



Jefferson County
Board of Zoning Appeals
Thursday, June 24, 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/84755112104>

Meeting ID: 847 5511 2104

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: May 27, 2021

Public Hearing – Administer Oath

ITEM #1 FILE #: 21-16-ZV POSTPONED FROM 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

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: May 27, 2021

1. Variance from Sec. 10.4B.3 and 10.7G. Owner: S. Petropouleas. Applicant: Mountain View Diner. File: 21-8-ZV.
2. Variance from App. A. Owner: C. Beahm. Applicant: Mission Tabernacle Holiness Church. File: 21-17-ZV.
3. Variance from Sec. 5.4B. Owner: F. Sutton. File: 21-18-ZV.
4. Variance from Sec. 5.4B. Owner: R. Bounds. File: 21-19-ZV.
5. Variance from Sec. 9.6C and 8.2. Owner: C. Whisner. File: 21-20-ZV.
6. Variance from Sec. 9.6C and 9.7. Owner: R. Davis. File: 21-21-ZV.
7. Variance from Sec. 8.9A.9-10. Owner: G. Chicchirichi. Applicant: Sheetz, Inc. File: 21-22-ZV.
8. Variance from Sec. 9.7. Owner: D. Shaffner. Applicant: E. Wilk. File: 21-20-ZV.
9. Variance from Appendix A. Owner: DR Acquisitions. File: 21-24-ZV.
10. Variance from Sec. 9.7. Owner: T. Phelps. File: 21-25-ZV.

Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: May 27, 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; Steve Guier, Matt McKinney, Mikala Shremshock,
6 Alternate; and Leeds Corbin (late arrival), attended in person. Deirdre
7 Catterton, Vice Chair attended virtually.
- 8 Board Members Absent: None
- 9 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, Assistant
10 Prosecuting Attorney; Mason Carter, Ordinance Compliance Officer;
11 and Jennilee Hartman, Zoning Clerk

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

13 Due to technical difficulties, Mr. McKinney moved to call the meeting to order at 2:17 pm.

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

15 Mr. Quynn reviewed meeting protocol for those in attendance.

16 **Approval of Minutes: April 22, 2021**

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

18 **ITEM #1 FILE #: 21-6-ZV - POSTPONED FROM 03/25/21 and 04/22/21**

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

23 Owner: Steve Petropouleas

24 Applicant: Mountain View Diner

25 Parcel Info: 811 Willow Spring Drive, Charles Town, WV, Parcel ID: 02001000090004;
26 Size: 1.21 ac; Zoning District: Residential-Light Industrial-Commercial

27 Mr. Quynn stated that because the placard had been properly posted for the April 22, 2021 meeting,
28 a new placard advertising the May meeting was not required by the Ordinance. The Board agreed to
29 proceed with the request.

30 Mr. Steve Petropouleas, owner, was present to address the Board. Ms. Beaulieu provided an
31 overview of her staff report, noting that the Division of Highways did not object to the location of
32 the sign. Ms. Beaulieu noted that to date, the applicant had not provided the required documentation
33 reflecting compliance with the electronic sign provisions of Section 10.7. Mr. Petropouleas
34 explained that the subject sign replaced an old sign in the same location and that he was unaware
35 that a building permit was required. Ms. Beaulieu addressed comments from the Board.

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

37 Mr. McKinney moved to approve the variance with the condition that the applicant be bound by
38 their testimony and that the applicant obtain a building permit and submit the required certifications
39 for an electronic sign. Mr. Quynn called for a vote, which carried unanimously.

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

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

1 Owner: Chad and Kimberly McGarrah

2 Parcel Info: Stone Brook Subdivision, Lot 16, 711 Apple Cross Dr., Harpers Ferry, WV

3 Parcel ID: 04005A00160000; Size: 1.04 ac; Zoning District: Rural

4 As the placard was not adequately posted, this Item was postponed until the June 24, 2021 meeting.

5 **ITEM #3 FILE #: 21-17-ZV**

6 Request: Variance request from Appendix A to reduce the minimum lot size from 40,000 sf to
7 16,800 sf to allow for the creation of a lot to be donated to the Mission Tabernacle
8 Holiness Church for the purpose of creating an overflow parking area.

9 Owner: Charlotte Beahm

10 Applicant: Mission Tabernacle Holiness Church

11 Parcel Info: 382 Mission Rd., Harpers Ferry, WV.

12 Parcel ID: 02021A00140000; Size: 1.37 ac; Zoning District: Rural

13 Mr. Sam Snow, Pastor of Mission Tabernacle Holiness Church, was present to address the Board.

14 Ms. Beaulieu provided an overview of her staff report. Ms. Beaulieu suggested that a possible

15 condition of approval be that the 16,800 sf area is prohibited from constructing a residence or any

16 non-residential structures for public use, such as a fellowship hall, unless further evaluated by the

17 Board. She further stated that this condition could exclude picnic tables, storage sheds, or pavilions.

18 Mr. Snow explained the nature of the request. Ms. Beaulieu addressed questions from the Board.

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

20 Mr. McKinney moved to approve the variance with the condition that the applicant be bound by

21 their testimony and that there will be no residential structures on the property. Mr. Quynn called for

22 a vote, which carried unanimously.

