

## 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

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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.