



Jefferson County
Board of Zoning Appeals
Thursday, October 28, 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/82879034142>
Meeting ID: 828 7903 4142
Dial by location: 301-715-8592
Find your local number: <https://us02web.zoom.us/u/kb65f6MrBt>

If you wish to participate virtually 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: September 23, 2021

Public Hearing – Administer Oath

ITEM #1 FILE #: 21-34-ZV and 21-35-ZV

Request 1: Variance from Section 9.6A to reduce the side setback from 5' to 3' along the western boundary for a 12' x 12' accessory structure (21-34-ZV).

Request 2: Variance from Section 9.6A to reduce the side setback from 5' to 3' along the western boundary for an 8' x 10' accessory structure (21-35-ZV).

Owner: Mary Arvin

Applicant: Toni Arvin

Parcel Info: Opequon Forest Park, Lots 4 & 5, 1631 Bowers Road, Kearneysville, WV
Parcel ID: 07007A00520000; Size: .54 ac (combined); Zoning District: Rural

ITEM #2 FILE #: 21-36-ZV

Request: Variance from Section 9.6C to allow an accessory structure within the required front yard; and, Section 5.4B of the 01/10/02 Zoning Ordinance (as emended) to reduce the front setback from 25' to 15' for a proposed 18' x 40' in-ground pool with surrounding concrete.

Owner: Tessa Lind and Jeffrey Bowers, Jr.

Parcel Info: Maddex Farm Subdivision, Phase 1, Lot 98, 47 Maddex Farm Dr. Shepherdstown, WV
Parcel ID: 09008C01580000; Size: .25 ac; Zoning District: Residential-Light Industrial-Commercial

Zoning Administrator Report

- a. Monthly Zoning Certificate Activity Report

Legal Update

- a. Discussion of the following pending lawsuits:
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions

Meeting: September 23, 2021

1. Variance from App. A. Owner: JCDA/TeMa. Applicant: Howard Shockey & Sons. File: 21-28-ZV.
2. Variance from Sec. 5.4B. Owner/Applicant: Kara and Matthew Durrschmidt. File: 21-29-ZV.
3. Variance from Sec. 4.6 and App. B. Owner: Dead Rock Contractor Services, LLC. File: 21-30-ZV.
4. Variance from Sec. 4.11 and App. B. Owner: Dead Rock Contractor Services, LLC. File: 21-31-ZV.
5. Variance from Sec. 5.4B. Owner: Kirk and Charlene Lattner. File: 21-32-ZV.
6. Variance from Sec. 5.6D. Owner: Paul & Donna Ashbaugh. File: 21-33-ZV.

Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: September 23, 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; Leeds Corbin, Steve Guier, Matt McKinney, and
6 Mikala Shremshock, Alternate
7 Board Members Absent: Deirdre Catterton, Vice Chair, was absent with notice
8 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Stephen Groh, Assistant
9 Prosecuting Attorney; and Jennilee Hartman, Zoning Clerk

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

11 Mr. Corbin moved to call the meeting to order at 2:00 pm. Mr. Quynn called for a vote, which
12 carried unanimously.

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

14 **Approval of Minutes: August 26, 2021**

15 Mr. McKinney moved to approve the minutes as presented, which carried unanimously.

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

17 **ITEM #1 FILE #: 21-28-ZV**

18 Request: Variance request from Appendix B to reduce the front setback from 25' to 21' for a
19 portion of the proposed expansion to the existing TeMa manufacturing facility.

20 Owner: Jefferson County Development Authority

21 Applicant: Howard Shockey & Sons / Jeffrey Mohn

22 Parcel Info: Burr Business Park, Lot 19, 395 Steeley Way, Kearneysville, WV

23 Parcel ID: 02000101190000; Size: 1.22 ac; Zoning District: Industrial Commercial

24 Mr. Jeffrey Mohn, representative with Howard Shockey & Sons, and Tim Machado, Architect for
25 the project, were present to address the Board. Ms. Beaulieu provided an overview of her staff
26 report. Ms. Beaulieu noted that a small portion of the proposed facility would be encroaching
27 within the front setback. The Board acknowledged that the property had recently changed
28 ownership from the Jefferson County Development Authority (JCDA) to TeMa. Mr. Mohn
29 explained the nature of the request stating that the setback issue arose due to a curve in the existing
30 road. Mr. Mohn noted that maintaining the alignment of the existing building would be more
31 aesthetically pleasing. Mr. Machado explained the logistics of the interior floor plan.

32 Mr. Mark Dyck with GORDON joined the meeting late. Mr. Quynn acknowledged his entrance and
33 requested that he be sworn in. Ms. Beaulieu swore in Mr. Dyck. Ms. Beaulieu stated that Mr. Dyck
34 was listed on the application as a representative for TeMa.

35 Mr. Mark Dyck with Gordon addressed questions from the Board regarding existing utilities.

36 Mr. Quynn confirmed there were no members of the public signed up to speak for this item. Ms.
37 Beaulieu noted that the JCDA included a letter of support with the application.

38 Mr. McKinney noted that it appeared the applicant had addressed each of the required criteria for a
39 variance. Mr. McKinney moved to approve the variance with the following conditions:

40 1. The subject approval was valid only for the proposed expansion noted in the request;

1 2. That the applicants be bound by their testimony.

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

3 **ITEM #2 FILE #: 21-29-ZV**

4 Request: Variance request from Section 5.4B of the Zoning Ordinance, as amended on
5 04/08/05, to reduce the side setback from 12' to 6' for a 22' x 44' in-ground pool with
6 surrounding concrete.

7 Owner: Kara and Matthew Durrschmidt

8 Parcel Info: Sheridan Subdivision, Lot 21, 441 Chickamauga Dr., Harpers Ferry, WV
9 Parcel ID: 04009D00210000; Size: 0.83 ac; Zoning District: Residential Growth

10 Mr. Matthew Durrschmidt, property owner, was present to address the Board. Ms. Beaulieu
11 provided an overview of her staff report. Ms. Beaulieu noted that the proposed pool would be
12 located within a platted drainage easement, which also necessitates approval by the Planning
13 Commission. Mr. Durrschmidt explained the nature of the request noting that the majority of the
14 encroachment is the concrete that surrounds the in-ground pool. Mr. Durrschmidt explained the
15 existing drainage conditions and natural topography of the property.

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

17 Mr. Guier moved to approve the variance as requested. Mr. Quynn added that approval be
18 contingent upon approval from the Planning Commission to locate the pool within a drainage
19 easement. Mr. Guier agreed to the condition of approval. Mr. Quynn called for a vote, which
20 carried unanimously.

21 **ITEM #3 FILE #: 21-30-ZV and 21-31-ZV**

22 Request 1: Variance request from Section 4.6 and Appendix B to reduce the distance require-
23 ment from 75' to 25' for a proposed 1,500 sq. ft. office/storage building (proposed
24 Contractor's Office with Outdoor Storage) (21-30-ZV).

25 Request 2: Variance request from Section 4.11 and Appendix B to allow use of existing
26 vegetation in lieu of a planted landscape buffer for a proposed Contractor's Office
27 with Outdoor Storage. The land use includes construction of a 1,500 sq. ft.
28 office/storage building, associated parking, and gravel equipment storage area
29 (21-31-ZV).

30 Owner: Dead Rock Contractor Services, LLC / Chris & Charlene Livingston

31 Parcel Info: Vacant parcels located off Shipley School Road / located between Shipley School and
32 Meadows Farm Nursery, Harpers Ferry, WV
33 Parcel ID: 04000900230000 and 04000900270000; Combined Size: .86 ac;
34 Zoning District: General Commercial

35 Chris and Charlene Livingston, property owners, were present to address the Board. Mr. Quynn
36 requested to hear Request #2 first.

37 Ms. Beaulieu provided an overview of her staff report for Request #2 (File #21-31-ZV). Ms.
38 Beaulieu stated that the correct property address is Harpers Ferry and not Charles Town. Ms.
39 Beaulieu noted that utilizing existing vegetation would allow for a more effective buffer if
40 comprised of mature vegetation rather than newly planted trees and shrubs. Mr. Livingston
41 explained the nature of the request noting that the existing vegetation appears to be in good health.
42 Mr. Livingston stated that they would retain as much of the existing vegetation as possible.

