



**Jefferson County**  
**Board of Zoning Appeals**  
**Thursday, April 28, 2022 at 2:00 p.m.**

Members  
Tyler Quynn, Chair  
Deirdre Catterton, Vice Chair  
Matthew McKinney  
Leeds Corbin  
Steven Guier  
Mikala Shremshock, Alternate

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This meeting will be held both in-person and virtually via ZOOM, which may be accessed from a desktop, laptop, iPad, or from a phone. You will be prompted to download the software or the ZOOM app, where applicable.

**In-person Meeting Location:** County Commission Meeting Room located in the lower level of the Charles Town Library (entrance on Samuel St.)  
200 East Washington Street, Charles Town, WV 25414

**ZOOM Meeting Information:** Meeting ID: 896 3131 6686  
Meeting Link: <https://us02web.zoom.us/j/89631316686>  
Phone Option (Dial by Location): 301-715-8592  
Find your local number: <https://us02web.zoom.us/u/kcH5EHtm9Z>

If you wish to participate virtually in public comment for one of the agenda items, please type your name and agenda item # in the chat function at the start of the meeting. Please mute yourself when you are not talking. When participating, please be mindful that your video is streaming to others.

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**All requests are pursuant to the Zoning & Land Development Ordinance.**

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**Approval of Minutes: March 24, 2022**

**Public Hearing – Administer Oath**

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**ITEM #1 FILE #: 22-11-ZV**

**Request:** Variance from Section 9.6C to allow an accessory structure within the required front yard; and Section 9.7 to reduce the front setback from 20' to 5' for a proposed 36' x 26' detached three car garage.

**Owner:** Tommy & Kimberlin Staubs

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

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**ITEM #2 FILE #: 22-12-ZV**

**Request:** Variance from Section 9.7 to reduce the front setback from 40' to 18' for a proposed 7' x 23' two-story addition to the front of an existing home.

**Owner:** Brian King

**Parcel Info:** 76 Brierly Spring Lane, Shepherdstown, WV  
Parcel ID: 09001000060000; Size: 4.07 ac; Zoning District: Rural

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**ITEM #3 FILE #: 22-13-ZV**

**Request:** Variance from Section 9.7 to reduce the side setback along the southern property line from 15' to 3' for a 12' long deck; and to reduce the side setback along the northern property line from 15' to 6-inches for a 12' long deck with 8' long stairs.

**Owner:** Potomac Cottage / Robert Starkey

**Parcel Info:** 1523 Knott Road, Shepherdstown, WV,  
Parcel ID: 09011A00360000; Size: .24 ac; Zoning District: Rural

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**ITEM #4 FILE #: 22-2-CUP**

**Request:** Request for a Conditional Use Permit to operate a *Restaurant, Fast Food, Limited* as defined in Article 2. The applicant is proposing to operate as a food vendor offering menu items such as ice cream, hotdogs, sandwiches, drinks, etc. The operation will be conducted from a stationary food truck and a 10' x 10' tent with a bench and two picnic tables will be provided for customer seating. Dates/Hours of Operation: April 1 through October 31: Wednesday through Sunday from 1:00 pm until dark. Plus Monday and/or Tuesday depending on various Holidays (ex: Memorial Day Weekend). Temporary signage as depicted in the application will be displayed.

**Owner:** John Staubs

**Applicant:** D and E Novelties / David and Evelyn Naille

**Parcel Info:** 3807 Chestnut Hill Road, Harpers Ferry, WV

Parcel ID: 04000800120000; Size: 1.9 ac; Zoning District: Rural

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**ITEM #5 FILE #: 22-3-CUP**

**Request:** Request for a Conditional Use Permit to operate a Day Care Center, Large, as defined in Article 2. The applicant is proposing to operate a daycare center from an existing residence to provide child-care for up to twelve (12) children. Hours of Operation: Monday through Friday from 6:00 am to 5:00 pm. Onsite parking and an attached business sign are proposed.

**Owner:** Tiffanie Fridley

**Applicant:** Tiff's Tiny Tots

**Parcel Info:** 2235 Old Cave Rd., Charles Town, WV

Parcel ID: 02001700030000; Size: 1.95 ac; Zoning District: Rural

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**ITEM #6 FILE #: 22-14-ZV**

**Request:** Variance from Section 9.7 to reduce the rear setback from 50' to 20' for a 40' x 100' accessory structure.

**Owner:** Clifford Ramey

**Parcel Info:** Hidden River Farm, Wide Horizon, Pt 1, Lots 9-11, 1079 Archer Road, Kearneysville, WV

Parcel ID: 07001300560000; Size: 3.3 ac (total); Zoning District: Rural

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**ITEM #7 FILE #: 22-15-ZV**

**Request:** Variance from Appendix A to reduce the front setback from 40' to 3'; the side setback from 15' to 3'; and the rear setback from 50' to 3' for an 8' tall block and stone fence/wall to be constructed along the eastern property line.

**Owner:** Kanette Petry

**Applicant:** John Petry

**Parcel Info:** French Road Minor Subdivision, Lot 4, 245 Summerfield Way, Shenandoah Junction, WV

Parcel ID: 09002000110004; Size: 5 ac; Zoning District: Rural

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**ITEM #8 FILE #: 22-16-ZV**

**Request:** Variance from Section 4.11E to allow a modified landscape buffer along the eastern property line for a proposed Large Gas Station (Sheetz).

**Owner:** Guy Chicchirichi

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

**Parcel Info:** Vacant parcel at the intersection of Route 340 and Augustine Avenue, Charles Town, WV

Parcel ID: 02001600010000; Proposed Size: 4.4 ac; Zoning District: Highway Commercial

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**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: March 24, 2022**

1. Variance from Section 5.7B. Owner: Palmer. File: 22-5-ZV.
2. Variance from Section 5.4B. Owner: Marc. Saccucci. File: 22-6-ZV.
3. Variance from Section 9.7. Owner: Cheryle Rapattoni. File: 22-7-ZV.
4. Variance from Section 9.7. Owner: Cheryle Rapattoni. File: 22-8-ZV.



**DRAFT Minutes**

**Jefferson County Board of Zoning Appeals**

- 1 Meeting Date: March 24, 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 (via ZOOM); Deirdre Catterton, Vice Chair,  
6 Steve Guier, and Matthew McKinney.  
7 Board Members Absent: Leeds Corbin and Mikala Shremshock, alternate member, were absent  
8 with notice.  
9 Staff Members Present: Alexandra Beaulieu, Zoning Administrator, Stephen Groh, Assistant  
10 Prosecuting Attorney, Jennilee Hartman, Zoning Clerk

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

12 Ms. Catterton presided over the meeting as she was in attendance in person.

13 Mr. Guier moved to call the meeting to order at 2:00 pm. Ms. Catterton called for a vote, which  
14 carried unanimously.

15 Ms. Catterton reviewed meeting protocol for those in attendance.

**16 Approval of Minutes: February 24, 2022**

17 Mr. McKinney moved to approve the minutes. Ms. Catterton called for a vote, which carried  
18 unanimously.

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

**20 ITEM #1 FILE #: 22-9-ZV**

- 21 Request: Variance request from Section 5.4B of the Zoning Ordinance, as amended on  
22 04/08/05, to reduce the side setback from 12' to 5'; and to reduce the rear setback  
23 from 20' to 5' for a 22' x 44' in-ground pool including surrounding concrete.  
24 Owner: Melissa and Lucas Palmer  
25 Parcel Info: Sheridan Subdivision, Lot 160, 68 Wilderness Ct., Harpers Ferry, WV  
26 Parcel ID: 04009D01600000; Size: 0.388 ac; Zoning District: Residential Growth

27 Mr. Lucas Palmer and Ms. Melissa Palmer, property owners, were present via ZOOM to address the  
28 Board. Ms. Beaulieu provided an overview of her staff report noting that the buildable area for the  
29 subject parcel was limited due to the shape of the lot and blanket drainage/utility easements pursuant  
30 to Note #15 of the Final Plat. Mr. Palmer explained the nature of the request to the Board.

31 Ms. Catterton opened the public hearing. No members of the public provided testimony. Ms. Catterton  
32 closed the public hearing.

33 Mr. Guier moved to approve the variance with the following conditions:

- 34 1. That the applicant be bound by their testimony.  
35 2. The Planning Commission shall approve the placement of the pool in the easement.

36 Mr. McKinney seconded the motion, which carried unanimously.

**37 ITEM #2 FILE: 22-10-ZV**

- 38 Request: Variance request from Section 8.9A.10 to modify the 50' landscape buffer  
39 requirement along a limited access highway for a proposed four (4) lot nonresidential  
40 subdivision. The request includes splitting the required buffer to allow for a portion of

1 the buffer along the north and south sides of the frontage road (as opposed to  
2 providing the full 50' on one side of the frontage road). The request also includes a  
3 maximum reduction from 50' to 37' for a small portion of the buffer at the narrowest  
4 point between the cul-de-sac and the property line.

5 Owner: B.C. Partners, Inc. / Contact: Dan Snyder, P.E.

6 Parcel Info: Northeast Corner of US Route 340 and WV Route 24, Old Country Club Road,  
7 Charles Town; Parcel ID: 04001100110000; Size: 9.54 ac;  
8 Zoning District: Residential-Light Industrial-Commercial

9 Mr. Dan Snyder, applicant and Mr. Paul Raco, land use consultant with P.J. Raco Consulting, were  
10 present to address the Board. Ms. Beaulieu provided an overview of her staff report noting that the  
11 proposed design appeared to meet the intent of the Zoning Ordinance. She stated that Staff did not  
12 have the administrative discretion to alter a standard in the Zoning Ordinance and any deviation  
13 from the required standards necessitated a variance. Ms. Beaulieu further stated that the applicant,  
14 as acknowledged in their application, would still be required to install the required street trees along  
15 the frontage. Mr. Raco explained the nature of the request to the Board. The Board asked questions  
16 pertaining to the design of the proposed development as well as for clarification as to the width of  
17 the Division of Highways buffer area within their right-of-way. Mr. Raco addressed the Board's  
18 questions, noting that the unscreened buffer area within the Division of Highways right-of-way  
19 varied between 50 feet – 80 feet.

20 Ms. Catterton opened the public hearing. No members of the public provided testimony. Ms. Catterton  
21 closed the public hearing.

22 Ms. McKinney moved to approve the variance with the following condition:

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

24 Mr. Guier seconded the motion, which carried unanimously.

## 25 **Zoning Administrator's Report**

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

27 Ms. Beaulieu noted that the next meeting was scheduled for April 28, 2022.

## 28 **Legal Update**

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

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

## 31 **Meeting: February 24, 2022**

32 1. Variance from Section 5.7B. Owner: Timmy and Sherry Britton. File: 22-5-ZV.

33 2. Variance from Section 5.4B. Owner: Marc. Saccucci. File: 22-6-ZV.

34 3. Variance from Section 9.7. Owner: Cheryle Rapattoni. File: 22-7-ZV.

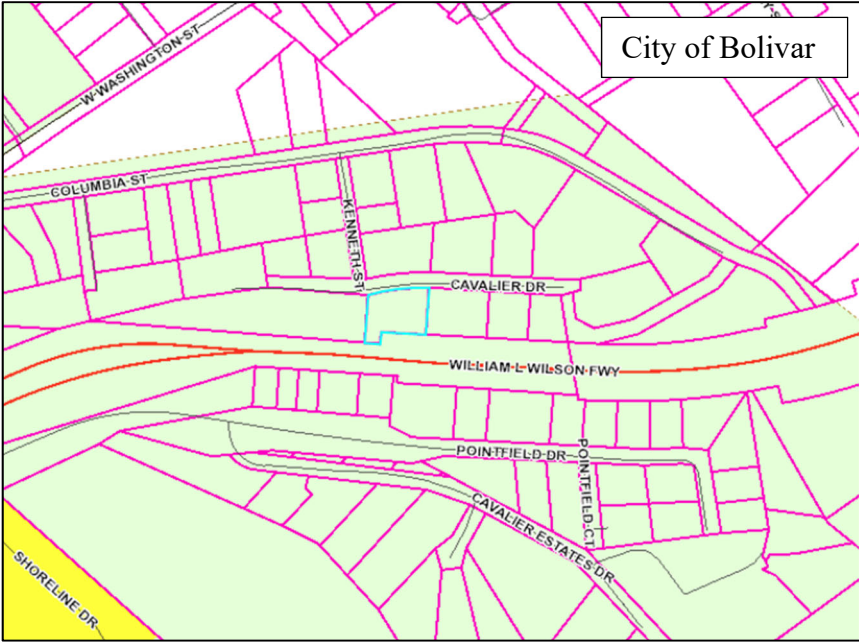
35 4. Variance from Section 9.7. Owner: Cheryle Rapattoni. File: 22-8-ZV.

36 Ms. Catterton was provided a copy of the draft Findings for her review. Ms. Catterton stated  
37 she would return the signed findings to the office.

38 Mr. Quynn moved to adjourn the meeting at 2:32 pm. Ms. Catterton called for a vote, which carried  
39 unanimously.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 28, 2022  
**Staubs Variance Request (#22-11-ZV)**

Item #1 Variance from Section 9.6C to allow an accessory structure within the required front yard; and Section 9.7 to reduce the front setback from 20' to 5' for a proposed 36' x 26' detached three car garage.

Applicant:	Tommy & Kimberlin Staubs
Owner:	Same as above
Consultant:	N/A
Parcel Information and Zoning District:	<p>Cavalier Subdivision, Lot 5, 88 Cavalier Dr., Harpers Ferry, WV          Parcel ID: 04007A00200000; Size: .41 ac; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Map Designation: North, East, South, West: Rural
History:	None
Waivers/Variations:	01/27/22: BZA granted reduction of front setback from 20' to 1'.
Approved Activity:	Residential
Site Visit Conducted:	Yes – 01/20/22

**Summary of Request and Purpose of Ordinance Requirements**

The applicant is requesting a variance from Section 9.6C to allow an accessory structure within the required front yard; and Section 9.7 to reduce the front setback from 20' to 5' for a proposed 36' x 26' detached garage.

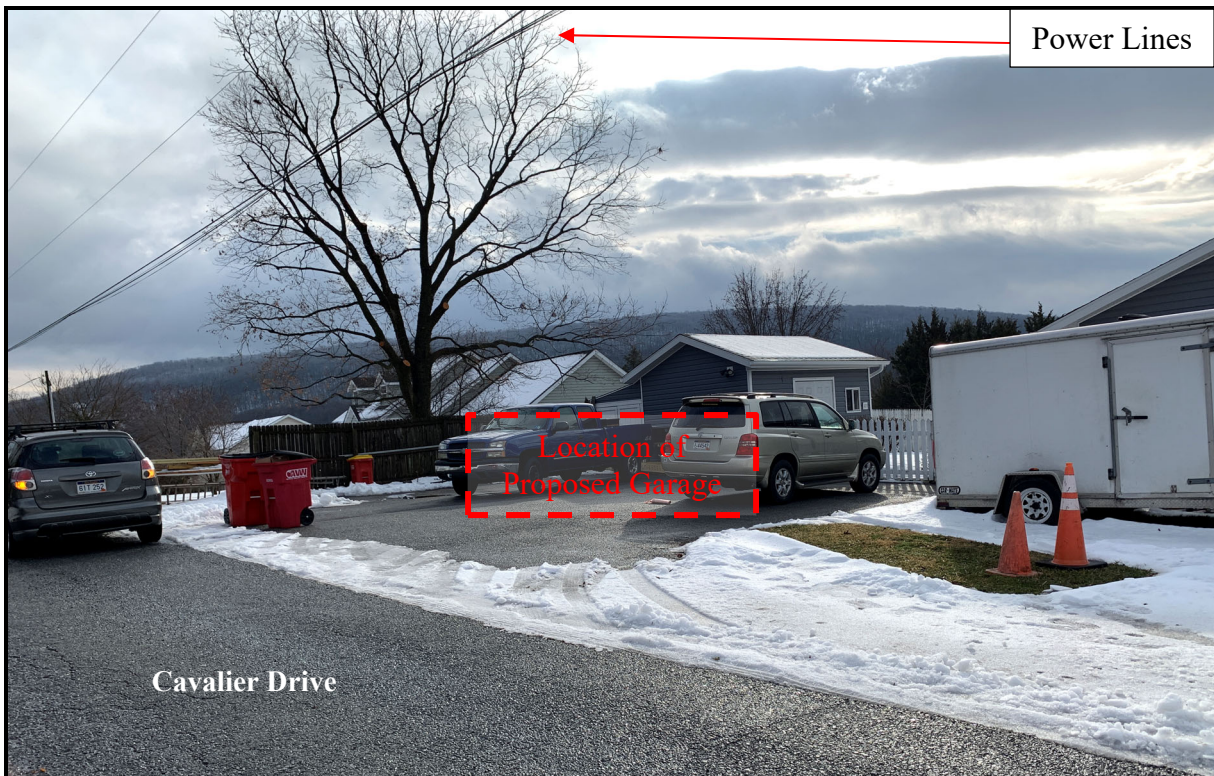
A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that traffic visibility is not impaired for drivers along the right-of-way.



Staff Report  
Jefferson County Board of Zoning Appeals  
April 28, 2022  
**Staubs Variance Request (#22-11-ZV)**

There is an existing power line within close proximity to the proposed structure. Following the January 27, 2022, the utility company verified that there is no utility easement in this location.

As noted during the January 27, 2022 meeting, a plat from 1958 indicates that Cavalier Drive is 40 feet wide; however, the Division of Highways provided a copy of commissioner's orders from July 2000 documenting that the right-of-way width is 30-feet. There is no record of how the remaining 10-feet of right-of-way was allocated.



The reason the subject request is before the Board once again is that the applicant has modified the building plans to increase the size of the structure linearly by five feet to make it a three car garage (as opposed to a two-car garage as originally represented). Additionally, the configuration of the garage will be modified so that the garage doors face Cavalier Drive, as opposed to the original configuration where they were perpendicular to Cavalier Drive. The modified configuration will now place the vehicles entering and exiting from the garage directly onto Cavalier Drive.

It may be feasible to comply with the Ordinance by other means if the proposed garage were constructed to the west of the home. Based on the applicant's representation, they intend to utilize the existing driveway for the location of the garage as that is where they have historically parked their vehicles.

Staff Report  
Jefferson County Board of Zoning Appeals  
April 28, 2022  
**Staub's Variance Request (#22-11-ZV)**

Conditions of Approval

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

1. No vehicles, trailers or materials may be parked or stored between the proposed garage and Cavalier Drive.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 9.6 Accessory Structures**

Accessory structures, defined by Section 2.2, shall be permitted in all districts where single-family and two-family dwelling units are permitted. The provisions for accessory structures are as follows.

- A. The minimum distance to a lot line in any District from a single-story utility or storage shed, not exceeding 150 square feet, shall be five feet.
- B. In any District wherein single-family and two-family dwellings are permitted, the minimum distance from any accessory structure, not attached to the principal permitted use, to the side or rear lot line shall be not less than the longest horizontal dimension of the accessory structure or the minimum distance specified for that District, whichever is the lesser of the two.
- C. No accessory building shall be erected within the required front yard.

**Section 9.7 Other Exceptions<sup>3</sup>**

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:<sup>23</sup>

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 22-11-ZV  
 Staff Initials: ST  
 Meeting Date: 4/28/22  
 Fees Paid (\$100 or \$150): \$100-cash

Email: [zoning@jeffersoncountywv.org](mailto: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: STAUBS KIMBERLIN L & TOMMY G SR  
 Mailing Address: 88 CAVALIER DR., HARPERS FERRY WV  
 Phone Number: 304-839-3303 Email: TOMMY.STAUBS@AOL.COM

**Applicant Contact Information**

Name: Same as above  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_


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

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 88 CAVALIER DR., HARPERS FERRY WV  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Tax District: 04007A00200000 Map No: \_\_\_\_\_ Parcel No: \_\_\_\_\_  
 Parcel Size: 0.41 Deed Book: 761 Page No: 157

**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"/>	
<div style="text-align: center;">             Place Received Date Stamp Here         </div>			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: Sec. 9.6C and 9.7

**Briefly describe the nature of the variance request:**

To reduce the front setback from 20' to 5' for a 36' x 26' detached garage (3-bays).

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

Front Setback  Side Setback  Rear Setback  Reduction From 20' to 5'

**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:**

Will not effect neighbors vision or driving ability.

**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?**

Already a useable driveway.

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

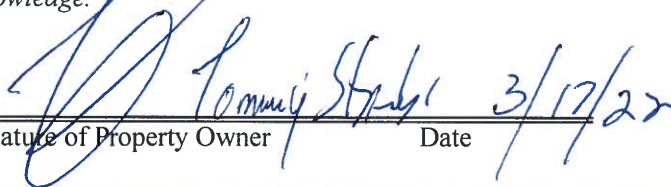
A useable driveway

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

Use for continued parking.

**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.

 Tommy Strick 3/17/22

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).

04.28.22

Date of Public Hearing

04.13.22

Advertising Date

04.13.22

Placard Posting Date

\$100 - cash

# RECEIVED

MAR 17 2022

## PROPERTY SKETCH SHEET

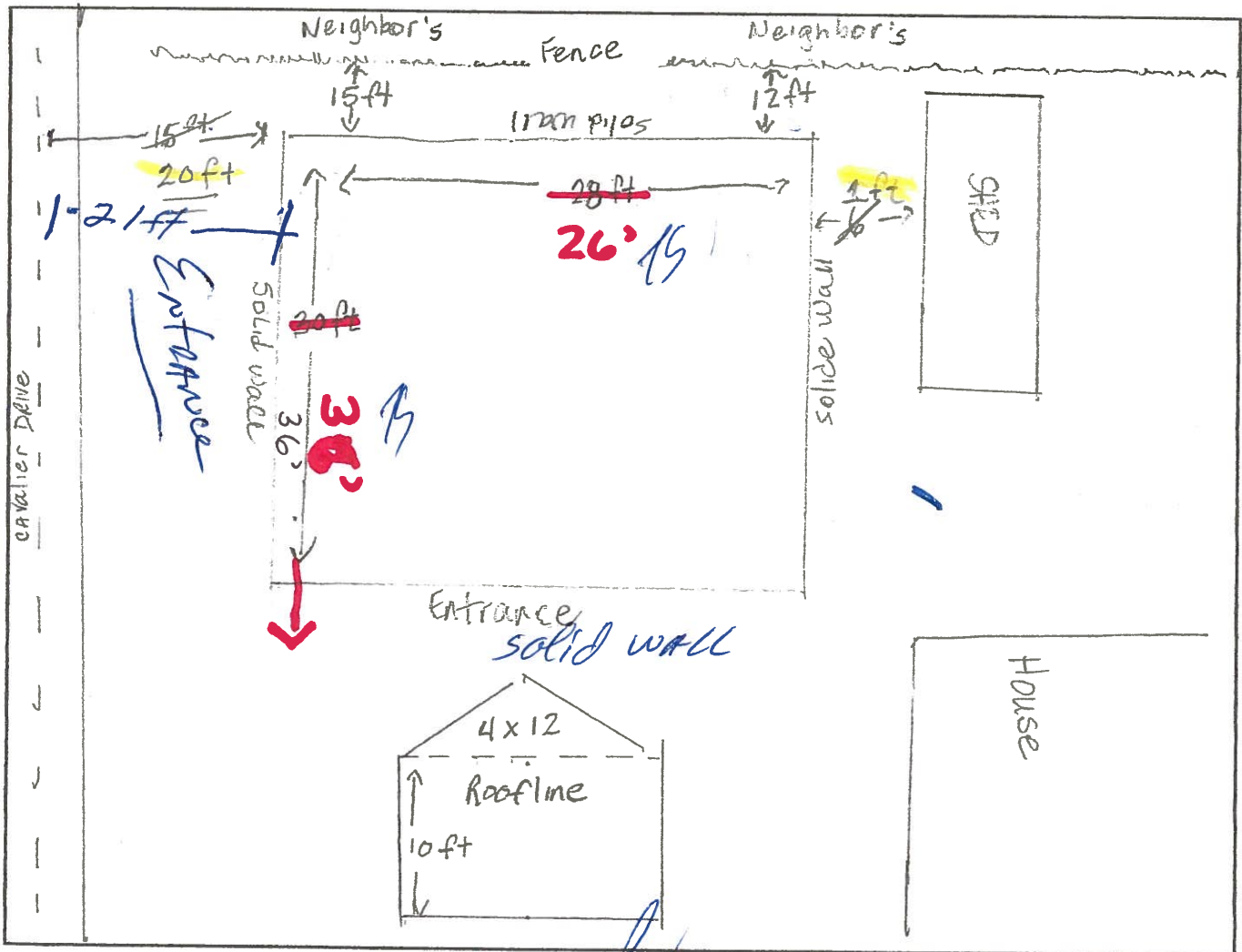
JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

Sketch the shape and location of the lot and show the following:

1. All existing roads with names and/or route numbers.
2. All rights-of-way and/or easements.
3. Septic reserve areas.
4. Location of the intended construction or land use; and show the building setback lines to the setback lines; and the distance from the property line to the structure.
5. Show the size and height of the structure.
6. Show all existing buildings/structures on the parcel/property.
7. On Renovations and Addition; Please indicate number of bedrooms and if adding a kitchen.

