

**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.