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

2 Ms. Shremshock moved to approve the variance as presented. Mr. Quynn added that the applicant
3 shall maintain a 15' wide vegetative buffer along the side and rear property lines and that the
4 applicants be bound by their testimony.

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

6 Ms. Beaulieu provided an overview of her staff report for Request #1 (File #21-30-ZV). Ms.
7 Beaulieu noted that the adjacent property affected by the request was vacant; therefore, the impact
8 would appear to be minimal. Mr. Livingston explained the nature of the request. Mr. Livingston
9 stated that the proposed location was optimal for construction due to the topography of the lot. Mr.
10 Livingston also stated that the Division of Highways identified the preferred entrance along the
11 western side of the property due to school traffic.

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

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

15 **ITEM #4 FILE #: 21-32-ZV**

16 Request: Variance request from Section 5.4B of the Zoning Ordinance, as amended on
17 11/07/02, to reduce the rear setback from 20' to 15' for a 25' x 16' deck.

18 Owner: Kirk and Charlene Lattner

19 Parcel Info: Deerfield Subdivision, Lot 24, 19 Mossy Oak Dr., Shepherdstown, WV
20 Parcel ID: 09014B00240000; Size: 0.33 ac; Zoning District: Residential Growth

21 Mr. Kirk Lattner, property owner, was present to address the Board. Ms. Beaulieu provided an
22 overview of her staff report noting that the rear of the subject parcel is located adjacent to the
23 Deerfield Village Subdivision's open space. Mr. Lattner explained the nature of the request noting
24 that the deck would be located off the family room.

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

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

28 **ITEM #5 FILE #: 21-33-ZV**

29 Request: Variance request from Section 5.6D of the Zoning Ordinance as amended, to correct
30 previous approval granted by the Board on 03-28-19 (see PC File #19-2-ZV) to
31 reduce the setback from 25' to 21' for an existing 125' tall telecommunications
32 tower, which was built prior to the adoption of zoning in the County. The previous
33 request cited a 75' tall telecommunications tower; however, the correct tower height
34 125'. The physical attributes of the property will remain the same.

35 Owner: Paul & Donna Ashbaugh

36 Parcel Info: 121 Ashland Woods Dr, Harpers Ferry, WV.

37 Parcel ID: 02002100350000; Size: 96.22 ac; Zone: Rural

38 Mr. Quynn inquired who initiated the request. Ms. Beaulieu stated that she initiated the request to
39 correct the previously approved variance which represented that the tower was 75' tall. Ms.
40 Beaulieu noted that Mr. Robert Karam, attorney with American Tower Corporation, and Mr. Scott
41 Stambaugh, Fields Operation Manager with Telegia, were present on ZOOM if the Board had any
42 technical questions related to the request. Ms. Beaulieu provided a detailed history of the subject

1 parcel and an overview of her staff report, noting that the height of the tower had not increased
2 since the Board reviewed the request in 2019. Ms. Beaulieu clarified that the intent of the request
3 was to document the correct height of the existing tower at 125' to ensure the variance remained
4 valid for the subject tower. Ms. Beaulieu noted that the existing tower is considered a
5 nonconforming use as it was constructed prior to the adoption of Article 4B in 2011.

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

7 Mr. Quynn moved to approve the variance correction initiated by staff as presented. Mr. Guier
8 seconded the motion, which carried unanimously.

9 **Zoning Administrator's Report**

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

11 Ms. Beaulieu updated the Board on the status of the following:

12 Zoning Ordinance Text Amendment:

13 • ZTA21-01 (Short Term Rentals): The Planning Commission will hold a public hearing on
14 October 12, 2021.

15 • ZTA21-02 (Appendix A – Residential Setbacks in the Residential Growth zoning district):
16 draft text pending.

17 Comprehensive Plan Text Amendment:

18 • Planning Commission called a special meeting for September 28, 2021 to receive input on a
19 proposed amendment to the Comprehensive Plan.

20 Ms. Beaulieu stated that the next Board meeting would be on October 28, 2021.

21 Mr. Guier noted he would not be present at the October 28, 2021 meeting.

22 **Legal Update**

23 a) Discussion of the following pending lawsuit:

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

25 **Meeting: August 26, 2021**

26 1. Variance from Sec. 5.4B. Owner: J. Cline. File: 21-27-ZV.

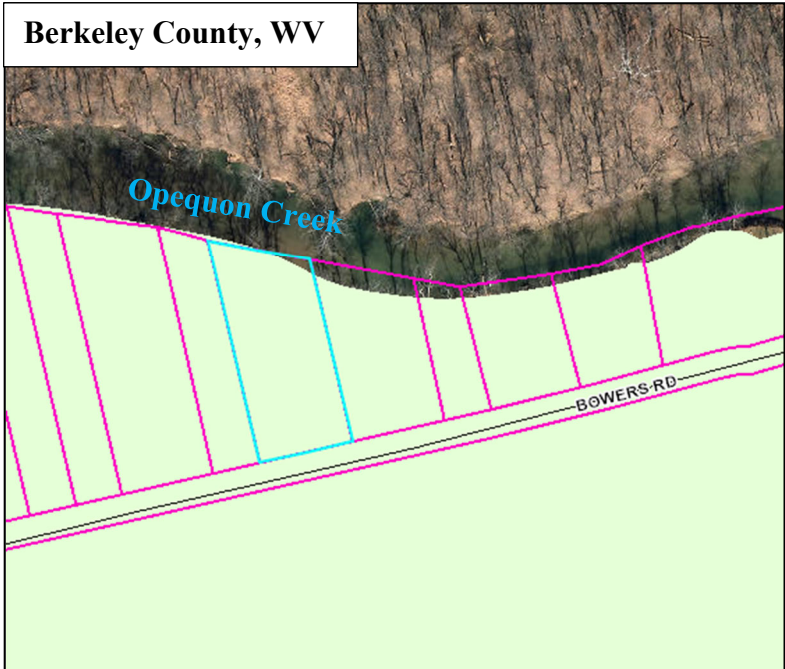
27 Mr. Groh provided Mr. Quynn a copy of the draft Findings for his review and signature.

28 Mr. McKinney moved to adjourn the meeting at 3:25 pm. Mr. Quynn called for a vote, which carried
29 unanimously.

Staff Report
 Jefferson County Board of Zoning Appeals
 October 28, 2021

Arvin Variance Request – Shed 1 (#21-34-ZV)

Item #1 Variance from Section 9.6A to reduce the side setback from 5' to 3' along the western boundary for a 12' x 12' accessory structure.

Applicant:	Toni Arvin
Owner:	Mary Arvin
Developer:	n/a
Consultant:	n/a
Parcel Information and Zoning District:	<p style="text-align: center;">Opequon Forest Park, Lots 4 & 5 1631 Bowers Road, Kearneysville, WV Parcel ID: 07007A00520000; Size: .54 ac (combined); Zoning District: Rural</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Districts: North: Berkeley County, WV East, South, and West: Rural</p>
History:	Opequon Forest Park recorded on 10/26/60 in Deed Book 242; Page 314
Waivers/Variations:	n/a
Approved Activity:	Single Family Dwelling
Site Visit Conducted:	Site Visit Not Conducted.

Summary of Request and Purpose of Ordinance Requirement

Variance request from Section 9.6A to reduce the side setback from 5' to 3' along the western boundary for a 12' x 12' accessory structure.