Note: The sketch may be on a separate sheet; however, it shall be signed and dated by the applicant.

Print previous receipt + new receipt + mail line



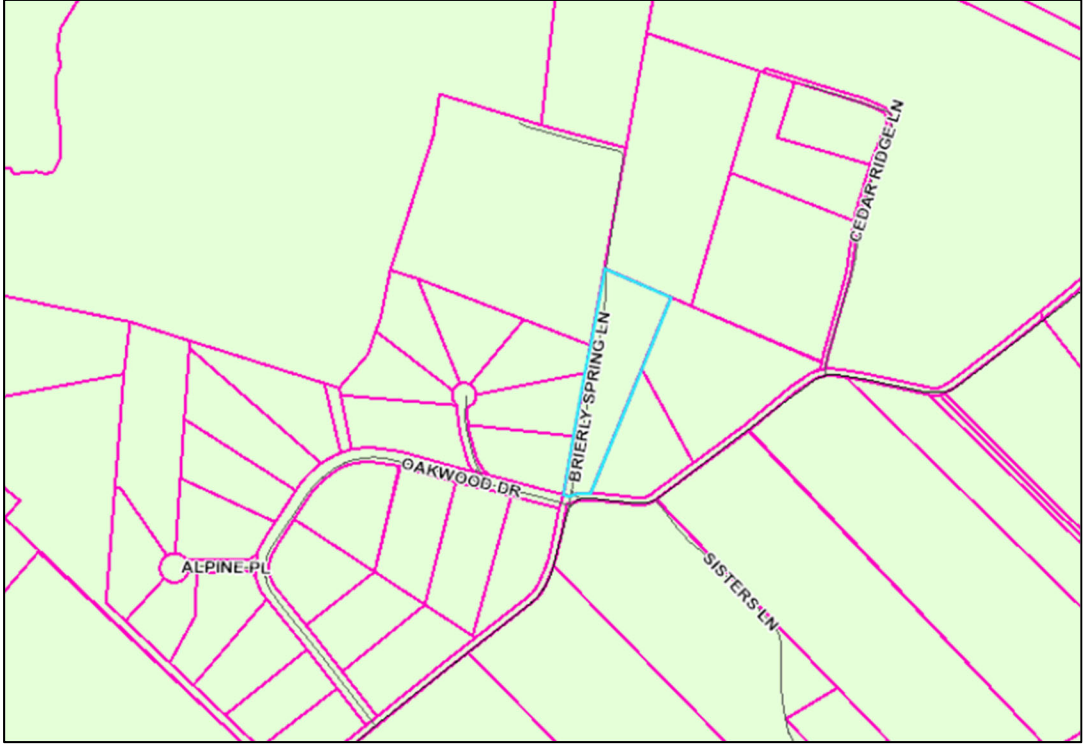
Property Owner/Applicant's Signature \_\_\_\_\_

Date: 3, 17, 22



Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 28, 2022  
**King Variance Request (#22-12-ZV)**

Item #2 Variance from Section 9.7 to reduce the front setback from 40’ to 18’ for a proposed 7’ x 23’ addition to the front of the home.

Applicant:	Brian King
Owner:	Same as above
Consultant:	N/A
Parcel Information and Zoning District:	<p style="text-align: center;">76 Brierly Spring Lane, Shepherdstown, WV          Parcel ID: 09001000060000; Size: .4.07 ac; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Map Designation: North, East, South, West: Rural
History:	None
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit Conducted:	No.

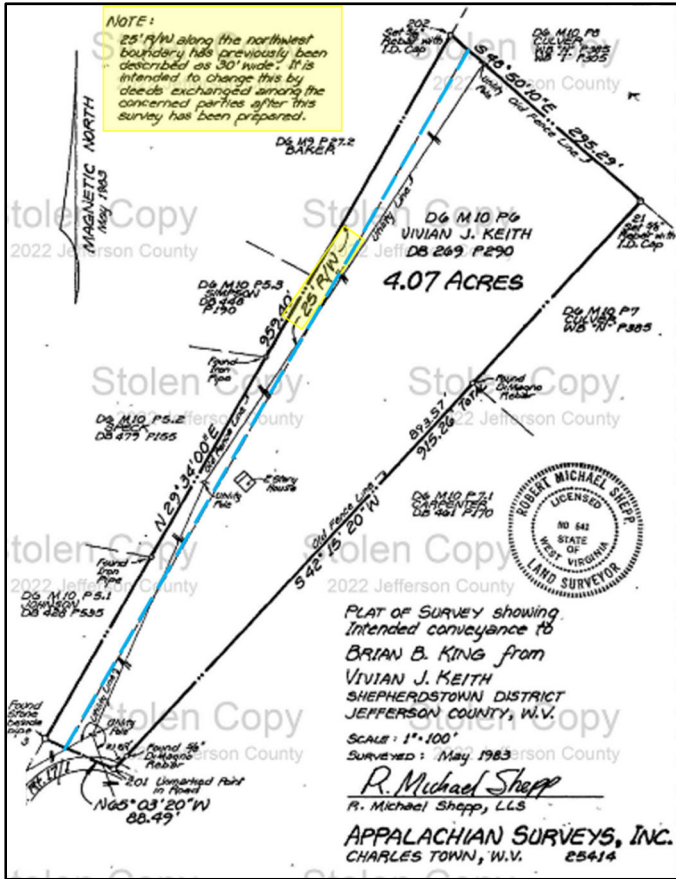
**Summary of Request and Purpose of Ordinance Requirements**

The applicant is requesting a variance from Section 9.7 to reduce the front setback from 40’ to 18’ for a proposed 7’ x 23’ to the front of the home.

A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansion 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 Report  
 Jefferson County Board of Zoning Appeals  
 April 28, 2022  
**King Variance Request (#22-12-ZV)**

**Staff Evaluation of Request**

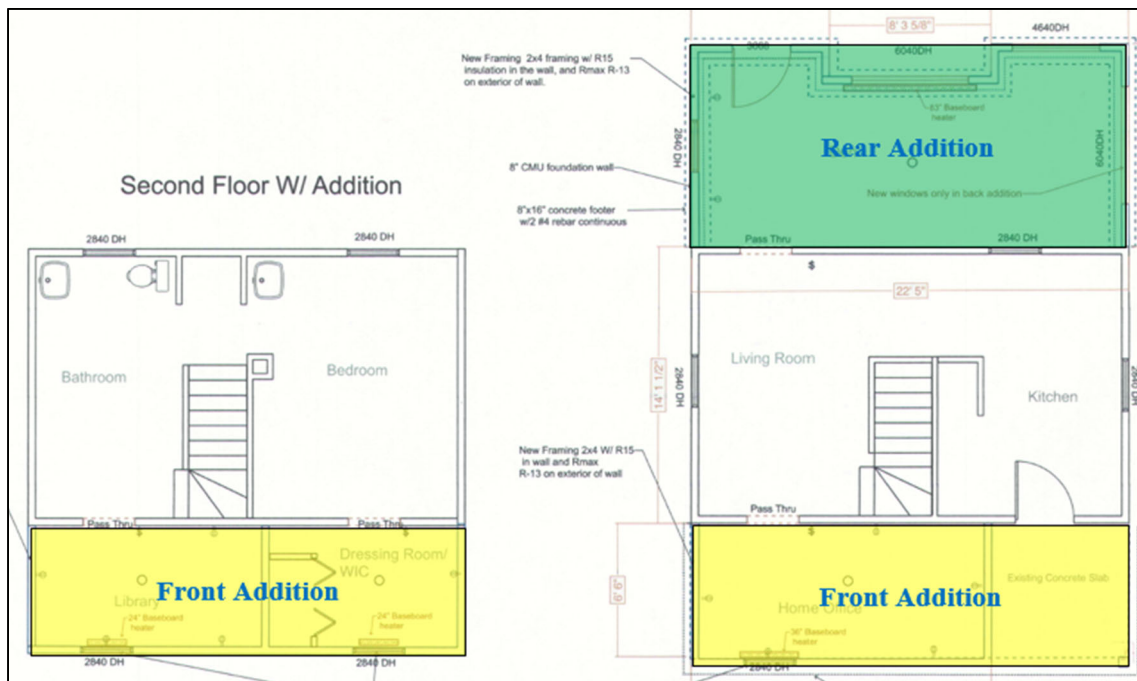


The subject parcel was created prior to the adoption of any County rules and regulations. Brierly Springs Lane originally served as a farm lane before being deeded as a 30' wide right-of-way. In 1983 the subject right-of-way was decreased to 25' wide, as represented on a plat recorded in [Deed Book 513, at Page 695](#).

As noted in the application, the existing home was constructed in the mid-1800s. Along with some minor interior renovations, the applicant is proposing a 10' 5" x 22' 5" single-story addition to the rear of the home and a 6' 6" x 22' 5" a two-story addition to the front of the home.

The nonconforming use provisions would allow for a 35% linear expansion; however, as the proposed addition will encroach further into the front setback area, a variance is required.

It appears that five lots have the right to utilize Brierly Lane as it currently exists. Due to the location of the existing home, which is approximately 25 feet from the edge of the right-of-way, it is unlikely that Brierly Lane could be widened for future development.



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April 28, 2022  
**King Variance Request (#22-12-ZV)**



It may be feasible to comply with the Ordinance by other means by locating the entire addition toward the rear of the home or by expanding linearly under the nonconforming use provisions. The existing house was constructed in 1840 and the applicant has designed an expansion that would allow the historic character of the home to be retained while creating a more functional space to meet current needs.

Conditions of Approval

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

1. No vehicles, trailers, or materials may be parked or stored within the 25-foot right-of-way.

Staff Report  
Jefferson County Board of Zoning Appeals  
April 28, 2022  
**King Variance Request (#22-12-ZV)**

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 9.7 Other Exceptions<sup>3</sup>**

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:<sup>23</sup>

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 22-12-2v  
 Staff Initials: gjt  
 Meeting Date: 4/28/22  
 Fees Paid (\$100 or \$150): 100

Email: [zoning@jeffersoncountywv.org](mailto: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: Brian B. King  
 Mailing Address: P.O. Box 1157, Shepherdstown, WV 25443  
 Phone Number: (304) 885-0823 (daytime) Email: brianbking47@gmail.com

**Applicant Contact Information**

Name: Brian B. King  
 Mailing Address: P.O. Box 1157, Shepherdstown, WV 25443  
 Phone Number: (304) 885-0823 (daytime) Email: brianbking47@gmail.com

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

Name: Alicia F. McCormick || Chris Schwartz, Walnut Ridge Construction  
 Mailing Address: P.O. Box 3604, Shepherdstown 25443 || 73 McDonald Drive, Shepherdstown 25443  
 Phone Number: (304) 876-1662 || (240) 291-0161 Email: aliciafmcormick@gmail.com || walnutridgecc@gmail.com

**Physical Property Details**

Physical Address: 76 Brierly Spring Lane  
 City: Shepherdstown State: West Virginia Zip Code: 25443  
 Tax District: Shepherdstown District Map No: 10 Parcel No: 0006 0000 0000  
 Parcel Size: 4.07 acres Deed Book: 513 Page No: 695

**Zoning District (please check one)**

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**RECEIVED**

MAR 24 2022

**JEFFERSON COUNTY PLANNING  
 ZONING & ENGINEERING**

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

9.7 8th

Reference the section of the Zoning Ordinance pertaining to this request: Section 4.3 and Appendix A by reference

Briefly describe the nature of the variance request:

I am requesting a reduction in the front setback requirement from 40' to 18', a foot from the current porch to be enclosed. The porch is 44' from the property line, which abuts a deeded 25' right of way in between. The extra foot allows for the few inches the new walls might stick out from the current edge of the porch, which is 19' from the right-of-way edge.

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

Front Setback  Side Setback  Rear Setback  Reduction From 40' to 18' 8th

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:

The house has been in this position since 1840, along a lane (old farm road), now termed a right-of-way, that dates to at least 1874 and possibly the 1790s, so a variance presents no change in real-life experience. The effect on the 3 other property owners entitled to the ROW will be visually positive as they go by the improved structure daily. Please see attachments for more history.

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 property footprint is as when I bought it in 1983 (rented since 1981), and the locations of the original house and the lane date back more than a century. Those would be its special attributes. No special conditions were created by me.

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

Granting the variance will permit my addition plans to go forward and allow me to retire (very soon) to a stable, insulated home with room for my office possessions and a lifetime of other possessions in space that I do not now have inside.

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

I believe I am adhering to the spirit of the Ordinance and its efforts to grandfather in the historical structures of Jefferson County without disturbing the basic setting.

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.

March 24, 2022

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).

04-28-22

Date of Public Hearing

04-13-22

Advertising Date

04-13-22

Placard Posting Date

## HISTORICAL NOTES

### **The Lane**

According to the title search for my purchase in 1983, the lane was been in use as a "right of way" since 1874 when these 4.07 acres were first broken out of a tract of 65-70 acres. A right of way was mentioned in a sale that December 10 by Jacob Hoffman to Samuel J. Badger, part of a larger tract conveyed the same day by John Hoffman to Jacob Hoffman. Jacob Hoffman retained the ROW, described in the deed as the "road to Hoffman's Mill." The census and other documents show an A.J. Badger as the resident then.

Mr. Badger sold it to Charles J. Knott in 1896. From 1904 until 1952, the parcel was known as the James K. Hendricks Farm after the owner, who bought it from Mr. Knott and who willed it and other property to his sisters (Nellie Moler and Hattie). The census shows he was living and farming there into the 1950s. Most of the parties involved from 1812 to 1964 were related by blood or marriage and lived on adjoining properties.

The lane predates River Road, with which it now connects. Some old maps show it; most do not.

It remains a private dirt road not maintained by the county or state. My fee-interest land, including the lane, was one of what are now four tracts purchased nominally in the 1960s by Vivian J. Keith (actually by her son, Robert) from Hattie Hendricks. That is when this particular right of way appears in deeds for the first time in the 20th century. Three other parties are entitled to use it in common.

It became "Brierly Spring Lane" only in 2002, by a decision of the 911 Addressing Office without my participation.

### **The House and Land**

The title research for my purchase found that the house was built in 1840 as a dependency of either the Hoffmans, Jacob Reinhart, or the Knotts (the records are not that clear), built presumably by the three enslaved persons who resided there, judging by the exposed-brick interiors, the dry-laid foundation, and some apparently handcut beams. Dating the siding hasn't been possible. I am guessing that the porch came on in the 20th century when Mr. Hendricks resided there. Electrical and plumbing work was done between 1964 and 1968, based on what I was told by the late Mr. Keith.

Deeds in Jefferson County show consistent ownership back to 1811 to the heirs of a Clement Pierce of Baltimore, with other records apparently in Berkeley County or perhaps Richmond. At least one of the four tracts (the one where Brierly Spring is actually located) originated with a Lord Fairfax grant to the Moler family, I'm told.



NOTE:

25' R/W along the northwest boundary has previously been described as 30' wide. It is intended to change this by deeds exchanged among the concerned parties after this survey has been prepared.

MAGNETIC NORTH  
May 1983

D6 M9 P27.2  
BAKER

D6 M10 P8  
CULVER  
WB N P385  
WB T P305

202  
Set 5/8"  
Rebar with  
I.D. Cap

S 48° 50' 10" E  
295.29'  
Unity old Fence Line J

D6 M10 P6  
VIVIAN J. KEITH  
DB 269 P290

21  
Set 5/8"  
Rebar with  
I.D. Cap

4.07 ACRES

D6 M10 P5.3  
SIMPSON  
DB 448  
P190

D6 M10 P7  
CULVER  
WB N P385

Found  
Iron  
Pipe

D6 M10 P5.2  
SPECK  
DB 479 P155

25' R/W  
959.40'  
N 29° 34' 00" E  
893.57'  
915.26' TOTAL  
Found DiMagna  
Rebar

FRONT ADD.  
TO BE ON EXISTING  
PORCH SLAB w/ (UNDER PIN) SAME SIZE  
(NOTE PORCH IS  
ON PLAT)  
2 Story  
House  
BACK ADD.  
TO COME OUT 10'

D6 M10 P7.1  
CARPENTER  
DB 461 P170



D6 M10 P5.1  
JOHNSON  
DB 428 P535

PLAT OF SURVEY showing  
Intended conveyance to  
BRIAN B. KING from  
VIVIAN J. KEITH  
SHEPHERDSTOWN DISTRICT  
JEFFERSON COUNTY, W.V.

SCALE: 1" = 100'

SURVEYED: May 1983

R. Michael Shepp

R. Michael Shepp, LLS

APPALACHIAN SURVEYS, INC.  
CHARLES TOWN, W.V. 25414

Found  
Stone  
beside  
pipe  
3

Found 5/8"  
DiMagna  
Rebar

201 Unmarked Point  
in Road

N 65° 03' 20" W  
88.49'

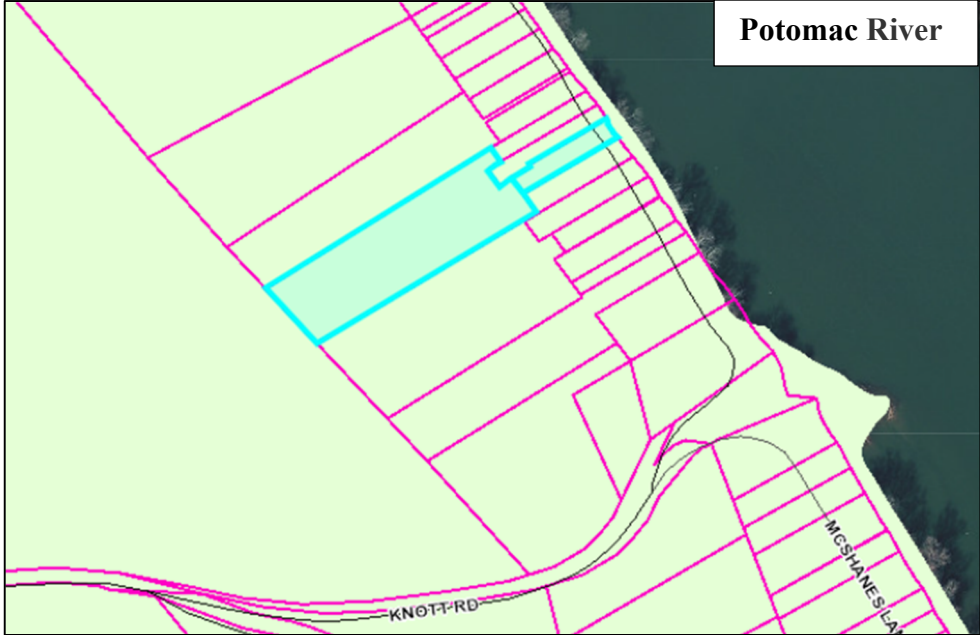
3/24/2022



Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 28, 2022

**Potomac Cottage-Starkey Variance Request (#22-13-ZV)**

Item #3 Variance from Section 9.7 to reduce the side setback along the southern property line from 15' to 3' for a 12' long deck; and to reduce the side setback along the northern property line from 15' to 6-inches for a 12' long deck with 8' long stairs.

Applicant:	Robert Starkey
Owner:	Potomac Cottage
Parcel Information and Zoning District:	<p style="text-align: center;">1523 Knott Road, Shepherdstown, WV,          Parcel ID: 09011A00360000; Size: 2.3 ac; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Districts: North, South, East, West: Rural
History:	08/29/91: boundary line adjustment recorded in <a href="#">PB 10, PG 43</a> 11/22/94: boundary line adjustment recorded in <a href="#">DB 793, PG 24</a> 06/18/02: boundary line correction recorded in <a href="#">DB 961, PG 474</a>
Waivers/Variations:	None
Approved Activity:	Single family dwelling
Site Visit Conducted:	Site visit not conducted.

**Summary of Request and Purpose of Ordinance Requirement**

The applicant is requesting a variance from Section 9.7 to reduce the side setback along the southern property line from 15' to 3' for a 12' long deck; and to reduce the side setback along the northern property line from 15' to 6-inches for a 12' long deck with 8' long stairs.

