



Jefferson County
Board of Zoning Appeals
Thursday, May 27, 2021 at 2:00 p.m.

Members
Tyler Quynn, Chair
Deirdre Catterton, Vice Chair
Matthew McKinney
Leeds Corbin
Steven Guier
Mikala Shremshock, Alternate

By order of Tyler Quynn, Chair of the Jefferson County Board of Zoning Appeals, this meeting will be held both in-person and virtually. This meeting will NOT be a LIVE broadcast on our website. Instead, it will be accessible live through ZOOM Meeting.

Physical (In-person) Location: Charles Town Library Conference Room (entrance on Samuel St.)
200 East Washington Street, Charles Town, WV 25414.

Virtual Meeting Information: The virtual meeting will be conducted via ZOOM. Please use the following information to join the ZOOM Meeting:

<https://us02web.zoom.us/j/85908129320>

Meeting ID: 859 0812 9320

Dial by your location: +1 301 715 8592 US

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

If you wish to virtually 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 mute yourself when you are not talking. When participating, remember that your video is streaming to others.

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.

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

Approval of Minutes: April 22, 2021

Public Hearing – Administer Oath

ITEM #1 FILE #: 21-8-ZV – POSTPONED FROM 03/25/21 AND 04/22/21.

SITE NOT POSTED WITH PUBLIC NOTICE PLACARD ON TIME; THEREFORE, STAFF ADVISED APPLICANT THAT THE REQUEST WOULD BE POSTPONED UNTIL SUCH A TIME THAT THE APPLICANT PROVIDES THE REQUESTED DOCUMENTATION AS REQUIRED BY SECTION 10.7.

Request: Variance request from Section 10.4B.3 to reduce the front setback from 25' to 1' for an 8.5' x 3' (25.5 square feet) Freestanding Electronic Business Sign; and Section 10.7G to reduce the distance requirement of an Electronic Sign from a traffic light from 300' to approximately 190'.

Owner: Steve Petropouleas

Applicant: Mountain View Diner

Parcel Info: 811 Willow Spring Drive, Charles Town, WV

Parcel ID: 02001000090004; Size: 1.21 ac;

Zoning District: Residential-Light Industrial-Commercial

ITEM #2 FILE #: 21-16-ZV POSTPONED UNTIL 06/24/21

Request: Variance request from Section 9.6C to allow an accessory structure in the required front yard; and Section 9.7 to reduce the front setback from 25' to 2' for a 10' x 20' accessory structure (shed).

Owner: Chad and Kimberly McGarrah

Parcel Info: Stone Brook Subdivision, Lot 16, 711 Apple Cross Dr., Harpers Ferry, WV
Parcel ID: 04005A00160000; Size: 1.04 ac; Zoning District: Rural

ITEM #3 FILE #: 21-17-ZV

Request: Variance request from Appendix A to reduce the minimum lot size from 40,000 sf to 16,800 sf to allow for the creation of a lot to be donated to the Mission Tabernacle Holiness Church for the purpose of creating an overflow parking area.

Owner: Charlotte Beahm

Applicant: Mission Tabernacle Holiness Church

Parcel Info: 382 Mission Rd., Harpers Ferry, WV
Parcel ID: 02021A00140000; Size: 1.37 ac; Zoning District: Rural

ITEM #4 FILE #: 21-18-ZV

Request: Variance request from Section 5.4B of the Zoning Ordinance, as amended 07/15/93 to reduce the rear setback from 20' to 10' for a 12' x 16' accessory structure (shed).

Owner: Francis Sutton

Parcel Info: Eastland Subdivision, Lot 59, 178 Devonshire Dr., Charles Town, WV
Parcel ID: 02001600810000; Size: 1 ac; Zoning District: Residential Growth

ITEM #5 FILE #: 21-19-ZV

Request: Variance request from Section 5.4B of the Zoning Ordinance, as amended on May 1, 2003, to reduce the rear setback from 20' to 5' for a 12' x 24' in-ground pool.

Owner: Herman and Robin Bounds

Parcel Info: Demory Farm Subdivision, Lot 16, 43 Killian Ln., Charles Town, WV
Parcel ID: 02009B00160000; Size: .24 ac; Zoning District: Residential Growth

ITEM #6 FILE #: 21-20-ZV

Request: Variance request from Section 9.6C to allow an accessory structure (barn) in the required front yard; Section 8.2 to reduce the distance requirement from 50' to 10'; and Appendix A to reduce the front setback from 40' to 10' for a 64' x 40' barn.

Owner: Canton Whisner

Parcel Info: Elizabeth Stagner Minor Subdivision, Lot 3, 1491 Shirley Rd., Summit Point, WV
Parcel ID: 06001500030043; Size: 20 ac; Zoning District: Rural

ITEM #7 FILE #: 21-21-ZV

Request: Variance request from Section 9.6C to allow an accessory structure in the required front yard; and Section 9.7 to reduce the front setback from 20' to 10' for a 30' x 50' accessory structure.

Owner: Randolph and Melinda Davis

Parcel Info: Blue Ridge Acres Subdivision, Lot 604, vacant parcel on Sydney Cir., Harpers Ferry, WV
Parcel ID: 04012A01900000; Size: .23 ac; Zoning District: Rural

ITEM #8 FILE #: 21-22-ZV

Request: Variance request from Section 8.9A.9 to eliminate the requirement to provide a 60' easement along a limited access highway; and, Section 8.9A.10 to eliminate the landscape buffer requirement along a limited access highway for a proposed Large Gas Station (Sheetz).

Owner: Guy Chicchirichi

Applicant: Sheetz Inc. / c/o Bob Franks

Parcel Info: Vacant parcel at the intersection of Route 340 and Augustine Avenue

Parcel ID: 02001600010000; Proposed Size: 2.5 ac; Zoning District: Highway Commercial

ITEM #9 FILE #: 21-23-ZV

Request: Variance request from Section 9.7 to reduce the side setback from 6' to 2' for a 12' x 16' accessory structure.

Owner: Doreen Schaffner

Applicant: Earl Wilk

Parcel Info: Opeqoun Forest Park, Lot 20, vacant parcel on the north side of Bowers Road, Kearneysville, WV

Parcel ID: 07007A00360000; Size: .51 acre; Zoning District: Rural

ITEM #10 FILE #: 21-24-ZV

Request: Variance request from Appendix A to reduce the side setback from 12' to 10' for all single family lots in the proposed King's Crossing subdivision (approximately 175 single family lots).

Owner: DR Acquisitions LLC

Parcel Info: Vacant lot adjacent to the St. James church on Charles Town Road (Rt. 115)

Parcel ID: 02001700220000; Size: 86 ac; Zoning District: Residential Growth

ITEM #11 FILE #: 21-25-ZV

Request: Variance request from Section 9.7 to reduce the side setback from 6' to 1' for a 12' x 32' accessory structure.

Owner: Tyler and Bobbi Phelps

Parcel Info: Security Hills, Lot 32, 109 Johns Court, Charles Town, WV

Parcel ID: 02004D00430000; Size: .32 ac; Zoning District: Rural

Zoning Administrator Report

- a. Monthly Zoning Certificate Activity Report

Legal Update

- a. Discussion of the following pending lawsuits:
 1. Discussion/Action: Neighbors Against River Chase Event Center v. BZA re: 20-8-CUP (Civil Action No.: CC-19-2021-C-22)
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions

Meeting: April 22, 2021

1. Variance from Sec. 5.7D.2.b.iii(b). Owner: Norman and Lora Corbin. File: 21-10-ZV.
2. Variance from Sec. 9.7 Owner: William Jenkins. File: 21-12-ZV.
3. Variance from Appendix A. Owner: DR Acquisitions. File: 21-13-ZV.
4. Variance from Sec. 4.11.E.1 and App. B. Owner: James Van Evera, et al. Applicant: Sheetz, Inc. File: 21-14-ZV.
5. Variance from Sec. 4.11 and App. B. Owner: St. James Lutheran Church at Uvilla. File: 21-15-ZV.

Minutes

Jefferson County Board of Zoning Appeals

1 Meeting Date: April 22, 2021
2 Meeting Location: By order of the Chair, the Board of Zoning Appeals meeting was held
3 in-person in the Charles Town Library Conference Room; and virtually
4 via ZOOM.
5 Board Members Present: Tyler Quynn, Chair; Deirdre Catterton, Vice Chair Leeds Corbin, and
6 Matt McKinney attended in person; Steve Guier attended virtually.
7 Board Members Absent: Mikala Shremshock, Alternate (with notice)
8 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, Assistant
9 Prosecuting Attorney; Mason Carter, Ordinance Compliance Officer;
10 and Jennilee Hartman, Zoning Clerk

11 All requests were pursuant to the Jefferson County Zoning and Land Development Ordinance.

12 Mr. Corbin moved to call the meeting to order at 2:04 pm. Mr. Quynn called for a vote, which
13 carried unanimously.

14 **Approval of Minutes: March 25, 2021**

15 Mr. Quynn requested the following edit:

16 a) Page 2, Line 42: Mr. Quynn asked the applicant if he would be agreeable to screening
17 any proposed equipment ~~along the front~~ storage area from the front area of the property.
18 Mr. Whitten stated he would provide the screening from any proposed storage area along
19 the frontage.

20 Mr. McKinney moved to approve the corrected minutes, which carried unanimously.

21 **ITEM #1 FILE #: 21-6-ZV - POSTPONED FROM 04/22/21**

22 Request: Variance request from Section 10.4B.3 to reduce the front setback from 25' to 1'
23 for an 8.5' x 3' (25.5 square feet) Freestanding Electronic Business Sign; and
24 Section 10.7G to reduce the distance requirement of an Electronic Sign from a traffic
25 light from 300' to approximately 190'.

26 Owner: Steve Petropouleas

27 Applicant: Mountain View Diner

28 Parcel Info: 811 Willow Spring Drive, Charles Town, WV, Parcel ID: 02001000090004;

29 Size: 1.21 ac; Zoning District: Residential-Light Industrial-Commercial

30 The applicant was not present for this request. The Board proceeded to the next item to allow
31 additional time for the applicant to arrive in person or attend virtually.

32 **ITEM #2 FILE #: 21-10-ZV**

33 Request: Variance request from Section 5.7D.2.b.iii(b) to allow a lot within a cluster
34 development to utilize a separate access. The applicant is proposing to use an
35 existing driveway as opposed to the platted access easement.

36 Owner: Norman and Lora Corbin

37 Parcel Info: LLD Uvilla Cluster Subdivision, Lot 4, 2751 Engle Molers Rd., Harpers Ferry, WV

38 Parcel ID: 09001800170000; Size: 9.75 ac; Zoning District: Rural

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

40 Mr. Paul Raco, consultant for the applicant, was present to address the Board. Mr. Raco explained
41 that the intent of the request was to continue utilizing the existing driveway which provides access
42 to Engle Molers Road. He further explained that granting the request would allow the applicant to

1 retain the existing tree line to the rear of the property. Ms. Beaulieu addressed comments from the
2 Board.

3 Mr. Quynn confirmed there were no members of the public signed up to speak for this item.

4 Mr. McKinney moved to approve the variance with the condition that the applicant be bound by
5 their testimony. Mr. Quynn requested that staff's proposed conditions be included in the motion:

6 1. A minor plat change be processed to shift the greenspace area to another area on Lot 4 so
7 that the driveway is not within the designated greenspace; and

8 2. Provide a Division of Highways entrance permit or approval letter to Staff prior to approval
9 of the minor plat change.

10 Mr. McKinney agreed to the suggested conditions. Mr. Quynn called for a vote, which carried
11 unanimously.

12 **ITEM #3 FILE #: 21-11-ZV**

13 Request: Variance request from Section 9.7 to reduce the front setback from 20' to 10' along
14 an unimproved right-of-way (Second Street) for a single family dwelling unit.

15 Owner: William Jenkins

16 Parcel Info: 911 Jefferson Ave., Charles Town, WV. Parcel ID: 02010A00480000; Size: .17 ac;
17 Zoning District: Residential Growth

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

19 Mr. William Jenkins, property owner, was present to address the Board. Ms. Beaulieu provided an
20 overview of her staff report to the Board noting that a possible condition of approval be that the
21 applicant shall park all vehicles on the subject parcel and not within the platted 60' right-of-way
22 (Second Street).

23 Mr. Quynn confirmed there were no members of the public signed up to speak for this item.

24 Mr. McKinney moved for summary approval with Staff's recommended conditions. Mr. Quynn
25 called for a vote, which carried unanimously.

26 **ITEM #4 FILE #: 21-12-ZV**

27 Request: Variance request from Appendix B to reduce the side setback from 50' to 25' for
28 54 storage units/sea containers to serve as an accessory use to an existing non-
29 conforming salvage and recycling yard. The total length of the proposed
30 encroachment area is approximately 544'.

31 Owner: DLGA LLC

32 Applicant: Road Runner Wrecker Service

33 Parcel Info: 2282 Summit Point Road, Summit Point, WV. Parcel ID: 06001600100000;
34 Size: 25 ac; Zoning District: Rural

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

36 Ms. Alexis Walburn with Greenway Engineering, representative for the applicant, was present to
37 address the Board. Ms. Beaulieu provided an overview of her staff report to the Board, noting that
38 the existing salvage and recycling yard is considered a non-conforming use. Ms. Walburn explained
39 the nature of the request noting that if the proposed containers were shifted to accommodate the
40 required setbacks, then the existing stormwater management area would have to be relocated.

41 Mr. Quynn confirmed there were no members of the public signed up to speak for this item.

1 Mr. McKinney moved to approve the variance with the condition that a 20 foot buffer, comprised of
2 existing vegetation, shall be maintained along the eastern boundary as represented in the application;
3 and that the applicant be bound by their testimony. Mr. Quynn called for a vote, which carried
4 unanimously.

5 **ITEM #5 FILE #: 21-13-ZV**

6 Request: Variance request from Appendix A to reduce the side setback from 12' to 10' for all
7 single family lots in the proposed King's Crossing subdivision (approximately 175
8 single family lots).

9 Owner: DR Acquisitions LLC

10 Parcel Info: Vacant lot adjacent to St. James Catholic Church on Charles Town Road (Rt. 115)
11 Parcel ID: 02001700220000; Size: 86 ac; Zoning District: Residential Growth

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

13 Mr. Chad Wallen with GORDON, representative for the applicant, was present to address the
14 Board. Ms. Beaulieu provided an overview of her staff report to the Board explaining that the
15 subject request would apply to the proposed single family lots. Mr. Wallen explained the nature of
16 the request and noted that the request did not change the allowable density.

17 Mr. Quynn opened the public hearing.

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

19 Mr. Alan Dattelbaum, local resident, expressed concerns about the proposed subdivision and
20 questioned the lot sizes.

21 Mr. Wallen explained the minimum lot size requirements as outlined in the Zoning Ordinance.

22 Mr. Quynn stated he had questions for their legal counsel and requested a deliberative session.

23 Mr. McKinney moved to go into deliberative session at 2:55 pm. Mr. Quynn called for a vote,
24 which carried unanimously.

25 Mr. McKinney moved go back into regular session at 3:33 pm and to reopen public comment.

26 Mr. Quynn called for a vote, which carried unanimously.

27 Mr. McKinney questioned why the request was before the Board as opposed to the Planning
28 Commission. Ms. Beaulieu explained that the concept plan would be reviewed by the Planning
29 Commission; however, Staff typically encourages an applicant to request any waivers or variances
30 prior to the approval of the concept plan so that the Planning Commission has a full understanding
31 of the subdivision design. Mr. Wallen confirmed that the current concept plan is the same document
32 that would be reviewed by the Planning Commission. The Board expressed concern about
33 considering a variance for lots that did not exist.

34 Ms. Catterton moved to deny the variance without prejudice noting that the application was
35 premature. Mr. Guier seconded the motion. Mr. Quynn called for a vote, which carried four (4) in
36 support and one (1) in opposition (Mr. McKinney).

37 Mr. Wallen requested a reconsideration of the motion, requesting that the Board table action until
38 the next meeting to allow the Planning Commission to take action on the Concept Plan.

39 Mr. Quynn noted that the Board's motion stands; however, the applicant may resubmit the same
40 application for the following meeting.

1 **ITEM #6 FILE #: 21-14-ZV**

2 Request: Variance request from Section 4.11.E.1 and Appendix B to modify the vegetative
3 buffer requirement for a commercial use next to a lot in the Residential Growth
4 zoning district to the standard for a commercial use adjacent to a commercial use
5 (Section 4.11.E.1 subsections a-e). Additionally, the request proposes to utilize any
6 existing vegetation on the side and rear property lines in lieu of the required planted
7 landscaping.

8 Owner: James Van Evera, et al

9 Applicant: Sheetz Inc.

10 Parcel Info: South of the intersection of Maddex Square Dr. and Martinsburg Pk, Shepherdstown
11 Parcel IDs: 09000800130000, 09000800150002, 0900080010002 & a portion of
12 09000800140000; Proposed Size: 5.2 ac.; Zoning District: Residential-Light
13 Industrial-Commercial

14 The applicant had been previously sworn in under Item # 5.

15 Mr. Chad Wallen with GORDON, representative for the applicant, was present to address the
16 Board. Ms. Beaulieu provided an overview of her staff report to the Board. Ms. Beaulieu suggested
17 that a possible condition of approval could be that anywhere existing vegetation is utilized, the
18 applicant shall provide documentation that the existing vegetation is comprised of hardwood and/or
19 evergreen trees that meet or exceed the buffer requirements in the Ordinance.

20 Mr. Wallen explained the nature of the request noting that the adjacent parcels to the east and west
21 were commercial land uses and that the parcel to the south is under the same ownership as the
22 subject parcel.

23 Mr. Quynn confirmed there were no members of the public signed up to speak for this item.

24 Mr. McKinney moved to approve the variance with the condition that anywhere existing vegetation
25 is utilized, the applicant shall provide documentation that the existing vegetation is comprised of
26 hardwood and/or evergreen trees that meet or exceed the buffer requirements in the Ordinance; and
27 that the applicant is bound by their testimony. Mr. Quynn called for a vote, which carried
28 unanimously.

29 **ITEM #7 FILE #: 21-15-ZV**

30 Request: Variance request from Section 4.11 and Appendix B to eliminate the requirement to
31 plant street trees; to eliminate the buffer requirement between internal lot lines; and
32 to utilize existing vegetation in lieu of the 15 foot screened buffer option along the
33 side and rear property lines.

34 Owner: St. James Lutheran Church at Uvilla

35 Applicant: Adam Link

36 Parcel Info: 4338 Shepherdstown Pike, Shepherdstown, WV. Parcel ID: 09002000160000;
37 Size: 2.36 ac; Zoning District: Rural

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

39 Mr. Adam Link, representative for the applicant, was present to address the Board. Ms. Beaulieu
40 provided an overview of her staff report to the Board noting that the existing vegetation is primarily
41 located on the adjacent parcel. Ms. Beaulieu stated that a possible condition of approval could be
42 that should the church expand its services to include a school or childcare facility outside of typical
43 church services that the applicant shall come back to the Board for further evaluation.

44 Mr. McKinney moved for summary approval with Staff's recommended conditions. Mr. Guier
45 seconded the motion, which carried unanimously.

1 **ITEM #1 FILE #: 21-6-ZV - POSTPONED FROM 04/22/21**

2 Request: Variance request from Section 10.4B.3 to reduce the front setback from 25' to 1'
3 for an 8.5' x 3' (25.5 square feet) Freestanding Electronic Business Sign; and
4 Section 10.7G to reduce the distance requirement of an Electronic Sign from a traffic
5 light from 300' to approximately 190'.

6 The Board confirmed that the applicant was not present to address the request. Ms. Beaulieu
7 provided an overview of the pending violation and noted that Mr. Mason Carter, the Ordinance
8 Compliance Officer, was present to address the Board.

9 Mr. McKinney moved to go into deliberative session at 4:13 pm. Mr. Guier seconded the motion,
10 which carried unanimously.

11 Mr. McKinney moved to come out of deliberative session at 4:20 pm. Mr. Corbin seconded the
12 motion, which carried unanimously.

13 Mr. Corbin moved to postpone the request until the May 27, 2021 meeting; to give the applicant 30-
14 days to come into compliance; and to direct Ms. Beaulieu to send the applicant a letter. Mr. Cochran
15 provided his legal opinion on the wording of the motion. Ms. Catterton moved to withdraw the
16 previous motion and moved to postpone the request until the May 27, 2021 meeting. Mr. Corbin
17 agreed to the withdrawal of his motion and seconded the new motion, which carried unanimously.

18 Mr. Quynn announced he had a previous engagement and needed to leave the meeting early at
19 4:25 pm. Mr. Quynn noted that he will sign the Findings referenced in the agenda. As Vice Chair,
20 Ms. Catterton presided over the remainder of the meeting during Mr. Quynn's absence.

21 **Zoning Administrator's Report**

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

23 Ms. Beaulieu updated the Board on the status of the ZTA19-03 Solar Energy Facilities text
24 amendment. Ms. Beaulieu stated that the next Board meeting would be on May 27, 2021.

25 **Legal Update**

26 a) Discussion of the following pending lawsuits:

27 1. Discussion/Action: Neighbors Against River Chase Event Center v BZA re: 20-8-CUP
28 (Civil Action No.: CC-2021-C-22.

29 Mr. McKinney moved to go into executive session at 4:26 pm to receive legal advice
30 about the pending litigation. Mr. Corbin seconded the motion, which carried
31 unanimously.

32 Mr. McKinney moved to come out of executive session at 4:45 pm. Mr. Corbin seconded
33 the motion, which carried unanimously.

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

35 **Meeting: March 25, 2021**

36 1. Variance from Sec. 8.10. Owner: Arcadia Land Inc. File: 21-6-ZV.

37 2. Variance from Sec. 10.4B.3. Owner: Potomac Crossroads Counseling. File: 21-7-ZV.

38 3. Request for a CUP for a Contractor with Outdoors Storage. Owner: West Group
39 Holdings. Applicant: Jefferson Group. File: 21-1-CUP

40 4. Variance from Sec. 4.6. Owner: West Group Holdings. Applicant: Jefferson Group.
41 File: 21-9-ZV.

Board of Zoning Appeals

April 22, 2021

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- 1 Prior to the Zoning Administrator's Report, Mr. Quynn stated he would sign the Findings
- 2 and deliver them to the Office.
- 3 Mr. McKinney moved to adjourn the meeting at 4:46 pm. Mr. Corbin seconded the vote, which
- 4 carried unanimously.

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

www.jeffersoncountywv.org

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

May 17, 2021

Mountain View Diner
Attn: Stefanos Petropouleas
17909 Red Rocks Drive
Germantown, MD 20874

RE: Variance Application File #21-8-ZV – Notice of Violation
Freestanding Electronic Sign Located at 811 Willow Spring Drive, Charles Town, WV

Mr. Petropouleas,

Please be advised, during a site visit conducted on 05/17/21 at approximately 12:45 PM, it was noted that the required Public Notice Placard was not posted for the upcoming public hearing related to a variance to reduce the setback requirement for a sign (File #21-8-ZV). As you are aware, the placard was required to be posted on 05/12/21 in order to be heard during the May 27, 2021 BZA meeting.

The subject request has been postponed three times and the required documentation cited in Section 10.7E of the Zoning Ordinance (enclosed) has not yet been submitted to the Office of Planning and Zoning. The sign remains in violation of the County's Electronic Sign Regulations; therefore, effective immediately, the electronic sign shall be turned off until the requested documentation from the sign manufacturer has been submitted to the Office of Planning and Zoning and all necessary permits have been granted by the County.

Please contact our Office when you are ready to begin processing the variance application before the Board of Zoning Appeals. Additionally, please submit the required documentation from the sign manufacturing company, as required by Section 10.7E of the Zoning Ordinance and as requested in my initial notice of violation dated July 7, 2020. The electronic sign shall remain turned off until the it is brought into compliance with the County's regulations.

Sincerely,


Alexandra Beaulieu
Zoning Administrator

PC File #21-8-ZV

Petropouleas Variance – Setback Reduction

05-17-2021 Site Visit



7. In addition to the provisions herein, electronic signs shall conform to the criteria outlined in Section 10.7.

C. Electronic Signs

Electronic signs located in the Rural, Residential Growth, and Village zoning districts shall require a Special Exception Permit unless included as part of a Conditional Use Permit application per Section 10.6. Electronic signs shall conform to the criteria outlined in Section 10.7.

Section 10.6 Conditional Use Permit (CUP) Signs³⁶

Signs associated with a Conditional Use Permit application shall be assessed by the Board of Zoning Appeals as part of the CUP process per Section 6.3. Any deviation from the provisions of this section shall require consideration and approval by the Board as part of the CUP application. Signs approved by the Board shall adhere to the following:

- A. There shall be a minimum of 300 feet between signs when located in the commercial/industrial zoning districts.
- B. There shall be a minimum of 1,000 feet between signs when located in the rural/residential zoning districts; however, a minimum of 300 feet between signs may be permitted provided the adjacent land use is a commercial/industrial land use.
- C. Signs shall comply with the front yard setback provisions in the districts in which they are permitted.
- D. In addition to the provisions herein, electronic signs accessory to a CUP application shall conform to the criteria outlined in Section 10.7.

Section 10.7 Electronic Signs³⁶

Electronic Signs are permitted in any commercial and/or industrial district. Electronic Signs located in the Rural, Residential Growth, and Village zoning districts shall process as a Special Exception before the Board of Zoning Appeals per Section 6.5. Any electronic sign accessory to a Conditional Use Permit application shall comply with Section 10.6 and the criteria outlined in this section. When permitted, Electronic Signs shall conform to the following criteria:

- A. The message or image shall be static, displayed for a minimum of 15 seconds and shall not be animated by scrolling, flashing, or other similar non-static displays.
- B. The message or image change shall occur simultaneously for the entire electronic sign face without any special effects. The time to complete the change from one message to the next is a maximum of one second.
- C. Electronic signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if a malfunction occurs.
- D. An electronic sign may not be animated, play video or audio messages, or blink in any manner.
- E. Electronic signs shall not exceed a maximum illumination of 3,000 nits during daylight hours and a maximum of 100 nits for the time period between ½ hour before sunset and ½ hour after sunrise as measured from the sign's face at maximum brightness.
 - 1. The applicant shall provide written certification from the sign manufacturer that the light intensity has been factory preset not to exceed the levels specified above, and the intensity level is protected from end-user manipulation by password protected software or other appropriate methods.

2. The change from 3,000 nits to 100 nits shall be controlled by an automatic dimmer control system.

F. There shall be only one electronic sign on each parcel of land. Off-premises electronic signs shall be subject to Section 10.5A.

1. Community announcements, emergency alerts, weather, and time related messages are generally permitted and shall not be considered an off-premises sign.

