed improvements must meet county codes. Applicant's signature indicates that these standards have been approved by county and meet code. I understand that application for all required building permit(s) are my responsibility and must be obtained prior to work beginning on project. If approved, I agree to make the changes under the terms and conditions specified in the letter of approval. I agree to maintain all improvements, at my expense, as long as I own any portion of the property. If any portion of the Association property is disturbed or damaged by either myself or my contractor, I agree to be responsible for and to restore the common elements to original or better condition(s).
- 8) Any variation from the original application must be resubmitted for approval.

The Applicants signature below indicates that they agree to make the changes, additions and or alterations so noted herein under the terms and conditions specified by the letter of approval. They further agree to maintain all improvements at their expense as long as they own the property. If any portion of the Association's property is disturbed or damaged by either the property owner or their contractor(s), the applicant agrees to assume responsibility for and to restore such property to its original condition.

Owner / Applicant Signature: \_\_\_\_\_ Date 03/10/19

Attachments: (1) Sketch, plan, catalog illustrations, etc. (2) Copy of property plat (survey) marked with location of change requested.

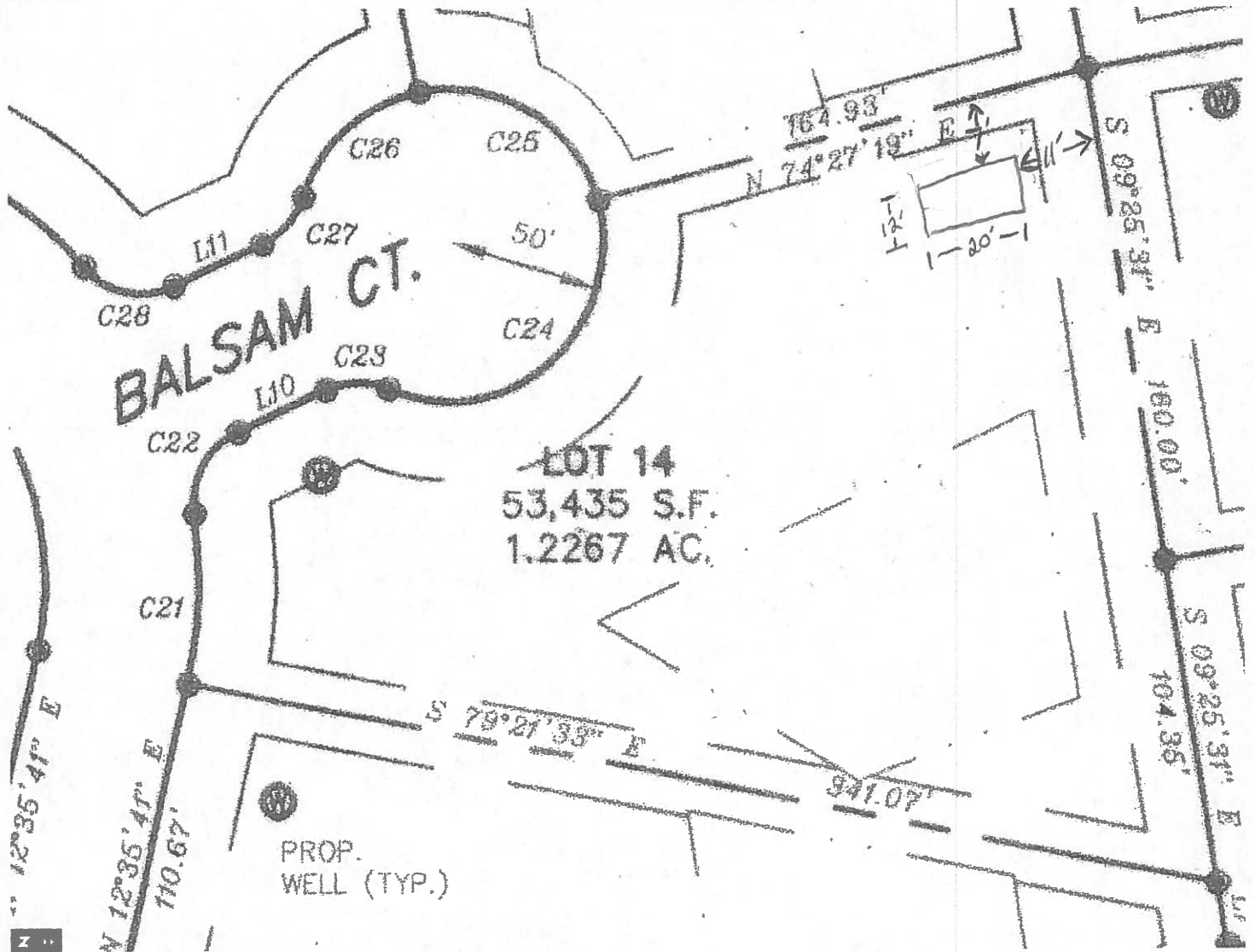
\*\*\*\*\* DO NOT WRITE BELOW / FOR ARC USE ONLY \*\*\*\*\*

Date Received: \_\_\_\_\_

- Approved
- Approved with comments (see below)
- Disapproved pending additional information (see below)
- Disapproved (see below)

*Banker*  
*3/10/19*

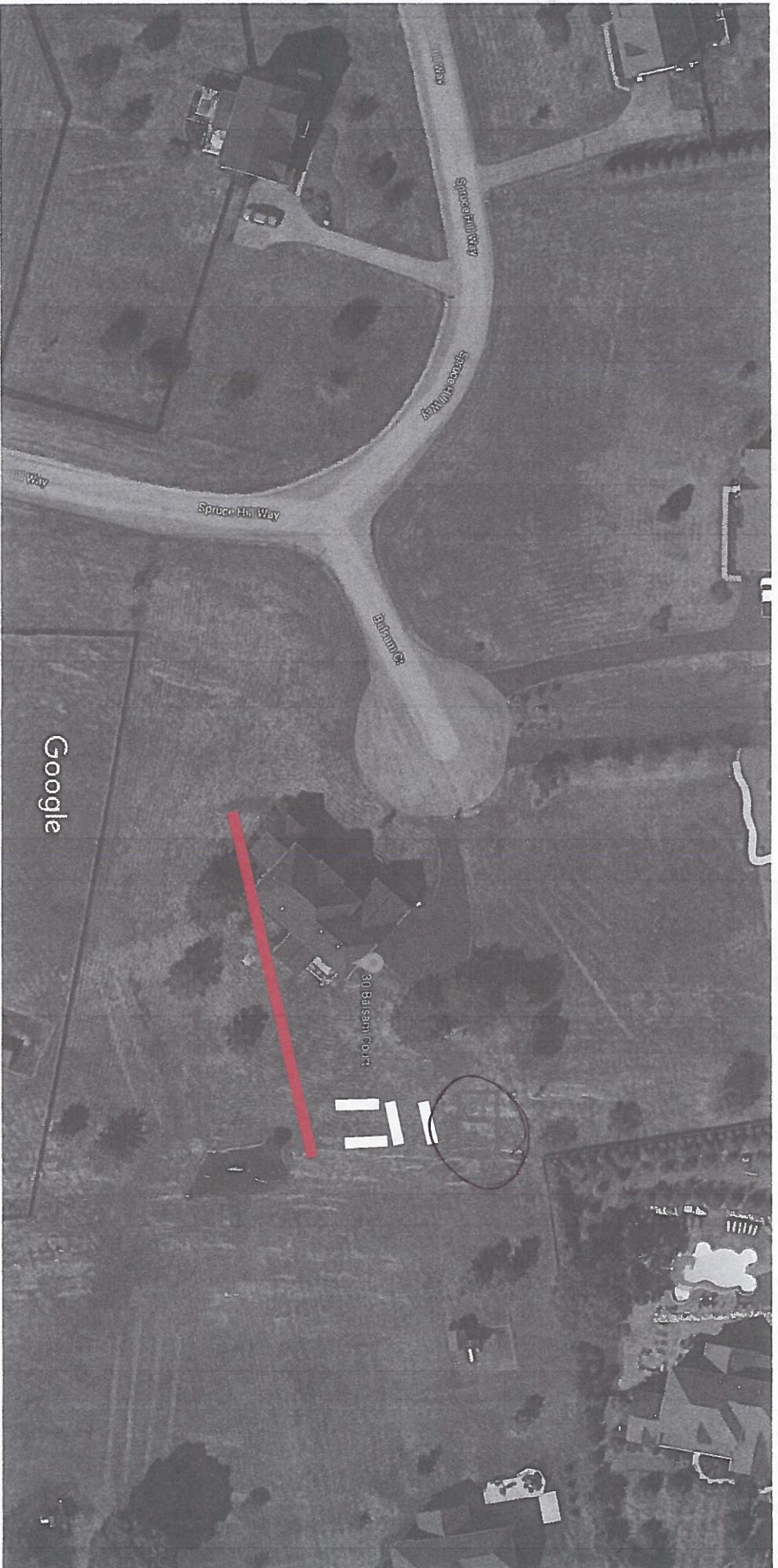
roof to match house roof



Plats courtesy of the Jefferson County Clerk's Office, Jacqueline C. Shadle, Clerk

The shed is pre-made and will be delivered on site. The location will be in the NE corner of the property. It will be set off seven (7) feet from the North property line and 11 feet off the East property line.

