



**Jefferson County
Board of Zoning Appeals
Thursday, October 22, 2020 at 2:00 p.m.**

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

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/82148916053>

Meeting ID: 821 4891 6053

Dial by your location: +1 301 715 8592 US

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.

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

Approval of Minutes: September 24, 2020

Public Hearing – Administer Oath

FILE #: 20-32-ZV

Request: Variance from Section 10.4B.3 to reduce the front setback from 25' to 1.5' for a 64" W x 84" H (38 sf) double-sided pylon (monument) sign.
Owner: HDW, LLC
Parcel Info: Whale of a Wash, 104 Maddex Square Dr., Shepherdstown, WV
Parcel ID: 09000800150006; Size: .73 ac;
Zoning District: Residential-Light Industrial-Commercial

FILE #: 20-33-ZV

Request: Variance from Section 4.6B.2 to reduce the distance requirement from 75' to 65' along the rear property line for an 8' x 12' (96 sf) accessory structure (storage shed).
Owner: HDW, LLC
Parcel Info: Whale of a Wash, 104 Maddex Square Dr., Shepherdstown, WV
Parcel ID: 09000800150006; Size: .73 ac;
Zoning District: Residential-Light Industrial-Commercial

Zoning Administrator Report

- a. Monthly Zoning Certificate Activity Report

Request from Board Chair

- a. Discussion with possible action to amend the Rules of Procedure to create a process to allow for a summary judgment for applications that do not have public comment.

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: September 24, 2020

1. Variance from Section 5.4B. Owner: Lance and Michelle Paul. File: 20-28-ZV.
2. Variance from Section 5.4B. Owner: Kimberly Purvis. File: 20-29-ZV.
3. Variance from Section 5.4B. Owner: Sharon Neubauer. File: 20-30-ZV.
4. Request for a CUP for Automotive Repair, Sales and Service shop. Owner: Bret de Pedro. File: 20-7-CUP.
5. Variance from Section 5.7D.2.b.i(b). Owner: Lutman Land Development, LLC. File: 20-31-ZV.

Minutes
Jefferson County Board of Zoning Appeals

1 Meeting Date: September 24, 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; and Leeds Corbin
5 Board Members Absent: Matt McKinney and Deirdre Catterton with notification
6 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran,
7 Assistant Prosecuting Attorney; and, Jennilee Hartman, Zoning Clerk
8 All requests were pursuant to the Jefferson County Zoning and Land Development Ordinance.
9 Mr. Quynn called the meeting to order at 2:00 pm. Mr. Bannon called for a vote, which carried
10 unanimously.

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

12 Mr. Quynn moved to approve the August 27, 2020 meeting minutes as presented. Mr. Bannon
13 called for a vote, which carried unanimously.

14 **Public Oath**

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

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

17 Request: Variance from Section 5.4B of the Zoning Ordinance (amended 05/01/03) to reduce
18 the side setback from 12' to 8' and the rear setback from 20' to 8' for a 12' x 16' (192 sf)
19 accessory structure.
20 Owner: Lance and Michelle Paul
21 Parcel Info: Demory Farms Subdivision, Lot 37; 70 Killian Lane, Charles Town, WV;
22 Parcel ID: 02009B00370000; Size: .23 ac; Zoning District: Residential Growth

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

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

26 Request: Variance from Section 5.4B of the Zoning Ordinance (amended 01/10/02) to reduce
27 the side setback from 12' to 7' and the rear setback from 20' to 11' for a 12' x 20'
28 (240 sf) accessory structure.
29 Owner: Kimberly Purvis
30 Parcel Info: Spruce Hill Subdivision, Lot 14; 30 Balsam Ct., Charles Town, WV;
31 Parcel ID: 06003C00140000; Size: 1.23 ac;
32 Zoning District: Residential-Light Industrial-Commercial

33 Mr. Christopher and Ms. Kimberly Purvis, property owners, were present to address the Board.
34 Ms. Beaulieu provided an overview of her staff report and the circumstances of the pending
35 violation. Ms. Beaulieu informed the Board that there was a 10' wide drainage easement platted
36 along the side and rear property lines. Ms. Beaulieu noted that while the Board could reduce the
37 setbacks, only the Planning Commission could allow the shed to remain within the drainage
38 easement. Ms. Beaulieu noted that the applicants submitted a request to the Planning Commission,
39 which would be reviewed during the October 13, 2020 Planning Commission meeting. Mr. Purvis
40 explained the nature of the request.

41 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the
42 public hearing.

1 Mr. Quynn moved to approve the variance as requested with the condition that the applicant obtain
2 approval from the Planning Commission. Mr. Bannon called for a vote, which carried unanimously.

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

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

6 Owner: Sharon Neubauer

7 Applicant: Matthew Lidoco, LRS, LLC

8 Parcel Info: Colonial Hills Subdivision, Lot 14; 59 Swearingen Way; Shepherdstown, WV;
9 Parcel ID: 09008E00140000; Size: .09 ac; Zoning District: Residential Growth

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

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

13 Request: Request for a Conditional Use Permit to operate an Automotive Repair, Sales and
14 Service shop, as defined in Article 2. The proposal includes construction of a 4,000
15 sf building with associated parking and a freestanding business sign.

16 Owner: Bret de Pedro

17 Parcel Info: Vacant parcel on Summit Point Road across from with Hardesty Road, Summit
18 Point, WV; Parcel ID: 06001600030000; Size: 14.69 ac; Zoning District: Rural

19 Mr. Bret de Pedro, property owner, was present to address the Board. Ms. Beaulieu provided an
20 overview of her staff report and reviewed the conditional use permit criteria. Mr. de Pedro
21 provided an overview of his request.

22 Mr. Bannon opened the public hearing. Ms. Robin Tribble, a neighboring property owner, spoke in
23 support of the request.

24 Mr. Corbin moved to approve the conditional use permit as requested with the condition that the
25 applicant comply with the site plan requirements and that he is bound by his testimony. Mr. Bannon
26 called for a vote, which carried unanimously.

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

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

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

33 Owner: Lance and Michelle Paul

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

36 Mr. Paul, property owner, was present to address the Board. Ms. Beaulieu provided an overview of
37 her staff report, noting that the applicant had received approval from the Homeowners Association.
38 Mr. Paul represented that the proposed location was selected to allow continued use of his yard and
39 to follow a similar configuration to his neighbor.

40 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the public
41 hearing.

1 Mr. Corbin moved to approve the variance as requested with the condition that the applicant is
2 bound by his testimony. Mr. Bannon called for a vote, which carried unanimously.

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

4 Request: Variance from Section 5.7D.2.b.i(b) to allow the required 50% green space to be
5 allocated on each of the individual lots within the cluster subdivision (maximum of
6 five lots proposed).