23 **ITEM #4 FILE #: 21-18-ZV**

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

26 Owner: Francis Sutton

27 Parcel Info: Eastland Subdivision, Lot 59, 178 Devonshire Dr., Charles Town, WV

28 Parcel ID: 02001600810000; Size: 1 ac; Zoning District: Residential Growth

29 Mr. Francis Sutton, owner, was present to address the Board. Ms. Beaulieu provided an overview

30 of her staff report. Mr. Sutton explained the nature of the request and addressed comments from

31 the Board. Ms. Catterton stated she was familiar with the lot layout and concurred that the

32 proposed location for the shed was optimal.

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

34 Mr. McKinney moved to approve the variance. Mr. Quynn called for a vote, which carried

35 unanimously.

36 Mr. Leeds Corbin, Board member, arrived late at 2:58 pm during the Board's discussion for Item

37 #4. Mr. Corbin did not participate in the Board's discussion or their final vote for Item #4. At the

38 conclusion of the Board's discussion surrounding Item #4, Mr. Corbin participated as a voting

39 member for the remainder of the meeting and Ms. Shremshock remained in attendance as a non-

40 voting alternate member.

1 **DITEM #5 FILE #: 21-19-ZV**

2 Request: Variance request from Section 5.4B of the Zoning Ordinance, as amended on 05/01/03,
3 to reduce the rear setback from 20' to 5' for a 12' x 24' in-ground pool.

4 Owner: Herman and Robin Bounds

5 Parcel Info: Demory Farm Subdivision, Lot 16, 43 Killian Ln., Charles Town, WV

6 Parcel ID: 02009B00160000; Size: .24 ac; Zoning District: Residential Growth

7 Ms. Robin Bounds, owner, was present to address the Board. Ms. Beaulieu provided an overview of
8 her staff report.

9 Noting that the public had not been previously sworn in, Ms. Beaulieu swore in the applicant and
10 members of the public who indicated they would be providing testimony.

11 Ms. Bounds explained the nature of the request and addressed questions from the Board.

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

13 Mr. Corbin moved to approve the variance with the condition that the applicant be bound by their
14 testimony. Mr. Quynn called for a vote, which carried unanimously.

15 **ITEM #6 FILE #: 21-20-ZV**

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

19 Owner: Canton Whisner

20 Parcel Info: Elizabeth Stagner Minor Subdivision, Lot 3, 1491 Shirley Rd., Summit Point, WV

21 Parcel ID: 06001500030043; Size: 20 ac; Zoning District: Rural

22 Mr. Canton Whisner, owner, was present to address the Board. Ms. Beaulieu provided an overview
23 of her staff report noting that the owner intends to process a minor plat change through the office
24 to re-locate the existing access easement along the property line as opposed to the current location
25 of 50' off of the property line. Ms. Beaulieu clarified that the requested front setback reduction
26 would be measured from the edge of the relocated access easement. Mr. Whisner explained the
27 nature of the request noting that rock outcroppings and existing topography limited buildable area.
28 Mr. Whisner presented photos of his property for the record. Mr. Whisner addressed questions from
29 the Board.

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

31 Mr. McKinney moved to approve the variance with the condition that the applicant be bound by
32 their testimony. Mr. Quynn called for a vote, which carried unanimously.

33 **ITEM #7 FILE #: 21-21-ZV**

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

37 Owner: Randolph and Melinda Davis

38 Parcel Info: Blue Ridge Acres Subdivision, Lot 604, vacant parcel on Sydney Cir., Harpers Ferry,

39 WV. Parcel ID: 04012A01900000; Size: .23 ac; Zoning District: Rural

40 The applicant was not present for the request. Mr. Quynn moved to the next Item to allow sufficient
41 time for the applicant to attend.

1 **ITEM #8 FILE #: 21-22-ZV**

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

6 Owner: Guy Chicchirichi

7 Applicant: Sheetz Inc. / c/o Bob Franks

8 Parcel Info: Vacant parcel at the intersection of Route 340 and Augustine Ave., Charles Town, WV
9 Parcel ID: 02001600010000; Proposed Size: 2.5 ac; Zoning District: Highway
10 Commercial

11 Mr. Jason Gerhart with GORDON, representative for the applicant, was present to address the
12 Board. Ms. Beaulieu provided an overview of her staff report. Mr. Gerhart explained that the nature
13 of the request. Mr. Gerhart noted that the WV Division of Highways was not in favor of creating
14 a new access road specifically for this site due to its close proximity to an existing traffic signal.
15 Mr. Gerhart also stated that, as no additional development was proposed for the adjacent property,
16 the access road would not be serving another land use. Mr. Gerhart further explained that additional
17 buffer standards are not optimal along a highway for land uses that require greater visibility to
18 motorists. Ms. Beaulieu and Mr. Gerhart addressed questions from the Board.

19 Mr. Quynn opened the public hearing.

20 Mr. Gary Davis, local resident, spoke in opposition to the request and expressed concerns regarding
21 traffic safety.

22 Mr. Gerhart provided a rebuttal to public comment, noting that the project would comply with any
23 direction provided by the Division of Highways.

24 Mr. McKinney moved to approve the variance with the condition that the applicant be bound by
25 their testimony. Mr. Quynn called for a vote, which carried four (4) in support and one (1) in
26 opposition (Mr. Corbin).