# Google Maps 30 Balsam Ct



Imagery ©2019 Google, Map data ©2019 Google

20 ft

# Google Maps 30 Balsam Ct



Imagery ©2019 Google, Map data ©2019 Google 50 ft



**30 Balsam Ct**  
Charles Town, WV 25414

7454+MM Charles Town, WV

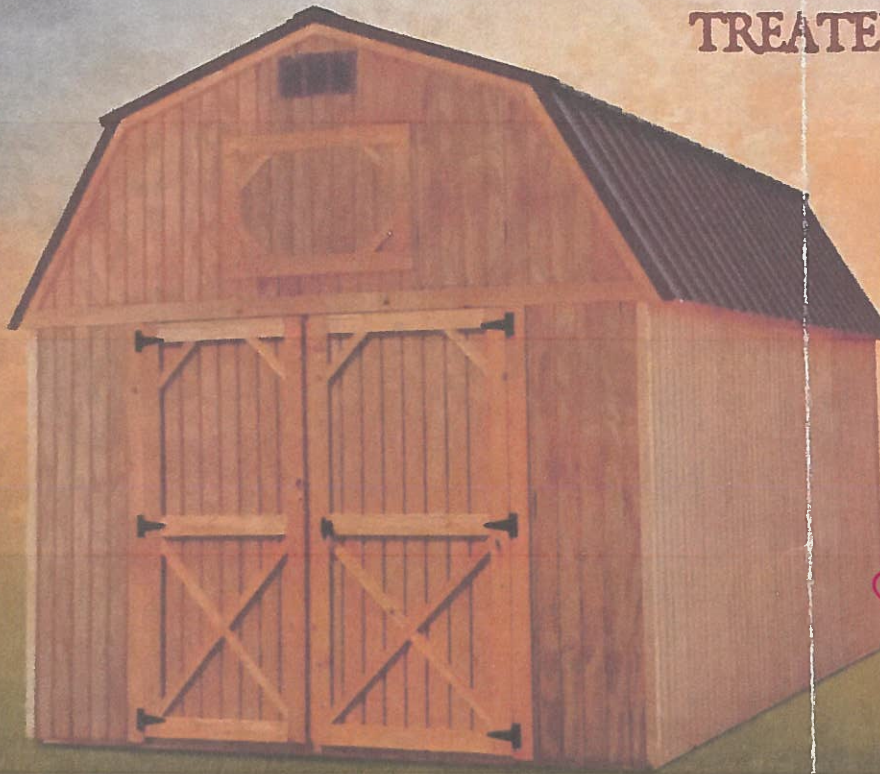
## Photos



# LOFTED BARN

TREATED & PAINTED

Up to 16' of loft included in the price, depending on size



8' wide lofted barn



side lofted barn, with optional 2x3 windows

SIZE	CASH PRICE **	36 MO. RTO *
8x10	\$2,020.00	\$93.52
8x12	\$2,125.00	\$98.38
8x16	\$2,440.00	\$112.96
10x10	\$2,390.00	\$110.65
10x12	\$2,595.00	\$120.14
10x14	\$2,860.00	\$132.41
10x16	\$3,045.00	\$140.97
10x20	\$3,650.00	\$168.98
12x16	\$3,755.00	\$173.84
12x20	\$4,195.00	\$194.21
12x24	\$5,015.00	\$232.18
12x28	\$5,750.00	\$266.20
12x30	\$6,065.00	\$280.79
12x32	\$6,170.00	\$285.65
12x36	\$6,745.00	\$312.27
12x40	\$7,185.00	\$332.64
14x20	\$5,895.00	\$272.92
14x24	\$6,495.00	\$300.69
14x28	\$7,375.00	\$341.44
14x32	\$8,320.00	\$385.19
14x36	\$8,995.00	\$416.44
14x40	\$9,550.00	\$442.13

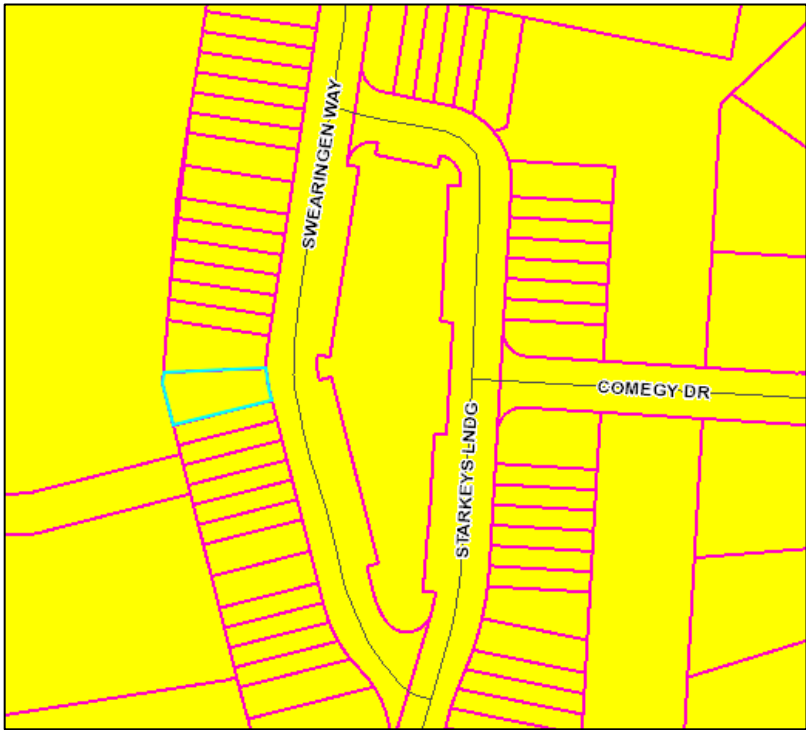
\*\*CREDIT CARD PRICE IS 3% MORE  
\*RTO (RENT TO OWN) BASED ON 36 MONTHS

outside corners)



Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 24, 2020  
**Neubauer Variance Request (#20-30-ZV)**

Item #3 Variance from Section 5.4B of the Zoning Ordinance (amended 05/01/03) to reduce the rear setback from 20' to 11' for a 16' wide deck.

Applicant:	Matthew Lidoco, LRS, LLC
Owner:	Sharon Neubauer
Developer:	N/A
Consultant:	N/A
Location:	Colonial Hills Subdivision, Lot 14; 59 Swearingen Way, Shepherdstown, WV
Parcel Information and Zoning District:	<p style="text-align: center;">Parcel ID: 09008E00140000; Size: .09 acres;          Zoning District: Residential Growth</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:</p> <p style="text-align: center;">North: Residential Growth    South: Residential Growth          East: Residential Growth    West: Residential Growth</p>
History:	Recorded 04/12/05:    PC File #04-33 – Colonial Hills Subdivision, Phase 2 <a href="#">(Plat Book 21, Page 86)</a>
Waivers/Variations:	No
Approved Activity:	Townhouse Unit
Site Visit Conducted:	No

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

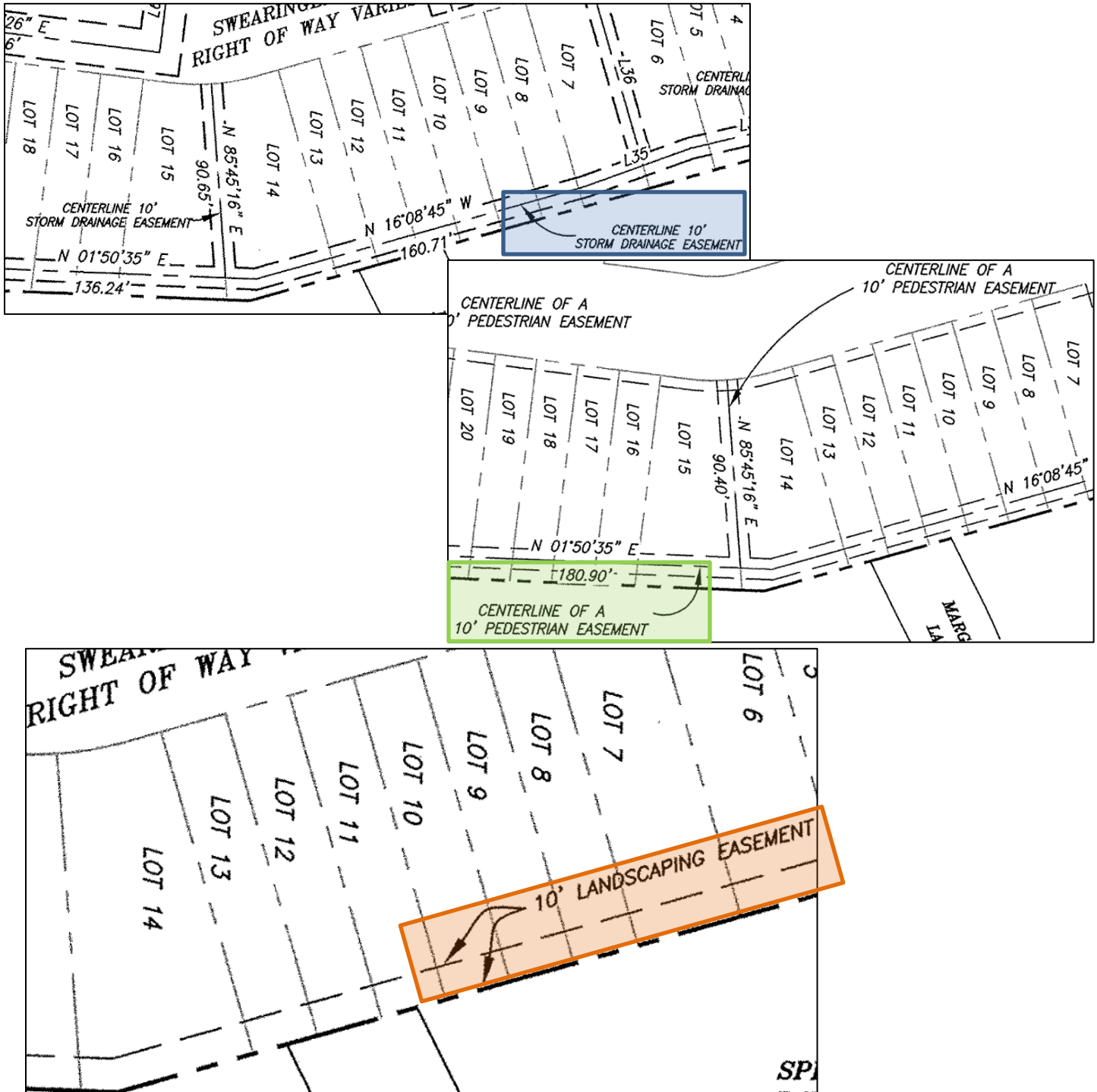
The applicant is seeking a variance from Section 5.4b of the May 11, 2003 version of the Zoning Ordinance to reduce the rear setback from 20' to 11' for a 16' wide deck.

