



Jefferson County
Board of Zoning Appeals
Thursday, May 26, 2022 at 2:00 p.m.

Correction

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

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: 873 5551 8431
Meeting Link: <https://us02web.zoom.us/j/87355518431>
Phone Option (Dial by Location): 301-715-8592
Find your local number: <https://us02web.zoom.us/u/kJyrf4SSH>

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.

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

Approval of Minutes: April 28, 2022

Public Hearing – Administer Oath

ITEM #1 FILE #: 22-13-ZV – CONTINUED FROM THE APRIL 28, 2022 MEETING

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: 2.3 ac**; Zoning District: Rural

ITEM #2 FILE #: 22-17-ZV

Request: Variance from Section 5.4B of the Zoning Ordinance, as amended on 11/07/02, to reduce the rear setback from 20' to 9' for a 10' x 10' deck expansion.

Owner: Ian Gibson-Smith

Parcel Info: Deerfield Village, Lot 3, 44 Blossom View Ct., Shepherdstown, WV
Parcel ID: 09014B00030000; Size: .26 ac; Zoning District: Rural

ITEM #3 FILE #: 22-18-ZV

Request: Variance from Section 9.7 to reduce the 6' side and rear setbacks down to 4' for a 40' x 24' detached garage with an attached 16' x 8' lean to.

Owner: Sharon Tennant

Parcel Info: Mecklenburg Heights, Lot 72, 323 Woodcock Ave., Shepherdstown, WV
Parcel ID: 09007C00070000; Size: .48 ac; Zoning District: Residential Growth

ITEM #4 FILE #: 22-19-ZV

Request: Variance from Section 10.7E.1 to waive the requirement of submitting written certification from the sign manufacturer verifying that the light intensity has been factory preset not to exceed the levels specified by the Zoning Ordinance, and that the intensity level is protected from end-user manipulation by password protected software or other appropriate methods for a proposed Electronic Sign. The applicant has represented that the sign will comply with the required brightness levels but that the sign manufacturer has been unable to provide the required certification.

Owner: Charles Town Lodge No. 948 Loyal Order of Moose, Inc

Applicant: Chad Bryan, Trustee

Parcel Info: 77 16th Ave, Ranson, WV, Parcel IDs: 02000700110005, 02000700110012, 02000700110013; Combined Acreage: ~ 12 acres; Zoning District: Industrial Commercial

ITEM #5 FILE #: 22-20-ZV

Request: Variance from Section 9.7 to reduce side setback from 15' to 1' along a platted 25' wide access easement for a 30' x 30' accessory structure (detached garage).

Owner: Daniel Derito

Parcel Info: 105 Burch Meadow Ln, Kearneysville, WV 25430

Parcel ID: 07002700040003; Size: 7.62 ac; Zoning District: Rural

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: April 28, 2022

1. Variance from Section 9.6C & 9.7. Owner: T. & K. Staubs. File: 22-11-ZV.
2. Variance from Section 9.7. Owner: B. King. File: 22-12-ZV.
3. Variance from Section 9.7. Owner: Potomac Cottage/Starkey. File: 22-13-ZV.
4. Request for a CUP. Owner: J. Staubs. Applicant: Naille. File: 22-2-CUP.
5. Request for a CUP. Owner: T. & A. Fridley. File: 22-3-CUP.
6. Variance from Section 9.7. Owner: C. Ramey. File: 22-14-ZV
7. Variance from Appendix A. Owner: K. Petry. File: 22-15-ZV.
8. Variance from Section 4.11E. Owner: G. Chicchirichi. Applicant: Sheetz. File: 22-16-ZV.

DRAFT Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: April 28, 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; Leeds Corbin, Steve Guier, and Matthew McKinney
6 Board Members Absent: Deirdre Catterton, Vice Chair; and Mikala Shremshock, alternate
7 member, were absent with notice.
8 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Stephen Groh, Assistant
9 Prosecuting Attorney; and Jennilee Hartman, Zoning Clerk

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

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

13 Mr. Quynn noted that Mr. McKinney was running late. Mr. Quynn reviewed meeting protocol for
14 those in attendance.

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

16 Mr. Corbin moved to approve the minutes. Mr. Quynn called for a vote, which carried unanimously.

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

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

19 Request: Variance from Section 9.6C to allow an accessory structure within the required front
20 yard; and Section 9.7 to reduce the front setback from 20' to 5' for a proposed 36' x
21 26' detached three-car garage.

22 Owner: Tommy & Kimberlin Staubs

23 Parcel Info: Cavalier Subdivision, Lot 5, 88 Cavalier Dr., Harpers Ferry, WV

24 Parcel ID: 04007A00200000; Size: .41 ac; Zoning District: Rural

25 Mr. Tommy Staubs, property owner, was present to address the Board. Ms. Beaulieu provided an
26 overview of her staff report noting that the applicant had previously been granted a variance to
27 reduce the front setback for a detached 30' x 28' two-car garage but during the building permit
28 application process determined that he would like to increase the size of the detached garage to allow
29 for three bays as opposed to the previous design with two bays. Ms. Beaulieu noted that in addition
30 to increasing the size of the proposed garage that the applicant was also intending to re-orient the
31 entrance of the garage to be parallel with Cavalier Drive. Mr. Staubs explained the nature of the
32 request to the Board noting that the modified design eliminated the need to relocate an existing
33 waterline to the home.

34 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
35 closed the public hearing.

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

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

38 Mr. Corbin seconded the motion, which carried unanimously

39 Mr. McKinney arrived at 2:10 p.m. He did not vote on Item #1 as he was not present for the
40 discussion.

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

1 Request: Variance from Section 9.7 to reduce the front setback from 40' to 18' for a proposed
2 7' x 23' two-story addition to the front of an existing home.

3 Owner: Brian King

4 Parcel Info: 76 Brierly Spring Lane, Shepherdstown, WV

5 Parcel ID: 09001000060000; Size: 4.07 ac; Zoning District: Rural

6 Mr. Brian King, property owner, was present to address the Board. Ms. Beaulieu provided an
7 overview of her staff report, noting that the home was erected prior to the adoption of Zoning and
8 that the proposed addition would be replacing an existing covered porch. Ms. Beaulieu noted the
9 applicant had provided letters of support from two neighbors. Mr. King explained the nature of the
10 request to the Board, stating that the home was in need of repair and that the proposed addition
11 would not create a greater setback issue than the existing covered porch. Mr. Corbin inquired as to
12 whether or not a new porch or stoop would be constructed at the front of the proposed addition. Mr.
13 King stated that he did not intend to construct a new porch or stoop.

14 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
15 closed the public hearing.

16 Mr. McKinney moved to approve the variance with the following conditions:

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

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

19 Mr. Quynn moved Item #3 (File: 22-13-ZV) to the end of the agenda.

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

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

29 Owner: John Staubs

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

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

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

33 Mr. David and Evelyn Naille, applicants, were present to address the Board. Ms. Beaulieu provided
34 an overview of her staff report to the Board. Mr. Naille explained the nature of the request to the
35 Board and submitted a petition with approximately 80 signatures in support of the request along with
36 two letters of support from the adjoining neighbors. Mr. McKinney questioned the safety of the
37 entrance off Chestnut Hill Road and asked if the truck was titled, tagged, and insured in the event the
38 truck had to be moved. Mr. Naille stated that there did not appear to be any visibility issues with
39 regard to the entrance. Mr. Naille confirmed that the truck was registered through the DMV and
40 added that the truck would be removed from the site during the off-season.

41 Mr. Quynn opened the public hearing.

42 Ms. Donna Rinker, adjacent property owner; and Mr. John Staubs, property owner, spoke in support of
43 the request.

1 Mr. Quynn closed the public hearing.

2 Mr. Guier moved to approve the Conditional Use Permit with the following conditions:

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

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

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

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

11 Owner: Tiffanie and Aaron Fridley

12 Applicant: Tiff's Tiny Tots

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

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

15 Tiffanie and Aaron Fridley, property owners, were present to address the Board. Ms. Beaulieu
16 provided an overview of her staff report to the Board. Ms. Fridley explained the nature of the request
17 to the Board explaining that the day care would be operated from the basement of the home and had
18 a fenced area. Mr. Fridley explained that the basement had four (4) points of ingress/egress. Ms.
19 Fridley explained that in accordance with State law, the day care would initially offer services for
20 four (4) children and would then expand in the event additional staff are hired. Mr. Fridley explained
21 that the property has an existing circular drive, which will alleviate the need to back out onto Old
22 Cave Road. Mr. Quynn inquired about the traffic data for Old Cave Road. Ms. Beaulieu stated she
23 did not obtain traffic data for Old Cave Road as it was not required by the Ordinance.

24 Mr. Quynn opened the public hearing.

25 Donald Vyzy adjacent property owner, expressed concern regarding an increase in traffic.

26 Mr. Quynn closed the public hearing.

27 In rebuttal, Ms. Fridley explained the drop-off and pick-up schedule for the day care, noting that day
28 care traffic does not generally conflict with the school's drop-off and pick-up schedule.

29 Mr. McKinney moved to approve the Conditional Use Permit with the following conditions:

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

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

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

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

35 Owner: Clifford Ramey

36 Parcel Info: Hidden River Farm, Wide Horizon, Pt 1, Lots 9-11

37 1079 Archer Road, Kearneysville, WV

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

39 Mr. Clifford Ramey, property owner, was present to address the Board. Ms. Beaulieu provided an
40 overview of her staff report to the Board. Ms. Beaulieu noted that in accordance with Section 9.4B,
41 the greater setbacks noted in Section 9.7 would apply as the proposed structure would be constructed

1 across internal lot lines. Mr. Ramey explained the nature of the request to the Board and confirmed
2 that he would retain the existing tree line.

3 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
4 closed the public hearing.

5 Mr. McKinney moved to approve the variance with the following conditions:

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

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

8 The applicant for Item #7 (File: 22-15-ZV) was not in attendance. To afford Staff time to contact
9 this applicant, Mr. Quynn moved on to Item #8 (File 22-16-ZV).

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

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

13 Owner: Guy Chicchirichi

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

15 Parcel Info: Vacant parcel at the intersection of Route 340 & Augustine Ave., Charles Town, WV

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

17 Commercial

18 Mr. Jason Gerhart, representative with Integrity Federal Services, was present to address the Board.
19 Ms. Beaulieu provided an overview of her staff report noting that the applicant's request was to
20 allow a 100' section of the required landscape buffer to remain unscreened. Ms. Beaulieu explained
21 that this portion of the required buffer was located along a proposed stormwater management feature
22 and utility easement and that other County regulations prohibit the location of landscaping within
23 stormwater management and easement areas.

24 Mr. Gerhart explained the nature of the request to the Board, noting that a proposed stormwater
25 management (SWM) facility and a utility easement existed in the subject location. Mr. Gerhart
26 explained that the subject location was ideal for SWM due to the natural topography of the property.
27 Mr. Gerhart clarified that in addition to the requested 100' section in the landscape buffer that there
28 would also be another unscreened section for a proposed access easement that would be platted as
29 part of the division of the property to allow for future connectivity. Mr. Gerhart stated that they
30 would still provide the total number of trees and shrubs (as calculated for the full property line);
31 however, the planting would not be installed the full length of the property line but would be
32 condensed along the remaining property line that excluded the subject SWM area and proposed
33 access easement area.

34 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
35 closed the public hearing.

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

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

38 Mr. Quynn called into question the acreage of the property. Ms. Beaulieu clarified that the request
39 applied to the acreage of the proposed gas station after the proposed subdivision, but that the property
40 had not yet been divided; therefore, the legal property description had been listed on the agenda.

41 Mr. McKinney suggested a friendly amendment to note the request was subject to the acreage
42 specific to the proposed gas station lot. Mr. Guier accepted the friendly amendment.

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

2 Ms. Beaulieu stated that the applicant for Item #7 had joined the ZOOM meeting.

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

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

7 Owner: Kanette Petry

8 Applicant: John Petry

9 Parcel Info: French Road Minor Subdivision, Lot 4,
10 245 Summerfield Way, Shenandoah Junction, WV

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

12 Ms. Kanette Petry, property owner, was present via ZOOM to address the Board. Ms. Beaulieu
13 provided an overview of her staff report and clarified that the proposed wall would be erected along
14 the eastern property line only and that it would be located approximately 3' from three property
15 lines. Ms. Petry explained the nature of the request to the Board, noting that they were requesting a
16 taller fence/wall in order to screen their property from the neighbor's property.

17 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
18 closed the public hearing.

19 Mr. McKinney moved to approve the variance with the following conditions:

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

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

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

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

26 Owner: Potomac Cottage / Robert Starkey

27 Parcel Info: 1523 Knott Road, Shepherdstown, WV,

28 Parcel ID: 09011A00360000; Size: 2.3 ac; Zoning District: Rural

29 Due to a conflict of interest, Mr. Guier recused himself for this item and left the meeting room.

30 Mr. Robert Starkey, property owner, was present to address the Board. Ms. Beaulieu provided an
31 overview of her staff report and clarified that the legal acreage of the property is 2.3 acres due to a
32 previously approved boundary line adjustment. Ms. Beaulieu explain that the sketch included in the
33 building permit application incorrectly listed a side setback of six feet (6') from each side property
34 line. Ms. Beaulieu stated that the building permit sketch did not reflect the additional landing and
35 stairway along the side of the deck. The additional landing and stairway are approximately six inches
36 (6") from the side (northern) property line. Mr. Starkey explained the nature of the request to the
37 Board stating that the building plans for the deck included the additional landing and stairway and
38 that he was unaware of the sketch sheet submitted with the building permit. Mr. Starkey argued that
39 the sketch reflecting the 6' side setback was most likely submitted by the contractor. Mr. Mason
40 Carter, Ordinance Compliance Officer, inquired if Mr. Starkey had signed the application. Mr.
41 Starkey confirmed that he had signed the application. Mr. Carter noted that the property owner is
42 responsible for the information provided in the building permit application. Mr. Carter clarified that

1 he reviews the sketch submitted with the application for compliance with setbacks and that he does
2 not review the building plans.

3 Mr. Quynn opened the public hearing.

4 Ms. Amy Bowman, adjacent property owner, spoke in opposition to the request. Ms. Bowman objected
5 to the close proximity of the deck stating that it impacted her right to privacy and that she cannot access
6 the side of her home for routine maintenance. Ms. Bowman provided pictures taken from the window
7 of her rental home. Ms. Bowman also provided a letter from a real estate agent, Paula Miller, stating
8 that the subject deck devalues Ms. Bowman's property.

9 Mr. Quynn closed the public hearing.

10 The Board discussed the possibility of continuing the item for the purpose of gathering additional
11 information. Mr. Quynn expressed a desire for the Board to meet onsite to evaluate the site conditions.
12 Mr. Beaulieu and Mr. Groh noted that should the majority Board members meet onsite that it would
13 constitute a quorum in violation of the Open Meetings Act. Mr. Quynn requested case law from legal
14 counsel to determine whether or not the Board could conduct a site visit. Mr. Groh stated he would
15 research the subject and provide case law to the Board members.

