

Minutes
Jefferson County Board of Zoning Appeals

1 Meeting Date: January 27, 2022
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,
6 Steve Guier, Matt McKinney, and Mikala Shremshock, Alternate
7 Board Members Absent: Leeds Corbin was absent with notice
8 Staff Members Present: Alexandra Beaulieu, Zoning Administrator, Steve Groh, Assistant
9 Prosecuting Attorney, Mason Carter, Floodplain Manager,
10 Jennilee Hartman, Zoning Clerk, and Tanya Lyons, Planning Clerk

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

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

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

15 **Election of Officers**

16 Ms. Catterton nominated Mr. Quynn as Chair. Ms. Shremshock seconded the nomination, which
17 carried unanimously.

18 Mr. Quynn nominated Ms. Catterton as Vice Chair. Mr. McKinney seconded the nomination, which
19 carried unanimously.

20 Mr. Quynn presided over the remainder of the meeting as Chair.

21 **Approval of Minutes: October 28, 2021**

22 Mr. Guier moved to approve the minutes as presented, which carried unanimously.

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

24 **ITEM #1 FILE #: 21-37-ZV and 21-38-ZV**

25 Request 1: Variance from Appendix B to reduce the non-residential side setback requirement
26 from 50' to 15' along the northern property line to allow for placement of a 12' x 24'
27 pre-built shed to be used for equipment storage related to a proposed landscaping
28 business (21-37-ZV).

29 Request 2: Variance from Section 10.4B.3 to reduce the front setback from 25' to 10' for a 6' x
30 19" free-standing sign; and, Section 10.4B.4 to allow said freestanding sign to face a
31 residence (21-38-ZV).

32 Owner: Stephen Patrick Snyder, Snyder's Property Squad, LLC

33 Parcel Info: Riverside Subdivision, Sec. 7A, Lot 735, 38 Marcum Lane, Harpers Ferry, WV
34 Parcel ID: 06002601510000; Size: 1.18 ac; Zoning District: Rural

35 Mr. Stephen Snyder, property owner, was present to address the Board. Ms. Beaulieu provided an
36 overview of her staff reports for both requests (21-37-ZV and 21-38-ZV). Ms. Beaulieu noted that
37 while the proposed land use is permissible in the rural zoning district, the land use would not comply
38 with the required nonresidential setbacks. Ms. Beaulieu stated that if the proposed land use expands
39 to include heavy equipment than the applicant may need to process a conditional use permit.

40 Mr. Snyder explained the nature of the proposed business and the sign request, noting that the
41 proposed sign face dimensions would be 6' long and about 19" tall. He stated that the materials
42 would be a live edge piece of wood attached to a 4' x 4' post in the ground.

1 Mr. Quynn opened the public hearing. Mr. Josh Welsh, local resident, spoke in support of the
2 request noting that this request would support small business ventures.

3 Mr. Quynn closed the public hearing.

4 Mr. McKinney moved to approve both variance requests with the following conditions:

5 1. The applicant is bound by their testimony; and,

6 2. The applicant will abide by all other rules and regulations pertaining to the business.

7 Mr. Quynn called for a vote on item #21-37-ZV, which carried unanimously.

8 Mr. Quynn called for a vote on item #21-38-ZV, which carried unanimously.

9 **ITEM #2 FILE #: 21-39-ZV**

10 Request: Variance from Section 9.6C to allow an accessory structure within the required front
11 yard; and Section 9.7 to reduce the front setback from 25' to 10' and the side setback
12 from 12' to 10' along the western boundary line for a proposed 24' x 24' detached
13 garage with an apartment.

14 Owner: Brandon and Alexi Darr

15 Parcel Info: Hidden River Subdivision, Sec. 1, Lot 7, Our Lane (vacant lot), Kearneysville, WV
16 Parcel ID: 07001800300000; Size: 1.08 ac; Zoning District: Rural

17 Mr. Brandon Darr, property owner, was present to address the Board. Ms. Beaulieu provided an
18 overview of her staff report noting that the majority of the property is located within the floodplain.
19 Mr. Darr explained the nature of the request to the Board.

20 Mr. Quynn opened the public hearing. Mr. Richard Godfrey, neighbor, spoke in opposition to the
21 request. Mr. Godfrey explained that the WVDOH installed a culvert under the road that drains to the
22 subject property. Mr. Godfrey expressed concern that constructing a home closer to the road would
23 block the culvert, thus causing the drainage to back up onto his property (located across the street).