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 Report  
Jefferson County Board of Zoning Appeals  
September 24, 2020  
**Neubauer Variance Request (#20-30-ZV)**

**Staff Evaluation of Request**

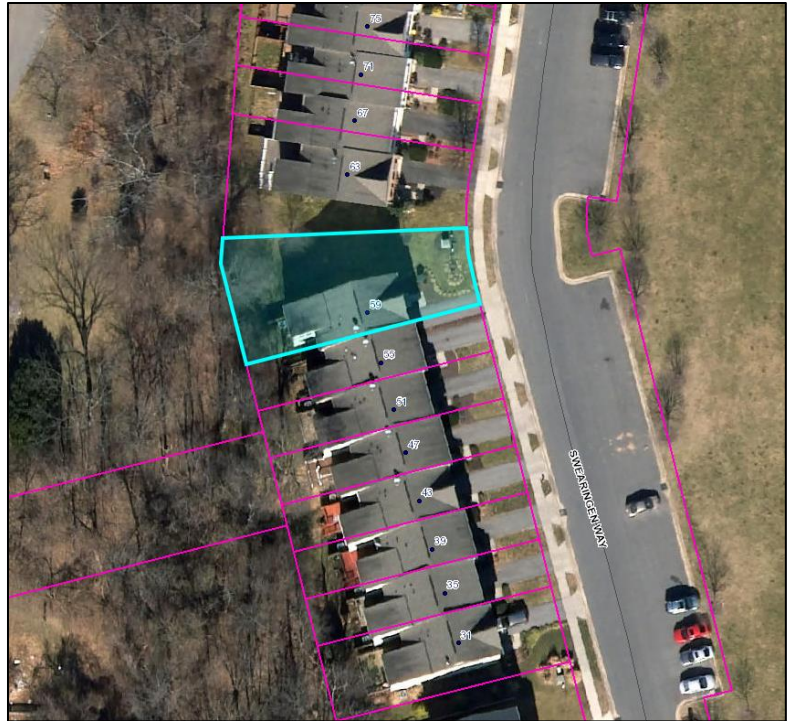
The subject parcel is Lot 14 of the Colonial Hills Subdivision, Phase 2, which was recorded on April 12, 2005 in [Plat Book 21 at Page 86](#). The required setbacks for this section of the subdivision are 25' front, 12' side, and 20' rear. Based on the sketch provided by the applicant, the proposed deck would encroach 9' into the rear setback area and would not encroach within any of the platted landscaping, pedestrian, or drainage easements that run along the rear of the property (see exhibits below).



Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 24, 2020  
**Neubauer Variance Request (#20-30-ZV)**

The impact on adjoining property owners is expected to be minimal as most of the other nearby units have similar decks and the rear of the property backs up to a residential lot with existing, mature vegetation along the shared property line.

Based on the dimensions of the deck and the limited building envelop, it is not feasible to comply with the Ordinance by any other means. Staff discussed with the contractor the provision in Article 9, Section 9.5 which would allow for a 4' encroachment into the setback area if the width of the deck were decreased from 16' to 10'; however, this would reduce the usable area significantly. It is worth noting that the developer acknowledged the limited buildable area in Note 22 on Sheet 1 of the recorded final plat:



22. DUE TO THE PRESENCE OF EASEMENTS IN THE BACKYARDS OF THE TOWNHOUSE LOTS, FUTURE IMPROVEMENTS SUCH AS DECKS, SHEDS, AND FENCES MAY NOT BE PERMITTED AS A RESULT OF LIMITED SPACE.

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 5.4B RESIDENTIAL/GROWTH DISTRICT  
 HEIGHT AND YARD REQUIREMENTS

<u>Development Type</u>	<u>Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)</u>	<u>Required Yards</u>	<u>Maximum Building Height*</u>
&1 Single family detached dwelling	6,000 sq. ft. ADU**	25 ft. front	40'
Public/Central water and sewer	10,000 sq. ft. MLA	12 ft. side	
Public/Central water or sewer	20,000 sq. ft. MLA	20 ft. rear	
No Public/Central water or sewer	40,000 sq. ft. MLA		





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

File Number: 20-30-ZV  
 Staff Initials: GAI  
 Meeting Date: 9/24/20  
 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: Sharon Neubauer  
 Mailing Address: 59 Swearingen Way  
 Phone Number: 303-224-2316 Email: Saneub@gmail.com

**Applicant Contact Information**

Name: Matthew Licoda LRS, LLC  
 Mailing Address: PO Box 1161 Shepherdstown, WV 25443  
 Phone Number: 304 279 5566 Email: Matthew@LRSWV.com

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

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

**Physical Property Details**

Physical Address: 59 Swearingen Way  
 City: Shepherdstown State: WV Zip Code: 25443  
 Tax District: 9 - Shepherdstown Map No: 8E Parcel No: 14  
 Parcel Size: .0927 Deed Book: 1134 Page No: 289

**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"/>	
			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"/>

*Deck*

**RECEIVED**

**AUG 31 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 5.4B-9H

Briefly describe the nature of the variance request:  
- Variance to construct a deck 9' into the setback. Deck will be 16' wide. - 9H 8/31/20

If this request is for a setback variance, please check one of the following:  
Front Setback  Side Setback  Rear Setback  Reduction From 20' to 11'

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 are already several dwellings with the same kind of structures into the drainage easement. Based on the area I don't think it will ever be used for drainage

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 variances + exceptions already in place from previous owners nearby

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

It'll allow property owner to safely utilize the rear of the property

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

Uniformity of the HOA and structures on the back of the town homes. Also preventing overgrowth and allowing safer movement on property over property

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.

Shawn A. McLean 8/31/2020  
Signature of Property Owner Date

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

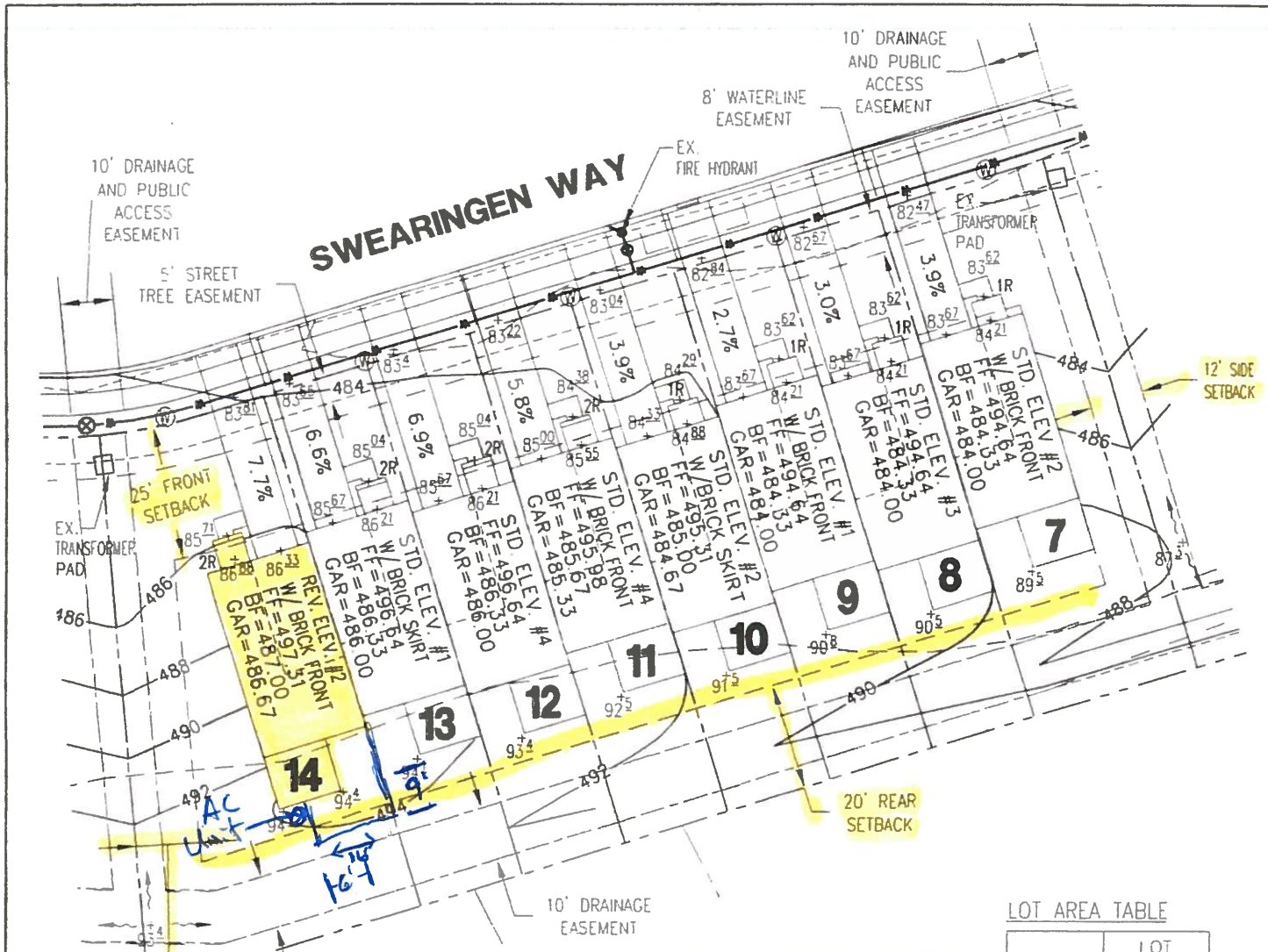
Notification Requirements (to be completed by staff)

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).

09-24-20  
Date of Public Hearing

09-09-20  
Advertising Date

**RECEIVED**  
09-09-20  
PLANNING & ZONING  
ENGINEERING



**PROGRESS PRINT**  
5/28/2008

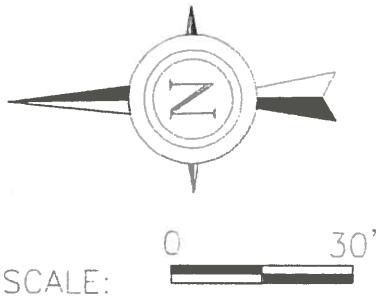
*Alpha*

LOT AREA TABLE

LOT NUMBER	LOT AREA (SF)
7	3,200
8	2,000
9	2,000
10	2,000
11	2,000
12	2,000
13	2,000
14	4,281

SANITARY SEWER CLEANOUT  
INVERT ELEVATION TABLE

LOT NUMBERS	CLEANOUT INVERT ELEVATION
7 & 8	477.16
9 & 10	477.01
11 & 12	477.95
13 & 14	478.15



SCALE:

**COLONIAL HILLS PHASE II - LOTS 7-14 RESITE PLAN**  
JEFERSON COUNTY, WEST VIRGINIA

DESIGNED BY: RPP DRAWN BY: RPP  
CHECKED BY: RWK CHECKED BY: RWK

DATE: 05-28-2008  
SCALE: 1" = 30'