27 Mr. Quynn continued with Item #7 as the applicant was in attendance. Ms. Beaulieu swore in
28 Mr. Davis.

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

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

33 Owner: Randolph and Melinda Davis

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

36 Mr. Randolph Davis, owner, was present to address the Board. Ms. Beaulieu provided an overview
37 of her staff report. Ms. Beaulieu suggested that a condition of approval could be that the subject
38 garage is limited to personal/residential purposes. Mr. Davis explained the nature of the request.
39 Mr. Davis addressed questions from the Board.

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

41 Ms. Catterton moved to approve the variance with the condition that the applicant be bound by their
42 testimony and that that the subject garage is limited to personal/residential purposes. Mr. Quynn
43 called for a vote, which carried unanimously.

1 **ITEM #9 FILE #: 21-23-ZV**

2 Request: Variance request from Section 9.7 to reduce the side setback from 6' to 2' for a 12' x
3 16' accessory structure.

4 Owner: Doreen Schaffner

5 Applicant: Earl Wilk

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

7 Kearneysville, WV. Parcel ID: 07007A00360000; Size: .51 acre; Zoning District: Rural

8 Mr. Earl Wilk, applicant, was present to address the Board. Ms. Beaulieu swore in Mr. Wilk as he
9 joined the meeting late. Ms. Beaulieu provided an overview of her staff report. Mr. Wilk explained
10 the nature of the request. Mr. Wilk addressed questions from the Board.

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

12 Ms. Catterton moved to approve the variance with the condition that the applicant be bound by their
13 testimony. Mr. Quynn called for a vote, which carried three (3) in support and two (2) in opposition
14 (Mr. Quynn and Mr. Guier).

15 **ITEM #10 FILE #: 21-24-ZV**

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

19 Owner: DR Acquisitions LLC

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

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

22 Mr. Chad Wallen and Mr. Jason Gerhart with GORDON, representatives for the applicant, were
23 present to address the Board. Ms. Beaulieu provided an overview of her staff report to the Board
24 explaining that the subject request would apply to the proposed single family lots. Mr. Wallen
25 explained the nature of the request and noted that the request did not change the permitted density.
26 Mr. Wallen further explained that the design of the proposed development, including the grading
27 and drainage plans, were dependent on the size of the building envelop of each lot.

28 Noting that the application did not appear to answer all of the variance criteria questions, Mr. Quynn
29 asked the applicant to specifically address the required criteria. Mr. Wallen argued that the intent of
30 the request was to satisfy market demand by designing lots that contained larger backyards as
31 opposed to a wider side yard that is generally unused.

32 The Board expressed a general concern that applying for a variance for lots that do not exist seemed
33 premature and inappropriate. The Board further noted that they felt it was not within their purview to
34 grant a blanket variance and that a text amendment may be more appropriate.

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

36 Mr. Jason Gerhart requested permission to speak as the applicant's representative. The Board
37 granted Mr. Gerhart permission to speak to this item. Mr. Gerhart noted that the proposed design and
38 modified lot width had been approved by the Planning Commission during the Concept Plan phase.
39 Mr. Gerhart stated that the Planning Commission was aware of the applicant's intent to seek a
40 setback variance for the proposed lots and did not object.

41 Mr. Quynn reiterated that the proposed request did not meet the criteria for a variance and stated that
42 a text amendment to modify the setbacks in the Residential Growth district would be more
43 appropriate.

1 Ms. Catterton moved to deny the variance. Mr. Quynn called for a vote, which carried four (4) in
2 support and one (1) in opposition (Mr. McKinney).

3 Mr. Guier moved to direct staff to submit a letter to the Planning Commission on behalf of the
4 Board requesting that the Planning Commission consider amending the required setbacks for lots in
5 the Residential Growth zoning district. Mr. Quynn called for a vote, which carried four (4) in
6 support and one (1) in opposition (Mr. Corbin).

7 **ITEM #11 FILE #: 21-25-ZV**

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

10 Owner: Tyler and Bobbi Phelps

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

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

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

14 Mr. Tyler Phelps, owner, was present to address the Board. Ms. Beaulieu provided an overview of
15 her staff report. Mr. Phelps explained that the intent of the request would be to construct a larger
16 structure to store personal items. Mr. Phelps addressed questions from the Board. Mr. Phelps
17 confirmed that he is not operating a business from his home. Mr. Phelps stated that he has received
18 verbal confirmation of support from the neighbor to the north (Jacqueline Craig).

19 Mr. Quynn opened the public hearing.

20 Mr. Rick McIntyre, neighbor, spoke in opposition to the request arguing that the subject parcel
21 contained a significant amount of debris and lawn mowing equipment. Mr. McIntyre expressed
22 concern that a larger storage structure would result in more items being stored on the property.

23 Mr. Phelps spoke in rebuttal noting that the intent of the larger accessory structure was to store the
24 extra household items that were currently outside.

25 Mr. Quynn closed the public hearing.

26 Mr. McKinney moved to approve the variance with the condition that the applicant be bound by
27 their testimony. Mr. Quynn called for a vote, which carried unanimously.

28 Ms. Shremshock left the meeting after Item #11.

29 **Zoning Administrator's Report**

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

31 Ms. Beaulieu stated that the next Board meeting would be on Jun 24, 2021.

32 Ms. Catterton announced that she needed to leave the meeting at 5:44 PM.

33 **Legal Update**

34 a) Discussion of the following pending lawsuits: None.