G. Electronic Signs shall not be located within 300 feet of a traffic light.

H. Electronic signs shall not be located within 200 feet of the property line of a parcel with a residential structure. This setback does not apply to mixed-use buildings or residential structures located on the same parcel as a commercial development.

I. Electronic signs proposed to locate adjacent to a lot in the Rural, Residential Growth, or Village zoning districts, or adjacent to residential structures in any zoning district, shall be oriented perpendicular to residential frontages. Electronic signs shall not be parallel to any residential structures in any zoning district.

J. Electronic signs adjacent to lots in the Rural, Residential Growth, and Village zoning districts shall automatically shut-off by 10:00 p.m. and shall not turn on until 6:00 a.m.

Electronic signs shall be FCC certified as required by Federal Law. A valid copy of the FCC Manufacturers Testing Certificate shall be submitted to the Office of Planning and Zoning as part of the Zoning Certificate application.

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

www.jeffersoncountywv.org

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

Certified Mail #7015 0640 0004 5288 3926

April 28, 2021

Mountain View Diner
Attn: Stefanos Petropouleas
17909 Red Rocks Drive
Germantown, MD 20874

RE: Variance Application File #21-8-ZV – Notice of Postponement
Freestanding Electronic Sign Located at 811 Willow Spring Drive, Charles Town, WV

Mr. Petropouleas,

Please be advised, on April 22, 2021, the Board of Zoning Appeals voted to postpone your request until their May 27, 2021 meeting as a result of there not being an applicant or representative present during their April meeting.

Please ensure a representative is in attendance for the **May 27, 2021** meeting in order to avoid additional delays. The meeting will begin at 2:00 PM and you may choose to attend in person in the County Commission Meeting Room (lower level of the Charles Town Library) or virtually via ZOOM.

Additionally, please keep the public notice placard posted on your property through until the Board takes action on May 27, 2021. If a replacement sign is required, please contact our Office so we can prepare a new sign for you to post.

As you are aware, there is a pending violation related to the subject electronic sign. In order to come into compliance with the County's regulations, please provide the following documentation as **required** by Section 10.7 of the Zoning Ordinance:

1. The applicant shall provide written certification from the sign manufacturer that the light intensity has been factory preset not to exceed the brightness levels required in Section 10.7E, and that the intensity level is protected from end-use manipulation by password protected software or other appropriate methods; and
2. The applicant shall provide a valid copy of the FCC Manufacturers Testing Certificate.

Notice of Postponement
Petropouleas – 21-8-ZV
Page 2 of 2

Please feel free to provide a copy of this letter and/or Section 10.7 (enclosed) to your sign manufacturer to ensure the required documents are provided to our Office.

Please do not hesitate to contact our Office with any questions or concerns regarding this notice.

Sincerely,



Alexandra Beaulieu
Zoning Administrator

7. In addition to the provisions herein, electronic signs shall conform to the criteria outlined in Section 10.7.

C. Electronic Signs

Electronic signs located in the Rural, Residential Growth, and Village zoning districts shall require a Special Exception Permit unless included as part of a Conditional Use Permit application per Section 10.6. Electronic signs shall conform to the criteria outlined in Section 10.7.

Section 10.6 Conditional Use Permit (CUP) Signs³⁶

Signs associated with a Conditional Use Permit application shall be assessed by the Board of Zoning Appeals as part of the CUP process per Section 6.3. Any deviation from the provisions of this section shall require consideration and approval by the Board as part of the CUP application. Signs approved by the Board shall adhere to the following:

- A. There shall be a minimum of 300 feet between signs when located in the commercial/industrial zoning districts.
- B. There shall be a minimum of 1,000 feet between signs when located in the rural/residential zoning districts; however, a minimum of 300 feet between signs may be permitted provided the adjacent land use is a commercial/industrial land use.
- C. Signs shall comply with the front yard setback provisions in the districts in which they are permitted.
- D. In addition to the provisions herein, electronic signs accessory to a CUP application shall conform to the criteria outlined in Section 10.7.

Section 10.7 Electronic Signs³⁶

Electronic Signs are permitted in any commercial and/or industrial district. Electronic Signs located in the Rural, Residential Growth, and Village zoning districts shall process as a Special Exception before the Board of Zoning Appeals per Section 6.5. Any electronic sign accessory to a Conditional Use Permit application shall comply with Section 10.6 and the criteria outlined in this section. When permitted, Electronic Signs shall conform to the following criteria:

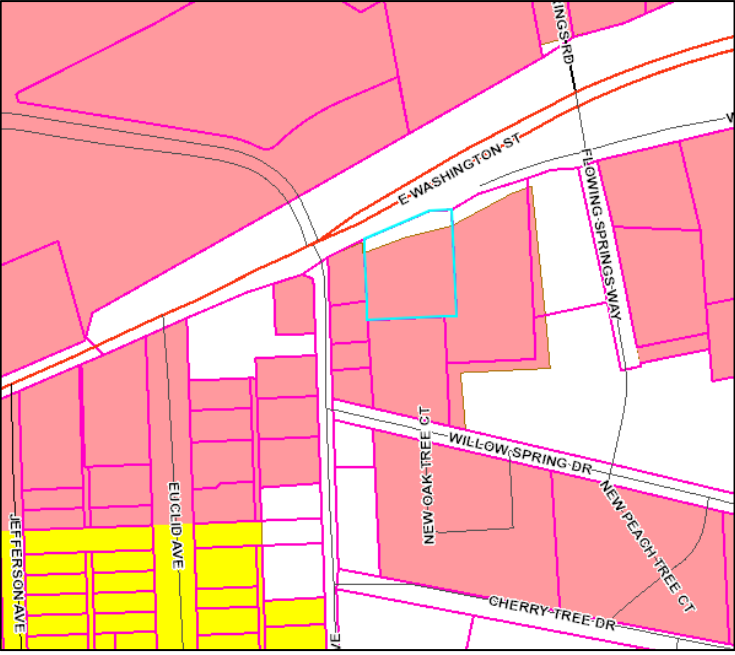
- A. The message or image shall be static, displayed for a minimum of 15 seconds and shall not be animated by scrolling, flashing, or other similar non-static displays.
- B. The message or image change shall occur simultaneously for the entire electronic sign face without any special effects. The time to complete the change from one message to the next is a maximum of one second.
- C. Electronic signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if a malfunction occurs.
- D. An electronic sign may not be animated, play video or audio messages, or blink in any manner.
- E. Electronic signs shall not exceed a maximum illumination of 3,000 nits during daylight hours and a maximum of 100 nits for the time period between ½ hour before sunset and ½ hour after sunrise as measured from the sign's face at maximum brightness.
 1. The applicant shall provide written certification from the sign manufacturer that the light intensity has been factory preset not to exceed the levels specified above, and the intensity level is protected from end-user manipulation by password protected software or other appropriate methods.

2. The change from 3,000 nits to 100 nits shall be controlled by an automatic dimmer control system.
- F. There shall be only one electronic sign on each parcel of land. Off-premises electronic signs shall be subject to Section 10.5A.
 1. Community announcements, emergency alerts, weather, and time related messages are generally permitted and shall not be considered an off-premises sign.
 - G. Electronic Signs shall not be located within 300 feet of a traffic light.
 - H. Electronic signs shall not be located within 200 feet of the property line of a parcel with a residential structure. This setback does not apply to mixed-use buildings or residential structures located on the same parcel as a commercial development.
 - I. Electronic signs proposed to locate adjacent to a lot in the Rural, Residential Growth, or Village zoning districts, or adjacent to residential structures in any zoning district, shall be oriented perpendicular to residential frontages. Electronic signs shall not be parallel to any residential structures in any zoning district.
 - J. Electronic signs adjacent to lots in the Rural, Residential Growth, and Village zoning districts shall automatically shut-off by 10:00 p.m. and shall not turn on until 6:00 a.m.

Electronic signs shall be FCC certified as required by Federal Law. A valid copy of the FCC Manufacturers Testing Certificate shall be submitted to the Office of Planning and Zoning as part of the Zoning Certificate application.

Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021
Postponed from March 25, 2021 and April 22, 2021
Steve Petropouleas Variance Request (#21-8-ZV)

Item #1 Variance request from Section 10.4B.3 to reduce the front setback from 25' to 1' for an 8.5' x 3' (25.5 square feet) Freestanding Electronic Business Sign; and Section 10.7G to reduce the distance requirement of an Electronic Sign from a traffic light from 300' to approximately 190'.

Applicant:	Mountain View Diner
Owner:	Steve Petropouleas
Developer:	N/A
Consultant:	N/A
Legal Description & Zoning District:	<p style="text-align: center;">811 Willow Spring Drive, Charles Town, WV Parcel ID: 02001000090004; Size: 1.21 ac; Zoning District: Residential-Light Industrial-Commercial</p> 
Surrounding Properties:	Zoning Map Designation: North, South, East, West: Residential-Light Industrial-Commercial
History:	<ul style="list-style-type: none"> • May 16, 1988 – Survey Plat Recorded (DB 604, PG 226) • Zoning Violation Notice for Electronic Sign Mailed: July 7, 2020 • Code Compliance Officer Notice of Violation Mailed: August 26, 2020
Site Visit Conducted:	<p>Yes. 03-12-21 – Placard Posted. Staff notified applicant on 03-15-21 to place the sign in a more conspicuous location. Staff conducted a site visit on 03-17-21 and the placard was nowhere on site. Staff notified applicant that the request would be postponed and the property would need to be reposted. Staff verified that placard was posted correctly for 04-22-21 meeting.</p> <p>Yes. 05-17-21 – Placard Not Posted by required date.</p>

Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021
Postponed from March 25, 2021 and April 22, 2021
Steve Petropouleas Variance Request (#21-8-ZV)

Summary of Request and Purpose of Ordinance Requirements

The applicant is requesting a variance from Section 10.4B.3 to reduce the front setback from 25' to 1' for an 8.5' x 3' (25.5 square feet) Freestanding Electronic Business Sign. Additionally, the applicant is requesting a variance from Section 10.7G to reduce the distance requirement of an Electronic Sign from a traffic light from 300' to approximately 190'.

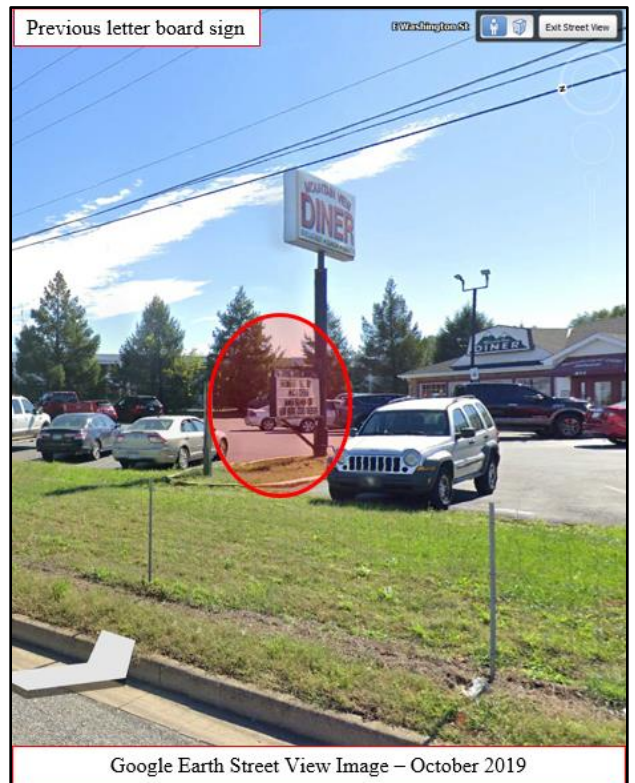
A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that traffic visibility is not impaired for drivers along the right-of-way.

The intent of the distance requirement from a traffic light is to ensure that the Electronic Sign does not distract drivers from seeing and responding to surrounding traffic lights.

Staff Evaluation of Request



The applicant has installed an 8.5 foot x 3 foot (25.5 square feet) Freestanding Electronic Business Sign approximately one (1) foot from the front property line. Section 10.4B.3 requires signs to be setback 25 feet from the edge of the right-of-way/front property line. As indicated in the applicant's request, they had replaced an existing letter board sign without knowing that a building permit would be required.



The previous letter board sign was considered nonconforming as it did not comply with the County's setback requirements. It is unclear of the exact timeframe the original letter board sign was erected. There is a plat dated May 16, 1988 which reflects a sign in this general location but does not specifically identify two signs on the property. A street view photo from 2019 shows that the previous letter board sign was

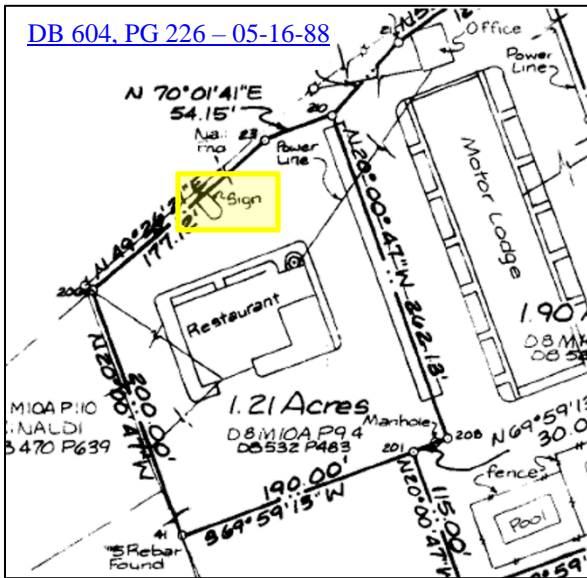
Staff Report

Jefferson County Board of Zoning Appeals

May 27, 2021

Postponed from March 25, 2021 and April 22, 2021

Steve Petropoulos Variance Request (#21-8-ZV)



attached the structure of the freestanding sign. Because the new sign included a structural change, compliance with the current sign regulations is required (see Section 10.2B); therefore, the new sign is subject to the 25 foot setback and subject to building permit application.

While the subject request is to reduce the setback from 25 feet to one (1) foot from the property line, the Division of Highways maintains a greenspace buffer area between the subject property and E. Washington Street / US Route 51. The WV Division of Highways requires signs to be one (1) foot away from the edge of their right-of-way; therefore, the subject request does not appear to create any conflict with the Division of Highways regulations.

With regard to the proximity to existing traffic lights, the applicant will need to provide documentation that the sign has been adjusted to comply with Section 10.7, which regulates brightness levels and display types. Presently, the sign is animated and is in violation with Section 10.7A, which states, “The message or image shall be static, displayed for a minimum of 15 seconds and shall not be animated by scrolling, flashing, or other similar non-static displays.” Once the electronic sign is brought into compliance with Section 10.7, it appears that the proximity to the traffic lights will have little impact as the intersection is commercially developed and the brightness levels are required to be reduced to 100 nits after sunset.

It should also be noted that [Texas A&M University’s Transportation Engineering School](#) conducted a study on the traffic safety impact of electronic message centers (EMCs) and found no increase in traffic accidents after an EMC was installed. Staff did verify with the Division of Highways that the sign proximity to the existing traffic light would not conflict with any of their regulations (see email dated April 1, 2021).

Considering that a sign has historically existed in this location, and that the surrounding properties are commercially developed and there are no residential dwellings within 200 feet of the subject sign, it appears that impact on adjacent properties would be minimal. Compliance with the Ordinance by other means is not feasible due to the existing parking and drive isles on the property.

Conditions of Approval

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

1. The applicant shall apply for a Zoning Certificate and provide the following documentation to reflect compliance with Section 10.7:
 - a. The applicant shall provide written certification from the sign manufacturer that the light intensity has been factory preset not to exceed the brightness levels required in Section 10.7E, and that the intensity level is protected from end-user manipulation by password protected software or other appropriate methods; and
 - b. The applicant shall provide a valid copy of the FCC Manufacturers Testing Certificate.
2. The applicant shall apply for a Building Permit.

Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021
Postponed from March 25, 2021 and April 22, 2021
Steve Petropouleas Variance Request (#21-8-ZV)

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.

Section 10.7 Electronic Signs³⁶

Electronic Signs are permitted in any commercial and/or industrial district. Electronic Signs located in the Rural, Residential Growth, and Village zoning districts shall process as a Special Exception before the Board of Zoning Appeals per Section 6.5. Any electronic sign accessory to a Conditional Use Permit application shall comply with Section 10.6 and the criteria outlined in this section. When permitted, Electronic Signs shall conform to the following criteria:

- G. Electronic Signs shall not be located within 300 feet of a traffic light.



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: 21-82V
 Staff Initials: AB
 Meeting Date: 03-25-21
 Fees Paid (\$100 or \$150): \$150 ^{check} 3973

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: STEVE PETROPOULEAS
 Mailing Address: 17909 Red ROCKS DR Germantown MD 20874
 Phone Number: 301-461-2996 Email: stpetro@aol.com

Applicant Contact Information

Name: _____
 Mailing Address: SAME AS ABOVE
 Phone Number: _____ Email: _____

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

Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 811 Willow SPRING DRIVE
 City: Charles Town State: WV Zip Code: 25414
 Tax District: Charles Town (02) Map No: 10 Parcel No: 9.4
 Parcel Size: 1.21 acres Deed Book: 1129 Page No: 71

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"/>

MAR 01 2021

**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: Sec. 10.4B.3 ⁴³ *Sec. 10.7G - jth

Briefly describe the nature of the variance request: in June of 2020 we replace an existing neon sign that was old and broken with a new neon sign without permit we were told we need a permit

If this request is for a setback variance, please check one of the following: *Reduce distance from traffic light from 300' to 190' - jth
Front Setback Side Setback Rear Setback Reduction From 25' to 7'

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:
we use the sign for advertising our business the sign existed at the property

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?
We would like to keep the sign because is essential to our business the sign has been always there

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?
compliance with setback will required eliminating existing parking spaces

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?
The intent of the ordinance is observed by allowing a business sign on the property the new sign is smaller than the previous sign

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] 2-20-21
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).

March 25, 2021
Date of Public Hearing

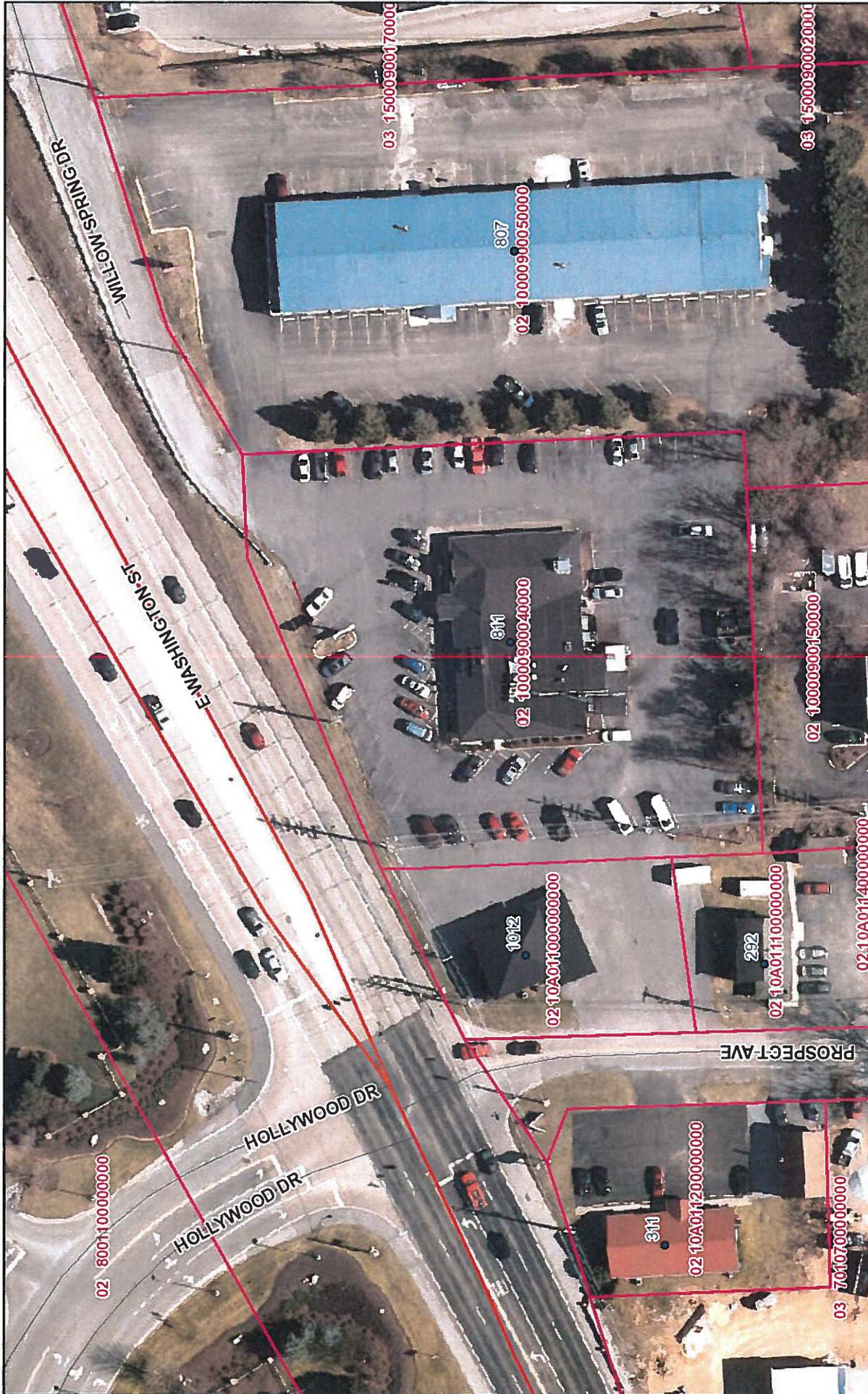
March 10, 2021
Advertising Date

March 10, 2021
Placard Posting Date



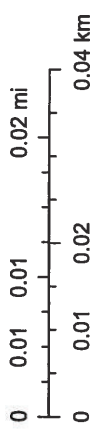
Per applicant sign size: 8.5' x 3' (25.5 sq. ft.) - jth

Viewer Map



February 8, 2021

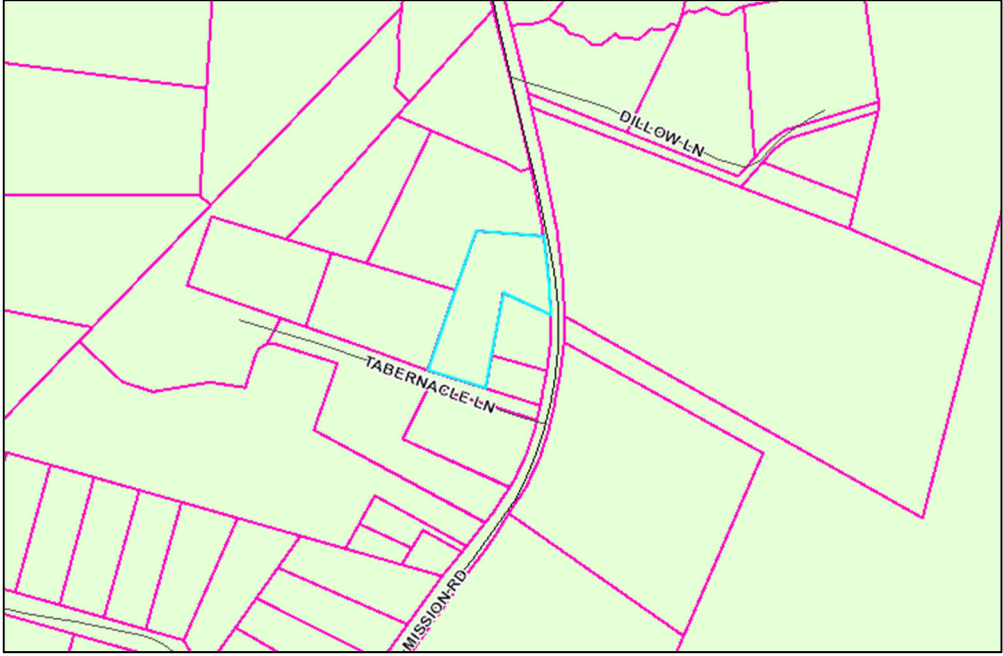
1:1,128



Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

Beahm-Mission Tabernacle Holiness Church Variance Request (#21-17-ZV)

Item #3 Variance request from Appendix A to reduce the minimum lot size from 40,000 sf to 16,800 sf to allow for the creation of a lot to be donated to the Mission Tabernacle Holiness Church for the purpose of creating an overflow parking area.

Applicant:	Mission Tabernacle Holiness Church
Owner:	Charlotte Beahm
Developer:	n/a
Consultant:	n/a
Parcel Information and Zoning District:	<p style="text-align: center;">382 Mission Rd., Harpers Ferry, WV Parcel ID: 02021A00140000; Size: 1..37 ac; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Districts: North, East, South, West: Rural
History:	n/a
Waivers/Variances:	n/a
Approved Activity:	Single Family Dwelling
Site Visit Conducted:	Site Visit Not Conducted.

Summary of Request and Purpose of Ordinance Requirement

The applicant is requesting a variance from Appendix A to reduce the minimum lot size from 40,000 sf to 16,800 sf to allow for the creation of a lot to be donated to the Mission Tabernacle Holiness Church for the purpose of creating an overflow parking area.