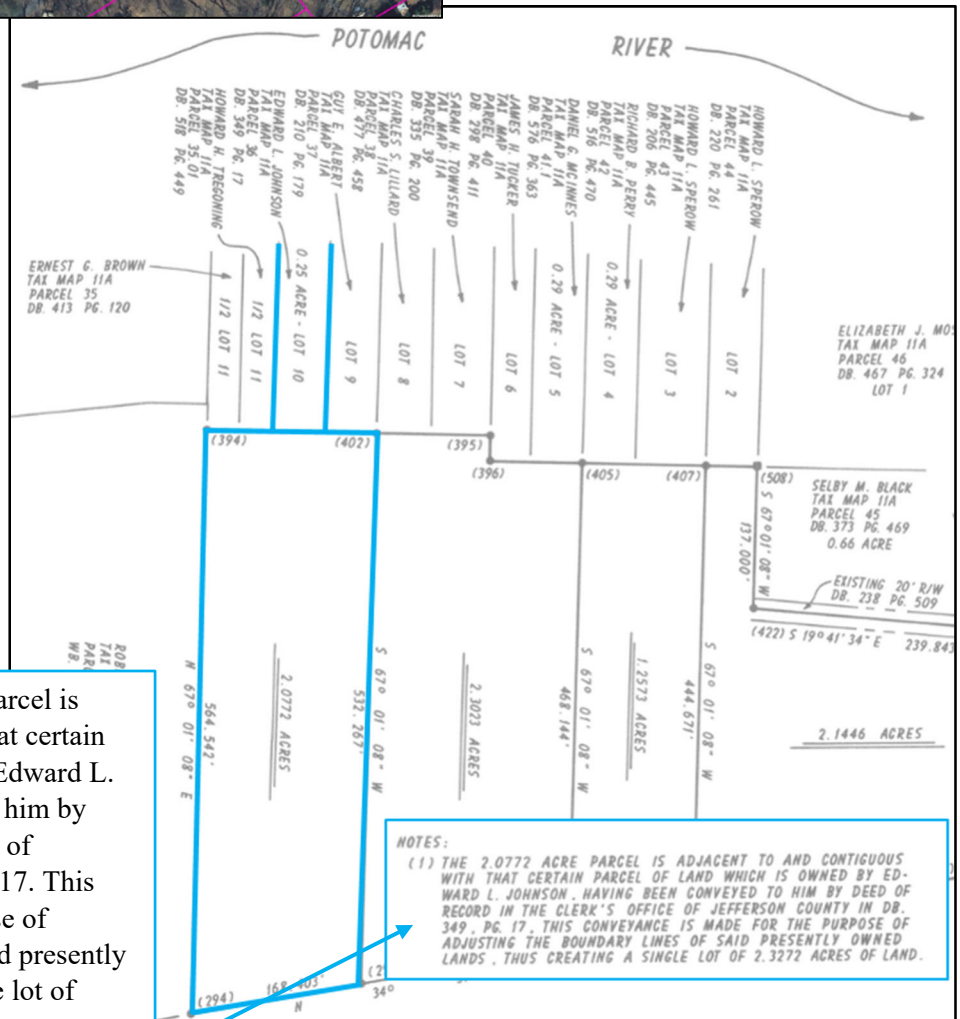
The purpose of side and rear setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of the structure is feasible; to maintain adequate separation between structures for fire prevention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

Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 28, 2022

**Potomac Cottage-Starkey Variance Request (#22-13-ZV)**

**Staff Evaluation of the Request**

The subject parcel is Lot 10 of the River Farm Subdivision, which was originally recorded on November 22, 1955 in [Deed Book 208 at Page 361](#). On August 29, 1991, a boundary line adjustment processed to create a single parcel of 2.3 acres ([Deed Book 690 @ Page 127](#) / [Plat Book 10 @ Page 43](#)).



**Note #1 states:** The 2.0772 acre parcel is adjacent to and contiguous with that certain parcel of land which is owned by Edward L. Johnson, having been conveyed to him by deed of record in the clerk's office of Jefferson County in DB. 349, PG. 17. This conveyance is made for the purpose of adjusting the boundary lines of said presently owned lands, thus creating a single lot of 2.3272 acres of land.

Staff Report  
Jefferson County Board of Zoning Appeals  
April 28, 2022

**Potomac Cottage-Starkey Variance Request (#22-13-ZV)**

The applicant recently removed a porch and stairs from the rear of the house and constructed a larger deck along the full length of the home and expanded along the side of the house. The new deck is 33' long (along the length of the rear of house) by 12' wide (along western property line) and 4' long (along the side of the house) by 12' wide (along the eastern property line). The portion of the deck along the northern property line was constructed where concrete stairs historically existed. See below before and after pictures.

**Before (~2018)**



**After (2022)**



Staff Report  
Jefferson County Board of Zoning Appeals  
April 28, 2022

**Potomac Cottage-Starkey Variance Request (#22-13-ZV)**

The applicant obtained a building permit for the main portion of the deck along the back of the house. On March 18, 2022, the adjoining property owner contacted the permits office to express concern for the proximity of the portion of the deck that was constructed along the side of the subject home from their home. The Ordinance Compliance Officer conducted a site visit and verified that the deck exceeded what was represented on the building permit application.

The property owner is seeking a variance to reduce the 15-foot side setback along the northern property line to 6-inches and to reduce the 15-foot side setback along the southern property line to 3-feet.

Due to the proximity of the existing home from the property lines and because the deck was already constructed, it is not feasible to comply with the Ordinance by other means.

**Conditions of Approval**

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

1. No conditions of approval were identified.

**Section of Ordinance to be Considered**

**Section 9.7 Other Exceptions<sup>3</sup>**

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process. Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:<sup>23</sup>

Residential Growth District<sup>23</sup>

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 22-13-ZV  
 Staff Initials: gml  
 Meeting Date: 4.28.22  
 Fees Paid (\$100 or \$150): 150-

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: Robert Starkey  
 Mailing Address: 8880 Signal Drive Williamsport MD  
 Phone Number: 301-992-9721 Email: RobStarkey1975@gmail.com

**Applicant Contact Information**

Name: Rob Starkey  
 Mailing Address: 8880 Signal Drive Williamsport MD  
 Phone Number: 301-992-9721 Email: RobStarkey1975@gmail.com

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

Name: Thurman W. Whisner Professional Engineer #7816  
 Mailing Address: PO Box 29 Great Cacapon, WV 25422  
 Phone Number: 304 258-4133 Email: Whisnerpad@aol.com

**Physical Property Details**

Physical Address: 1523 Knott Rd Sheperdstown WV 25443  
 City: Sheperdstown WV State: WV Zip Code: 25443  
 Tax District: Sheperdstown Map No: 11A Parcel No: 36  
 Parcel Size: .24 Deed Book: 1250 Page No: 349

**Zoning District (please check one)**

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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JEFFERSON COUNTY PLANNING  
 ZONING & ENGINEERING

Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<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: 9.7

Briefly describe the nature of the variance request:

8' Setback to 6" Removed old steps over existing concrete steps for safety  
and old wooden steps were falling apart, new steps are above concrete and 1' off of  
side Existing concrete steps are physically connected to both houses

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

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ 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:

The new steps were designed by an engineer and will not fall apart in a flood  
The old concrete steps are still connecting both houses - current new steps  
will also help with runoff from the mountain above washing out concrete steps

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 adjacent house is 6' away connected by concrete steps replaced with new steps  
for safety and a fluid way to access both doors

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

The steps are now safe and will be able to access the front door and the side  
doors. It will help with not having to go up another set of steps when coming into house

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

It will allow the use of the front and side of house to be used without  
having to use another set of steps to go around

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.

 3/25/22  
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).

04.28.22  
Date of Public Hearing

04.13.22  
Advertising Date

04.13.22  
Placard Posting Date

21-97

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MAR 24 2022

JEFFERSON COUNTY PLANNING ZONING & ENGINEERING

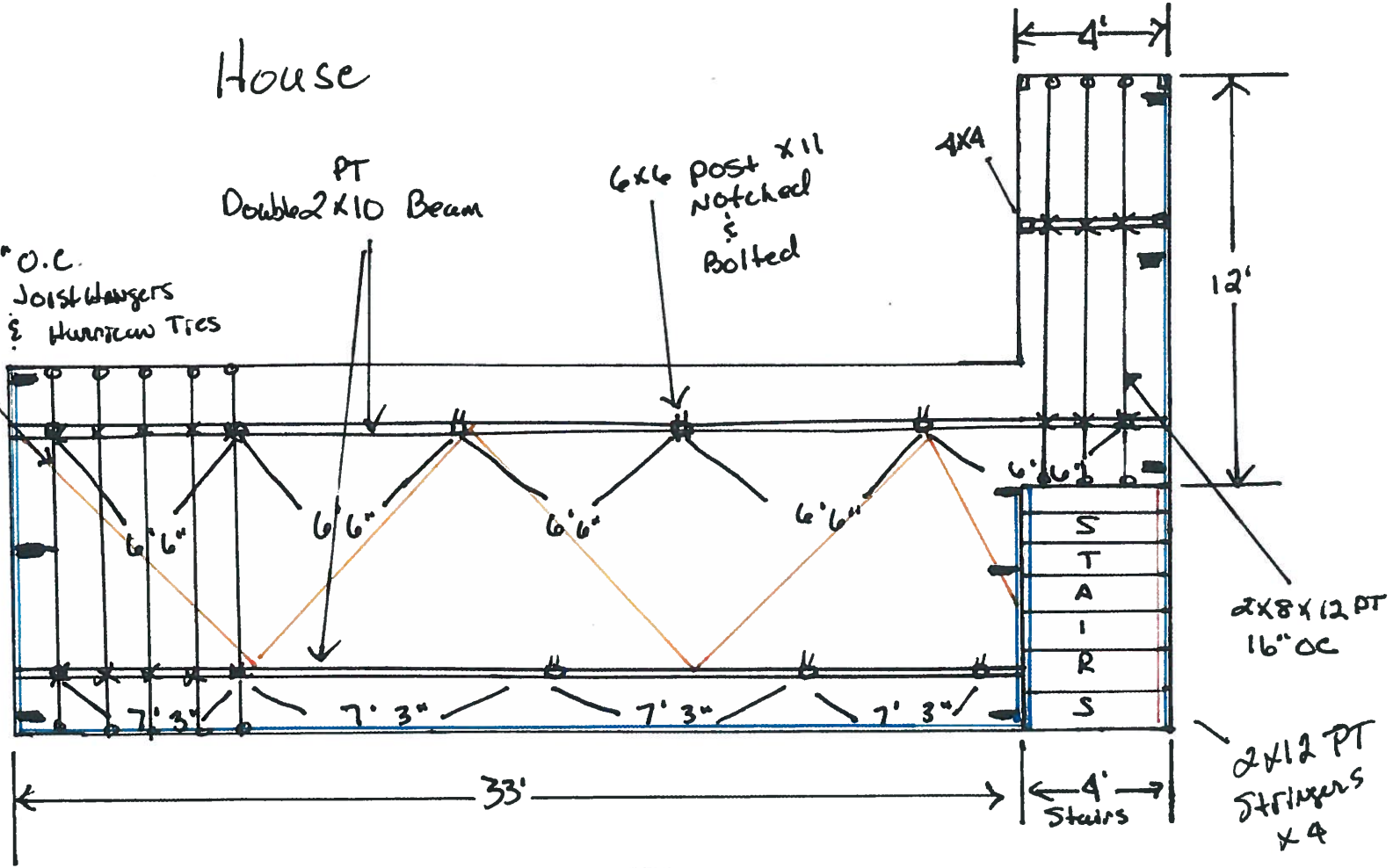
House

2x8x12 PT 16" O.C.  
with Joist Hangers  
& Hurricane Ties

PT  
Doubled 2x10 Beam

6x6 Post x 11  
Notched &  
Bolted

4x4



2x8x12 PT  
16" OC

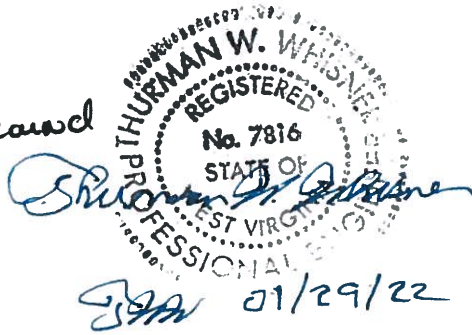
2x12 PT  
Stringers  
x 4

Free Standing

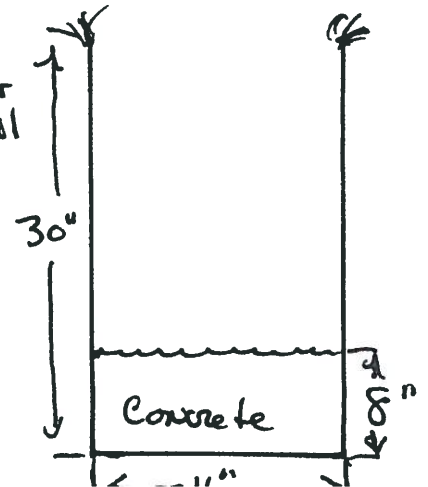
33 x 12 Care Free Deck Approx. 5' OFF Ground

with Additional 4 x 12 Care Free Deck

Aluminium Hand Railings



Footer  
Detail



O = Joist Hangers  
X = Hurricane Ties

Continuous Rail  
Handrail

Cross Bracing  
2x4 PT

Rail  
Blockings



Concrete Steps Covered By Landing



21-97

RECEIVED

MAR 24 2022

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

THURMAN W. WHISNER, PE

P.O. Box 29

Great Cacapon, WV 25422

(304)258-4133

[whisnerpad@aol.com](mailto:whisnerpad@aol.com)

February 08, 2022

RECEIVED

FEB 24 2022

JEFFERSON COUNTY  
ENGINEERING PLANNING AND ZONING

Attention: Jefferson County Planning Office

CC: Owners are Rob and Julie Starkey, Proposed New Deck is 1523 Knott Road, Shepherdstown, WV 25443

CC: Contractor is Jeffery Bartley (JAMBO Construction and Fencing Co. LLC) 119 North High Street Martinsburg, WV 25404

Subject: Certification of Proposed New Deck

The Proposed New Deck shall be independently supported by two rows of 6" X 6" Treated Support Columns on Concrete Footings. The Floor Joist shall be connected by galvanized hurricane clips to Two Double 2" X 10" Support Beams, Bolted to the above noted 6" X 6" Treated Support Columns. Also, 6" X 6" Treated Knee Braces on a 45 Degree Angle shall be bolted to the Top of each Column and the Two Double 2" X 10" Support Beams, Bearing on Beam Sockets in the Top of the Support Columns. The above noted Home and the Proposed New Deck will be located in Fringe Area (Not Floodway) of the 100 Year Base Flood Zone AE of the nearby Potomac River with low velocity flow (Back Water). In Summary, I, Thurman W. Whisner, PE, now hereby Certify that the Proposed New Deck, if built properly, will not wash away during a 100 year base flood.

Letter of Certification By:



Thurman W. Whisner PE (W. Va. PE # 7816)

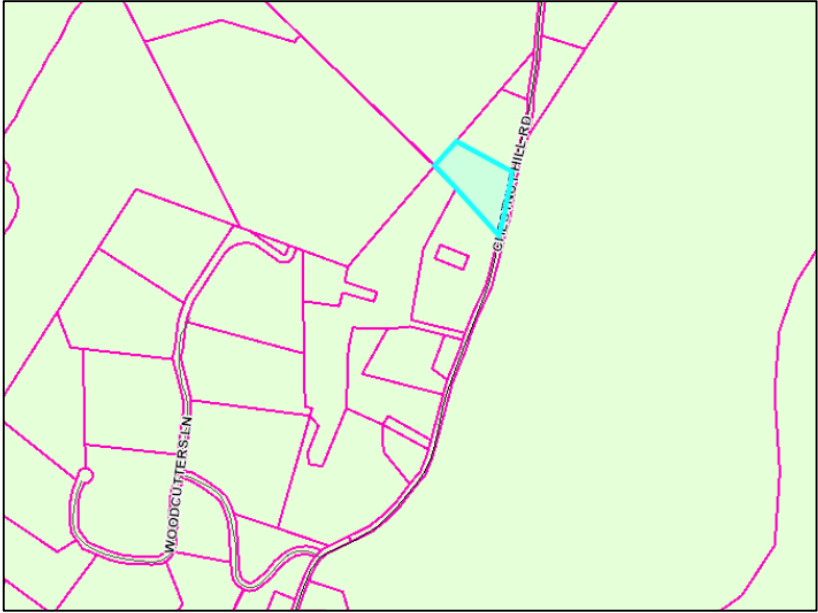


2/08/22

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 28, 2022

**D and E Novelties Conditional Use Permit Request (#22-2-CUP)**

Item #4 Request for a Conditional Use Permit to operate a *Restaurant, Fast Food, Limited* as defined in Article 2. The applicant is proposing to operate as a food vendor offering menu items such as ice cream, hotdogs, sandwiches, drinks, etc. The operation will be conducted from a stationary food truck and a 10' x 10' tent with a bench and two picnic tables will be provided for customer seating. Dates/Hours of Operation: April 1 through October 31: Wednesday through Sunday from 1:00 pm until dark. Plus Monday and/or Tuesday depending on various Holidays (ex: Memorial Day Weekend). Temporary signage as depicted in the application will be displayed.

Applicant:	D and E Novelties / David and Evelyn Naille
Owner:	John Staubs
Parcel Information / Zoning District:	<p style="text-align: center;">3807 Chestnut Hill Road, Harpers Ferry, WV          Parcel ID: 04000800120000; Size: 1.9 ac; Zoning District: Rural</p> 
Surrounding Properties:	<b>Zoning Map Designation:</b> North, East, South, West: Rural
Approvals:	07/09/85: PC approved variance to allow two uses on a single tract of land [a home and grocery store] (MUV85-03). 05/20/95: BZA approves to re-establishment of nonconforming use (ZV95-21). 06/05/95: BZA approves change in nonconforming use from a grocery store to auto repair and parts center (ZC95-12). 07/22/08: PC approves waiver of site plan (PCV08-32)
Site Visit Conducted:	No.

**D and E Novelties Conditional Use Permit Request (#22-2-CUP)**

**Summary of Request and Purpose of Ordinance Requirements**

The applicant is proposing to operate as a food vendor offering menu items such as ice cream, hot hogs, sandwiches, drinks, etc. The operation will be conducted from a stationary food truck and a 10' x 10' tent with a bench and two picnic tables will be provided for customer seating. Dates/Hours of Operation: April 1 through October 31: Wednesday through Sunday from 1:00 pm until dark. Plus Monday and/or Tuesday depending on various Holidays (ex: Memorial Day Weekend). Temporary signage as depicted in the application will be displayed.

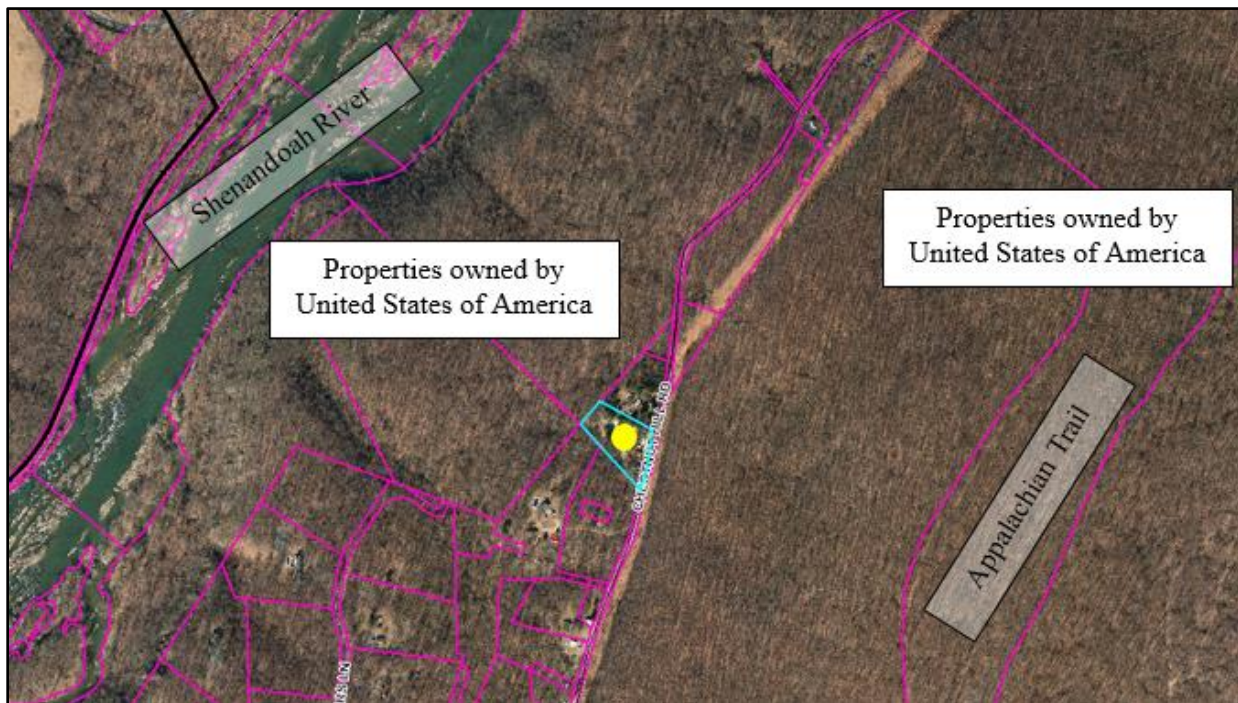
The Ordinance does not include a definition for a food vendor; however, based on the applicant's proposal, the definition of *Restaurant, Fast Food, Limited* appears to be the appropriate land use designation. Article 2 includes the following definitions:

**Restaurant, Fast Food, Limited:** Takeout pizza/sandwich shops not exceeding 600 square feet.

**Restaurant, Fast Food:** Any establishment whose principal business is the sale of foods and/or beverages in ready-to-consume individual servings, for consumption either inside or outside the restaurant building or for carry-out. Customer orders and/or service may be by means of a window or walk-up counter. ... This use may include the incidental sale of alcohol for on premises consumption; however, sale of food and non-alcoholic beverages is the principal use of the site. This use does not include the uses Bar or Nightclub.

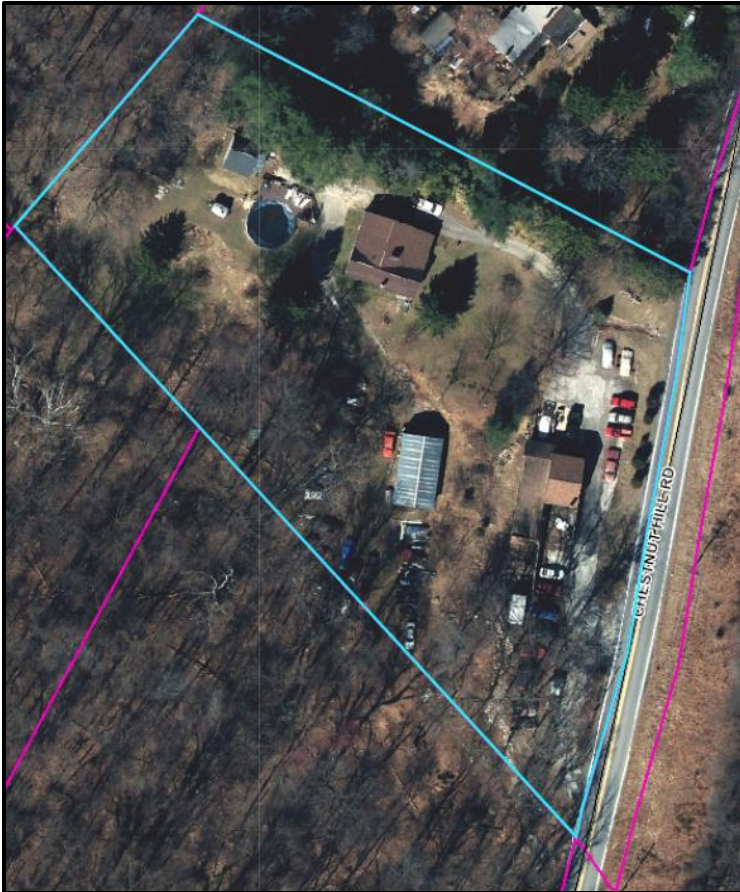
**Property Description**

The subject parcel is 1.97 acres surrounded primarily by residential properties and federal land. It is located off of Chestnut Hill Road / State Route 32. The property contains an existing residence and an existing non-conforming business (auto repair). The auto repair business was originally a grocery store, which was established under a multi-use variance granted by the Planning Commission in 1985 to allow a business and a residence to be located on the same property. The grocery store operated until 1991 and then in 1995, the property owner was approved for a change in non-conforming use from the Board of Zoning Appeals to operate an auto repair business. The auto repair business is still in operation.