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

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

38 **Meeting: April 22, 2021**

39 1. Variance from Sec. 5.7D.2.b.iii(b). Owner: Norman and Lora Corbin. File: 21-10-ZV.

40 2. Variance from Sec. 9.7 Owner: William Jenkins. File: 21-12-ZV.

Board of Zoning Appeals

May 27, 2021

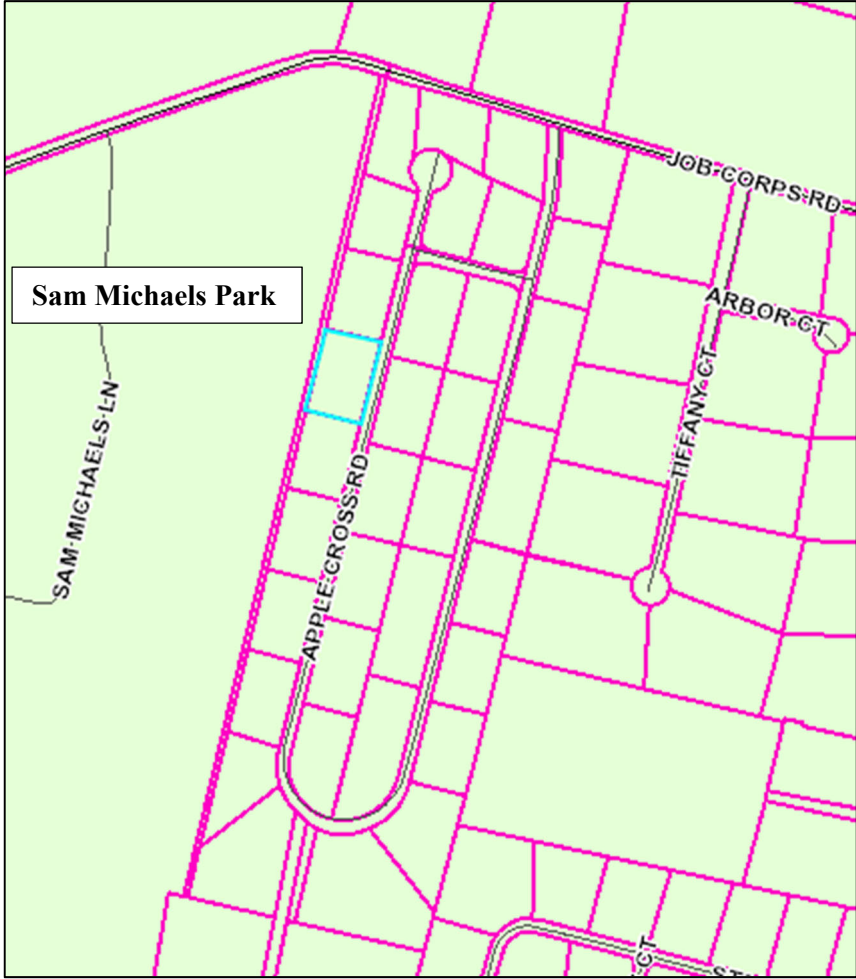
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- 1 3. Variance from Appendix A. Owner: DR Acquisitions. File: 21-13-ZV.
- 2 4. Variance from Sec. 4.11.E.1 and App. B. Owner: James Van Evera, et al. Applicant:
- 3 Sheetz, Inc. File: 21-14-ZV.
- 4 5. Variance from Sec. 4.11 and App. B. Owner: St. James Lutheran Church at Uvilla.
- 5 File: 21-15-ZV.
- 6 Mr. Cochran provided Mr. Quynn a copy of the draft Findings for his review and signature.
- 7 Mr. McKinney moved to adjourn the meeting at 5:47 pm. Mr. Quynn called for a vote, which carried
- 8 unanimously.

Staff Report
 Jefferson County Board of Zoning Appeals
 June 24, 2021
Postponed from May 27, 2021

McGarrah Variance Request (#21-16-ZV)

Item #1 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).

Applicant:	Chad and Kimberly McGarrah
Owner:	Same
Developer:	n/a
Consultant:	n/a
Parcel Information and Zoning District:	<p>Stone Brook Subdivision, Lot 16, 711 Apple Cross Dr., Harpers Ferry, WV Parcel ID: 04005A00160000; Size: 1.04 ac; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Districts: North, East, South, West: Rural
History:	Stone Brook Subdivision recorded on 05/12/90 in Plat Book 9, Page 28 (PC File #87-23)
Waivers/Variances:	n/a
Approved Activity:	Single Family Dwelling
Site Visit Conducted:	Site visit not conducted.

Staff Report
Jefferson County Board of Zoning Appeals
June 24, 2021
Postponed from May 27, 2021
McGarrah Variance Request (#21-16-ZV)