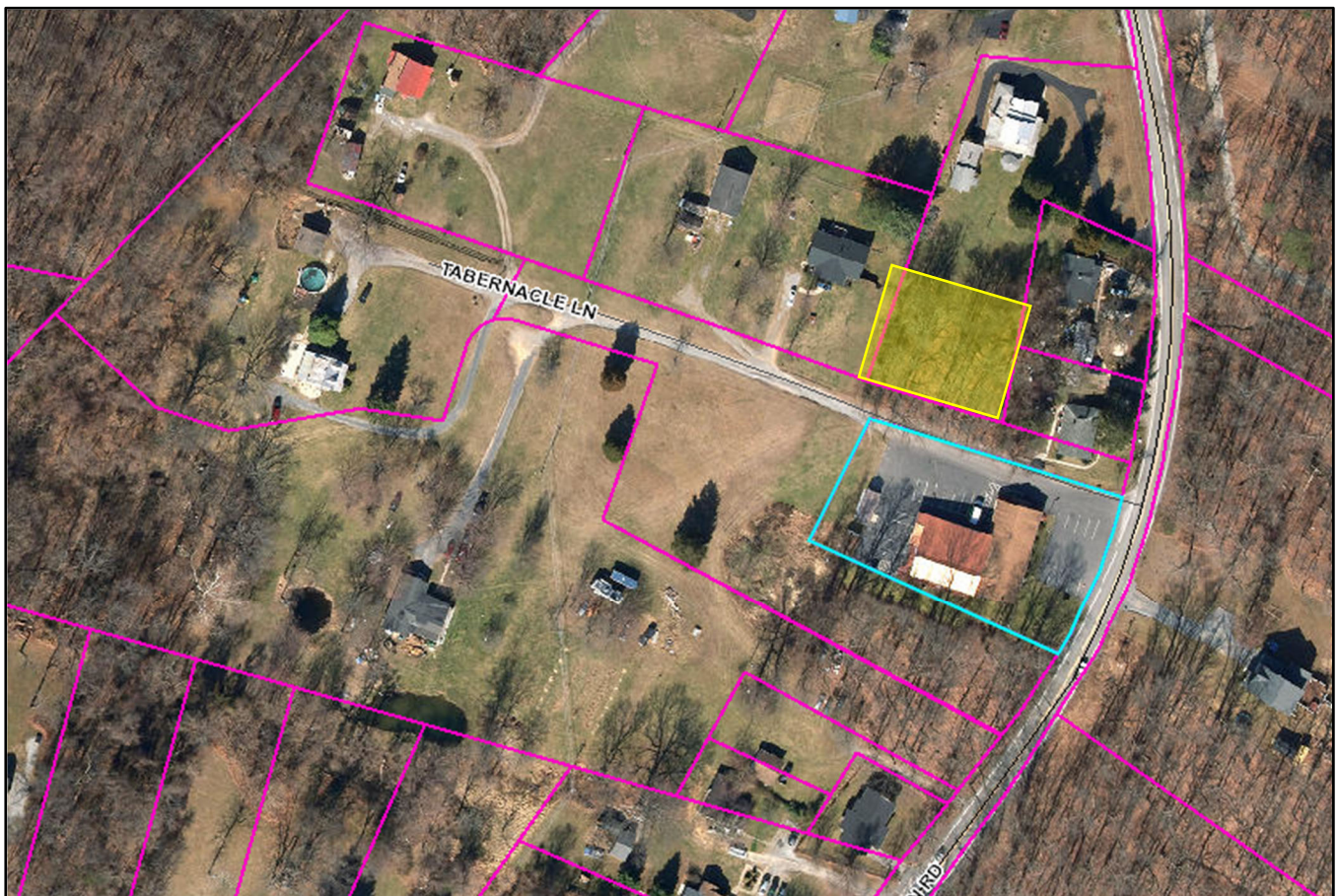
Minimum lot size requirements are in place to ensure sufficient space is provided to accommodate principal structures, accessory structures, and well and septic areas.

Beahm-Mission Tabernacle Holiness Church Variance Request (#21-17-ZV)

Staff Evaluation of the Request

The subject parcel is currently 1 & 2/5 acres and currently owned by Norman and Charlotte Beahm. The property owners would like to donate a portion of their property to Mission Tabernacle Holiness Church; however, because the two properties are divided by another parcel, they are unable to process a boundary line adjustment.

The request is to reduce the minimum lot size requirement from 40,000 square feet down to 16,800 square feet in order to divide the southern portion of the Beahm's property for conveyance to the church. The church has represented that they would like to use this portion of property for overflow parking.



A parking lot would not require the installation of well and/or septic. Church attendees appear to be using the adjoining access easement for overflow parking; therefore, granting the variance would allow the church to alleviate the negative impact created by vehicles parking within the access easement by providing an additional parking area for attendees to safely park their vehicles without impeding the existing access easement.

The applicants have represented that they intend to install a fence along the perimeter of the proposed parking lot to lessen the impact on adjacent neighbors. If the variance is granted, the applicant's will be required to process a subdivision plat through the Office of Planning and Zoning to divide the lot and

Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021

Beahm-Mission Tabernacle Holiness Church Variance Request (#21-17-ZV)

legally convey the land to the church. Installation of a parking lot may require additional processing through the Office of Planning and Zoning to ensure compliance with County regulations.

Based on the current lot size and the configuration of existing lots in this area, it is not feasible to comply with the Ordinance by any other means.

Conditions of Approval

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

1. The 16,800 sf area is prohibited from constructing a residence or any non-residential structures for public use (i.e. fellowship hall) unless further evaluated by the Board (this condition excludes picnic tables, storage sheds, or pavilions).

Section of Ordinance to be Considered

Appendix A Attached

APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE^{27, 32}

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft. ***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks				Parking/ Drive Aisle Setbacks	Screened Buffers Sec. 4.11
							Front	Side	Street Side	Rear		
Residential Growth (RG)	Single Family Detached Dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20	N/A	N/A
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"		
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"		
	Small Lot Single-Family Detached Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20	N/A	N/A
		Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20		
	Duplex Dwelling Unit	Public/Central water and sewer	N/A	10,000	N/A	"	"	"	"	"	12 side 15 front 15 rear	12 side 15 front 15 rear
		Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20		
	Townhouse Dwelling	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30	N/A	N/A
	Multi-Family Dwelling (See Section 4.12)	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	‡	12		
		30,000 sq. ft. to 40,000 sq. ft.	N/A	N/A	N/A	40	20	10	‡	12		
Under 30,000 sq. ft.		N/A	N/A	N/A	40	20	8	‡	12			
Rural (R) (See Sec. 5.7)	Dwellings		40,000	N/A	100	45	40	15	‡	50	N/A	N/A
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 2 acres	N/A	N/A	N/A	45	40	15	‡	50		
		40,000 sq. ft. to 2 acres	N/A	N/A	N/A	45	25	12	‡	12		
		30,000 sq. ft. to 39,999 sq. ft.	N/A	N/A	N/A	45	20	10	‡	12		
		Under 30,000 sq. ft.	N/A	N/A	N/A	45	20	8	‡	12		
Cluster Subdivision	See RG District											
Village (V)	Residential uses	See RG District										
Residential-Light Industrial-Commercial (RLIC)	Residential uses	See RG District ^ϕ										
Industrial-Commercial (IC)	Residential uses	See Rural setbacks for lots not previously stipulated by the Planning Commission.										
Neighborhood Commercial (NC)	Residential uses	See RG District										
General Commercial (GC)	Residential uses	See RG District										
Highway Commercial (HC)	Residential uses	N/A										
Light Industrial (LI)	Residential uses	N/A										
Major Industrial (MI)	Residential uses	N/A										
Office / Commercial Mixed Use (OC)	Residential uses	See RG District										
Planned Neighborhood Development (PND)	Residential uses	See RG District. Note: Planning Commission may amend development standards for developments in the PND District (see Article 5).										

The requirements in this table are in addition to any other applicable requirements in the text of this Ordinance. In the event of a conflict with the text, this table shall prevail.

For all lots approved prior to Sept. 1, 1989, lots under 40,000 sq. ft. side & rear setbacks for residential accessory structures shall be 6'. NOTE: In RG district side & rear setbacks for accessory structures under 144 sq. ft. shall be 6'. See Article 8 of the Zoning and Land Development Ordinance for building setbacks for certain land uses.

All dimensions are in feet unless otherwise indicated.

ϕ In the RLIC and RG districts, townhouse lots with a lot depth of 110 linear feet or less and/or a lot area of 3,500 square feet or less, the rear setback of a deck for a townhouse may be reduced to 10', if the adjacent property located to the rear of the subject lot is a dedicated easement or common area and is not a lot that includes a residence.

‡ See setback requirements noted in Sec. 2.2, definition of "Lot, Corner."

* Maximum height subject to Section 9.2

** Exterior side only.

*** The balance square footage between the ADU and the MLA shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.

**** The front setback for a Small lot single-family detached dwelling may be reduced to 10' if the front yard does not contain a driveway.



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: 21-17-zv
 Staff Initials: ST
 Meeting Date: 5/27/21
 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: Charlotte Beahm
 Mailing Address: 382 Mission Rd Harpers Ferry, WV 25425
 Phone Number: (304) 725-2677 Email: _____

Applicant Contact Information

Name: Mission Tabernacle Holiness Church
 Mailing Address: P.O. Box 814 Ranson, WV 25438
 Phone Number: (540) 336-9911 Email: pastoroptopt@gmail.com

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

Name: Ed Johnson & Associates
 Mailing Address: 674 Acorn circle
 Phone Number: (304) 279-9924 Email: edjohn54@frontiernet.net

Physical Property Details

Physical Address: Tabernacle Lane
 City: Harpers Ferry State: WV Zip Code: 25425
 Tax District: 02 Map No: 21A Parcel No: 14
 Parcel Size: 100'X168' (16,800) Deed Book: 311 Page No: 148

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"/>	
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"/>
APR 16 2021			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: App. A 81

Briefly describe the nature of the variance request:

Beahm's would like to donate approximately a 100'X168' (16,800) portion of their property to the church. The church desires to make the property into additional parking lot and recreational use

*Request to reduce the minimum lot size from 40,000 sf to 16,800 sf - jth

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:

Church would like to clear land of brush, trash and trees and place fencing on property lines

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?

Land is overgrown with brush and trash with possible crimnal activity taking place in the cover of the woods

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

100' access to the property from Tabernacle lane/ current church parking lot

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

Beahm's wish to make good use of property by giving land to church, land is not used now except for uninvited foot traffic, illeagal trash toss and possible crimalnal activity

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.

Charlotte Beahm 4/16/2021
Signature of Property Owner Date

Ra. Smit 4-16-21
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).

05-27-21
Date of Public Hearing

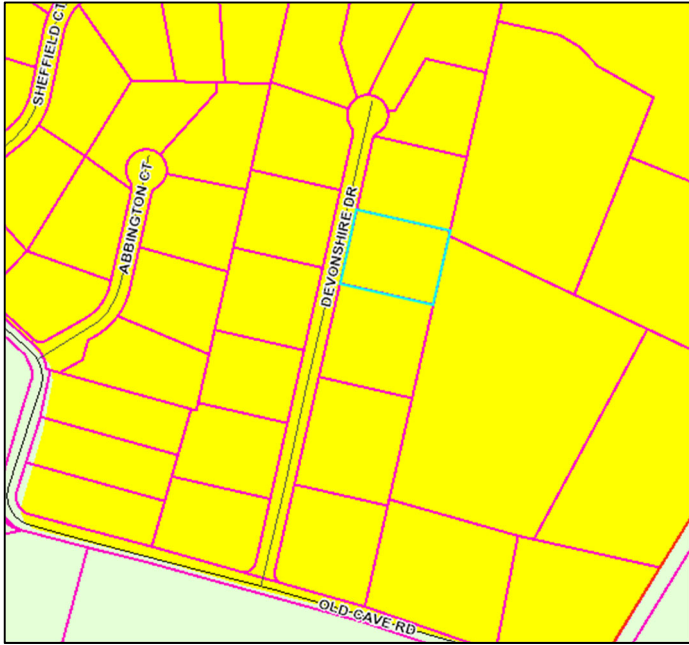
05/12/21
Advertising Date

05/12/21
Placard Posting Date

Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

Francis Sutton Variance Request (#21-18-ZV)

Item #4 Variance request from Section 5.4B of the Zoning Ordinance, as amended on July 15, 1993, to reduce the rear setback from 20' to 10' for a 12' x 16' accessory structure (shed).

Applicant:	Francis N & Lisa M Sutton
Owner:	Same
Developer:	n/a
Consultant:	n/a
Parcel Information and Zoning District:	<p style="text-align: center;">Eastland Subdivision, Lot 59, 178 Devonshire Dr., Charles Town, WV Parcel ID: 02001600810000; Size: 1 ac; Zoning District: Residential Growth</p> 
Surrounding Properties:	<p>Zoning Districts: North, South, East, West: Residential Growth</p>
History:	<p>Eastland Subdivision (recording date and section)</p> <ul style="list-style-type: none"> 08/14/87: Section I, Lots 1-7 10/23/87: Section II-A, Lots 8-25 01/28/88: Section II-D, Eastland Swim & Tennis Club 08/14/89: Section II B, Lots 26 – 46 10/20/92: Section II-C, Lots 47-51 01/11/93: Section II-E, Lots 52-55 <li style="background-color: yellow;">12/19/95: Section IV, Lots 56-69 <i>Plat Book 13, Page 69 / PC File #95-04*</i> <li style="background-color: yellow;">*subject parcel section* 05/28/99: Section II-D, Lot 70 & Revised Community Commons Area, Section IIE 05/18/00: Section III-A, Lots 71-81 10/26/01: Section III-B, Lots 82-92 <i>*subject parcel section*</i> 04/09/02: Section III-C, Lots 93 - 101 03/10/03: Section III-C, Lot 102 05/24/04: Section V-A, Lots 103-109

Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

Francis Sutton Variance Request (#21-18-ZV)

	06/02/05: Section V-B, Lots 110-122 07/05/05: Section III-C, Lot 102 (minor plat change) 06/06/08: Section V-C, Lot 123
Waivers/Variations:	01/09/01: Eastland Subdivision, Sections IIIB & C received a PC variance from stormwater quantity (Sec.8.2.c.1.d).
Approved Activity:	Single family dwelling (Building Permit #97-1004)
Site Visit Conducted:	Site visit not conducted.

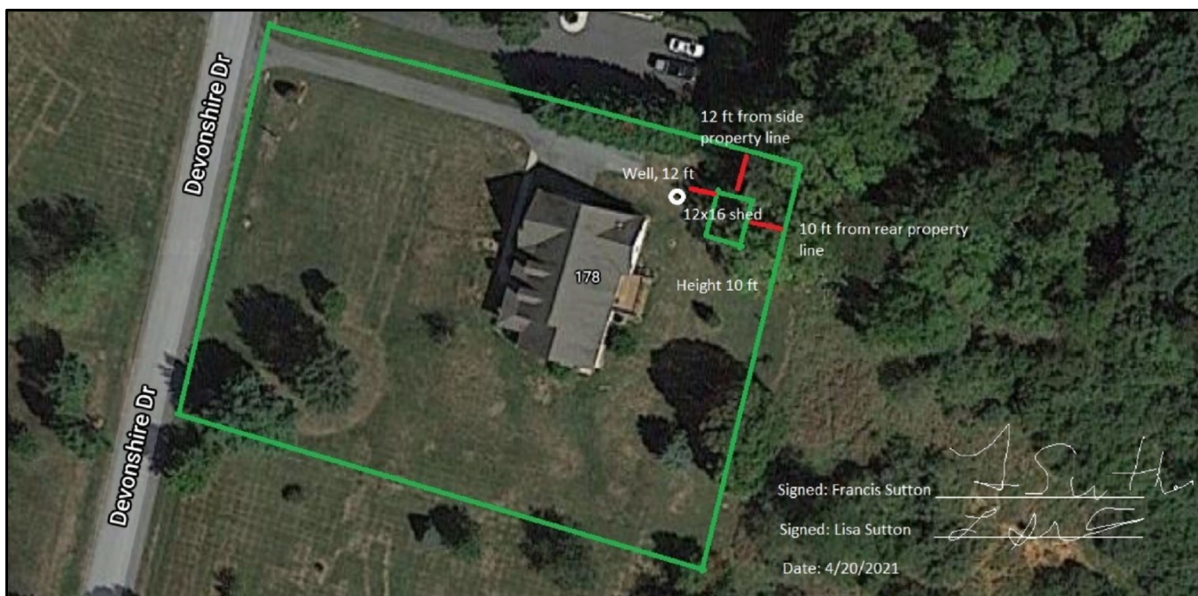
Summary of Request and Purpose of Ordinance Requirement

The applicant is requesting a variance from Section 5.4B of the Zoning Ordinance, as amended on July 15, 1993, to reduce the rear setback from 20' to 10' for a 12' x 16' accessory structure (shed).

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 Evaluation of the Request

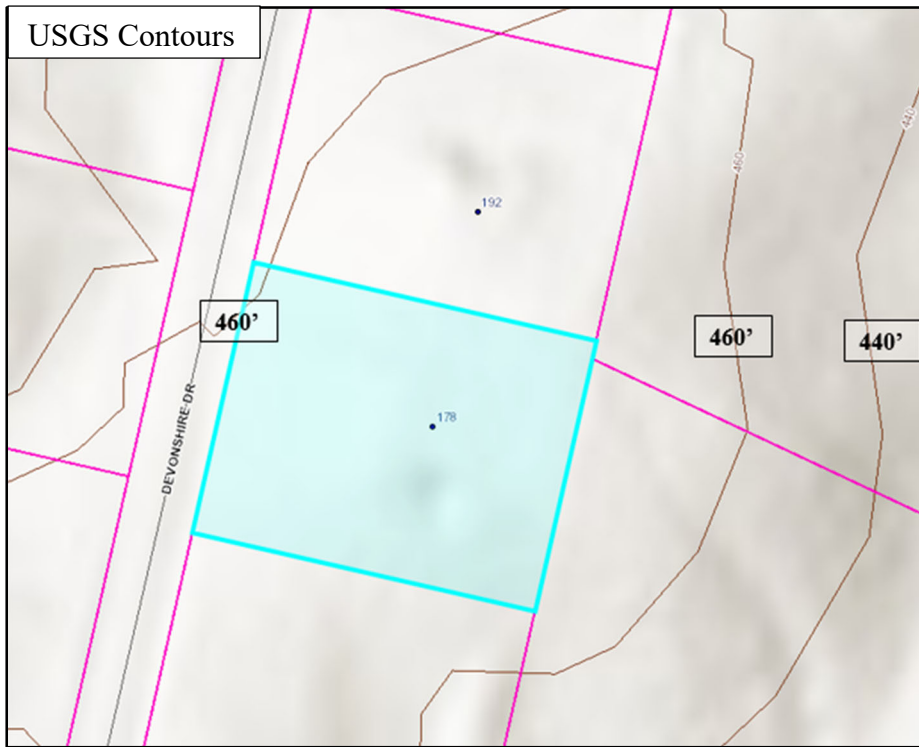
The subject parcel is Lot 59 in the Eastland Subdivision, Section IV, which was recorded on December 19, 1995 in [Plat Book 13, Page 69B](#). The subdivision was approved as a by-right development located in the Residential Growth zoning district. Lots within this development are served by individual well and septic systems and were approved with a 10,000 square foot septic reserve area.



A setback reduction to 10' along the rear property line would likely have minimal impact on the adjoining property as natural vegetation exists between the two properties, which provides a buffer between the proposed structure and any nearby residential structures.

Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

Francis Sutton Variance Request (#21-18-ZV)



It is feasible to comply with the Ordinance by other means by changing the proposed location to accommodate the required setbacks. The applicant has represented that the subject location is preferable due to the contour of the land, which would minimize the amount of groundwork required for another location.

Conditions of Approval

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

1. No conditions of approval were 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**		
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: 21-18-ZV
 Staff Initials: AB
 Meeting Date: 05-27-21
 Fees Paid (\$100 or \$150): CC - \$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: Francis Sutton
 Mailing Address: 178 Devonshire Dr, Charles Town, WV, 25414
 Phone Number: 609.340.4388 Email: fsutton12@gmail.com

Applicant Contact Information

Name: Francis Sutton
 Mailing Address: 178 Devonshire Dr, Charles Town, WV 25414
 Phone Number: 609.350.4388 Email: fsutton12@gmail.com

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

Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 178 Devonshire Dr
 City: Charles Town State: WV Zip Code: 25414
 Tax District: Charles Town (02) Map No: 16 Parcel No: 81
 Parcel Size: 1 acre Deed Book: 1170 - jth Page No: 357 - jth

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"/>

Received 04/20/21 - jth

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: Section 5.4B

Briefly describe the nature of the variance request:

Requesting rear-setback reduction from 20 feet to 10 feet to build a 12x16 storage shed.

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

Front Setback Side Setback Rear Setback Reduction From 20 feet to 10 feet

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 shed to be built is located away from neighbors water wells and septic systems and will not disturb water run-off.

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?

Land is 1 acre in size with the house located further back on the property. Back yard is relatively small without much flat surface to locate the shed. Placing the shed at another flat surface location at the rear of the property would detract from scenic views.

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


Locating the shed on the other side of the rear of the property is not feasible due to the contour of the land and the additional cost that would be associated with building a platform and possible excavation.

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

I spoke with the zoning office and they checked to verify if the proposed location of the shed would impact existing right-aways. There doesn't appear to be an impact based on what I know.

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

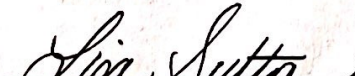
By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.



Signature of Property Owner

4/20/21

Date



Signature of Property Owner

4/20/21

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).

05/27/21

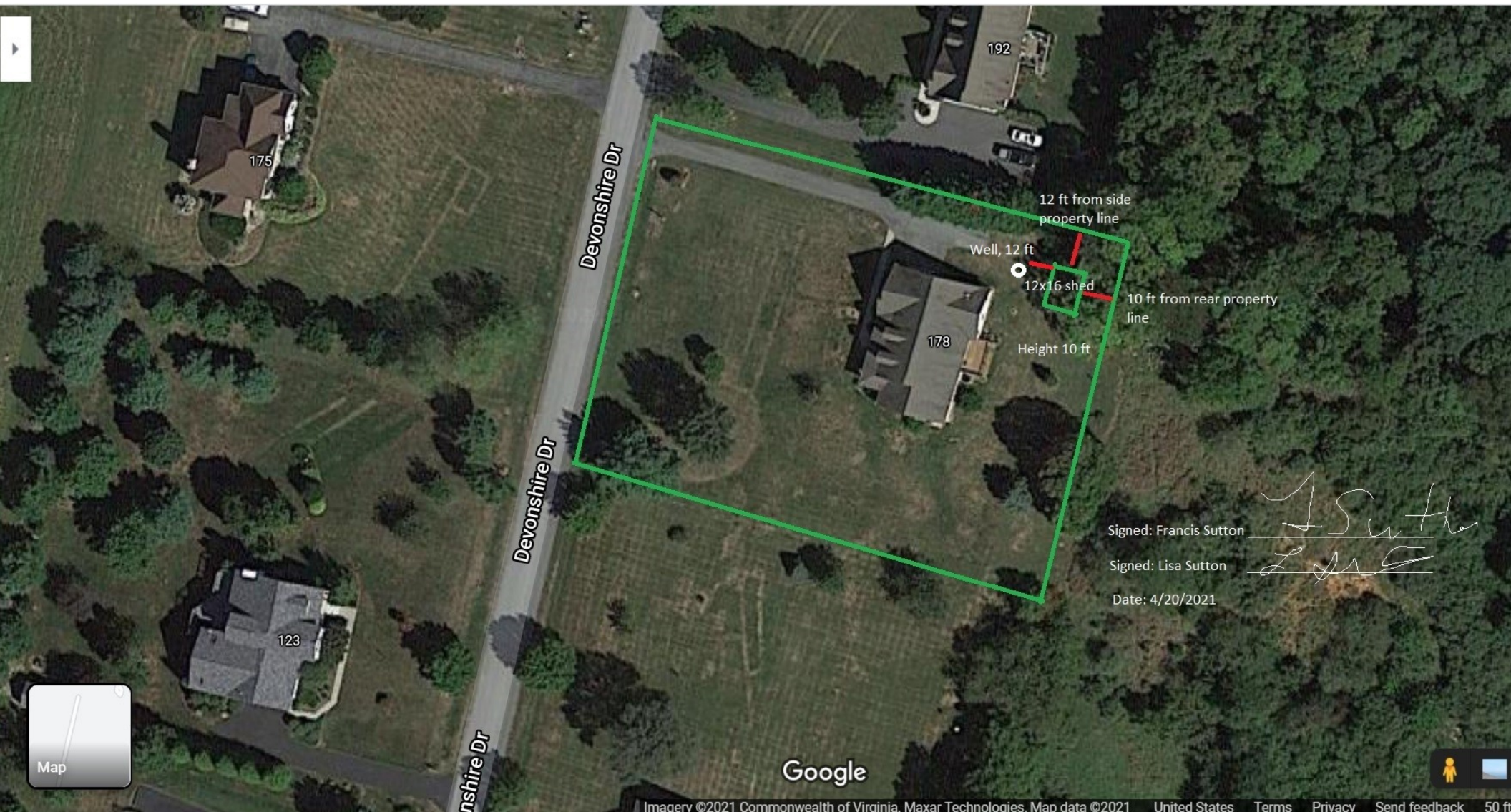
Date of Public Hearing

05/12/21

Advertising Date

05/12/21

Placard Posting Date



12 ft from side property line

Well, 12 ft

12x16 shed

10 ft from rear property line

Height 10 ft

Signed: Francis Sutton

Francis Sutton

Signed: Lisa Sutton

Lisa Sutton

Date: 4/20/2021

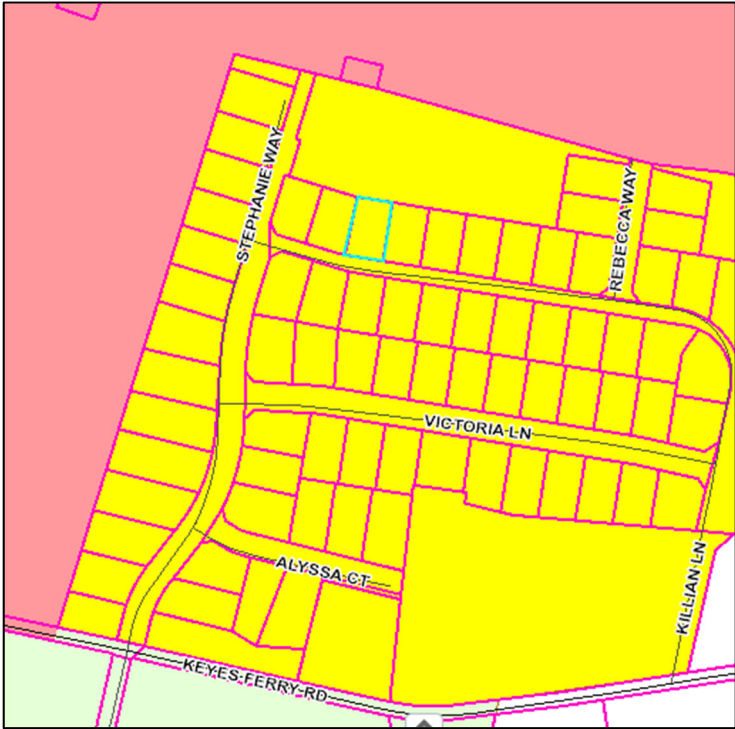


Google

Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

Bounds Variance Request (#21-19-ZV)

Item #5 Variance request from Section 5.4B of the Zoning Ordinance, as amended on May 1, 2003, to reduce the rear setback from 20' to 5' for a 12' x 24' in-ground pool.

Applicant:	Herman and Robin Bounds
Owner:	Same
Developer:	n/a
Consultant:	n/a
Parcel Information and Zoning District:	<p style="text-align: center;">Demory Farm Subdivision, Lot 16, 43 Killian Ln., Charles Town, WV Parcel ID: 02009B00160000; Size: .24 ac; Zoning District: Residential Growth</p> 
Surrounding Properties:	Zoning Districts: North, South, East, West: Residential Growth
History:	Demory Farm Subdivision, recorded on 03/11/05 in Plat Book 21, Page 79 (PC File #04-17)
Waivers/Variations:	None
Approved Activity:	Single family dwelling
Site Visit Conducted:	Site visit not conducted.