16 Mr. Quynn inquired if the Board would like to continue the subject request until the May 26, 2022
17 meeting for the purpose of obtaining additional information.

18 Further discussion ensued.

19 Mr. McKinney moved to go into deliberative session at 4:33 pm. Mr. Quynn called for a vote, which
20 carried unanimously.

21 Mr. McKinney moved to come out of deliberative session at 4:57 pm. Mr. Quynn called for a vote,
22 which carried unanimously.

23 Mr. McKinney moved to continue the request until the May 26, 2022 meeting and instructed the
24 Ordinance Compliance Officer to obtain additional site photos. Mr. McKinney added that the
25 property owner, Mr. Starkey, and the adjacent neighbor, Ms. Bowman, would be allotted three (3)
26 minutes to provide a rebuttal based on new information. Mr. Corbin seconded the motion, which
27 carried unanimously.

28 Mr. Guier returned to the meeting room and stated that he needed to leave.

29 **Zoning Administrator's Report**

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

31 Ms. Beaulieu provided the Board an update on the proposed text amendment regarding Solar Energy
32 Facilities (ZTA22-01). Ms. Beaulieu noted that the next meeting was scheduled for May 26, 2022.

33 **Legal Update**

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

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

36 **Meeting: March 24, 2022**

37 1. Variance from Section 5.7B. Owner: Melissa and Lucas Palmer. File: 22-9-ZV.

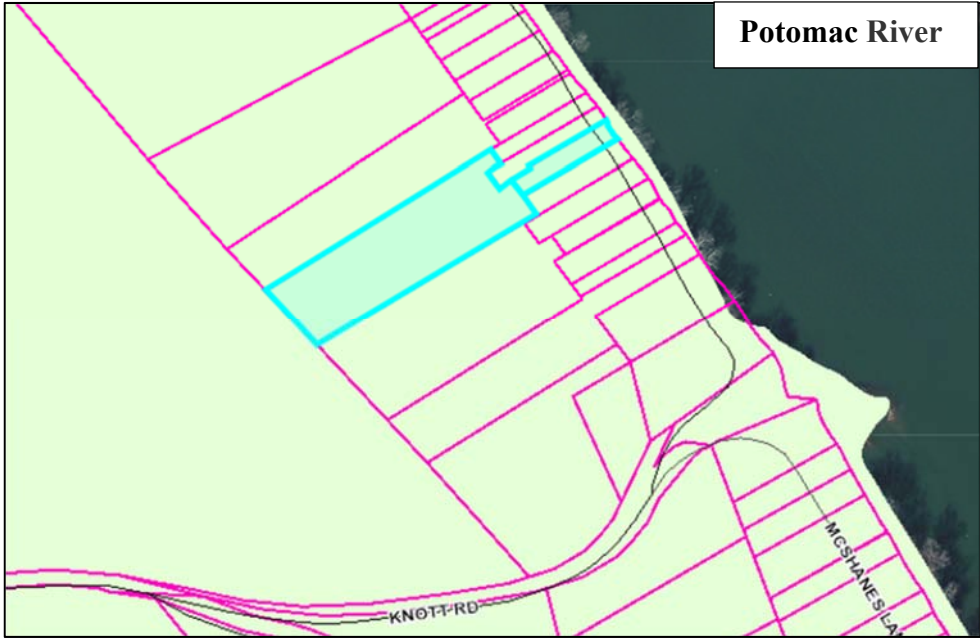
38 2. Variance from Section 8.9A.10. Owner: BC Partners. File: 22-10-ZV.

- 1 Mr. Quynn was provided a copy of the draft Findings for review. Mr. Quynn stated he
- 2 would return the signed findings to the office.
- 3 Mr. McKinney moved to adjourn the meeting at 5:02 pm. Mr. Quynn called for a vote, which carried
- 4 unanimously.

Staff Report
 Jefferson County Board of Zoning Appeals
 April 28, 2022
Continued to May 26, 2022

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

Item #1 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:	11/22/55: River Farm Subdivision Final Plat recorded in DB 208 @ PG 361 08/29/91: boundary line adjustment recorded in DB 690 @ PG 127 / PB 10, PG 43 11/22/94: boundary line adjustment recorded in DB 793, PG 24 06/18/02: boundary line correction recorded in DB 961, PG 474
Waivers/Variances:	None
Approved Activity:	Single family dwelling 05/03/22: Short Term Rental – PC File #22-24-ZC
Site Visit Conducted:	Site visit conducted on May 3, 2022.

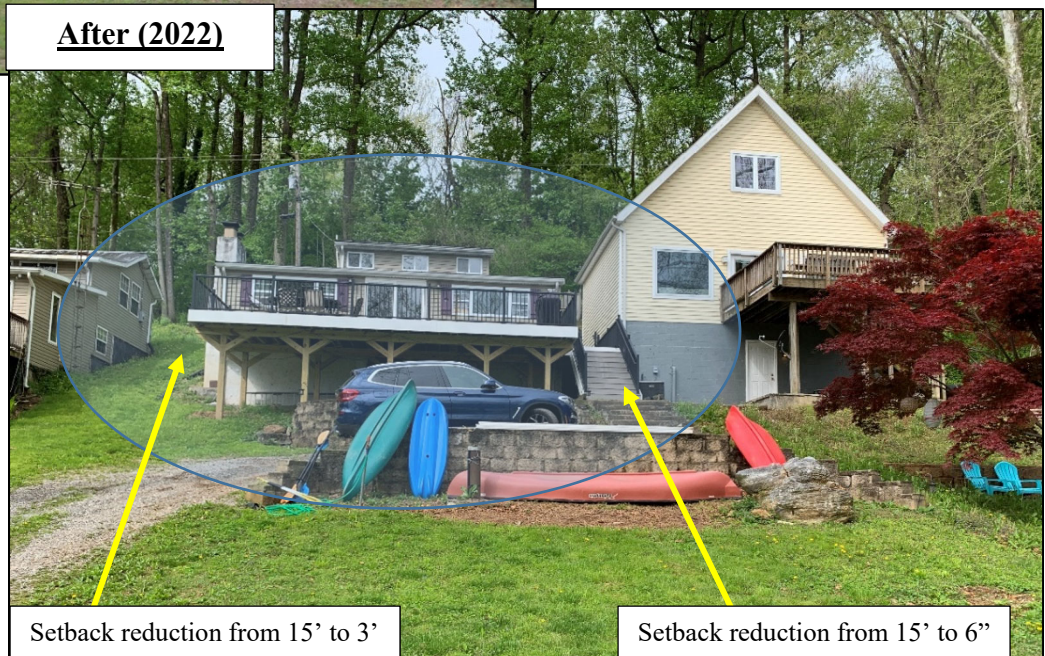
Staff Report
Jefferson County Board of Zoning Appeals
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Potomac Cottage-Starkey Variance Request (#22-13-ZV)

Staff Overview

The subject parcel is Lot 10 of the River Farm Subdivision, which was originally recorded on November 22, 1955. On August 29, 1991, a boundary line adjustment processed to create a single parcel of 2.3 acres.

The applicant recently removed a porch and stairs from 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 house) by 12' wide (along southern property line) and 4' wide (between the two houses) by 12' long (along the northern property line). The portion of the deck along the northern property line was constructed where concrete stairs have historically existed. See below for before and after pictures.



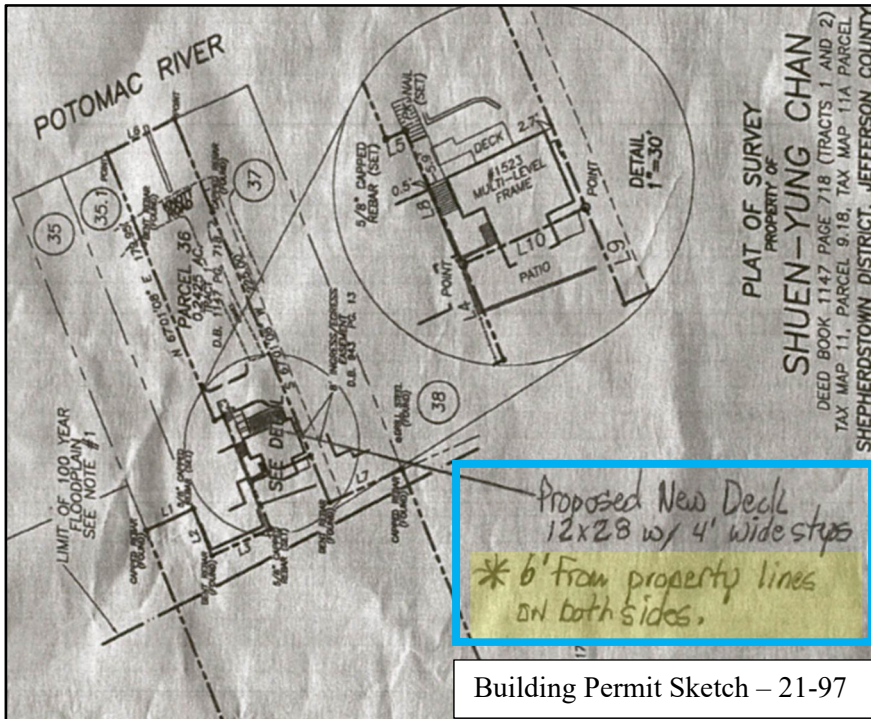
Setback reduction from 15' to 3'

Setback reduction from 15' to 6"

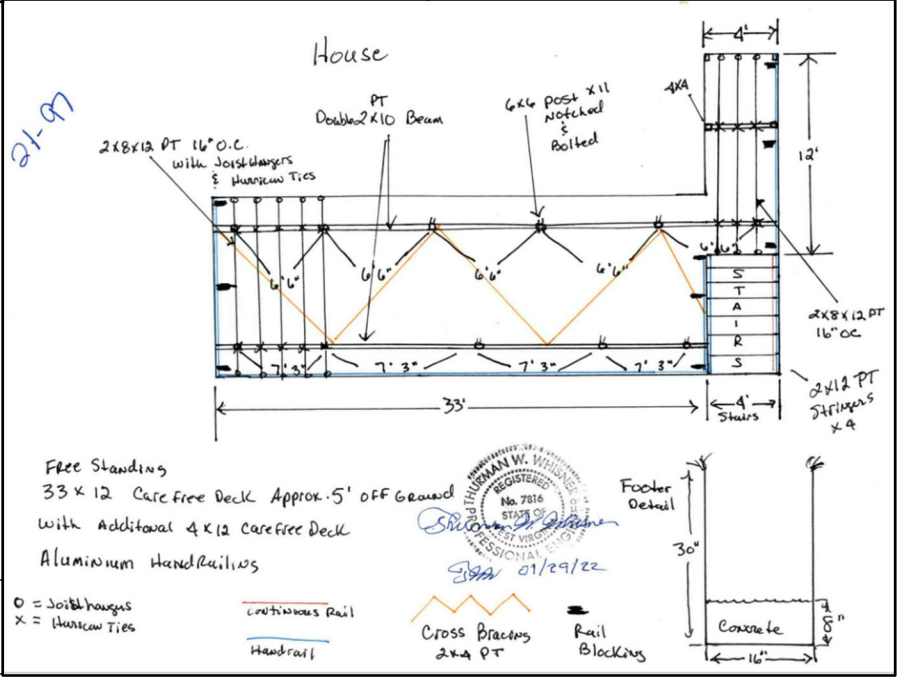
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Potomac Cottage-Starkey Variance Request (#22-13-ZV)

Staff issued a building permit for the deck with the understanding that the deck was 6' from the northern property line (see building permit sketch below). On March 18, 2022, the adjoining property owner to the north contacted the permits office to express concern for the proximity to their home of the portion of the deck that was constructed along the side of the subject home. The Ordinance Compliance Officer conducted a site visit and verified that the deck exceeded what was represented on the building permit application.



Building Permit Sketch – 21-97



Building Plans Permit #21-97

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Jefferson County Board of Zoning Appeals
April 28, 2022
Continued to May 26, 2022

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

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.

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.

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 Exceptions³

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:²³

Residential Growth District²³

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'.

Staff Report
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Continued to May 26, 2022

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



Staff Report
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April 28, 2022
Continued to May 26, 2022