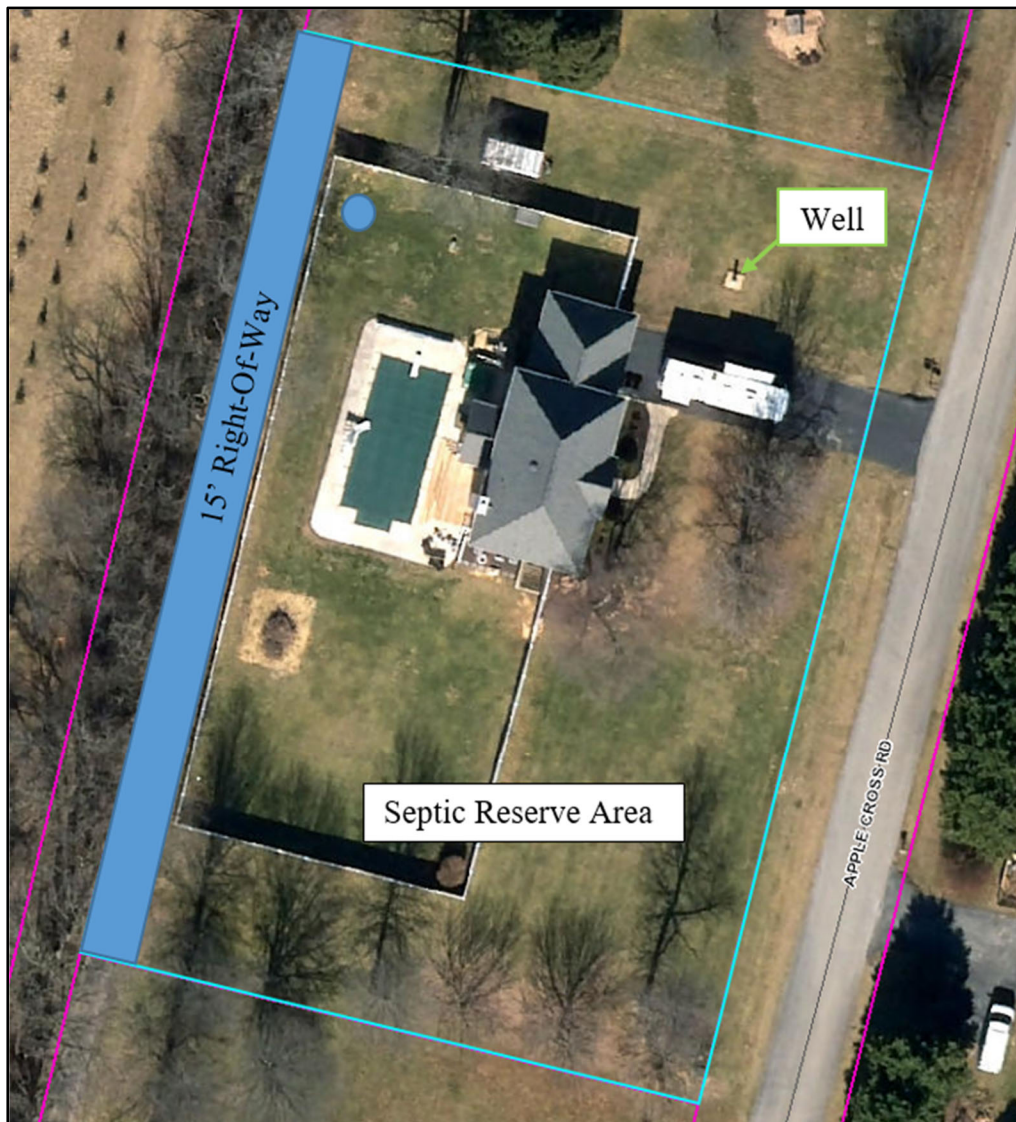
Summary of Request and Purpose of Ordinance Requirement

The applicant is requesting a variance 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).

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.