Summary of Request and Purpose of Ordinance Requirement

The applicant is requesting a variance from Section 5.4B of the Zoning Ordinance, as amended on May 1, 2003, to reduce the rear setback from 20' to 10' for a 12' x 16' accessory structure.

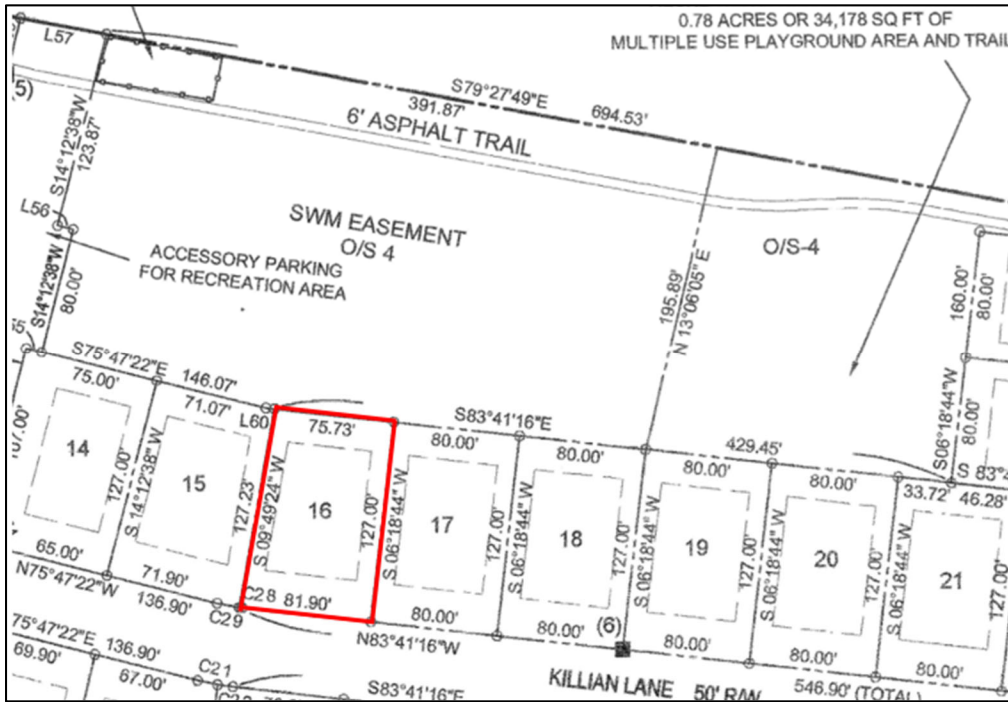
The purpose of side and rear setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of the structure is feasible; to maintain adequate separation between structures for fire prevention purposes; and to allow room for utility easements.

Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021

Bounds Variance Request (#21-19-ZV)

Staff Evaluation of the Request

The subject parcel is Lot 16 in the Demory Farm Subdivision, which was recorded on 03/11/05 in [Plat Book 21, Page 79A](#). The property abuts a five (5) acre open space area which serves the residents of the Demory Farm Subdivision.



Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

Bounds Variance Request (#21-19-ZV)

The subject lot is approximately 10,000 square feet in size and has an existing six (6) foot privacy fence around the backyard. The backyard area is fairly small and if the pool were constructed to comply with the rear yard setback requirement, it would sit close to the house, which could create a safety hazard.

Impact on adjoining properties is expected to be minimal due to the fact that the requested reduction into the rear yard setback would place the structure closer to an open space area which contains a stormwater management easement, and would not be any closer than permitted to any of the neighboring residential lots fronting Killian Lane.

It is feasible to comply with the Ordinance by other means by changing the proposed location to accommodate the required setbacks; however, if the pool is constructed to comply with the rear yard setback requirement, there could be a risk of creating a safety hazard if the pool is too close to the house. The applicant has represented that if the pool were too close to the house, swimmers may attempt to try and jump from the second story deck into the pool, which is a safety hazard.

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**		
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: 21-19-ZV
 Staff Initials: AB
 Meeting Date: 05-27-21
 Fees Paid (\$100 or \$150): \$100/cc

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: Herman and Robin Bounds, Jr
 Mailing Address: 43 Killian Lane, Charles Town, WV 25414
 Phone Number: 304-885-8129 Email: hrbounds@swbell.net

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: 43 Killian Lane
 City: Charles Town State: WV Zip Code: 25414
 Tax District: 02 Map No: 9B Parcel No: 16
 Parcel Size: 10,112 SQ FT Decd Book: 21 Page No: 79

Zoning District (please check one)

DB: 1111 / PG: 252 gtt

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"/>

RECEIVED

APR 20 2021

JEFFERSON COUNTY PLANNING ZONING & ENGINEERING
 Place Received Date Stamp Here

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"/>

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: _____

Briefly describe the nature of the variance request:

We would like to request the setback changed from 20ft to 5-10ft to allow for the installation of a swimming pool.

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

Front Setback Side Setback Rear Setback Reduction From 20ft to 5-10ft

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:

If the change is granted the pool will be able to be centered in the backyard. The property immediately behind our yard is a "common area" for the neighborhood. Placement of a swimming pool centered will not disturb the neighbors on the sides and there are no neighbors behind us.

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 lots in this neighborhood are smaller than average. The current 20ft setback makes it difficult to safely accommodate a deck and a swimming pool within the designated space.

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

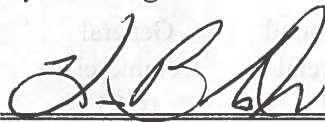
Granting this variance will allow us to place a swimming pool in the yard that is a safe distance from a 2nd story deck. We are concerned about children trying to jump from the deck into the pool. Being able to place the pool closer to the property line will provide adequate distance from the edge of the deck to the pool

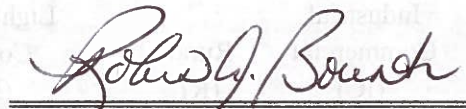
How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

Approving this variance will allow additional safety for all those using the pool. Having adequate fencing and security is an important safety requirement and we think additional space between the deck and the pool is just as important.

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 Date: Apr. 12, 2021



Signature of Property Owner Date: 20 Apr 21

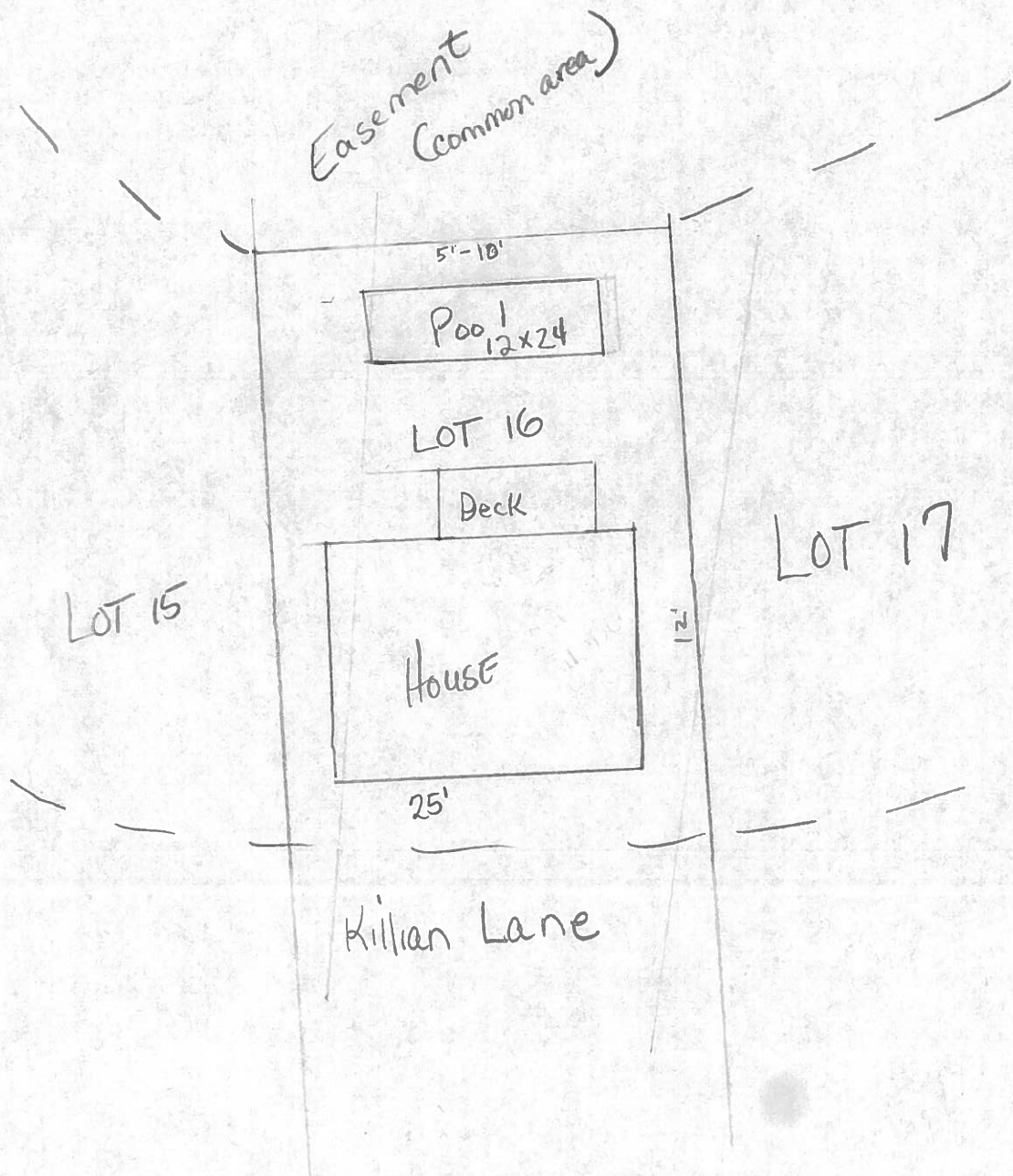
Notification Requirements (to be completed by staff)

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).

May 27, 2021
Date of Public Hearing

May 12, 2021
Advertising Date


May 12, 2021
Placard Posting Date

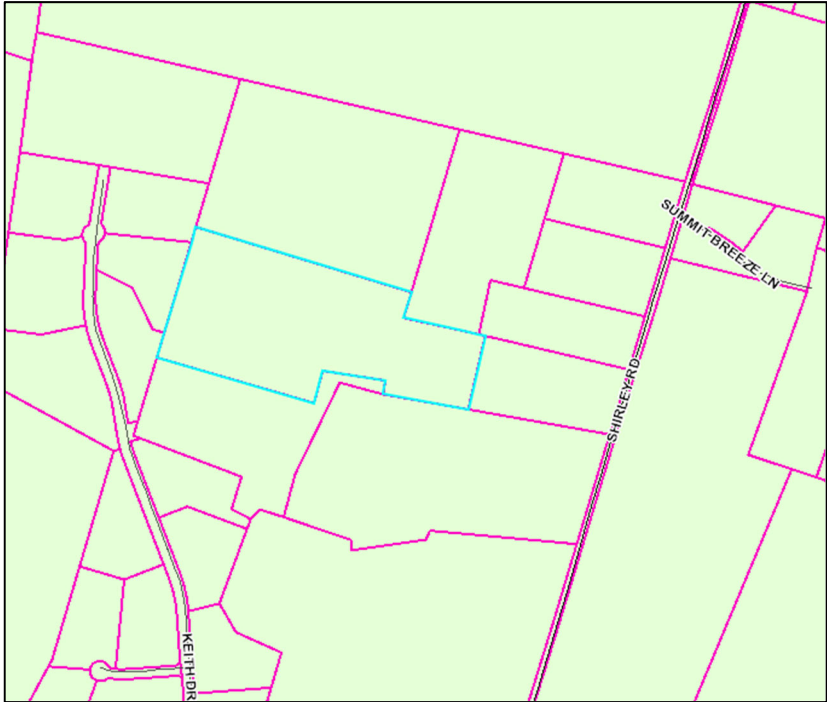


Bounds
43 Killian Lane

Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

Whisner Variance Request (#21-20-ZV)

Item #6 Variance request from Section 9.6C to allow an accessory structure in the required front yard; Section 8.2 to reduce the distance requirement for a barn from 50' to 10'; and Appendix A to reduce the front setback from 40' to 10' for a 64' x 40' barn.

Applicant:	Canton Whisner
Owner:	Same
Developer:	n/a
Consultant:	n/a
Parcel Information and Zoning District:	<p>Elizabeth Stagner Minor Subdivision, Lot 3, 1491 Shirley Rd., Summit Point Parcel ID: 06001500030043; Size: 20 ac; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Districts: North, East, South, and West: Rural
History:	Elizabeth Stagner MSD recorded on 01/26/15 in Plat Book 25, Page 492
Waivers/Variations:	n/a
Approved Activity:	Single Family Dwelling
Site Visit Conducted:	Site Visit Not Conducted.

Summary of Request and Purpose of Ordinance Requirement

The applicant is requesting a variance from Section 9.6C to allow an accessory structure within the required front yard; Section 8.2 to reduce the distance requirement for a barn from 50' to 10'; and Appendix A to reduce the front setback from 40' to 10' for a 64' x 40' barn.

A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansions 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.

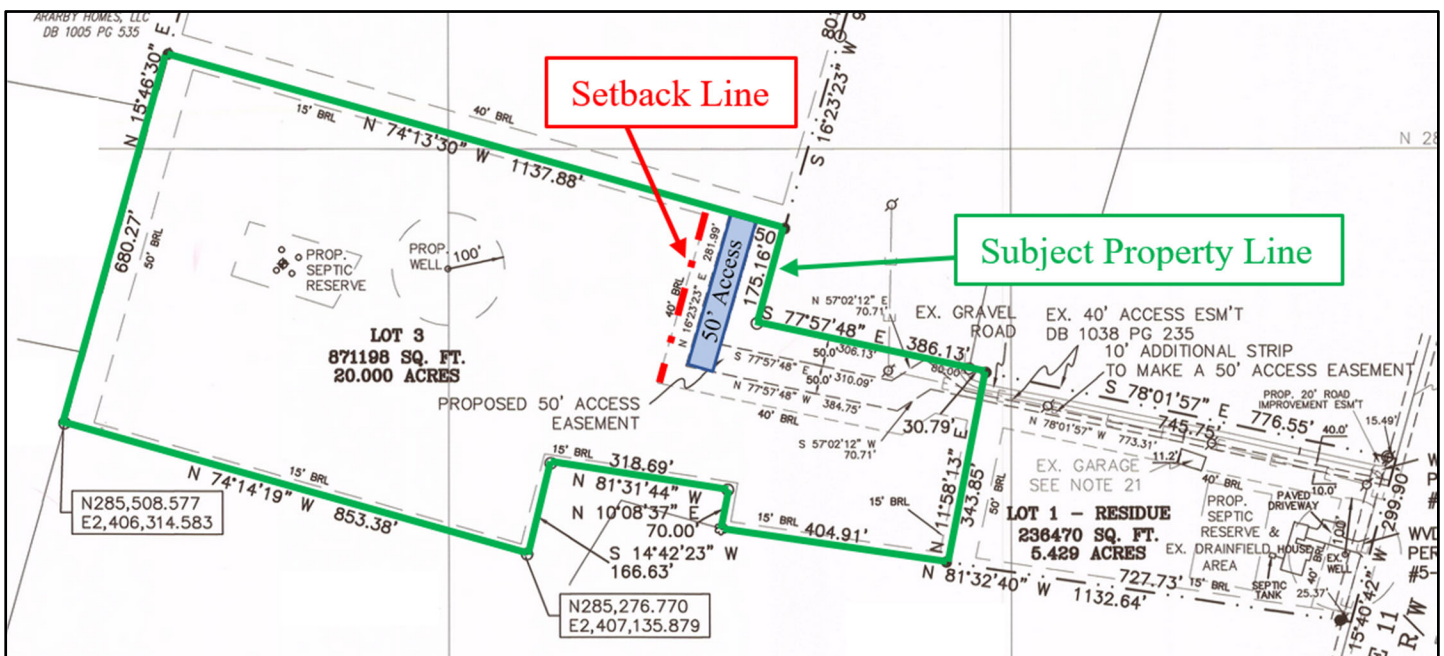
Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021

Whisner Variance Request (#21-20-ZV)

Staff Evaluation of the Request

The subject parcel is designated as Lot 3 of the Elizabeth Stagner Minor Subdivision, which was recorded on January 26, 2015 in [Plat Book 25, Page 492](#). As part of the minor subdivision approval, a 50' access easement was platted to provide access from Shirley Road to Lot 3 (subject parcel) and Lot 2 (to the north of the subject parcel).

Pursuant to the definition for Front Lot Line, a front yard setback is measured from the edge of a platted access easement (see plat exhibit below).



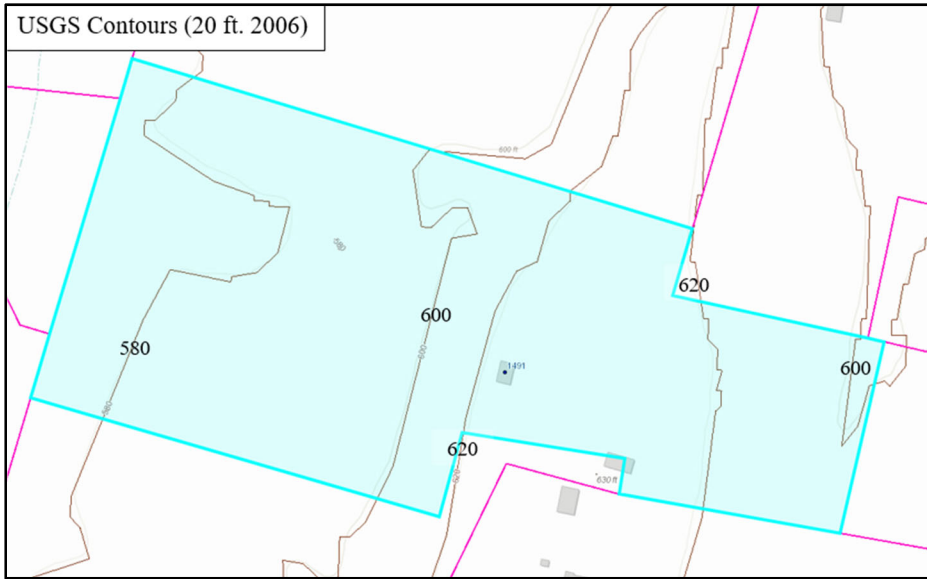
Section 8.2 of the Zoning Ordinance states, “Housing for farm animals and feeding pens shall be setback a minimum of 50’ from all property lines; excluding chicken coops which may be setback 25’ from all property lines if no roosters are housed there.

Structures used to store manure shall comply with distance requirements specified in [Section] 4.6E”.

The applicant intends to process a minor plat change to relocate the platted 50 foot access easement so that it runs along the edge of the property line as opposed to the current location which is 50 feet off of the property line. If the barn were built in accordance with the approved plat, the barn would be 150’ from the property line. The applicant would like to place the barn 10 feet from the edge of the access easement and 60 feet from the property line (when considering the 50 foot wide access easement).

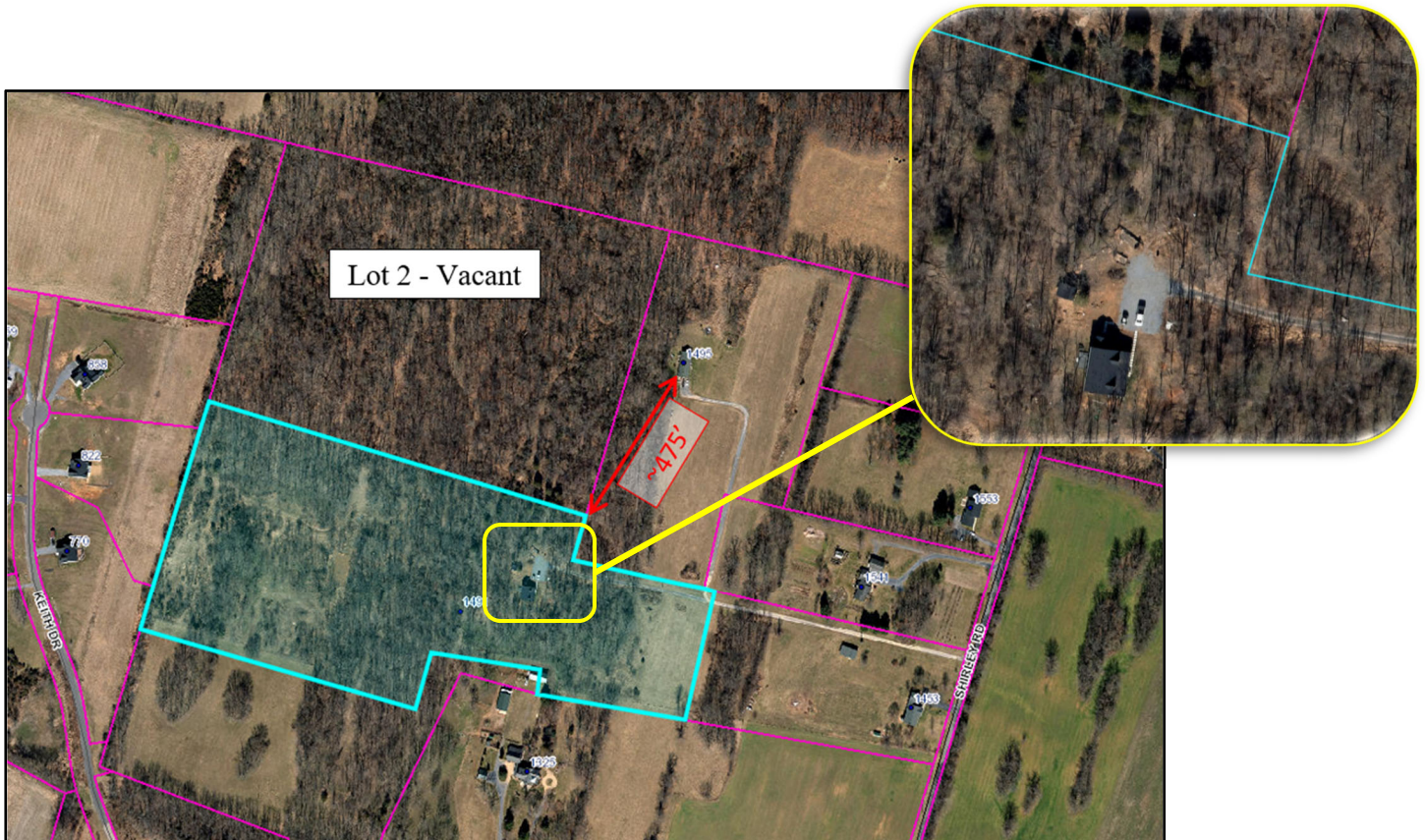
Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021

Whisner Variance Request (#21-20-ZV)



The applicant represented that the subject location is preferred due to the topography of the property. The applicant has also represented that large rock outcroppings and mature trees exist on the property, which would require significant site work (blasting and tree removal) to create a buildable area that complies with the setback requirements.

Lot 2, which is located to the north of the subject Lot 3, is currently vacant. It is the only lot with access to the platted easement; therefore, it is not expected that the entire 50 feet access easement would be developed for use. The proposed barn would still be required to be setback 50 feet from the northern boundary, shared with Lot 2. The other adjoining lot to the northeast (parcel 3.41) contains a residential dwelling that is approximately 475 feet from the corner of the Lot 3. It is expected that impact on adjoining properties would be minimal (see exhibit below).



Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

Whisner Variance Request (#21-20-ZV)

Conditions of Approval

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

1. No conditions of approval were identified.

Section of Ordinance to be Considered

Section 8.2 Animal Housing and Feeding Pens^{23, 32}

Housing for farm animals and feeding pens shall be set back a minimum of 50’ from all property lines; excluding chicken coops which may be setback 25’ from all property lines if no roosters are housed there.

Section 9.6 Accessory Structures

Accessory structures, defined by Section 2.2, shall be permitted in all districts where single-family and two-family dwelling units are permitted. The provisions for accessory structures are as follows.

- A. The minimum distance to a lot line in any District from a single-story utility or storage shed, not exceeding 150 square feet, shall be five feet.
- B. In any District wherein single-family and two-family dwellings are permitted, the minimum distance from any accessory structure, not attached to the principal permitted use, to the side or rear lot line shall be not less than the longest horizontal dimension of the accessory structure or the minimum distance specified for that District, whichever is the lesser of the two.
- C. **No accessory building shall be erected within the required front yard.**

APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE ^{27, 32}												
Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft.***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks				Parking/ Drive Aisle Setbacks	Screened Buffers Sec. 4.11
							Front	Side	Street Side	Rear		
Residential Growth (RG)	Single Family Detached Dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20	N/A	N/A
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"		
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"		
	Small Lot Single-Family Detached Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20	N/A	N/A
	Duplex Dwelling Unit	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20		
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"		
	Townhouse Dwelling	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20	12 side	12 side
Multi-Family Dwelling (See Section 4.12)	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30	15 front	15 rear	
Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	†	12	N/A	N/A	
	30,000 sq. ft. to 40,000 sq. ft.	N/A	N/A	N/A	40	20	10	†	12			
	Under 30,000 sq. ft.	N/A	N/A	N/A	40	20	8	†	12			
Rural (R) (See Sec. 5.7)	Dwellings		40,000	N/A	100	45	40	15	†	50	N/A	N/A
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 2 acres	N/A	N/A	N/A	45	40	15	†	50		
		40,000 sq. ft. to 2 acres	N/A	N/A	N/A	45	25	12	†	12		
		30,000 sq. ft. to 39,999 sq. ft.	N/A	N/A	N/A	45	20	10	†	12		
		Under 30,000 sq. ft.	N/A	N/A	N/A	45	20	8	†	12		
Cluster Subdivision	See RG District											



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: 21-20-ZV
 Staff Initials: gt
 Meeting Date: 5-27-21
 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: Canton E. Whisner
 Mailing Address: 1491 Shirley Road Summit Point, WV 25446
 Phone Number: 304-813-7248 Email: CWhisner@gmail.com

Applicant Contact Information

Name: Canton E. Whisner
 Mailing Address: 1491 Shirley Road Summit Point, WV 25446
 Phone Number: 304-813-7248 Email: CWhisner@gmail.com

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

Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 1491 Shirley Road
 City: Summit Point State: WV Zip Code: 25446
 Tax District: 06 Map No: 15 Parcel No: 3.43
 Parcel Size: 20 acres Deed Book: 1198 Page No: 657

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"/>	
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"/>
APR 26 2021			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: Appendix A 9.6 c, 8.2

Briefly describe the nature of the variance request:

Move the front set back from 50ft to 10ft to allow room for barn in clearing. Without moving the line will require blasting of rock ledge and cutting of numerous hardwood trees to make a new building site. 64ft x 40ft structure

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

Front Setback

Side Setback

Rear Setback

Reduction From 50 to 10

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 barn will not line of sight for neighboring property, it will not block snow removal or road maintenance, nor effect rain or water runoff.