SHEET  
1



**ALPHA**  
ASSOCIATES, INCORPORATED  
ARCHITECTS • ENGINEERS • SURVEYORS

535 WEST KING STREET  
MARTINSBURG, WV 25401

REVISION NUMBER	SHEET NUMBER	REVISIONS	DATE	BY



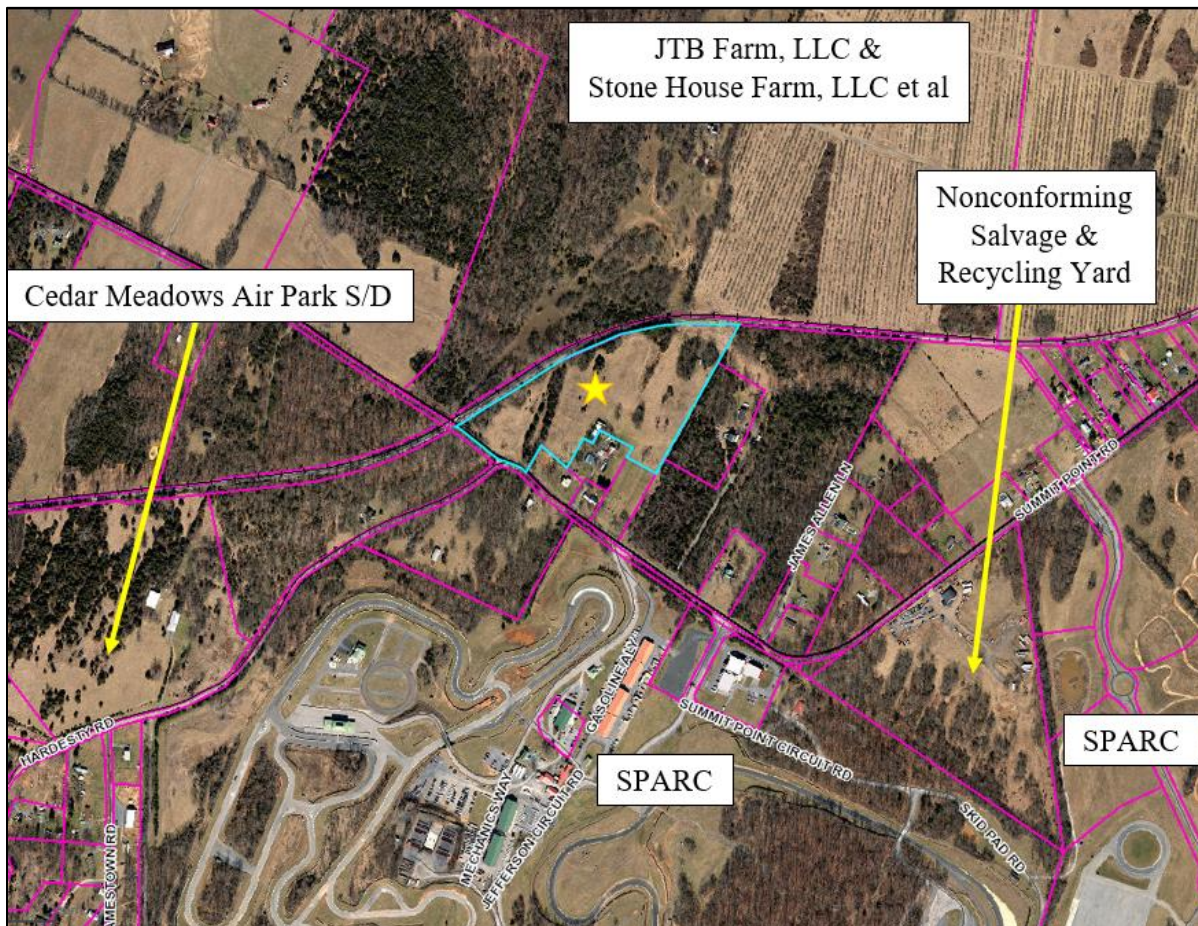


Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
September 24, 2020

**Bret de Pedro Conditional Use Permit Request (#20-7-CUP)**

**Property Description**

The subject parcel is an undeveloped 14.69 acre lot. It is surrounded primarily by residential and agricultural land uses, with railroad tracks bordering the northern boundary, and the Summit Point Automotive Research Center, LLC (SPARC) in close proximity.



**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 Summit Point Road, which is a State maintained road (i.e. not a private / HOA subdivision road). Developing the property to the proposed non-residential land use does not appear to pose a significant change in traffic patterns, based on the existing service location within the SPARC property.

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

**Bret de Pedro Conditional Use Permit Request (#20-7-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 “Rural/Agricultural” on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide (see below) and it is 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)

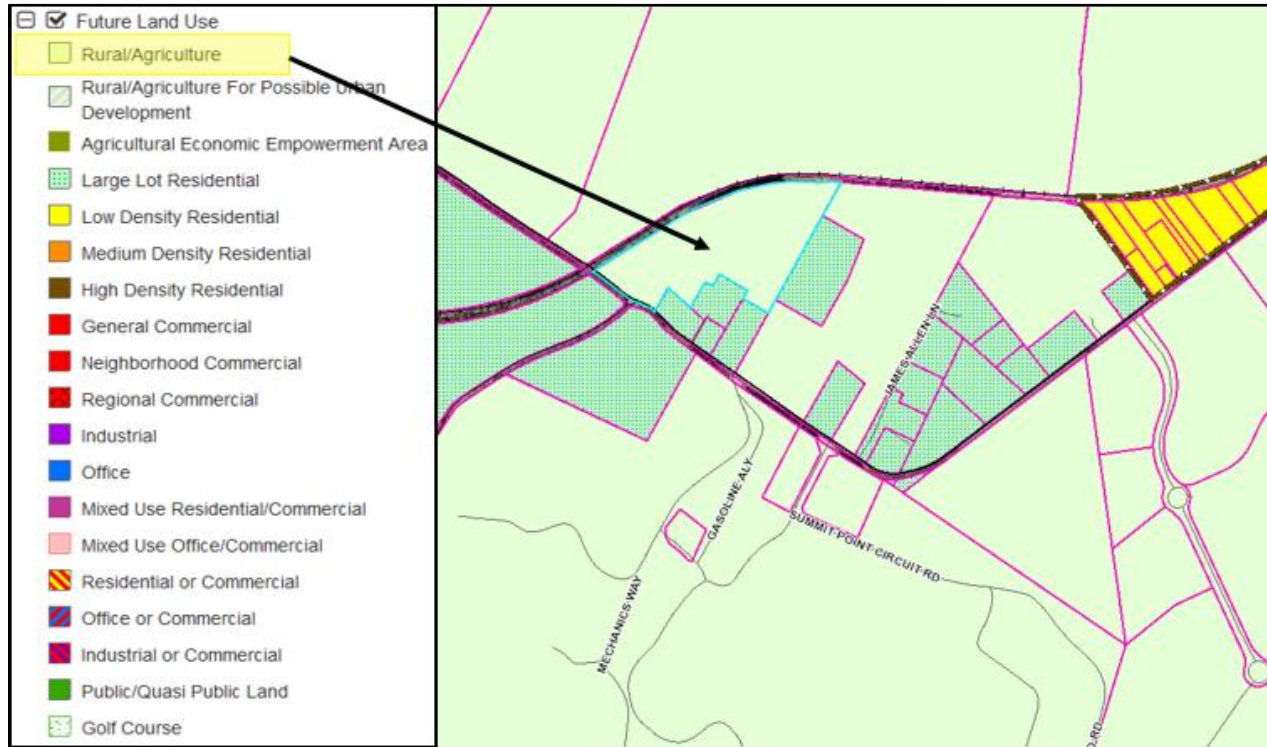
“Recommendation 5: Amend the Zoning and Land Development Ordinance to permit additional non-residential rurally compatible uses.

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 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

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

**Bret de Pedro Conditional Use Permit Request (#20-7-CUP)**

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, Summit Point Road. The property is surrounded primarily by agricultural and residential land uses, with non-residential uses in close proximity.

The proposal includes a 4,000 square foot structure, associated parking, and a freestanding sign. The applicant has indicated that they intend to orientate the structure away from existing residences and that intend to maintain as much of the natural features as feasible. Based on the applicant’s representation of the project, the proposed land use appears to be compatible in scale and intensity with existing and potential land uses.

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

A site plan will be required to process to address the proposed structure and parking. The applicant has already indicated that they intend to install landscaping along the shared property lines with existing residences, to mitigate any potential impact from the proposed land use. As part of the site

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

**Bret de Pedro Conditional Use Permit Request (#20-7-CUP)**

plan requirements, the applicant will be required to install landscaping in accordance with Section 4.11 and Appendix B, as well as ensuring that the proposed structure complies with the 75' distance requirement from any lot with a dwelling unit, church, or institution for human care as required by Section 4.6 of the Zoning Ordinance.

**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)**

Summit Point Road is classified as a Major Collector Road and is therefore, not subject to this criteria.

**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 stated that they intend to erect a 2' x 3' freestanding sign at the entrance of the property (see example below). The subject sign will likely necessitate processing a separate variance from Section 10.4 which states that business signs shall not face an adjoining residence.



The three colors in the sign will be yellow, black, and blue.



20-7-CUP

Bret de Pedro  
110 Lower Valley Rd  
Strasburg, VA 22657  
[Bret@rppperformance.com](mailto:Bret@rppperformance.com)  
703.283.0857

August 12, 2020

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

Enclosed you will find the following Information in support of the Application for a Conditional Use Permit.

1. **TAB A** - Conditional Use Permit, CUP Application, 04-05-17
  - a. Continuation pages from the CUP form.
  
2. **TAB B** - Support Documentation
  - a. Sketch
  - b. Narrative
  - c. List of adjoining property owners



Bret de Pedro

**RECEIVED**

**AUG 31 2020**

**JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING**



**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

20-7-CUP

File #: CUP 20-7  
 Mtg. Date: 9/24/20  
 Fee Paid: \$ 400-  
 Staff Int: JH

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**

**Property Owner Information**

Name: Bret de Pedro  
 Business Name: \_\_\_\_\_  
 Mailing Address: 110 Lower Valley Rd., Strasburg, VA 22657 Mail  Yes  
 Phone Number: 703-283-0857 Email Response: bret@rperformanceracing.com Response:  No

**Applicant Information**

Name: Bret de Pedro  
 Business Name: \_\_\_\_\_  
 Mailing Address: 110 Lower Valley Rd., Strasburg, VA 22657 Mail  Yes  
 Phone Number: 703-283-0857 Email Response: bret@rperformanceracing.com Response:  No

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

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

**RECEIVED**

AUG 31 2020

JEFFERSON COUNTY PLANNING  
 ZONING & ENGINEERING

**Physical Property Details**

Physical Address: \_\_\_\_\_  
 Tax District: Kabletown (06) Map No: C016 Parcel No: 0003  
 Parcel Size: 14.69 (3 ac) Deed Book: 1100 1246 Page No: 62 378

**Zoning District (please check one)**

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

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

Name of Road and/or Route Number: Summit Point Rd

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.

Automotive Repair & Service Shop

Please provide any information or known history regarding this property.