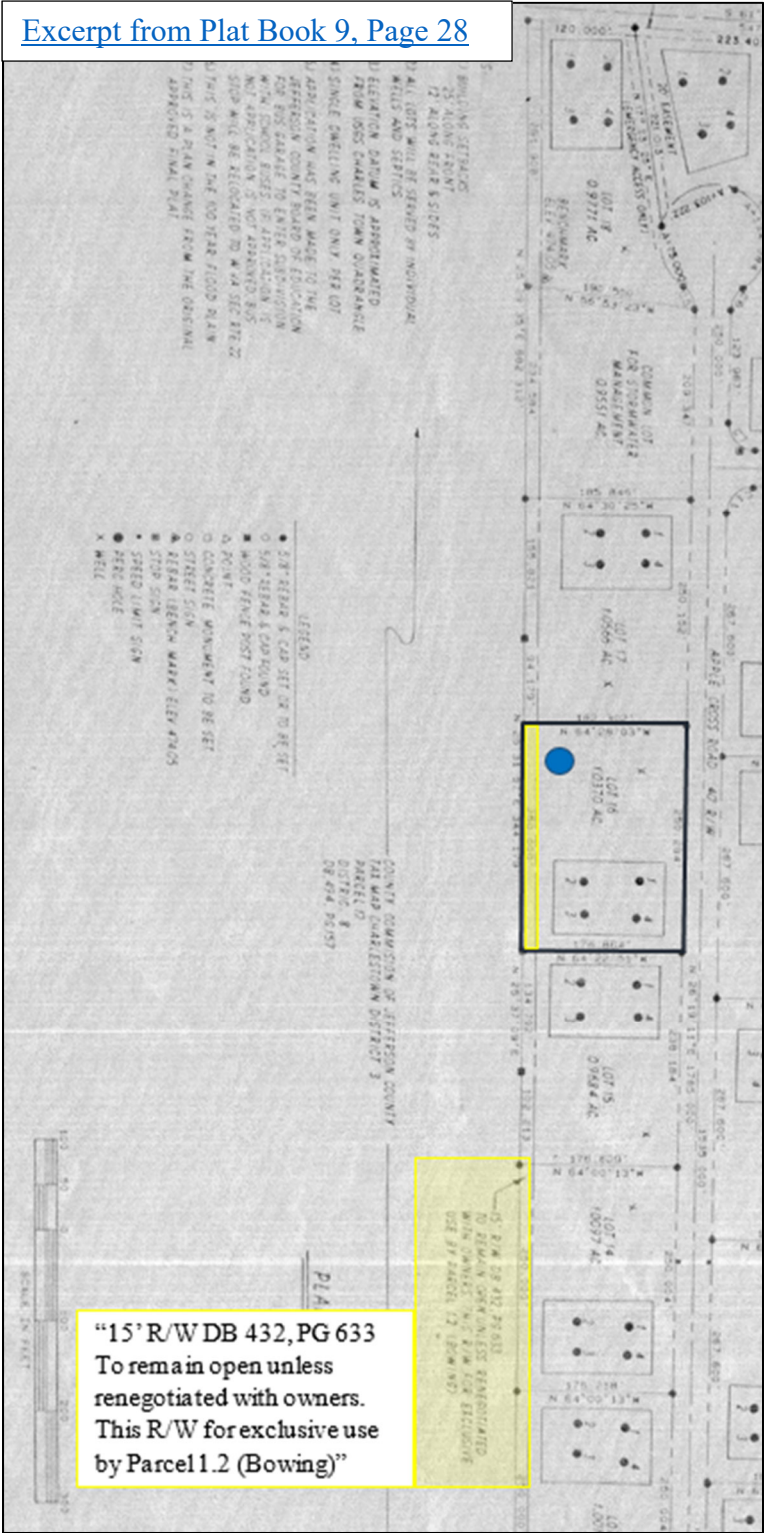
Staff Evaluation of the Request

The subject parcel is Lot 16 of the Stone Brook Subdivision. A 15' right-of-way is platted along the western portion of Lot 16 and runs the full length of the Stone Brook Subdivision; therefore, any structures would be subject to a 25' front yard setback, measured from the edge of the right-of-way.



Staff Report
 Jefferson County Board of Zoning Appeals
 June 24, 2021
Postponed from May 27, 2021
McGarrah Variance Request (#21-16-ZV)

Excerpt from Plat Book 9, Page 28



**“15’ R/W DB 432, PG 633
 To remain open unless
 renegotiated with owners.
 This R/W for exclusive use
 by Parcel 1.2 (Bowing)”**

The proposed shed will be located entirely within the fenced area. The platted right-of-way, which contains a gravel access drive, serves a single lot located to the rear of the Stone Brook Subdivision. The lot to the west of the platted right-of-way is Sam Michael’s Park.

Impact on adjoining properties is expected to be minimal because the shed is a modest size and located within the fenced area of the yard. Additionally, the platted right-of-way is restricted to use by Parcel 1.2 only and is not expected to be widened for additional access.

It may be feasible to comply with the Ordinance by placing the shed in another location on the property; however, another location may impede use of the backyard and reduce functionality of the proposed shed. The applicant represented that the selected location is preferred in order to provide the least visual impact on the neighborhood.

Conditions of Approval

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

1. No conditions of approval were identified.

Staff Report
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McGarrah Variance Request (#21-16-ZV)

Section 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: 21-16-ZV
 Staff Initials: AB
 Meeting Date: 05-27-21
 Fees Paid (\$100 or \$150): \$100/chk# 1030

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: Chad and Kimberly McGarrah
 Mailing Address: 711 Apple Cross Rd, Harpers Ferry, WV 25425
 Phone Number: 304-283-8131 Email: chadmgarrah@comcast.net

Applicant Contact Information

Name: Chad McGarrah
 Mailing Address: 711 Apple Cross Rd, Harpers Ferry, WV 25425
 Phone Number: 304-283-8131 Email: chadmgarrah@comcast.net

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

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

Physical Property Details

Physical Address: 711 Apple Cross Rd / Lt. #16 Stone Brook
 City: Harpers Ferry State: WV Zip Code: 25425
 Tax District: 04 - HARPERS FERRY DIST Map No: 5A Parcel No: 001600000000
 Parcel Size: 1.04 acre Deed Book: 1082-- 1249 jth Page No: 525-678 jth

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 APR 09 2021			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"/>

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: Section 9.7 + 9.6C

Briefly describe the nature of the variance request:

We would like to place a shed inside our fenced in yard next to our privacy fence in the back yard. The privacy fence is close to a right of way driveway at the rear of the property. The person who uses the right of way drive has given verbal consent since it would be within our fenced in yard.

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

PB 9 PG 28

Front Setback Side Setback Rear Setback Reduction From 25' to 8'-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:

Placing the shed within our privacy fenced back yard at the rear right corner of the property helps limit it's view from neighbors. Placing it almost against the fence will limit it's view from the right of way lane on the other side of the fence. The neighbors to the right of our property have tall pine trees and a shed blocking their view of that location as well.

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?

I am trying to be consistant with the layout of other existing lots in the neighborhood and be considerate to the neighborhood.

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

Granting this variance would allow both my wife and I to use our attached garage for our cars, rather than a lawn mower, tools and such (the reason for needing a shed), while making the least impact on the looks of the neighborhood.

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 will be upheld by positioning the shed entirely on my property and within the fenced area and to provide the least visual impact on the neighborhood.

