

## Minutes

### Jefferson County Board of Zoning Appeals

- 1 Meeting Date: June 23, 2022
- 2 Meeting Location: By order of the Chair, the Board of Zoning Appeals meeting was held  
3 in-person in the County Commission Meeting Room located in the  
4 lower level of the Charles Town Library; and virtually via ZOOM.
- 5 Board Members Present: Leeds Corbin and Mikala Shremshock, alternate member, were present  
6 in-person. Deirdre Catterton, Vice Chair; Steve Guier, and Matthew  
7 McKinney were present via ZOOM.
- 8 Board Members Absent: Tyler Quynn, Chair, with notification
- 9 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; and Jennilee Hartman,  
10 Zoning Clerk (ZOOM)

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

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

14 Ms. Catterton presided over the meeting in Mr. Quynn's absence. Ms. Catterton reviewed meeting  
15 protocol for those in attendance.

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

#### 17 **Approval of Minutes: May 26, 2022**

18 Mr. McKinney moved to approve the minutes with the following edits:

- 19 a) Page 2, Line 14: modify the sentence to read as follows, "...*affect the health, safety, and*  
20 *welfare or property rights of the adjacent property owner and that the request did ~~not~~ arise*  
21 *from special conditions or attributes created by the applicant.*"

22 Ms. Catterton called for a vote, which carried unanimously.

#### 23 **AGENDA ITEM #1 FILE #: 22-21-ZV**

24 Request: Variance from Section 4B.7(J)(2)(a) to increase the height of an existing Wireless  
25 Telecommunications Tower (designed as a silo) from 120' to 130' to allow additional  
26 antennas (co-colocation) within the existing silo structure.

27 Owner: Michael Owens

28 Applicant: SmartLink Group / Bijan Olexo

29 Parcel Info: 11945 Leetown Rd, Kearneysville, WV

30 Parcel ID: 07000700060000; Size: 404 ac; Zoning District: Rural

31 Mr. Doug Sampson and Mr. Bijan Olexo, representatives for the request, were present to address  
32 the Board. Ms. Beaulieu provided an overview of her staff report noting that the proposed height  
33 increase appeared to meet the intent of the Zoning Ordinance by allowing additional co-location  
34 opportunities. Mr. Sampson explained the nature of the request. Referring to the propagation maps  
35 included in the packet, Mr. Sampson stated that additional coverage in the area was needed.

36 Mr. Sampson argued that by approving the requested height increase that the telecommunications  
37 provider, A&T, would be able to provide the required services without having to construct a new  
38 tower in the vicinity. Mr. Sampson stated that as the surrounding area was largely agricultural, that  
39 there were no other colocation capabilities within the area. Mr. Sampson explained that the  
40 structure would also be equipped with FirstNet technology, which is dedicated bandwidth for first  
41 responders. Mr. Sampson addressed each of the variance criteria noted in the application.

1 Ms. Catterton opened the public hearing. No members of the public provided testimony. Mr. Guier  
2 moved to close the public hearing. Ms. Catterton called for a vote, which carried unanimously.

3 Mr. McKinney moved to approve the variance with the condition that the applicant is bound by his  
4 testimony. Mr. McKinney added that as colocation is encouraged in the Zoning Ordinance, that the  
5 request is in keeping with the intent of the Ordinance. Ms. Catterton called for a vote, which carried  
6 unanimously.

7 **AGENDA ITEM #2 FILE #: 22-22-ZV**

8 Request: Variance from Section 5.4B.1 and Appendix A to reduce the Front Setback from 25'  
9 to 15'; the Side Setback from 12' to 10'; and the Rear Setback from 20' to 10' for Lots  
10 203-233 & 273-275 in Phase 3 of the Beallair Subdivision.

11 Owner: Beallair Homes, LLC

12 Applicant: Mike Wiley, P.E. / Paul Raco, Consultant

13 Parcel Info: Beallair Subdivision, Phase 3, Lots 203-233 & 273-275

14 Parcel ID: 04010ARESA; Size: 69.3 ac; Zoning District: Residential Growth

15 Mr. Michael Wiley, property owner; and Mr. Paul Raco, representative for the property owner,  
16 were present to address the Board. Ms. Beaulieu provided an overview of her staff report noting  
17 that the applicant had acknowledged that a reduction of the required setbacks would not negate any  
18 platted easements. Mr. Raco presented a detailed history of the Beallair Subdivision and explained  
19 the nature of the request to the Board.

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

21 Ms. Catterton closed the public hearing.

22 Mr. McKinney expressed concern that granting a blanket variance for multiple lots could be likened  
23 to modifying the Zoning Ordinance rather than a variance. Mr. McKinney continued to explain that  
24 changing the Zoning Ordinance is a legislative function and not the Board's function.

25 Mr. McKinney moved to go into deliberative session at 2:30 pm. Ms. Catterton called for a vote,  
26 which carried unanimously.

27 Due to technical difficulties, the deliberative session did not commence until 2:47 pm. As Mr. Guier  
28 previously indicated that he would be unable to stay past 3:00 pm, Mr. Guier excused himself for  
29 the duration of the meeting.

30 Mr. McKinney moved to come out of deliberative session at 2:57 pm. Ms. Catterton called for a  
31 vote, which carried unanimously.

32 Ms. Shremshock moved to deny the variance as presented. Ms. Catterton called for a vote, which  
33 carried unanimously.

34 **Zoning Administrator's Report**

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

36 Ms. Beaulieu provided the Board an update on the proposed text amendment regarding Solar  
37 Energy Facilities (ZTA22-01) stating that the text amendment had been approved and included a  
38 Conditional Use component. Ms. Beaulieu noted that the next meeting was scheduled for  
39 July 28, 2022.

40 **Legal Update**

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

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

2 **Meeting: April 28, 2022**

3 1. Variance from Sec. 9.6C & 9.7. Owner: T. & K. Staubs. File: 22-11-ZV.

4 2. Variance from Sec. 9.7. Owner: B. King. File: 22-12-ZV.

5 3. Request for a CUP. Owner: J. Staubs. Applicant: Naille. File: 22-2-CUP.

6 4. Request for a CUP. Owner: T. & A. Fridley. File: 22-3-CUP.

7 5. Variance from Sec. 9.7. Owner: C. Ramey. File: 22-14-ZV

8 6. Variance from Appendix A. Owner: K. Petry. File: 22-15-ZV.

9 7. Variance from Sec. 4.11E. Owner: G. Chicchirichi. Applicant: Sheetz. File: 22-16-ZV.

10 Mr. Quynn was provided a copy of the draft Findings for review.

11 Mr. McKinney moved to adjourn the meeting at 3:03 pm. Ms. Catterton called for a vote, which  
12 carried unanimously.