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 28, 2022

**D and E Novelties Conditional Use Permit Request (#22-2-CUP)**



The applicant operated the ice cream stand for the last two years and was notified during 2021 that they would need to apply for a Conditional Use Permit to comply with the County's regulations. The applicant has provided letters of support from the adjoining property owners, as well as from members of the community.

Based on the dimensions of the structures affiliates with the land use, a site plan is not required to process with the County.

During a meeting with Staff to discuss the County's requirements to operate a business, Staff advised that the applicant should contact the Division of Highways to determine whether an updated entrance permit would be required.



**D and E Novelties Conditional Use Permit Request (#22-2-CUP)**

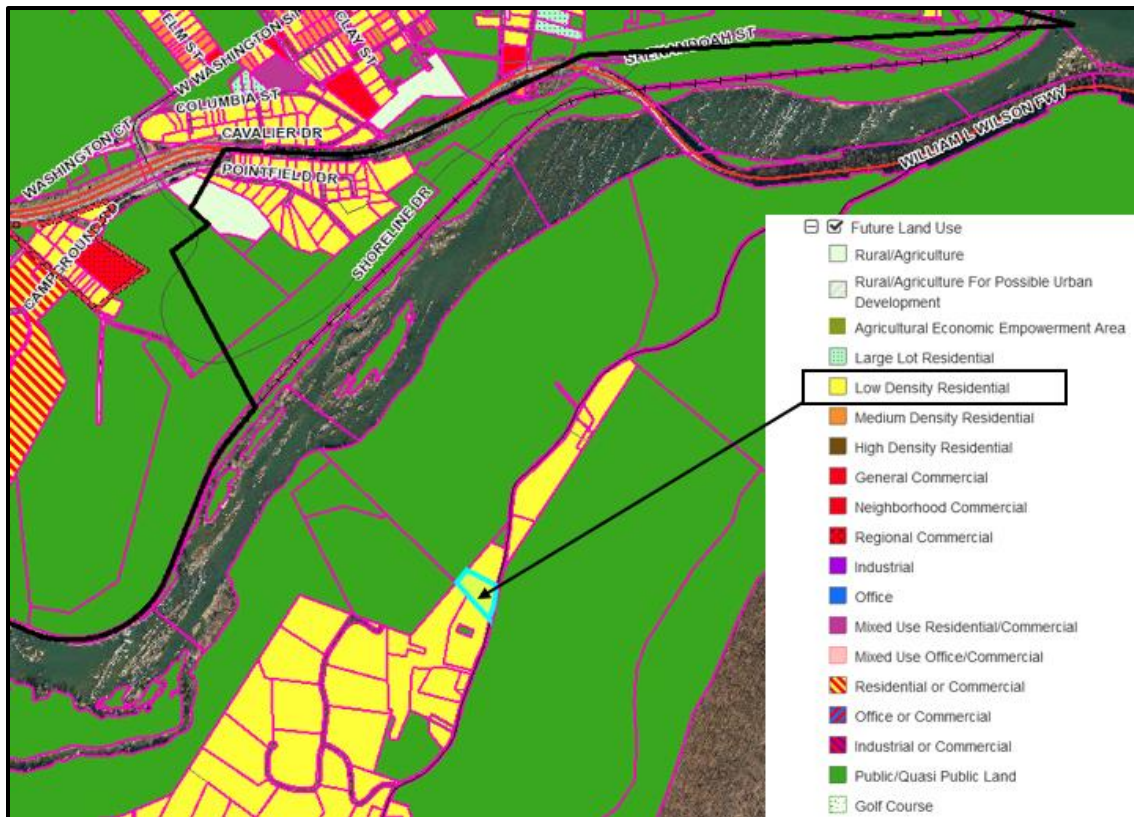
**Conditional Use Permit Process**

Section 6.3 of the Zoning Ordinance states:

“The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as “Conditional Uses (CU)” in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit:”

The following General Standards shall be considered by the Board in approving or denying the CUP:

**1. The proposed use is compatible with the goals of the adopted Comprehensive Plan. (Sec. 6.3A.1)**



The subject parcel is shown as “Low Density Residential” on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide. While the Future Land Use Guide does not reflect the subject parcel as being developed for future commercial use, the subject property has operated a non-residential land use since 1985.

One major goal of the Plan is to allow Conditional Use Permits to process in the Rural zoning district for non-residential uses which are compatible in scale and intensity with the rural environment. This goal is referenced numerous times throughout the Plan (see excerpts below).

“... This Plan further recommends amending the Zoning Ordinance to eliminate the LESA point system and to develop procedures that would allow the use of a more traditional CUP process in the Rural District for non-residential uses. This CUP process should require a public hearing before the Board of Zoning Appeals to determine if the use is compatible in scale and intensity with the rural environment and poses no threat to public health, safety, and welfare.” (Page 36, Rural Land Use)

**D and E Novelties Conditional Use Permit Request (#22-2-CUP)**

“Amend the Zoning Ordinance to eliminate the Land Evaluation Site Assessment (LESA) system and to modify the Conditional Use Permit (CUP) process in the Rural Zoning District, which would be used for compatible non-residential development only.” (Page 39, Recommendation #4.b – Rural Land Use Planning Recommendations (Goal 2))

“This Plan recommends that the use of the CUP in the Rural District be limited to non-residential uses not permitted in the Rural District which are compatible in scale and intensity with the rural environment and that pose no threat to public health, safety, and welfare.” (Page 74, Rural Economic Activities)

“Recommendation 5: Amend the Zoning and Land Development Ordinance to permit additional non-residential rurally compatible uses.

“Recommendation 5b: Amend local land use regulations to permit non-agriculturally related commercial uses by the Conditional Use Permit (CUP) process in the Rural zone if the use is agriculturally and rurally compatible in scale and intensity, poses no threat to public health, safety, and welfare, and if the use helps to preserve farmland and open space and continue agricultural operations. (Page 77, Agricultural and Rural Economy Recommendations (Goal 8))”

**2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare. (Sec. 6.3A.2)**

A non-residential land use has operated from the subject property since 1985. The proposed addition of a seasonal food vendor from April 1 through October 31 appears to be compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties.

**3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. (Sec. 6.3A.3)**

Based on the information provided, the proposed site development will not hinder nor discourage the appropriate development and use of adjacent land and buildings.

**4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance. (Sec. 6.3A.4)**

Based on the total square footage of the food truck and the tent, and that the gravel parking area is existing, the proposed land use complies with the “No Site Plan” criteria in the Subdivision Regulations. Because a site plan is not required, landscaping and buffer standards will not be enforced, unless the Board requires as a condition of approval.

**5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of this Ordinance. (Sec. 6.3A.5)**

As part of the Conditional Use Permit application, the applicant was informed of this criteria and shall comply with this standard.

**6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan’s Highway Road Classification Map. (Sec. 6.3A.6)**

The property is located off of Chestnut Hill Road / State Route 32, which is classified as a Minor Collector (local service road) on the Roadway Classification Map; therefore, the application is subject to this criteria [see Exhibit A attached].

**D and E Novelties Conditional Use Permit Request (#22-2-CUP)**

The applicant provided trip generation data based on their average customer sales from 2021. For reference, a traffic count study was conducted by the Department of Transportation in 2017. The study reflects that the annual average daily trips on Chestnut Hill Road, just north of the subject property, (Station ID: 193030), was 1506 (Source: [2017 WVDOT AADT – Traffic Count Study](#)) (see Exhibit B attached].

**7. Historic Landmarks Commission’s Findings related to the proposed land use. (Sec. 6.3A.7)**

The subject property does not contain any Category I or II historic sites as defined by the Zoning Ordinance; therefore, this criteria does not apply.

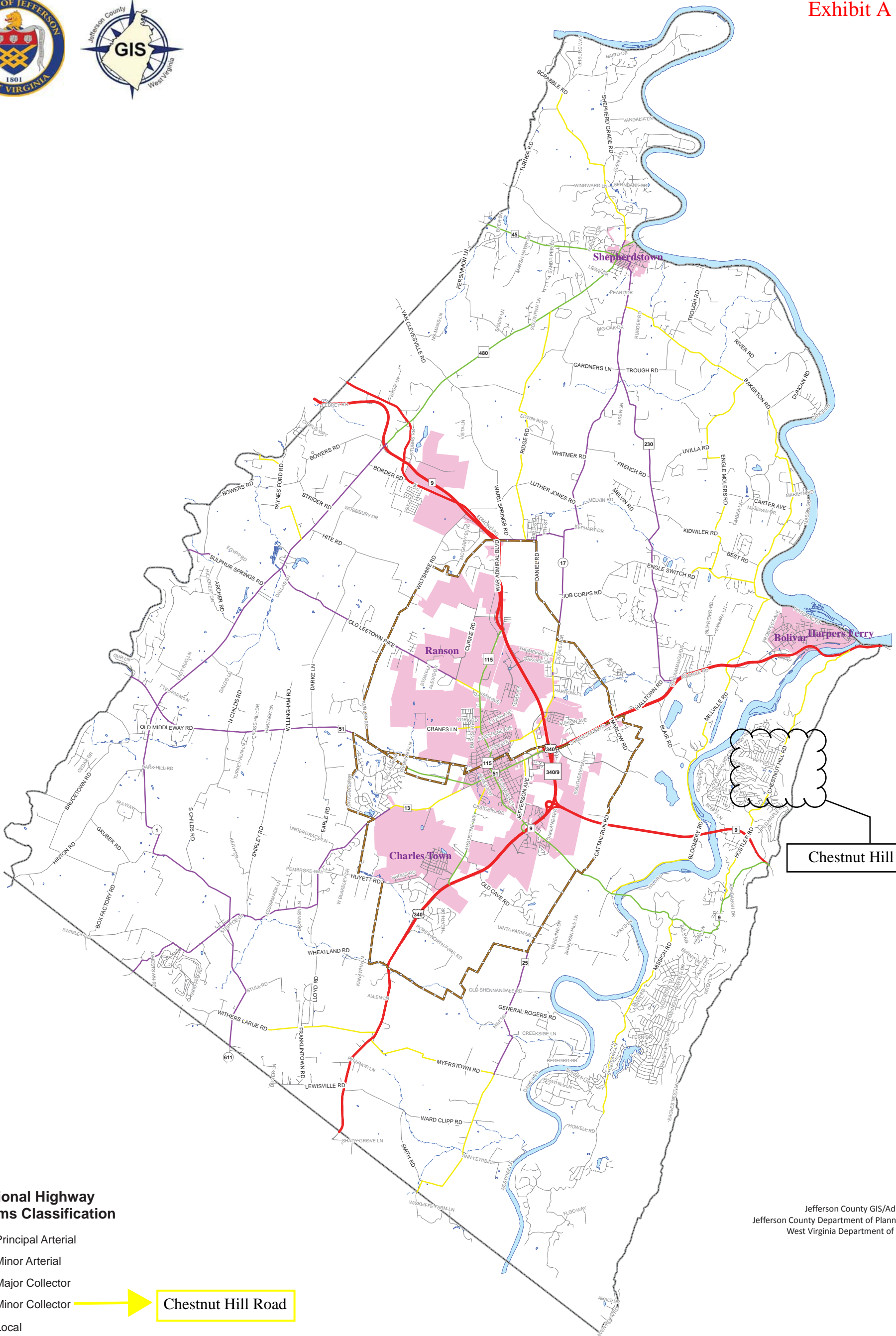
**8. Any signs associated with the proposed Conditional Use shall be reviewed by the Board in accordance with Section 10.6. (Sec. 6.3A.8)**



Signs accessory to a Conditional Use are subject to Section 10.6 of the Zoning Ordinance, which requires that as part of the application, signage shall be addressed for review and consideration by the Board at the required Public Hearing.

The applicant is proposing to display a banner sign on an existing fence, as well as six swooper flags that would be setup and removed daily. All signs will comply with the required 25' setback.





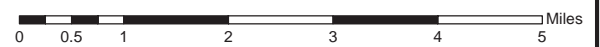
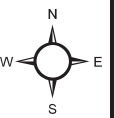
**Functional Highway Systems Classification**

- Principal Arterial
- Minor Arterial
- Major Collector
- Minor Collector
- Local

Chestnut Hill Road

- Urban Growth Boundaries
- Towns

Data Sources:  
Jefferson County GIS/Addressing Office  
Jefferson County Department of Planning and Zoning  
West Virginia Department of Transportation



# Roadway Classification Map Envision Jefferson 2035

### AADT Traffic Count 2017

Private Member  
Private Organization

#### Summary

Traffic data from the year 2017 encompassing Districts 4, 5, 6, and Interstates.

[View Full Details](#)

#### Details

- Dataset**  
Feature Layer
- November 16, 2021**  
Info Updated
- June 27, 2019**  
Data Updated
- October 9, 2018**  
Published Date
- 2,993 Records**  
[View data table](#)
- Public**  
Anyone can see this content
- Custom License**  
[View license details](#)

2,993 records

**AADT Traffic Count 2017**

OBJECTID	2010
Station_ID	193030
Primary_R	Jefferson
Route_Num	CO 32
Road	
FC	6R
LRS_Secti	1940032000000
LRS_Measu	4.742
City	Harpers Ferry
Year	2017
F_Trucks	-
AADT17	1506

**Legend**

**AADT Station**

- Over 50,000 Vehicles/Day
- 5,000-50,000 Vehicles/Day
- 1,000-4,999 Vehicles/Day
- 500 - 999 Vehicles/Day
- 100 to 499 Vehicles/Day
- Less than 99 Vehicles/Day

**Segment AADT**

- Over 50,000/Vehicles/Day
- 5,000 - 49,999 Vehicles/Day
- 1,000 - 4,999 Vehicles/Day
- 500 - 999 Vehicles/Day
- 100 - 499 Vehicles/Day
- Less than 99 Vehicles/Day

**Segment AADT**

- AADT : 1266
- Report Year : 2020
- Route ID: 1940032000000
- Measure from 3.31 to 5.081

• AADT: 1266  
• Report Year: 2020  
• Route ID: 1940032000000



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, 2<sup>nd</sup> Floor  
 P.O. Box 716  
 Charles Town, West Virginia 25414

File #: 22-2-CUP  
 Mtg. Date: 4/28/22  
 Fee Paid: \$ 300.00  
 Staff Int.: gh

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228  
 Fax: (304) 728-8126

**Application for a Conditional Use Permit**

Conditional Use Permit process is outlined in Article 6 of the Zoning Ordinance

**Project Name**

MOBILE FOOD TRUCK AT FIXED LOCATION

**Property Owner Information**

Name: JOHN STAUBS  
 Business Name: \_\_\_\_\_  
 Mailing Address: 3807 CHESTNUT HILL RD HARPERS FERRY WV 25425 Mail  Yes  
 Phone Number: 304-671-9819 Email Response: m.piggy@comcast.net Response:  No

**Applicant Information**

Name: DAVID A. NAILLE SR  
 Business Name: D AND E NOVELTIES L.L.C.  
 Mailing Address: 40 NOVELTY LANE HARPERS FERRY WV 25425 Mail  Yes  
 Phone Number: 304-582-5361 Email Response: dandenovelties@comcast.net Response:  No

**Engineer(s), Surveyor(s), or Consultant(s) Information**

Name: \_\_\_\_\_  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Mail  Yes  
 Phone Number: \_\_\_\_\_ Email Response: \_\_\_\_\_ Response:  No

**Physical Property Details**

Physical Address: 3807 CHESTNUT HILL RD HARPERS FERRY WV 25425  
 Tax District: HARPERS FERRY (04) Map No: 8 Parcel No: 12  
 Parcel Size: 1.9 AC. Deed Book: 475 Page No: 50

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (I-C) <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"/>	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"/>

\* For properties in the Rural Zoning District:  
 Is property located on a primary or secondary road?  Yes  No

Name of Road and/or Route Number: CHESTNUT HILL RD / ROUTE 32

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Sketch Plan (see cover sheet for description)

Attached

MAR 31 2022

A list of all adjacent and confronting property owners (see cover sheet for description)

Attached

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

State the proposed land use as listed in Appendix C and provide a description of the proposed use.

Food Truck to be positioned in parking lot. The lot would allow approximately 10 parking spaces and would have two picnic tables, 4 swooper flags that would be put up at the start of the day and taken down at the end. Two dust to dawn lights and commercial outdoor light around parking lot when needed. We open at 1pm Wednesday- Sunday and close at dark. All lights will be off at the time of close. 1 owner operates April- Oct.

Please provide any information or known history regarding this property.

This property has been in the Staubs family over 126 years. WAS IN 1985 APPROVED COMMERCIAL ENTRANCE, PACKAGE STORE. 1995 CHANGED TO BIGG HILL AUTO REPAIR AND PARTS CENTER

Please respond (in detail) to the following statements located in Section 6.3 of the Zoning Ordinance:

1. The proposed use is compatible with the goals of the adopted Comprehensive Plan. Section 6.3A.1

Yes, in compliance. SEE ATTACHED

2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety, and welfare. Section 6.3A.2

Yes, in compliance. SEE ATTACHED

3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. Section 6.3A.3

Yes, in compliance. SEE ATTACHED

4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance. Section 6.3A.4

I am aware of the landscaping buffer requirements and will adhere to them.

I am aware of the landscaping buffer requirements; however, I may be seeking a variance to modify them.

5. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan's Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a Principal Arterial, Minor Arterial, or Major Collector road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the Board of Zoning Appeals to review in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use. Section 6.3A.6

Applicable (Trip Generation Data attached)

Not Applicable

The information given is correct to the best of my knowledge. Original Signature Required.

Property Owner

Date

Property Owner

Date

## 22-2-CUP Staubs-Novelties Ice Cream (Restaurant) Summary

To David Naille <dandenovelties@comcast.net>

Good afternoon Mr. Naille,

As a follow up to our conversation from yesterday, here is a summary of your intended land use to attach to your application:

### Proposed Land Use:

Restaurant (Mobile Food Truck): offering food items such as ice cream, Hershey's hand dipped, Italian Ice, Hot Dogs, Soda, Water, Lemonade, and candy. *SOFT SERVE, BANANA SPLITS, SHAKES, FLOATS, SUNDAES, SNOW CONES, SANDWICHES*

The truck is located approximately 31' from the front property line and will remain parked for the duration of the season.

Bench and (picnic table) seating will be provided near the truck.

### Parking:

To be provided on the existing paved/gravel surface. *THIS PARKING LOT IS CHAINED OFF ON BOTH SIDES AT THE END OF THE DAY, AND THE DAY WE ARE NOT OPEN TO DISCOURAGE A PLACE TO HANG OUT.*

### Access:

A circular driveway approximately 23-25' wide.

### Days/Hours of Operation:

April 1 through October 31: Wednesday through Sunday from 1:00 pm until dark

May operate on Monday and/or Tuesday depending on various Holidays (ex: Memorial Day Weekend).

### Signage:

No more than six (6) swooper flags to be located removed at the end of each day. The flags will meet the required 25' setback.

\*Additional signage advertising products offers will be posted (ex: Hershey ice cream and Italian Ice banners). Signs will be located on the existing fence. *OPEN SIGN LED INSIDE THE TRUCK*

Please let me know if you have any additional information you would like to provide the Board.

Thank you and have a nice weekend.

Jennilee Hartman, Zoning Clerk  
Office of Planning and Zoning  
304-728-3228

**RECEIVED**

MAR 31 2022

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

### LIGHTING:

*2 PLUG IN DUSK/DAWN LIGHTS  
1 STRING OF COMMERCIAL LIGHTS  
THESE LIGHTS ARE ONLY USED JUST BEFORE CLOSING TO PROMOTE SAFELY LEAVING THE PARKING LOT AND ARE TURNED OFF WHEN SHE LEAVES.*

TENT: *10 X 10 TENT USED DURING INCLEMENT WEATHER (RAIN)*

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MAR 31 2022

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

Conditional Use Permit Application  
22-2 CUP Staubs-Novelty Ice Cream

Narrative:

Do you remember the sound of your 1<sup>st</sup> ice cream truck? Of course, you do. This is the positive feeling we offer every day we work. This truck would provide a service to our local community on the mountain from which we live. 80% of our customers live in the developments close to us, Blue Ridge Acers, Keys Ferry Acers, and Shannondale. Many of our customers appreciate the fact that they do not have to drive 10 or 15 miles to receive a hot dog and a sweet treat. This truck is a point of contact to schedule Birthday parties, school events, church events and many other community events with our other two mobile popsicle trucks. We have seen other ice cream businesses close in Jefferson County WV. example: Cone Zone, Scoop Dawgs, and Sweet Frog and another downtown ice cream shoppe. All these ice cream shoppes have been in operation either before, during, or after the time we started our business in 2010. We offer Hershey Ice Cream, a very well-known brand on the truck. My wife (Minority) is the half owner of this business and is from Honduras. We are on Facebook, and we are currently trending at 5 stars. We are 1 of 2 ice cream places in Jefferson County WV with 5 stars. We are trending with 732 total page likes as well. On Google maps you can see a clean, neat and organized street view of how nice this truck is staged. If you Google ice cream, you will find us at 3807 Chestnut Hill Road Harpers Ferry WV 25425.

## Envision Jefferson 2035 Comprehensive Plan Vision Statement

### Our support of the Comprehensive Plan

#### 1. The proposed use is compatible with the goals of the adopted Comprehensive Plan. Section 6.3A.1

Residents enjoy a countywide system of well-programmed parks, as well as recreational opportunities serving all ages. Safe, congestion free, and convenient transportation access is available throughout the County.

**We offer the residents and tourist a place to relax and enjoy the mountain and ice cream at the same time. It is a safe rural area and congestion free.**

Rural Land Use Planning Recommendations (Goal 2) Page 39

3. Revise existing Jefferson County land use requirements and site plan standards to reduce regulatory barriers related to agricultural and/or artisan operations.

**I agree with and whole heartedly support.**

2.B. Agricultural and Rural Economy Page 72

The County's citizens benefit from the proximity of rural based activities and services and the rural enterprises benefit from nearby markets for goods and services. With this potential, the rural areas of Jefferson County should be seen as ripe for investment and reinvestment.

**We buy many items from the local grocery stores in Jefferson County WV. If not allowed to do business here, they would lose sales and revenue as well.**

A broad-based rural economy can be a net-revenue generator for the County because tax revenues generally exceed expenditures for rural properties. The County recognizes its fiscal responsibility to protect the land resource for the rural economy, to provide fundamental protection for rural businesses, to ensure prudent fiscal management of limited public resources, and to provide needed protection of the public health and safety.

**Rest assured, my wife and I and our company has been a net-revenue generator. We have been responsible for 1 company, we own one house rent another, 5 vehicles in Jefferson County WV. We pay yearly Business Licenses, Property taxes, Personal Property Taxes, Sales and use taxes, Self-Employment Tax, renewing Health Department, Department of Agriculture.**

Rural Economic Activities Page 73

A streamlined process for uses with minimal impacts to surrounding neighbors should be developed.