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.

Chad McDaniel 4/8/21
Signature of Property Owner Date

KCMS 4-8-21
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

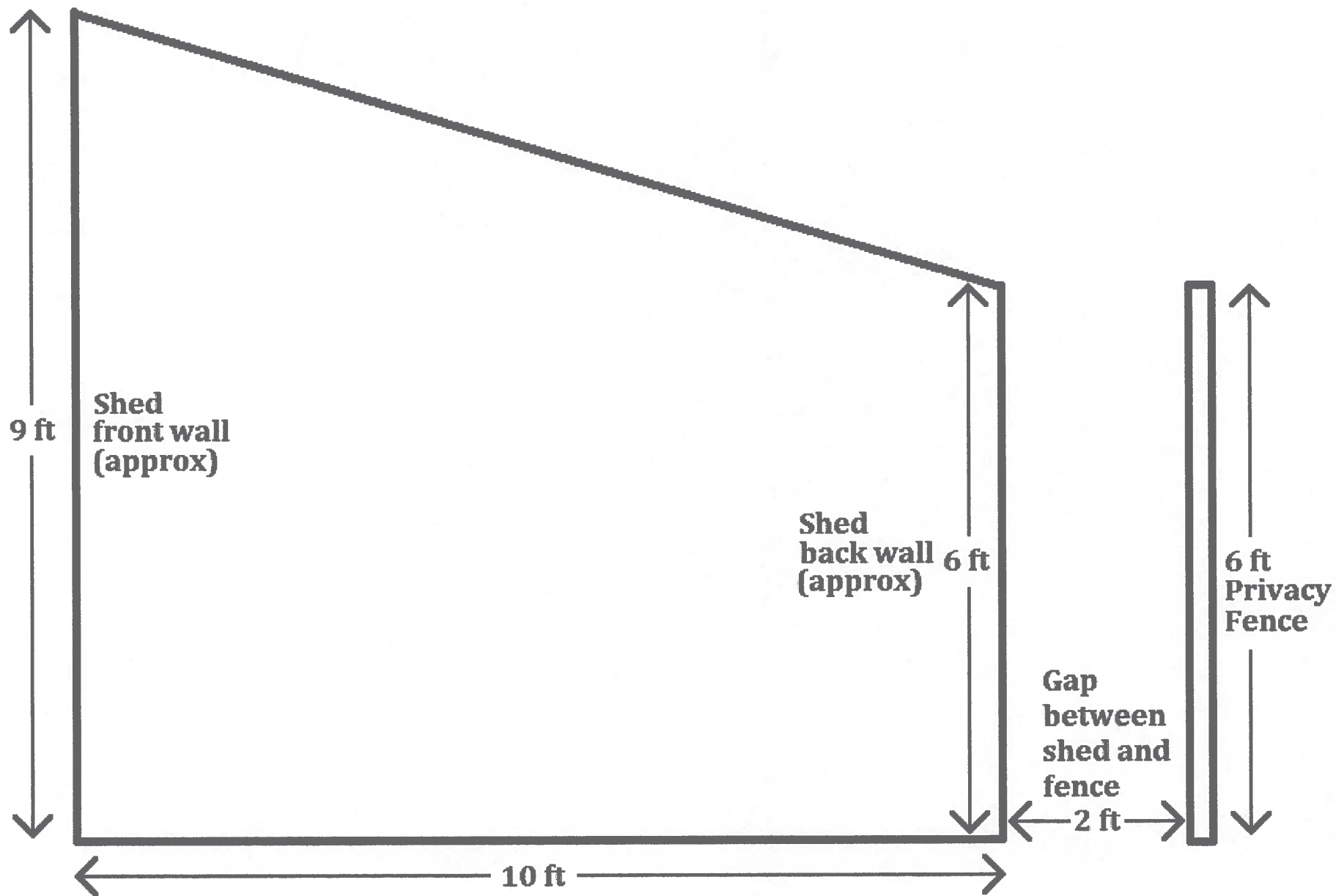
May 12, 2021
Advertising Date

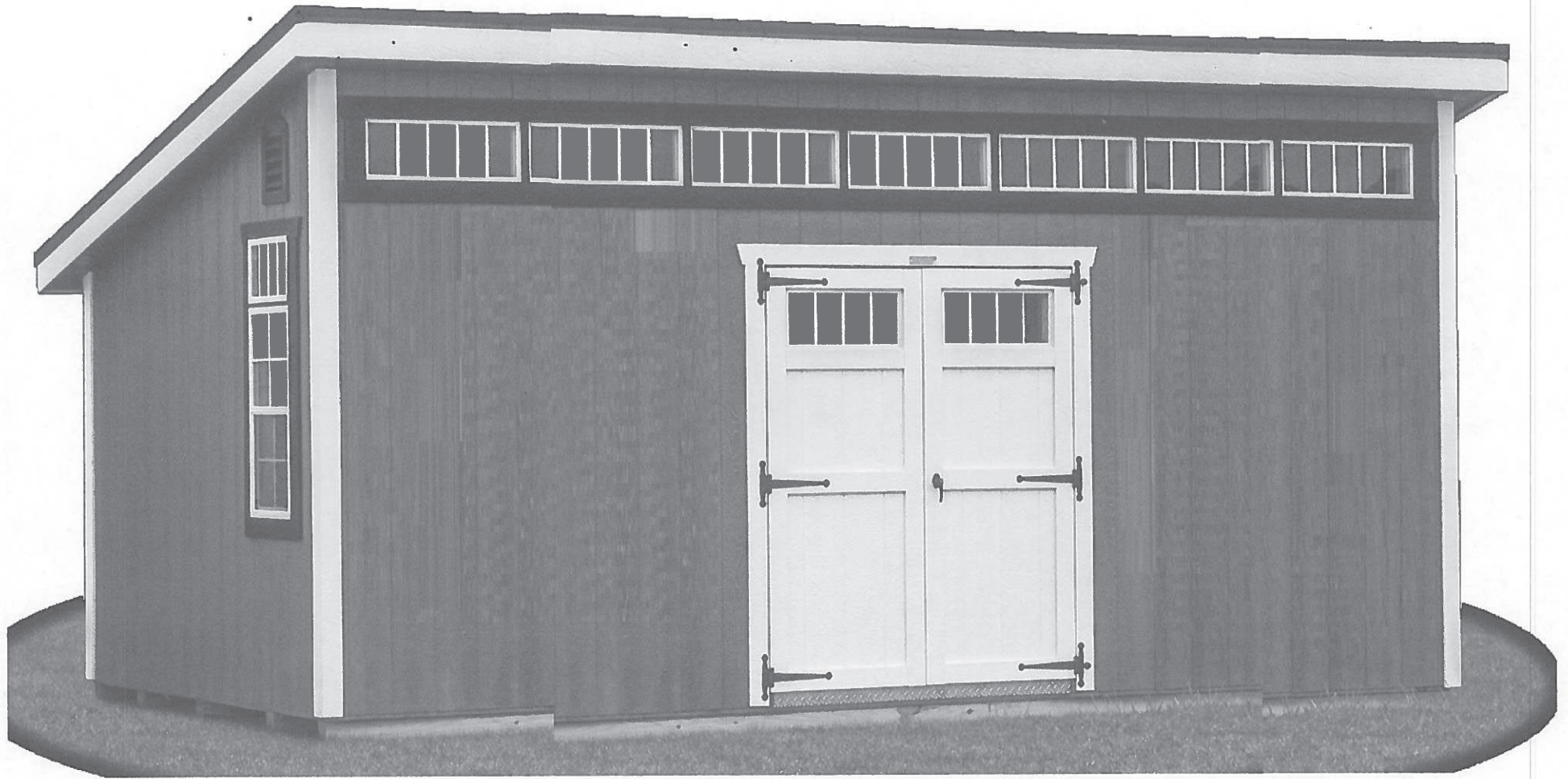
May 12, 2021
Placard Posting Date



Proposed location of new shed.

Old satellite image shows location of current white 6 ft privacy fencing.





Approximate Shed Design 10 ft x 20 ft
Paint, trim, and roof color options will be selected to match house colors as close as possible.



Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

P.O. Box 716

Charles Town, WV 25414

Email: zoning@jeffersoncountyv.wv.org

Phone: (304) 728-3228

Zoning Administrator's Report June 24, 2021 Board of Zoning Appeals Meeting

Date of Memo: June 11, 2021

1) **Text Amendments:**

- ZTA20-01 – Short Term Rentals
 - On 06/08/21 the Planning Commission voted to accept into their work plan requests to develop provisions in the Zoning Ordinance to allow short term rentals (e.g. AirBnB, VRBO, etc.).
- ZTA20-02 – Appendix A – Residential Setbacks in the Residential Growth zoning district
 - On 06/08/21 the Planning Commission voted to accept the Board of Zoning Appeal's recommendation into their work plan to amend the required setbacks in the Residential Growth zoning district.

2) **Upcoming BZA meeting**