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

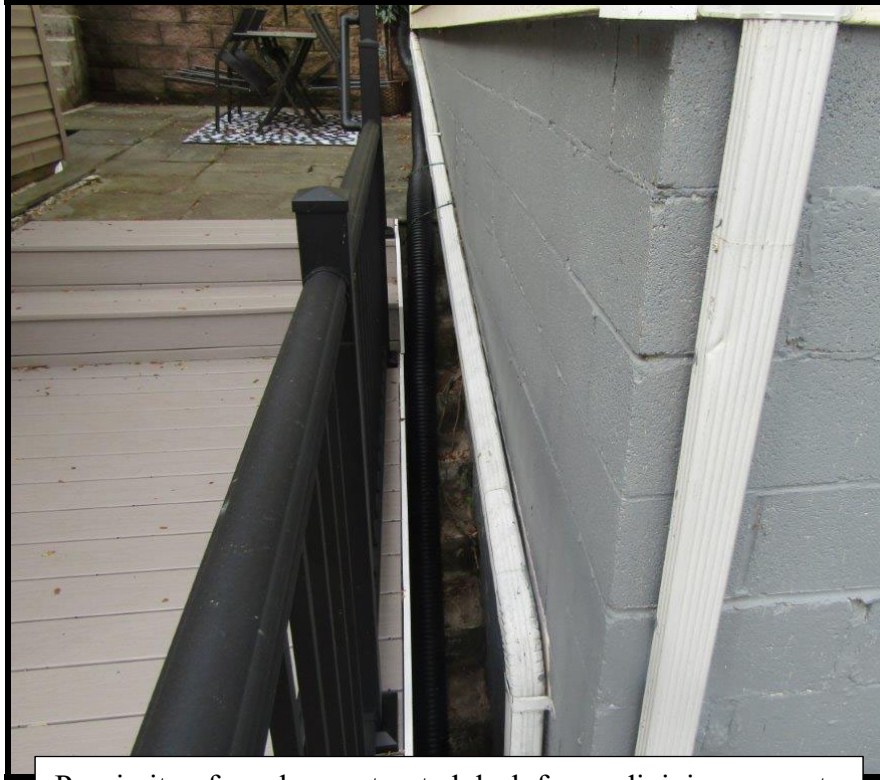


Proximity of newly constructed deck from adjoining property

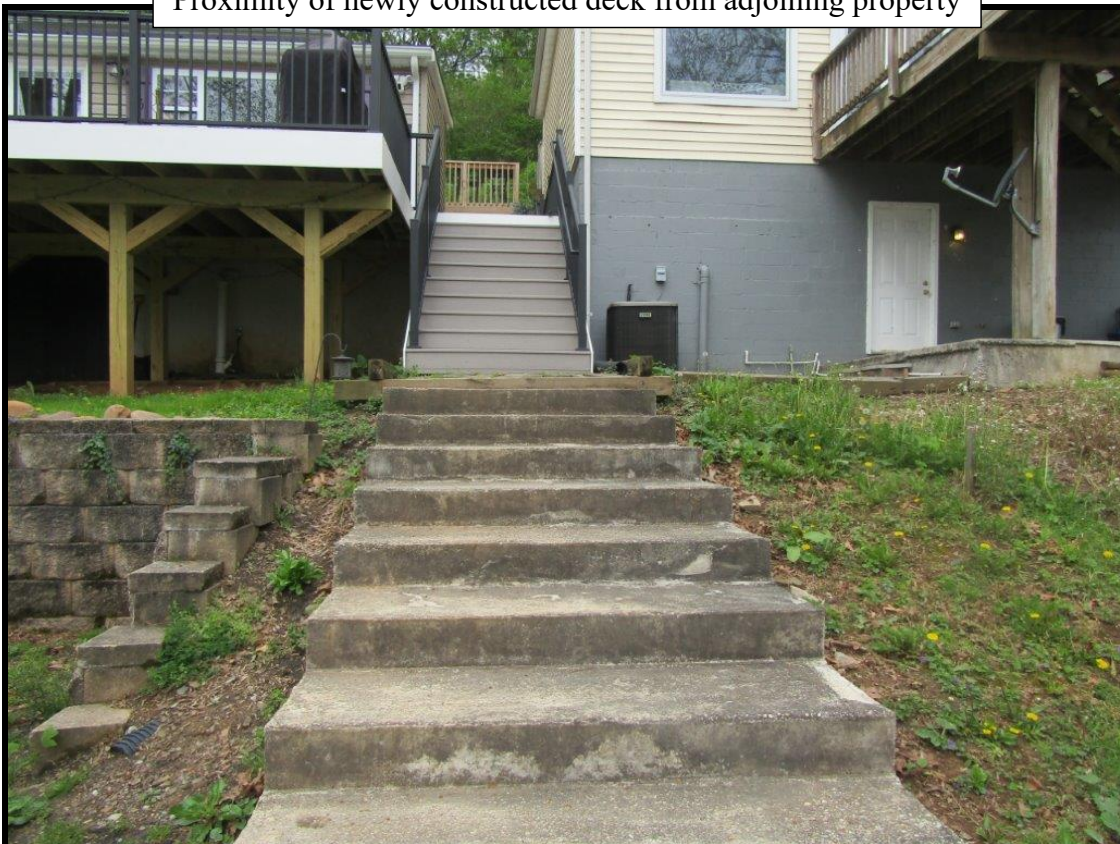


Staff Report
Jefferson County Board of Zoning Appeals
April 28, 2022
Continued to May 26, 2022

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



Proximity of newly constructed deck from adjoining property





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"/>

RECEIVED

MAR 24 2022

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

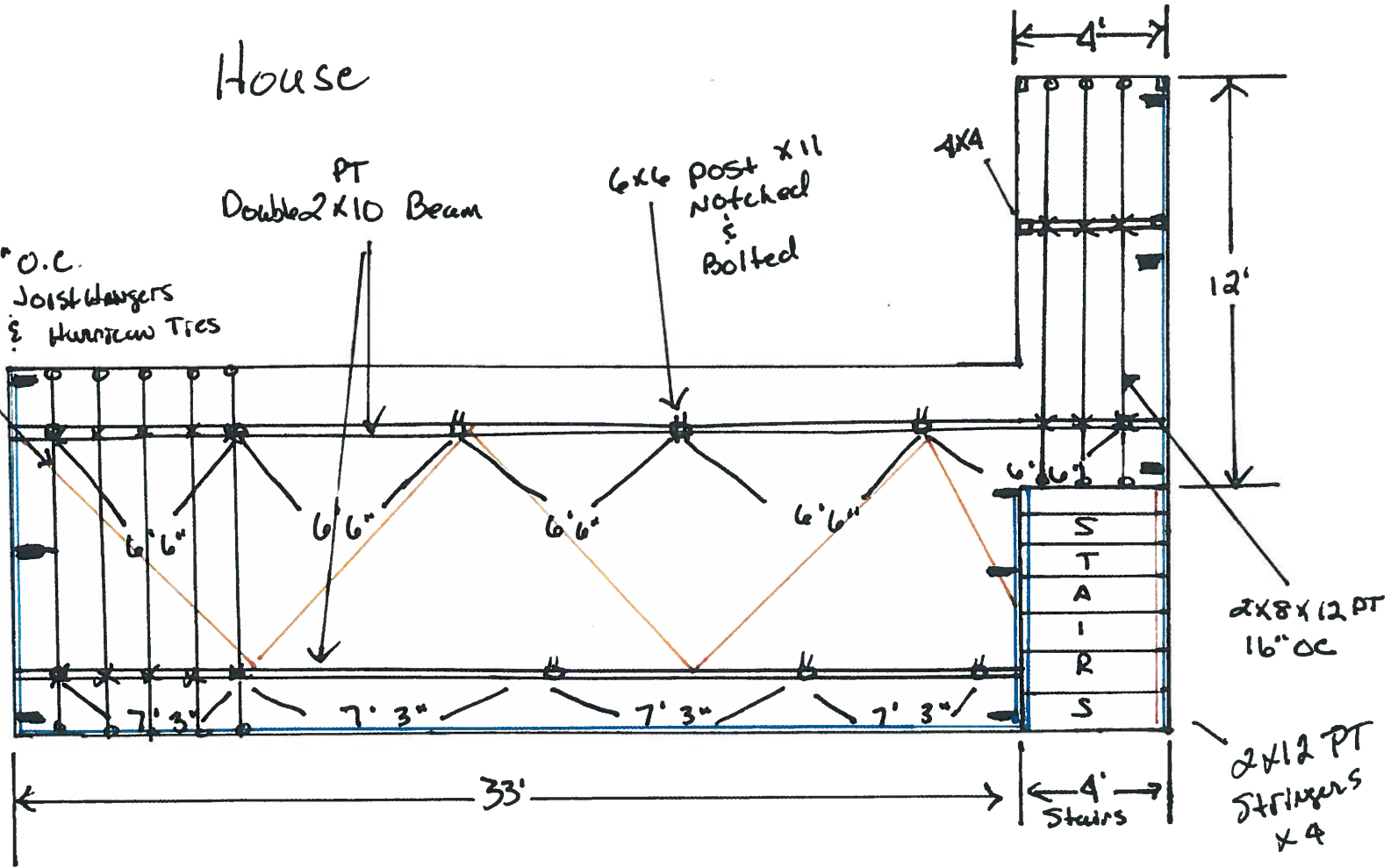
House

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

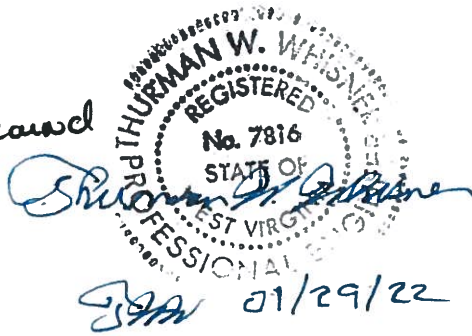
4'
Stairs

Free Standing

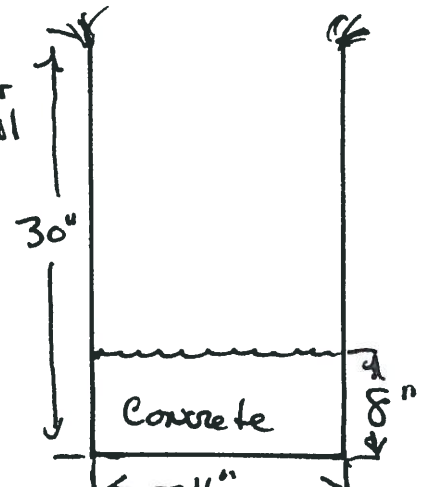
33 x 12 Care Free Deck Approx. 5' OFF Ground

with Additional 4 x 12 Care Free Deck

Aluminium Hand Railings



Footer
Detail



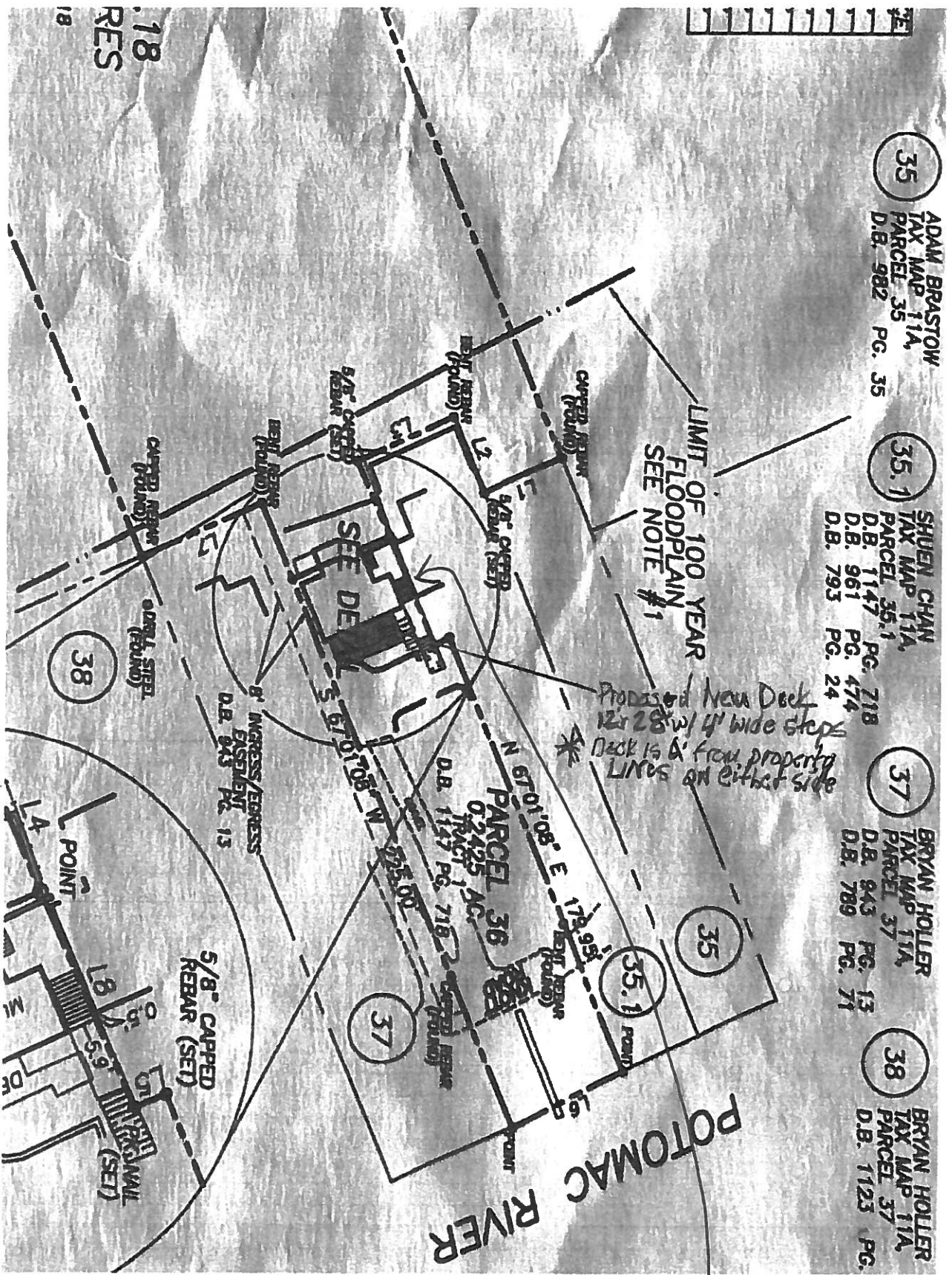
O = Joist Hangers
X = Hurricane Ties

Continuous Rail
Handrail

Cross Bracing
2x4 PT

Rail
Blockings

Replaced old Rotted Steps for Safety
 1523 Knott Rd Shepherdstown WV



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

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

CAMPBELL FLANNERY

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

File #22-13-ZV

1602 Village Market Boulevard
Suite 225
Leesburg, Virginia 20175

Telephone: (703) 771-8344
Facsimile: (703) 777-1485

Daniel M. Casto
DCasto@CampbellFlannery.com

May 9, 2022

RECEIVED
MAY 9, 2022
Jefferson County, WV
Office of Planning & Zoning

Tyler Quynn, Chair
Jefferson County Board of Zoning Appeals
c/o Alex Beaulieu, Zoning Administrator
116 East Washington Street, Suite 200
P. O. Box 716
Charles Town, WV 25414
Email: zoning@jeffersoncountywv.org

RE: File #: 22-13-ZV, 1523 Knott Road, Shepherdstown, West Virginia

Dear Mr. Quynn,

We represent Ms. Amy Bowman in connection with her opposition to the variance requested by Potomac Cottage, LLC, File #: 22-13-ZV, at 1523 Knott Road, Shepherdstown, WV, Parcel ID: 09011A00360000 (the "Requested Variance").

Facts

Ms. Bowman owns the property known as 1529 Knott Road, Shepherdstown, WV, Parcel ID: 09 11A003500010000 (the "Bowman Property"). The Potomac Cottage house was built in approximately 1961 and previous owners constructed an 8 foot by 12 foot deck in 2006 which conformed with county setbacks. In January 2021, the current owners of Potomac Cottage applied for a building permit to construct a greatly enlarged 12 foot by 33 foot deck. The January 2021 building permit application indicated that the deck would have a 6 foot setback from the Bowman Property. Unfortunately, the owners of the Potomac Cottage intentionally and brazenly constructed the greatly enlarged deck in contradiction to the issued permit with a setback of only 6 inches from Ms. Bowman's house. While the deck is 6 inches from Ms. Bowman's house, based upon an existing surveyor's mark, it is actually contiguous with the property boundary meaning there is no setback of any size.

Due to Potomac Cottage's violation of the permit and the Jefferson County Zoning and Land Development Ordinance, Potomac Cottage is now asking the Board of Zoning Appeals ("BZA") to shift the consequences of its violations to Ms. Bowman by requesting a significant variance. Specifically, the Requested Variance is from Section 9.7 of the Ordinance and seeks to reduce the side setback along the southern property line from 15 feet to 3 feet for a 12 foot long deck; and to reduce the side setback along the northern property line from 15 feet to 6-inches for a 12 foot long deck with 8 foot long stairs. Ms. Bowman objects to the applicant's request for a

drastic reduction of the side setback along the northern property line from 15 feet to *6 inches*, and asserts that no variance can be lawfully granted.

Ms. Bowman emphatically objects to the Requested Variance. The Requested Variance is sought by an out of state investor to increase the commercial rental value of an Air-BNB rental to the detriment of Ms. Bowman and her property. For the reasons set forth in this letter, the BZA must reject the applicant's Requested Variance.