7 Owner: Lutman Land Development, LLC

8 Parcel Info: 2751 Engle Molers Rd Harpers Ferry, WV;

9 Parcel ID: 09001800170000; Size: 24.91 ac; Zoning District: Rural

10 Mr. David Lutman, owner of Lutman Land Development, LLC and Mr. Paul Raco, with PJ. Raco
11 Consulting, LLC, were present to address the Board. Ms. Beaulieu provided an overview of her
12 staff report. Mr. Raco, applicant's representative, provided a detailed overview of the request,
13 noting that his client would place the green space area under a perpetual easement, which would
14 prohibit any permittable structures within the easement area.

15 Mr. Bannon opened the public hearing. Ms. Alicia McCormick spoke in support of the request,
16 imploring the applicant to keep neighboring properties in mind. Ms. Mikaela Shremshock spoke in
17 opposition to the request. Ms. Christine Marshall requested that the applicant be required to utilize
18 the setbacks required in the Rural zoning district, as opposed to the reduce setbacks permitted
19 within the cluster provisions.

20 There were no additional comments. Mr. Bannon closed the public hearing.

21 Mr. Raco and Mr. Lutman provided a rebuttal.

22 Mr. Corbin motioned to go into deliberative session at 3:05 pm. Mr. Bannon called for a vote,
23 which carried unanimously.

24 Mr. Bannon motioned to come out of deliberative session at 3:26 pm. Mr. Bannon called for a vote,
25 which carried unanimously.

26 Mr. Quynn motioned to approve the request with condition that the applicant is bound by his
27 proffers and testimony. Mr. Bannon called for a vote, which carried unanimously.

28 Ms. Beaulieu notified the Board that the applicant representative for Item #3 was now available.

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

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

32 Owner: Sharon Neubauer

33 Applicant: Matthew Lidoco, LRS, LLC

34 Parcel Info: Colonial Hills Subdivision, Lot 14; 59 Swearingen Way, Shepherdstown, WV 25443

35 Parcel ID: 09008E00140000; Size: .09 ac; Zoning District: Residential Growth

36 Mr. Matthew Lidoco, applicant representative, was present to address the Board. Ms. Beaulieu
37 provided an overview of her staff report. Mr. Lidoco stated he did not have anything to add to
38 Ms. Beaulieu's summary.

39 Mr. Bannon opened the public hearing. There was no public comment. Mr. Bannon closed the
40 public hearing.

1 Mr. Corbin motioned to approve the request with the condition that the applicant is bound by his
2 testimony. Mr. Bannon called for a vote, which carried unanimously.

3 **Zoning Administrator's Report**

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

5 Ms. Beaulieu updated the Board on the status of the following amendments: Solar Energy Facilities
6 (ZTA19-03); the Reorganization of the Zoning Ordinance and the Subdivision Regulations by
7 Greenway Engineering; Commercial Cemeteries (ZTA20-01); and change in classification for Drive-
8 Through Restaurants in the Residential-Light Industrial-Commercial zoning district (ZTA20-02).

9 Ms. Beaulieu stated that the next Board meeting would be on October 22, 2020.

10 **Legal Update**

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

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

13 **Meeting: August 27, 2020**

14 1. Variance from Section 9.7. Owner: Joseph R Lee. File: 20-25-ZV.

15 2. Variance from Section 9.7. Owner: Cage, LLC. File: 20-26-ZV.

16 3. Request for a CUP for Valley Used Cars. Owner: I&K Farms, LLC. File: 20-5-CUP.

17 4. Request for a CUP for a Restaurant. Owner: Andrew & Nariman Main. File: 20-6-CUP.

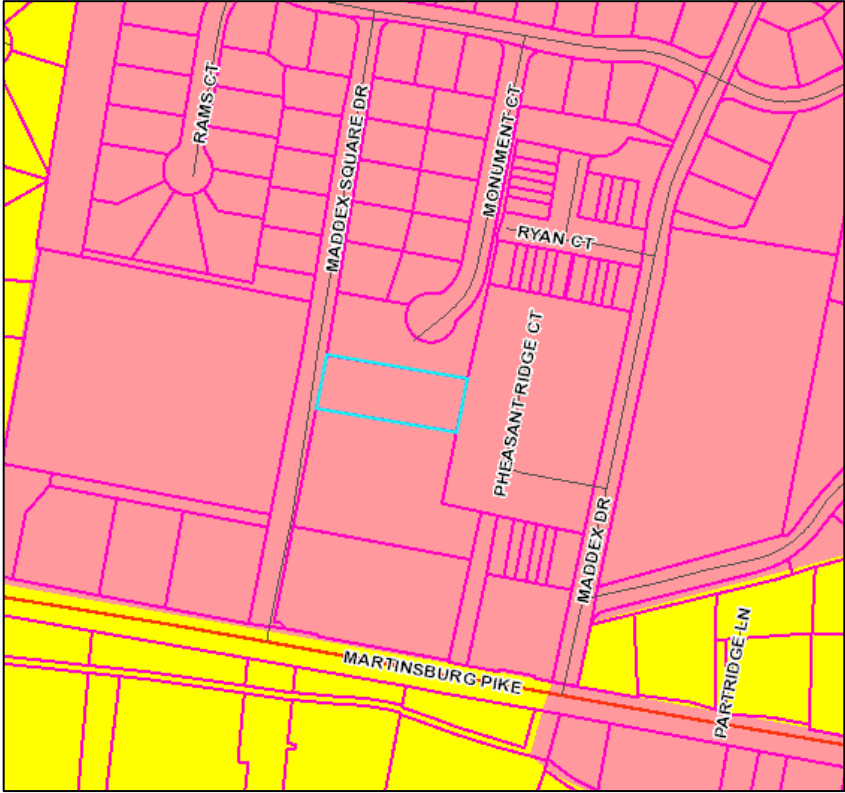
18 5. Variance from Section 4.16. Owner: Asbury United Methodist Church. File: 20-27-ZV.

19 Mr. Bannon stated he had signed the Findings and delivered them to the Office earlier. Mr. Bannon
20 requested that the Board discuss the possibility of implementing a summary judgment process for
21 applications that do not have anyone signed up for public comment. Ms. Beaulieu stated she would
22 include his request to the agenda for the October meeting.

23 Mr. Quynn moved to adjourn the meeting at 3:38 pm. Mr. Bannon called for a vote, which carried
24 unanimously.

Staff Report
 Jefferson County Board of Zoning Appeals
 October 22, 2020
Whale of a Wash Variance Request (#20-32-ZV)

Item #1 Variance request from Section 10.4B.3 to reduce the front setback from 25' to 1.5' for a 64" W x 84" H (38 sf) double-sided pylon (monument) sign.