Property at one time was farmed, but is no an inactive farm

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*

See attached Tab A

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*

See attached Tab A

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*

See attached Tab A

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.

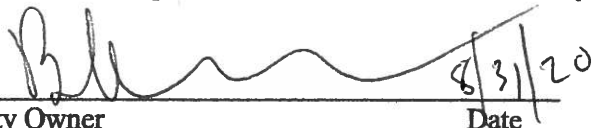
I am aware of the landscaping buffer requirements; however, I may be seeking a variance to modify them.

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.**

 8/31/20

Property Owner

Date

Property Owner

Date

Bret de Pedro  
110 Lower Valley Rd  
Strasburg, VA 22657  
[Bret@rppperformanceracing.com](mailto:Bret@rppperformanceracing.com)  
703.283.0857

August 12, 2020

RECEIVED

AUG 31 2020

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

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

Continuation of Application for a Conditional Use Permit

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

- a. The proposed use of this property will keep within the existing physical appearance with the existing property. The building is a 3k square foot wooden framed metal building to store tractor and to work on Cars.
- b. The new structure will be compatible with the goals of the adopted Comprehensive Plan Section 6.3A.1. It is our plan that the proposed building will co-exist with its surrounds in both looks and size to fit in to the existing surroundings. It will not be visible to the adjoining properties or road. All means will be used to keep the proposed building plan ascetically appealing to the adjacent property owners.
- c. The building will be located on the property to leave the best view of the remaining land from any angle around the building. Tree removal will be at a minimum to allow access to the building site. The location of the building will allow the continued use of the land by the deer and other animals that exist in the wooded areas presently around the open fields.

**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**

- a. The proposed use and the development of the property by putting up a building will be compatible with existing buildings in the surrounding areas. The location of the proposed building will be out of sight of adjacent and confronting properties and away from road traffic.

Bret de Pedro  
110 Lower Valley Rd  
Strasburg, VA 22657  
[Bret@rppperformanceracing.com](mailto:Bret@rppperformanceracing.com)  
703.283.0857

August 12, 2020

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

Support Documentation to the Conditional Use Application.

1. Sketch

- a. Proposed layout of building, parking, existing streets, signage, any additional features and where they are located to each other and the tract boundaries.



- b. Delineate natural features such as woods, watercourses, prominent rock outcroppings

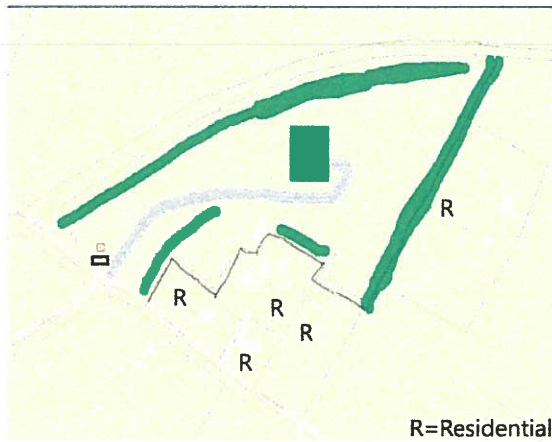


- c. Adjoining properties and confronting properties and associated land use (Residential or Non-residential/Commercial)

- b. The development of this property will not pose any threat to public health, safety and welfare as it will not be in the vicinity of adjacent and confronting properties and will be secured when the owner is not in the building. The entrance to the property will empty out onto an existing road that has a slow down for turns on to Hardesty Rd and for oncoming railroad tracks that pass to the West of the said entrance.
- c. Traffic coming onto the property will be the same amount of traffic that would have gone into Summit Point's Gasoline Alley for the business. It will now be routed to the property without causing any higher car count of traffic congestion.

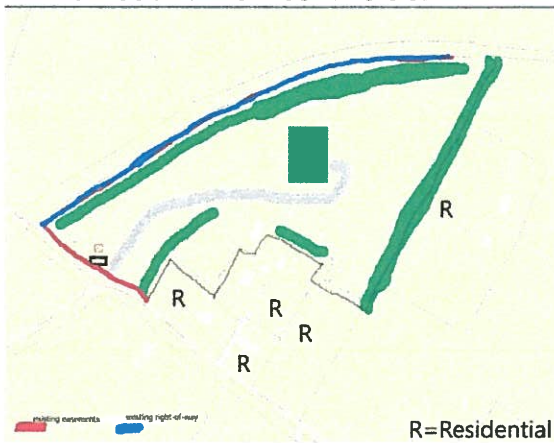
**3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings.  
Section 6.3A.3**

- a. The location of the proposed site development is well out of the way of any of the adjacent and confronting properties. It will not hinder and development of the land adjacent properties.
- b. The proposed building may encourage others to replace older buildings with similar style buildings. The proposed tree planting along the front property line will also give a pleasant view for these property owners.



R=Residential C.

- d. General location and description of existing easements or rights-of-way. The existing easements for the roadway is marked in red & the existing right-of-way for the railroad is marked in blue.



R=Residential d.

2. Narrative (optional)

Type of development proposed at full build-out (provide as much detail as possible).

- a. **Covenants and Restrictions and or Plat restrictions. It is the responsibility of the applicant to research any private agreements relating to the subject property, contact the Homeowners association or seek the advice of a surveyor, engineer, or attorney.**

As far as our research goes in speaking with the owners at the front section of the property, who sold the property there were no know covenants, restrictions or plat restrictions on the back 14.69 acres.

- b. **The business owner is responsible for ensuring compliance with all local, state, and federal taxing requirements.**

As an existing business owner at Gasoline Alley, Summit Point, WV, this business owner is already responsible for insuring that all compliance with all local, state, and federal taxing requirements are being met.

- c. **Intended improvements and proposed building locations (including locations and size of sign). This should also be depicted on the sketch.**

See above map in 1.c. for location of proposed building site (green rectangle) & sign at the entrance of the property (black rectangle) size: 2' x 3'.

**d. Proximity and relationship to historic structures or properties within two hundred feet.**

I spoke with one of the previous owners and they said there are no historical structures or properties on the 14.69 acres.

**e. Traffic characteristics –type and frequency of traffic (i.e. both existing traffic and level of traffic that would be generated by the proposed land use); adequacy of existing transportation routes.**

The traffic that exists are commuters going out in the morning, locals going to lunch and commuters coming home in the evening. There is additional traffic that goes to the Summit Point Motorsports Park on designated weekends. The building site will not add any new traffic to the existing route.

**f. Any other relevant information that would aid the Board of Zoning Appeals in reviewing the request (i.e. hours of operation, number of employees, etc.).**

This business runs from 7:00 am till 5:00 pm Monday-Friday, with occasional hours on weekends, when business permits.

**3. List of all adjacent and confronting property owners. This includes the properties located across any road, right-of-way, or easement. The Jefferson County Court House is the source for property owner information.**

**a. Include map and parcel numbers, as well as mailing addresses. Note: Approval of a Conditional Use Permit, with or without conditions**

**Map #: 16-3.1,** Property adjacent  
Parcel #: 19-06-0016-0003-0001  
Mason Bettye K TR  
33 Triangle Farm LN, Summit Point, WV 25446

**Map #: 16-3.2,** Property adjacent  
Parcel #: 19-06-0016-0003-0002  
Mason Roy M. JR  
26 Triangle Farm LN, Summit Point, WV 25446

**Map #: 16-3.3,** Property adjacent  
Parcel #: 19-06-0016-0003-0003  
Mason Roy M JR & Gretchen E. Behan  
26 Triangle Farm LN, Summit Point, WV 25446

**Map #: 16-3.4**, Property adjacent  
Parcel #: 19-06-0016-0003-0004  
Pullen, Penny M.  
37 Triangle Farm LN, Summit Point, WV 25446

**Map #: 16-4.2**, Property adjacent  
Parcel #: 19-06-0016-0004-0002  
Alistair Bell  
1973 Summit Point Rd, Summit Point, WV 25446

**Map #: 16-4**, Property adjacent  
Parcel #: 19-06-0016-0004-0000  
Walker, Leo John  
13537 Madison Ave, Ocean City, MD 21842

**Map #: 16-2**, Property across railroad tracks  
Parcel #: 19-06-0016-0002-0000  
Physical Address: 2481 Summit Point Rd, Summit Point WV 25446  
JTB Farm LLC & Stone House Farm LLC ET AL  
James T. Breckinridge  
325 Vista Cay DR, Hubert, NC 28539

**Map #: 17-1**, Property across Summit Rd.  
Parcel #: 19-06-0017-0001-0000  
Tribble, Carl JR & U Patricia MC-TR  
1812 Summit Pt. RD 25446

## Zoning

---

**Subject:** FW: Signage for CUP board

**From:** Bret de pedro <[bret@rperformanceracing.com](mailto:bret@rperformanceracing.com)>  
**Date:** September 15, 2020 at 6:24:04 AM EDT  
**To:** Sissy Connolly <[ncc2139@live.com](mailto:ncc2139@live.com)>  
**Subject: Re: Signage for CUP board**

Looks good to me.

On Sun, Sep 13, 2020 at 7:07 PM Sissy Connolly <[ncc2139@live.com](mailto:ncc2139@live.com)> wrote:

Bret,

Here is the corrected version. Ignore the last one sent.

Bret de Pedro  
110 Lower Valley Rd  
Strasburg, VA 22657  
[Bret@rperformanceracing.com](mailto:Bret@rperformanceracing.com)  
703-283-0857

September 06,2020

Signage for Summit Point Property Owned by Bret de Pedro

Sign Size is 2' x 3' will be cut on a wooden board indicated in the sample below. The three colors in the sign will be yellow, black and blue. We have contacted the sign company about having the sign made for the business. We are holding off on making this sign till the review board for the CUP has given us the okay to construct the busines building.