The Requirements for a Variance Are Not Met

West Virginia Code §8A-7-11 and Section 6.2(A) of the Ordinance set forth the requirements for variances being considered by the BZA. West Virginia Code and the Ordinance contain four requirements and in order for the BZA to issue a variance the applicant's request must meet all four of those requirements. If even one of the requirements is not met, the BZA lacks the legal authority to approve a variance. The Requested Variance fails because it does not meet all of the requirements for the granting of a variance. In fact, not a single requirement necessary for a variance is met.

The applicant's Zoning Variance Request fails on its face. The application focuses solely upon the benefit to the applicant. It makes no attempt to address the requirements of West Virginia Code or the Ordinance, nor does it address the negative impacts to Ms. Bowman's property. There is no reasonable reading of the application, the West Virginia Code, the Ordinance, and the facts presented that can result in the BZA lawfully issuing the Requested Variance.

For the convenience of the BZA, Section 6.2(A) of the Ordinance is reproduced here:¹

The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.

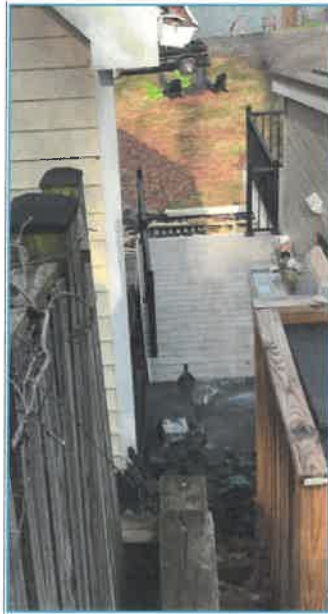
A. The Board shall approve a variance request if the Board finds that a variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. Arises 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;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

¹ Section 6.2(A) of the Ordinance tracks West Virginia Code §8A-7-11.

1. Granting the Requested Variance Will Adversely Affect Ms. Bowman's Property

This is not a situation where a property owner is requesting a setback variance and the adjoining property owner's house is a significant distance from the property boundary. Instead, the house owned by Ms. Bowman is in close proximity to the deck that has been constructed. The setback from the house may well be 6 inches, but the setback from the property boundary is non-existent. The length of the paper that this letter is printed on is 11 inches. Cut the paper in half and that is approximately the size of the requested setback from the house itself. The image below shows just how close Potomac Cottage's deck is to Ms. Bowman's house.



Ms. Bowman has presented the BZA with an expert opinion from Paula J. Miller, Broker with BMS Realty. It is clear that Ms. Miller is an expert on the types of items pursuant to the West Virginia Rules of Evidence. Rule 702(a) of the West Virginia Rules of Evidence states as follows: "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise." Clearly, Ms. Miller qualifies as an expert on real estate based upon her knowledge, skill, experience, training and education.

As Ms. Miller has expertly opined, the deck as constructed impedes necessary access to maintain the Bowman house, including limiting the ability of Ms. Bowman to service the mechanical systems, roof, and siding. Ms. Miller is also concerned regarding the impact that the proximity of occupants on the deck will have on the Bowman house due to the impact on the privacy of the house's occupants. Ms. Miller is also concerned regarding the potential fire hazards that may result due to the large grill that has been placed on the deck. As a result of these factors and the incredible encroachment, Ms. Miller's expert opinion is that potential

purchasers will place a lower value on the Bowman house and that some may not pursue a purchase due to concerns regarding insurability.

The applicant has failed to present any evidence in rebuttal to the evidence presented regarding the negative impact on health, safety welfare, and the rights of Ms. Bowman as an adjacent property owner. Instead, in response to the evidentiary burden of this requirement, the applicant's application merely states that the "new steps" were designed by an engineer. The mere fact that steps were designed by an engineer does not meet the legal requirement that the Requested Variance "not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents."

A decision by the BZA to grant the Requested Variance would trample upon Ms. Bowman's rights to enjoy her property. Due to the close proximity of Potomac Cottage's deck the health and safety of both properties is also impacted due to the risk of the spread of fire between the two structures. The miniscule size of the setback is a health and safety issue because it will make it extremely difficult, if not impossible, to perform maintenance on both the Bowman house and the Potomac Cottage deck. It is apparent that even if granted, the Requested Variance will be insufficient to bring the Potomac Cottage deck into compliance with the Ordinance because the deck will still violate the setback since the deck touches the property boundary. Finally, the welfare of the occupants of Ms. Bowman's house is adversely affected because people on the Potomac Cottage deck have close and clear visibility into the house, eliminating the privacy of the occupants of the house. As a result of these factors, the BZA must reject the application for the Requested Variance because the applicant has failed to show that the Requested Variance "[w]ill not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents."

2. The Applicant Created the Conditions Causing the Requested Variance

Section 6.2(A)(2) of the Ordinance requires that, prior to issuing a variance, the BZA must find that the need for the variance "[a]rises 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 variance application does not even attempt to argue that the request arises from special conditions or attributes not created by the applicant. Instead, the applicant merely states that "The adjacent house is 6 feet away connected by concrete steps replaced with new steps for safety and a fluid way to access both doors." The applicant cannot make the showing that the applicant did not create the issues it now faces. The applicant is seeking the Requested Variance because the applicant intentionally and brazenly built a deck in direct violation of the Ordinance and the building permit. It is clear that the applicant created the conditions requiring the applicant to seek the Requested Variance.

The purpose of Section 6.2(A)(2) is clear. It is intended to prevent applicants from avoiding personal responsibility for their conduct by shifting the burden and impact of that conduct to neighboring property owners. The BZA must ensure that the purpose of Section

6.2(A)(2) is met and should not transfer the burden of the applicant's misconduct to Ms. Bowman. The applicant has failed to present any evidence claiming that it is not responsible for the need for the Requested Variance. Therefore, even if the BZA finds that the Requested Variance meets the other three requirements of Section 6.2(A), the BZA cannot approve the Requested Variance because it is impossible for any reasonable person to find that the applicant did not cause the condition requiring the variance.

3. No Unnecessary Hardship Will Be Eliminated by the Requested Variance

No unnecessary hardship is eliminated if the BZA approves the Requested Variance. The Potomac Cottage house was built in 1961 and had an 8 foot by 12 foot deck constructed in 2006. The 2006 deck also had stairs leading to the ground. The deck and the stairs were sufficient for the use of the Potomac Cottage and the stairs provided adequate access to the portion of the property abutting the Potomac River.

The variance application claims that the hardship eliminated by granting the variance is that guests will allegedly be able to more easily access the front door and side door and that it "will help with not having to go up another set of steps when coming into house." The applicant makes no attempt to support the claim that it is an unnecessary hardship to "go up another set of steps" because the claim is not supportable. For over 15 years the use of the existing deck was not an unnecessary hardship on the property owners and it was not one when the applicant built the new deck in violation of the law.

The building permit issued by Jefferson County to Potomac Cottage in 2021 specified a 6 foot setback. Potomac Cottage brazenly built a deck with only a 6 inch setback from the Ms. Bowman's house in direct violation of the Ordinance and the building permit. Any hardship on Potomac Cottage was caused solely by Potomac Cottage's intentional actions. The staff report for the Requested Variance incorrectly states that "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." The staff's statement is not supported by any analysis and the staff has shown no evidence that it has investigated other potential remedies to address Potomac Cottage's legal violations, such as removing the portion of the deck that violates the setback. The BZA must reject the Requested Variance since granting it would not eliminate an unnecessary hardship.

4. Granting the Requested Variance Will Not Result In the Intent of the Ordinance Being Observed and Substantial Justice Being Done

The applicant claims that the Requested Variance will result in the intent of the Ordinance being observed and substantial justice being done. In support of this contention, the applicant states "[i]t will allow use of the front and side of house to be used without having to use another set of steps to go around." The applicant's explanation does not support the contention that the Requested Variance will result in the Ordinance being observed and substantial justice being done.

Should the BZA grant the Requested Variance, it will clearly not result in the intent of the Ordinance being observed because the approval will be in direct violation of Section 6.2(A) which requires that all four requirements exist prior to a variance being approved. The intent of the Ordinance is to protect the health and safety of Jefferson County's citizens while protecting the rights and property values of adjacent property owners. Avoiding the use of another set of steps does not observe the intent of the Ordinance. Further, substantial justice is not served by avoiding another set of steps when weighed against the significant negative impact on Ms. Bowman's house and her property rights. As a result, the BZA must reject the Requested Variance.

Conclusion

Ms. Bowman respectfully requests that the BZA reject the Requested Variance for the reasons stated in this letter. The Requested Variance cannot be granted because it does not meet any of the legal requirements for a variance. Granting of the Requested Variance would be implicit approval of trespass and a property line encroachment. Approval of the Requested Variance would not only exceed the BZA's legal authority, it would also result in irreparable harm to Ms. Bowman and her property rights.

We look forward to the opportunity to speak with the BZA and the BZA's legal counsel regarding this matter.

Respectfully submitted by counsel
on behalf of Ms. Amy Bowman,



Daniel M. Casto, Esq.
West Virginia Bar #11226

April 27, 2022

Jefferson County Planning Commission

Charles Town WV 25414

Re: File 22-13-ZV – Variance for setback at 1523 Knott Rd Shepherdstown WV 25443

To whom it may concern,

I am writing this letter on behalf of Amy and May Lynn Bowman owners of property at 1529 Knot Rd. Shepherdstown, as a licensed real estate agent (REALTOR) in West Virginia, specializing in the Eastern Panhandle.

I have been an agent for 35 years and live in the Shepherdstown district as well.

Amy has provided me photos of the property, prior to the addition of the new "deck" as well as with the new "deck". I italicize the word "deck" because the structure, while beautiful in appearance is obviously built outside the county guidelines and in no conformity or regard to the adjacent property, which is owned by Amy and May Lynn Bowman.

I will preface below some of the concerns that have now been created by this structure.

Access--ability to access this side of the home to service the mechanical systems, roof, and siding. There is an ongoing moisture issue in the basement on this side of the house, and access has now been impeded to the outer wall if more preventative issues arise. This now is even more of an issue since the owners of Potomac Cottage, LLC, have banned the owners from stepping on "their" property.

Privacy--guests who stand on the deck landing now can see into the living room window, which is only about four to five feet away. (See photo of a guest looking into the house). Noise from the deck can now be heard inside of the house because of the ample amount of outdoor furniture, including an outdoor dining room set, that is located on the new deck. Also, the elevated landing for the deck is inches from the neighboring outer wall and you can hear voices through the outer wall.

Safety--fire from the BBQ that is now close to the neighboring house.

Resale Value – Based on the above factors and non conformity to JCPC guidelines presents an obvious ongoing issue for the current owners, but also a huge "encroachment" for a new buyer who may not be willing to inherit such an issue as well as, title insurance may not be attainable, which further places an investment in jeopardy.

I hope this letter helps supply some weight to an objection to a variance. It is unfortunate that the structure was built this way, but the facts are clear, that it violates the guidelines that are in place to protect homeowners in the county.

Sincerely

Paula J. Miller
BMS REALTY
Broker

RECEIVED

APR 28 2022

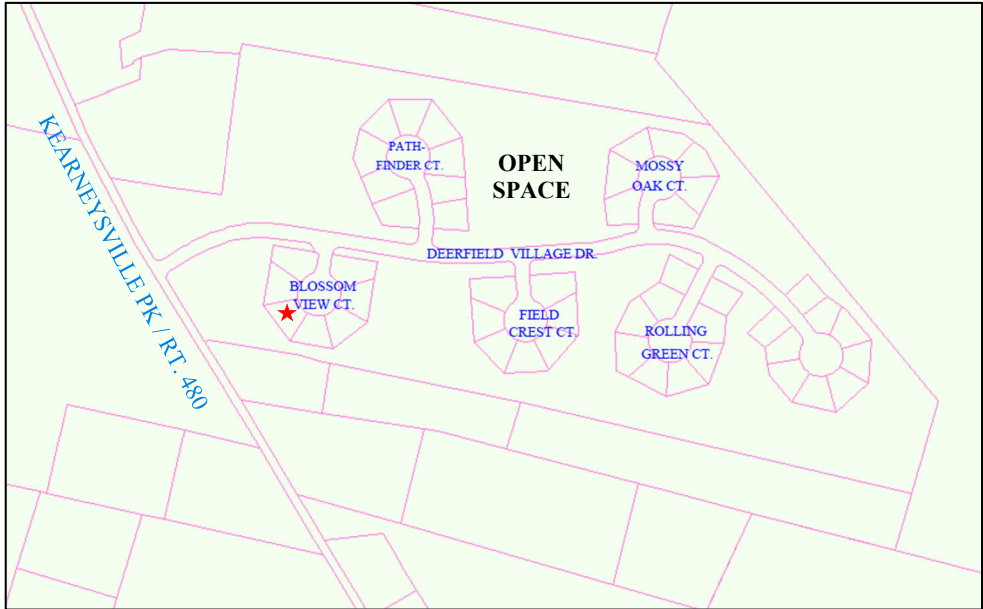
**JEFFERSON COUNTY PLANNING
ZONING & ENGINEERING**

*Submitted by Amy Bowman during
Public comment for 22-13-ZV

Staff Report
 Jefferson County Board of Zoning Appeals
 May 26, 2022

22-17-ZV Gibson Variance Request

Item #2 Variance request from Section 5.4B of the Zoning Ordinance, as amended on 11/07/02, to reduce the rear setback from 20' to 9' for a 10' x 10' deck.

Applicant:	Ian Gibson-Smith
Owner:	Ian Gibson-Smith
Parcel Information / Zoning District:	<p style="text-align: center;">Deerfield Village, Lot 3, 44 Blossom View CT Shepherdstown, WV Parcel ID: 09014B00030000; Size: 026 ac; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Districts: North: South, East, West: Rural
History:	Deerfield Village Subdivision 03/11/03: PC approved CUP (PC file #Z02-07) 05/24/04: Final plat recorded (PC file #03-15) Plat Book 21, Page 1, A-G
Waivers/Variations:	N/A
Approved Activity:	Single family dwelling
Site Visit Conducted:	Site visit not conducted.