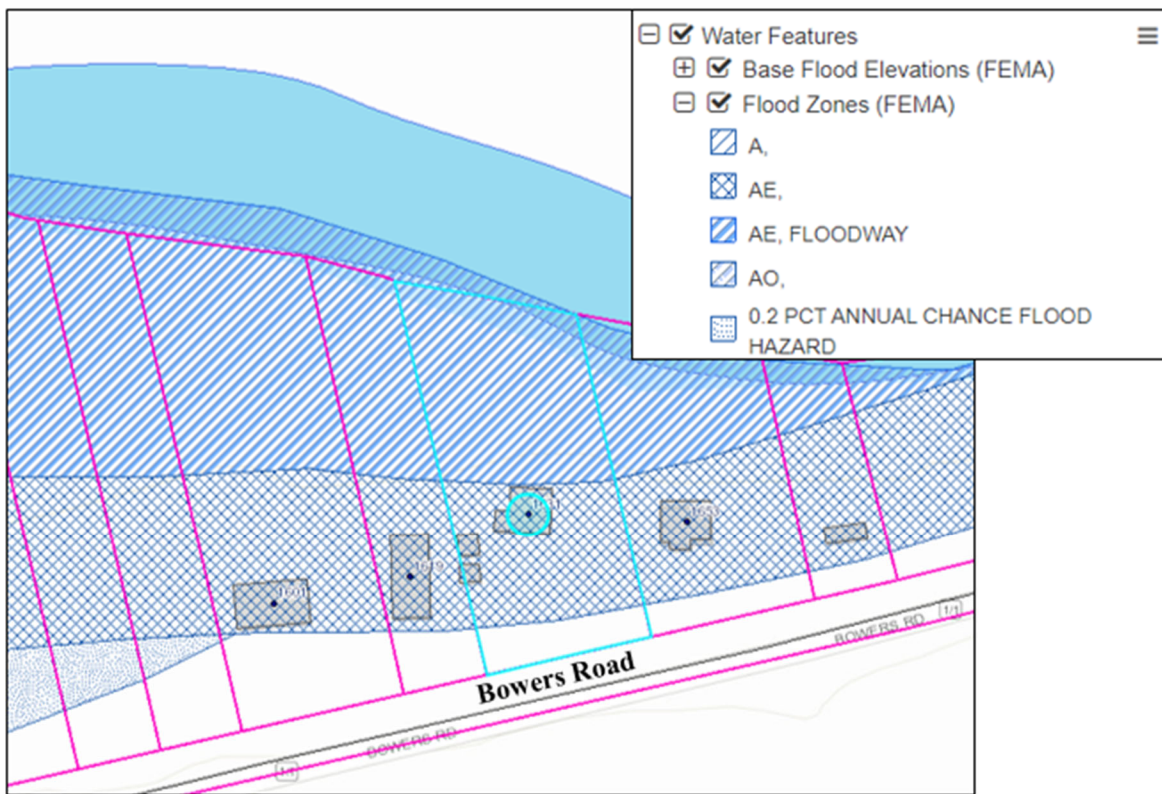
The purpose of side and rear setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of the structure is feasible; to maintain adequate separation between structures for fire prevention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

Staff Report
Jefferson County Board of Zoning Appeals
October 28, 2021

Arvin Variance Request – Shed 1 (#21-34-ZV)

Staff Evaluation of the Request

The subject parcel is designated as Lots 4 and 5 of Opequon Forest Park, 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 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 in the Rural zoning district and the majority of the lots are located primarily within the floodway and/or floodplain areas. The applicant has been provided processing information with regard to the floodplain.



A boundary survey for the adjoining property to the west was recently completed, which revealed that the existing sheds were encroaching onto the adjoining property. Once the property owner(s) were made aware of the issue, they contacted our Office to begin working toward compliance.

As noted above, the bulk of the property is located within the floodplain area, which significantly reduces the buildable area; however, the lot is just over 100 feet wide; therefore, it appears feasible to comply with the required five (5) foot side setback.

Staff was unable to verify the exact timeframe that the structure was placed on the property due to the quality of aerial data; however, based on the Assessor's data, it appears that the shed was placed sometime around 2006 (see exhibit on page 3). It appears that an accessory structure in the proposed location of three (3) feet from the western property line would have minimal impact on the adjoining property and provide adequate space to allow for maintenance of the structure.

Staff Report
 Jefferson County Board of Zoning Appeals
 October 28, 2021

Arvin Variance Request – Shed 1 (#21-34-ZV)



# of Buildings (Cards) 1									
Card	Year Built	Stories	CG	Architectural Style	Exterior Wall	Basement Type	Square Footage (SFLA)	Building Value	
1	1966	1	11	Ranch	Aluminum	Crawl	682	\$34,300	
							682	\$34,300	
Card	Year Built	Attic	Fuel	Heat System	Heat/AC	Bedrooms	Full Baths	Half Baths	Total Rooms
1	1966	None	Electric	Heat Pump	Central A/C	2	1		5
						2	1		5
Other Building and Yard Improvements									
Bldg/ Card #	Line	Type	Year Built	CG	Units	Size	Area	Replace Cost	Adjusted Replace Cost
1	1	Frame Utility Shed	2006	22	1	10x12	120	\$780	\$700
1	2	Frame Utility Shed	2006	22	1	8x10	80	\$520	\$460
					2		200	\$1,300	\$1,160

*Note: the applicant has represented that the subject shed is 12' x 12' in size.

Staff Report
Jefferson County Board of Zoning Appeals
October 28, 2021

Arvin Variance Request – Shed 1 (#21-34-ZV)

It is feasible to comply with the Ordinance by other means. Based on the width of the property, the shed could be relocated to comply with the required five (5) foot side setback; however, the applicant represented that the subject shed serves as the laundry room for the dwelling and has electric and water service available which makes relocating the structure difficult.

Conditions of Approval

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

1. The applicant shall adhere to the provisions of the Floodplain Ordinance and obtain a building permit.
2. The structure shall only be used for personal/residential purposes and shall not be used for non-residential purposes.

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.



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: 21-34-ZV
 Staff Initials: GA
 Meeting Date: 10/28/21
 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: Mary P. Arvin
 Mailing Address: 70 Belview Drive, Martinsburg, WV 25404
 Phone Number: 304-267-4551 Email: N/A

Applicant Contact Information

Name: Toni L. Arvin
 Mailing Address: 70 Belview Drive, Martinsburg, WV 25404
 Phone Number: 304-725-0674 Email: ToniArvin@icloud.com

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

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

Physical Property Details

Physical Address: 1631 Bowers Road
 City: Kearneysville State: WV Zip Code: 25430
 Tax District: Middleway Map No: 7A Parcel No: 52
 Parcel Size: approx. 0.55 acres Deed Book: 314 Page No: 519

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">SEP 21 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: Section 9.6A g

Briefly describe the nature of the variance request:

There are 3 existing sheds that were not placed within the setbacks nor permitted. Two sheds need to be moved to fix an encroachment issue with the western property line. (1) 12'x12' shed 5' to 3' g

If this request is for a setback variance, please check one of the following: side = to not encroaching
Front Setback Side Setback Rear Setback Reduction From _____ to where the shed is currently approx. 12' from Bowers.

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:

Granting the variance will not adversely affect the public health, safety or welfare or the rights of adjacent property owners because the structures are existing and moving 2 on the western property line will fix an encroachment issue.

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 parcel is almost completely covered by the floodplain, which makes relocating the sheds difficult. Also, the larger shed closest to the residence is the laundry room. Electric + water service is ran to that shed, which makes relocation more difficult.

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

Granting the variance would alleviate the current encroachments on the western property line. If the variance is not granted, a financial hardship would encumber the property owner + residents.

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

Granting this variance would bring the current structures into compliance and would alleviate an encroachment issue without forcing the owner into purchasing property from the western adjacent property owner, through a boundary line adjustment.

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.

Mary P. Gavin 9/21/21
Signature of Property Owner Date

Signature of Property Owner Date

Notification Requirements (to be completed by staff)