Applicant:	Whale of a Wash
Owner:	HDW, LLC
Developer:	N/A
Consultant:	P.J. Raco Consulting, LLC
Legal Description & Zoning District:	<p style="text-align: center;">Whale of a Wash, 104 Maddex Sq. Dr., Shepherdstown, WV Parcel ID: 09000800150006; Size: .73 ac; Zoning District: Residential Light Industrial-Commercial</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation: North, South, East, West: Residential Light Industrial-Commercial Rural</p>
History:	<p>Maddex Farm, Phase IV (3 lots) recorded on 09/09/1994 (PB: 30; PG 2) 94-16: Site plan for Whale of a Wash Car Wash S16-06: Site Plan for addition of a laundromat</p>

Summary of Request and Purpose of Ordinance Requirements

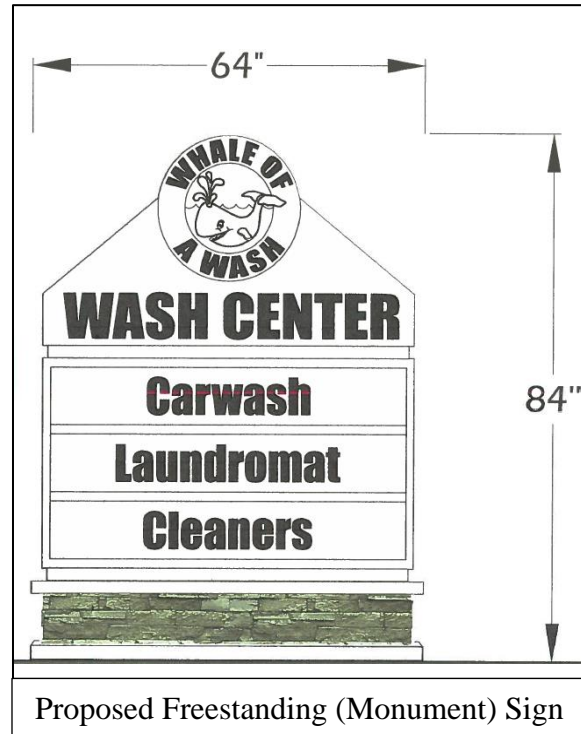
Variance request from Section 10.4B.3 to reduce the front setback from 25' to 1.5' for a 64" W x 84" H (38 sf) double-sided monument sign.

A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that traffic visibility is not impaired for drivers along the right-of-way.

Staff Report
Jefferson County Board of Zoning Appeals
October 22, 2020
Whale of a Wash Variance Request (#20-32-ZV)

Staff Evaluation of Request

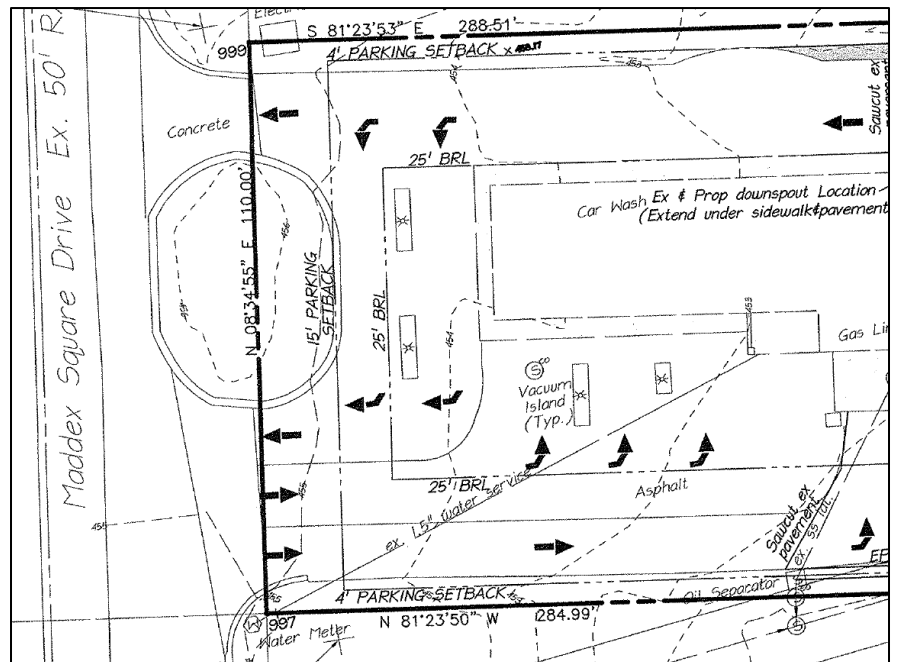
The applicant is proposing to install a monument-style sign within the 25' front setback area. Monument signs are typically ground mounted with a solid base and not supported by poles (i.e. no space between the sign and the ground).



The Ordinance currently only addresses freestanding signs at their maximum height and square footage and does not take into consideration lower profile signs that may be preferred based on road classification and speed limits.

For example, the Ordinance limits the height of freestanding business signs to 35' and the size of the sign face to 100 square feet. Freestanding signs of this size are typically designed to attract motorists from a distance to draw them into a site; therefore, a 25' setback is not unreasonable.

The applicant is proposing a monument style freestanding sign with a maximum height of 7'. The purpose of the proposed sign would not be to attract motorists from a distance, but to identify the business to incoming motorists. Therefore, a reduced setback to ensure visibility is reasonable. While the subject request is to reduce the



Staff Report
Jefferson County Board of Zoning Appeals
October 22, 2020
Whale of a Wash Variance Request (#20-32-ZV)

required setback from 25' to 1.5', the sign would be placed within an existing island and remain 15' from the edge of the right-of-way. The applicant has represented that site visibility will not be impeded by placement in the proposed location.



The Ordinance states that signage should be “adequate, but not excessive, for the intended purpose of identification or advertisement.” A monument sign appears to be appropriate for the proposed location and would be compatible with the character of the area.

Staff Report
Jefferson County Board of Zoning Appeals
October 22, 2020
Whale of a Wash Variance Request (#20-32-ZV)

Conditions of Approval

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

1. The existing street trees shall be retained or replaced with comparable planting, in accordance with the approved site plan.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 10.4 Signs Requiring a Zoning Certificate³⁶

B. Freestanding Business Signs

Freestanding business signs related to the subject land use are permitted, provided:

1. The lot frontage is at least 40 feet.
2. One freestanding sign per street frontage is permitted. The total area for any sign or signs on one supporting structure shall not exceed 100 square feet and the maximum height of the sign structure shall not exceed 35 feet.
3. Freestanding business signs shall be located in such a manner that no part of the supporting structure is less than 25 feet from the street right-of-way, and that no part of the sign is closer than five feet to the right-of-way.
4. Freestanding business signs shall not face an adjacent residence.
5. Properties which consist of more than one land use shall be required to use a pylon sign. One pylon sign is permitted on each street frontage.^{8, 32, 35}
6. In addition to the provisions herein, electronic signs shall conform to the criteria outlined in Section 10.7.