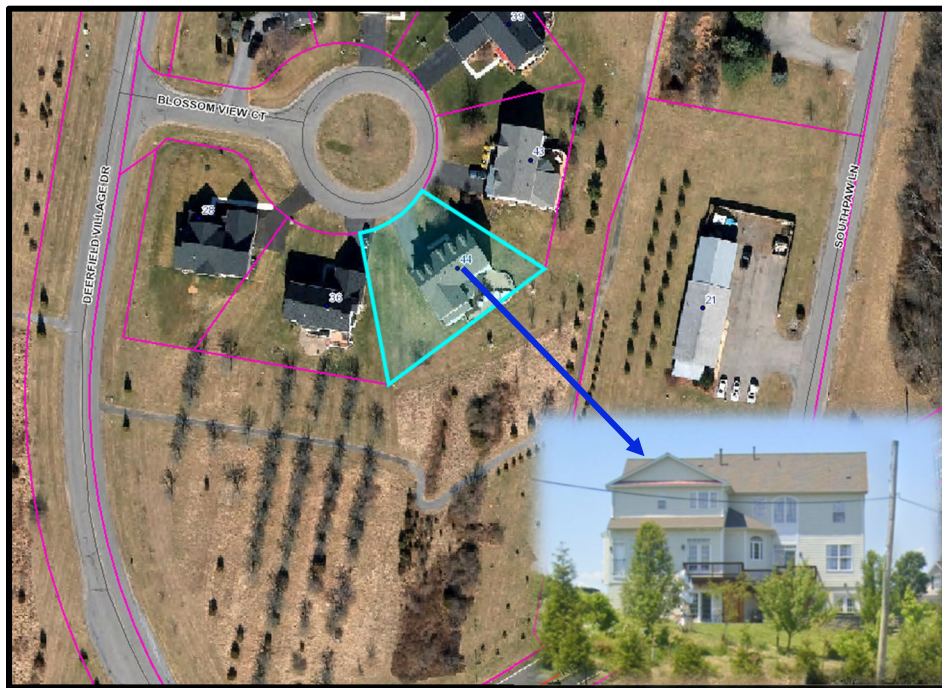
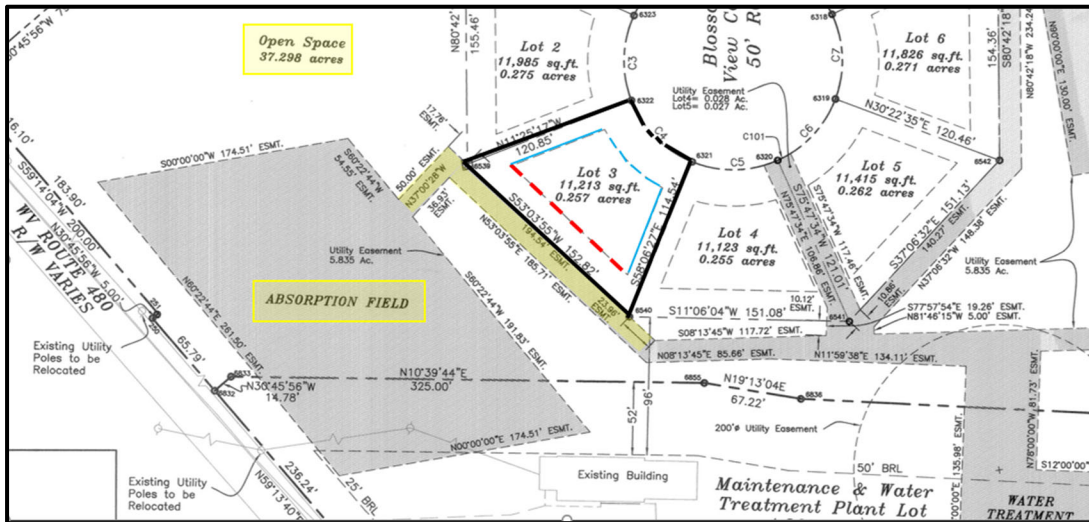
Staff Overview

The Deerfield Village Subdivision processed as a Conditional Use to allow a greater density than what was permitted by right at that time. The Conditional Use Permit was approved on March 11, 2003 and the Final Plat for the subdivision was recorded on May 24, 2004. Pursuant to Section 5.7(b) of the Zoning Ordinance, as amended on 11/07/02, lots that were created through the conditional use permit process were permitted to utilize the Residential Growth setbacks listed in Section 5.4(b). As such, the required setbacks for the subject Lot 3 are 25' Front; 12' Side; and 20' Rear.

There is a platted 15' utility easement that borders the rear of the subject parcel. Beyond the utility easement is an open space area and an absorption field.

Staff Report
Jefferson County Board of Zoning Appeals
May 26, 2022

22-17-ZV Gibson Variance Request



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.

Due to the geometry of the subject parcel and the location of the home, 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 could include:

1. No conditions of approval were identified.

Staff Report
Jefferson County Board of Zoning Appeals
May 26, 2022

22-17-ZV Gibson Variance Request

Section of Ordinance to be Considered

SECTION 5.7 Rural District

(b) Minimum Lot Area, Lot Width and Yard Requirements

Minimum lot sizes, lot width, and yard requirements are as follows for principal permitted uses. For any residential use that complies with the Development Review System, the setbacks and lot shall be as outlined in **Article 5.4(b)**.

SECTION 5.4b Residential Growth District - Height And Yard Requirements

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



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: 22-17-ZV
 Staff Initials: gH
 Meeting Date: 5/26/22
 Fees Paid (\$100 or \$150): 100-

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Variance Request

Variations from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

Property Owner Information

Name: Ian C Gibon-Smith
 Mailing Address: 44 Blossom View Ct Shepherdstown, WV 25443
 Phone Number: ~~202-2~~ 2024254134 Email: Ian@Iangibsonsmith.com

Applicant Contact Information

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

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

Name: R Martin Builders
 Mailing Address: 51 Sallie Ln, Shepherdstown, WV 25443
 Phone Number: 304 885 0084 Email: info@RMartinBuilders.com

Physical Property Details

Physical Address: 44 Blossom View Ct
 City: Shepherdstown State: WV Zip Code: 25443
 Tax District: Jefferson Map No: _____ Parcel No: 0901480030000
 Parcel Size: _____ Deed Book: Plat 2 Page No: _____

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"/> | |
| RECEIVED
APR 12 2022
<small>Place Received Date Stamp Here</small>
JEFFERSON COUNTY PLANNING
 ZONING & ENGINEERING | | | 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: 5.4B *gph*

Briefly describe the nature of the variance request:

Extend deck from current 11' x 4' to 12' x 12'

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

Front Setback Side Setback Rear Setback Reduction From 20 to 9

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:

Neighbours & HOA approve. No others affected.

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?

Nowhere else to build deck

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

I will be able to sit outside & watch nature

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

It did not take into account that the HOA owns all the land out back & there is only open land behind that

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 _____ Date _____

Signature of Property Owner _____ Date _____

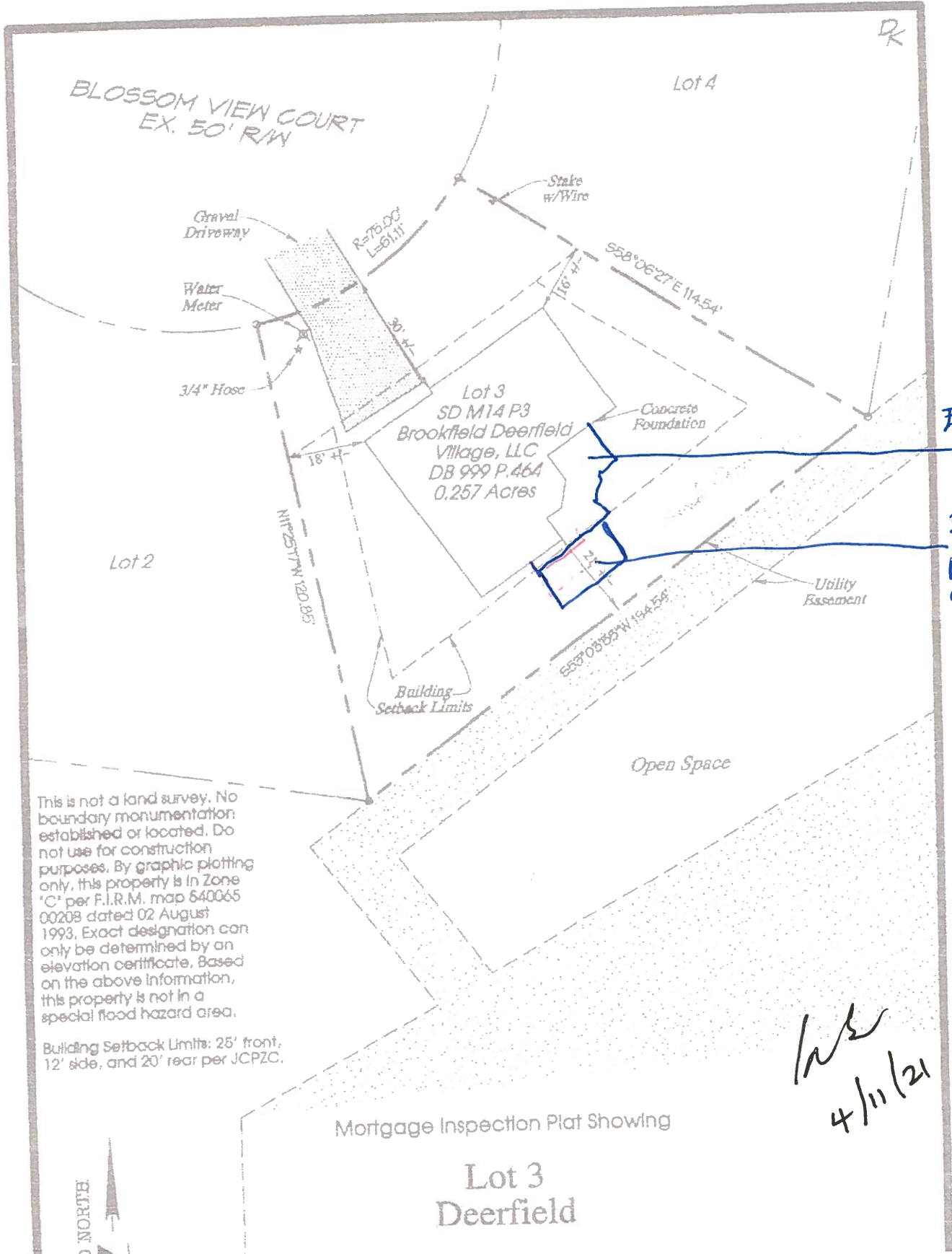
Notification Requirements (to be completed by staff)

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).

05-26-22
Date of Public Hearing

05-11-22
Advertising Date

05-11-22
Placard Posting Date



W
4/11/21

JSL

BLOSSOM VILW CT



Existing deck

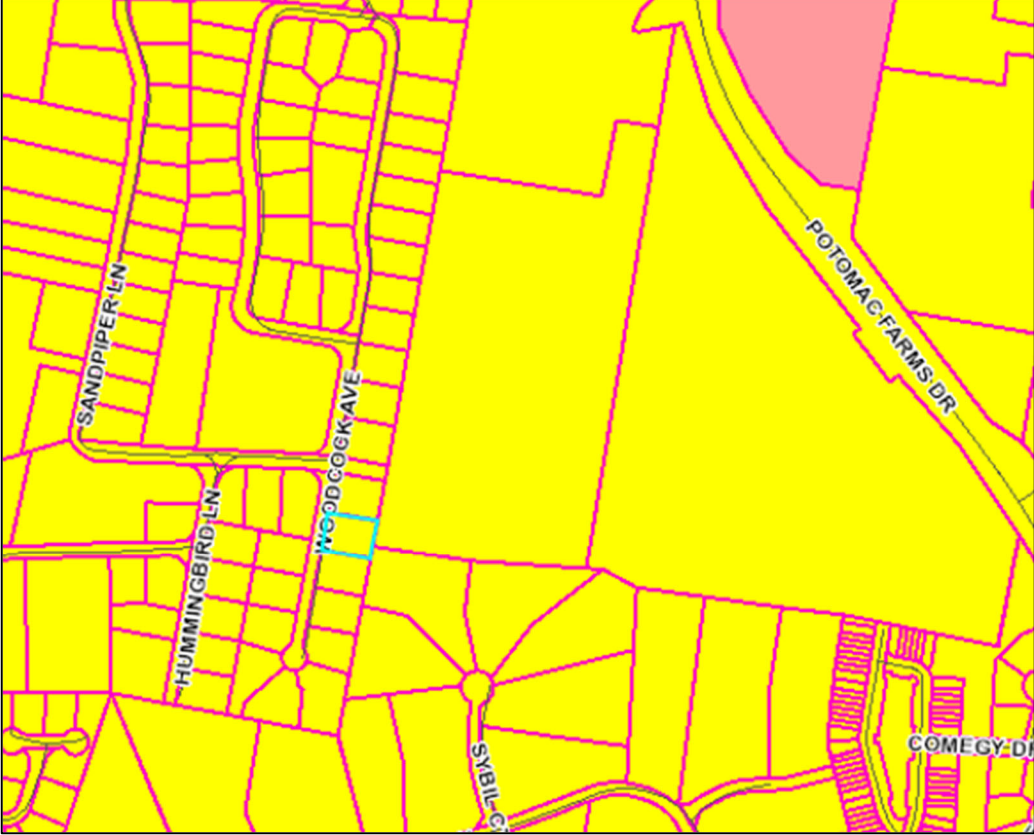
Proposed 10x10' extension

20 Foot line

Paul
4/11/21

Staff Report
 Jefferson County Board of Zoning Appeals
 May 26, 2022
22-18-ZV Tennant Variance Request

Item #3 Variance request from Section 9.7 to reduce the 6' side and rear setbacks down to 4' for a 40' x 24' detached garage with an attached 16' x 8' lean to.

Owner:	Sharon Tennant
Parcel Information and Zoning District:	<p>Mecklenburg Heights, Lot 72, 323 Woodcock Ave., Shepherdstown, WV Parcel ID: 09007C00070000; Size: .48 ac; Zoning District: Residential Growth</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation: <i>North, South, East and West: Residential Growth</i></p>
History:	<p>Mecklenburg Heights recorded on 05/15/70 in PB 1, PG 35A *Re-recorded on 02/11/72 in PB 2, PG 287</p>
Waivers/Variations:	None
Approved Activity:	Single Family Residence
Site Visit Conducted:	Site visit not conducted

Staff Overview

The subject parcel is Lot 72 of the Mecklenburg Heights subdivision, which was originally recorded on October 15, 1969 and subsequently re-recorded on February 11, 1972 to include additional bearings and distances to describe the property boundaries. This section of Mecklenburg Heights was recorded prior to the adoption of the Zoning Ordinance; therefore, the lots are considered legal non-conforming lots because they do not meet the residential site development standards in the current Zoning Ordinance.

Staff Report
Jefferson County Board of Zoning Appeals
May 26, 2022
22-18-ZV Tennant Variance Request

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 9.7 Other Exceptions³

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:²³

Residential Growth District²³

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: 22-18-ZV
 Staff Initials: AB
 Meeting Date: 05-26-22
 Fees Paid (\$100 or \$150): \$100/cc

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Variance Request

Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

Property Owner Information

Name: Sharon m Tennant
 Mailing Address: 323 WOODCOCK AVE Shepherdstown, W Va. 25443
 Phone Number: 304-820-6038 Email: smtennant@gmail.com

Applicant Contact Information

Name: S/A
 Mailing Address: _____
 Phone Number: _____ Email: _____

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

Name: None
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 323 Woodcock Ave
 City: Shepherdstown State: W. Va. Zip Code: 25443
 Tax District: 9 Map No: 7C Parcel No: 7
 Parcel Size: 0.48 Deed Book: 1227 Page No: 380

Zoning District (please check one)

Residential Growth (RG) <input checked="" type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input 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;"> RECEIVED APR 25 2022 JEFFERSON COUNTY PLANNING ZONING & ENGINEERING </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: 9.7

Briefly describe the nature of the variance request:

6 Feet Back, 6 Feet Side for detached Garage

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

Front Setback Side Setback Rear Setback Reduction From 6' to 4' AB AB

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:

muleh plant behind us. The garage will add value to the property.