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?

Large rock ledges and dense hardwood trees restrict the location for the proposed barn.

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

Granting the variance will allow the barn to be built in the previously cleared land, free of rock ledges or steep slopes. Without the variance, large rock ledges will have to be blasted for removal, numerous hardwood trees will have to be cut down, a new road will have to be dozed.

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

Granting the variance will allow construction for a barn on rural zoned land. All necessary building permits and taxes will be paid on barn.

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.

Cate E. White

Signature of Property Owner

4/26/21

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).

05/27/21

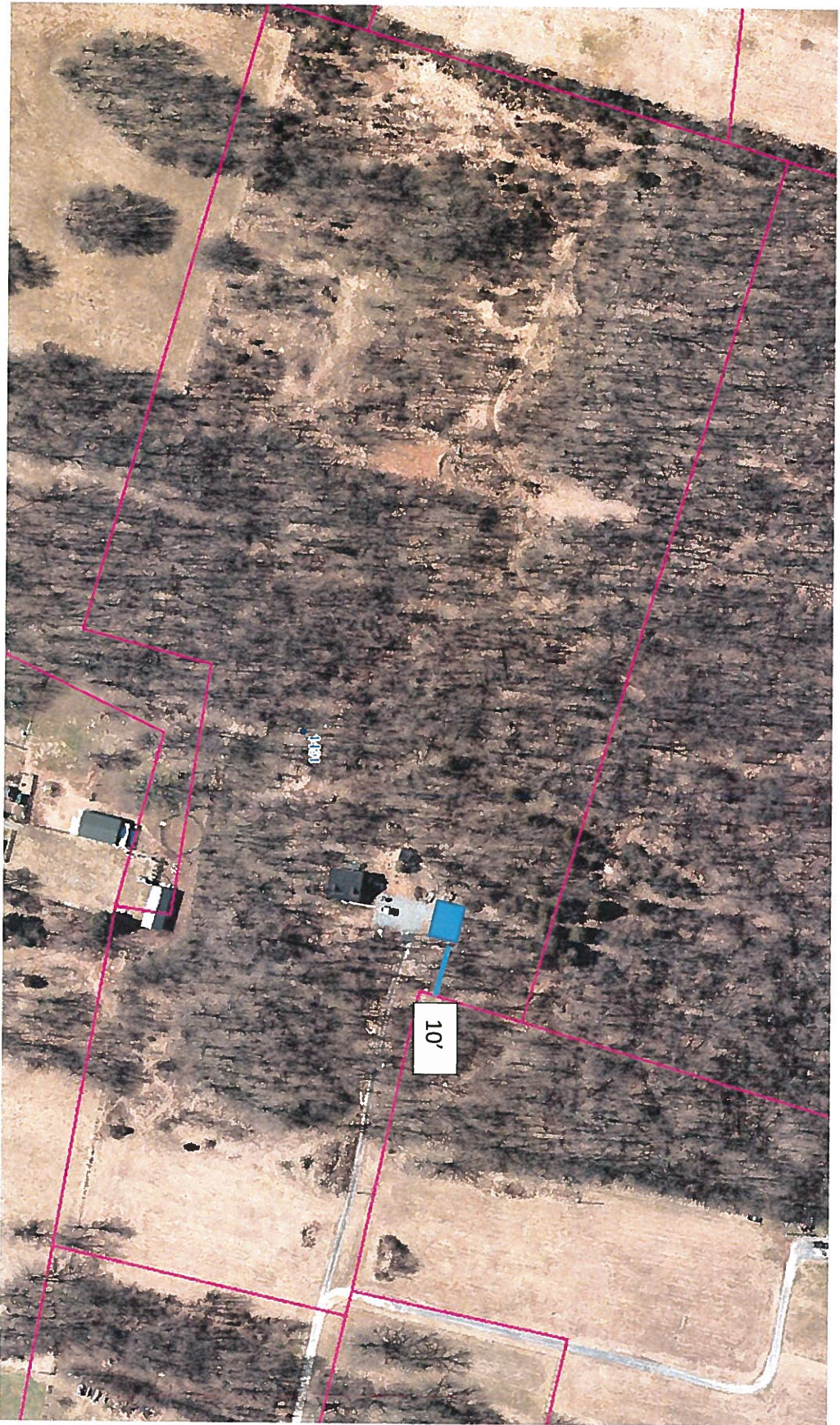
Date of Public Hearing

05/12/21

Advertising Date

05/12/21

Placard Posting Date

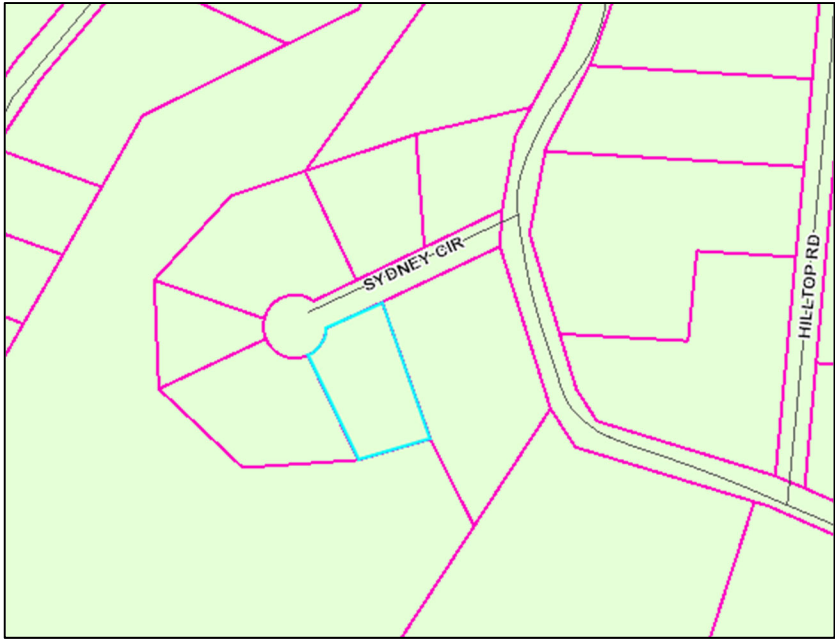


Carl E. Whisner
Carlton E. Whisner

Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

Davis Variance Request (#21-21-ZV)

Item #7 Variance request from Section 9.6C to allow an accessory structure in the required front yard; and Section 9.7 to reduce the front setback from 20' to 10' for a 30' x 50' accessory structure (garage).

Applicant:	Randolph and Melinda Davis
Owner:	Same
Developer:	n/a
Consultant:	n/a
Parcel Information and Zoning District:	<p style="text-align: center;">Blue Ridge Acres Subdivision, Lot 604 Vacant parcel on Sydney Cir., Harpers Ferry, WV Parcel ID: 04012A01900000; Size: .23 ac; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Districts: North, East, South, and West: Rural
History:	Blue Ridge Acres recorded on 10/19/555 in Deed Book 208, Page 79
Waivers/Variations:	n/a
Approved Activity:	Single Family Dwelling
Site Visit Conducted:	Site visit not conducted.

Summary of Request and Purpose of Ordinance Requirement

The applicant is requesting a variance front Section 9.6C to allow an accessory structure in the required front yard; and Section 9.7 to reduce the front setback from 20' to 10' for a 30' x 50' accessory structure (garage).

A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansions 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.

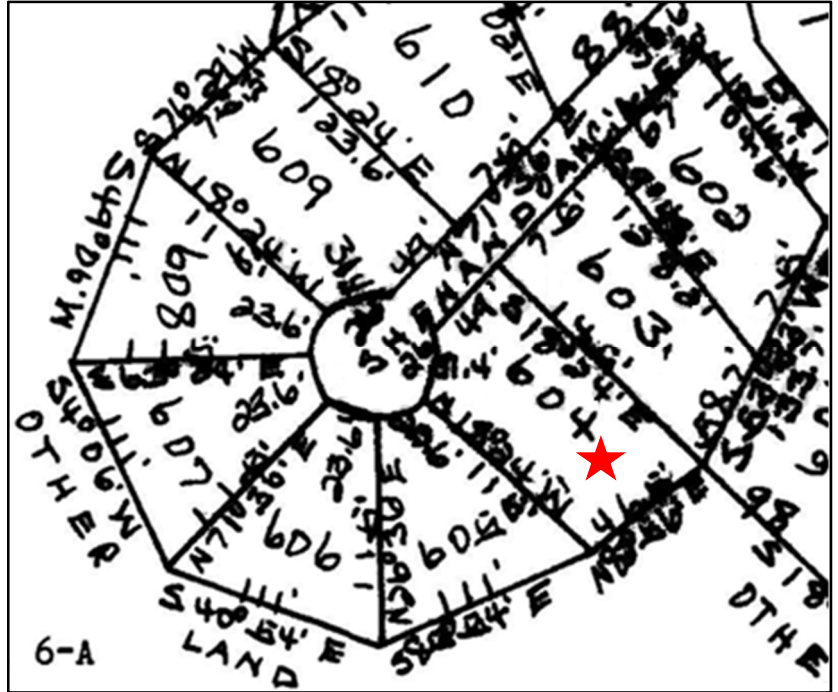
Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021

Davis Variance Request (#21-21-ZV)

Staff Evaluation of the Request

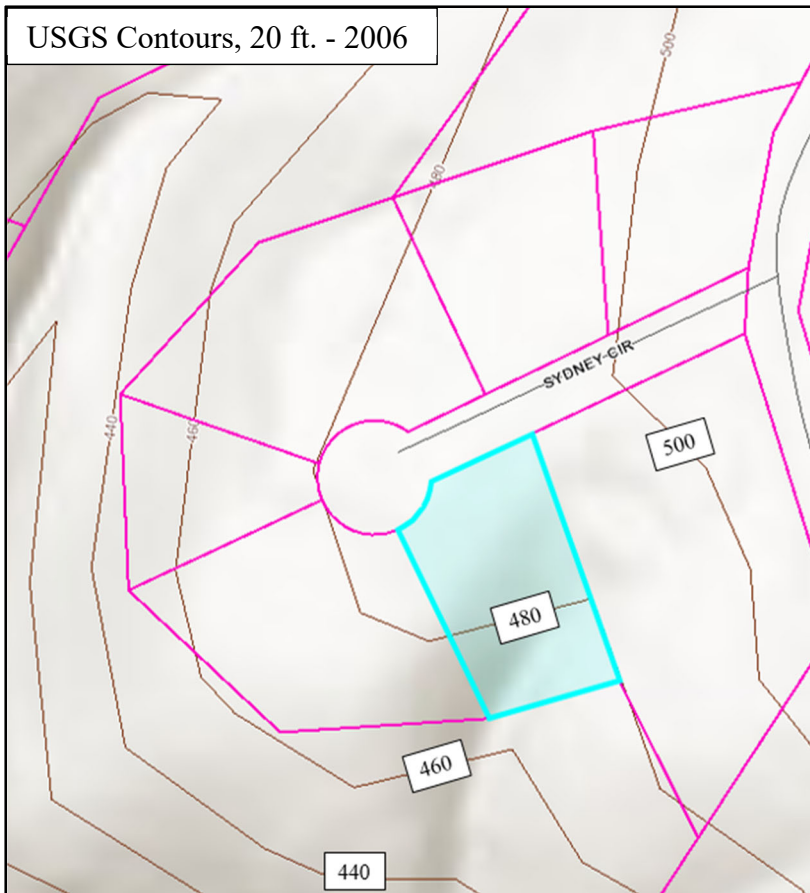
The subject parcel is designated as Lot 604 of the Blue Ridge Acres subdivision, which was recorded on October 19, 1955 in [Deed Book 208, Page 79](#). This section of Blue Ridge Acres was recorded prior to the adoption of the Zoning Ordinance and the Subdivision Regulations.

The applicant owns the adjoining Lots 610, 609, & 608 (contains house and driveway); as well as Lots 607, 606, and 605 (currently vacant; identified below with yellow stars). The subject lot is Lot 604 (identified below with green star).



Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021

Davis Variance Request (#21-21-ZV)



The applicant represented that the specific location was selected based on the topography of the land. It may be feasible to comply with the ordinance by selecting a different location for the proposed structure; however, the applicant owns the adjoining lots to the west and the neighbor to the east has provided a letter of support. Therefore, it appears that impact on adjoining properties would be minimal.

Conditions of Approval

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

1. The subject garage may only be used for personal/residential purposes.

Davis Variance Request (#21-21-ZV)

Sections of Ordinance to be Considered

Section 9.6 Accessory Structures

Accessory structures, defined by Section 2.2, shall be permitted in all districts where single-family and two-family dwelling units are permitted. The provisions for accessory structures are as follows.

- A. The minimum distance to a lot line in any District from a single-story utility or storage shed, not exceeding 150 square feet, shall be five feet.
- B. In any District wherein single-family and two-family dwellings are permitted, the minimum distance from any accessory structure, not attached to the principal permitted use, to the side or rear lot line shall be not less than the longest horizontal dimension of the accessory structure or the minimum distance specified for that District, whichever is the lesser of the two.
- C. **No accessory building shall be erected within the required front yard.**

Section 9.7 Other Exceptions³

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process.²³

Residential Growth District²³

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.



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: 21-21-ZV
 Staff Initials: AB
 Meeting Date: 05-27-21
 Fees Paid (\$100 or \$150): \$100
CHK# 15548

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: RANDOLPH S. & MELINDA L. DAVIS
 Mailing Address: 24 SYDNEY CIRCLE, HARPENS FERRY, WV 25425
 Phone Number: 304-728-8700 Email: DAVIS8700@AOL.COM

Applicant Contact Information

Name: RANDOLPH S & MELINDA L. DAVIS
 Mailing Address: 24 SYDNEY CIRCLE, HARPENS FERRY, WV 25425
 Phone Number: 304-728-8700 Email: DAVIS8700@AOL.COM

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

Name: TED DIMAGNO CONSULTING
 Mailing Address: 61 EAGLE SCHOOL RD MARTINSBURG, WV 25404
 Phone Number: 304-263-0157 Email: _____

Physical Property Details

Physical Address: SECTION 6A, LOTS 604 & 605
 City: HARPENS FERRY State: WV Zip Code: 25425
 Tax District: 04 HARPENS FERRY Map No: 12A Parcel No: 0189, 0190
 Parcel Size: APPROX. 1/2 ACRE Deed Book: 926 Page No: 555

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
RECEIVED			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
APR 28 2021			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 9.7 ^(B)

Briefly describe the nature of the variance request:

Reducing front setback in order to be able to build my retirement shop.

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

Front Setback Side Setback Rear Setback Reduction From 25' to 10'

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:

I AM the only house on my street and own almost all the property.

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?

IF VARIANCE IS NOT GIVEN, NOTHING would be able to be built on this property any time due to the lay of the land and grade.

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

I would be able to build a shop so I have something to do in my retirement years

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

I HAVE NO idea. It would generate additional tax revenue.

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] 4/29/21
Signature of Property Owner Date

[Signature] 4-29-21
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).

May 27, 2021
Date of Public Hearing

May 12, 2021
Advertising Date

May 12, 2021
Placard Posting Date

TO: Jefferson County Planning Commission

FROM: Travis Richey

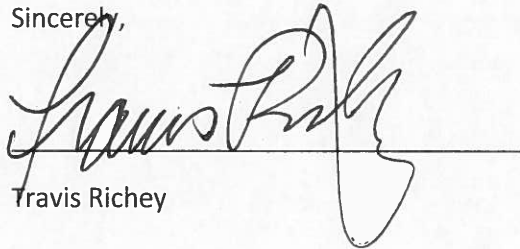
144 Dey Drive

Harpers Ferry, WV 25425

RE: Variance for front setback

Please note that I would not have any problem with you granting the front setback that Mr. Randolph Davis is requesting for Section 6A, lots 604 and 605 in Blue Ridge Acres. I own lots 602 and 603.

Sincerely,

A handwritten signature in black ink, appearing to read "Travis Richey", is written over a horizontal line. The signature is stylized and cursive.

Travis Richey



DiMagno Consulting, Inc.
 61 Eagle School Road
 Martinsburg, WV 25404-7502
 Office (304) 263-0157 / Fax (304) 267-0797

INVOICE STATEMENT

Bill To: Mr. Randolph Davis
 24 Sydney Circle
 Harpers Ferry, WV 25425

Invoice Date:	Invoice No:	Project Name & No:
04-16-21	110481	Davis / 9648

Description of Services		Amount Due	
Research, field survey, computations, stakeout		\$1,738.	25
<p>County: Jefferson</p> <p>District: Hedgesville</p> <p>Tax Map: H-12-A</p> <p>Parcel: 190</p> <p>Subdivision: Blue Ridge Acres / Section 6A / Lot 604, 605, 606</p> <p>Address: Sydney Circle, Harpers Ferry WV 25425</p> <p>Note: Thank you for providing DiMagno Consulting, Inc. the opportunity to be of service to you. We look forward to working with you again in the future.</p>			
Account Summary			
Current	Over 30 Days	Over 60 Days	Over 90 Days
\$1,738. 25			
			Late Charge
			Total Amount Due
			\$1,738. 25
<p>Our office is now accepting Visa, Master Card and Discover credit cards to better assist our clients with more payment options. We accept cash, personal checks, credit card checks and the credit cards listed. Thank you.</p>			

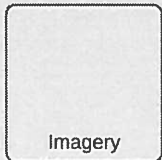
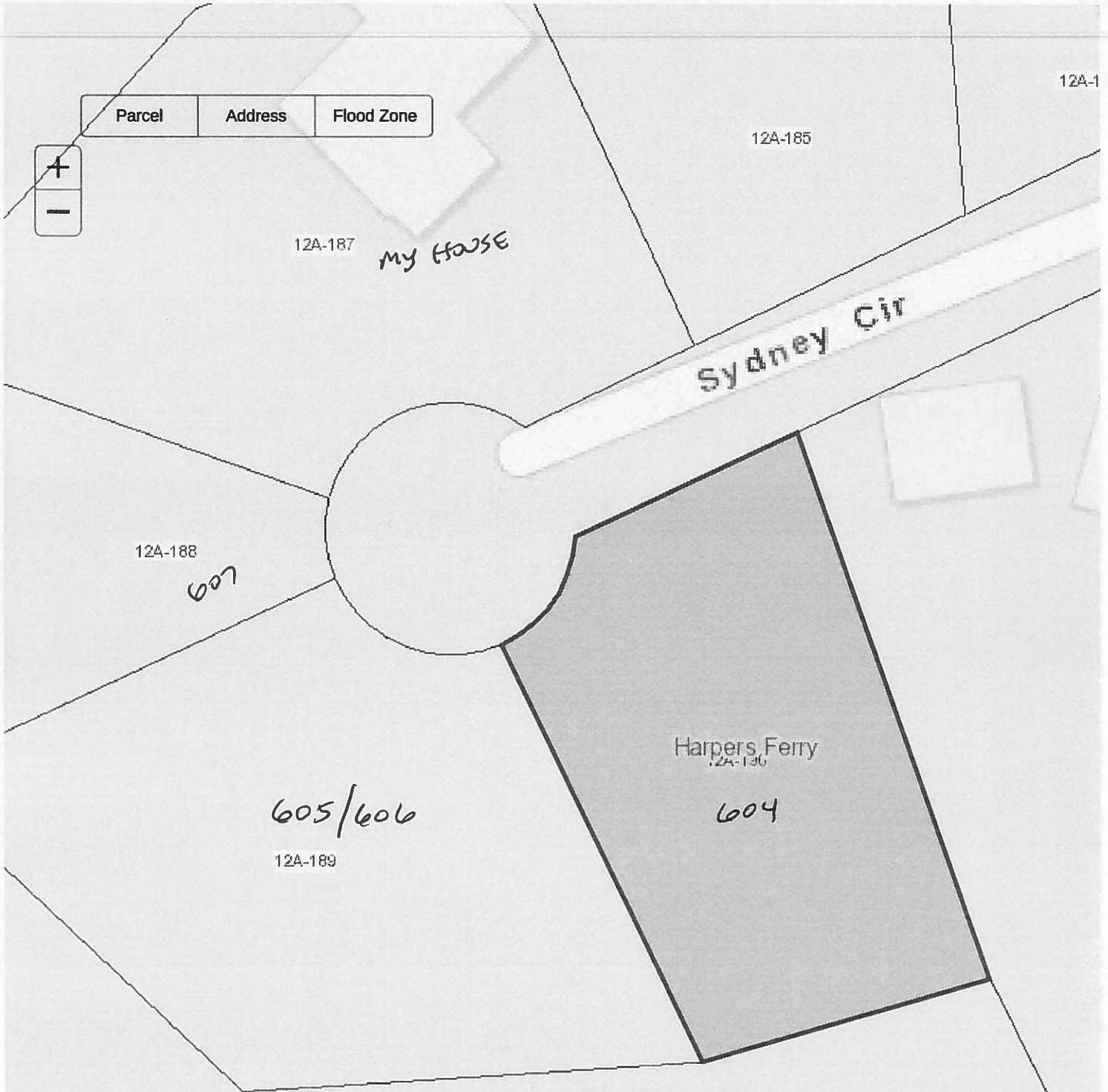
***INVOICES ARE DUE UPON RECEIPT. ALL OVERDUE ACCOUNTS ARE SUBJECT TO A 1.5 PERCENT LATE CHARGE, PLUS COLLECTION COSTS AND ATTORNEY FEES. A FEE OF \$25.00 WILL BE CHARGED TO THE CLIENT FOR ANY NSF CHECK RETURNED TO DIMAGNO CONSULTING, INC.**

- 72.50

PAYMENT INFORMATION

Payable to:
DiMagno Consulting, Inc.

Parcel	Address	Flood Zone
--------	---------	------------



Toggle Highlight: ON

[Copy Link](#)

Parcel Details **+**

Zoom

Close **x**

ID: 19-

04-012A-0190-0000

12A-130

Owner(s):

DAVIS RANDOLPH S & MELINDA L

Address:

SYDNEY CIR

Class Type:

0 20 40ft

Scale - 1: 564

39.291566, -77.768744

Parcel	Address	Flood Zone
--------	---------	------------



12A-185

12A-187

Sydney Cir

12A-188

Harpers Ferry

12A-190

12A-189



Toggle Highlight: ON

Copy Link

Parcel Details

Zoom

Close

ID: 19-

04-012A-0190-0000

12A-314

Owner(s):

DAVIS RANDOLPH S & MELINDA L

Address:

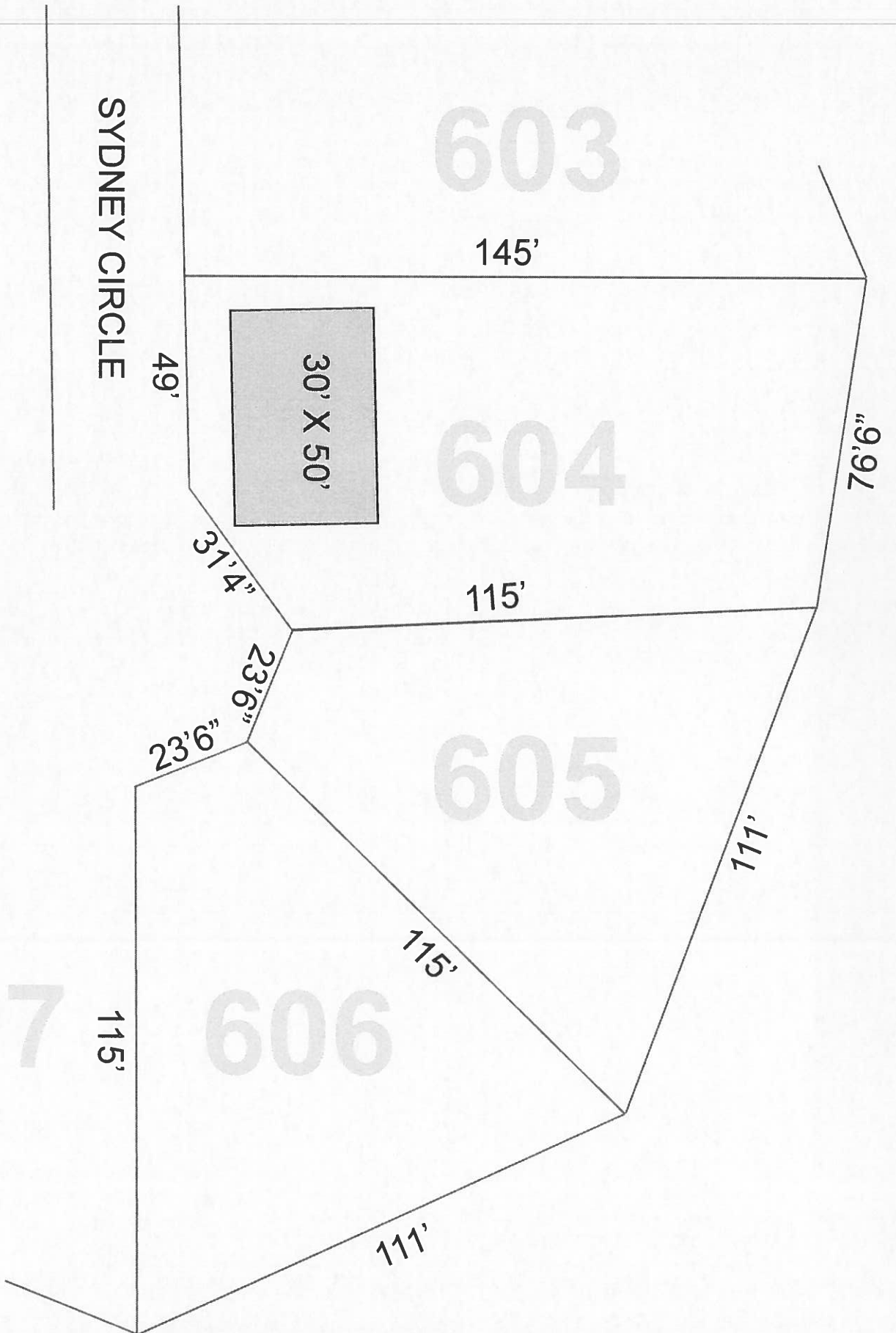
SYDNEY CIR

Class Type:

0 20 40 ft

Scale - 1: 564

39.291324, -77.768469



Section 6A Blue Ridge Acres

Map: 12A Parcel: 0190 0000 0000

Book 926 Page 555



← MY HOUSE

← RIGHT OF WAY →

PROPERTY LINE →

← 10' →

BUILDING LINE →

30' X 50'

NEIGHBOR
GARAGE



NEIGHBOR
GARAGE

←-----RIGHT OF WAY----->

PROPERTY LINE >

-----10'----->

BUILDING LINE >
30' X 50'

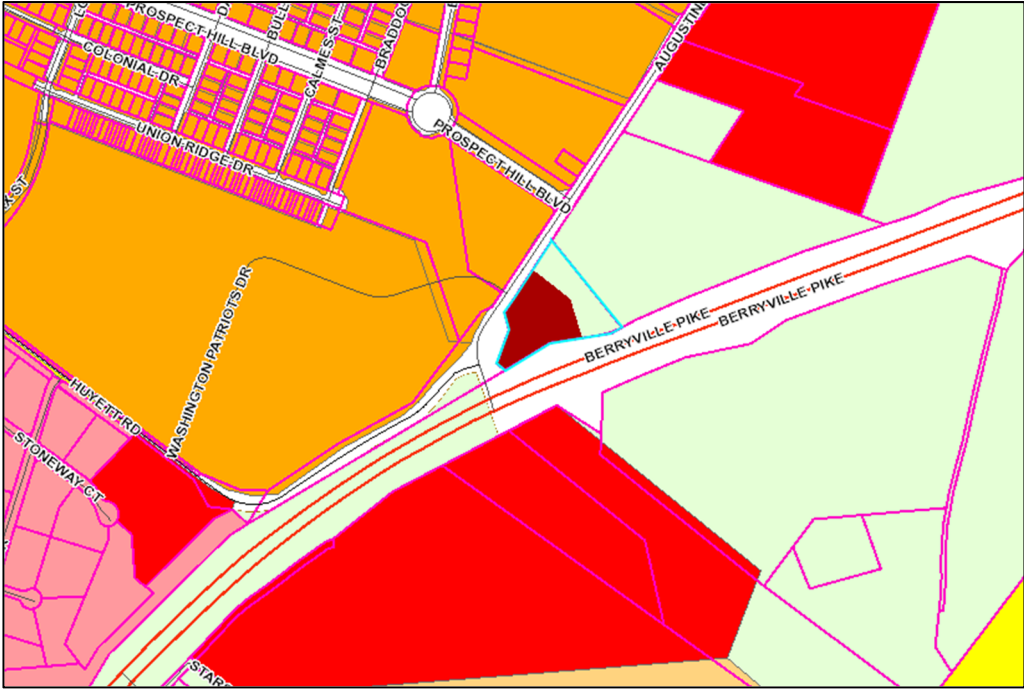




Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

Augustine Sheetz Variance Request (#21-22-ZV)

Item #8 Variance request from Section 8.9A.9 to eliminate the requirement to provide a 60' easement along a limited access highway; and Section 8.9A.10 to eliminate the landscape buffer requirement along a limited access highway.