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: 20-32-ZV
 Staff Initials: SM
 Meeting Date: 10-22-20
 Fees Paid (\$100 or \$150): 100-

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Variance Request

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

Property Owner Information

Name: HDW, LLC
 Mailing Address: 104 Maddex Square Drive, Shepherdstown, WV 25443
 Phone Number: c/o Paul 304/676-8256 Email: c/o pjraco.consulting@gmail.com

Applicant Contact Information

Name: HDW LLC dba Whale of a Wash c/o Paul J Raco
 Mailing Address: Below
 Phone Number: c/o Paul 304/676-8256 Email: c/o pjraco.consulting@gmail.com

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

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

Physical Property Details

Physical Address: 104 Maddex Square Drive, Shepherdstown, WV 25443
 City: Shepherdstown State: WV Zip Code: 25443
 Tax District: Shepherdstown Map No: 8 Parcel No: 15.6
 Parcel Size: 0.73 Acres +- Deed Book: 1195 Page No: 572

Zoning District (please check one)

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input type="checkbox"/>	Residential- Light Industrial- Commercial (R-LI-C) <input checked="" type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
RECEIVED			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"/>
SEP 25 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: 10.4.B.3.

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 25' to 1.5'

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.

***Signed application in original file.**

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).

10/22/20

Date of Public Hearing

10/07/20

Advertising Date

10/07/20

Placard Posting Date

***Rec'd 09/28/20. This page replaces original application submitted 09/25/20. - jth**

HDW, LLC
Whale of a Wash
Request for Variance
Article 10, Section 10.4.B.3.
Jefferson County Zoning Ordinance
September 25, 2020

Brief Description

Whale of a Wash Car Wash has existed at the entrance way to the Maddex Square Shopping Complex for many years. Several years ago, due to expansion plans of the owner of the plaza, the Applicant moved their existing full service laundromat from the plaza to behind the car wash. The Applicant planned on replacing the existing free standing sign (that says Car Wash) with a new sign that displayed the new uses on the premises. The current sign is in the middle of the access to the car vacuums and the Applicant wants to put in a monument sign that is more attractive that is in the island in front of the businesses. Due to the design of Maddex Square Drive, the proposed location of the monument sign will be 15 feet from the drive aisles of Maddex Square Drive. However, it will only be approximately 1.5 feet from actual property line.

As shown on the attached site plan and rendering, the proposed sign will be a monument sign that will be 5.25 feet (horizontal/long) x 2' (wide) x 7' (high). This sign is less than 40 sq. ft. and will have neutral colors as shown on the attached schematic. As the Board can see, it will not be a pole sign that is permitted to be 35' high.

As explained to the Board in the past, there are no specific standards for monument signs in the Ordinance and the Ordinance is written primarily for free standing pole signs. Monument signs tend to be much shorter and more aesthetically fitting with the surroundings. However, because of the lower height, they are usually located closer to the ROW. The tradeoff of these signs is that they are smaller, shorter, and more acceptable to the community, as opposed to larger and taller on a pole structure. However, as such, they need to be closer to the ROW/Road to be seen. The Ordinance allows a sign for a business to be 100 sq. ft. The proposed sign is only 40 sq. ft.

The sign will be approximately 1.5' from the internal Maddex Square Drive Right of Way, but it will be over 15 feet from the actual road. It will be in a grassy island with landscaping and will not interfere with any line of site on Maddex Square Drive or the internal access drives on the Whale of a Wash site.

Based on the above, the Applicant respectfully asks that the setback variance for the monument sign be granted. Thank you.

HDW, LLC
Whale of a Wash
Request for Variance
Article 10, Section 10.4.B.3.
Jefferson County Zoning Ordinance
September 25, 2020

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

Granting the variance from 25' to 1.5' for this sign is essentially approving it to be 15' from the road surface. The base of a sign is permitted to be as close as 5' to the road ROW. A monument sign is like the base of a sign that could be a freestanding pylon sign. Because of the commercial area, the sign in this location will have no effect on the neighboring property owners. This monument sign will be more appropriate than many of the other existing tall pole signs in the neighborhood.

The sign will not effect the safety of the vehicles entering or leaving the Whale of a Wash Site since the sign will be 15' from the street and there will be plenty of sight distance. Also, the sign will have absolutely no impact on the existing traffic on Maddex Square Drive. Furthermore, this sign will replace a much higher pole sign.

In terms of Public Safety, the sign will correctly and easily identify where entering traffic should proceed if their destination is the car wash or laundromat. Signage is important to the efficient flow of traffic.

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

The actual sign can go as close as 5' to the Road ROW provided that the base of the sign is 25' from the property line. The Applicant relocated their already existing laundromat to their commercial Car Wash when the Plaza owner said that the plaza space was needed for another tenant's expansion. The Applicant processed a site plan for the addition for the laundromat but held off on the sign hoping that the foot traffic would follow their business across from the plaza. Since the existing pole sign only says Car Wash, the Applicant now needs to replace the sign to add the name of the business along with the added laundromat. The existing pole sign is within the property and is approximately 30' high. This sign could be added to but would need to be replaced to make the pole base bigger and the actual sign face larger. Instead, the Applicant would

rather install a monument sign since that type of sign has been installed in the general area and seems to be much more aesthetically pleasing than a tall and large pole sign. However, due to the existing layout of the car wash, the only place a monument sign can be placed on the site is within the grass island that is closer to the ROW, but an appropriate distance from the actual Maddex Square Drive. This location will not impede traffic or site distance internally or along Maddex Square Drive.

So, it seems to be an appropriate solution of allowing the more attractive and less intrusive monument sign closer to the ROW than the 5' that is allowed for a sign base. This will allow the Applicant to replace and add to the sign for the new business; but, as a smaller monument sign, it should complement the character of the commercial neighborhood. Since Whale of a Wash is utilizing the more community accepted Monument Signage, as opposed to, a big and high free-standing pole structure, the new sign would appear to be more appropriate. The sign will have landscaping around it, and it will be aesthetically pleasing compared to a pole mounted 'pylon' (tower) sign.

The need for a variance is not being created by the applicant since they needed to move the laundromat; and the ordinance is a bit out of date when it comes to Monument Signs. Monument Signs have become the preferred method of signage and, as such, these signs should be permitted with some modifications to the current ordinance that is written for the free standing pole signs that are permitted to be 35' high.

