

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