**How more streamlined could a business be? A parked truck in a parking lot.**

Recreational Tourism Page 83

Outdoor recreation complements the County's natural, cultural, and built environments. It is anticipated that recreational tourism opportunities in Jefferson County will continue to expand in the coming years. This is particularly true in areas near the Potomac and Shenandoah Rivers, where the numerous outfitters and private outdoor recreation providers in the region are expanding their offerings to visitors and residents. The type and scale of new recreational development should be appropriate to the rural nature of Jefferson County. The following recommendations support the expansion and enhancement of a variety of tourism activities in Jefferson County.

**This truck location will be less than 1 mile from the Appalachian Trail that connects rt.9 to Historic Harpers Ferry and is positioned approximately 2 miles from the Shenandoah River.**

Parks and Recreation Recommendations (Goals 19, 20, & 21) page 129

6. Coordinate with key stakeholders to develop a Countywide Trail Plan that includes priorities for trail funding and can be utilized when reviewing development plans for the possible incorporation of sections of the trails within developments.

i. Work closely with the National Park Service and the Appalachian National Scenic Trail to create a trail plan that provides interconnections between the various existing and potential trails that run throughout the Harpers Ferry National Historical Park.

**I would support a trail to branch off rt. 9 to Harpers Ferry coming straight to our truck for a treat for them, and revenue for me and the State.**

**RECEIVED**

**MAR 31 2022**

**JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING**

**2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety, and welfare. Section 6.3A.2**

This truck parked in the parking lot will not impact any neighbor's health, safety, or welfare. At no time will this truck have open smoke, we do not use a grill for our business. The truck is not running so there will not be any exhaust fumes or emissions. All trash will be collected at the end of the day so no animals will be attracted to this area. We also chain off the lot on both sides of the lot upon leaving at the end of the day, so this does not become a hang out place while we are not there.

**3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. Section 6.3A.3**

We will not be developing any part of this property. Our truck will be positioned in a parking lot. Parks and Recreation own the property on the opposite side of the road with no entrance or exit to this property. The neighbors on both sides have written letters with their approval of our truck. We will not hinder nor discourage any appropriate development and use of adjacent land or buildings. Additionally, the parking area and driveway already exists.

**RECEIVED**

**MAR 31 2022**

**JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING**

Trip Generation Data 3807 Chestnut Hill Road Harpers Ferry WV 25425  
From D and E Novelties L.L.C.

This report is based off of 2021 29 week average customer orders

Sunday	30	
Monday	2.5	Memorial Day, and Labor Day
Tuesday	0	
Wednesday	18	
Thursday	19	
Friday	18	
Saturday	25	
	<hr/>	
	112.5	Total for the week average

The Peak Hour trips / average customers per hour

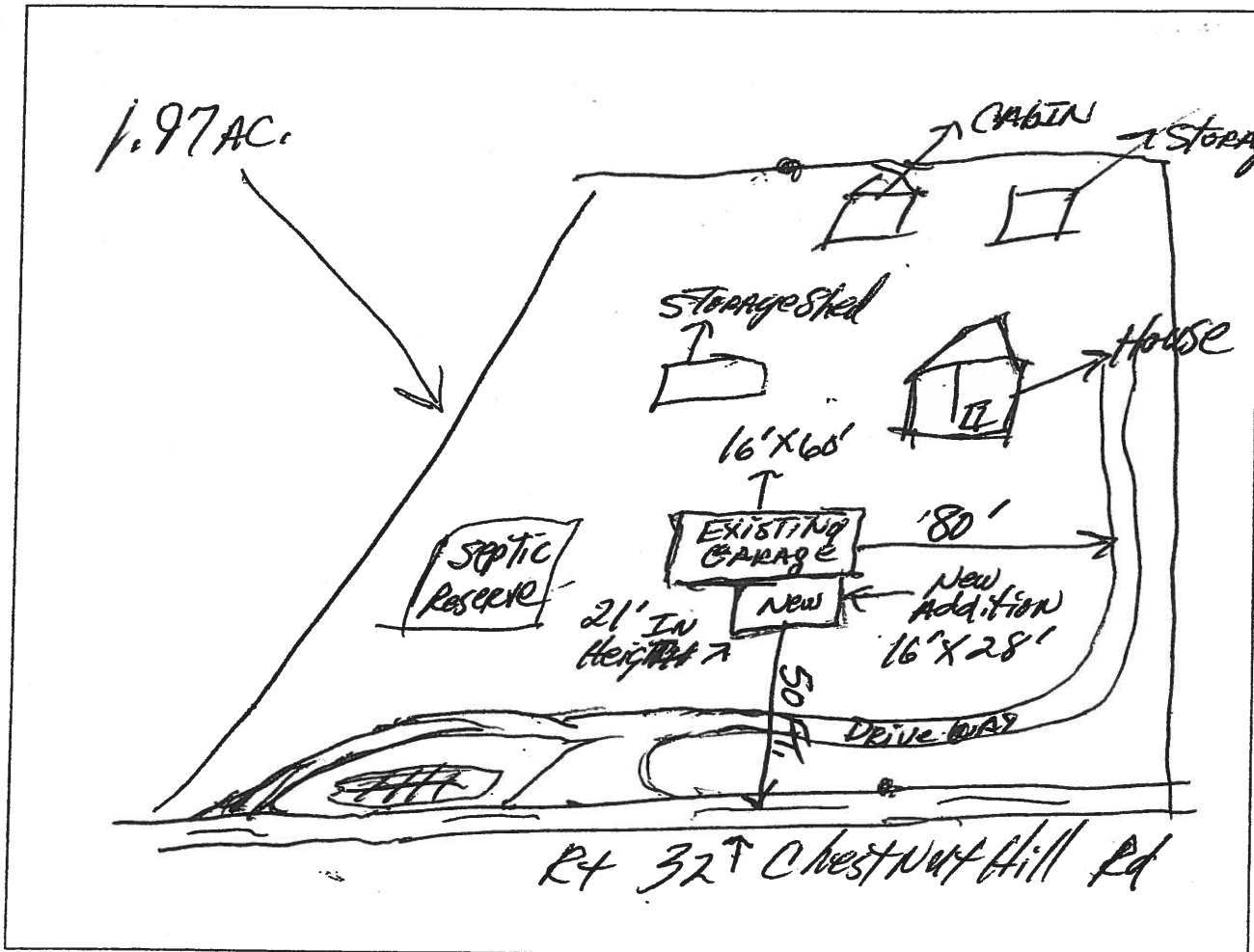
6pm	7
7pm	8

PROPERTY SKETCH SHEET

Sketch the shape and location of the lot and show the following:

1. All existing roads with names and/or route numbers.
2. All rights-of-way and/or easements.
3. Septic reserve areas.
4. Location of the intended construction or land use; and show the building setback lines and the distances from the property line to the setback lines; and the distance from the property line to the structure.
5. Show the size and height of the structure.
6. Show all existing buildings/structures on the parcel/property.
7. On Renovation's and Addition; Please indicate number of bedrooms and if adding a kitchen

Note: The sketch may be on a separate sheet; however, it shall be signed and dated by the applicant.

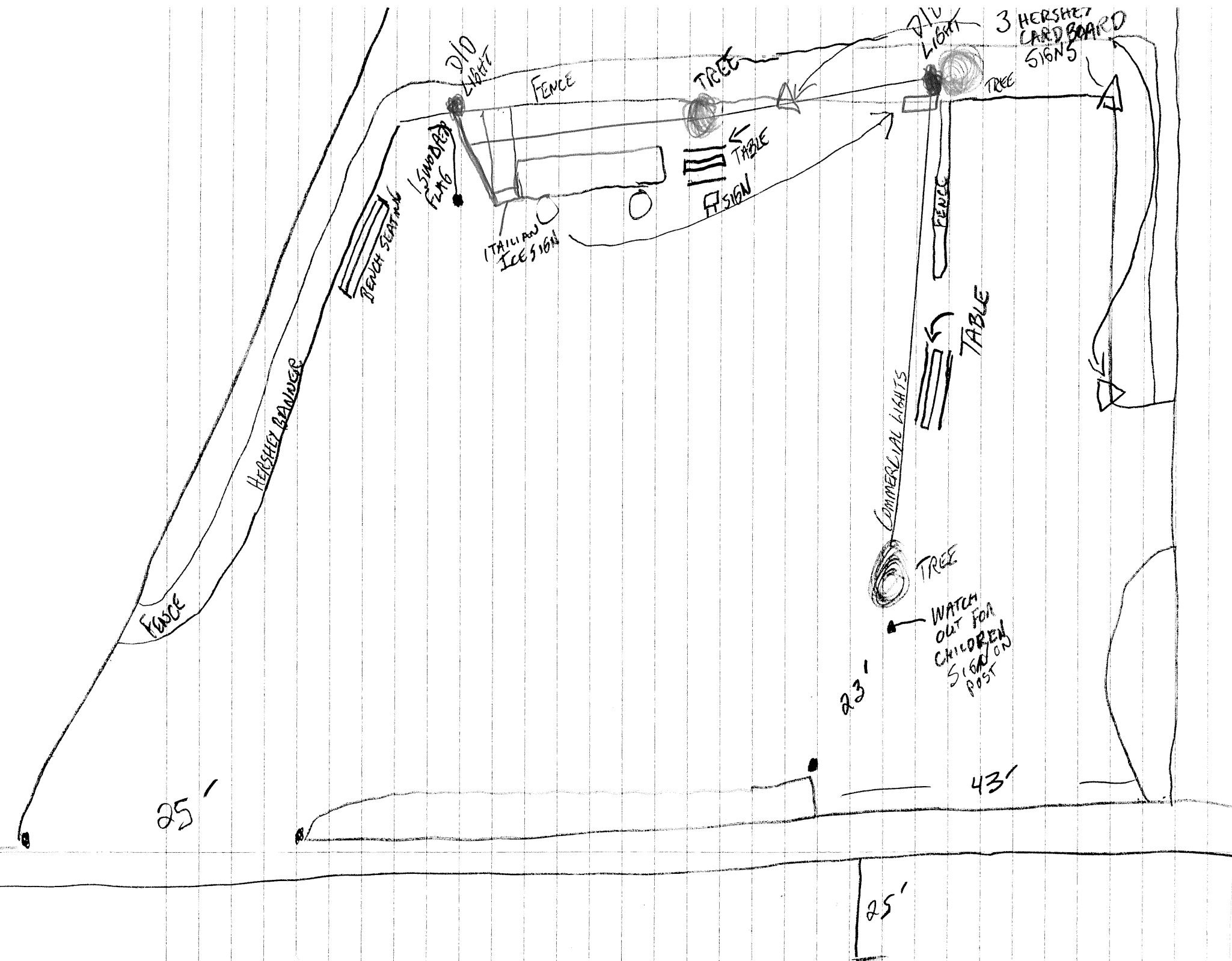


Property Owner/Applicant's Signature

*John [Signature]*

Date:

7, 28, 11



3/23/2022

# PROP. OF NATIONAL PARK Service

PROP. OF

1.97 AC.

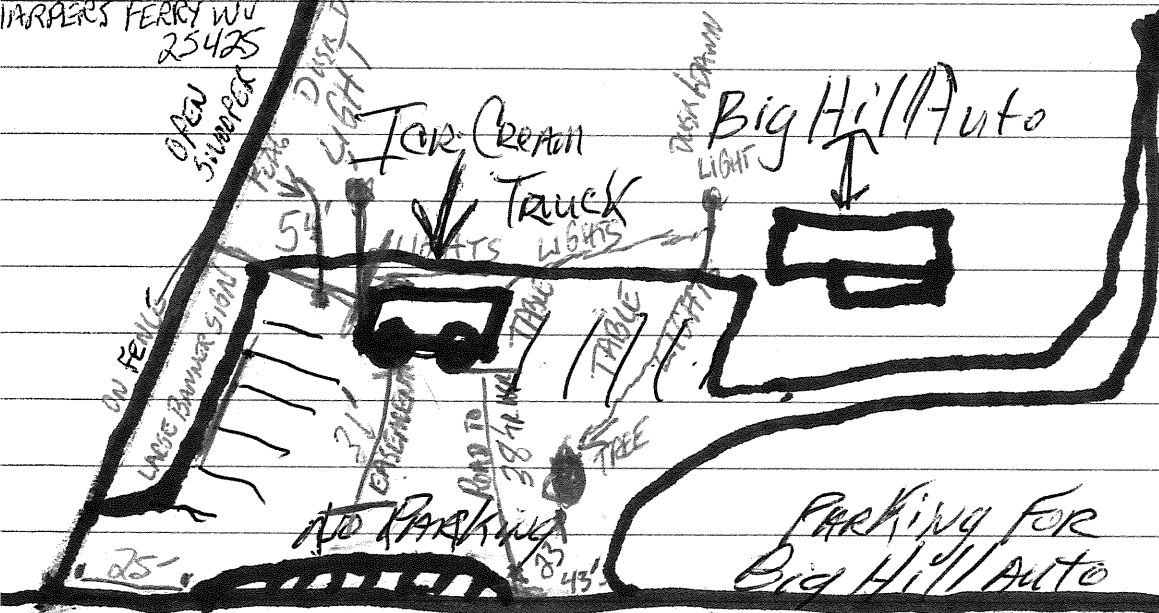
Donna Rinker

PROP. OF

John Happ

3889 CHESTNUT Hill Rd  
HARPER'S FERRY WV  
25425  
304-707-2899  
Johnhapp@HOTMAIL.COM

735 CHESTNUT Hill Rd  
HARPER'S FERRY WV  
25425



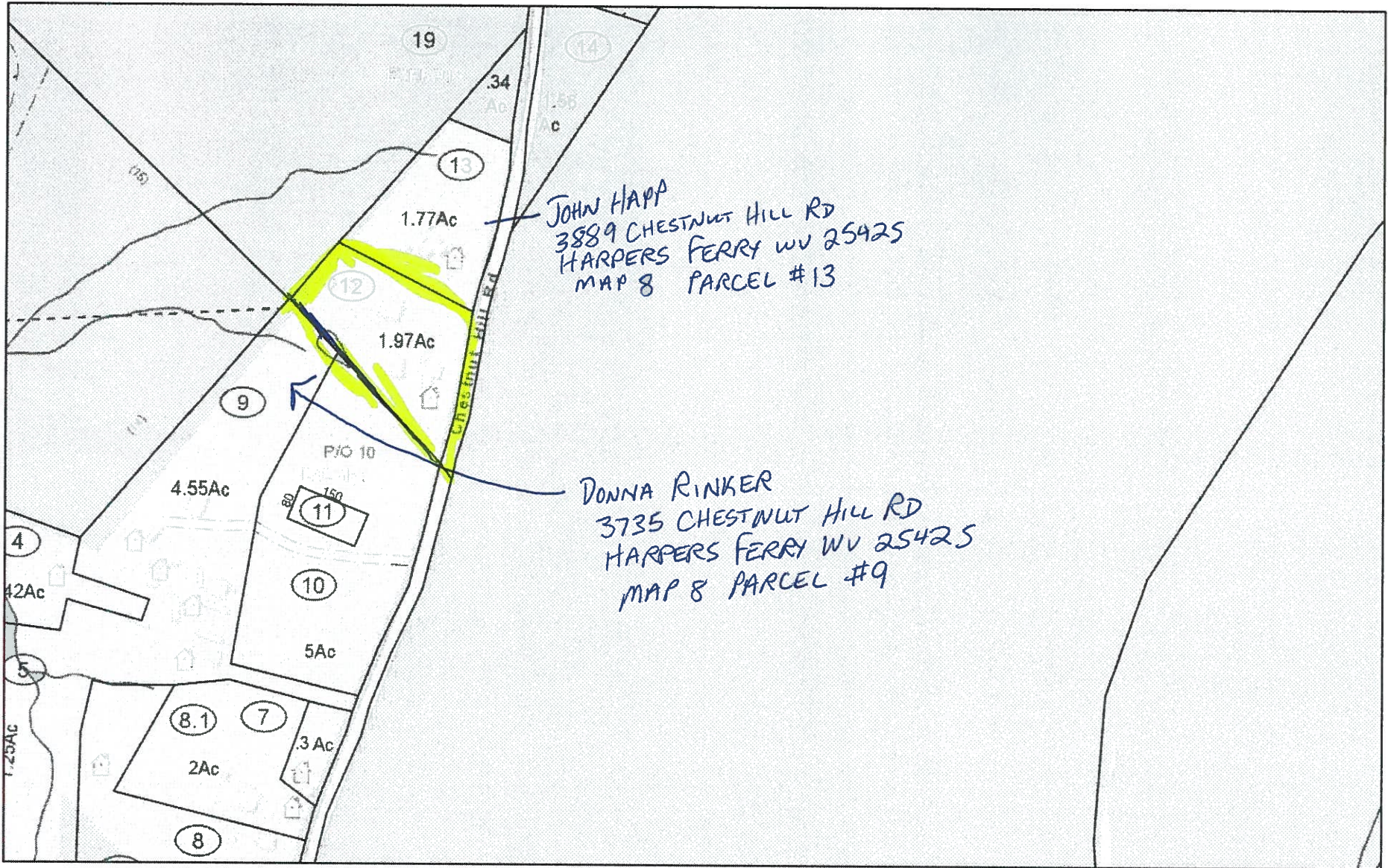
Chestnut Hill Rd.

PROP. OF

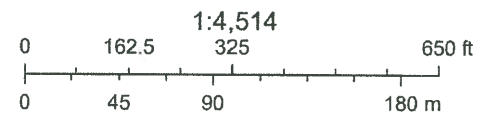
NATIONAL PARK Service

THREE SWEEPER FLATS

# Viewer Map



March 24, 2022



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand),

To Whom it may concern:  
@ Jeff. Co. Planning & Zoning

3/23/2022

As the property owners of property  
AT 3807 + 3815 Chestnut Hill Rd. Harpers  
Ferry Dist., Jeff. Co. W.Va. has been  
Subdivided into two large lots, Per: Zoning Com.  
3807 being Commercial

3815 being our residence

Property Approved with a Multi-Use Variance.

We also pay tax on Commercial & Residential.

To address this matter about the  
Ice Cream Truck being located at  
3807 Chestnut Hill Rd., "Supposedly" according  
to Mason Carter Anew structure was  
built or attached to the Ice Cream  
Truck, but there was not! "Supposedly"  
this is how the whole matter came to  
be.

We have given the use of this property  
to: D & E Novelty's for use during Spring,  
Summer & Fall.

We believe that this service is of  
great enjoyment to our local community  
AND ALSO to the: Jeff. Co. TAX revenues do  
support all of Jeff. Co.?

Property Owners: John Starks  
Chloe Starks

**Date:** March 23, 2022

**To:** Jefferson County Planning Commission  
Charles Town, WV

**From:** John Happ  
3889 Chestnut Hill Road, Harpers Ferry, WV 25425  
(304) 707-2899  
johnhapp@hotmail.com

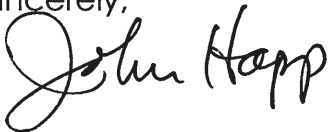
**About:** Permit for the Ice Cream Truck of David and Evelyn Nail  
Parked at property of John Staubs, 3807 Chestnut Hill Road, Harpers Ferry, WV

**Dear Commission Members:**

I am writing this letter in support of a permit for the Ice Cream Truck owned by David and Evelyn Nail, and located on the property of John Staubs at 3807 Chestnut Hill Road. I am John's next-door neighbor on the northern side.

For the past two years, I and many others of the local community have enjoyed the ice cream treats offered at Nails' Ice Cream Truck. Many of us wish that this service will continue to be available to the community in the future.

Sincerely,

A handwritten signature in black ink that reads "John Happ". The signature is written in a cursive style with a large, looping initial "J".

John Happ

March 23,2022

To Whom It May Concern,

We, the Rinker Family living at 3735 Chestnut Hill Road, Harpers Ferry are John Staub's next door neighbor. One of the best things he did for the entire mountain community was to have the ice cream truck on his property along with the garage. It is a benefit which not only our family and friends enjoy but the whole community and their friends also. It would be a disservice to us all should this not be able to continue.

God Bless,

Donna Rinker

A handwritten signature in black ink that reads "Donna Rinker". The signature is written in a cursive style, with the first name "Donna" and the last name "Rinker" clearly legible.

3/24/22

To The Planning & Zoning Commission  
of Jefferson County WV.

In regards to the ice cream truck parked  
at ~~3808~~ Chestnut Hill Rd., Harpers Ferry,  
I have no complaint about this mobile unit  
being parked on the premises or the business  
operated from it.

The premises are clean and orderly. It does  
not contribute to any trash or debris.

It is a good service to the community and  
is operated in a very professional manner.

I look forward to having it around for a long time.

Michael R. Jenkins  
4290 Chestnut Hill Rd  
Harpers Ferry, WV 25425

March 29, 2022

To: Jefferson County Planning & Zoning

RE: D and E Novelties

This is a letter in which I would like to speak about D and E Novelties. They are an asset to the community. They are an absolute pleasure to be around the area. The community as a whole is better for having the Ice Cream and Novelties that they sell. We enjoy them so much!!

Thank you,

A handwritten signature in cursive script that reads "Glen and Sherrie Seabolt". The ink is dark and the handwriting is fluid and personal.

Glen and Sherrie Seabolt

4 March 28, 2022

To Whom It may concern,

This letter is in reference to D&E Ice Cream truck on Chestnut Hill Road in Harpers Ferry.

Diane and Evelyn are very sweet and professional Proprietors. Without them being here, we would have to drive 10 or more miles to receive such a treat.

We highly recommend them and would be sad to see them go as they are a great asset to our community.

Sincerely,

Charlette & Gary Stankus

The Jefferson Planning and Zoning Comm.

This is a letter expressing our feelings of why we like having the Ice Cream Truck owned by, Dave and Evelyn, servicing our area on Chestnut Hill Road. This has become quite a convenience for the area. In the past two years this truck has become a welcoming site for families and passersby. It is quite a convenience for visiting grandparents, they can take their grandchildren for a frozen treat without having to travel any distance. Families and friends seem to meet for a quick visit while getting their treats creating a great atmosphere. The area is well maintained and kept very clean. If the truck were not allowed there would be many a saddened families. This service is a very liked addition for Chestnut Hill family and surrounding area. Please we would like to see our Ice Cream truck in service every summer.

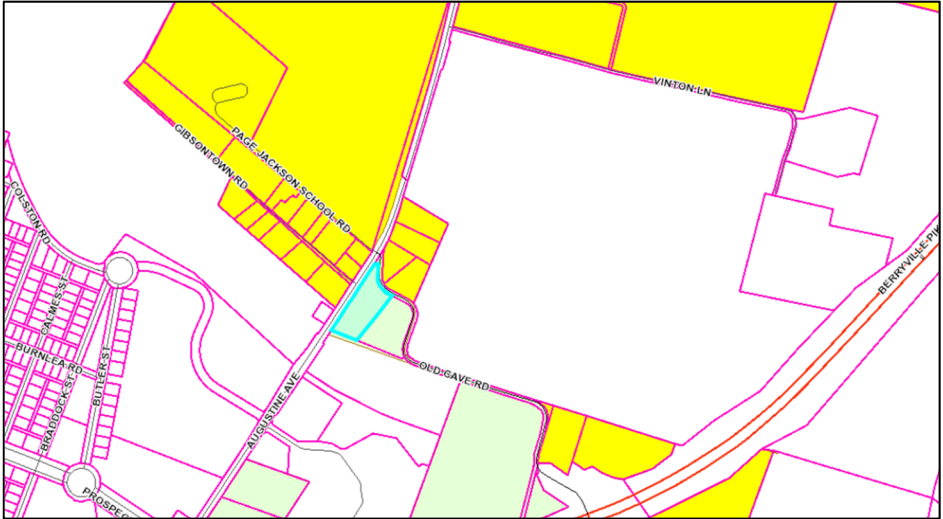
Thanks!