Applicant:	Sheetz Inc.
Owner:	Guy Chicchirichi
Developer:	Sheetz, Inc.
Consultant:	Gordon
Parcel Information and Zoning District:	<p style="text-align: center;">Vacant parcel at the intersection of Route 340 and Augustine Avenue Parcel ID: 02001600010000; Proposed Size: 2.5 ac; Zoning District: Highway Commercial</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Districts:</p> <p>Northeast: Rural Northwest: Neighborhood Residential (Charles Town) Southeast: Rural Southwest: General Commercial (Charles Town)</p>
History:	<p>21-1-Z: Zoning Map Amendment (rezoning) from Rural to Highway Commercial (CC approved 03-18-21). 21-4-SP Augustine Sheetz: PC Concept Plan Public Workshop 06/08/21</p>
Waivers/Variations:	None.
Proposed Activity:	Gas Station, Large to consist of a 6,100 sq. ft. Convenience Store with drive-thru, five (5) fueling islands with canopy, car wash, new roadway, upgraded to traffic signal for Martinsburg Pike, open space, stormwater management areas, the construction of associated utilities, plus associated parking spaces and signage.
Site Visit Conducted:	Site Visit Not Conducted.

Augustine Sheetz Variance Request (#21-22-ZV)

Summary of Request and Purpose of Ordinance Requirement

Variance request from Section 8.9A.9 to eliminate the requirement to provide a 60' easement along a limited access highway; and Section 8.9A.10 to eliminate the landscape buffer requirement along a limited access highway.

The purpose of a frontage road is to ensure access is available to properties along a limited access highway and connect these properties to local roads that have direct access to the limited access highway.

The purpose of landscape buffer requirements is to reduce the impact that a land use might cause to an adjacent property by serving as a barrier to visibility, airborne particles, glare, or noise.

Staff Evaluation of the Request



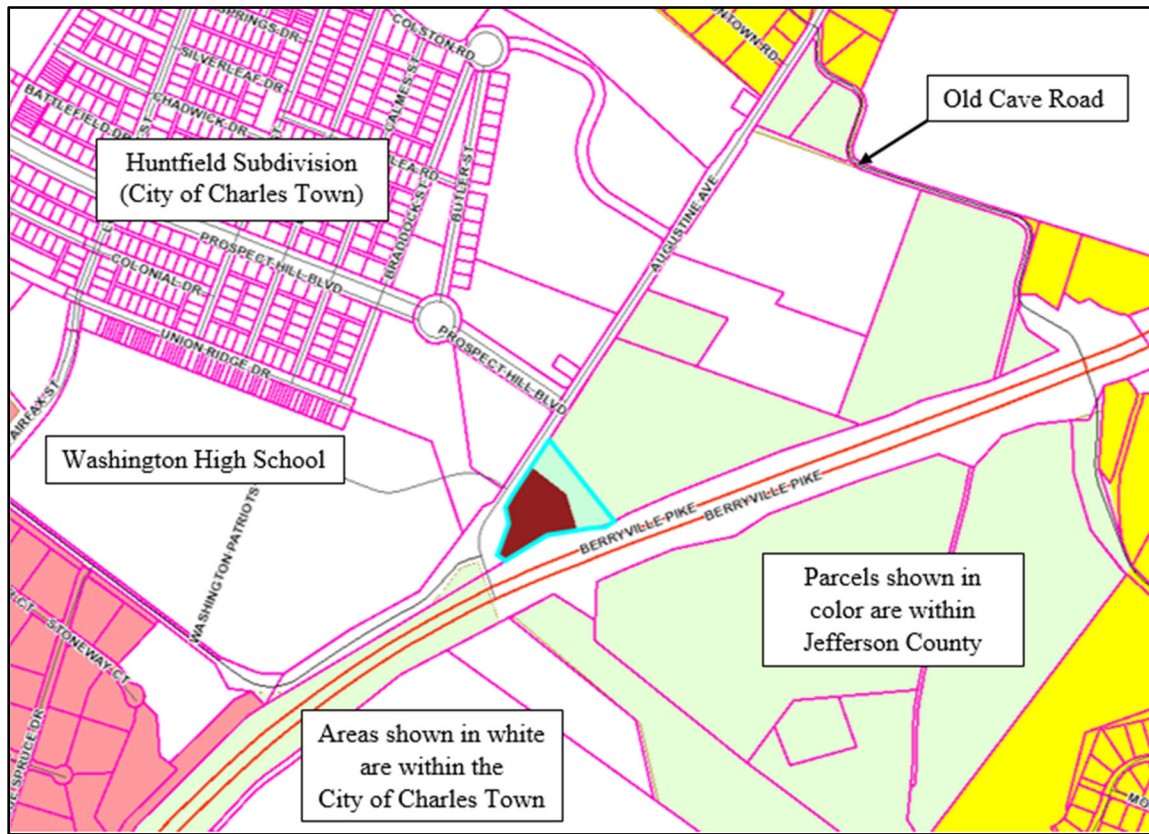
The applicant is currently processing a Concept Plan for a proposed 5,437 square foot convenience store with drive thru, five (5) fueling islands with canopy, new roadway, open spaces, stormwater management areas, and construction of associated utilities, plus associated parking spaces and signage.

The parcels to the north and west of the subject parcel are located within the City of Charles Town. The parcels to the east and south are within the County's jurisdiction and are zoned Rural.

The applicant is requesting to eliminate the frontage road and landscape buffer standards which are required for projects located along a limited access highway. The applicant has represented that the Route 340 / Berryville Pike right-of-way varies from 240' to 315' in width and has represented that an additional 60 foot (maximum requirement) frontage road is not necessary because the proposed Sheetz store will provide internal drive aisles which will be adjacent to the Route 340 right-of-way. Staff concurs that the required frontage road is unnecessary for the proposed project due to the fact that Augustine Avenue, which is a state road with direct access to Route 340 / Berryville Pike, essentially functions as a frontage road providing access to the subject parcel, as well as the adjoining parcels to the northeast (see exhibit on page 3 of this report).

Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021

Augustine Sheetz Variance Request (#21-22-ZV)



A 50-foot wide landscape buffer is required along all limited access highways. Section 8.9A.10 states that said buffer shall be adjacent to the frontage road, but also provides that in the case where existing roads not adjacent to a controlled access highway serve as a frontage road (e.g. Augustine Ave.), the landscape buffer may be placed against the highway right-of-way. Should the Board grant the request to eliminate the frontage road requirement, the Board could still require that the landscape buffer be installed along Route 340 / Berryville Pike.

Landscape buffers serve to reduce the impact that a land use might cause to an adjacent property by serving as a barrier to visibility, airborne particles, glare, or noise. The Route 340 right-of-way includes a substantial unscreened buffer area between the developed roadway and the subject parcel. This buffer provides separation from the proposed Sheetz store and traffic along Route 340. Further, as the applicant has represented, installation of a landscape buffer along Route 340 could hinder visibility of the store to nearby motorists.

Should the landscape buffer be eliminated, the subject property line will be designated as a front lot line and the Street Tree standard would apply. Street Trees contribute to the County's greenspace requirements, as well as improve the overall aesthetics of a non-residential project.

Conditions of Approval

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

1. No conditions of approval were identified.

Augustine Sheetz Variance Request (#21-22-ZV)

Section of Ordinance to be Considered

Section 8.9 Industrial and Commercial Uses²³

A. Industrial and commercial uses in all districts shall comply with the following standards:

9. Frontage Road

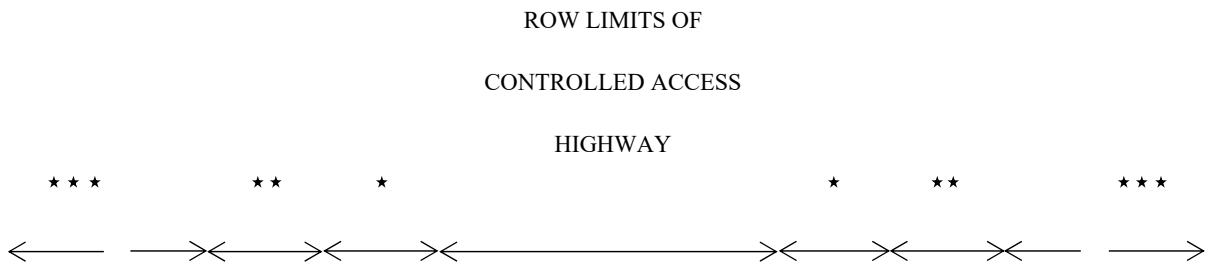
Easements or fee simple dedications will be provided along all limited access highways at the site plan or subdivision phases. Said easement/dedication shall not exceed 60 feet in width. The width may vary but must be adequate for extension, continuation or establishment of a minimum 20' wide paved frontage road.

10. Landscape Buffer

All commercial and industrial developments shall comply with Section 4.11 unless otherwise specified in this Ordinance.²⁷

A fifty (50) foot wide landscape buffer strip will be provide along all limited access highways. A fifty (50) foot wide landscape buffer strip will be provided along all limited access highways. Said buffer shall be adjacent to the frontage road. In the case where existing roads not adjacent to controlled access highway serve as frontage road the landscape buffer may be placed against the highway right-of-way.

All front setbacks (building and parking lot) are to be measured from the landscape buffer. (See diagram)



★ Maximum 60' easement or dedication for frontage road

★★ 50' landscaped buffer strip

★★★ Setbacks

This provision shall also apply to any ramps or access roads connecting to a controlled access highway within ½ mile of a controlled access highway.⁵



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: 21-22-ZV
 Staff Initials: jth
 Meeting Date: 05/27/21
 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: Guy Chicchirichi
 Mailing Address: 1316 N. Mildred St; Ranson, WV
 Phone Number: _____ Email: _____

Applicant Contact Information

Name: Sheetz, Inc c/o Bob Franks
 Mailing Address: 5700 Sixth Avenue; Altoona, PA
 Phone Number: 814-935-4798 Email: bfranks@sheetz.com

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

Name: Gordon; Ben Svedlow
 Mailing Address: 148 North Queen St; Martinsburg, WV 25401
 Phone Number: 304-725-8456 Email: bsvedlow@gordon.us.com

Physical Property Details

Physical Address: NE of US 340 and Augustine Avenue intersection, Charles Town, WV
 City: Charles Town State: WV Zip Code: 25414
 Tax District: Charles Town Map No: 16 Parcel No: 1
 Parcel Size: 2.5 Ac. Deed Book: 1227 Page No: _____

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 type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
			Highway Commercial (HC) <input checked="" 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 04/29/21 - jth

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: SEC 8.9.A.9 ,8.9.A.10

Briefly describe the nature of the variance request:

Elimination of Frontage road within maximum 60' easement along limited access highways and 50' landscape buffer along limited access highways

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:

This request will not adversely affect the public as the adjacent property is vacant.

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 request is based on site constraints for development of a parcel.

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

The granting of this variance will eliminate unnecessary hardship though allowing more usable space within property boundaries and minimize site constraints.

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

The frontage road and associated buffer will not be built therefor substantial justice will be done.

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.

 4-19-21

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).

05/27/21

Date of Public Hearing

05/12/21

Advertising Date

05/12/21

Placard Posting Date

Sheetz Augustine Avenue

Variance Request Addendum

April 28, 2021

Sections of the Zoning Ordinance subject to this request.

The Sections below are related to each other in that the Landscape Buffer applies to the Frontage Road. The elimination of the Frontage Road includes the elimination of the buffer requirement for said road.

Section 8.9.A.9 Frontage Road. Easements or fee simple dedications will be provided along all limited access highways at the site plan or subdivision phases. Said easement/dedication shall not exceed 60 feet in width. The width may vary but must be adequate for extension, continuation or establishment of a minimum 20' wide paved frontage road.

Section 8.9.A.10 Landscape Buffer. All commercial and industrial developments shall comply with section 4.11 unless otherwise specified in this ordinance. A fifty (50) foot wide landscape buffer strip will be provided along all limited access highways. Said buffer shall be adjacent to the frontage road. In the case where existing roads not adjacent to controlled access highway serve as frontage road the landscape buffer may be placed against highway right of way. All front setbacks (building and parking lot) are to be measured from the landscape buffer. This provision shall apply to any ramps or access roads connecting to a controlled access highway within ½ mile of a controlled access highway.

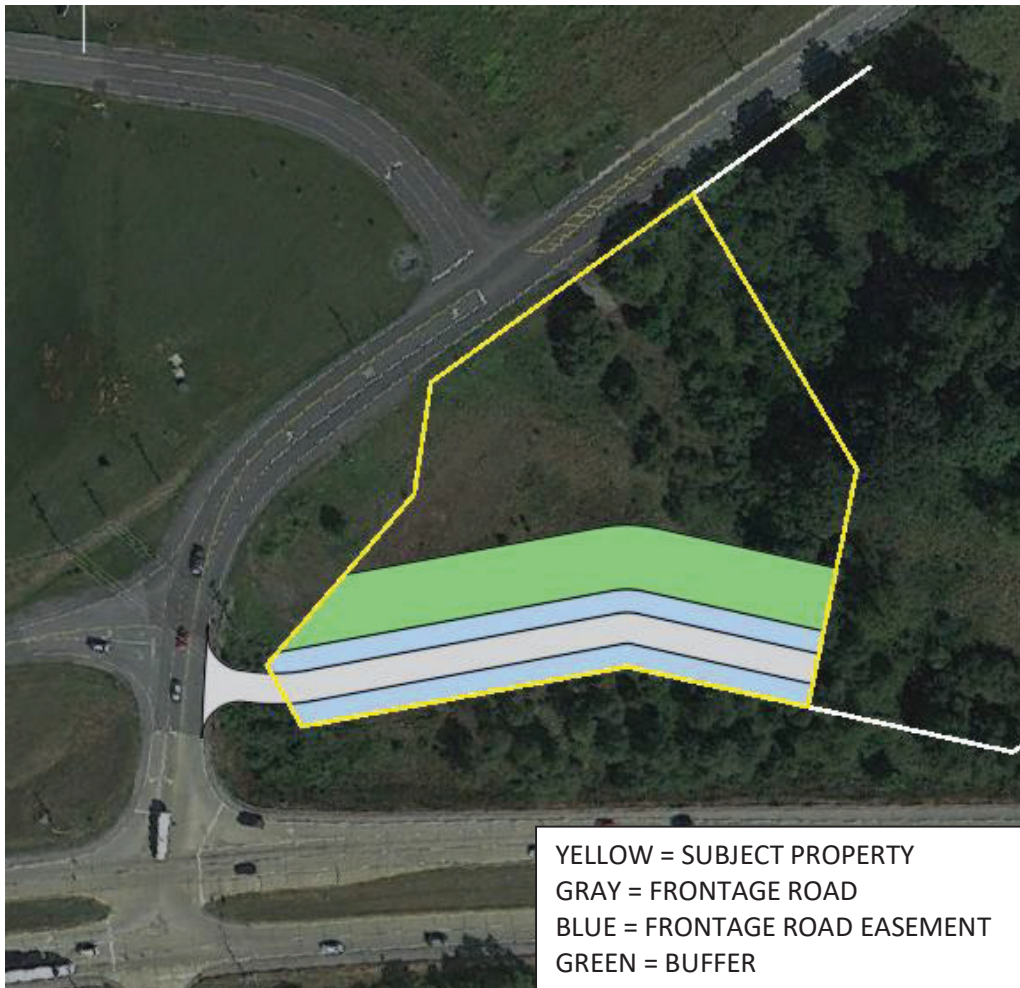
Briefly describe the narrative of your variance request:

It is requested that the frontage road and associated landscape buffer requirements for development adjacent to a controlled be eliminated.

The adjacent Route 340 right-of-way ranges from 240' to 315' in width. An additional 60' for a frontage road adjacent to this road is not necessary. The proposed Sheetz store will provide internal drive aisles which will be adjacent to portions of the Route 340 right-of-way. The development of this property will not deny or impact access to any existing parcels. The proposed concept was presented to both the Planning Commission and County Commission as part of the approved rezoning.

Frontage roads are not required for residential development or for properties in the City of Charles Town, which limits potential to extend the frontage road to the north. The frontage road cannot extend south due to Augustine Avenue. Depending on the future development of two parcels to the northeast, the frontage road may only serve the Sheetz store.

The Landscape Buffer is applied to the Frontage Road and the elimination of said road will eliminate the need for this buffer. Landscape buffers serve to protect incompatible uses from each other. The site is surrounded by vacant land controlled by the owner to the northeast, Route 340 (vacant land opposite Rte. 340) to the south and by Washington High School / open space to the west. The adjacent uses will not be impacted by the elimination of the access road and associated landscape buffer along Route 340. The proposed Sheetz convenience store will serve the adjacent community and traffic on Route 340. Shielding Route 340 from the convenience store will reduce the opportunity for drivers to recognize the opportunity to obtain services.



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

The elimination of a frontage road and buffer will not impact the public health safety or welfare of any adjacent property. The only abutting property is to the northeast and is under control of the subject property's owner. Lands beyond the abutting property are not land locked and will maintain their current access to Augustine Avenue. The subject property is surrounded by roads on all other sides of the property.

The development will comply with all other requirements of County Ordinances, State regulations and Federal regulations.

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 variance would not be required if the property were not adjacent to a controlled access highway or if developed as a residential use. This portion of Route 340 was not a controlled access highway and did not exist when the Zoning Ordinance was adopted in 1988. The expansion of Route 340 in the 1990's placed the burden of this requirement on the property.

The intent of the frontage road is to ensure access to adjacent properties. The elimination of this road will not deny access to adjacent properties. The frontage road will serve only the subject property and will duplicate the internal drive aisles proposed with this development.

The property has a triangular shape and maintains limited space due to adjacent road rights-of-way. The addition of a frontage road and buffer will not allow for the development of a convenience store as presented during the rezoning process.

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

Both the Planning Commission and County Commission found that the proposed development as a Sheetz convenience store is a reasonable use of the land with the approval of a rezoning request (from Rural to Highway Commercial). The proposed layout was included for the Commissions review during the rezoning process. The use of the property as a convenience store was found to be consistent with the Comprehensive Plan.

The subject parcel will provide travelers an easy access for refueling, restrooms, food, and other goods. Similar establishments along the Route 340/9 corridor require patrons to navigate both Collector and Local roads, increasing congestion of the County's road network.



the property was impacted by the construction of Route 340 and reconfiguration of Augustine Avenue.

Providing a frontage road for adjacent property access is an unnecessary hardship in that the adjacent properties do not require this access. The abutting properties maintain access to Augustine Avenue and would not be provided this potential access should the property be developed as a residential use.


The property did not front on a controlled access highway when the Zoning Ordinance was adopted. The size and shape of

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

The intent of the Ordinance is to provide additional access to properties fronting on controlled access highways which may not have alternative access points. Abutting properties are located in between Augustine Avenue and Route 340, all adjacent properties will maintain access from Augustine Avenue. Properties to the northeast are vacant, in the City of Charles Town or under construction for residential development. Lands within the City or developed as residential development do not require a frontage road. Enforcement of the frontage road requirement does not represent the intent of the Ordinance and providing relief from the frontage requirements will allow for development as envisioned by the Comprehensive Plan.

Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021
Schaffner - Wilk Variance Request (#21-23-ZV)

Item #9 Variance request from Section 9.7 to reduce the side setback from 6' to 2' for a 12' x 16' accessory structure.

Applicant:	Earl Wilk
Owner:	Doreen Schaffner
Developer:	N/A
Consultant:	N/A
Parcel Information and Zoning District:	<p style="text-align: center;">Opequon Forest Park Subdivision, Lot 20 Vacant parcel on the north side of Bowers Road, Kearneysville, WV Parcel ID: 07007A00360000; Size: .51 acre; Zoning District: Rural</p>  <p style="text-align: center;">Zoning Map Designation: <i>North: Berkeley County</i> <i>South, East and West: Rural</i></p>
History:	Opequon Forest Park Subdivision (recorded 10/26/1960 in DB 242 @ PG 314)
Waivers/Variations:	None.
Approved Activity:	None.
Site Visit Conducted:	Site Visit Not Conducted.

Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021
Schaffner - Wilk Variance Request (#21-23-ZV)

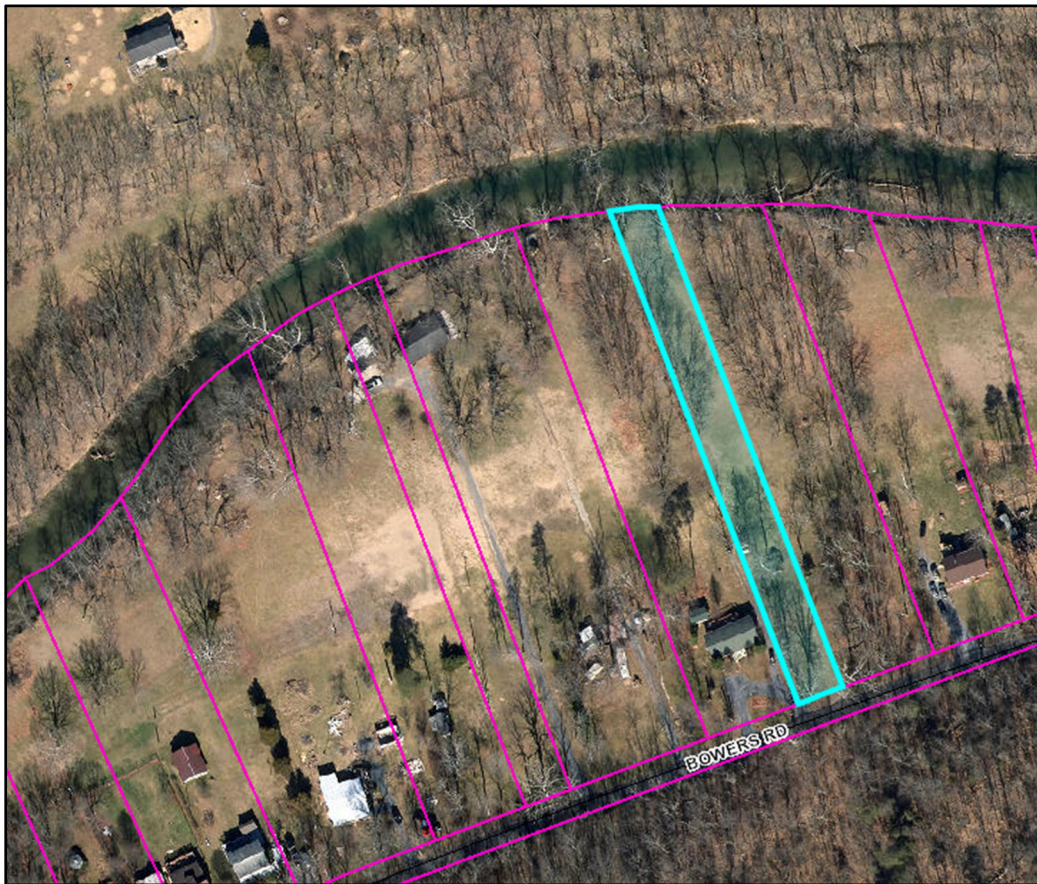
Summary of Request and Purpose of Ordinance Requirements

Variance request from Section 9.7 to reduce the side setback from 6' to 2' for a 12' x 16' 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 Evaluation of Request

The subject parcel is Lot 20 of the Opequon Forest Park Subdivision, which was recorded on October 26, 1960 in [Deed Book 242 at Page 314](#). The subdivision was created prior to the enactment of the Zoning Ordinance and the Subdivision Regulations; therefore, each of the lots in the subdivision are considered nonconforming lots as they do not conform to the current requirements for minimum lot size. Setbacks were not established as part of the creation of the subdivision; therefore, the setbacks listed in Section 9.7 of the Zoning Ordinance apply.