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

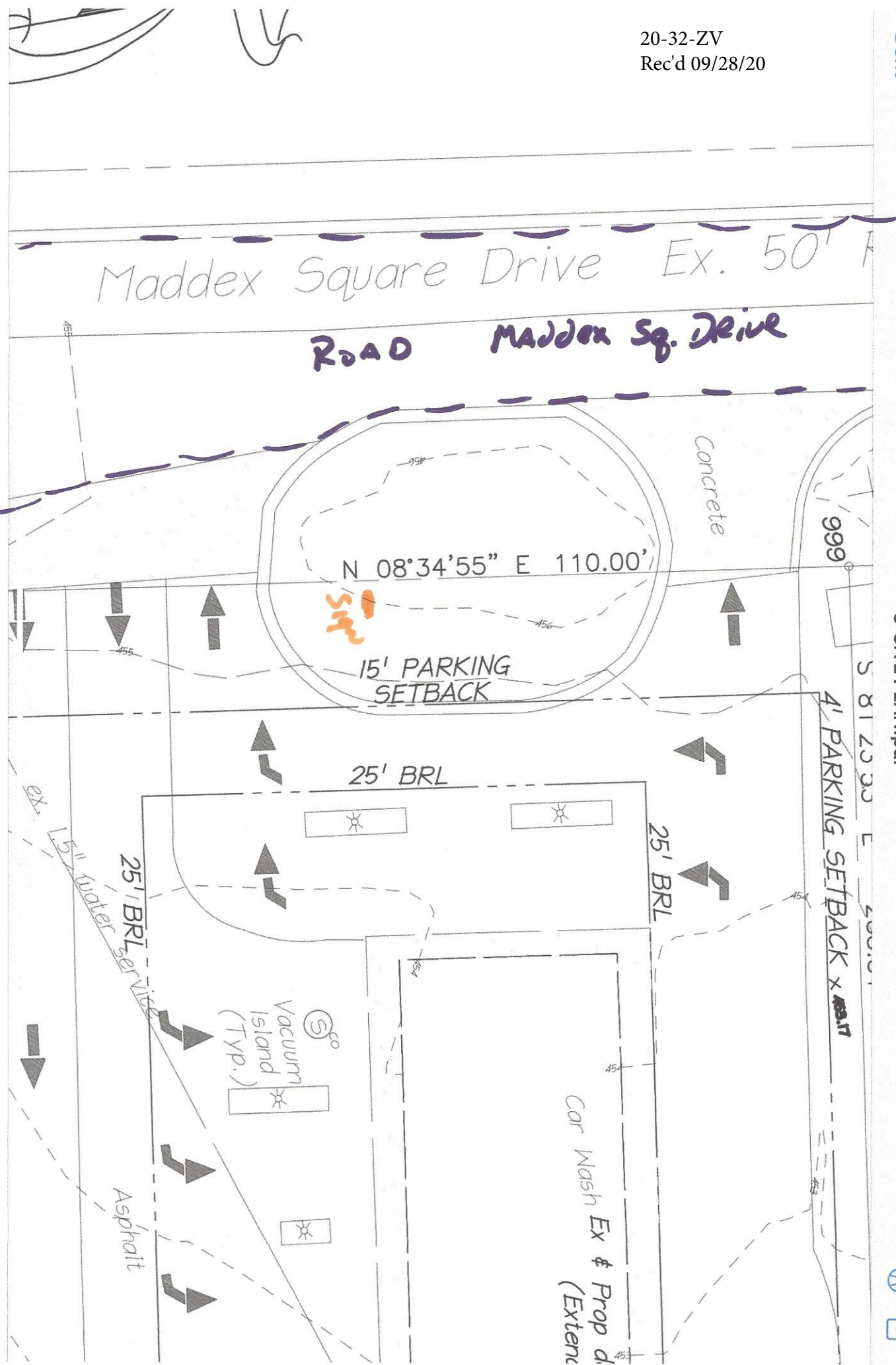
If the sign variance is not granted, the new sign for the businesses would have to be located as a pole sign in the parking lot and will then end up being higher and larger. The proposed monument sign serves the purpose as proposed to be placed closer to the ROW. Currently, as planned, the sign will be approximately 40 sq. ft. instead of the 100 sq. ft. that would be permitted on a 35' high pole pylon sign. Plus, the smaller, closer monument sign will better serve the purpose of directing the incoming traffic to enter at this driveway better than a larger higher sign further from the ROW, because of the location. The sign being located at the entrance to the lot will easily identify the lot for incoming traffic.

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

Since the sign ordinance is geared toward the pole structure signs, it allows 100 sq. ft. freestanding, 35 feet high business signs. The applicant believes this is excessive and wants to put in a sign that is less intrusive than what the ordinance

allows. The intent of the sign regulations is to allow the business to be identified and found by their potential customer. The Ordinance permits that to be achieved by a higher and bigger sign. In this case, the intent of the sign regulations can be achieved by placing a smaller sign that is 7' high if the variance is granted. Plus, the benefit gained is that a nicer sign is added to the area without being too large.

Substantial justice would be to allow the less intrusive monument sign within the grassy island with the appropriate site distance.



NOTICE TO CONTRACTOR: THE ENGINEER HAS CONDUCTED VISUAL SURVEY OF THE SITE AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT. THE ENGINEER HAS NOT CONDUCTED A GEOTECHNICAL SURVEY OF THE SITE AND HAS NOT OBSERVED THE EXISTING UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.

NOTICE TO OWNER: THE ENGINEER HAS CONDUCTED VISUAL SURVEY OF THE SITE AND HAS FOUND IT TO BE SUITABLE FOR THE PROPOSED DEVELOPMENT. THE ENGINEER HAS NOT CONDUCTED A GEOTECHNICAL SURVEY OF THE SITE AND HAS NOT OBSERVED THE EXISTING UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.



NO. 11192
 STATE OF WEST VIRGINIA
 JAMES H. SMITH
 PROFESSIONAL ENGINEER

DATE: 09/28/2016
 TIME: 12:32 PM

PROJECT: WHALE OF A WASH LAUNDROMAT ADDITION
 SHEET: 20-32-ZV

SCALE: AS SHOWN

DATE PLOTTED: 10/12/2016
 TIME PLOTTED: 12:32 PM

PLotted: Oct 12, 2016 at 12:32pm
 C:\Projects\2016 Projects\221-13-5-16 Water, Hook Site Development\AutoCAD\Sheet Size\20-32-ZV Plot.dwg