Residents of Blue Ridge Acres

Larry Doves  
+  
Victoria Smith

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 28, 2022  
**Tiffanie and Aaron Fridley**  
**Conditional Use Permit Request (#22-3-CUP)**

Item #5 Request for a Conditional Use Permit to operate a Day Care Center, Large, as defined in Article 2. The applicant is proposing to operate a daycare center from an existing residence to provide childcare for up to twelve (12) children. Hours of Operation: Monday through Friday from 6:00 am to 5:00 pm. Onsite parking and an attached business sign are proposed.

Applicant:	Tiffanie and Aaron Fridley
Owner:	Same
Consultant:	None
Parcel Information / Zoning District:	<p style="text-align: center;">2235 Old Cave Rd, Charles Town, WV 25414          Parcel ID: 02001700030000; Size: 1.95 ac; Zoning District: Rural</p>  <p style="text-align: center;">*The white areas of map are within the City of Charles Town's jurisdiction.</p>
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:          North: Residential Growth; East: Residential Growth &amp; Rural          South: City of Charles Town; West: City of Charles Town &amp; Residential Growth</p>
Approvals:	04/29/14: Boundary line adjustment recorded in DB 1140, PG 382
Site Visit Conducted:	No.

**Summary of Request and Purpose of Ordinance Requirements**

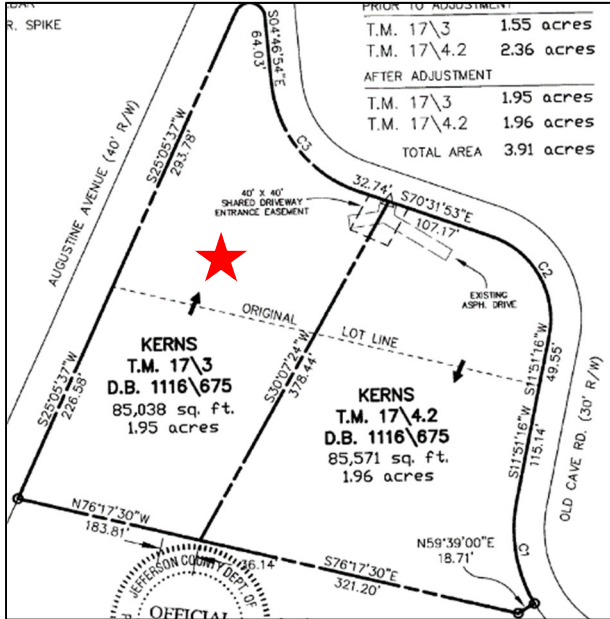
Request for a Conditional Use Permit to operate as a *Day Care Facility, Large* as defined in Article 2. The applicant is proposing to operate a day care facility with up to 12 children from the existing home.

Article 2 defines *Day Care Facility, Large* as:

“A facility: (1) licensed by the state, if applicable; (2) providing care for six or more children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight; and (3) which may include some instruction.”

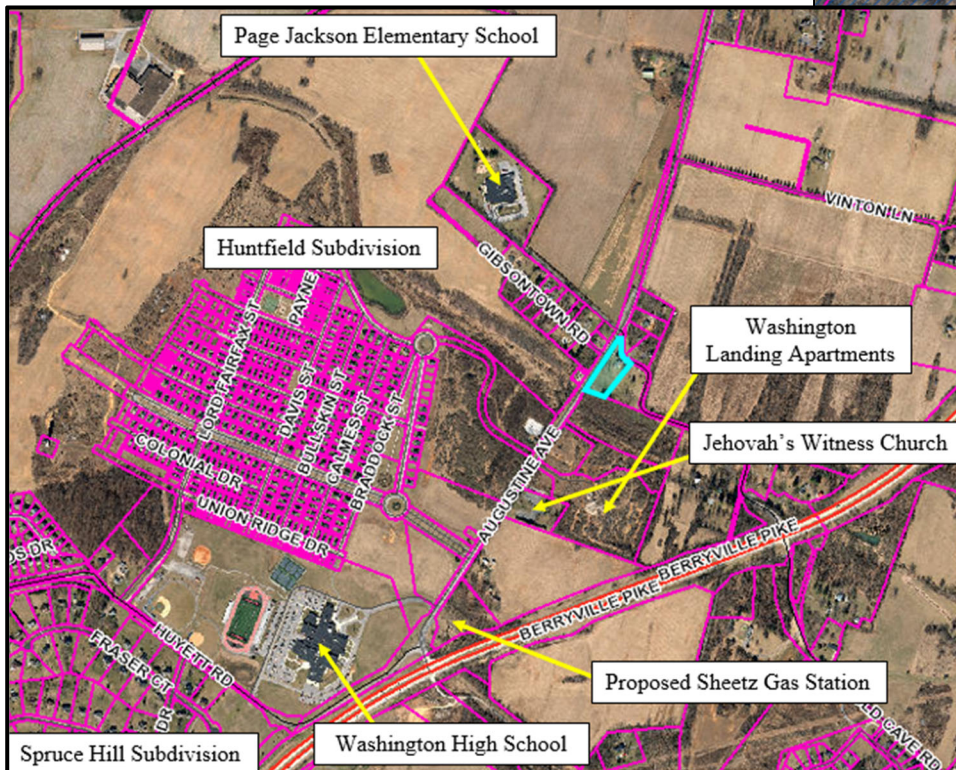
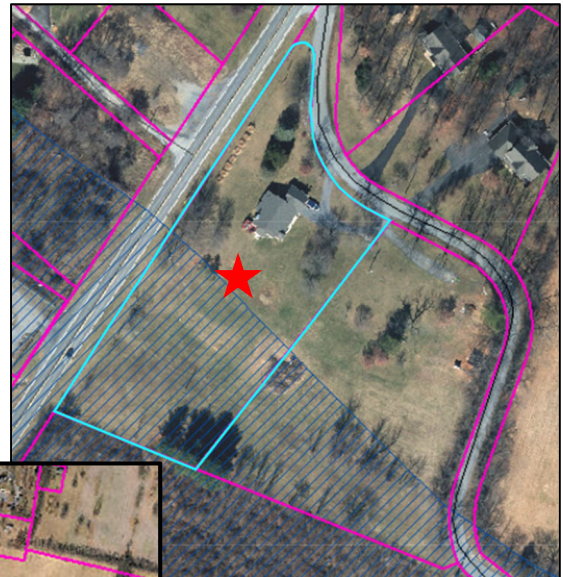
Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 28, 2022  
**Tiffanie and Aaron Fridley**  
**Conditional Use Permit Request (#22-3-CUP)**

**Property Description**



The subject parcel is a 1.95 acre lot, surrounded primarily by residential development and agricultural land. Page Jackson Elementary School and Washington High School are both within close proximity.

The subject parcel was originally created in 1947 and was subsequently reconfigured in 2014 via a boundary line adjustment recorded in [Deed Book 1140, at Page 381](#). The subject lot is partially located within the floodplain area.



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 28, 2022  
**Tiffanie and Aaron Fridley**  
**Conditional Use Permit Request (#22-3-CUP)**

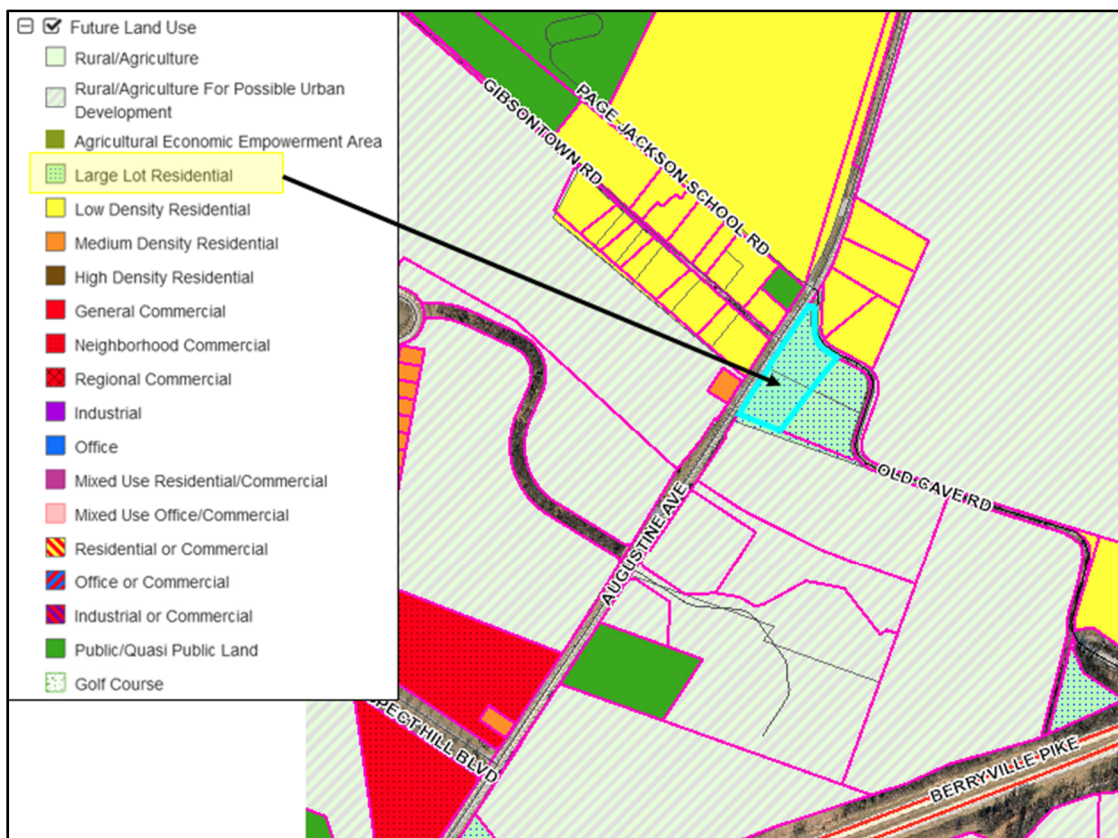
**Conditional Use Permit Process**

Section 6.3 of the Zoning Ordinance states:

“The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as “Conditional Uses (CU)” in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit:”

The following General Standards shall be considered by the Board in approving or denying the CUP:

**1. The proposed use is compatible with the goals of the adopted Comprehensive Plan. (Sec. 6.3A.1)**



The subject parcel is shown as “Large Lot Residential” on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide. The property is located within the Charles Town Urban Growth Boundary.

One major goal of the Plan is to allow Conditional Use Permits to process in the Rural zoning district for non-residential uses which are compatible in scale and intensity with the rural environment. This goal is referenced numerous times throughout the Plan (see excerpts below).

“...This Plan further recommends amending the Zoning Ordinance to eliminate the LESA point system and to develop procedures that would allow the use of a more traditional CUP process in the Rural District for non-residential uses. This CUP process should require a public hearing before the Board of Zoning Appeals to determine if the use is compatible in scale and intensity with the rural environment and poses no threat to public health, safety, and welfare.” (Page 36, Rural Land Use)

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 28, 2022  
**Tiffanie and Aaron Fridley**  
**Conditional Use Permit Request (#22-3-CUP)**

“Amend the Zoning Ordinance to eliminate the Land Evaluation Site Assessment (LESA) system and to modify the Conditional Use Permit (CUP) process in the Rural Zoning District, which would be used for compatible non-residential development only.” (Page 39, Recommendation #4.b – Rural Land Use Planning Recommendations (Goal 2))

“This Plan recommends that the use of the CUP in the Rural District be limited to non-residential uses not permitted in the Rural District which are compatible in scale and intensity with the rural environment and that pose no threat to public health, safety, and welfare.” (Page 74, Rural Economic Activities)

“Recommendation 5: Amend the Zoning and Land Development Ordinance to permit additional non-residential rurally compatible uses.

Recommendation 5b: Amend local land use regulations to permit non-agriculturally related commercial uses by the Conditional Use Permit (CUP) process in the Rural zone if the use is agriculturally and rurally compatible in scale and intensity, poses no threat to public health, safety, and welfare, and if the use helps to preserve farmland and open space and continue agricultural operations. (Page 77, Agricultural and Rural Economy Recommendations (Goal 8))”

**2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare. (Sec. 6.3A.2)**

The applicant is proposing to operate a daycare center from an existing residence by finishing the basement area. A small sign, identifying the business, will be placed in front of their home. Parking is proposed to occur within the existing driveway area.

**3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. (Sec. 6.3A.3)**

Based on the information provided, the proposed site development will occur entirely within the existing dwelling. Use of the yard for outdoor play is anticipated.

**4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance. (Sec. 6.3A.4)**

A site plan is not required because the applicant is not proposing any increase in impervious area; therefore, landscaping and buffer standards will not be enforced, unless the Board requires as a condition of approval.

**5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of this Ordinance. (Sec. 6.3A.5)**

As part of the Conditional Use Permit application, the applicant was informed of this criteria and shall comply with this standard.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 28, 2022  
**Tiffanie and Aaron Fridley**  
**Conditional Use Permit Request (#22-3-CUP)**

**6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan's Highway Road Classification Map. (Sec. 6.3A.6)**

The subject property fronts Augustine Avenue and Old Cave Road. Augustine Avenue is classified as a Minor Arterial (primary or four lane road) on the Roadway Classification Map; therefore, the application is not subject to this criteria.

**7. Historic Landmarks Commission's Findings related to the proposed land use. (Sec. 6.3A.7)**

The subject property does not contain any Category I or II historic sites as defined by the Zoning Ordinance; therefore, this criteria does not apply.

**8. Any signs associated with the proposed Conditional Use shall be reviewed by the Board in accordance with Section 10.6. (Sec. 6.3A.8)**

Signs accessory to a Conditional Use are subject to Section 10.6 of the Zoning Ordinance, which requires that as part of the application, signage shall be addressed for review and consideration by the Board at the required Public Hearing. The applicant is proposing to place a small sign in front of their porch to identify the business. Due to the orientation of the house, the sign will not face any existing residences.





**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, 2<sup>nd</sup> Floor  
 P.O. Box 716  
 Charles Town, West Virginia 25414

22-3-cup

File #: CUP  
 Mtg. Date: 4/28/22  
 Fee Paid: \$ 300  
 Staff Int.: gjt

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228  
 Fax: (304) 728-8126

**Application for a Conditional Use Permit**

Conditional Use Permit process is outlined in Article 6 of the Zoning Ordinance

**Project Name**

Tiff's Tiny Tots gjt

**Property Owner Information**

Name: Tiffanie Fridley  
 Business Name: Tiff's Tiny Tots  
 Mailing Address: 2235 Old Cave Rd Charles Town WV 25414 Mail  Yes  
 Phone Number: 304-723-9217 Email Response: T.Fridley1@yahoo.com Response:  No

**Applicant Information**

Name: \_\_\_\_\_  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Mail  Yes  
 Phone Number: \_\_\_\_\_ Email Response: \_\_\_\_\_ Response:  No

**Engineer(s), Surveyor(s), or Consultant(s) Information**

Name: \_\_\_\_\_  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Mail  Yes  
 Phone Number: \_\_\_\_\_ Email Response: \_\_\_\_\_ Response:  No

**Physical Property Details**

Physical Address: Same  
 Tax District: Charles Town (02)  Map No: 17 Parcel No. 0003  
 Parcel Size: 1.95 ac. Deed Book: 1140 Page No: 384

**Zoning District (please check one)**

Residential Growth (RG)	Industrial Commercial (I-C)	Rural* (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General Commercial (GC)	Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\* For properties in the Rural Zoning District:  
 Is property located on a primary or secondary road?  Yes  No

Name of Road and/or Route Number: Old Cave Rd

**Sketch Plan (see cover sheet for description)**

Attached

**A list of all adjacent and confronting property owners (see cover sheet for description)**

Attached

**State the proposed land use as listed in Appendix C and provide a description of the proposed use.**

See Attached

**Please provide any information or known history regarding this property.**

Home was built in 2015

**Please respond (in detail) to the following statements located in Section 6.3 of the Zoning Ordinance:**

1. The proposed use is compatible with the goals of the adopted Comprehensive Plan. *Section 6.3A.1*

The use is compatible and the Comprehensive Plan will be followed

2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety, and welfare. *Section 6.3A.2*

The use will not require us to go outside of the existing structure footprint. The driveway and parking area will stay as is and the use will not impose on the neighboring properties

3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. *Section 6.3A.3*

The outside of the existing structure will not change. The sign for the proposed use will face property that is owned by the applicant. The use will not affect any future development of neighboring properties

4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance. *Section 6.3A.4*

I am aware of the landscaping buffer requirements and will adhere to them.

I am aware of the landscaping buffer requirements; however, I may be seeking a variance to modify them.

5. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan's Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a Principal Arterial, Minor Arterial, or Major Collector road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the Board of Zoning Appeals to review in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use. *Section 6.3A.6*

Applicable (Trip Generation Data attached)

Not Applicable

The information given is correct to the best of my knowledge. **Original Signature Required.**

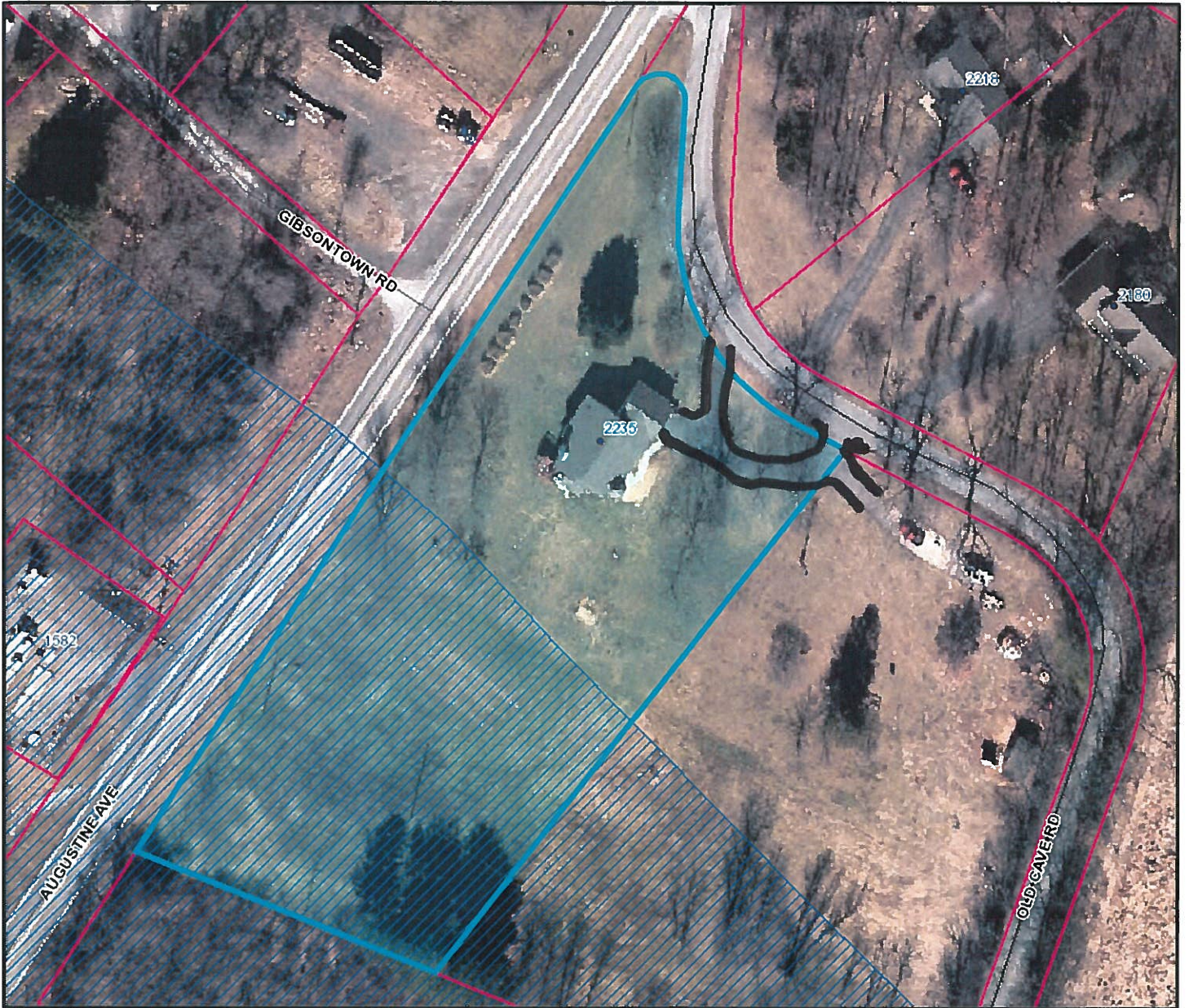
  
Property Owner

3/30/22  
Date

  
Property Owner

3/30/22  
Date

Tiff's Tiny Tots will be a daycare center ran out of the basement of our home on 2235 Old Cave Road. We will be opened Monday through Friday 6AM to 5PM. Starting out it will be me taking care of the children by myself, but if the demand is high and we have more children than I can handle by myself, I will have employees. I plan on having no more than 8 children by myself. We have a long-rounded driveway for parents to easily drop off and pick up. If I have employees in the future, the driveway is big enough to accommodate them to park and still not interfere with the parents dropping off and picking up.



The area outlined is for parking.  
Advertising sign will be in front of front porch facing Kerns  
Property.





Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 28, 2022  
**Ramey Variance Request (#22-14-ZV)**

Item #6 Variance from Section 9.7 to reduce the rear setback from 50' to 20' for a 40' x 100' accessory structure.

Owner:	Clifford Ramey
Parcel Information and Zoning District:	<p style="text-align: center;">Hidden River Farm, Wide Horizon, Pt 1, Lots 9-11          1079 Archer Road, Kearneysville, WV          Parcel ID: 07001300560000; Size: 3.3 ac; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Map Designation: <i>North, South, East and West: Rural</i>
History:	Hidden River Farm, Wide Horizon section recorded on 05/15/70 in <a href="#">PB 1, PG 91</a>
Waivers/Variations:	None
Approved Activity:	Single Family Residence
Site Visit Conducted:	No.

**Summary of Request and Purpose of Ordinance Requirements**

The applicant is seeking a variance from Section 9.7 to reduce the rear setback from 50' to 20' for a 40' x 100' 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.