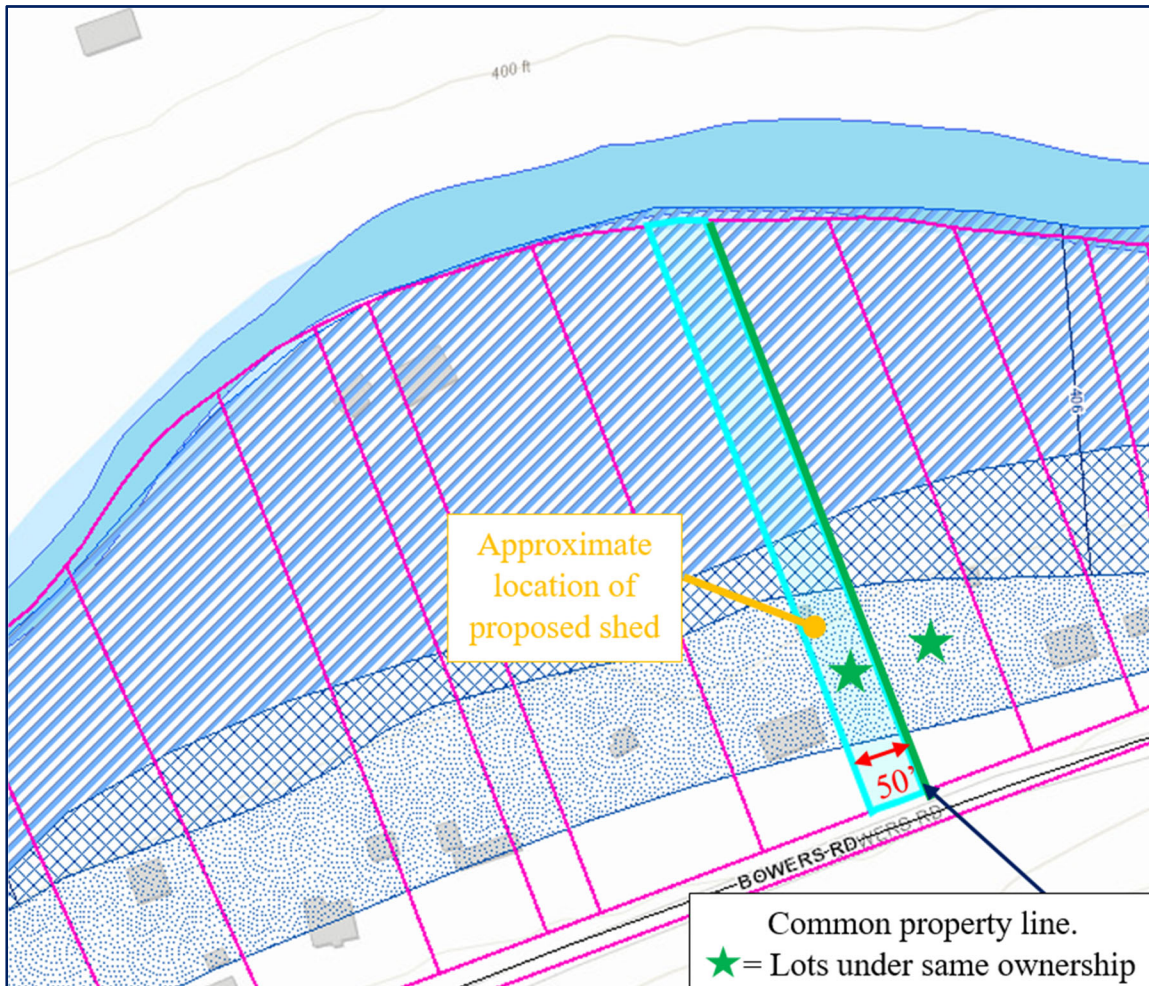


The applicant has stated that an 11' x 12' structure already exists approximately 6" from the subject property line. The existing structure has fallen into disrepair; therefore, the property owner would like to replace the existing structure with a slightly larger 12' x 16' structure and would situate the new structure 2' from the subject property line.

Staff Report
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Schaffner - Wilk Variance Request (#21-23-ZV)

A large portion of the property is located within the floodplain area, which significantly reduces the buildable area for this property. The lot is approximately 50 feet wide; therefore, it appears feasible to comply with the required six (6) foot side setback from both property lines.

It should also be noted that the applicant owns the adjoining parcel, comprised of Lots 18 & 19 of the Opequon Forest Park Subdivision. Section 9.4B of the Ordinance allows for a residential accessory structure to be located on a common side or rear lot line of contiguous property owned by the same entity. Section 9.4B further states, "...provided, however, that the contiguous lots shall be treated as one lot for all purposes by the [Zoning Ordinance and Subdivision Regulations]." This provision would allow the proposed residential accessory structure to be placed across the internal lot line shared between lots under the same ownership. The applicant was informed of this provision prior to submission of the variance application.



It appears that an accessory structure in this location may have minimal impact on the adjoining property to the west, when considering that an accessory structure has historically existed in this location.

Conditions of Approval

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

1. The approval is limited to the accessory structure for personal/residential use and shall not be used for non-residential purposes.

Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021
Schaffner - Wilk Variance Request (#21-23-ZV)

Section of Ordinance to be Considered:

Section 9.7 Other Exceptions³

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:²³

Residential Growth District²³

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.



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: 21-23-ZV
 Staff Initials: gt
 Meeting Date: 5/27/21
 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: Doreen K. Schaffner
 Mailing Address: 11636 Nadenbousch Lane, Inwood, WV 25428
 Phone Number: 304-676-6747 Email: Doreenk.schaffner@gmail.com

Applicant Contact Information

Name: Earl Wilk
 Mailing Address: 11636 Nadenbousch Lane, Inwood, WV 25428
 Phone Number: 301-573-4490 Email: WilkEarl126@gmail.com

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

Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: Lot 20 Bower Rd
 City: Kearneysville State: WV Zip Code: 25430
 Tax District: 7-Middleway Map No: 007A Parcel No: 0036
 Parcel Size: 0.511 Deed Book: 8201248gt Page No: 425 477gt

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"/>	
<p align="center">RECEIVED</p> <p align="center">APR 30 2021</p> <p align="center">JEFFERSON COUNTY PLANNING ZONING & ENGINEERING</p>			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: 4.3H Section 9.7 - jth

Briefly describe the nature of the variance request:

Replace Existing Structure in Severe need of repair.

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

Front Setback Side Setback Rear Setback Reduction From 6' to 2' jth

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 is already an existing building there and has been there for 30+ years, which is an eyesore

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?

If replaced in any other location, due to the Septic placement we would lose safe access to the property near the Creek.

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

Will give access to a pavillion and the Creekside area of the property.

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

Will allow reasonable use and access to the Handicap owners to the Creekside.

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.

Doreen K. Schaffner 4/30/2021
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).

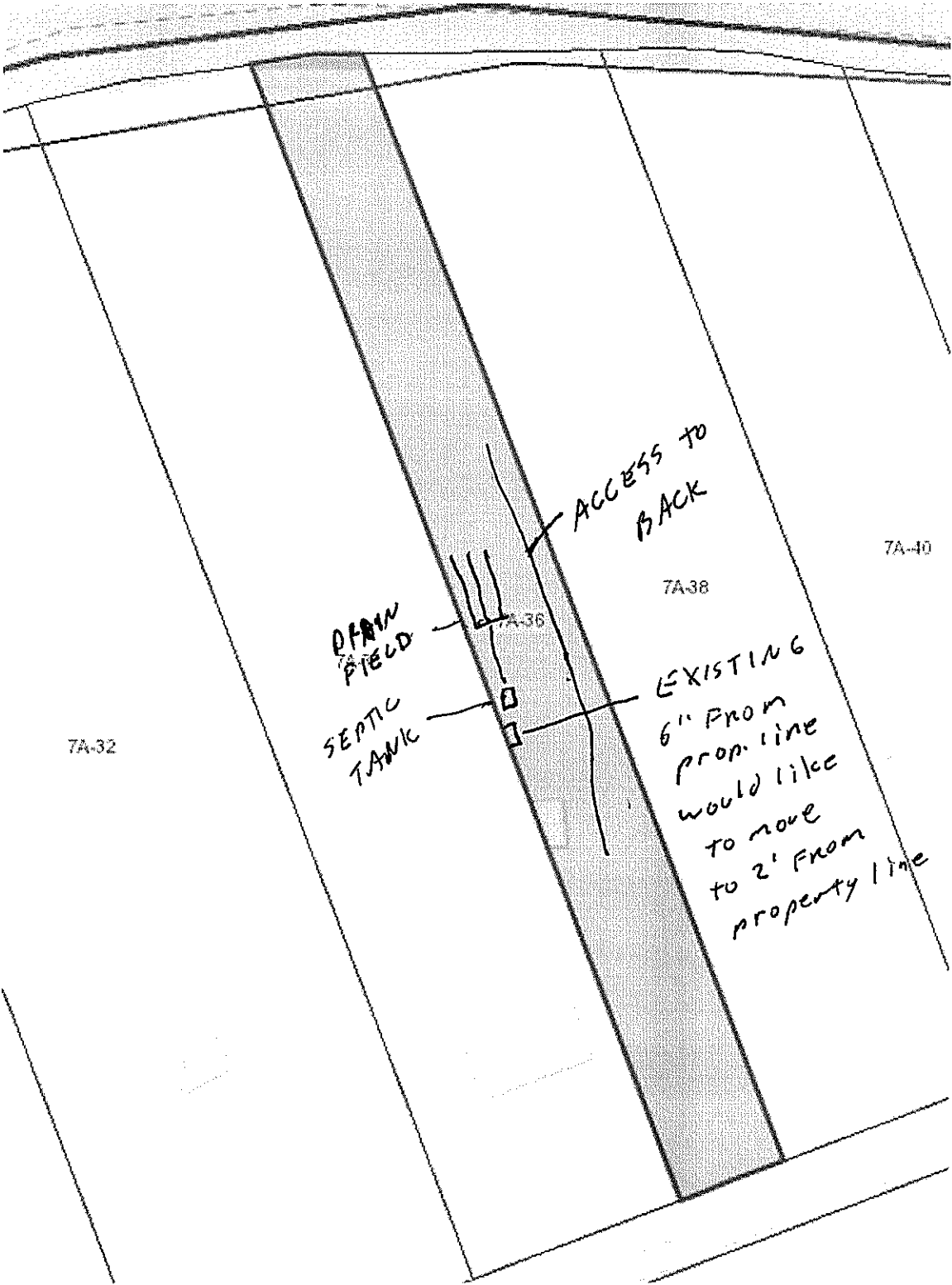
05-27-21
Date of Public Hearing

05-12-21
Advertising Date

05-12-21
Placard Posting Date



EXISTING
11x12
WOULD LIKE
TO MOVE
2' FROM
PROP. LINE
AND ENLARGE
TO 12x16



7A-32

DRAIN FIELD
SEPTIC TANK

ACCESS TO BACK

7A-38

7A-40

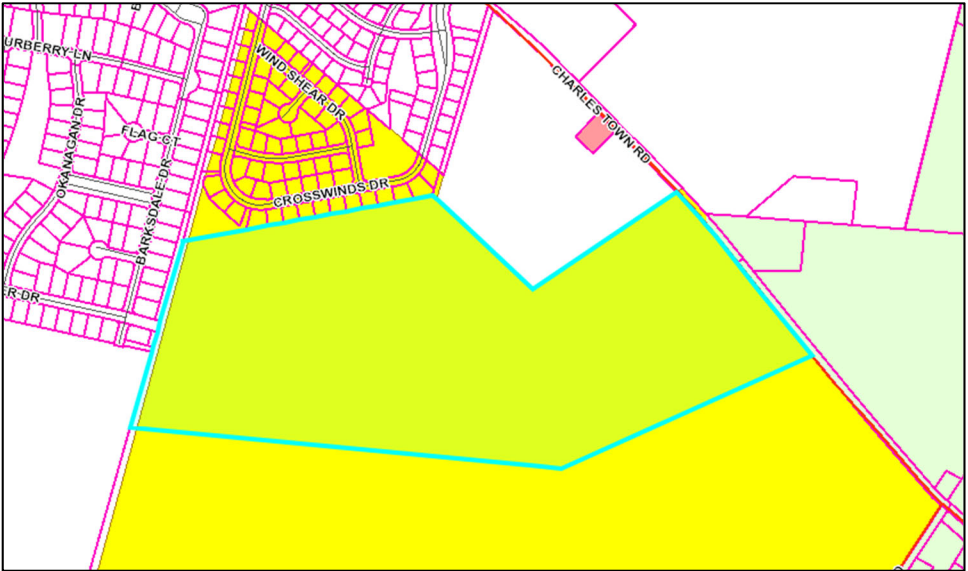
EXISTING
6" FROM
PROP. LINE
WOULD LIKE
TO MOVE
TO 2' FROM
PROPERTY LINE

7A-36

Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

King's Crossing Variance Request (#21-24-ZV)

Item #10 Variance request from Appendix A to reduce the side setback from 12' to 10' for all single family lots in the proposed King's Crossing subdivision (approximately 175 single family lots).

Applicant:	DR Acquisitions LLC c/o Matt Powell
Owner:	Same
Developer:	Same
Consultant:	GORDON / Contact: Jason Gerhart
Parcel Information and Zoning District:	<p style="text-align: center;">Vacant lot west of Charles Town Rd (Route 115) (adjacent to St. James Catholic Church) Parcel ID: 02001700220000; Size: 86 ac; Zoning District: Residential Growth</p>  <p>*White areas of map are located within the City of Charles Town</p>
Surrounding Properties:	<p style="text-align: center;">Zoning Districts: North: City of Charles Town & Residential Growth; South: Residential Growth, East: City of Charles Town and Rural, West: City of Charles Town</p>
History:	<p>BLA recorded on 02/22/99 in Plat Book 16, Page 46 BLA recorded on 08/26/04 in Plat Book 21, Page 25 & 25A <u>21-8-SD Kings Crossing Subdivision:</u> 04/13/21 PC approved the following: a) 21-6-PCW: waiver to increase the block length to 12 lots (public hearing) b) 21-7-PCW: waiver to reduce the lot width from to 60' (public hearing) 05/11/21 PC approved the following: a) Concept Plan (public workshop) scheduled for 05/11/21 04/22/21 BZA denied the following: a) 21-13-ZV: variance to reduce the side setbacks of the SF lots</p>
Waivers/Variations:	See History
Approved Activity:	Single family dwelling
Site Visit Conducted:	Site Visit Not Conducted.

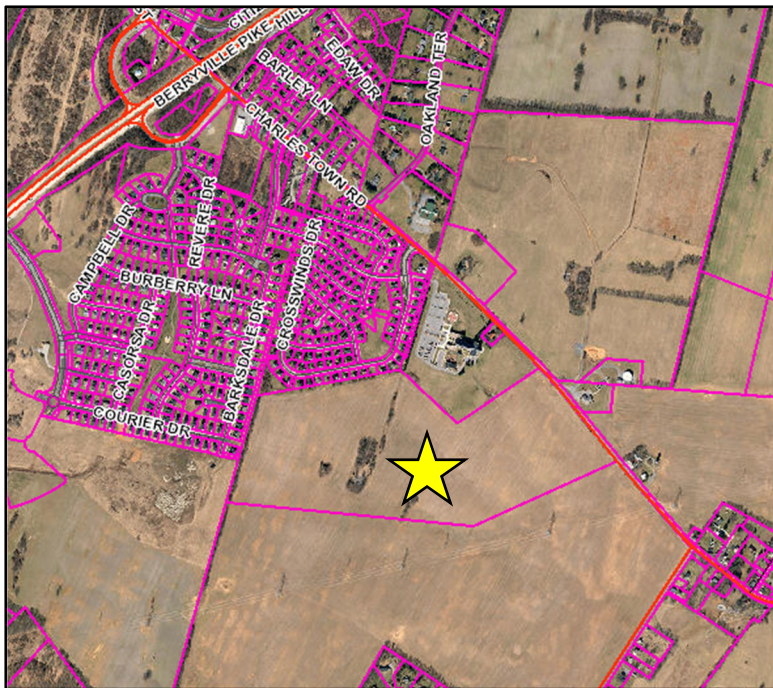
King's Crossing Variance Request (#21-24-ZV)

Summary of Request and Purpose of Ordinance Requirement

The applicant is requesting a variance from Appendix A to reduce the side setback from 12' to 10' for all single family lots in the proposed King's Crossing subdivision.

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 Evaluation of the Request



The subject parcel is the result of a series of boundary line adjustments, which created the existing 86 acre configuration. The applicant is proposing a Major Residential Subdivision comprised of 175 single family detached dwellings and 229 townhome lots (404 residential lots). The proposed number of lots are permitted by right, pursuant to Appendix A of the Zoning Ordinance.

Reduced side yard setbacks would allow the developer to construct the style homes they have identified as being in demand with the current housing market. The Planning Commission approved the Concept Plan (attached) on May 11, 2021.

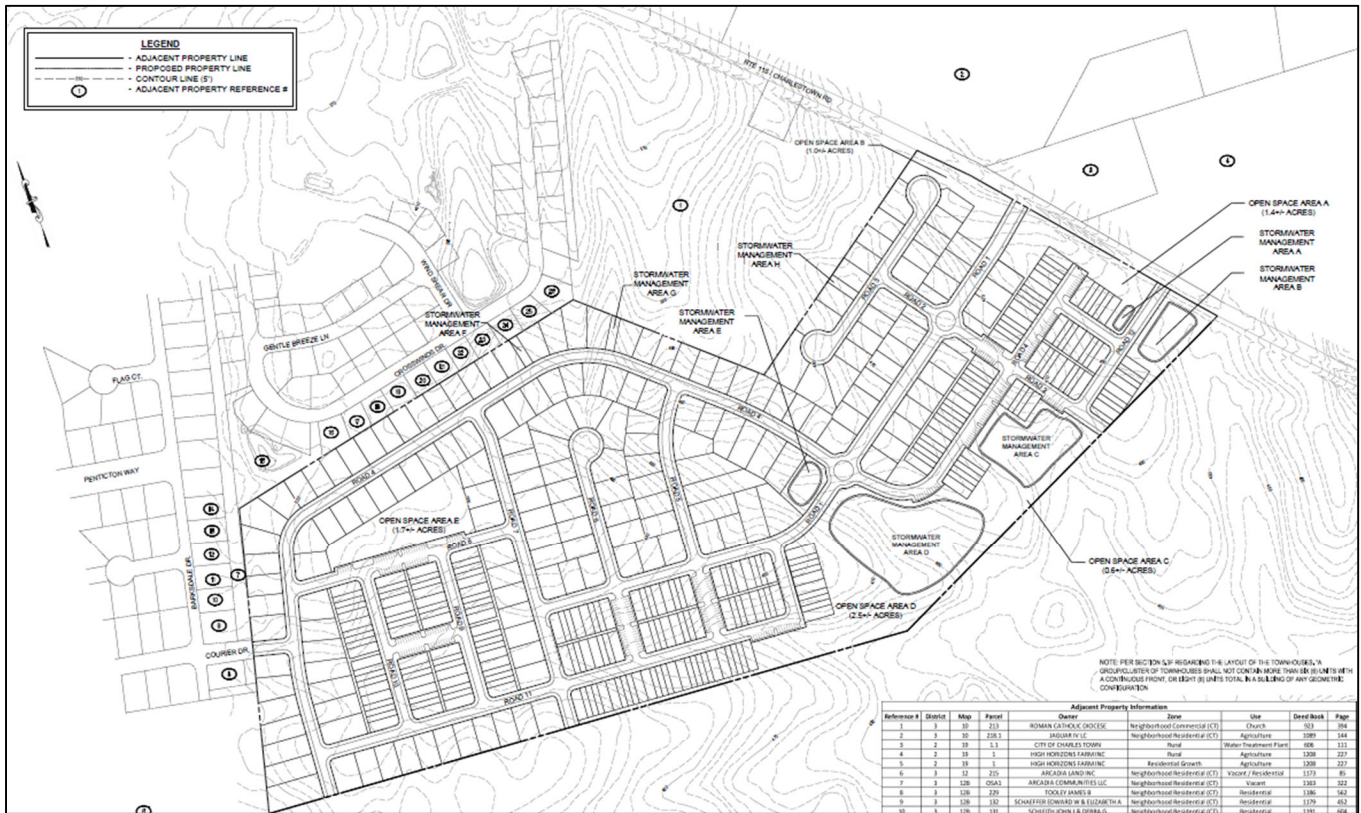
Impact on adjacent properties is expected to be minimal because these lots are not yet platted; therefore, there are no existing houses that would be impacted by the request. If the request is granted, the lots would be sold to buyers in their approved configuration with reduced setbacks.

While it may be difficult to situate the size and/or style of houses that are in demand for the current market with the proposed lot sizes, the subject lots have not yet been platted; therefore, it is feasible to comply with the Ordinance as it is written by either planning for dwelling units which comply with the setbacks or altering the proposed lot configuration to accommodate the required setbacks.

As requested by the Board during the April 22, 2021 meeting, Staff confirmed that a similar variance was granted by the Board in 2019 for Beallair Proposed Phase 3A, Lots 134-159. The request was to reduce the front setback from 25' to 20'; the side setback from 12' to 10' and the rear setback from 20' to 15'. Similar to the subject request, the variance was requested prior to the lots being final platted. Note: prior approvals by the Board do not necessarily indicate precedent because of the unique circumstances of each case.

Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

King's Crossing Variance Request (#21-24-ZV)



Conditions of Approval

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

1. No conditions of approval were identified.

Section of Ordinance to be Considered

See Appendix A – Attached

APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE^{27, 32}

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft. ***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks				Parking/ Drive Aisle Setbacks	Screened Buffers Sec. 4.11
							Front	Side	Street Side	Rear		
Residential Growth (RG)	Single Family Detached Dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20	N/A	N/A
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"		
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"		
	Small Lot Single-Family Detached Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20	N/A	N/A
		Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20		
	Duplex Dwelling Unit	Public/Central water and sewer	N/A	10,000	N/A	"	"	"	"	"	12 side 15 front 15 rear	12 side 15 front 15 rear
		Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20		
	Townhouse Dwelling	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30	N/A	N/A
	Multi-Family Dwelling (See Section 4.12)	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	‡	12		
		30,000 sq. ft. to 40,000 sq. ft.	N/A	N/A	N/A	40	20	10	‡	12		
Under 30,000 sq. ft.		N/A	N/A	N/A	40	20	8	‡	12			
Rural (R) (See Sec. 5.7)	Dwellings		40,000	N/A	100	45	40	15	‡	50	N/A	N/A
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 2 acres	N/A	N/A	N/A	45	40	15	‡	50		
		40,000 sq. ft. to 2 acres	N/A	N/A	N/A	45	25	12	‡	12		
		30,000 sq. ft. to 39,999 sq. ft.	N/A	N/A	N/A	45	20	10	‡	12		
		Under 30,000 sq. ft.	N/A	N/A	N/A	45	20	8	‡	12		
Cluster Subdivision	See RG District											
Village (V)	Residential uses	See RG District										
Residential-Light Industrial-Commercial (RLIC)	Residential uses	See RG District ^ϕ										
Industrial-Commercial (IC)	Residential uses	See Rural setbacks for lots not previously stipulated by the Planning Commission.										
Neighborhood Commercial (NC)	Residential uses	See RG District										
General Commercial (GC)	Residential uses	See RG District										
Highway Commercial (HC)	Residential uses	N/A										
Light Industrial (LI)	Residential uses	N/A										
Major Industrial (MI)	Residential uses	N/A										
Office / Commercial Mixed Use (OC)	Residential uses	See RG District										
Planned Neighborhood Development (PND)	Residential uses	See RG District. Note: Planning Commission may amend development standards for developments in the PND District (see Article 5).										

The requirements in this table are in addition to any other applicable requirements in the text of this Ordinance. In the event of a conflict with the text, this table shall prevail.

For all lots approved prior to Sept. 1, 1989, lots under 40,000 sq. ft. side & rear setbacks for residential accessory structures shall be 6'. NOTE: In RG district side & rear setbacks for accessory structures under 144 sq. ft. shall be 6'. See Article 8 of the Zoning and Land Development Ordinance for building setbacks for certain land uses.

All dimensions are in feet unless otherwise indicated.

ϕ In the RLIC and RG districts, townhouse lots with a lot depth of 110 linear feet or less and/or a lot area of 3,500 square feet or less, the rear setback of a deck for a townhouse may be reduced to 10', if the adjacent property located to the rear of the subject lot is a dedicated easement or common area and is not a lot that includes a residence.

‡ See setback requirements noted in Sec. 2.2, definition of "Lot, Corner."

* Maximum height subject to Section 9.2

** Exterior side only.

*** The balance square footage between the ADU and the MLA shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.

**** The front setback for a Small lot single-family detached dwelling may be reduced to 10' if the front yard does not contain a driveway.



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: 21-24-ZV
 Staff Initials: gh
 Meeting Date: 05/27/21
 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: DR Acquisitions LLC c/o Matt Powell
 Mailing Address: 10212 Governor Lane Blvd, Suite 1006; Williamsport, MD 21795
 Phone Number: 240-420-6046 Email: mpowell@drbgroup.com

Applicant Contact Information

Name: DR Acquisitions LLC c/o Matt Powell
 Mailing Address: 10212 Governor Lane Blvd, Suite 1006; Williamsport, MD 21795
 Phone Number: 240-420-6046 Email: mpowell@drbgroup.com

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

Name: Jason Gerhart - GORDON
 Mailing Address: 148 S. Queen Street, Suite 201; Martinsburg, WV 25401
 Phone Number: 304-725-8456 Email: jgerhart@gordon.us.com

Physical Property Details

Physical Address: West of Charles Town Road, next to St James Catholic Church
 City: Charles Town State: WV Zip Code: 25414
 Tax District: Charles Town (02) Map No: 17 Parcel No: 22
 Parcel Size: 86+/- Acres Deed Book: 994 Page No: 667

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

APR 30 2021

**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: Appendix A (RG) SFD Dwelling

Briefly describe the nature of the variance request:

Appendix A (Side Setback for Residential Growth (RG) from 12' to 10'.

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

Front Setback Side Setback Rear Setback Reduction From 12' to 10'

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?

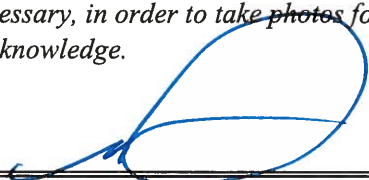
See attached.

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 4/30/21
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).

05-27-21
Date of Public Hearing

05-12-21
Advertising Date

05-12-21
Placard Posting Date

Kings Crossing
Variance Request Addendum (Side Setback)
April 27, 2021

What Section of the Zoning and Land Development Ordinance are you requesting a Variance:

Appendix A. Side Setback for Residential Growth (RG). The minimum side setback for a Single Family Detached Dwelling is 12 feet.

Briefly describe the narrative of your waiver request:

It is requested that the 12' minimum side setback for single-family detached dwelling be reduced by 2' to a 10' minimum side setback. No reduction in lot area is being sought and the minimum lot area as set forth in Appendix A of the Jefferson County Zoning and Land Development Ordinance will apply.