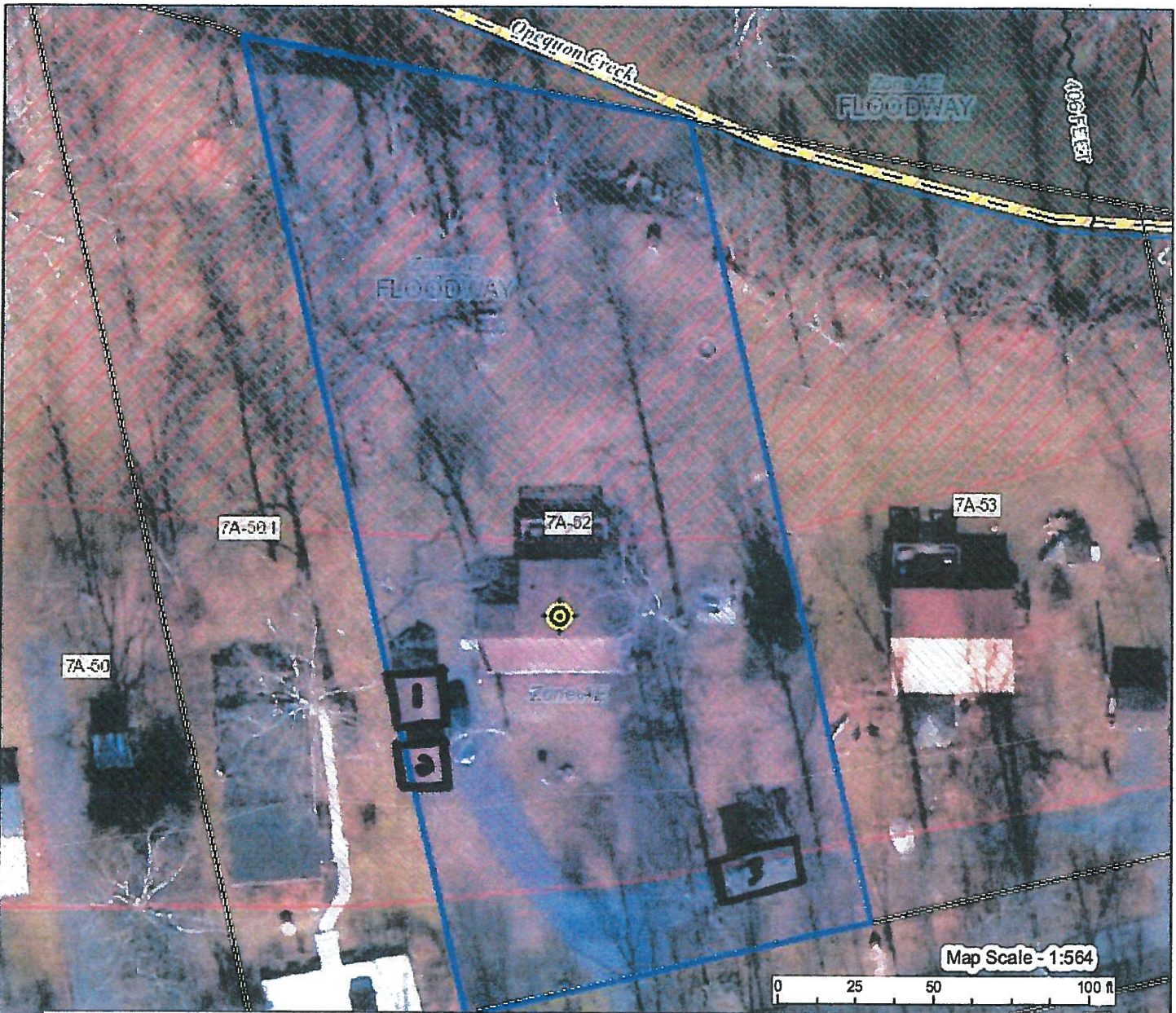
Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant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

10-28-21
Date of Public Hearing

10-13-21
Advertising Date

10-13-21
Placard Posting Date

Arvin Property



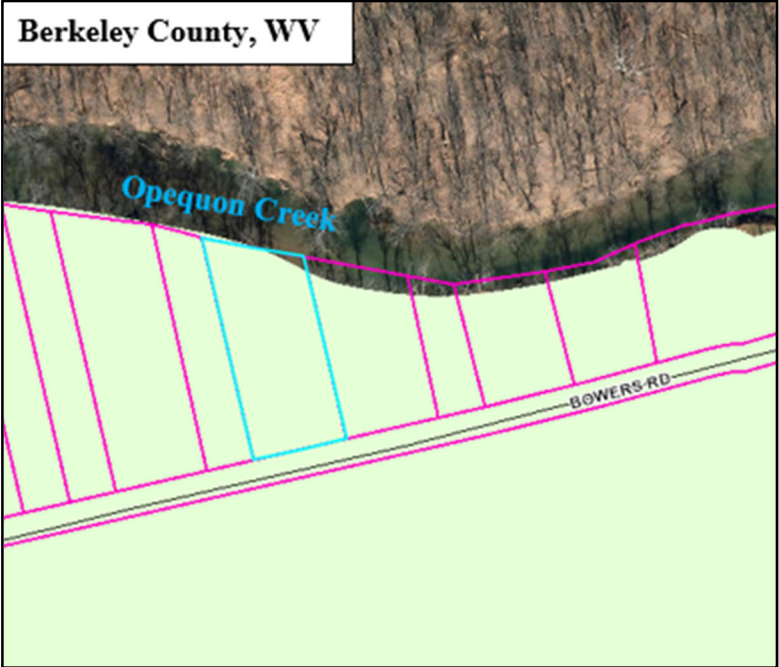
This map is not the official regulatory FIRM or DFIRM. Its purpose is to assist with determining potential flood risk for the selected location. 7-3

H I G H R I S K		1-Percent-Annual-Chance Flood Hazard Area With Base Flood Elevation (BFE)	-⊕- Flood Info Location Map created on 9/16/2021
		Regulatory Floodway in AE Zone	User Shed 1 is approximately 150 sq. ft., shed 2 is approximately 100 sq. ft. Notes and shed 3 is approximately 170 sq. ft.
		1-Percent-Annual-Chance Flood Hazard Area Without BFE (may have Advisory Flood Heights)	Flood Hazard Area Location is WITHIN the FEMA 100-year floodplain.
		1-Percent-Annual-Chance High Risk Advisory	Flood Zone AE Stream Opequon Creek Watershed (HUC8) Conococheague-Opequon (2070004)
Download the Full Legend for all flood tool symbols https://www.mapwv.gov/flood/map/docs/wv_flood_tool_legend.pdf			Flood Height Flood Height 2 406.0 ft (Source: BFE - Non-Restudy) NAVI Water Depth About 4.2 ft (Source: HEC-RAS) Elevation 401.8 ft (Source: FEMA 2012) (NAVD88)
Disclaimer: The online map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. Refer to the official Flood Insurance Study (FIS) for detailed flood elevation data in flood profiles and data tables. WV Flood Tool (https://www.mapwv.gov/flood) is supported by FEMA, WV NFIP Office, and WV GIS Technical Center.			Community & ID Jefferson County (ID: 540065) FEMA Map & Date 54037C0105E; Effective Date: 12/18/2009 Location (lat, long) (39.371812, -77.947122) (WGS84) Parcel ID 19-07-007A-0052-0000 E-911 Address 1631 BOWERS RD, Kearneysville, WV, 25430

Staff Report
 Jefferson County Board of Zoning Appeals
 October 28, 2021

Arvin Variance Request – Shed 2 (#21-35-ZV)

Item #2 Variance from Section 9.6A to reduce the side setback from 5' to 3' along the western boundary for an 8' x 10' accessory structure.

Applicant:	Toni Arvin
Owner:	Mary Arvin
Developer:	n/a
Consultant:	n/a
Parcel Information and Zoning District:	<p style="text-align: center;">Opequon Forest Park, Lot 4s & 5 1631 Bowers Road, Kearneysville, WV Parcel ID: 07007A00520000; Size: .54 ac (combined); Zoning District: Rural</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Districts: North: Berkeley County, WV East, South, and West: Rural</p>
History:	Opequon Forest Park recorded on 10/26/60 in Deed Book 242; Page 314
Waivers/Variations:	n/a
Approved Activity:	Single Family Dwelling
Site Visit Conducted:	Site Visit Not Conducted.

Summary of Request and Purpose of Ordinance Requirement

Variance request from Section 9.6A to reduce the side setback from 5' to 3' along the western boundary for an 8' x 10' accessory structure.