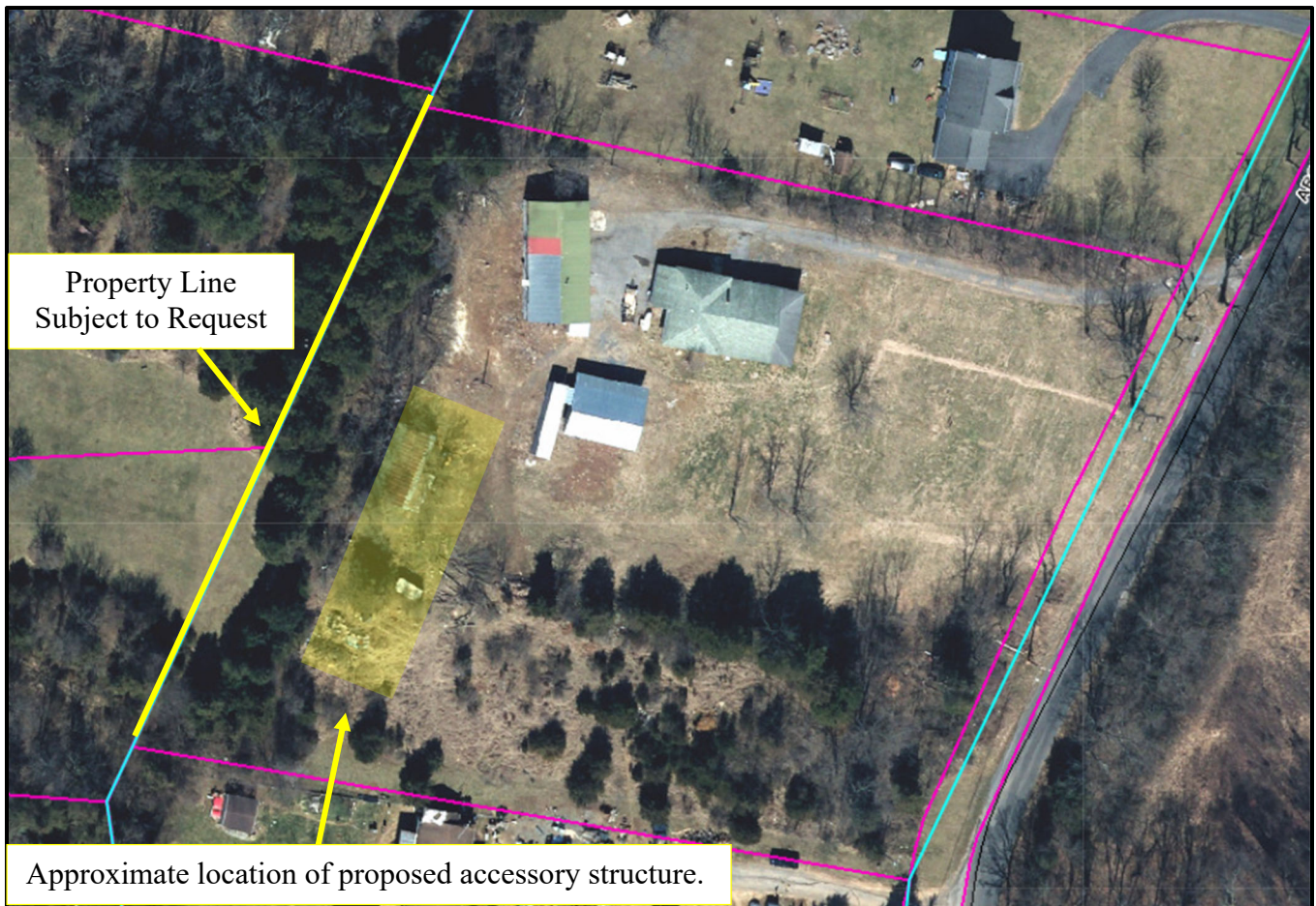
Staff Report  
Jefferson County Board of Zoning Appeals  
April 28, 2022  
**Ramey Variance Request (#22-14-ZV)**

**Staff Evaluation of Request**

The subject property is located within Hidden River Farm, Wide Horizon Section, Part 1, and consists of Lots 9 -11. The final plat was recorded on May 15, 1970 in [Plat Book 1, at Page 91](#), prior to the adoption of zoning.

The applicant intends to construct a 40' x 100' accessory structure across lots 10 and 11. As noted in Section 9.4B, placement of an accessory structure on a shared lot line under the same ownership is permitted, provided that the contiguous lots shall be treated as one lot for all purposes by the Zoning Ordinance and Subdivision Regulations. Essentially, this means that for residential dwellings and residential accessory structures, setbacks for internal lots lines of contiguous parcels under the same ownership do not apply. The combined acreage for all three lots is approximately 3.3 acres; therefore, pursuant to Sections 9.4B and 9.7, the required setbacks for the proposed structure are 40' Front, 15' Side, and 50' Rear.

The subject request is to reduce the rear setback from 50' down to 20' for a 40' x 100' accessory structure that will be used for personal storage of RV and antique vehicles. The adjoining properties to the west contain dwellings that are located well over 200-feet from the subject property line.



Staff Report  
Jefferson County Board of Zoning Appeals  
April 28, 2022  
**Ramey Variance Request (#22-14-ZV)**

Based on the acreage of the property, it is feasible to construct the accessory structure in a location that complies with the required setbacks; however, the applicant has represented that the subject location is preferred because it will require less backfill than elsewhere on the property.

**Conditions of Approval**

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

1. No business may be operated from this structure.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 9.4 Setback Modifications**

B. A structure may be located on a common side or rear lot line of contiguous property owned by the same entity. Provided, however, that the structure shall only be a single family dwelling or an accessory structure. Also provided, however, that the contiguous lots shall be treated as one lot for all purposes by the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations.”

**Section 9.7 Other Exceptions<sup>3</sup>**

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:<sup>23</sup>

Residential Growth District<sup>23</sup>

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.





**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 22-14-ZV  
 Staff Initials: gm  
 Meeting Date: 4-28-22  
 Fees Paid (\$100 or \$150): 100-

Email: [zoning@jeffersoncountywv.org](mailto: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: Clifford Ramey  
 Mailing Address: 1079 Archer Road, Kearneysville, WV 25430  
 Phone Number: 304 676 6505 Email: Capitolwv@gmail.com

**Applicant Contact Information**

Name: Same  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name: N/A  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 1079 Archer Road Lots 9, 10, 11 of Wide Horizon Sec. Pt. 1 (PB 1 @ PG 91)  
 City: Kearneysville State: WV Zip Code: 25430  
 Tax District: Middleway (07) Map No: 13 Parcel No: 56  
 Parcel Size: 3.35 acres (Total) Deed Book: 1208 Page No: 249

**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"/>	
<b>RECEIVED</b>			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"/>
<b>APR 04 2022</b>							
<b>JEFFERSON COUNTY PLANNING ZONING &amp; ENGINEERING</b>							
<small>Place Received Date Stamp Here</small>							

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Section 9.7

Briefly describe the nature of the variance request:

Reduce the setback from 50' to 20' to install storage building for RV and antique vehicles building would be 40x100x16

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

Front Setback  Side Setback  Rear Setback  Reduction From 50' to 20'

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:

There is wooded area between my property and neighbor on back horse behind me is at least 200' away there will be no windows or lights in rear of building

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 way the land is I would have to bring in several tons of backfill due to land dropping off down hill also I just spent 11000 dollars on fence that would have to go

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

It will make better being in this location save on backfill and look more in place there instead of being out in front

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

This will help with keeping vehicles inside out of sight and will make property look better making better for community

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.

Signature of Property Owner: [Signature] Date: 4-9-22

Signature of Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Notification Requirements (to be completed by staff)

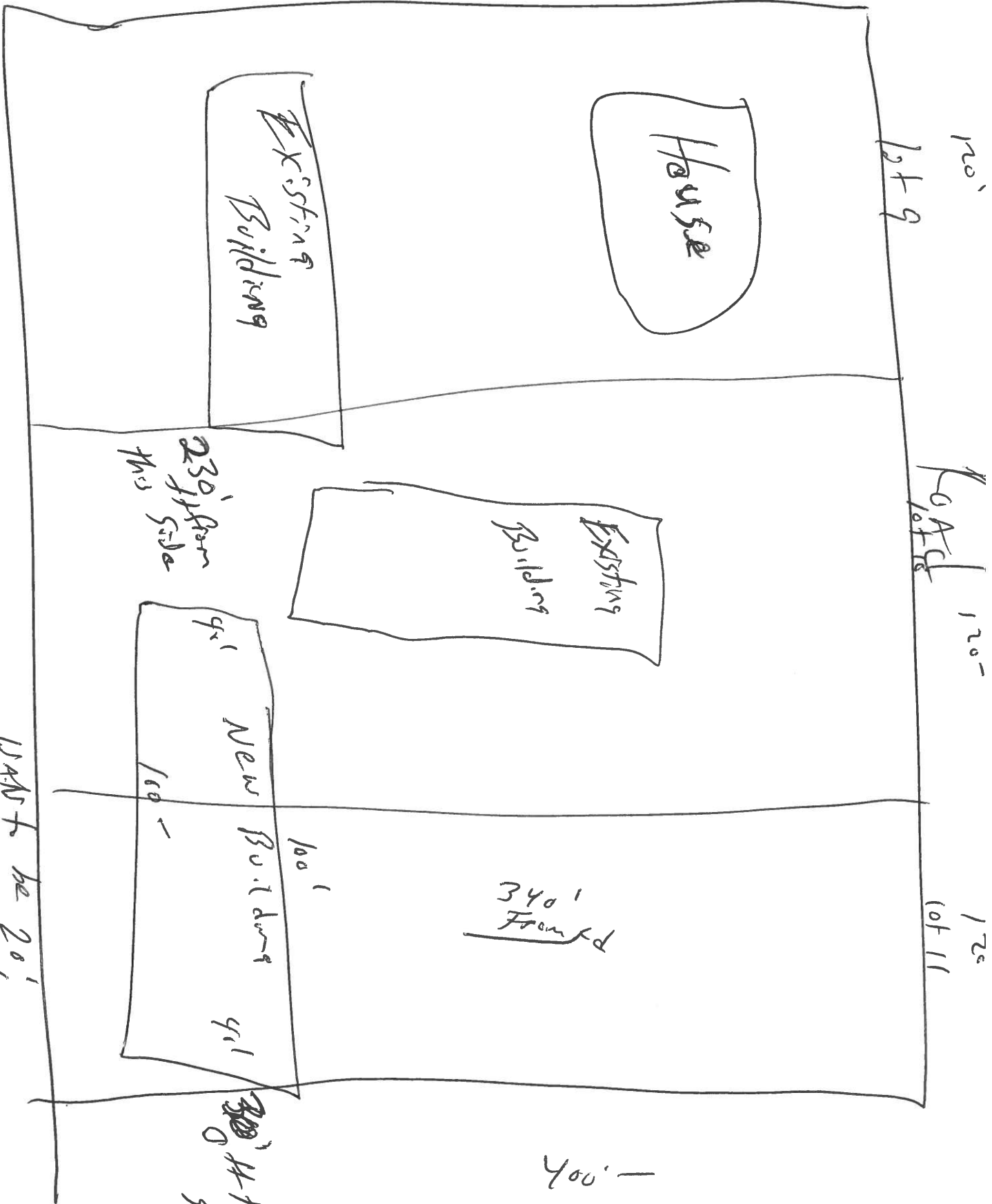
Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant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

04-28-22 Date of Public Hearing

04-13-22 Advertising Date

04-13-22 Placard Posting Date

400'



Back

WANTS to be 20' off Back

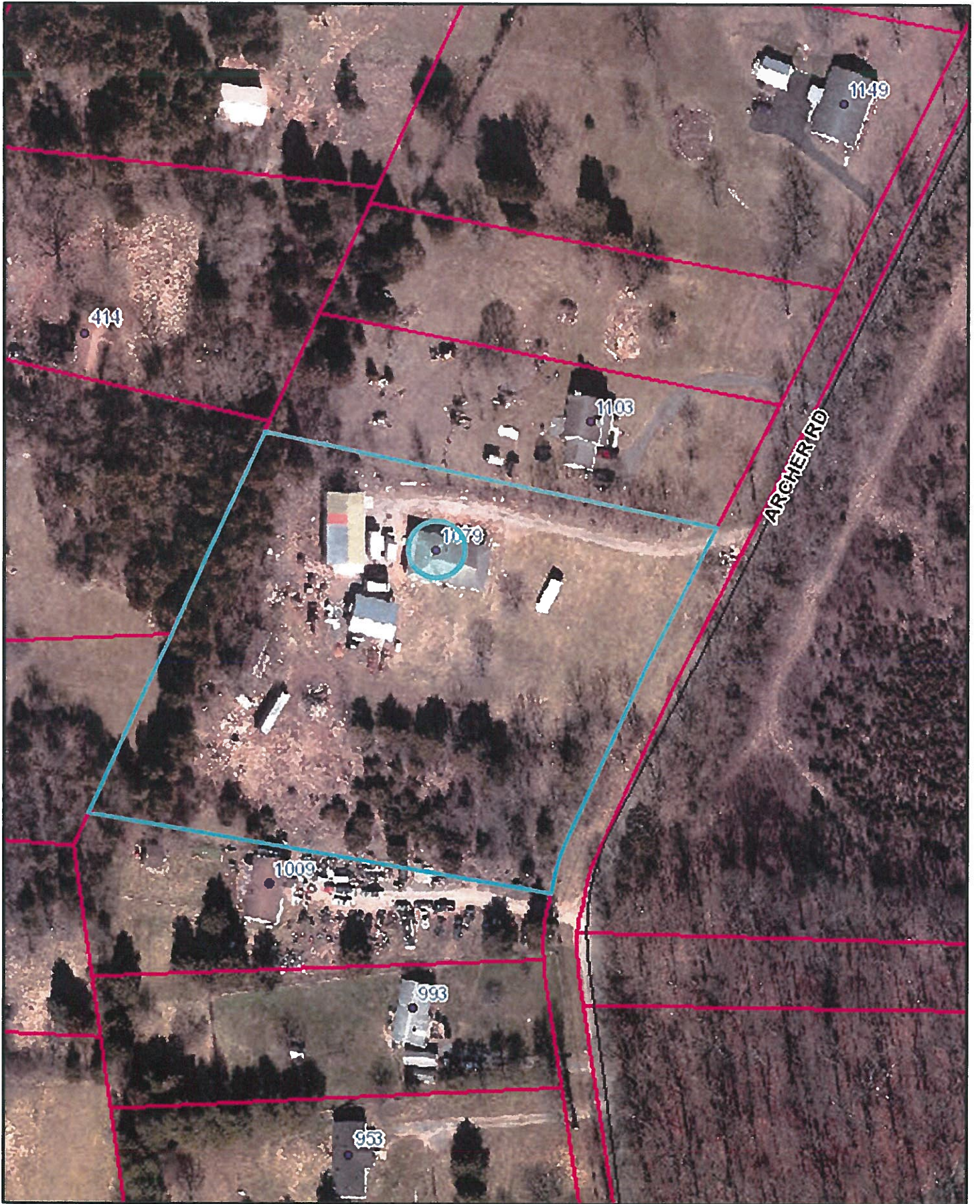
230' from this side

300' from this side

340' Footed

400' -







Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 28, 2022

**Petry Variance Request (File #22-15-ZV)**

Item #7 Variance request from Appendix A to reduce the front setback from 40' to 3'; the side setback from 15' to 3'; and the rear setback from 50' to 3' for an 8' tall block and stone wall to be constructed along the eastern property line.

Applicant:	John Petry
Owner:	Kanette Petry
Consultant:	N/A
Parcel Information and Zoning District:	<p style="text-align: center;">Lot 4 (Residue), French Road, LLC MSD          245 Summerfield Way, Shenandoah Junction, WV          Parcel ID: 09002000110004; Size: 5 ac; Zoning District: Rural</p>
Surrounding Properties:	<p style="text-align: center;">Zoning Districts:          North, East, South, and West: Rural</p>
History:	French Road, LLC MSD recorded in <a href="#">PB 26 @ PG 239</a> on 05/18/21
Waivers/Variations:	12/08/20: PC approved waiver to process as a minor subdivision (20-13-PCW)
Approved Activity:	Single Family Dwelling
Site Visit Conducted:	Site Visit Not Conducted.

Staff Report  
Jefferson County Board of Zoning Appeals  
April 28, 2022

**Petry Variance Request (File #22-15-ZV)**

**Summary of Request and Purpose of Ordinance Requirement**

The applicant is requesting a variance from Appendix A, to reduce the front setback from 40' to 3'; the side setback from 15' to 3'; and the rear setback from 50' to 3' for an 8' tall block and stone wall to be constructed along the eastern property line.

A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansion 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.

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 Evaluation of the Request**

The subject parcel is designated as Lot 4 of the French Road LLC Minor Subdivision, which was recorded on May 18, 2021 in [Plat Book 26 at Page 239](#).



Staff Report  
Jefferson County Board of Zoning Appeals  
April 28, 2022

**Petry Variance Request (File #22-15-ZV)**

The subject property line is shared with a 59 ± acre parcel with a farmland preservation easement. The properties to the north and south are both residential.

It is feasible to comply with the Ordinance by either reducing the height of the wall to 6-feet, or locating the wall to comply with the required setbacks. The applicant has represented that they would prefer to have an 8' wall constructed the full length of the eastern property line for the purpose of enclosing the backyard while providing a screen from the adjacent property.

**Conditions of Approval**

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

1. No conditions of approval were identified.

**Section of Ordinance to be Considered**

**Section 9.5 Projections Into Yards<sup>8</sup>**

- A. Fences and walls over six feet in height shall meet building lines and yard requirements. A building permit is required before construction. Fences and walls six feet and under in height shall be exempt from building lines and yard requirements unless obstructions to vision at an intersection as referenced in Section 4.9.<sup>23</sup>

**Appendix A: Residential Site Development Standards Table**

**Rural Setbacks:**

Front: 40'

Side: 15'

Rear: 50'





**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: 22-15-ZV  
 Staff Initials: gp  
 Meeting Date: 4-28-22  
 Fees Paid (\$100 or \$150): 100-

Email: [zoning@jeffersoncountywv.org](mailto: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: Kanette Petry  
 Mailing Address: P.O. Box 190, Ranson, WV 25438  
 Phone Number: 304-261-0042 Email: kanettepetry@gmail.com

**Applicant Contact Information**

Name: John Petry  
 Mailing Address: P.O. Box 190, Ranson, WV 25438  
 Phone Number: 304-261-8042 Email: jpetry47@gmail.com


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

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 245 Summerfield Way  
 City: Shenandoah Junction State: WV Zip Code: 25442  
 Tax District: Shepherdstown Map No: 20 Parcel No: part of 11.4  
 Parcel Size: 217,789 square feet Deed Book: 1267 Page No: 280

**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"/>	
<div style="text-align: center;">   <b>RECEIVED</b>  <b>APR 04 2022</b>  <b>JEFFERSON COUNTY PLANNING ZONING &amp; ENGINEERING</b> </div>			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"/>

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: App A get

**Briefly describe the nature of the variance request:**

Asking to construct a boundary wall made of cinder block and stone inside the property boundaries and closer to the property lines than established by the front, side and rear building setback lines

The wall will be 3' from all property lines

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

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ 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:**

It will be located behind the current residence for the purpose of enclosing the back yard and pool. There will be no encroachment on any adjacent property owners and constructed of standard building materials that do not create any public health, safety or welfare concerns.

**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?**

Adjacent property owner has constructed a spite fence on the property line which we would like to conceal from our view.

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

Allow use of our land without encroachment of debris from our property to any adjacent property owner or vice versa.

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

It is an alternative to a fence that is more aesthetically pleasing.

**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.

Kanette d. Petty

Signature of Property Owner

4/1/2022

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).

04-28-22

Date of Public Hearing

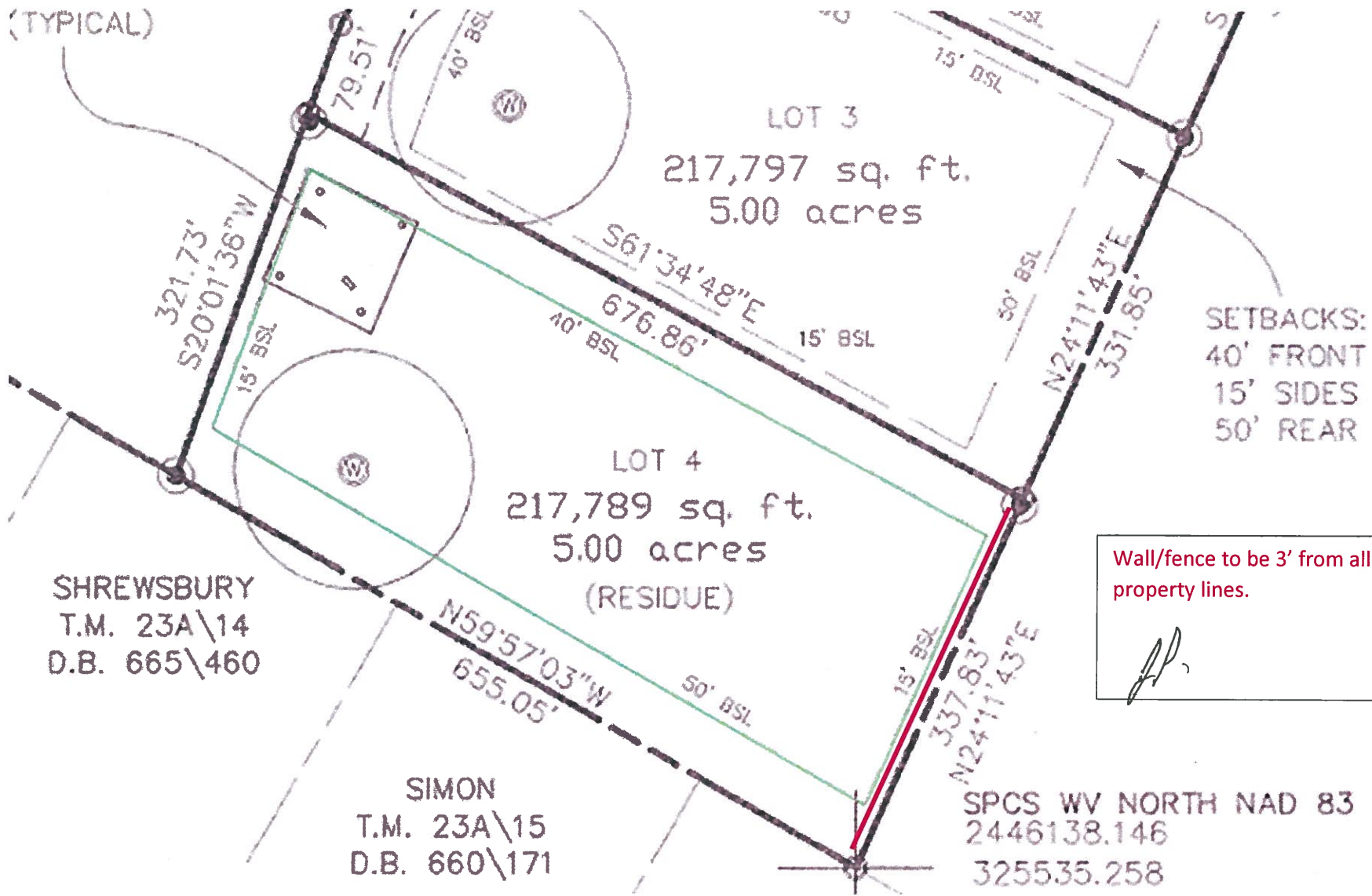
04-13-22

Advertising Date

04-13-22

Placard Posting Date

(TYPICAL)



321.73'  
S20°01'36"W

79.51'

15' BSL

S61°34'48"E  
676.86'

40' BSL

15' BSL

15' BSL

50' BSL

N24°11'43"E  
337.85'

N59°57'03"W  
655.05'

50' BSL

15' BSL

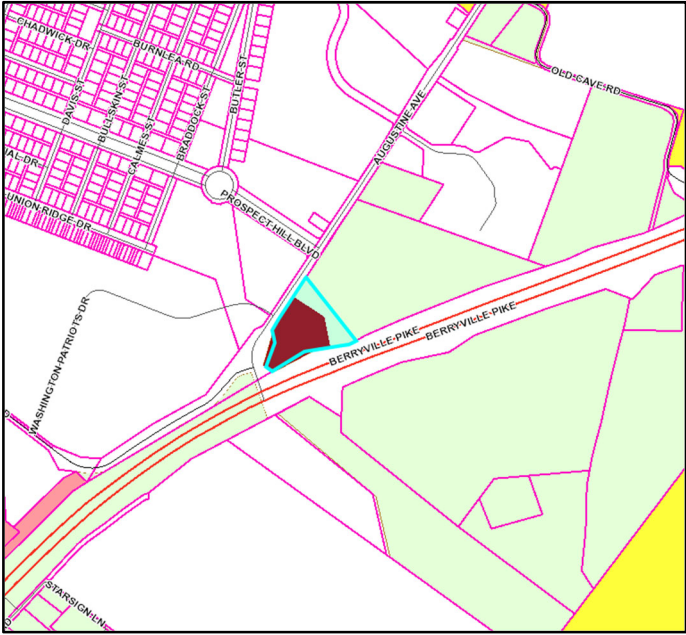
337.83'  
N24°11'43"E



Staff Report  
 Jefferson County Board of Zoning Appeals  
 April 28, 2022

**Augustine Sheetz Variance Request (#22-16-ZV)**

Item #8 Variance from Section 4.11E to allow a modified landscape buffer along the eastern property line for a proposed Large Gas Station (Sheetz).