24 Mr. Quynn closed the public hearing.

25 In rebuttal, Mr. Darr confirmed that there is a culvert located in the front of the property and that the
26 proposed dwelling unit would be located to the left of the culvert.

27 Mr. McKinney expressed concern that Section 9.6C regarding accessory structures was included in
28 the request. Ms. Beaulieu clarified that the intent of including this section in the request was in
29 anticipation of the proposed structure being converted from a dwelling unit to an accessory structure.
30 Ms. Beaulieu explained that the proposed apartment in the garage would have to be eliminated
31 should a separate dwelling unit be constructed, as a second dwelling unit would not be permitted on
32 the subject lot. Ms. Beaulieu noted that exclusion of Section 9.6C from the request may necessitate
33 another variance should they choose to convert the structure to an accessory structure.

34 Mr. McKinney moved to approve the variance from Section 9.7 to reduce the front setback from 25'
35 to 10' and the side setback from 12' to 10' along the western boundary line for a proposed 24' x 24'
36 detached garage with an apartment with the condition that the applicant is bound by their testimony.
37 Mr. Quynn seconded them motion, which carried unanimously.

1 **ITEM #3 FILE #: 21-40-ZV**

2 Request: Variance from Section 11.1A – Non-Residential Parking Standards to request that
3 the requirement to install permanent off-street parking on the property be waived.
4 The applicant has obtained approval from the WV State Rail Authority to utilize the
5 existing Duffields train station parking lot on weekends.

6 Subject Parcel Information:

7 Owner: Historic Landmarks Commission
8 Parcel Info: 84 Melvin Rd., Shenandoah Junction, WV
9 Parcel ID: 09024A00110000; Size: .36 ac; Zoning District: Rural

10 Duffields Parcel Information:

11 Owner: WV DOT State Rail Authority
12 Parcel Info: 5027 Flowing Springs Rd., Shenandoah Junction, WV; Parcel ID: 09002400080001
13 and 09002400080002; Combined acreage: 4.7 ac; Zoning District: Rural

14 Mr. Martin Burke, representative for the Historic Landmarks Commission (HLC), was present to
15 address the Board via ZOOM. Ms. Beaulieu provided an overview of her staff report noting that the
16 majority of the property is located within the floodplain. Mr. Burke explained the nature of the
17 request to the Board. Addressing the Boards' questions, Mr. Burke explained how the public would
18 access the museum from the proposed parking area in the Marc Train parking lot. Mr. Burke
19 explained that that the museum would be open to the public on weekends only, from 11:00 a.m. –
20 3:00 p.m. Mr. Burke explained that hours of operation are contingent on the availability of
21 volunteers. The Board expressed concern regarding public safety, as the public would be directed to
22 walk across the railroad tracks and along a state road. Mr. Burke noted that the HLC is actively
23 exploring alternative properties that are closer to the museum property to be used as parking.

24 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
25 closed the public hearing.

26 Ms. Shremshock moved to deny the request noting that the applicant had not met the burden of
27 proof for obtaining a zoning variance. Mr. Quynn called for a vote, which carried unanimously.

28 **ITEM #4 FILE #: 21-41-ZV**

29 Request: Request from Section 9.6C to allow an accessory structure within the required front
30 yard; and Section 9.7 to reduce the front setback requirement from 40' to 20' for
31 proposed 32' x 26' accessory structure (carport).

32 Owner: Kelly Mahoney (Nolder)
33 Parcel Info: Rolling Stone Est., Lot J-3, 211 John Brown Farm Ct., Harpers Ferry, WV
34 Parcel ID: 06000800080009; Size: 5.19 ac; Zoning District: Rural

35 Ms. Kelly Mahoney, property owner, was present to address the Board. Ms. Beaulieu provided an
36 overview of her staff report noting that there appears to be a discrepancy between the recorded plat
37 and the County's tax parcel data. Ms. Beaulieu acknowledged that tax map data is informational
38 only and is not a legal representation of the parcel lines. Ms. Mahoney explained the nature of the
39 request to the Board noting that the property corners were clearly marked. Ms. Mahoney added that
40 the neighboring property in question has not objected to the surveyed property line and that she has
41 right of first refusal should they wish to sell the property. Ms. Mahoney addressed questions from
42 the Board, confirming that the carport would be an open-sided / pavilion type structure.

1 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
2 closed the public hearing.