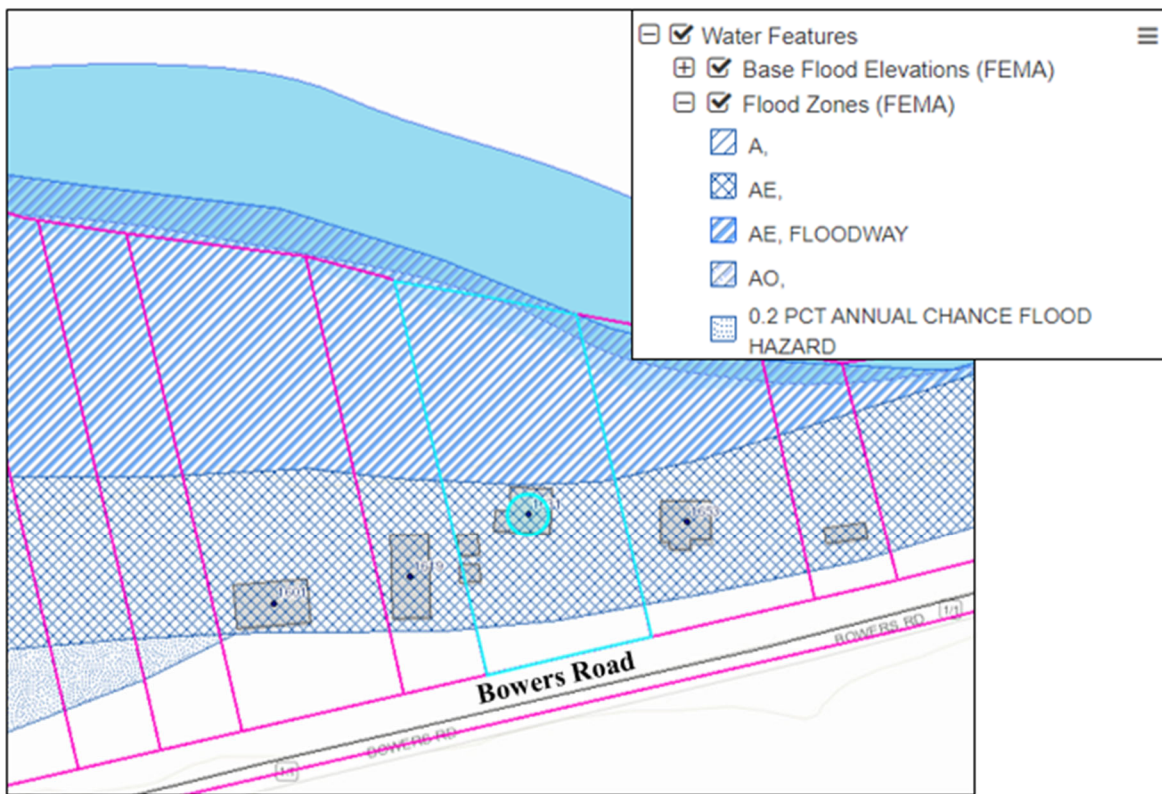
The purpose of side and rear setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of the structure is feasible; to maintain adequate separation between structures for fire prevention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

Staff Report
Jefferson County Board of Zoning Appeals
October 28, 2021

Arvin Variance Request – Shed 2 (#21-35-ZV)

Staff Evaluation of the Request

The subject parcel is designated as Lots 4 and 5 of Opequon Forest Park, 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 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 in the Rural zoning district and the majority of the lots are located primarily within the floodway and/or floodplain areas. The applicant has been provided processing information with regard to the floodplain.



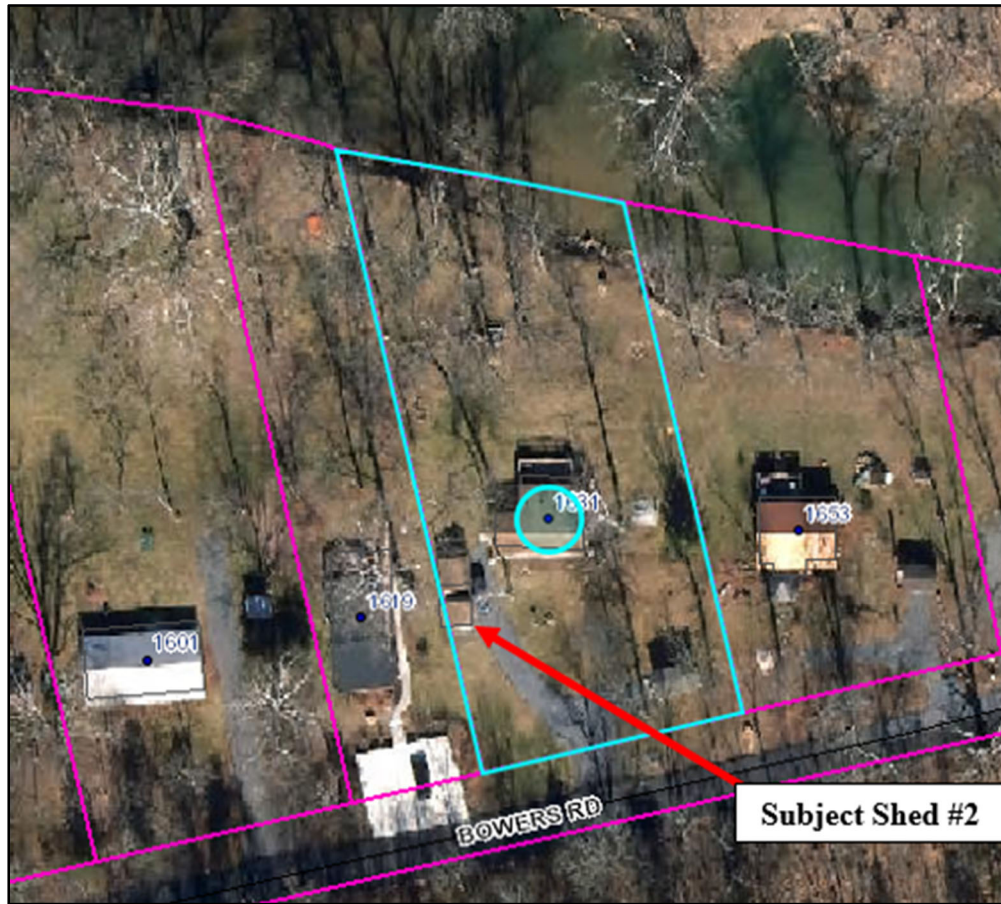
A boundary survey for the adjoining property to the west was recently completed, which revealed that the existing sheds were encroaching onto the adjoining property. Once the property owner(s) were made aware of the issue, they contacted our Office to begin working toward compliance.

As noted above, the bulk of the property is located within the floodplain area, which significantly reduces the buildable area; however, the lot is just over 100 feet wide; therefore, it appears feasible to comply with the required five (5) foot side setback.

Staff was unable to verify the exact timeframe that the structure was placed on the property due to the quality of aerial data; however, based on the Assessor's data, it appears that the shed was placed sometime around 2006 (see exhibit on page 3). It appears that an accessory structure in the proposed location of three (3) feet from the western property line would have minimal impact on the adjoining property and provide adequate space to allow for maintenance of the structure.

Staff Report
 Jefferson County Board of Zoning Appeals
 October 28, 2021

Arvin Variance Request – Shed 2 (#21-35-ZV)



# of Buildings (Cards) 1									
Card	Year Built	Stories	CG	Architectural Style	Exterior Wall	Basement Type	Square Footage (SFLA)	Building Value	
1	1966	1	11	Ranch	Aluminum	Crawl	682	\$34,300	
							682	\$34,300	
Card	Year Built	Attic	Fuel	Heat System	Heat/AC	Bedrooms	Full Baths	Half Baths	Total Rooms
1	1966	None	Electric	Heat Pump	Central A/C	2	1		5
						2	1		5
Other Building and Yard Improvements									
Bldg/ Card #	Line	Type	Year Built	CG	Units	Size	Area	Replace Cost	Adjusted Replace Cost
1	1	Frame Utility Shed	2006	22	1	10x12	120	\$780	\$700
1	2	Frame Utility Shed	2006	22	1	8x10	80	\$520	\$460
					2		200	\$1,300	\$1,160

Staff Report
Jefferson County Board of Zoning Appeals
October 28, 2021

Arvin Variance Request – Shed 2 (#21-35-ZV)

It is feasible to comply with the Ordinance by other means. Based on the width of the property, the shed could be relocated to comply with the required five (5) foot side setback.

Conditions of Approval

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

1. The applicant shall adhere to the provisions of the Floodplain Ordinance and obtain a building permit.
2. The structure shall only be used for personal/residential purposes and shall not be used for non-residential purposes.

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.