The sign sample below is from  
3D Woodworker Custom Wood Signs  
[Sales@3dwoodworker.com](mailto:Sales@3dwoodworker.com)  
P.O. Box 1173  
Holland, MI 49423

# 3D Woodworker

Custom Wood Signs

Home > Products > Custom Last Name Wood Sign



Sent from [Mail](#) for Windows 10

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Bret de Pedro



(304)728-6749 - SHOP



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Bret de Pedro



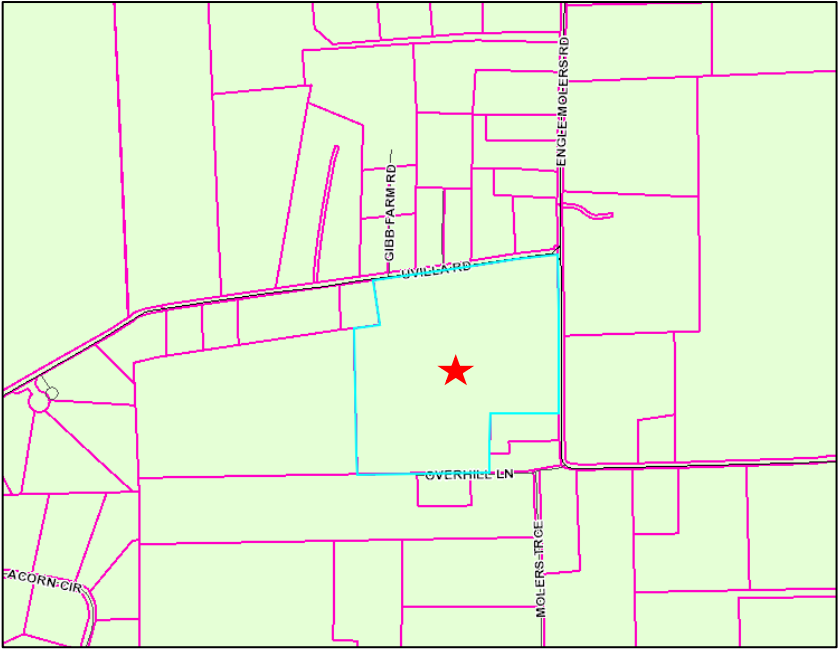
(304)728-6749 - SHOP



Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 24, 2020

**Lutman Variance (20-31-ZV)**

Item #5: Variance from Sec 5.7D.2.b.i(b) to allow the required 50% green space to be allocated on each of the individual lots within the cluster subdivision (applicant is proposing a maximum of five lots).

Applicant:	Dave Lutman
Owner:	Lutman Land Development, LLC
Developer:	Same as Applicant
Consultant:	Paul Raco, P.J. Raco Consulting, LLC
Property Location:	2751 Engle Molers Rd Harpers Ferry, WV
Parcel Information & Zoning District	<p style="text-align: center;">Parcel ID: 09001800170000; Size: 24.91 ac;          Zoning District: Rural</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:          North: Rural      South: Rural          East: Rural      West: Rural</p>
History:	<p><a href="#">Plat Book 2, Page 345</a>, recorded 06-26-1972 (survey plat – 26.51 acre parcel)  <a href="#">Plat Book 3, Page 71</a>, recorded 07-24-1975 (merger – 26.03 acre parcel)          Deed Book 492, Page 46, recorded 10-23-1981 (1.11 Acre Outsale Parcel)</p>
Waivers/Variations:	None
Site Visit Conducted:	No

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

The applicant is requesting a variance from Section 5.7D.2.b.i(b) to allow the required 50% green space to be allocated on each of the individual lots within the cluster and has proffered that he will place an easement on each of the lots to preserve the green space area. The applicant is proposing a maximum of five lots. The purpose of the required green space in a cluster subdivision was intended to preserve farmland or other natural features while still providing land owners the opportunity to develop their land.

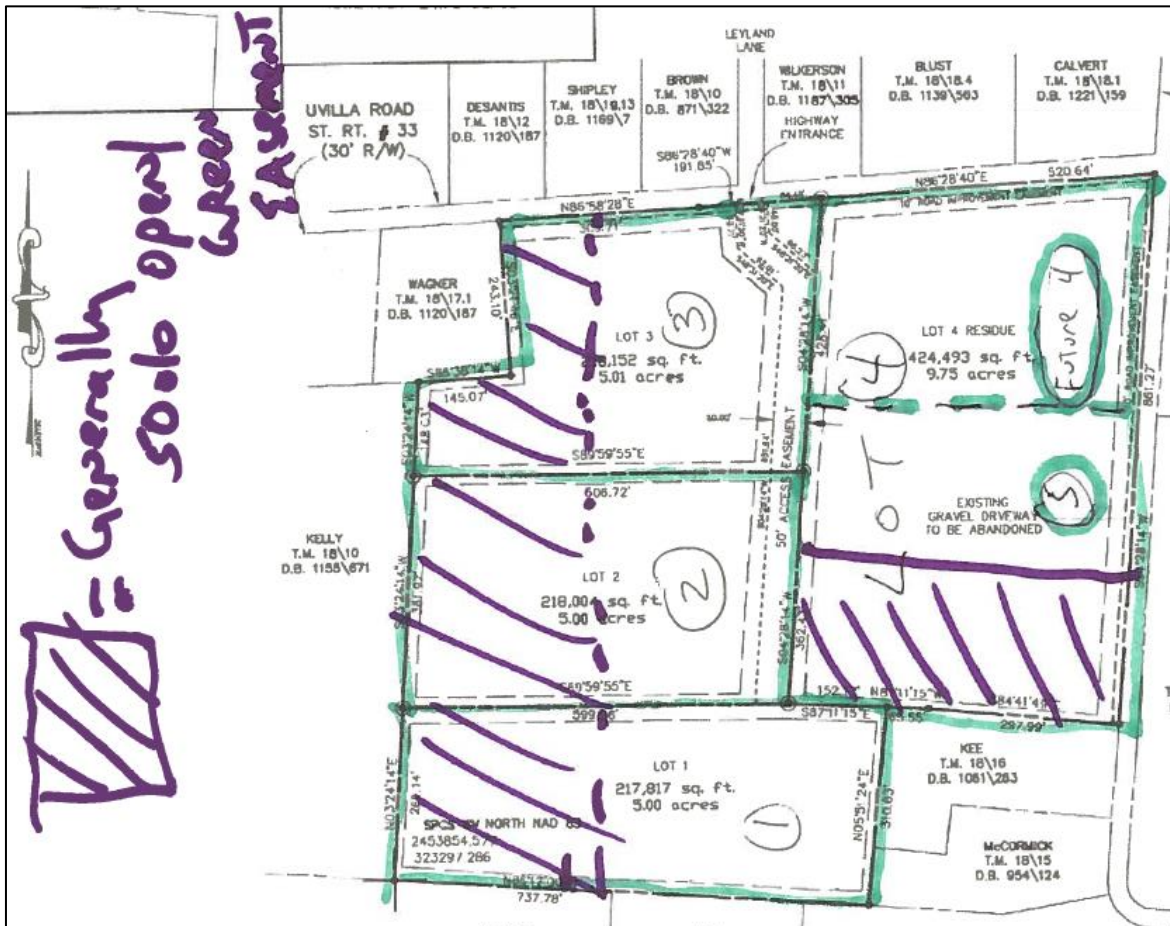
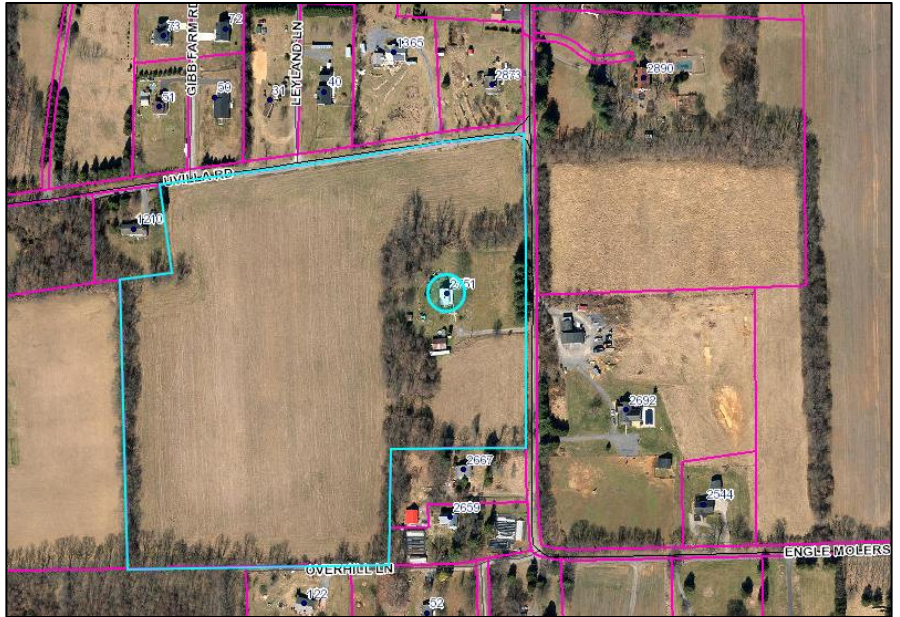
Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 24, 2020

**Lutman Variance (20-31-ZV)**

**Staff Evaluation of Request**

The subject parcel contains approximately 24.91 acres and is the residual parcel from an outsale division which occurred in 1981 (Deed Book 492, Page 46). Under the current cluster provisions, based on the acreage on record in 1988, 12.45 acres would be required to be retained as green space.

The applicant is proposing to allocate a portion of the required 50% green space area on four of the proposed five lots in lieu of a single 12.45 acre green space lot. As part of the request, the applicant has proffered to place each of the allocated green space areas under a perpetual green space easement, restricting any buildings from placement within the green space areas (see exhibit from application below).



Staff Report  
Jefferson County Board of Zoning Appeals  
September 24, 2020

**Lutman Variance (20-31-ZV)**

As the applicant indicated, the cluster provisions were written to allow larger tracts of land to develop, while retaining 50% of the land in open space/farmland. There is no minimum or maximum acreage requirement for the parent tract to process through the cluster provisions, and density is calculated based on the acreage on record in 1988. The subject parcel is 24.9 acres is permitted to create a total of five lots (four lots and a residue) under the cluster provisions. It appears that the proposal to subdivide larger lots, with designated green space easements on each of the lots, meets or exceeds the requirements of the Ordinance. Based on the proposed design, it appears that impact on adjoining properties is mitigated by the green space easements.

It is feasible to comply with the Ordinance by other means. The applicant has the right to create five lots (total) under the cluster provision and would be required to retain ~12.45 acres in green space area. However, as the applicant noted in his application, allowing the green space to be dispersed between the proposed five lots would allow the developer to create larger parcels of approximately 5 acres in size (as opposed to 2.5 to 3 acres). It should also be noted that the Ordinance does not require that the green space area be placed in an easement; therefore, it would appear that placing individual easements on each lot would satisfy the intent of the green space requirement to preserve land in its natural condition.

Conditions of Approval

If the variance is granted, a possible condition of approval could be:

- a) The applicant, as proffered, shall place a perpetual green space easement on four of the proposed five lots, with the total green space area equal to or greater than the required 50% (~12.45 acres).

