

Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: October 28, 2021
- 2 Meeting Location: By order of the Chair, the Board of Zoning Appeals meeting was held
3 in-person in the Charles Town Library Conference Room; and virtually
4 via ZOOM.
- 5 Board Members Present: Tyler Quynn, Chair; Deirdre Catterton, Vice Chair (ZOOM),
6 Leeds Corbin, Matt McKinney, and Mikala Shremshock, Alternate
- 7 Board Members Absent: Steve Guier was absent with notice
- 8 Staff Members Present: Alexandra Beaulieu, Zoning Administrator and Jennilee Hartman,
9 Zoning Clerk

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

11 Mr. McKinney 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: September 23, 2021**

15 Mr. Corbin 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 #: 21-34-ZV and 21-35-ZV**

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

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

22 Owner: Mary Arvin

23 Applicant: Toni Arvin

24 Parcel Info: Opequon Forest Park, Lots 4 & 5, 1631 Bowers Road, Kearneysville, WV

25 Parcel ID: 07007A00520000; Size: .54 ac (combined); Zoning District: Rural

26 Ms. Laura Hoffmaster, property owner's representative, was present to address the Board. Ms.
27 Beaulieu provided an overview of her staff report for the first request (21-34-ZV) noting that the
28 majority of the property is located within the floodplain. Ms. Beaulieu explained that the subject
29 shed had water and electric service and functioned as a laundry room. Ms. Beaulieu confirmed that
30 the sheds subject to the two variance requests had not obtained a building permit and that it appeared
31 they had had been constructed sometime between 2005-2006, per the assessment records. Ms.
32 Hoffmaster explained the nature of the request noting that relocating the sheds five (5) feet from the
33 property line would place the sheds within the existing driveway.

34 Mr. Quynn opened the public hearing. Ms. Tara Brady, adjoining neighbor to the west, spoke in
35 opposition to the requests arguing that the sheds could be relocated to another area on the property
36 while maintaining the five (5) foot setback requirement.

37 Mr. Quynn stated that the Board would evaluate request number two (21-35-ZV). Mr. Quynn asked
38 if Ms. Hoffmaster would like to present the request. Ms. Hoffmaster stated that the shed subject to
39 the second request was used to store the lawn mower and other similar tools and confirmed that the
40 second shed did not have electric service.

41 Mr. Quynn inquired as to the location of the well. Ms. Hoffmaster stated that she was uncertain of
42 the location of the well.

1 As the public hearing had not been closed, Mr. Quynn entertained additional public testimony.

2 Ms. Brady stated that the sheds are currently on her property and they need to be moved off of her
3 property. Ms. Brady reiterated that the sheds should be required to comply with the five foot setback
4 as required by the Zoning Ordinance.

5 Mr. Quynn closed the public hearing.

6 Ms. Beaulieu stated that the same application was used for both sheds and confirmed that based on
7 the information provided to the office, the subject shed did not contain electric or water. Ms.
8 Beaulieu stated that based on the floodplain map, it did not appear that the house was within the
9 floodway area. Ms. Beaulieu noted that the sheds would be required to comply with the floodplain
10 ordinance requirements and obtain a building permit.

11 Mr. McKinney moved to deny variances 21-34-ZV and 21-35-ZV. Mr. Quynn added that the denial
12 was based on the testimony provided and that the request did not appear to meet the required criteria
13 for a variance. Mr. McKinney accepted Mr. Quynn's addition. Mr. Quynn called for a vote, which
14 carried unanimously.

15 Ms. Catterton noted that she had to leave the meeting due to a previous engagement (2:36 p.m.).

16 **ITEM #2 FILE #: 21-36-ZV**

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

21 Owner: Tessa Lind and Jeffrey Bowers, Jr.

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

25 Mr. Jeffrey Bowers, property owner, was present to address the Board. Ms. Beaulieu provided an
26 overview of her staff report noting that as the subject parcel was a corner lot, it was platted with two
27 front setbacks. Ms. Beaulieu also noted that the rear yard was platted with a 20' storm drainage
28 easement within the entire rear setback area. Mr. Bowers explained the nature of the request noting
29 that the subject location was ideal for the pool as it was relatively flat. Mr. Bowers noted that the
30 entirety of the pool would be located outside of the front setback and a portion of the concrete patio
31 area would be located within the setback area. Mr. Bowers confirmed that he had received approval
32 from the Homeowner's Association (HOA).

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 with the following conditions:

35 1. That the applicant be bound by their testimony.

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

37 **Zoning Administrator's Report**

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

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

40 Zoning Ordinance Text Amendment:

- 1 • ZTA21-01 (Short Term Rentals): The Planning Commission held a public hearing on
2 October 12, 2021 and noted that the revised amendment had been forwarded to the County
3 Commission
- 4 • ZTA21-02 (Appendix A – Residential Setbacks in the Residential Growth zoning district):
5 draft text pending.

6 Ms. Beaulieu noted that there were no actionable items for the November 18, 2021 meeting.

7 Ms. Shremshock moved to suspend the November 18, 2021 meeting as there were no actionable
8 items on the agenda. Mr. Quynn called for a vote, which carried unanimously.

9 **Legal Update**

10 a) Discussion of the following pending lawsuit: None.

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

12 **Meeting: September 23, 2021**

13 1. Variance from App. A. Owner: JCDA/TeMa. Applicant: Howard Shockey & Sons.
14 File: 21-28-ZV.

15 2. Variance from Sec. 5.4B. Owner/Applicant: Kara and Matthew Durrschmidt.
16 File: 21-29-ZV.

17 3. Variance from Sec. 4.6 and App. B. Owner: Dead Rock Contractor Services, LLC.
18 File: 21-30-ZV.

19 4. Variance from Sec. 4.11 and App. B. Owner: Dead Rock Contractor Services, LLC.
20 File: 21-31-ZV.

21 5. Variance from Sec. 5.4B. Owner: Kirk and Charlene Lattner. File: 21-32-ZV.

22 6. Variance from Sec. 5.6D. Owner: Paul & Donna Ashbaugh. File: 21-33-ZV.

23 Note: As Mr. Groh, Assistant Prosecuting Attorney, was not present for the meeting, he
24 provided Mr. Quynn copies of the draft Findings for his review and signature before the
25 meeting.

26 Mr. Corbin moved to adjourn the meeting at 2:52 pm. Mr. Quynn called for a vote, which carried
27 unanimously.