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: 21-35-ZV
 Staff Initials: gpi
 Meeting Date: 10/28/21
 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: Mary P. Arvin
 Mailing Address: 70 Belview Drive, Martinsburg, WV 25404
 Phone Number: 304-267-4551 Email: N/A

Applicant Contact Information

Name: Toni L. Arvin
 Mailing Address: 70 Belview Drive, Martinsburg, WV 25404
 Phone Number: 304-725-0674 Email: ToniArvin@icloud.com

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

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

Physical Property Details

Physical Address: 1631 Bowers Road
 City: Kearneysville State: WV Zip Code: 25430
 Tax District: Middleway Map No: 7A Parcel No: 52
 Parcel Size: approx. 0.55 acres Deed Book: 314 Page No: 519

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">SEP 21 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: Section 9.6A gth

Briefly describe the nature of the variance request:

There are 3 existing sheds that were not placed within the setbacks nor permitted. Two sheds need to be moved to fix an encroachment issue with the western property line. (2) 8' x 10' shed 5' to 3' gth

If this request is for a setback variance, please check one of the following: side = to not encroaching
Front Setback Side Setback Rear Setback Reduction From where the shed is currently (approx. 12' from Bowers) 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:

Granting the variance will not adversely affect the public health, safety or welfare or the rights of adjacent property owners because the structures are existing and moving 2 on the western property line will fix an encroachment issue.

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 parcel is almost completely covered by the floodplain, which makes relocating the sheds difficult. Also, the larger shed closest to the residence is the laundry room. Electric + water service is ran to that shed, which makes relocation more difficult.

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

Granting the variance would alleviate the current encroachments on the western property line. If the variance is not granted, a financial hardship would encumber the property owner + residents.

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

Granting this variance would bring the current structures into compliance and would alleviate an encroachment issue without forcing the owner into purchasing property from the western adjacent property owner, through a boundary line adjustment.

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.

Mary P. Quinn 9/21/21
Signature of Property Owner Date

Signature of Property Owner Date

Notification Requirements (to be completed by staff)

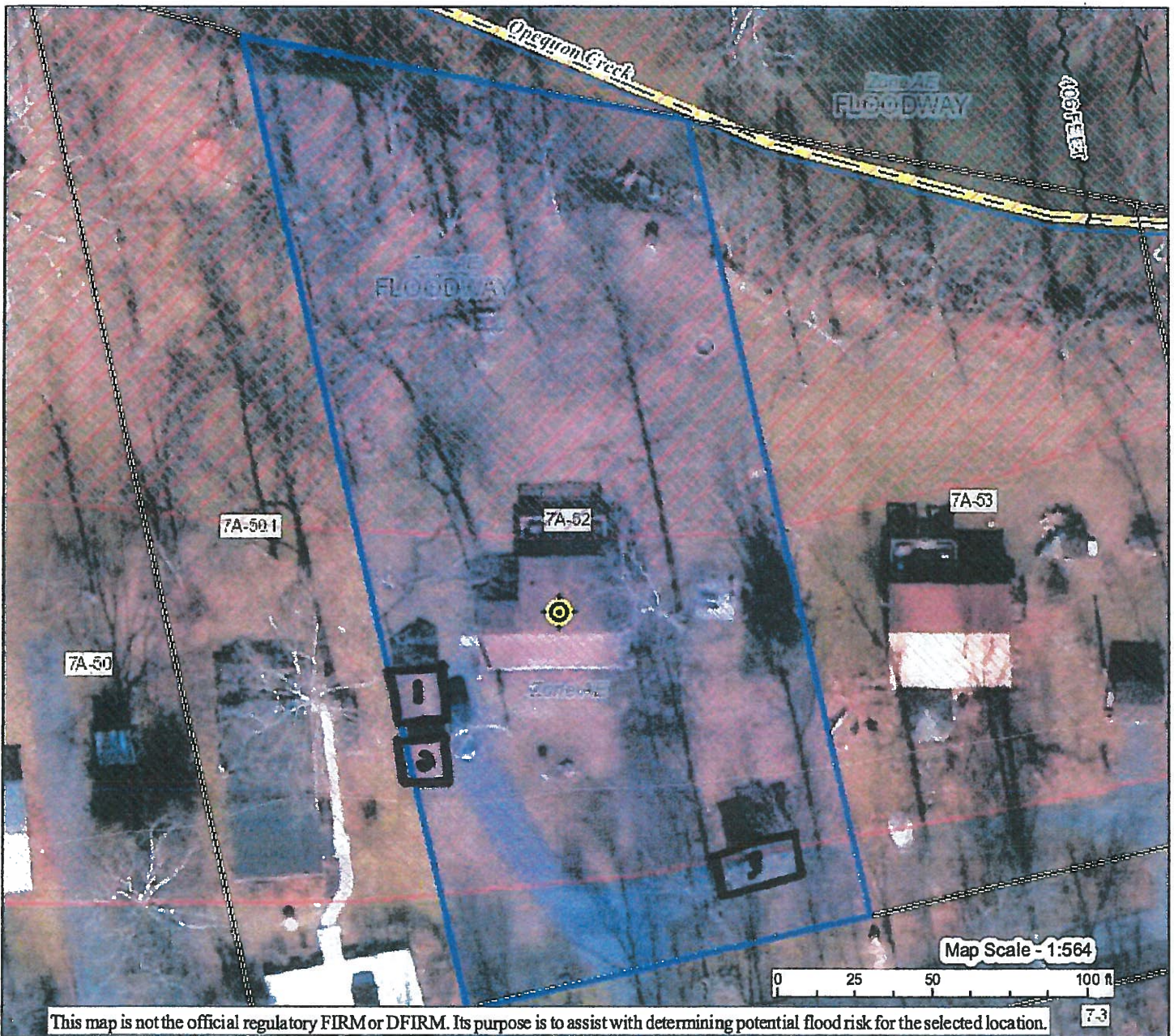
Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant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

10-28-21
Date of Public Hearing

10-13-21
Advertising Date

10-13-21
Placard Posting Date

Arvin Property



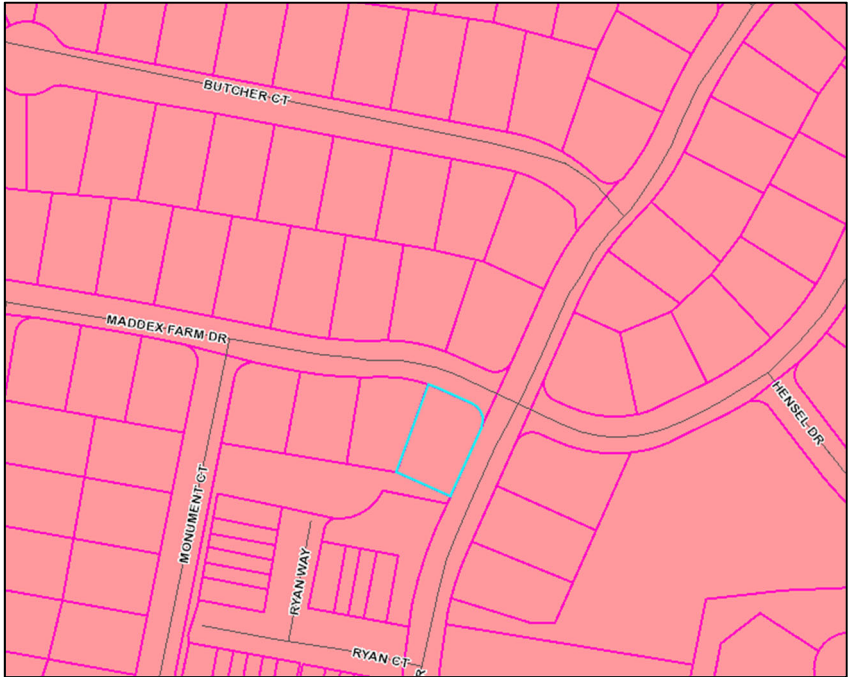
This map is not the official regulatory FIRM or DFIRM. Its purpose is to assist with determining potential flood risk for the selected location.