3 Ms. Catterton moved to approve the variance with the following conditions:

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

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

6 **ITEM #5 FILE #: 22-1-ZV**

7 Request: Variance from Section 9.6C to allow an accessory structure within the required front
8 yard; and Section 9.7 to reduce the front setback from 20' to 15' for a proposed 28' x
9 30' detached garage.

10 Owner: Tommy & Kimberlin Staubs

11 Parcel Info: Cavalier Subdivision, Lot 5, 88 Cavalier Dr., Harpers Ferry, WV
12 Parcel ID: 04007A00200000; Size: .41 ac; Zoning District: Rural

13 Mr. Tommy Staubs, property owner, was present to address the Board. Ms. Beaulieu provided an
14 overview of her staff report. Ms. Beaulieu explained that while the recorded plat indicates that
15 Cavalier Drive is 40' in width, a representative with the WVDOH verified that their right-of-way is
16 30' in width. Staff was unable to verify where the remaining 10' was designated; therefore, the exact
17 location of the front property line is unknown. Ms. Beaulieu also noted that while there is a power
18 line along the road frontage, Staff was unable to verify whether a utility easement existed in this
19 location. Ms. Beaulieu stated that it appears the applicant measured 15' from the centerline of the
20 right-of-way and not from the front property line. Ms. Beaulieu stated that based on the property
21 line discrepancy and the applicant's sketch reflecting that the garage would be 15' from the center of
22 the road right-of-way, the garage may be less than one foot from the edge of the right-of-way.
23 Ms. Beaulieu confirmed that the legal ad cited the requested reduction from 20' down to 15', as
24 opposed to the probable location of approximately 0-1'. Mr. Staubs explained the nature of the request
25 to the Board noting that the WVDOH was not opposed to the placement of garage. Mr. Staubs also
26 informed the Board that he had attempted to contact the utility company but had not yet heard back
27 from them.

28 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
29 closed the public hearing.

30 Ms. Catterton moved to approve the variance with the condition that the applicant be bound by their
31 testimony. Mr. Quynn made an amendment to the original motion to include as a condition of
32 approval that Staff re-advertise the request via a corrected legal ad in the Spirit of Jefferson and for
33 the placard to remain posted for 30-days. Ms. Catterton accepted the amendment. Mr. McKinney
34 seconded the amended motion. Mr. Quynn called for a vote, which carried unanimously.

35 Ms. Catterton moved to call a recess at 3:53 pm. Mr. Quynn called for a vote, which carried
36 unanimously.

37 Mr. McKinney moved to go back into regular session at 4:10 pm. Mr. Quynn called for a vote,
38 which carried unanimously.

39 **ITEM #6 FILE #: 22-2-ZV**

40 Request: Variance request from Section 5.4B (01/10/02 Zoning Ordinance, as amended) to
41 reduce the side setback from 12' to 4'; and the rear setback from 20' to 13' for a
42 proposed 16' x 40' in-ground pool with surrounding concrete.

1 Owner: Joel Menges
2 Parcel Info: Maddex Farm Subdivision, Lot 100, 222 Maddex Dr, Shepherdstown, WV
3 Parcel ID: 09008C01600000; Size: .27 ac; Zoning District: Residential-Light
4 Industrial-Commercial

5 Mr. Joel Menges, property owner; and Mr. Josh Welsh, contractor, were present to address the
6 Board. Ms. Beaulieu provided an overview of her staff report. Ms. Beaulieu stated that the requested
7 side setback reduction would apply to the northern property line, which would not impact the
8 existing drainage easement along the southern property line. Mr. Welsh explained the nature of the
9 request to the Board noting that the pool was intended for therapeutic use. Mr. Welsh also explained
10 that due to the natural slope of the property, the proposed location was optimal for drainage.

11 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
12 closed the public hearing.

13 Mr. McKinney moved to approve the variance with the following condition:

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

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

16 **ITEM #7 FILE #: 22-3-ZV**

17 Request: Variance request from Sections 9.5(b) and 5.7(b) (04/08/05 Zoning Ordinance, as
18 amended), to reduce the side setback from 15' to 0' for a 9' tall privacy fence.