Applicant:	Sheetz Inc. / Bob Franks
Owner:	Guy Chicchirichi
Consultant:	Integrity Federal Services
Parcel Information/ Zoning District:	<p style="text-align: center;">Vacant parcel at the intersection of Route 340 and Augustine Avenue          Parcel ID: 02001600010000; Proposed Size: 2.5 ac;          Zoning District: Highway Commercial</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Districts:</p> <p>Northeast: Rural      Northwest: Neighborhood Residential (Charles Town)          Southeast: Rural      Southwest: General Commercial (Charles Town)</p>
History:	<p>03/18/21: CC approves rezoning 2.5 ac from Rural to Highway Commercial (21-1-Z)          06/08/21: PC approves Augustine Sheetz Concept Plan (21-4-SP)          03/17/22: CC approves rezoning .5 ac from Rural to Highway Commercial (21-1-Z)          04/12/22: PC approves waivers to reduce road frontage requirement (22-6-PCW) and from requiring Health Department approval to allow two-lot minor subdivision (22-7-PCW).</p>
Waivers/ Variances:	05/27/22: BZA approves variance from Sec. 8.9A.9-10 to eliminate a required 60' easement & landscape buffer along a limited access highway (21-22-ZV).
Proposed Activity:	Gas Station, Large to consist of a 6,100 sq. ft. Convenience Store with drive-thru, five (5) fueling islands with canopy, car wash, new roadway, upgraded to traffic signal for Martinsburg Pike, open space, stormwater management areas, the construction of associated utilities, plus associated parking spaces and signage.
Site Visit Conducted:	Site Visit Not Conducted.

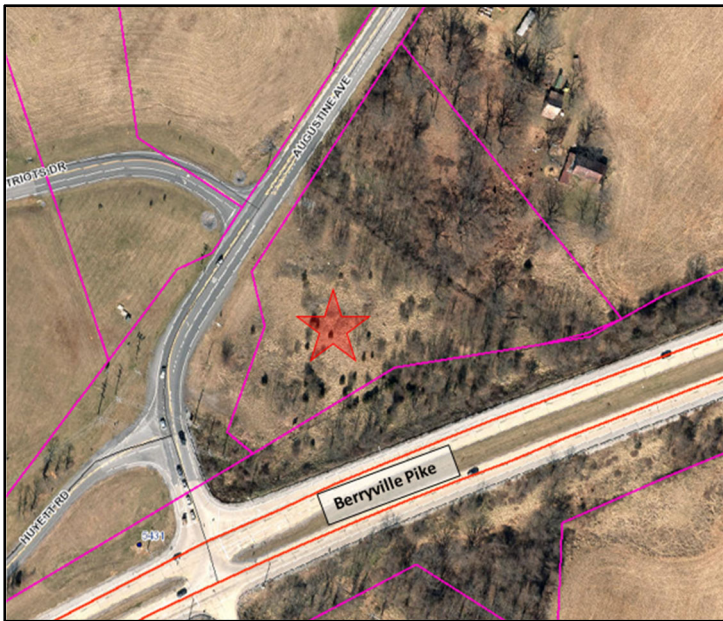
**Augustine Sheetz Variance Request (#22-16-ZV)**

**Summary of Request and Purpose of Ordinance Requirement**

The applicant is requesting a variance from Section 4.11E to allow a modified landscape buffer along the eastern property line for a proposed Large Gas Station (Sheetz).

The purpose of landscape buffer requirements is to reduce the impact that a land use might cause to an adjacent property by serving as a barrier to visibility, airborne particles, glare, or noise.

**Staff Evaluation of the Request**



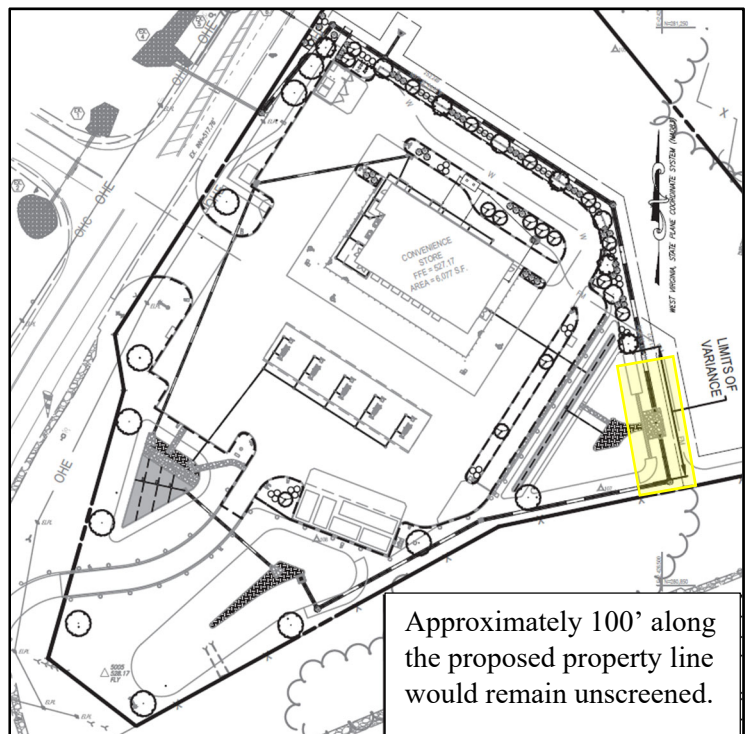
The subject property is currently comprised of approximately 4.4 acres; however, the property owner intends to divide the three acres that were recently rezoned to Highway Commercial from the 1.4 acre portion of the parcel that remains zoned Rural.

The property line subject to this request is the proposed property line of the anticipated minor subdivision between the Sheetz gas station (Highway Commercial) and the remaining vacant (Rural) lot.

The applicant is currently processing a Site Plan for a 6,077 square foot convenience store with drive thru, five (5) fueling islands with canopy, signage, associated parking, and various site improvements.

The subject request is to modify the required buffer standard to accommodate stormwater management features (storm outfall). The applicant has represented that the subject location is ideal due to the topography of the parcel, which will allow water to travel through the site and collect at one location before discharging away from any nearby roads and buildings.

The ordinance requires that buffers extend the full length of the lot line. The proposed modification would exclude approximately 100' of the lot line from the buffer standard. Note: the number of required trees and shrubs will still be provided.



Staff Report  
Jefferson County Board of Zoning Appeals  
April 28, 2022

**Augustine Sheetz Variance Request (#22-16-ZV)**

**Conditions of Approval**

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

1. No conditions of approval were identified.

**Section of Ordinance to be Considered**

- E. All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, **to the full length of the lot line to serve as a barrier to visibility**, air borne particles, glare or noise. Such screen planting shall meet the following requirements.
  1. Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least six (6) feet in height.





**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: 22-16-ZV  
 Staff Initials: jth  
 Meeting Date: 04/28/22  
 Fees Paid (\$100 or \$150): 100.00

Email: [zoning@jeffersoncountywv.org](mailto: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: Guy Chicchirichi  
 Mailing Address: 1316 N. Mildred St, Ranson, WV  
 Phone Number: 304-279-0556 Email: gchicc@frontiernet.com

**Applicant Contact Information**

Name: Bob Franks  
 Mailing Address: 5700 Sixth Ave, Altoona, PA 16602  
 Phone Number: 814-935-4798 Email: bfranks@sheetz.com

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

Name: Ben Svedlow - Integrity Federal Services  
 Mailing Address: 148 N. Queen St. Martinsburg, WV 25404  
 Phone Number: 304-725-8456 Email: bsvedlow@ifs-ae.com

**Physical Property Details**

Physical Address: NE of US 340 & Augustine Ave. Intersection  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: Charles Town Map No: 16 Parcel No: 1  
 Parcel Size: 4.41 ac. Deed Book: 1227 Page No: 447

**Zoning District (please check one)**

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Application received 04/04/22

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: 4.11.E

**Briefly describe the nature of the variance request:**

This variance is to request the approval of a nontraditional landscape buffer. As designed currently, the buffer does not extend the full length of the property line and instead, ends where the site's storm outfall is located. The total number of required plantings is provided for the buffer.

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

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ 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:**

With the location of the area being in a corner away from pedestrians or traffic, there is no impact to the public health. A stormwater management berm from a pond at the site's storm outfall acts as a boundary for the adjacent property as well. The owner also owns the adjacent property and their rights will not be impacted.

**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?**

In order to allow the upstream water to pass through and capture runoff generated onsite, a low point was created. Due to existing topo, this location was the most desirable as it allowed the water to travel through the site and collect at one location before discharging. Landscaping in this area would affect the site's requirement of an adequate storm outfall.

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

This location provides an adequate place to discharge rain water away from any roads and buildings nearby.

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

The intent of the ordinance is still observed through meeting the required number of plantings for the buffer.

**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.

 4-1-22

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).

04/28/22

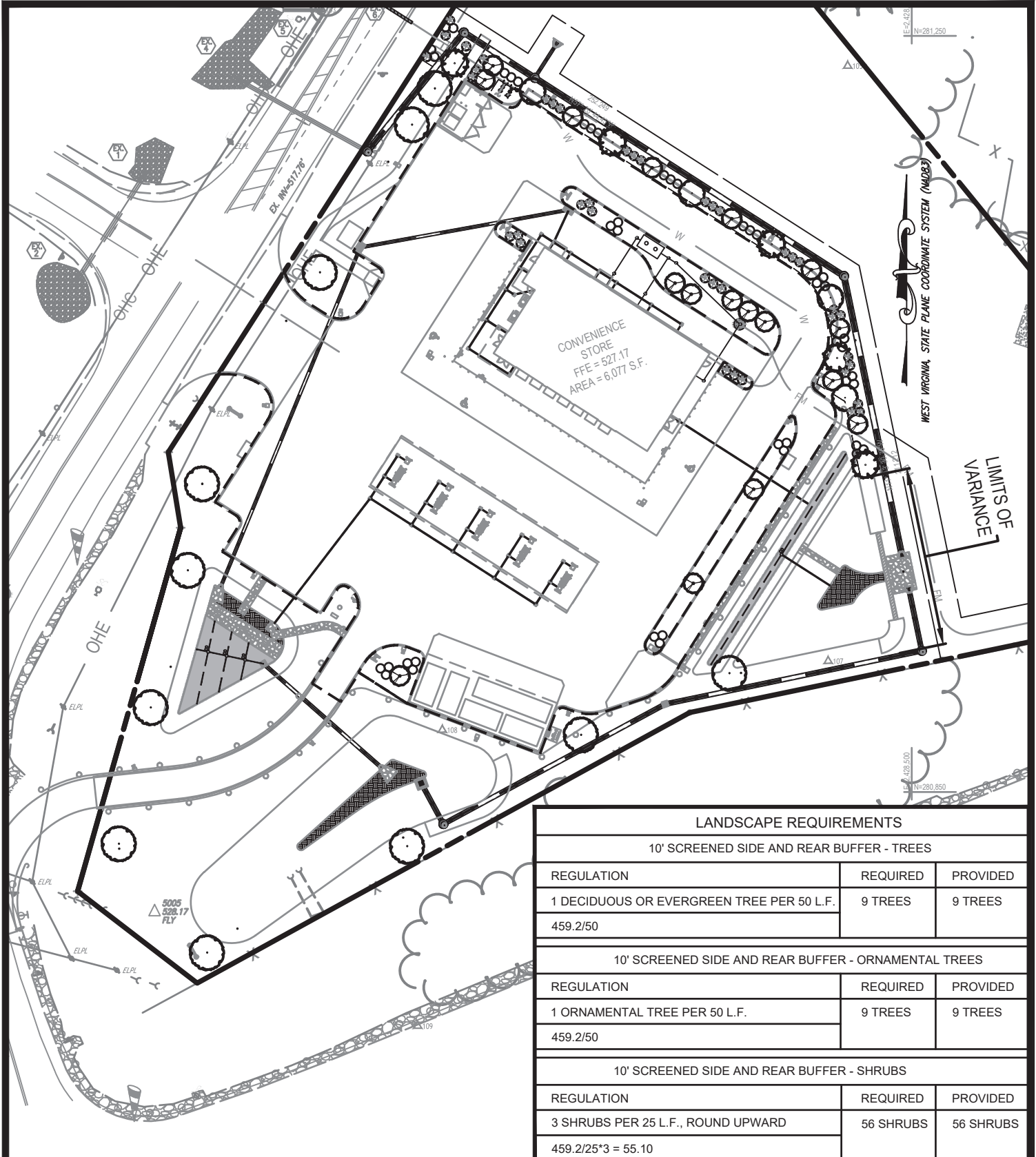
Date of Public Hearing

04/13/22

Advertising Date

04/13/22

Placard Posting Date



LANDSCAPE REQUIREMENTS		
10' SCREENED SIDE AND REAR BUFFER - TREES		
REGULATION	REQUIRED	PROVIDED
1 DECIDUOUS OR EVERGREEN TREE PER 50 L.F.	9 TREES	9 TREES
459.2/50		
10' SCREENED SIDE AND REAR BUFFER - ORNAMENTAL TREES		
REGULATION	REQUIRED	PROVIDED
1 ORNAMENTAL TREE PER 50 L.F.	9 TREES	9 TREES
459.2/50		
10' SCREENED SIDE AND REAR BUFFER - SHRUBS		
REGULATION	REQUIRED	PROVIDED
3 SHRUBS PER 25 L.F., ROUND UPWARD	56 SHRUBS	56 SHRUBS
459.2/25*3 = 55.10		

ZONING VARIANCE —  
LANDSCAPE BUFFER

SHEETZ  
AUGUSTINE AVE

DATE: MARCH 28, 2022  
PROJECT NO.: 3506-0101 | SCALE: 1"=70'



**INTEGRITY  
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Martinsburg, WV 25401 • www.ifs-ae.com





# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor

P.O. Box 716

Charles Town, WV 25414

Email: [zoning@jeffersoncountvww.org](mailto:zoning@jeffersoncountvww.org)

Phone: (304) 728-3228

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## Zoning Administrator's Report April 28, 2022, 2022 Board of Zoning Appeals Meeting

**Date of Memo: April 21, 2022**

### 1) **Zoning Ordinance Text Amendment Update - Solar Energy Facilities (File #ZTA22-01)**

- Following approval of an amendment to the Envision Jefferson 2035 Comprehensive Plan to clarify the role of solar energy facilities in Jefferson County, the Planning Commission initiated a text amendment to the Zoning Ordinance. The amendment includes provisions to allow projects that are located within the Urban Growth Boundary (UGB) and Preferred Growth Area (PGA) as delineated on the Future Land Use Guide in the Comprehensive Plan to process as a Principal Permitted Use; and for projects located outside of the UGB/PGA areas to process as a Conditional Use.
- The Planning Commission will hold a Public Hearing on Tuesday, May 17<sup>th</sup> to receive public input on the draft text amendment. The meeting will begin at 7:00 PM.

### 2) **Upcoming BZA meeting**

- The next regular meeting is scheduled for **May 26, 2022** (deadline for submission is Monday, May 2, 2022).



Jefferson County, West Virginia  
Department of Engineering, Planning and Zoning  
**Office of Planning and Zoning**  
116 E. Washington Street, 2<sup>nd</sup> Floor, P.O. Box 716  
Charles Town, West Virginia 25414  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

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**April 2022**  
**Zoning Certificate Activity Report**

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File #	22-11-ZC
Request:	Modifications to an existing 300' Telecommunications Tower site
Property Owner:	Alvin and Cynthia Brown
Applicant:	Mastec Network Solutions, LLC c/o U.S. Cellular Corporation
Parcel Information:	2464 Hite Road, Kearneysville, WV 25430 Parcel ID: 07001000090000; Size: ~14 acres; Zoning District: Rural; Deed Book: 516; Page: 480; Plat Book: 10 @ Page: 96 / Building Permit #92-561
Date of Issuance:	03/22/2022
File #	22-12-ZC
Request:	Modifications to an existing 199' Telecommunications Tower site
Property Owner:	Thomas LeFevre
Applicant:	T-Mobile/SBA / Contact: Chelsea Miller
Parcel Information:	237 Tel Farm Lane, Kearneysville, WV 25430 Parcel ID: 07001900240000; Size: ~107.5 acres; Zoning District: Rural; Deed Book: 679; Page: 765; PC File #01-18
Date of Issuance:	03/25/2022
File #	22-13-ZC
Request:	Contractor with Outdoor Storage
Property Owner:	Dead Rock Contractor Services
Parcel Information:	Vacant Parcel, Shipley Road, Charles Town, WV 25414 Parcel ID: 04000900270000; Size: .88 acres (pending merger*); Zoning District: General Commercial; Deed Book: 1252; Page: 320 <i>*Boundary Line Adjustment to consolidate two lots approved on 04/06/22 PC File #22-16-M / Deed Book 1278 @ Page 452</i>
Date of Issuance:	03/07/2022
File #	22-14-ZC
Request:	Modifications to an existing 199' Telecommunications Tower site
Property Owner:	Stanely & Vicky D'Angelo
Applicant:	T-Mobile / Contact: Levi Potensky
Parcel Information:	1333 Mount Hammond Lane, Charles Town, WV 25414 Parcel ID: 02002200040003; Size: ~25 acres; Zoning District: Rural; Deed Book: 535; Page: 652; PC File #S09-03
Date of Issuance:	04/08/2022
File #	22-15-ZC
Request:	Bed and Breakfast
Property Owner:	Sheria Pope
Parcel Information:	42 Quaking Aspen Way, Charles Town, WV 25414 Parcel ID: 02004G00190000; Size: .42 acre; Zoning District: Rural; Deed Book: 1207; Page: 586; Plat Book 25 @ Page 350;
Date of Issuance:	04/08/2022

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Zoning Certificate Activity Report

April 2022

Page 2 of 3

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File #	22-15-ZC
Request:	Modifications to an existing 199' Telecommunications Tower site
Property Owner:	Sunnyside Ltd. Partnership, Attn: James Huyett
Applicant:	T-Mobile/SBA, Attn: Andrew Martin
Parcel Information:	844 Wheatland Rd, Charles Town, WV 25414 Parcel ID: 06001200120001; Size: 4.65 acres; Zoning District: Industrial Commercial; Deed Book: 1001; Page: 681; PC File: 01-07 (new telecommunication facility)
Date of Issuance:	03/17/2022

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File #	22-16-ZC
Request:	Change in Tenant: Rockwool / Land Use Designation: Warehousing
Property Owner:	NORTOM INVESTMENTS, LLC / Attn: Robert Maloney
Applicant:	Rockwool / Attn: Dino Carson, Warehouse Manager – RAN5
Parcel Information:	Burr Industrial Park, Lot 1, 69 Clendening Dr., Kearneysville, WV 25430 Parcel ID: 02000100530000; Size: 14.15 acres; Zoning District: Industrial Commercial; Deed Book: 1114 Page: 596; PC Files: S93-12, S97-16, S01-06, & 21-10-Q
Date of Issuance:	04/08/2022

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File #	22-17-ZC
Request:	Temporary Sale of Legal Fireworks
Property Owner:	SUSO2 Alabama, LP
Applicant:	American Promotional Events, Inc. – East DBA TNT Fireworks / C/O Jerri Morfa
Parcel Information:	Charles Town Plaza, 96 Patrick Henry Way, Charles Town, WV 25414 Parcel ID: 02000800290002; Size: 21.33 acres Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1170; Page: 47; Site Plan File: S96-16 (WalMart Shopping Center)
Date of Issuance:	Pending

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File #	22-18-ZC
Request:	Temporary Sale of Legal Fireworks
Property Owner:	B33 Jefferson Crossing II, LLC
Applicant:	American Promotional Events, Inc. – East DBA TNT Fireworks / C/O Jerri Morfa
Parcel Information:	Jefferson Crossing Shopping Center, 186 Flowing Springs Road, Charles Town, WV Parcel ID: 02000800240004; Size: 15.16 acres; Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1239; Page: 670; See PC File: 94-04 (site plan)
Date of Issuance:	Pending

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File #	22-19-ZC
Request:	Temporary Sale of Legal Fireworks
Property Owner:	The Kentland Foundation, Inc. / Attn: Jack Walker
Applicant:	Four Seasons of McLean, LDT / Attn: David Woods
Parcel Information:	Somerset Village Shopping Center; 98 Somerset Blvd. Charles Town, WV Parcel ID: 02000900080007; Size: 15.07 acres Zoning District: Residential-Light Industrial-Commercial; Deed Book: 700; Page: 61; Site Plan File: 87-21 (Somerset Village)
Date of Issuance:	Pending

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Zoning Certificate Activity Report

April 2022

Page 3 of 3

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File #	22-20-ZC
Request:	Farm Brewery and Farm Brewpub
Property Owner:	A.M.S. & Jesse F Morgan
Applicant:	Rippon Lodge Farm / Rippon Brewing
Parcel Information:	2547 Berryville Pike, Charles Town, WV Parcel ID: 06001200170000; Size: 192 acres Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1149, Page: 521; Plat Book 26, Page: 13 (merger plat)
Date of Issuance:	Pending

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File #	22-21-ZC
Request:	Accessory Dwelling Unit: In-Law Suite
Property Owner:	Jason & Kara M Rolfe
Parcel Information:	708 Rudder Rd, Shepherdstown, WV 25443 Parcel ID: 09013A00140000; Size: 4.07 acres; Zoning District: Rural; Deed Book: 987; Page: 744; Plat Book: 19, Page 29(B); PC Approval: 22-3-FPA
Date of Issuance:	Pending

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