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?

1974 the house was built with existing driveway and want to add the garage to add value.

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

I feel that the garage would be a better placement with the house and not to be in front of the house that would take away from the finished product.

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

Add to the property value. And other properties are close to the line

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] 04-25-22
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).

Thursday, May 26, 2022
Date of Public Hearing

Wednesday, May 11, 2022
Advertising Date

Weds. May 11, 2022
Placard Posting Date



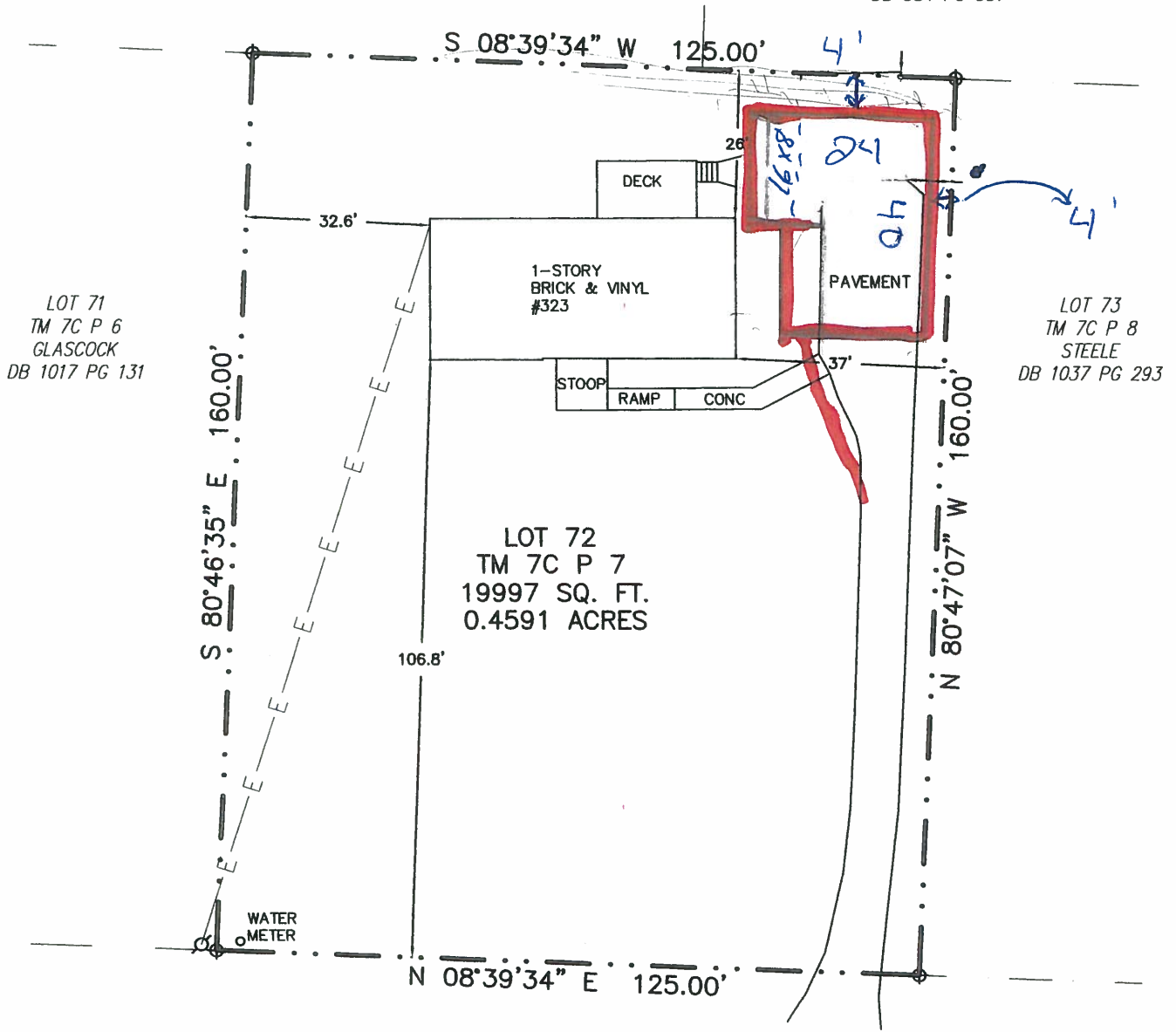
22-18-2V

LEGEND:
 ⚡ FOUND 3/4" IRON PIPE

WEST VIRGINIA STATE
 GRID NORTH ZONE

TM 8 P 6.2
 LOWE
 DB 933 PG 643

LOT 32, SEC B, LEDGE LOWE
 TM 8 P 55
 THOMAS
 DB 584 PG 557



LOT 71
 TM 7C P 6
 GLASCOCK
 DB 1017 PG 131

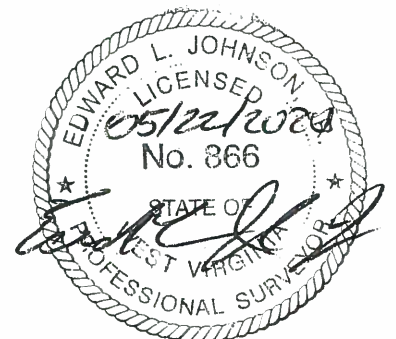
LOT 73
 TM 7C P 8
 STEELE
 DB 1037 PG 293

LOT 72
 TM 7C P 7
 19997 SQ. FT.
 0.4591 ACRES

WOODCOCK AVENUE - 40' R/W

*Sign on lot
 date 04-25-22*

Sec E
 PLAT OF RESURVEY
 LOT 72, MECHLENBURG HEIGHTS
 PLAT BOOK 2 PAGE 287
 THE PROPERTY OF
 SHARON M. TENNANT
 DEED BOOK 1227 PAGE 380
 TAX MAP 7C PARCEL 7
 SHEPHERDSTOWN DISTRICT
 JEFFERSON COUNTY, WEST VIRGINIA
 SCALE: 1" = 30' MAY21, 2020



ED JOHNSON AND ASSOCIATES, INC.
 LAND SURVEYORS
 674 ACORN CIRCLE
 HARPERS FERRY, WEST VIRGINIA 25425
 (304)725-6060

04-30-22

To My Neighbors bordering the South and East side of my property at 323 Woodcock Ave. As I'm applying for a building permit for a garage to be built 6ft off the back and side of my property, I will need to apply for a variance of 4ft to accommodate for roof overhang of approximately 12-16 inches (eave + gutters). As part of application for this variance with County planning and zoning would like to have your approval with signatures.

Respectfully,

Sharon Tennant

I approve of the variance - Jerri Burgess
Jerri Burgess 341 Woodcock Ave
240-338-0499

Gay W. Thomas
304 671-2460

Scott M. Frew
304-671-1892

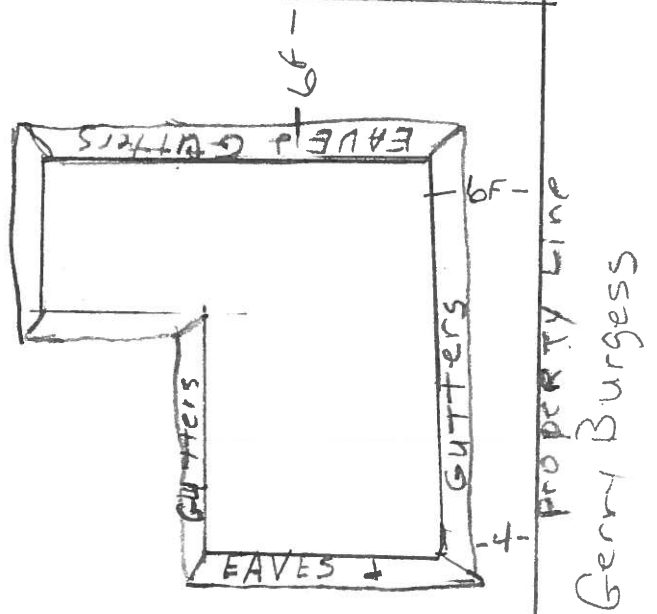
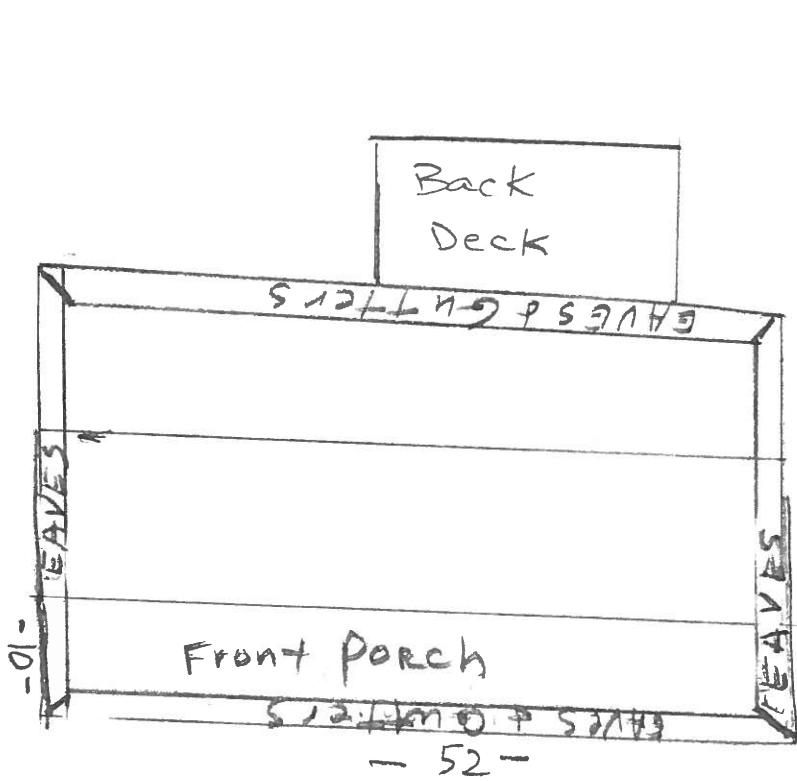
SmTennant@gmail
3048206038

Sharon Tennant
323 Woodcock Ave
Shep, WV. 25743

mulch plant
Scottlowe

Ledge lowe
Gary Thomas

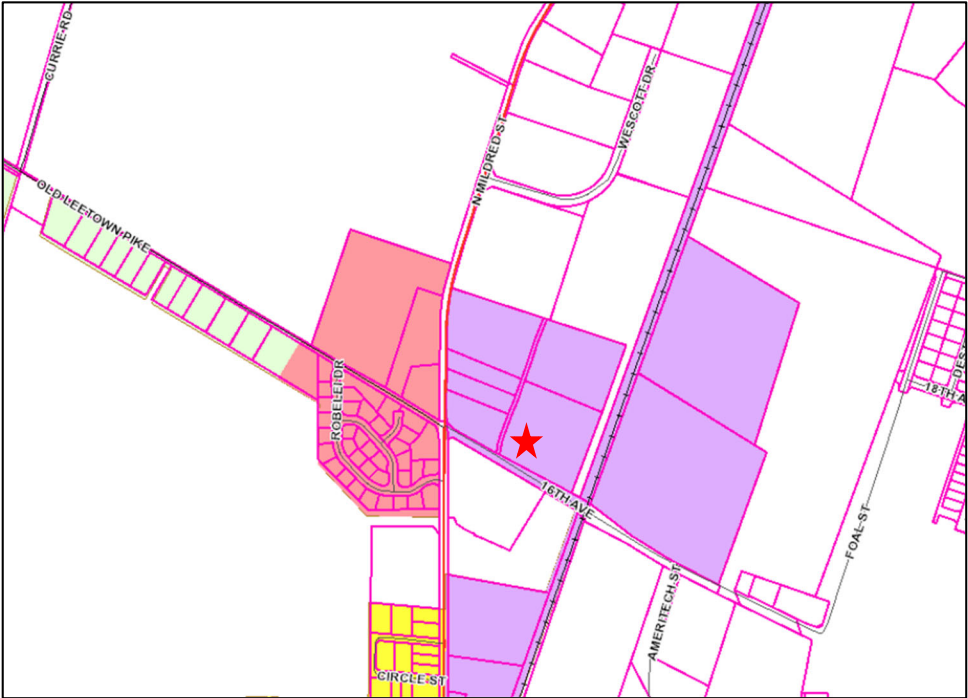
Property Line



Staff Report
 Jefferson County Board of Zoning Appeals
 May 26, 2022

22-19-ZV Moose Lodge Variance Request

Item #4 Variance request from Section 10.7E.1 to waive the requirement of submitting written certification from the sign manufacturer regarding the light intensity for a proposed Electronic Sign.

Applicant:	Chad Bryan, Trustee
Owner:	Charles Town Lodge No. 948 Loyal Order of Moose, Inc.
Parcel Information / Zoning District:	<p>77 16th Ave, Ranson, WV, Parcel ID: 02000700110005, 02000700110012, <u>02000700110013</u>; Combined Acreage: ~ 12 acres; Zoning District: Industrial Commercial</p>  <p><i>*White areas are located in the City of Ranson.</i></p>
Surrounding Properties:	<p style="text-align: center;">Zoning Districts: North & South: City of Ranson; East: Industrial Commercial West: Residential-Light Industrial-Commercial</p>
History:	<p>09/01/81: Boundary line adjustment approved to merge (3) properties owned by the Moose into a single ~12 acre parcel (DB 489 @ PG 754). 09/17/80: (2) 50' x 100' accessory structure pavilions (Permit #80-254) 07/02/82: 30' x 60' accessory structure w/ restrooms(Permit #82-159) 04/18/83: 50' x 100' accessory structure (pavilions) (Permit #83-84) 09/28/88: 180' x 120' Moose Lodge/Restaurant(Permit #88-483) 06/23/94: Covered Breezeway (Permit #94-392) <u>05/04/95: Sign - original permit for the subject sign (Permit #95-332)</u></p>
Waivers/Variations:	06/14/94: PC approved a waiver of site plan for a covered breezeway.
Approved Activity:	Moose Lodge
Site Visit Conducted:	Site visit not conducted.