H I G H R I S K		1-Percent-Annual-Chance Flood Hazard Area With Base Flood Elevation (BFE)		Flood Info Location	Map created on 9/16/2021
		Regulatory Floodway in AE Zone	User Shed 1 is approximately 150 sq. ft., shed 2 is approximately 100 sq. ft. Notes and shed 3 is approximately 170 sq. ft.	Flood Hazard Area Location is WITHIN the FEMA 100-year floodplain.	
		1-Percent-Annual-Chance Flood Hazard Area Without BFE (may have Advisory Flood Heights)	Flood Zone AE Stream Opequon Creek Watershed (HUC8) Conococheague-Opequon (2070004)	Flood Height Flood Height 2 406.0 ft (Source: BFE - Non-Restudy) NAVI Water Depth About 4.2 ft (Source: HEC-RAS)	
		1-Percent-Annual-Chance High Risk Advisory	Elevation 401.8 ft (Source: FEMA 2012) (NAVD88) Community & ID Jefferson County (ID: 540065) FEMA Map & Date 54037C0105E; Effective Date: 12/18/2009 Location (lat, long) (39.371812, -77.947122) (WGS84) Parcel ID 19-07-007A-0052-0000 E-911 Address 1631 BOWERS RD, Kearneysville, WV, 25430		
Download the Full Legend for all flood tool symbols https://www.mapwv.gov/flood/map/docs/wv_flood_tool_legend.pdf					
Disclaimer: The online map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. Refer to the official Flood Insurance Study (FIS) for detailed flood elevation data in flood profiles and data tables. WV Flood Tool (https://www.mapwv.gov/flood) is supported by FEMA, WV NFIP Office, and WV GIS Technical Center.					

Staff Report
 Jefferson County Board of Zoning Appeals
 October 28, 2021

Bowers Variance Request (#21-36-ZV)

Item #3 Variance from Section 9.6C to allow an accessory structure within the required front yard; and Section 5.4B of the 01/10/02 Zoning Ordinance (as amended) to reduce the front setback from 25' to 15' for a proposed 18' x 40' in-ground pool with surrounding concrete.

Applicant:	Tessa Lind and Jeffrey Bowers Jr.
Owner:	Same
Developer:	n/a
Consultant:	n/a
Parcel Information and Zoning District:	<p style="text-align: center;">Lot 98 of the Maddex Farm Subdivision, 47 Maddex Farm Dr. Shepherdstown, WV Parcel ID: 09008C01580000; Size: .25 ac Zoning District: Residential-Light Industrial-Commercial (RLIC)</p> 
Surrounding Properties:	Zoning Districts: North, East, South, and West: Residential-Light Industrial-Commercial
History:	
File # Project Name	Recording Info
84-04 Maddex Court I (apartments)	PB: 7, PG: 9
86-18 Maddex Professional Offices , Phase 1	PB: 7, PG: 42
89-32 Maddex Square Shopping Center, Lots 3-6 (Food Lion and outsale lots)	PB: 8, PG: 73
90-60 Maddex Farm, Phase II, Lots 1-31 TH & Lot A Residue	PB: 10, PG: 41
91-24 Maddex Farm, Phase I, Lot 1 (University Heights Apt)	PB: 10, PG: 58
92-33 Maddex Farm, Phase III, Section 1 Lots 1-11, 19-21, Lot A-Residue	PB: 12, PG: 5
94-16 Maddex Farm, Phase IV, Tracts 1 (pharmacy), 2 & 3-Residue	PB: 13, PG: 2
95-03 Maddex Farm, Phase III, Sec 2, Lots 12-18; Sec 3, Lots 22-28, Lot A-Residue	PB: 13, PG: 33

Staff Report
 Jefferson County Board of Zoning Appeals
 October 28, 2021

Bowers Variance Request (#21-36-ZV)

95-34 Maddex Farm, Phase IV, Tract 2A & 2B (Pharmacy & Hotel)	PB: 14, PG: 41
02-04 Maddex Farm, Phase I, Lots 75-112, 184 & Lot A Residue	PB: 20, PG: 12
04-13 Maddex Farm, Lots 53-74, 113-119, 161-183, 185-186, Lot A-Residue	PB: 21, PG: 22
04-18 Maddex Square Shopping Center (BLA of Lots 4 & 5)	PB: 20, PG: 66
05-05 Maddex Farm, Phase III, Lots 1-14, 25-27, 136-160, 187-202 & Lot A Residue	PB: 22, PG: 7
06-07 Maddex Farm, Phase IV, Lots 15-24, 28-52 & 120-135	PB: 23, PG: 77
Waivers/Variations:	n/a
Approved Activity:	Single Family Dwelling
Site Visit Conducted:	Site Visit Not Conducted.

Summary of Request and Purpose of Ordinance Requirement

Variance from Section 9.6C to allow an accessory structure within the required front yard; and, Section 5.4B of the 01/10/02 Zoning Ordinance (as emended) to reduce the front setback from 25' to 15' for a proposed 18' x 40' in-ground pool with surrounding concrete.

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

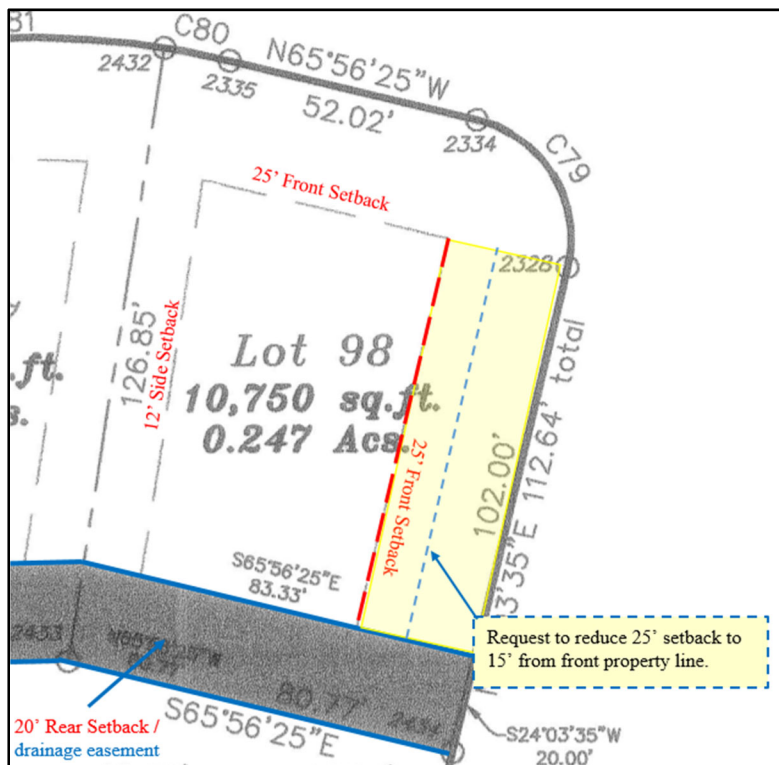
The subject parcel is designated as Lot 98 in Phase I of Maddex Farm, which was recorded on June 16, 2003 in [Plat Book 20; Page 12 \(A-D\)](#). This subdivision was processed under the 01/10/02 Zoning

Ordinance; therefore, the following setbacks would apply to the subject lot:

25' Front; 12' Side; and 20' Rear.

The subject Lot 98 is a corner lot as it fronts two platted rights-of-way, Maddex Farm Drive and Maddex Drive. Lot 98 was platted with two (2) front yard designations, each subject to a 25' front setback. Additionally, a 20' wide storm drain easement was platted within the entire rear setback area, which significantly reduces the buildable area. The property line subject to the request fronts Maddex Drive.

Plat Note #19 acknowledges the limited buildable area for the lots within the Maddex Farm Subdivision and states,



Staff Report
Jefferson County Board of Zoning Appeals
October 28, 2021

Bowers Variance Request (#21-36-ZV)

“Although this subdivision is in technical compliance with [the] Jefferson County Land Development Ordinance, *several lots have geometry that may limit future construction of decks, pools, sheds, and other accessory structure[s]*” (see Note 19 listed on [Plat Book 20 @ Page 12D](#) - emphasis added).

Impact on adjoining properties is expected to be minimal since the reduction will occur along a platted right-of-way. Both Maddex Farm Drive and Maddex Drive are platted 50’ wide rights-of-way, with approximately 20’ of paved surface area; therefore, it is not expected that either road will be widened.

Traffic visibility is not expected to be impacted since the furthest projection into the setback area is 10’ to accommodate the proposed concrete patio area that will surround the in-ground swimming pool. Additionally, as the applicant represented in their application, the areas to the side and rear of the house (“backyard”) are enclosed with a six (6) foot tall privacy fence.



It may be feasible to comply with the Ordinance by other means if the dimensions of the proposed pool were modified or if the existing deck were modified to accommodate for the proposed pool; however, as noted previously, there does not appear to be any negative impact on adjoining properties and there are no known plans to widen Maddex Drive.