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SCALE: AS SHOWN



NO.	DATE	DESCRIPTION	BY



NO. 11192
 STATE OF WEST VIRGINIA
 JAMES H. SMITH
 PROFESSIONAL ENGINEER

DATE: 09/28/2016
 TIME: 12:32 PM

PROJECT: WHALE OF A WASH LAUNDROMAT ADDITION
 SHEET: 20-32-ZV

**WHALE OF A WASH
 LAUNDROMAT ADDITION**

Shepherdstown, Jefferson County, West Virginia

SITE LAYOUT

Martinsburg, WV Office
 Phone: (304) 691-2122
 Fax: (304) 691-2122

25 Lights Addition Drive
 Martinsburg, WV 25408
 www.slayback.com

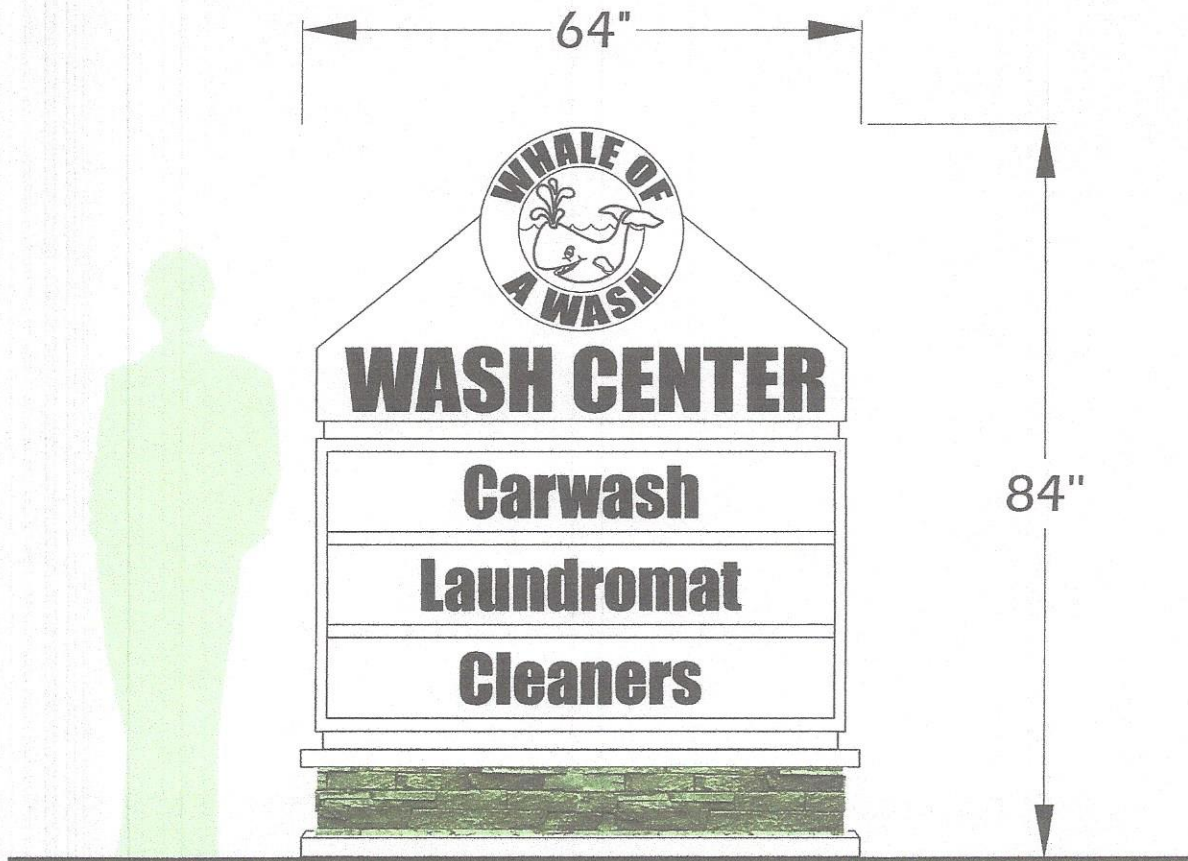
DESIGNED BY: JHS
 CHECKED BY: JHS
 DATE: 09/28/2016



NO. 11192
 STATE OF WEST VIRGINIA
 JAMES H. SMITH
 PROFESSIONAL ENGINEER

DATE: 09/28/2016
 TIME: 12:32 PM

PROJECT: WHALE OF A WASH LAUNDROMAT ADDITION
 SHEET: 20-32-ZV



Wireframe concept design for freestanding monument sign

kenneysigns.com | electricesignpros.com



Approved by: _____
 Printed: _____
 Title: _____
 Date: _____

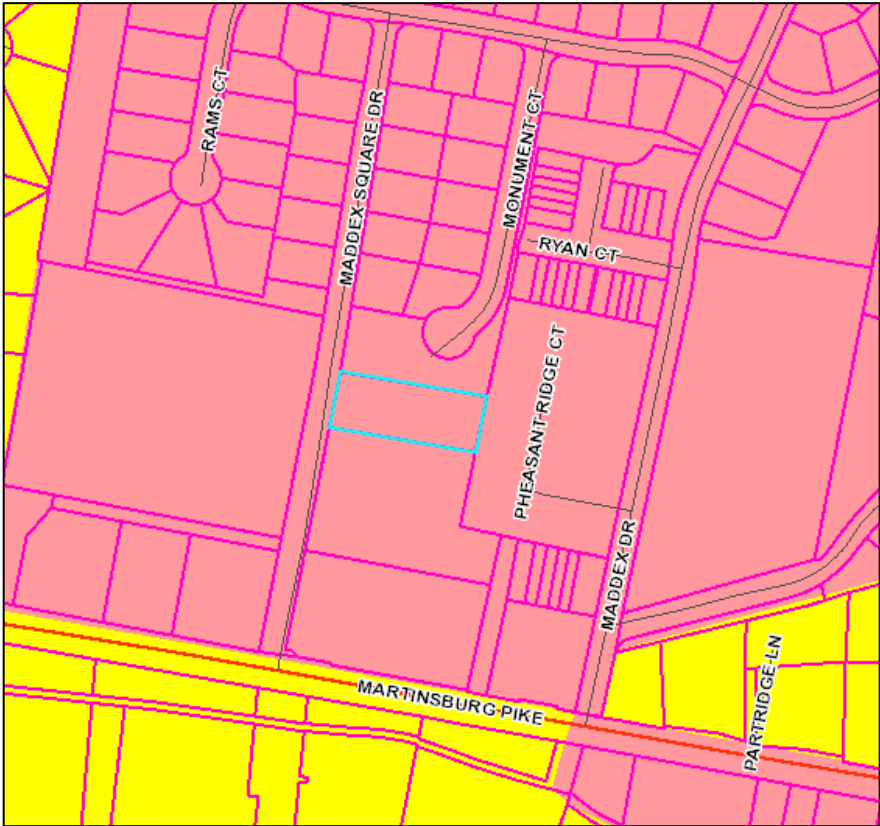


**DESIGN
 BUILD
 INSTALL
 REPAIR**

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Staff Report
 Jefferson County Board of Zoning Appeals
 October 22, 2020
Whale of a Wash Variance Request (#20-33-ZV)

Item #2 Variance request from Section 4.6B.2 to reduce the distance requirement from 75' to 65' along the rear property line for an 8' x 12' (96 sf) accessory structure.