19 Owner: Donald Pine

20 Parcel Info: John and Barbara Plunket Minor Subdivision, Lot 2,
21 989 Engle Molers Rd, Harpers Ferry, WV.
22 Parcel ID: 04000300010007; Size: 1.48 ac; Zoning District: Rural

23 Mr. Donald Pine, property owner, was present to address the Board. Ms. Beaulieu provided an
24 overview of her staff report noting that fences and walls taller than 6' in height are required to meet
25 building setbacks. Mr. Pine explained the nature of the request to the Board noting that the 6'
26 privacy fence would be erected on top of a 3' retaining wall. Mr. Pine explained that due to the slope
27 of the property, a retaining wall is necessary to direct water runoff.

28 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
29 closed the public hearing.

30 Mr. McKinney moved to approve the variance with the following condition:

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

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

33 **ITEM #8 FILE #: 22-1-CUP and 22-4-ZV**

34 Request 1: Request for a Conditional Use Permit to operate as a Contractor with Outdoor Storage,
35 as defined in Article 2. The applicant is proposing to expand an existing emergency
36 vehicle outfitting and retrofitting professional office. The proposal consists of
37 constructing a new 1,500 square foot building to house vehicles and a workshop for
38 the outfitting work.

39 Request 2: Variance request from Section 4.10A to waive the requirement to process a site plan
40 for a proposed expansion to an existing commercial building.

41 Owner: Raymond & Kerry Muth / Executive Emergency Lighting LLC

1 Parcel Info: Wilmoth Construction Subdivision, Lot 1, 21 Southpaw Lane, Shepherdstown, WV
2 Parcel ID: 09014BWAT10000; Size: 1.54 ac; Zoning District: Rural

3 Mr. Ray Muth, property owner; and Mr. Paul Raco, consultant with P.J. Raco Consulting LLC, was
4 present to address the Board. Ms. Beaulieu reviewed the conditional use permit criteria as outlined
5 in her staff report. Mr. Raco provided a detailed overview of the history of the property and the
6 proposed land use. Mr. Muth addressed questions from the Board pertaining to the building
7 construction and orientation.

8 At the Board's request, Ms. Beaulieu provided an overview of her staff report for the zoning
9 variance. Ms. Beaulieu noted that a site plan had previously been approved for the existing building
10 and storage area. Ms. Beaulieu noted that some of the landscaping that was reflected on the Site Plan
11 appeared to have been removed over the years. Ms. Beaulieu suggested that as a condition of
12 approval that the Board could require the applicant to extend the existing rear buffer along the length
13 of the proposed building Mr. Raco agreed with the proposed condition and noted that when the
14 original site plan processed, a buffer would not have been required along the northern boundary
15 between two non-residential uses.

16 There were no members of the public present to provide public comment.

17 Mr. Guier moved to approve the conditional use permit with the condition that the applicant be
18 bound by their testimony. Ms. Shremshock seconded the motion, which carried unanimously.

19 Ms. Catterton moved to approve the zoning variance with the condition that the applicant be bound
20 by their testimony. Mr. Quynn offered an amendment to the motion to include that the applicant
21 shall replace the one street tree in the front and maintain the existing landscaping; and that the rear
22 landscape buffer be extended along the full length of the proposed addition. Ms. Catterton accepted
23 the friendly amendment. Ms. Shremshock also offered a friendly amendment to include that the
24 dumpster shall be screened in accordance with Section 4.11F. Ms. Catterton accepted Ms.
25 Shremshock's friendly amendment. Mr. Quynn called for a vote on the amendment motion, which
26 carried unanimously.

27 **Zoning Administrator's Report**

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

29 b. Approval of the 2022 Board of Zoning Appeals Meeting Schedule.

30 Ms. Catterton moved to approve the proposed meeting schedule for 2022. Mr. Quynn called
31 for a vote, which carried unanimously.

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

33 Zoning Ordinance Text Amendment:

- 34 • ZTA21-01 (Short Term Rentals): The County Commission approved the text amendment,
35 which went into effect on 12/02/21.

36 Ms. Beaulieu noted that the next meeting was scheduled for February 24, 2022.

37 **Legal Update**

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

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

1 **Meeting: October 28, 2021**

2 1. Variance from Sec. 9.6A. Owner: M. Arvin. File: 21-34-ZV.

3 2. Variance from Sec. 9.6A. Owner: M. Arvin. File: 21-35-ZV.

4 3. Variance from Sec. 9.6C & 5.4B. Owner: J. Bowers. File: 21-36-ZV.

5 Mr. Quynn was provided a copy of the Findings prior to the meeting for his signature.

6 Ms. Catterton moved to adjourn the meeting at 4:52 pm. Mr. Quynn called for a vote, which carried
7 unanimously.