Explain how the design of the project will provide public benefit in the form of County maintenance costs, greater open space, parkland consistent with the County Parks Plan or benefits of similar narrative.

Open space and Parkland would be increased with reduced lot widths. Side yards are not typically utilized by homeowners and the proposed lot configuration will reduce the side yard while increasing the rear yard. The purpose of this reduced side yard setback is to provide a house and lot configuration which aligns to what market analysis shows is selling for this market.

Explain how the waiver, if granted, will not adversely affect public health, safety, or welfare or the rights of adjacent property owners or residents.

The reduction of permitted side setback by 2' at Kings Crossing will not impact the public's health, safety or welfare nor will it impact adjacent property owners and/or residents rights.

Adjacent uses to Kings Crossing include single-family residential, church, and vacant land. The proposed residential use is compatible with the adjacent residential properties and provides single-family detached lots like the adjoining neighborhoods.

Explain how the waiver, if granted, will be in keeping with the intent and purpose of this Ordinance.

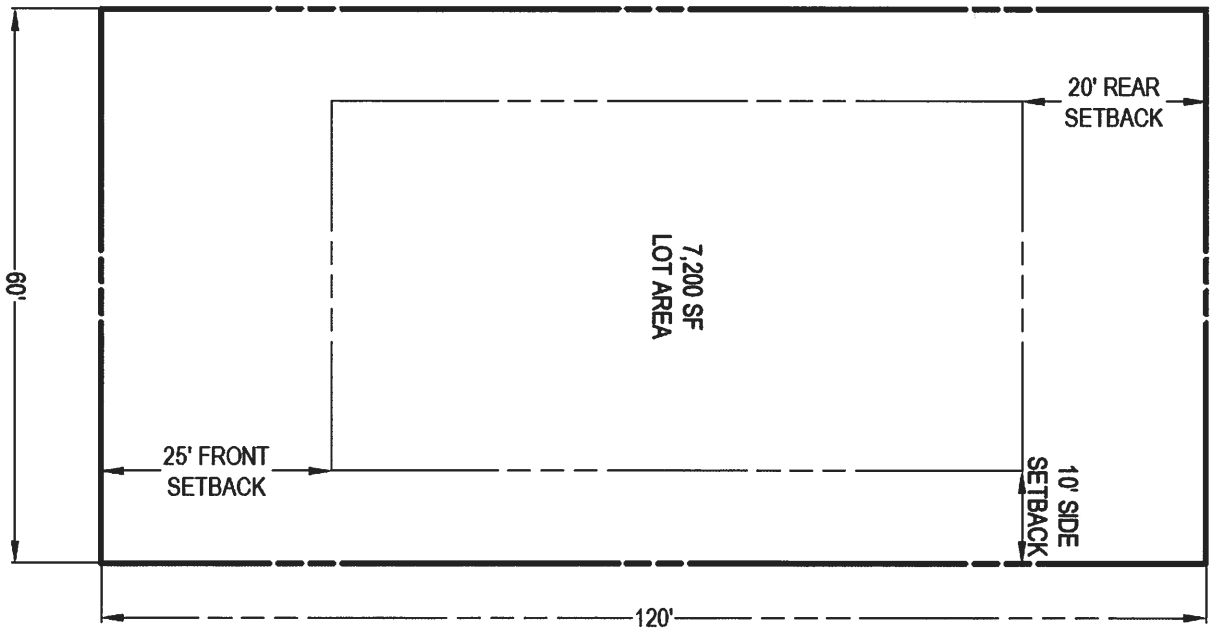
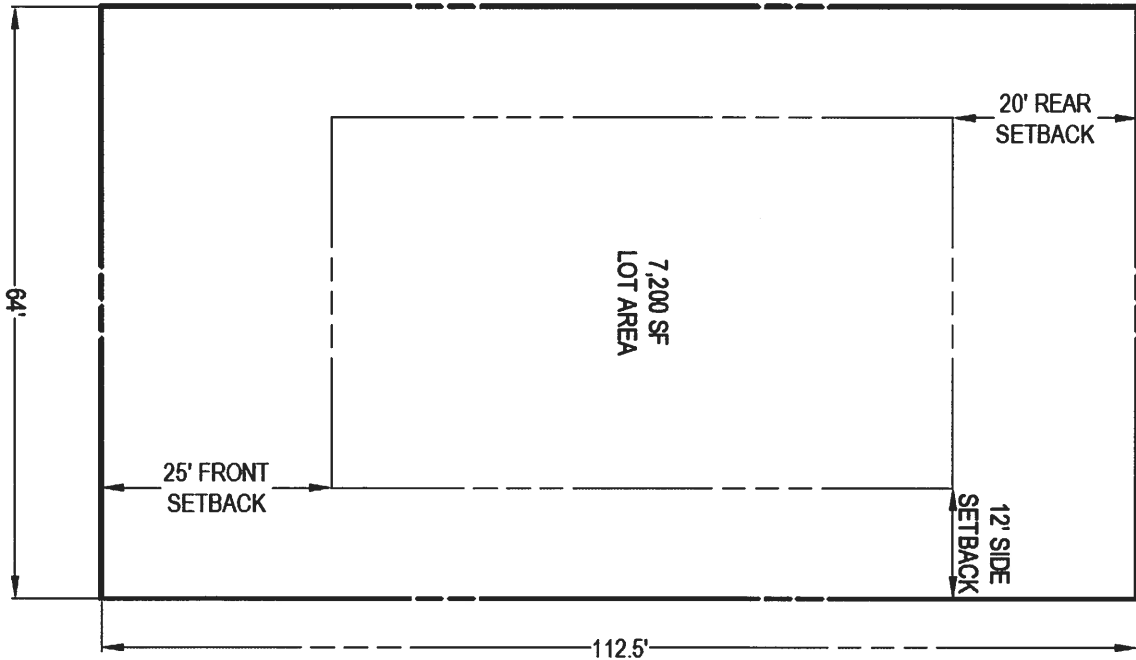
The requested waiver will provide minimum lot areas as established in Appendix A of the Zoning Ordinance. As part of the purpose of the Zoning Ordinance is to provide a guide for private enterprise in developing and building a strong economic community, the pursuit of building homes that are targeted to market for this area keeps with the intent developing and building a strong economic community by building that fit this market.

Explain how the waiver, if granted, will result in a project of better quality or character.

Today's housing market includes a demand for smaller homes on smaller lots which have access to larger common open space areas. Granting this waiver request will allow this market sector to be recognized in Jefferson County and will blend the proposed development with adjacent neighborhoods.

This community will provide larger community open spaces for its residents to enjoy. The increase in open space also highlights and protects the natural resources of the site. The Kings Crossing vision includes smaller lots with less maintenance and a highly amenitized neighborhood focused around central open space.

With reduced side setback, but keeping the same size lots will increase area in the backyards where most outside recreational time for families is spent.



**SIDE SETBACK - ZONING
VARIANCE EXHIBIT**

KING'S CROSSING

DATE: APRIL 2021

PROJECT NO.: 3035-0301

SCALE: 1"=20'



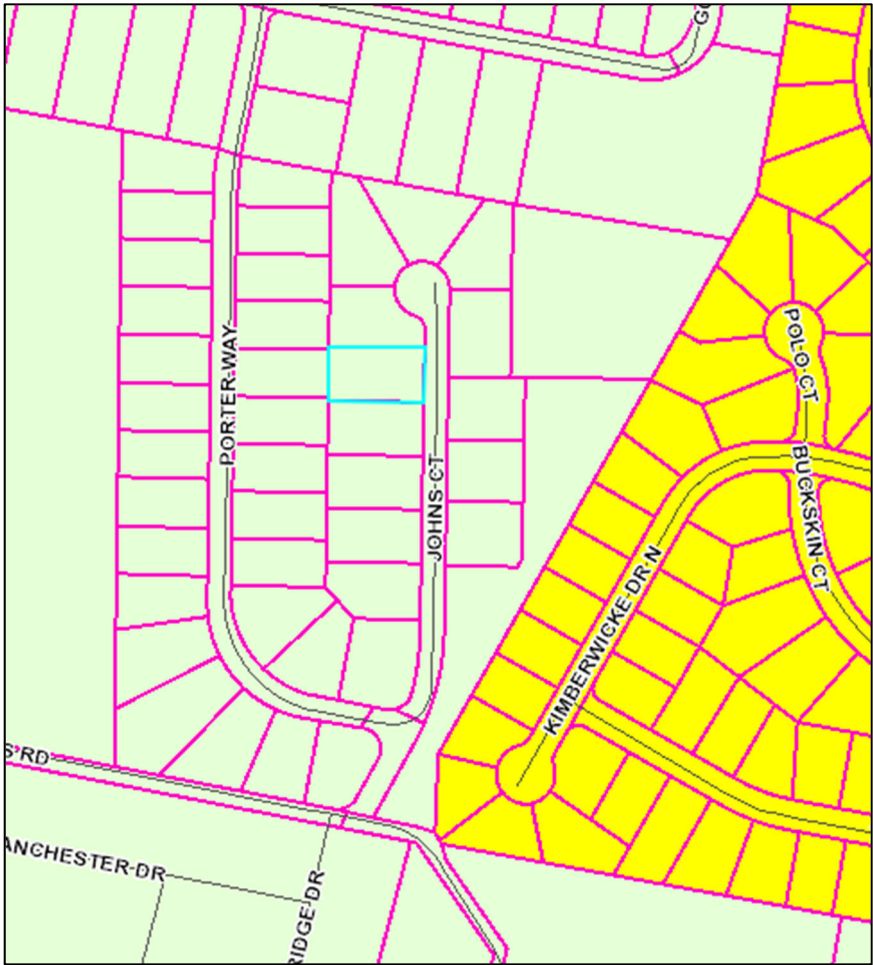
148 S. Queen Street, Suite 201
Martinsburg, WV 25401
Phone: 304-725-8456
www.gordon.us.com

PROGRAMMING AND PLANNING
CIVIL ENGINEERING
LANDSCAPE ARCHITECTURE
SURVEY AND MAPPING
SECURITY CONSULTING

Staff Report
 Jefferson County Board of Zoning Appeals
 May 27, 2021

Phelps Variance Request (#21-25-ZV)

Item #11 Variance request from Section 9.7 to reduce the side setback from 6' to 1' for a 12' x 32' accessory structure.

Applicant:	Tyler and Bobbi Phelps
Owner:	Same
Developer:	n/a
Consultant:	n/a
Parcel Information and Zoning District:	<p style="text-align: center;">Security Hills, Lot 32, 109 Johns Court, Charles Town, WV Parcel ID: 02004D00430000; Size: .32 ac Zoning District: Rural</p> 
Surrounding Properties:	Zoning Districts: North, South, East, West: Rural
History:	Security Hills Subdivision plat recorded on 06/09/76 in Plat Book 3, Page 119
Waivers/Variations:	None
Approved Activity:	Single family dwelling
Site Visit Conducted:	Site visit not conducted.

Phelps Variance Request (#21-25-ZV)

Summary of Request and Purpose of Ordinance Requirement

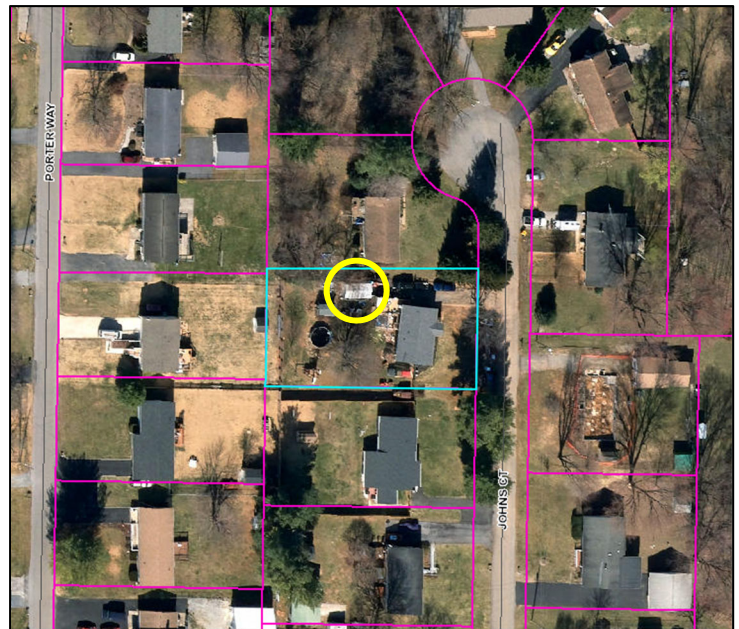
The applicant is requesting a variance from Section 9.7 to reduce the side setback from 6' to 1' for a 12' x 32' accessory structure.

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 Evaluation of the Request



The subject parcel is Lot 32 of the Security Hills Subdivision, which was recorded on June 9, 1976 in [Plat Book 3, Page 119](#). This subdivision was created prior to the adoption of the Zoning Ordinance; therefore, the subject parcel does not meet the minimum lot size requirement for lots located in the Rural zoning district. Section 9.7 of the Zoning Ordinance allows for lots that are smaller than 40,000 square feet to have a side and rear setback of 6' for accessory structures.

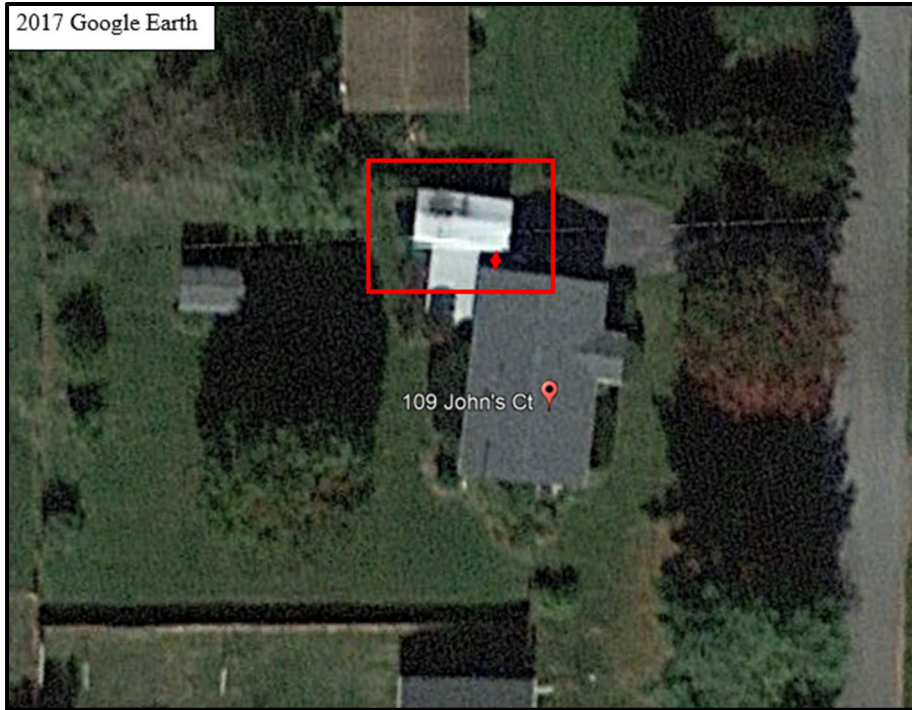


The applicant intends to replace an existing 12' x 20' (240 square feet) accessory structure with a new, slightly larger 12' x 32' (384 square feet) accessory structure. Based on Google Earth imagery, it appears that a structure has existed in this general location since the early 2000's. Staff was unable to locate a building permit for the existing structure, so an exact date was not verified. Google Earth aerial imagery seems to reflect that the structure was originally located such that the front portion of the structure was parallel with the house; however, it appears that over the years, a deck was built and the subject structure was moved further toward the rear of the property (see below comparison). Because

Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021

Phelps Variance Request (#21-25-ZV)

a structure has historically existed in this location, it appears that impact on the adjoining property would be minimal; however, the adjoining property to the north, which is owned by Jacqueline Craig, has provided a letter in opposition to the subject request.



Staff Report
Jefferson County Board of Zoning Appeals
May 27, 2021

Phelps Variance Request (#21-25-ZV)

The applicant represented that the preferred location was selected based on access to the driveway. While it may be feasible to construct the proposed accessory structure behind the existing dwelling unit and comply with the six (6) foot setback requirement, it would reduce the usable, outdoor space for the homeowners.

Conditions of Approval

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

1. The structure shall only be used for personal storage and may not be utilized for any non-residential purposes.

Section of Ordinance to be Considered

Section 9.7 Other Exceptions³

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process. Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:²³

Residential Growth District²³

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.



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: 21-25-ZV
 Staff Initials: jth
 Meeting Date: 05/27/21
 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: Tyler & Bobbi Phelps
 Mailing Address: 109 Johns Ct Charles town wv 25414
 Phone Number: 240-405-8343 Email: TPhelps1617@gmail.com

Applicant Contact Information

Name: Tyler Phelps
 Mailing Address: 109 Johns Ct Charles town wv 25414
 Phone Number: 240-405-8343 Email: TPhelps1617@gmail.com

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

Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 109 Johns Ct Charles town wv 25414
 City: Charles town State: WV Zip Code: 25414
 Tax District: 02 Map No: 4D Parcel No: 0043.0066
 Parcel Size: 0.3202 Deed Book: 1200 Page No: 114

Zoning District (please check one)

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light 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"/>

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: Appendix A

Briefly describe the nature of the variance request:

would like to move the set back from 6' to 1'

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

Front Setback Side Setback Rear Setback Reduction From 6' to 1'

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 lot contains a 12x20 carport in this area and would like to replace it with a 12x32 Building

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 easiest place to access the storage building from the driveway

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

The will be access to all sides of the build and a 1ft space between property lines and a storage building

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

I have spoke to the property owner that shares the property line and she has no objection to this

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] 5-3-21
Signature of Property Owner Date

Bobbi Phelan 5-3-21
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

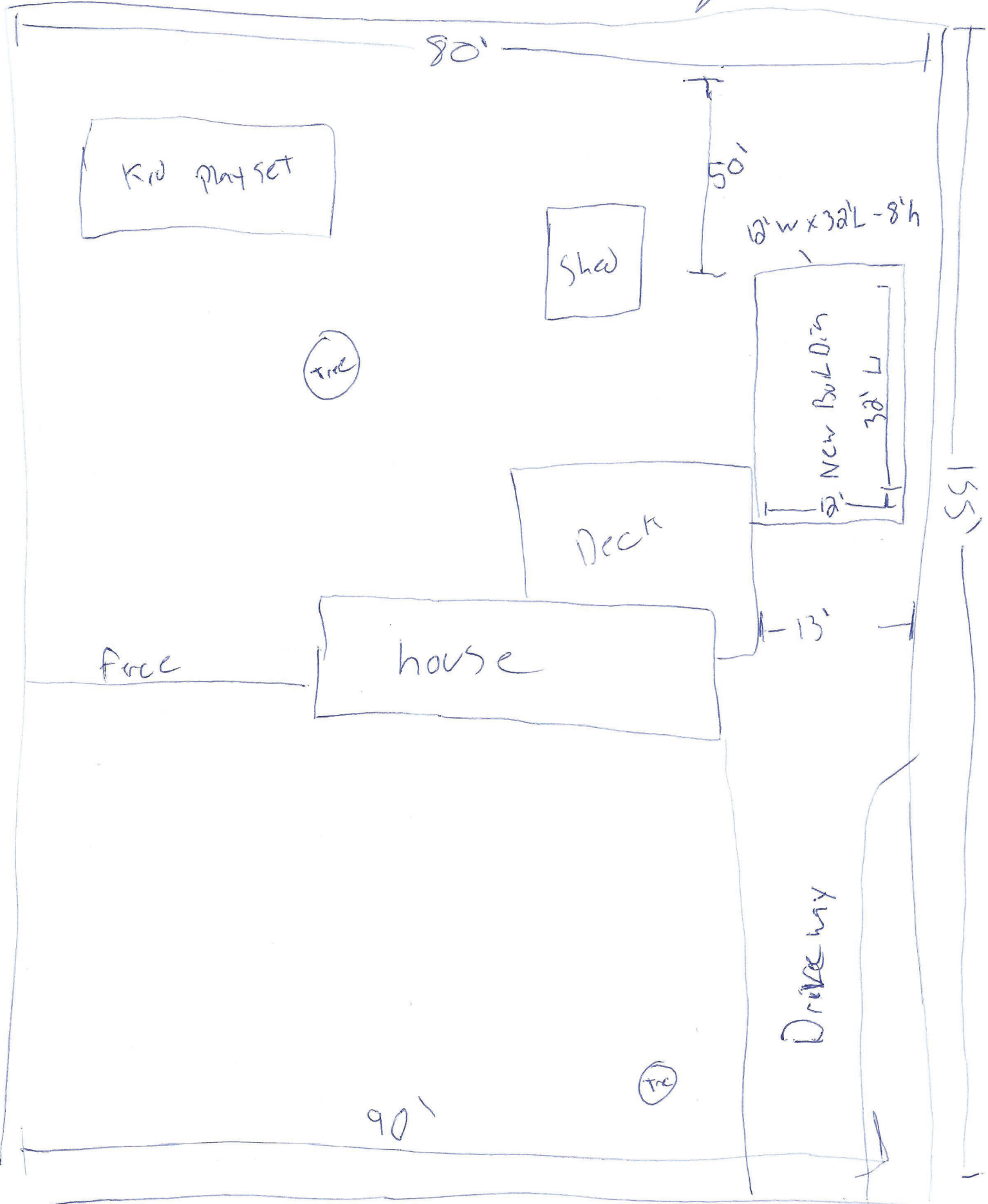
Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

05/27/21
Date of Public Hearing

05/12/21
Advertising Date

05/12/21
Placard Posting Date

5-3-01



Kid play set

Shed

Tree

Deck

house

18'w x 32'L - 8'h

New Buld'ing
38' L

155'

13'

fence

Driveway

Tree

90'

80'

Johns Ct



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@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Administrator's Report May 27, 2021 Board of Zoning Appeals Meeting

Date of Memo: May 18, 2021

1) **Text Amendments:**

- None pending at this time.

2) **New County Commission Member:**

- Clare Ath – appointed by the County Commission on 05/20/21

3) **Upcoming BZA meeting**

- The next regular meeting is scheduled for **June 24, 2021** (deadline for submission is Tuesday, June 1, 2021).



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

May 2021
Zoning Certificate Activity Report

File #	21-17-ZC
Request:	Accessory Dwelling Unit: In-Law Suite
Property Owner:	David and Valerie Struve
Parcel Info:	357 Happy Retreat Ln, Charles Town, WV. Parcel ID: 06001500480000; Size: 2.99 ac; Zoning District: Rural; Deed Book: 948; Page: 551
Date of Issuance:	04-26-2021
File #	21-18-ZC
Request:	Nonconforming Use – 360’ Telecommunications Tower. Proposal: Installation of a 10’ x 6’ concrete pad and an 80 kw generator inside existing fenced compound.
Property Owner:	American Towers LLC, Attn: Margaret Robinson
Applicant:	T-Mobile, Attn: Kevin Feng
Parcel Info:	17340 Poppy Rd, Bluemont, VA 20135. Parcel ID: 06002500080003; Size: 2.01 ac; Zoning District: Rural; Deed Book: 988; Page: 186
Date of Issuance:	04-26-2021
File #	21-19-ZC
Request:	Temporary sale of state legal fireworks conducted from two (2) 8’ x 40’ stands. Dates of operation: June 1, 2021 through July 31, 2021, 9:00 a.m. – 9:00 p.m. daily. Temporary Sales Structures Removal: No later than July 31, 2021
Property Owner:	The Kentland Foundation, Inc. / Attn: Jack Walker
Applicant:	Four Seasons of McLean, LDT / Attn: David Woods
Parcel Info:	Somerset Village Shopping Center; 98 Somerset Blvd. Charles Town, WV. Parcel ID: 02000900080007; Size: 15.07 ac; Zoning District: Residential-Light Industrial- Commercial; Deed Book: 700; Page: 61; Site Plan File: 87-21 (Somerset Village)
Date of Issuance:	04-26-2021
File #	21-20-ZC
Request:	Installation of a 12’ x 16’ concrete pad and a 30 kw diesel generator; and equipment modifications to existing telecommunications monopole tower.
Property Owner:	Summit Point Automotive Research Center, LLC C/O American Towers LLC, Attn: Margaret Robinson
Applicant:	Smartlink / Attn: Fatimah McKnight
Parcel Info:	770 Hardesty Road, Summit Point, WV. Parcel ID: 06001700020000; Size: 415.32 ac; Zoning District: Rural; Deed Book: 1096; Page: 472; Site Plan File: S10-07
Date of Issuance:	04-26-2021
File #	21-21-ZC
Request:	Harpers Ferry Campground (11 additional units with a 950 sf accessory structure)
Property Owner:	Harpers Ferry Holdings, LLC / Attn: Matt Knott
Parcel Info:	1816 Potomac Street, Harpers Ferry, WV. Parcel ID: 04000600190000; Size: 22.35 ac; Zoning District: Rural; Deed Book: 1173; Page: 623
Date of Issuance:	05-03-2021

Zoning Certificate Activity Report

May 2021

Page 2 of 2

File #	21-23-ZC
Request:	Cottage Industry: Kennel
Property Owner:	Jennifer Hillmann
Parcel Info:	4174 Flowing Springs Road, Shenandoah Junction, WV. Parcel ID: 09002400090000; Size: 3.49 acres; Zoning District: Rural; Deed Book: 1052; Page: 299
<i>Date of Issuance:</i>	<i>To Be Issued: 05-24-2021</i>

File #	21-24-ZC
Request:	Temporary Sale of Legal Fireworks: Temporary sale of state legal fireworks conducted from a 20' x 40' tent. Includes placement of a 10' x 20' storage pod for overstock. Dates of operation: June 15, 2021 through July 5, 2021, 9:00 a.m. – 10:00 p.m. daily. Tent/Storage Pod Removal: No later than July 10, 2021
Property Owner:	SUSO2 Alabama, LP
Applicant:	American Promotional Events, Inc. – East / dba TNT Fireworks c/o Jerri Morfa
Parcel Info:	Charles Town Plaza/Wal Mart Shopping Center, 96 Patrick Henry Way, Charles Town, WV. Parcel ID: 02000800290002; Size: 21.33 acres; Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1170; Page: 47; Site Plan File: S96-16
Date of Issuance:	05-10-2021

File #	21-25-ZC
Request:	True Performance Fitness
Property Owner:	JC Land Holdings, LLC
Applicant:	True Performance Fitness, Attn: Paul Holtzberger
Parcel Info:	Burr Industrial Park, Lot 21, 362 W. Burr Blvd., Kearneysville, WV. Parcel ID: 02000100740000; Size: 3.65 acres; Zoning District: Industrial-Commercial; Deed Book: 1102; Page: 457; Plat Book: 10; Page: 10; Survey: Deed Book: 717, Page: 733
Date of Issuance:	05-20-2021