Applicant:	Whale of a Wash
Owner:	HDW, LLC
Developer:	N/A
Consultant:	P.J. Raco Consulting, LLC
Legal Description & Zoning District:	<p style="text-align: center;">Whale of a Wash, 104 Maddex Sq. Dr., Shepherdstown, WV Parcel ID: 09000800150006; Size: .73 ac; Zoning District: Residential Light Industrial-Commercial</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation: North, South, East, West: Residential Light Industrial-Commercial Rural</p>
History:	<p>Maddex Farm, Phase IV (3 lots) recorded on 09/09/1994 (PB: 30; PG 2) 94-16: Site plan for Whale of a Wash Car Wash S16-06: Site Plan for addition of a laundromat</p>

Summary of Request and Purpose of Ordinance Requirements

Variance request from Section 4.6B.2 to reduce the distance requirement from 75' to 65' along the rear property line for an 8' x 12' (96 sf) accessory structure.

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

Staff Report
Jefferson County Board of Zoning Appeals
October 22, 2020
Whale of a Wash Variance Request (#20-33-ZV)

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.6 Distance Requirements

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



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: 20-33-ZV
 Staff Initials: JH
 Meeting Date: 10/22/20
 Fees Paid (\$100 or \$150): 100-

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: HDW, LLC
 Mailing Address: 104 Maddex Square Drive, Shepherdstown, WV 25443
 Phone Number: c/o Paul 304/676-8256 Email: c/o pjraco.consulting@gmail.com

Applicant Contact Information

Name: HDW LLC dba Whale of a Wash c/o Paul J Raco
 Mailing Address: Below
 Phone Number: c/o Paul 304/676-8256 Email: c/o pjraco.consulting@gmail.com

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

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

Physical Property Details

Physical Address: 104 Maddex Square Drive, Shepherdstown, WV 25443
 City: Shepherdstown State: WV Zip Code: 25443
 Tax District: Shepherdstown Map No: 8 Parcel No: 15.6
 Parcel Size: 0.73 Acres +- Deed Book: 1195 Page No: 572

Zoning District (please check one)

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input type="checkbox"/>	Residential-Light Industrial-Commercial (R-LI-C) <input checked="" 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"/>		

RECEIVED

SEP 30 2020
 Place Received Date Stamp Here

**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: 4.6B2

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 75' to 65'

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.

 9-30-20
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).

10/22/20
Date of Public Hearing

10/07/20
Advertising Date

10/07/20
Placard Posting Date

HDW, LLC
Whale of a Wash
Request for Shed Variance
Article 4, Section 4.6B.2.
Jefferson County Zoning Ordinance
September 25, 2020

Brief Description

When submitting a variance request for a sign, the Zoning Staff asked about a small (8' x 12') Utility/Storage Shed that was on the property near the dumpster. The Applicant did indeed add this small utility shed in the past year after speaking with the Building Permit Staff. However, the question posed by the Applicant and answered by the Staff was whether a shed this size needed a Site Plan or an amended Site Plan for what was already just processed for the laundromat in the past couple of years. The answer is that this small shed would not need a site plan or amended existing site plan. So, due to a miscommunication with the Applicant, he purchased and placed the shed on the property.

After speaking to the Zoning Staff, the shed needed to obtain a permit and be relocated outside of the setback. The shed was initially placed on the left (West) side of the dumpster, Apple Valley Waste could not maneuver around the shed when picking up the trash. So, the waste company pushed the shed towards the Northern property line and inadvertently pushed it close or over the property line as indicated by Staff. The plan now is to move the shed to the right (East) of the dumpster pad, to satisfy both the waste management company and the Staff. However, this location satisfies the side setback, it will be within the 75 feet distance requirement. The shed is only 8' wide, but to be safe the Applicant is asking for a variance from the 75' down to 65'.

Whale of a Wash Car Wash has existed at the entrance way to the Maddex Square Shopping Complex for many years and the laundromat has existed for a couple of years. The Applicant would like to keep the Utility/Storage Shed for storage of overflow supplies for the car wash and laundromat. Neither the Applicant nor the County has received any complaints about the shed and the new location will actually further shield the dumpster and pad. The 75' distance requirement already allows the existing propane gas tank in this area and the Shed won't go further in the 75' than the tank. Furthermore, after reviewing the site and the site plan, there is no other place to move the shed other than in the front setback or the 75' rear distance requirement. Since the balance of the 65' in the rear is very well screened, this appears to be the best location to move the shed.

The Applicant had the best intentions in mind when asking the Building Permit Staff about the Shed needing a site plan and this was simply a misunderstanding. The Applicant is a long-time County resident and businessman and has always processed engineered commercial site plans for needed developments. This shed placement without a permit was an unfortunate accident with no malintent.

Based on the above, the Applicant respectfully asks that the distance setback variance for the shed relocation be granted. Thank you.

HDW, LLC
Whale of a Wash
Request for Shed Variance
Article 4, Section 4.6B.2
Jefferson County Zoning Ordinance
September 25, 2020

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

The small shed was bought and placed in error after a miscommunication between the Building Permit Office and Applicant. The requirement is 75' and the new location for the shed will only be able to meet 65'. However, because of the distance being 65' and quite buffered, it will not have an impact on the neighbors or neighborhood. The new location will not be seen from the Road and the shed will act as an enhanced screen for the dumpster. Also, the 65' between the shed and the rear property line is well screened.

The shed will not be located closer to the rear line than the existing propane tank that is already located in the 75' distance requirement.

In terms of Public Safety, the shed will have absolutely no adverse effect on the neighborhood or neighbors as it will comply with the County Building Code with the building permit that will be obtained if the Board approves the variance.

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?

As explained, the Applicant sought advice from the Building Permit Office before purchasing and placing the shed. While the answer was correct that the shed would not need to process a site plan or revised site plan, the question should have included additional information about whether a building permit would be necessary. This is a simple case of a misunderstanding between Staff and Applicant. The Applicant just went through an entire set of Architectural plans' preparation and approvals and an entire set of civil engineering plans and approvals for the Car Wash and then the Laundromat Addition. He would not have intentionally ignored the requirement for County Approval if he thought it needed a permit. The applicant is a local resident and businessman that has always checked with the County and processed plans for his improvements.

Regarding the location, there is no other place for the shed other than the front of the property in the front yard setback or in this proposed new location in the rear

75' distance requirement. The rear location is much better suited since it will be well screened from the neighboring property and will not be along the public road.

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

If the shed variance is not granted, the purchased shed will need to be removed since there is no other practical place for it to be located on the site (other than in the front setback). The Applicant was not aware when the site plan was designed that there would be need for additional storage for the facility. If the need was anticipated, the site may have been better planned for the addition of the shed or an enlarged facility. When he became aware of the need, he checked with the Building Permit Department before he purchased the shed.