- The next regular meeting is scheduled for **July 22, 2021** (deadline for submission is Monday, June 28, 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

June 2021
Zoning Certificate Activity Report

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
Date of Issuance:	05-25-2021
File #	21-27-ZC
Request:	Equipment modifications to existing telecommunications tower.
Property Owner:	Thomas LeFevre
Applicant:	Mastec Network Solutions, Attn: Lauren Farrow
Parcel Info:	237 Tel Farm Lane, Kearneysville WV. Parcel ID: 07001900240000; Size: 107 ac; Zoning District: Rural; Deed Book: 679; Page: 765;
Date of Issuance:	06-03-2021
File #	21-28-ZC
Request:	Accessory Dwelling Unit: In-Law
Property Owner:	Ben and Kristin Espinosa
Applicant:	Kubic Construction
Parcel Info:	6485 Summit Point, Rd., Summit Point, WV 25446. Parcel ID: 06000300010070; Size: 5.25 ac; Zoning District: Rural; Deed Book: 1237; Page: 132; PC File: 20-4-PCW
Date of Issuance:	06-03-2021
File #	21-30-ZC
Request:	Change in Ownership from Lakeland Properties to Shannondale Enterprises: Continuation of Mountain Lake Club (Nonconforming Use)
Property Owner:	Shannondale Enterprises LLC
Applicant:	Mountain Lake Club
Parcel Info:	1329 Lakeside Drive, Harpers Ferry, WV 25425. Parcel ID: 06000600090000; Size: ~69 ac; Zoning District: Rural; Deed Book: 1254; Page: 57
Date of Issuance:	06-16-2021