**Section of Ordinance to be Considered:**

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

The purpose of this district is to provide a location for low density single family residential development in conjunction with providing continued farming activities. This district is generally not served with public water or sewer facilities, although certain size developments processed under the cluster provision of Section 5.7D(2) may choose to do so. A primary function of the low density residential development permitted within this section is to preserve the rural character of the County and the agricultural community. All lots subdivided in the Rural District are subject to Section 5.7D. The Envision Jefferson 2035 Comprehensive Plan recommends that the cluster provision of the Zoning Ordinance be the preferred method of residential development in the Rural zoning district.<sup>8, 23, 32</sup>

**A. Principal Permitted and Conditional Uses<sup>23, 27, 32</sup>**

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.<sup>27, 32</sup>
2. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.<sup>27, 32</sup>

**B. Minimum Lot Area, Lot Width and Yard Requirements<sup>23</sup>**

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Jefferson County Board of Zoning Appeals  
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**Lutman Variance (20-31-ZV)**

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>
3. Any building or feeding pens in which farm animals are kept shall comply with distance requirements specified in Section 4.6 and the requirements for barns and feeding pens specified in Article 8. Also, any buildings used to store manure shall comply with distance requirements specified in Section 4.6A.<sup>23</sup>

C. Height Regulations

No structure shall exceed 45 feet in height except as provided in Section 9.2.<sup>32</sup>

**D. Maximum Number of Lots Allowed**

All parcels of land that were on record as of October 5, 1988 are entitled to subdivide for single family detached residences based on Subsections 5.7D.1, 5.7D.2 or 5.7D.3 below.

A property owner may use a combination of these Subsections, provided that the number of lots are prorated by density. The density rights for any rural development shall be based on the parcel of record as of October 5, 1988 utilizing the following alternatives:<sup>8, 32</sup>

1. A property owner may create one (1) lot for every 15 acres with a minimum lot size of three (3) acres.<sup>17, 21</sup>
  - a. Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.<sup>32</sup>
  - b. A property owner may transfer rights to adjacent parcels which are owned by the same entity.<sup>17, 21</sup>

**2. Clustering**

a. Purpose and Intent

- i. To encourage the conservation of farmland in the Rural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract while retaining a portion of the property as green space<sup>32</sup>.
- ii. To provide for a well planned development while minimizing the use of prime agricultural land.

**b. Requirements**

- i. One (1) lot may be subdivided for every five (5) acres.<sup>17, 21, 23, 32</sup>
  - (a) Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.<sup>32</sup>

Staff Report  
Jefferson County Board of Zoning Appeals  
September 24, 2020

**Lutman Variance (20-31-ZV)**

(b) A minimum of 50% of the property shall be retained as green space and shall contain no further development rights unless the property is placed in another zone or further subdivision is allowed by ordinance. A note to this effect shall be placed on all cluster subdivision plats.<sup>32</sup>

(c) For every additional 5% green space preservation, the following sliding scale may be utilized:<sup>32</sup>

55% green space	1 lot per 4.5 acres
60% green space	1 lot per 4 acres
65% green space	1 lot per 3.5 acres
70% green space	1 lot per 3 acres
75% green space	1 lot per 2.5 acres

ii. The residue of a lot divided utilizing either 5.7D.1 or 5.7D.2 prior to the date of adoption of this amendment on March 16, 2017, shall have additional rights based on the provisions of this Subsection, provided that the total lots developed shall not exceed one lot per five acres based on the parent parcel on October 5, 1988 and all other provisions of this Subsection are complied with.<sup>32</sup>

iii. Minimum lot size shall be 40,000 square feet for lots that will be served by individual wells and septic systems; 20,000 square feet for lots that will be served by a central water OR central sewerage system; and 10,000 square feet for lots that will be served by both a central water AND central sewerage system.<sup>17, 21, 32</sup>

(a) Setbacks shall be 25' front, 12' sides, and 20' rear.

(b) All clusters of three (3) or more lots shall be served by an internal road; provided that all clusters utilizing the sliding scale in 5.7D.2.b shall have an internal road with direct access to a public road identified as a Major Collector or a Minor or Principal Arterial on the Envision Jefferson 2035 Comprehensive Plan Roadway Classification Map.<sup>23</sup>

(c) Clusters of three (3) or more lots shall not be along an existing public road.

(d) A property owner may transfer rights to adjacent parcels which are owned by the same entity.<sup>17, 21</sup>

iv. Procedures<sup>23</sup>

(a) Concept Plan. For the subdivision of tracts eligible for cluster lots, a concept plan must be submitted pursuant to the requirements of the Jefferson County Subdivision and Land Development Regulations. All cluster developments must be processed as a Major Subdivision.<sup>17, 21, 23</sup>

(b) The Concept Plan for a proposed Cluster Development can be combined with the required submittal and process requirements for a Concept Plan for a Major Subdivision as outlined in the Subdivision Regulations, provided that the Concept

Staff Report  
Jefferson County Board of Zoning Appeals  
September 24, 2020

**Lutman Variance (20-31-ZV)**

Plan includes all requirements of the Concept Plan in the Subdivision Regulations and includes the necessary soils and topographic data, together with a written narrative, required for the analysis listed below.<sup>32</sup>

- (c) The Staff shall review and make a recommendation to the Planning Commission regarding the proposed design and layout of the proposed Cluster Development. Staff shall consider the following when reviewing the Cluster Concept Plan:<sup>32</sup>
    - (1) Soils: The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.
    - (2) Surrounding land use and zoning: The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.
  - (d) If the concept plan is approved by the Planning Commission, the applicant may then proceed with platting of the clustered development in accordance with the Jefferson County Subdivision and Land Development Regulations and the approved concept plan. The plat shall bear a statement indicating “The land lies within an approved rural cluster development and no further subdivision of the remaining land is permitted unless the property is placed in another zone or further subdivision is allowed by ordinance or regulation”.<sup>23</sup>
3. If the development rights under Subsections 5.7D.1 and 5.7D.2 above have not been utilized, any property that was a lot of record as of October 5, 1988 may create three (3) total lots (including the residue) during any five year period. Such application may process as a Minor Subdivision, in accordance with the Subdivision Regulations, and shall be exempt from density limitations provided that all subdivision requirements are satisfied. Applications which exceed this number during any five year period shall process under Subsection 5.7D.1 or 5.7D.2 above. Only the residue or parent parcel may qualify under this provision once the original subdivision takes place. All lots that qualify under this section must meet subdivision requirements.<sup>32</sup>
  4. Subdivisions involving transfers of land between family members known as “Family Transfers”, as defined in Article 2, shall not be subject to the density requirements of this section. All lots that qualify under this section must meet subdivision requirements. Family transfers are not entitled to further subdivide except as another Family transfer.<sup>32</sup>
  5. Once the maximum number of lots are created under 5.7D, the property cannot be further subdivided unless the Ordinance is amended to allow such.



**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: 20-31-ZV  
 Staff Initials: JH  
 Meeting Date: 9/24/20  
 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: Lutman Land Development LLC  
 Mailing Address: 412 W Burr Blvd, Kearneysville, WV 25430  
 Phone Number: c/o Paul 304/676-8256 Email: c/o pjraco.consulting@gmail.com

**Applicant Contact Information**

Name: David Lutman And Paul J Raco, P. J. Raco Consulting, LLC  
 Mailing Address: Above and Below  
 Phone Number: c/o Paul 304/676-8256 Email: pjraco.consulting@gmail.com

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

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

**Physical Property Details**

Physical Address: 2751 Engle Moler Road, Harpers Ferry, WV 25425  
 City: Harpers Ferry State: WV Zip Code: 25425  
 Tax District: Shepherdstown Map No: 18 Parcel No: 17  
 Parcel Size: 25 +- Acres Deed Book: 1245 Page No: 431

**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"/>	
<div style="text-align: center;"> <h1>RECEIVED</h1> <p><b>AUG 31 2020</b></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: 5.7D2.bi(b)

Briefly describe the nature of the variance request:

See Attached

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

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ to \_\_\_\_\_

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

See Attached

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

See Attached

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

See Attached

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

See Attached

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

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

  
Signature of Property Owner

8-31-20  
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

Lutman Land Development, LLC  
Request for Variance  
Article 5, Sections 5.7D2(b)i(b)  
Jefferson County Zoning Ordinance  
August 31, 2020

**Brief Description**

Article 5, Section 5.7D2(b)i(b) requires that 50% of land developing under this section be retained in open space, farm, green space, forest, etc. As explained in the same type of request made in February/March of this year to the Board, the Staff has interpreted that this 50% provision should be retained on the Residue of the development. The applicant is proposing to retain the 50% in open space on the lots as generally depicted on the Sketch. The Applicant proposes this area as a Platted and Deeded Preservation Easement on the lots.

The approximate 24.9 acre parcel is permitted to subdivide into a total of 5 lots (4 lots and a residue) under this provision of the ordinance. In this case the necessary 50 percent would be about 12.5 acres which would need to be left in open/green space. As was proposed and approved by the Board in the past, the Applicant is subdividing the property into four 5 acre parcels with an approximate 5 acre residue with the required 50% green/open space on the lots as generally illustrated on the Sketch. This area, as will be approved by the Zoning Administrator at Final Plat stage, will be placed in a perpetual green space easement which would allow for no building in that area.

Again, the applicant believes that this would allow the area around the subdivision to be buffered from each house construction site, while still accomplishing the goal of keeping 12.5 acres in open and green area. This would allow the same number of lots as permitted by a cluster subdivision with the same amount of required open space.

The applicant could also develop this property by subdividing the property into 2 lots and a residue every 5 years until the entire property is developed into approximately 12 lots over time. If the Applicant is granted the variance as requested, then the land will only develop into the 5 lots as proposed and presented with this variance under this clustering provision.

As explained on the sketch, the currently shown Lot 4 Residue will be one lot during the first phase and it will be split into two lots at a later point depending on the DOH approvals. This sketch shows an illustration of the proposed green/open space that will be preserved. However, if the Board approves the variance, the final area will be platted on the Final Plat and may shift a bit based on the necessary septic, well and highway approvals. The Zoning Administrator will approve the final layout as she did with the last similarly requested and approved variance from this section.

Accordingly, the Applicant respectfully requests that the variance be granted to allow a total of 5 Lots with the open space being placed in an easement on the actual lots, as generally shown, as opposed to just on the residue.

Lutman Land Development, LLC  
Variance Request: Article 5, Sections 5.7D2(b)i(b)  
Jefferson County Zoning Ordinance  
August 31, 2020

Four Criteria

1. Granting the variances will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

The Applicant is not asking for any additional lots than what is already permitted. In fact, if the Applicant subdivided the property to the maximum density permitted, he could do an additional 7 lots over time utilizing the 2 lots every five year provision. Allowing the Applicant to develop 5 larger lots instead of 4 small lots and a larger residue will still allow the rural nature of the area with the required approximate 12.5 acres of open/green space being provided on the lots as generally illustrated on the sketch. In other words, the overall density stays the same as what is permitted by the Cluster provision with the same amount of open, preserved green space. The final layout will be approved by the Zoning Administrator based on the final location of the septic, wells and entrance.