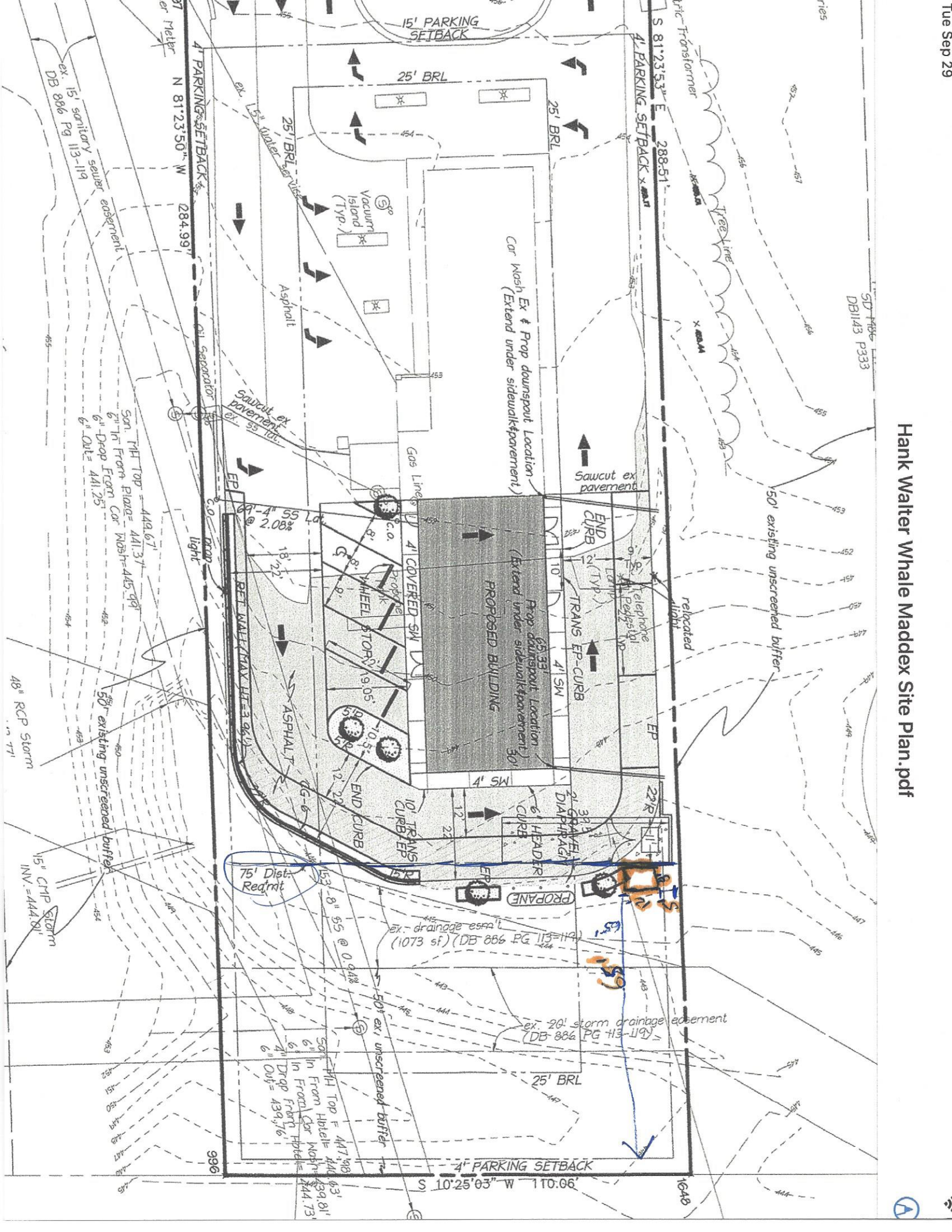
This site is a commercial site in a commercial area. It is zoned for mixed use and it is in the Preferred Growth Area of the County that promotes Urban Level Growth. The shed is not intrusive and would shield the dumpster pad to the rear. Allowing the shed to be in the new location will be a reasonable use of the property as it is no closer to the rear line than the existing propane tank.

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

The intent of the 75' distance requirement is to allow the separation of uses. In this case, the remaining 65' is well screened, even though only 50' is required on the site plan to be left as a buffer. Even with the shed added to the new area, it will still have 65' of mostly screened area in the back yard. Where located now, the shed is in the required side yard. If approved, it will be moved to an area where it can comply with the side yard, but it will be within this 75' distance requirement. The purpose of the distance requirement is still served with the remaining 65' since it includes a buffer and the propane tank.

Substantial justice would be to allow already purchased small utility structure within the distance requirement.

Hank Walter Whale Maddex Site Plan.pdf







Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

P.O. Box 716

Charles Town, WV 25414

Email: zoning@jeffersoncountyv.wv.org

Phone: (304) 728-3228

Zoning Administrator's Report October 22, 2020 Board of Zoning Appeals Meeting

Date of Memo: October 15, 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:
 - 10-01-20: The County Commission voted to adopt the proposed amendment with an effective date of 11-16-30.
- 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.
 - 10-13-20: The Planning Commission voted to send the proposed draft amendment to the County Commission, with a recommendation that the proposed text was consistent with the Comprehensive Plan.
- 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 draft amendment also includes eliminating Section 5.8C.3, which refers to Drive-Through Restaurants requiring a Conditional Use Permit.
 - 10-13-20: The Planning Commission voted to send the proposed draft amendment to the County Commission, with a recommendation that the proposed text was consistent with the Comprehensive Plan.
- Greenway Engineering - Reorganization of the Subdivision Regulations and Zoning Ordinance: no update.

2) **Upcoming BZA meeting**

- The next regular meeting is scheduled for **November 12, 2020** (deadline for submission is Monday, October 19, 2020).



Jefferson County, West Virginia
Department of Engineering, Planning and Zoning
Office of Planning and Zoning
116 E. Washington Street, 2nd Floor, P.O. Box 716
Charles Town, West Virginia 25414
www.jeffersoncountywv.org

October 2020
Zoning Certificate Activity Report

File #	20-23-ZC
Request:	Retail Sales, Limited
Property Owner:	Krop Properties, LLC
Applicant:	Steven and Tina Krop
Parcel Info:	640 War Admiral Blvd., Kearneysville, WV Parcel ID: 02000100270000; Size: 5 acres; Zoning District: Industrial-Commercial
Issuance Date:	09-18-2020
File #	20-26-ZC
Request:	Day Care Center, Large
Property Owner:	Cristhian Torrico-Caceres
Applicant:	Silvia Caceres.
Parcel Info:	358 Jefferson Ave., Charles Town, WV 25414 Parcel ID: 02010C00430000; Size: .278 acres; Zoning District: Residential Growth; Deed Book: 1249; Page: 221
Issuance Date:	10-02-2020