Staff Report
Jefferson County Board of Zoning Appeals
May 26, 2022

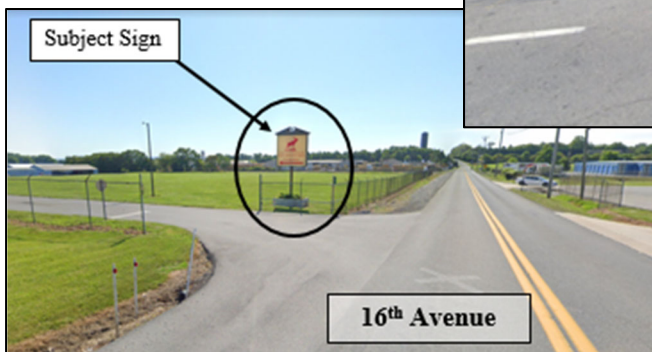
22-19-ZV Moose Lodge Variance Request

Staff Overview

In 1981, a boundary line adjustment processed to consolidate the three separate parcels owned by the Moose Lodge into a single lot comprised of approximately 12 acres. In 1995, a building permit was issued for a freestanding sign. The applicant is proposed to convert the existing sign face to an electronic sign face and will utilize the existing structural support.

The subject parcel is zoned Industrial Commercial; therefore, an electronic sign is permitted by right, provided the sign conforms to the criteria established in Section 10.7, which includes submission of written certification from the sign manufacturer that the light intensity has been factory preset not to exceed the levels specified in the Zoning Ordinance and that the intensity level is protected from end-user manipulation by password protected software or other appropriate methods (Section 10.7E.1); and also from the requirement to submit a valid copy of the FCC Manufacturers Testing Certificate.

The applicant has represented that they are agreeable to complying with the brightness levels as required by the Ordinance, but that they are unable to obtain the required certifications from the sign manufacturer. Staff does not have the administrative discretion to deviate from the standards in the Ordinance; therefore, a Zoning Certificate cannot be issued until the required certifications have been submitted or if the Board evaluates the request and eliminates the requirement.



Staff Report
Jefferson County Board of Zoning Appeals
May 26, 2022

22-19-ZV Moose Lodge Variance Request

Conditions of Approval

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

1. The proposed sign shall adhere to all of the Electronic Sign requirements noted in Section 10.7

Section of Ordinance to be Considered

Section 10.7 Electronic Signs – See Attached

C. Electronic Signs

Electronic signs located in the Rural, Residential Growth, and Village zoning districts shall require a Special Exception Permit unless included as part of a Conditional Use Permit application per Section 10.6. Electronic signs shall conform to the criteria outlined in Section 10.7.

Section 10.6 Conditional Use Permit (CUP) Signs³⁶

Signs associated with a Conditional Use Permit application shall be assessed by the Board of Zoning Appeals as part of the CUP process per Section 6.3. Any deviation from the provisions of this section shall require consideration and approval by the Board as part of the CUP application. Signs approved by the Board shall adhere to the following:

- A. There shall be a minimum of 300 feet between signs when located in the commercial/industrial zoning districts.
- B. There shall be a minimum of 1,000 feet between signs when located in the rural/residential zoning districts; however, a minimum of 300 feet between signs may be permitted provided the adjacent land use is a commercial/industrial land use.
- C. Signs shall comply with the front yard setback provisions in the districts in which they are permitted.
- D. In addition to the provisions herein, electronic signs accessory to a CUP application shall conform to the criteria outlined in Section 10.7.

Section 10.7 Electronic Signs³⁶

Electronic Signs are permitted in any commercial and/or industrial district. Electronic Signs located in the Rural, Residential Growth, and Village zoning districts shall process as a Special Exception before the Board of Zoning Appeals per Section 6.5. Any electronic sign accessory to a Conditional Use Permit application shall comply with Section 10.6 and the criteria outlined in this section. **When permitted, Electronic Signs shall conform to the following criteria:**

- A. The message or image shall be static, displayed for a minimum of 15 seconds and shall not be animated by scrolling, flashing, or other similar non-static displays.
- B. The message or image change shall occur simultaneously for the entire electronic sign face without any special effects. The time to complete the change from one message to the next is a maximum of one second.
- C. Electronic signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if a malfunction occurs.
- D. An electronic sign may not be animated, play video or audio messages, or blink in any manner.
- E. Electronic signs shall not exceed a maximum illumination of 3,000 nits during daylight hours and a maximum of 100 nits for the time period between ½ hour before sunset and ½ hour after sunrise as measured from the sign's face at maximum brightness.
 1. **The applicant shall provide written certification from the sign manufacturer that the light intensity has been factory preset not to exceed the levels specified above, and the intensity level is protected from end-user manipulation by password protected software or other appropriate methods.**
 2. The change from 3,000 nits to 100 nits shall be controlled by an automatic dimmer control system.
- F. There shall be only one electronic sign on each parcel of land. Off-premises electronic signs shall be subject to Section 10.5A.

1. Community announcements, emergency alerts, weather, and time related messages are generally permitted and shall not be considered an off-premises sign.
- G. Electronic Signs shall not be located within 300 feet of a traffic light.
- H. Electronic signs shall not be located within 200 feet of the property line of a parcel with a residential structure. This setback does not apply to mixed-use buildings or residential structures located on the same parcel as a commercial development.
- I. Electronic signs proposed to locate adjacent to a lot in the Rural, Residential Growth, or Village zoning districts, or adjacent to residential structures in any zoning district, shall be oriented perpendicular to residential frontages. Electronic signs shall not be parallel to any residential structures in any zoning district.
- J. Electronic signs adjacent to lots in the Rural, Residential Growth, and Village zoning districts shall automatically shut-off by 10:00 p.m. and shall not turn on until 6:00 a.m.

Electronic signs shall be FCC certified as required by Federal Law. A valid copy of the FCC Manufacturers Testing Certificate shall be submitted to the Office of Planning and Zoning as part of the Zoning Certificate application.



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: 22-19-ZV
 Staff Initials: gt
 Meeting Date: 5-26-22
 Fees Paid (\$100 or \$150): 100-

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Variance Request

Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

Property Owner Information

Name: Loyal Order of Moose Charles Town Lodge #948
 Mailing Address: P.O. Box 516 Charles Town WV 25414
 Phone Number: 304-725-5114 X122 Email: lodge948@mooseunits.org

Applicant Contact Information

Name: Chad Bryan, Trustee - 304-279-8882
 Mailing Address: P.O. Box 516 Charles Town WV 25414
 Phone Number: 304-725-5114 X122 Email: lodge948@mooseunits.org

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

Name: NONE
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 77 Sixteenth Ave.
 City: Ranson State: WV Zip Code: 25438
 Tax District: 02 Map No: 07 Parcel No: 11.5 11.13
 Parcel Size: 3.87 Acres 5.07 ac Deed Book: 295 489 Page No: 148 754

Zoning District (please check one)

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input checked="" type="checkbox"/>	Rural (R) <input type="checkbox"/>	Residential- Light Industrial- Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
<p align="center">RECEIVED</p> <p align="center">APR 27 2022</p> <p align="center">JEFFERSON COUNTY PLANNING ZONING & ENGINEERING</p> <p align="center"><small>Place Received Date Stamp Here</small></p>			Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

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

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

Reference the section of the Zoning Ordinance pertaining to this request: Article 10 Section 10.7 E

Briefly describe the nature of the variance request:
We have requested info needed from manufacturer on multiple occasions and they have not supplied.

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:
all other required specs & regulations will be met

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?
We have tried to get info from manufacturer but they have not supplied. We are willing to meet all requirements.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?
We will be able to display info to the public & provide them with community events.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?
We will be able to abide all rules & reqs other than the spec. the manuf. failed to supply. We are trying to upgrade our current sign and replace w/ a more current style that other businesses use and have found to be beneficial.

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.

Chad Boyer 4-27-22
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).

05-26-22
Date of Public Hearing

05-11-22
Advertising Date

05-11-22
Placard Posting Date

Matrix LED Signs

MX-16610FC-fs

4
Year
Warranty

Product ID	MX-16610FC-fs
Installation	Outdoor
Screen Size	37.8" by 63"
Cabinet Size	40.16" by 65.36"
Pixel Pitch	10mm
Pixel Matrix	96 by 160
Module Size	160mm
Module Configuration	6 tall by 10 wide
Colors	16.7 Billion
Brightness	9000 Nits
View Angle	140 V / 140 H
Operation Power	AC 110V
Max Power / Avg Power	150W panel / 68W panel
Control Mode	Asynchronous
Control Type	Wireless or Cable
Software	XM Player PC Software
Operating Temperature	-20F / +120F
Warranty	4 Year



800-763-6864

Jim

Sign Code Compliance

Electronic Message Display Compliance:

1. Messages will change in intervals set by user
2. Messages can hold from 1 second to as long as required
3. Sign will communicate with a dedicated FCC compliant WIFI Card
4. Sign will comply with location and size requirements
5. Auto Dimming is installed on sign
6. Day time NITS can be set to local ordinance
7. Night time NITS can be set to local ordinance
8. Light intensity can be dimmed between 1% and 100%
9. Light intensity can be adjusted in software
10. In the event of a malfunction the display will be dark
11. Sign can be turned off and on at set times

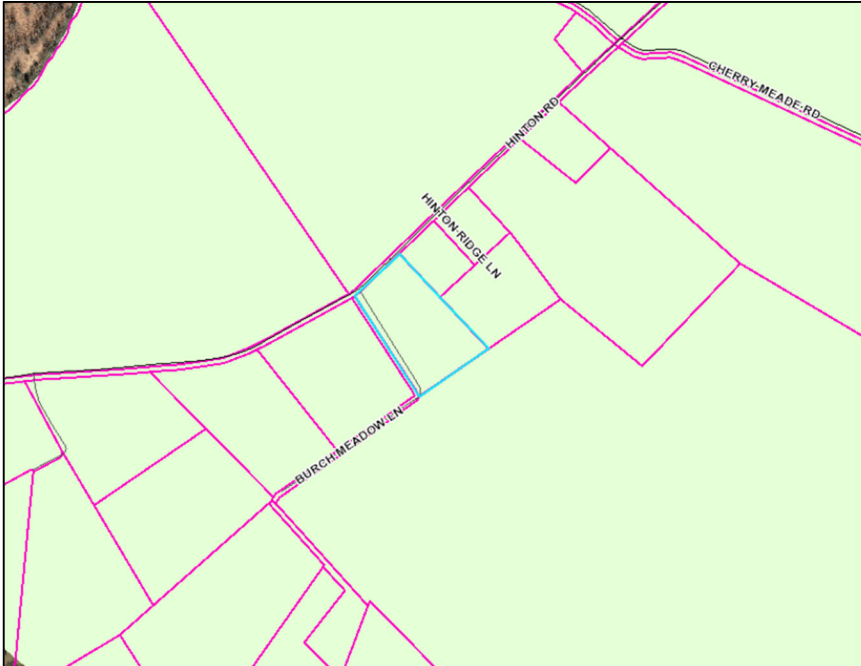
Greg Andrews – Senior Accounts Manager

Please Call us at 1-800-763-6864



Staff Report
 Jefferson County Board of Zoning Appeals
 May 26, 2022
22-20-ZV Derito Variance Request

Item #5 Variance request from Section 9.7 to reduce the side setback from 15' to 1' for a 30' x 30' accessory structure.

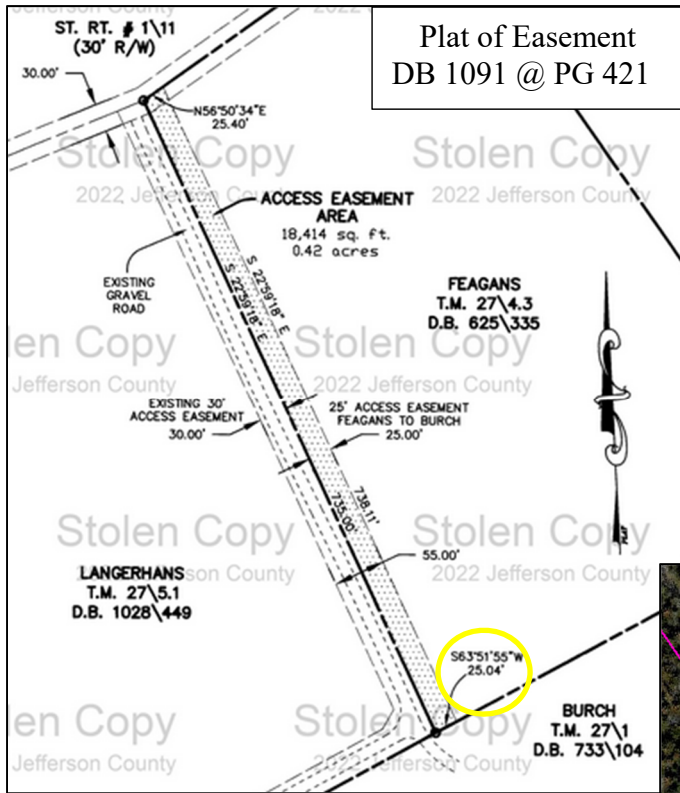
Owner/Applicant:	Daniel Derito
Parcel Information and Zoning District:	<p style="text-align: center;">105 Burch Meadow Ln, Kearneysville, WV 25430 Parcel ID: 07002700040003; Size: 7.62 ac; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Map Designation: <i>North, South, East and West: Rural</i>
History:	09/28/87: approved Outsale parcel recorded in DB 587, PG 384 03/31/11: Farmland protection access easement recorded in DB 1091, PG 421
Waivers/Variations:	None
Approved Activity:	Single Family Residence
Site Visit Conducted:	Site visit not conducted

Staff Overview

The subject property was created on September 28, 1987 as an Outsale parcel in accordance with Section 2.1(c) of the 1979 Subdivision Ordinance. As this lot was recorded prior to the adoption of the Zoning Ordinance, the required setbacks are pursuant to Section 9.7 as follows: Front: 40'; Side: 15'; and Rear: 50'. As the property fronts a State road right-of-way and an access easement, pursuant to the definition of Corner Lot, the 15' side setback may be applied along the access easement.