Staff Report
Jefferson County Board of Zoning Appeals
October 28, 2021

Bowers Variance Request (#21-36-ZV)

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 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 5.4b Residential Growth District - Height And Yard Requirements

Development Type	Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)	Required Yards	Maximum Building
Single family detached dwelling	6,000 sq. ft. MLA**	25 ft. front	40 ft.
Public/Central water and sewer	10,000 sq. ft. ADU	12 ft. side	
Public/Central water or sewer	20,000 sq. ft. MLA	20 ft. rear	
No Public/Central water or sewer	40,000. Sq. ft. MLA		

[Staff Note: parcels located within the RLIC zone are required to use the RG setbacks.]



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: 21-36-ZV
 Staff Initials: AB
 Meeting Date: 10-28-21
 Fees Paid (\$100 or \$150): \$100.00
chk# 737

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: JEFFREY BOWERS JR. AND TESSA LIND BOWERS
 Mailing Address: 47 MADDEX FARM DRIVE, SHEPHERDSTOWN, WV
 Phone Number: (304) 240-9211 Email: jeffandtessabowers@gmail.com

Applicant Contact Information

Name: JEFFREY BOWERS JR. AND TESSA LIND BOWERS
 Mailing Address: 47 MADDEX FARM DRIVE, SHEPHERDSTOWN, WV
 Phone Number: (304) 240-9211 Email: jeffandtessabowers@gmail.com

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

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

Physical Property Details

Physical Address: 47 MADDEX FARM DRIVE, SHEPHERDSTOWN, WV
 City: SHEPHERDSTOWN State: WV Zip Code: 25443
 Tax District: 9 - SHEPHERDSTOWN Map No: 008C Parcel No: 0158
 Parcel Size: .254 ACRES Deed Book: ~~1121~~ 1121 Page No: 364

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"/>	
<p>RECEIVED</p> <p>OCT 04 2021</p> <p>JEFFERSON COUNTY PLANNING ZONING & ENGINEERING <small>Place Received Date Stamp Here</small></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: ~~6.2 VARIANCES~~ 5.4B + 9.6C

Briefly describe the nature of the variance request:

WE REQUEST A VARIANCE TO REDUCE THE SETBACK ON THE SIDE OF OUR YARD, WHICH IS CONSIDERED A FRONT SETBACK BECAUSE WE ARE ON A CORNER LOT, TO BEST ACCOMMODATE THE INSTALLATION OF AN IN GROUND POOL AND PATIO.

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

Front Setback Side Setback Rear Setback Reduction From 25 to 15

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:

MOVING THIS SETBACK WILL ALLOW FOR A PROJECT TO BE COMPLETED THAT WILL NOT BE SUBSTANTIALLY MORE VISIBLE NOR OBSTRUCT SIGHTLINES THAN IF IT WERE CONSTRUCTED BY OBSERVING THE CURRENT SETBACK. NO ONE WOULD BE ADVERSELY

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

AS NOTED ON MADDER FARM PLAT, (NOTE 1A) MANY LOTS ARE LIMITED TO FUTURE CONSTRUCTION, INCLUDING POOLS, DUE TO DESIGN. WE REQUEST THIS VARIANCE TO MINIMIZE THE IMPACT OF THIS DESIGN.

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


THIS VARIANCE WILL ALLOW US TO INSTALL A POOL AND PATIO IN THE SAFEST WAY POSSIBLE BY ALLOWING MORE SPACE BETWEEN THE POOL AND HOME AND GENERALLY ALLOWING MORE SPACE TO BE UTILIZED FOR ENJOYMENT THAT WOULD OTHERWISE BE UNUSABLE.

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

OUR BACK YARD IS SURROUNDED BY A SIX FOOT PRIVACY FENCE, SO ALLOWING THIS VARIANCE WILL NOT SUBSTANTIALLY INCREASE VISIBILITY NOR WILL IT OBSTRUCT SIGHTLINES. WE ARE NOT AWARE OF ANY POTENTIAL ISSUES THAT GO AGAINST GOALS OF

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

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

 9/21/21
Signature of Property Owner Date

Tessa J Bowers 9/28/21
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).

October 28, 2021
Date of Public Hearing

October 13, 2021
Advertising Date

October 13, 2021
Placard Posting Date

(SHEET 1) DETAILS

John
9/21/21

HOUSE

117 MADDEX FARM DRIVE

EXISTING DECK

EXISTING PATIO

SAFETY FENCE FOR POOL

APPRX AREA FOR POOL/PATIO CONSTRUCTION

REQUESTED 15' SETBACK VARIANCE

CURRENT 25' SETBACK

PROPOSED PATIO ADDITION

18'

40'

20' SETBACK

EASEMENT

ROAD (MADDEX DRIVE)

BACK YARD

COMMUNITY DRAINAGE AREA

PROPERTY LINE / 6' FENCE

*Dimensions provided by applicant 10/05/21 - gtt

RECEIVED

OCT 04 2021

JEFFERSON COUNTY PLANNING ZONING & ENGINEERING

21-36-ZV

LOT/HOUSE

(SIDE 2) SURROUNDING LOTS

LOT/HOUSE

← MADDET FARM DRIVE

CANAL WAY
↓

EASEMENT

PROPERTY LINE
↓

FENCE

← MADDET DRIVE →

LOT/HOUSE

HOUSE

HOUSE

417 MADDET FARM DR.

EASEMENT

APPT AREA OF POOL/PATIO CONSTRUCTION

15' PROP. VARIANCE

FENCE/PROPERTY LINE

PATIO

DECK

PATIO

12' SETBACK

25' SETBACK

20' SETBACK

PROPERTY LINE/FENCE
↑

COMMUNITY DRAINAGE AREA

RECEIVED

LOT/HOUSE 015051

STATE OF TEXAS
ENGINEERING
SETBACK VARIANCE IN COUNTY PLANNING

JR
9/21/21



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@jeffersoncountvww.org

Phone: (304) 728-3228

Zoning Administrator's Report October 28, 2021 Board of Zoning Appeals Meeting

Date of Memo: October 19, 2021

1) **Text Amendments:**

- ZTA21-01 – Short Term Rentals
 - 10/12/21: The Planning Commission held a public hearing. Following the public hearing, the Planning Commission made minor revisions to the proposed text and made a motion to forward the draft amendment to the County Commission with a recommendation that the proposed text was consistent with the Comprehensive Plan.
- ZTA21-02 – 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. – No Update.

2) **Planning Commission Special Meetings**

- The Planning Commission held special meetings on September 28 and October 5 to begin working on an amendment to the Comprehensive Plan to clarify and secure the role of alternative energy, specifically regarding solar energy facilities, in the rural and residential growth zoning districts.
- A Public Hearing will be held on December 7, 2021 on the Planning Commission's draft amendment to the Comprehensive Plan.

3) **Upcoming BZA meeting**

- The next regular meeting is scheduled for **November 18, 2021** (deadline for submission is Monday, October 25, 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

October 2021
Zoning Certificate Activity Report

File #	21-22-ZC
Request:	Restaurant, Fast Food (Ice Cream Stand)
Property Owner:	Santos Ceron and Tayde Rios
Parcel Info:	677 Millville Rd., Harpers Ferry, WV. Parcel ID: 04011A000410000; Size: .48 ac; Zoning District: Industrial Commercial; Deed Book: 1192; Page: 493
Date of Issuance:	Expired
File #	21-42-ZC
Request:	Nonconforming Use – 198’ Telecommunications Tower Modifications: installation of three (3) new antennas and unmanned equipment in an existing fenced in compound.
Property Owner:	Sarah Walker, et al
Applicant:	SBA Network Services, LLC., Attn: Andrew Martin
Parcel Info:	67 Granny Smith Ln., Kearneysville, WV 25430 Parcel ID: 07000300220000; Size: 77 acres; Zoning District: Rural; Deed Book: 882; Page: 493; PC File: S02-18
Date of Issuance:	09-21-2021
File #	21-44-ZC
Request:	Accessory Dwelling Unit: In-Law Suite
Property Owner:	Joseph and Christine Martin
Parcel Info:	3735 Summit Point Rd., Charles Town, WV 25414 Parcel ID: 06001600160000; Size: ~54 acres; Zoning District: Rural; Deed Book: 1197; Page: 245
Date of Issuance:	09-30-2021