Each lot will still need to obtain Health Department Approval and the subdivision will still need the appropriate Highway Department approval. Instead of having 4 lots as small as 1 acre with a larger residue, the applicant is requesting four 5 acre parcels and a residue, with the open space being provided on the lots instead of just on the residue. Initially, the first phase will be 3 lots and a residue Lot 4. Phase Two will split Lot 4 into another Lot.

2. In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought, and which were not created by the person seeking the variance?

This property is mostly bordered on three sides by two State roads and a private access road. The idea of requiring 50% of the land in the rural district to remain in open/green space is to allow a larger residue to be farmed. This provision is set up for larger properties and works when the parent parcel is much larger, and this provision would leave a workable farm. When the properties are less than 50 acres, it seems to be more appropriate to allow the larger lot sizes which are more compatible in this area. of cluster developments be clumped together to protect adjacent farm uses. In this case, since three of the sides are bordered by the State Roads and access lane, it makes sense that the platted Preservation Easement is proposed along the remaining neighboring open land. So, the Applicant can still meet the requirement of 12.5 acres of open/green space but provide for lots of equal size and provide for the Preservation Easement in the rear of the property.

The Applicant could still develop using different permitted provisions of the Zoning Ordinance. One provision would allow the Applicant to develop into 12 lots over the course of time. Instead, the Applicant is proposing to develop only 5 lots as permitted by clustering. Additionally, the Applicant is going to meet the open space by providing for a preservation easement on the required approximately 12.5 acres divided through the lots. The proposed arrangement is actually more consistent with the Comprehensive Plan, since if the open/green space were platted under the current interpretation, the residue would not have to provide for a deeded Preservation Easement. In other words, as proposed, the approximate 12.5 acres will be in a platted and deeded preservation easement that allows for no construction. As the ordinance is currently written, no preservation easement would be required on the residue if the variance is rejected.

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

As stated above, there are 3 (4 with rezoning) ways to develop the property. One is to develop 2 lots every 5 years which would result in about 12 lots over time. Another way is to cluster 4 small lots with a residue of about 15 acres. This would push all the lots up front. The final way is to have this variance granted which would allow the same number of lots as the Cluster, but to spread it over the entire land. This would seem to meet the rural intent of the area and is consistent with the Comprehensive Plan. The Applicant believes that the third way would also be the best for the area since each of the new lots will contain about 5 acres with about half of lots being placed in a preservation agreement.

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

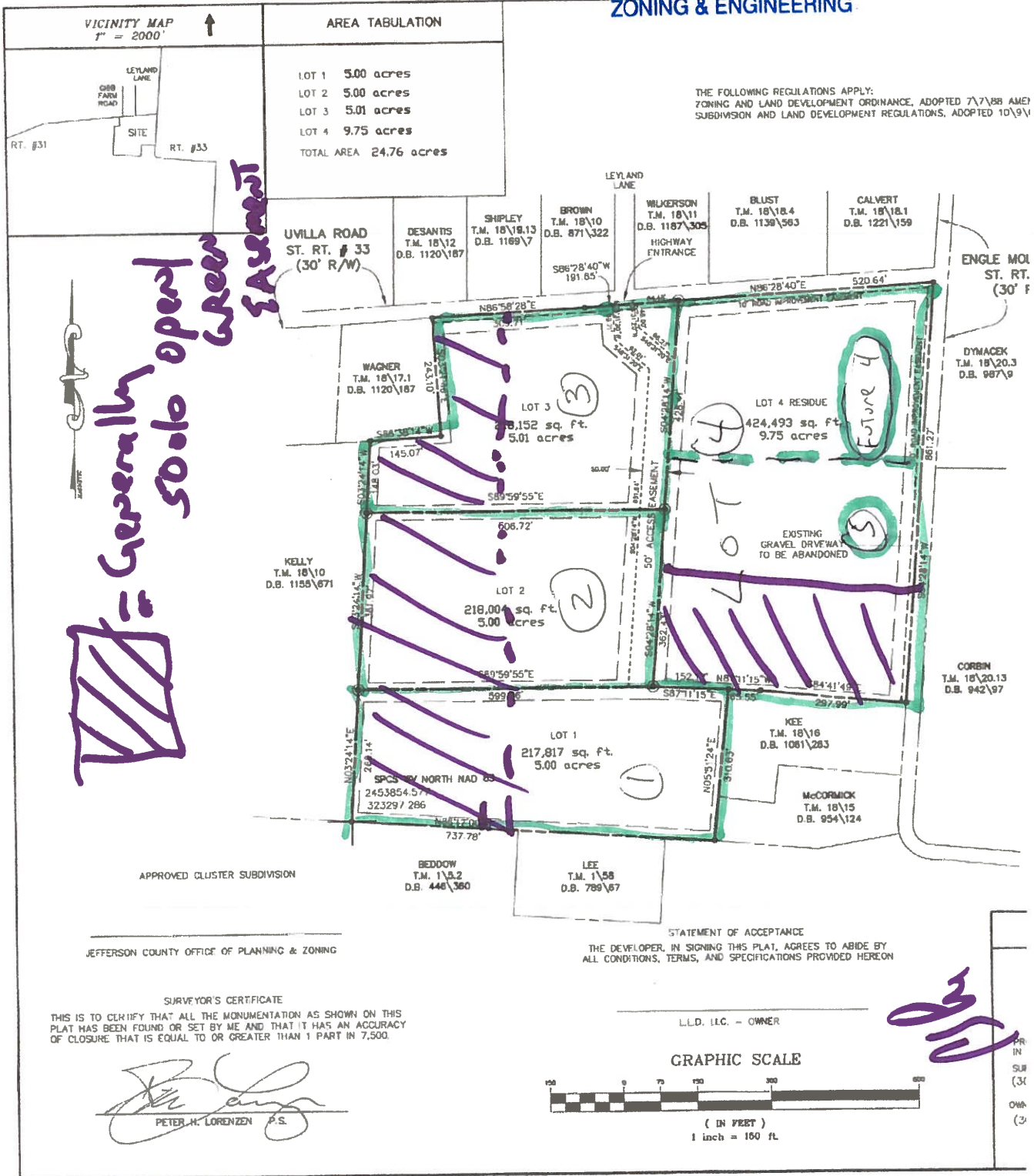
There are several purposes of this ordinance provision. First, it would allow cluster developments with large residues that could be lumped together to be compatible for farming. In this case, the property is only 25 acres and bordered by roads or lanes on three sides and other lots. So, the area proposed to be protected in a preservation easement will be along that area of the property adjacent to the bordering open land. This approach will also allow larger lots (as opposed to small clustered lots) which are more compatible with the surrounding land and lots.

Secondly, this ordinance provision allows for half of property to remain undeveloped. In this case, that half equals approximately 12.5 acres. By setting aside the same required 12.5 acres of land in a preservation easement on the lots, it still meets the goals and intent of the Zoning Ordinance to preserve half of the property. Furthermore, the proposed approach is more consistent with goals of the Comprehensive Plan, since this open/green land will be in an actual Preservation Easement that prevents construction in the area. As such, this land remains protected and cannot be further subdivided in that area of the lots.

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## JEFFERSON COUNTY PLANNING ZONING & ENGINEERING





# 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@jeffersoncountyvzw.org](mailto:zoning@jeffersoncountyvzw.org)

Phone: (304) 728-3228

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

**Date of Memo: September 16, 2020**

### 1) **Text Amendments:**

- ZTA19-03 – Proposed Text Amendment to the Zoning Ordinance to create provisions to allow Solar Energy Facilities to process in Jefferson County:
  - The County Commission held a Public Hearing on 09-11-20. Written comments may be submitted to the County Commission through 09-25-20.
- Greenway Engineering continues to work on the reorganization of the Subdivision Regulations and Zoning Ordinance. A Public Workshop was held on June 23 to review the status of Phase I. The next step, Phase II, includes revisions to both the Subdivision Regulations and the Zoning Ordinance. A Public Hearing will be held on any proposed revisions.
- ZTA20-01 – Request to create a new definition for “cemetery” and request to amend Appendix C to reflect “Commercial Cemetery” as a Conditional Use in the Rural zoning district.
  - The Planning Commission held a Public Hearing on 09-08-20. Public comments may be submitted to the Planning Commission through 09-22-20. They will review all comments submitted through 09-22-20 at their 10-13-20 meeting.
- ZTA20-02 – Request to amend the Zoning Ordinance to change the classification for Drive-Through Restaurants in the Residential-Light Industrial-Commercial (RLIC) zoning district in Appendix C from Conditional Use (CU) to Permitted Use (P). Additionally, the amendment would include eliminating Section 5.8C.3, which refers to Drive-Through Restaurants requiring a Conditional Use Permit.
  - The Planning Commission voted to accept the request into their work plan and scheduled a public hearing for 10-13-20.

### 2) **Upcoming BZA meeting**

- The next regular meeting is scheduled for **October 22, 2020** (deadline for submission is Monday, September 28, 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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**September 2020**  
**Zoning Certificate Activity Report**

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File #	20-20-ZC
Request:	Modifications to existing telecommunications tower (PC File #S97-4).
Property Owner:	Matthew Rushizky, Personal Representative
Applicant:	Smartlink Attn: Nate Montanye
Parcel Info:	8428 Shepherdstown Pike, Shepherdstown, WV 25443 Parcel ID: 09000900040000; Size: 205.97 acres; Zoning District: Rural
Issuance Date:	08-21-20
File #	20-21-ZC
Request:	Modifications to existing telecommunications tower.
Property Owner:	American Tower Corporation
Applicant:	Jacobs Telecommunications Attn: Andrea Holzer
Parcel Info:	17340 Poppy Road, Bluemont, VA 20135 Parcel ID: 06002500080003; Size: 2.01 acres; Zoning District: Rural
Issuance Date:	09-03-20
File #	20-22-ZC
Request:	Change in Ownership – Nonconforming Use – Salvage and Recycling Yard
Property Owner:	DLGA, LLC / David and Lisa Butcher
Applicant:	Road Runner Wrecker Service, Inc.
Parcel Info:	2282 Summit Point Road, Summit Point, WV 25446 Parcel ID: 06001600100000; Size: 25 acres; Zoning District: Rural
Issuance Date:	09-14-2020

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