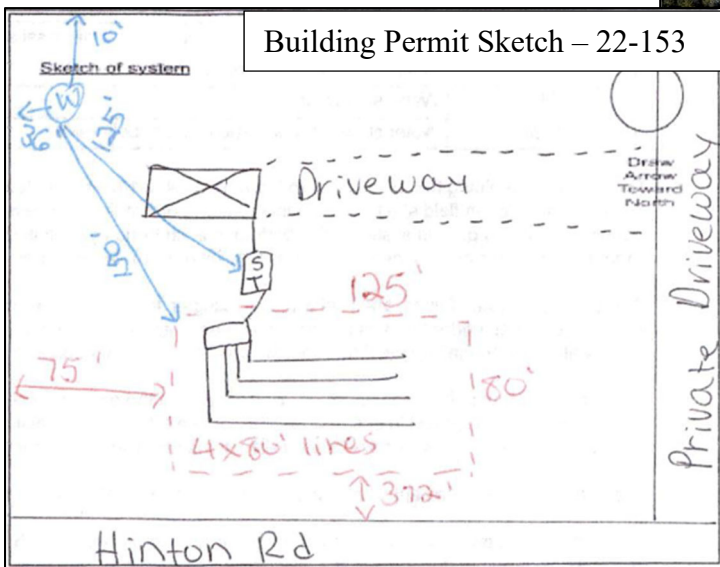
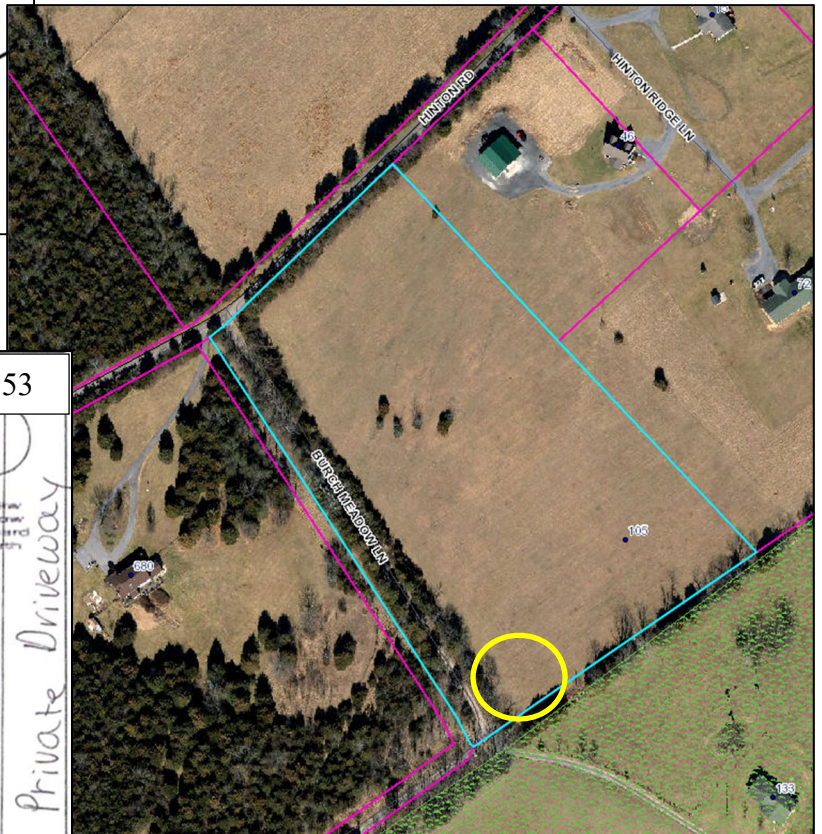
The applicant is requesting to construct a 30' x 30' accessory structure for personal storage approximately 1' from a platted 25' wide access easement that runs along the western boundary line. The access easement was recorded on March 31, 2011 and provides access to an adjoining property to the rear that contains a Farmland Protection Easement. The applicant represented that the adjoining property owner does not object to the proximity of the accessory structure from the access easement.

Staff Report
 Jefferson County Board of Zoning Appeals
 May 26, 2022
22-20-ZV Derito Variance Request



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.

Based on the acreage of the property, it is feasible to comply with the Ordinance; however, the applicant has represented that the proposed location was selected to avoid rock outcroppings and an existing power line, while also placing in a location that is within close proximity to his residence.



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.

Staff Report
Jefferson County Board of Zoning Appeals
May 26, 2022
22-20-ZV Derito Variance Request

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 9.7 Other Exceptions³

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:²³

Residential Growth District²³

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: 22-20-ZV
 Staff Initials: gsl
 Meeting Date: 5-26-22
 Fees Paid (\$100 or \$150): 100

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Variance Request

Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

Property Owner Information

Name: Daniel DeRito
 Mailing Address: 76 Neptune Way Bunker Hill WV 25413
 Phone Number: 304-671-7907 Email: hammer5520@gmail.com

Applicant Contact Information

Name: Daniel DeRito
 Mailing Address: 76 Neptune Way Bunker Hill WV 25413
 Phone Number: 304-671-7907 Email: hammer5520@gmail.com

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

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

Physical Property Details

Physical Address: 105 Burch Meadow Ln
 City: Kearneysville, State: WV Zip Code: 25430
 Tax District: _____ Map No: 27 Parcel No: 4.3
 Parcel Size: 7.6166 Acres Deed Book: 402 Page No: 708

Zoning District (please check one)

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input checked="" type="checkbox"/>	Residential- Light Industrial- Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
<p align="center">RECEIVED</p> <p align="center">MAY 02 2022</p> <p align="center">JEFFERSON COUNTY PLANNING ZONING & ENGINEERING</p>			Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

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

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

Reference the section of the Zoning Ordinance pertaining to this request: Sec. 9-7 gtt

Briefly describe the nature of the variance request: 30' x 30' gtt

I would like to put a storage building on my property. With the 15 foot setback I don't have enough property to avoid being underneath some power lines that cut across my property if we could change to a 1 foot setback off the right of way I will be in compliance with the power Company.

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

Front Setback Side Setback Rear Setback Reduction From 15 to 1

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 right of way is 55 feet for the property behind me. Mr. Burch's property they need it for the Forever Farmland act. Mr. Burch is not opposed to me putting a building up beside the right of way he signed a Document to prove that. The comment on my property is not developed its just rear land.

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?

Due to an existing right of way back out cropping and power line easement my building crew is limited

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

By getting the Variance I will be able to put up my building and keep my belongings secure

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

Mr. Burch gave consent and I will still be obtaining the property permits for my building.

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 5.2.22
Date

Signature of Property Owner Date

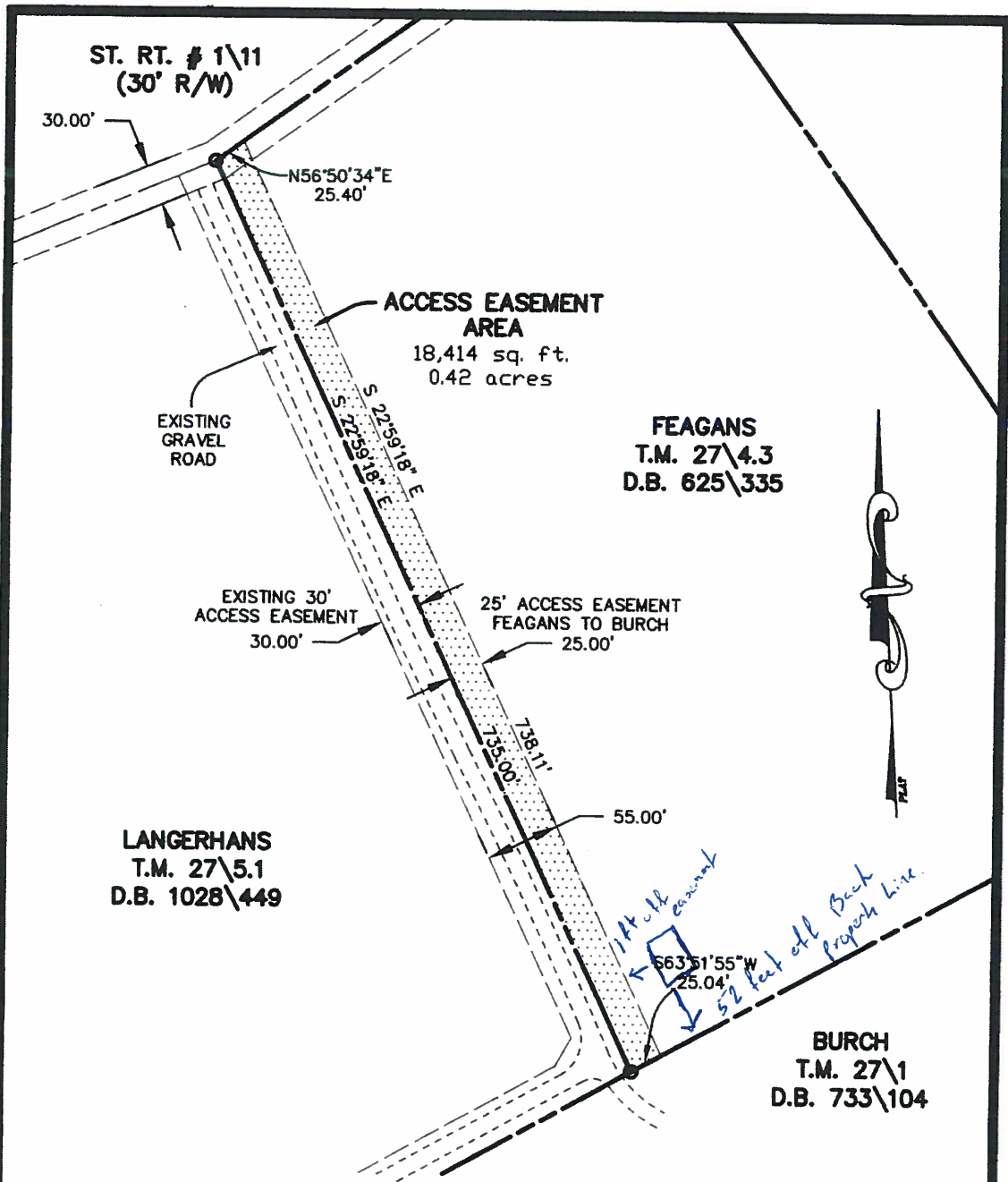
Notification Requirements (to be completed by staff)

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).

05-26-22
Date of Public Hearing

05-11-22
Advertising Date

05-11-22
Placard Posting Date



ST. RT. # 1\11
(30' R/W)

30.00'

N56°50'34"E
25.40'

ACCESS EASEMENT
AREA

18,414 sq. ft.
0.42 acres

EXISTING
GRAVEL
ROAD

FEAGANS
T.M. 27\4.3
D.B. 625\335

EXISTING 30'
ACCESS EASEMENT
30.00'

25' ACCESS EASEMENT
FEAGANS TO BURCH
25.00'

LANGERHANS
T.M. 27\5.1
D.B. 1028\449

735.00'
738.11'

55.00'

663.51'55"W
25.04'

BURCH
T.M. 27\1
D.B. 733\104

PLAT OF EASEMENT

PLAT SHOWING 25' ACCESS EASEMENT ACROSS T.M. 27\4.3, SERVING T.M. 27\1 STANDING IN THE NAME OF JACK L. BURCH & TERRY L. FEAGANS, AS RECORDED IN THE OFFICE OF THE COUNTY CLERK OF JEFFERSON COUNTY IN DEED BOOKS 733\104 & 625\335 LOCATED IN MIDDLEWAY DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA.

DWG # BURCH25

DATE-2/10/11

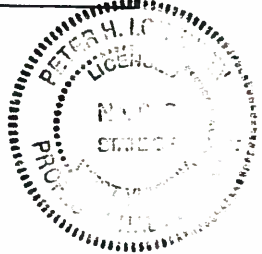
GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft.

SURVEYED BY:

PETER H. LORENZEN P.S.
SUMMIT POINT, W.V. 728-6093



DEPT
OF
PZ&E

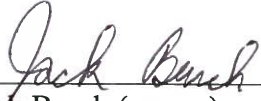


Daniel Derito
76 Neptune Way
Bunker Hill, Wv 25413

RE: 105 Burch Meadow Ln, Kearneysville, Wv 25430

I support Mr. Daniel Derito request for the following:

A variance from Section 9.7 to reduce the side setback from 15' to 1' for a 30' x 30' accessory structure.



Jack Burch (owner)
133 Burch Meadow Ln
Kearneysville, Wv 25430

RECEIVED

MAY 02 2022

JEFFERSON COUNTY PLANNING
ZONING & ENGINEERING



Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

P.O. Box 716

Charles Town, WV 25414

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Administrator's Report May 26, 2022 Board of Zoning Appeals Meeting

Date of Memo: May 18, 2022

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

- 05/17/22: Planning Commission held a public hearing on a draft text amendment to the Zoning Ordinance (File #ZTA22-01). The amendment proposes the creation of provisions to allow large scale solar facility projects that are proposed to be 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.
- At the conclusion of their Public Hearing, the Planning Commission forwarded the draft amendment to the County Commission with a recommendation that the draft text amendment was consistent with the Comprehensive Plan.

2) **Upcoming BZA meeting**

- The next regular meeting is scheduled for **June 23, 2022** (deadline for submission is Tuesday, May 31, 2022).



Jefferson County, West Virginia
Department of Engineering, Planning and Zoning
Office of Planning and Zoning
116 E. Washington Street, 2nd Floor, P.O. Box 716
Charles Town, West Virginia 25414
www.jeffersoncountywv.org

May 2022
Zoning Certificate Activity Report

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:	04/26/2022
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:	04/26/2022
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:	04/26/2022
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:	05/03/2022
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:	05/03/2022

Zoning Certificate Activity Report

May 2022

Page 2 of 2

File #	22-22-ZC
Request:	Home Occupation Level I: Catering Business (food preparation only)
Property Owner:	Paul Wesner
Parcel Information:	112 Belgian Way, Charles Town, WV 25414 Parcel ID: 02004F02560000; Size: .251 acre; Zoning District: Residential Growth; Deed Book: 1212; Page: 633; Plat Book: 19 @ Page: 79
Date of Issuance:	05/03/2022

File #	22-24-ZC
Request:	Storm Term Rental
Property Owner:	Potomac Cottage / Robert and Julie Starkey
Parcel Information:	1523 Knott Road, Shepherdstown, WV 25443 Parcel ID: 09011A00360000; Size: 2.3 ac; Zoning District: Rural Deed Book: 1250, Page: 349; Plat Book: 10, Page: 43 (BLA)
Date of Issuance:	05/03/2022

File #	22-26-ZC
Request:	Existing 160' Water Tank / Co-Located Telecommunications Facility, Equipment Modifications
Property Owner:	Jefferson Utilities, Inc.
Applicant:	T-Mobile Northeast LLC c/o NB+C / Attn: Katherine Blackwood
Parcel Information:	307 W. Burr Boulevard, Kearneysville, WV 25430 Parcel ID: 0200010095; Size: .38 acres; Zoning District: Industrial Commercial; Deed Book: 1024; Page: 38; Plat Book: 12; Page: 21F
Date of Issuance:	05/13/2022

File #	22-27-ZC
Request:	Storm Term Rental
Property Owner:	May and Amy Bowman
Parcel Information:	1529 Knott Rd., Shepherdstown, WV 25443 Parcel ID: 09011A00350001; Size: 0.22ac; Zoning District: Rural; Deed Book: 1201, Page: 654
Date of Issuance:	05/03/2022

File #	22-28-ZC
Request:	Shopping Center Change in Tenant: Retail Sales, Limited (US Cellular Products and Services)
Property Owner:	B33 Jefferson Crossing, LLC
Applicant:	ANW Wireless / Attn: Tyler Lambert
Parcel Information:	71 Flowing Springs Road, Suite B, Charles Town, WV 25414 Parcel ID: 02000800240004; Size: 15.16 acres; Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1238; Page: 324; See PC File: 04-06 (site plan)
Date of Issuance:	05/19/2022
