

Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: August 25, 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: Tyler Quynn, Chair; Deirdre Catterton, Vice Chair; Leeds Corbin,
6 Steve Guier, and Matthew McKinney.
- 7 Board Members Absent: Mikala Shremshock, alternate member (with notification)
- 8 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, Assistant
9 Prosecuting Attorney; and Jennilee Hartman, Zoning Clerk (ZOOM)

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

11 Mr. Quynn was running late to the meeting (arrived at 2:02 p.m.). Ms. Catterton presided over the
12 meeting as Vice Chair.

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

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

16 **Approval of Minutes: July 28, 2022**

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

19 Ms. Catterton stated that the Board would address Items 2-4 first and would address Item 1 last.

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

21 **ITEM #2 FILE #: 22-27-ZV**

22 Request: Variance from Section 9.7 to reduce the front setback from 20' to 15' along a platted
23 right-of-way (Shade Ln) for a proposed 28' x 16' addition with a 6' x 17' handicap
24 ramp.

25 Applicant: Falconer Design Build c/o James Presley

26 Parcel Info: Garland and Poppy Chrisman, Owner
27 270 Persimmon Ln, Shepherdstown, WV;

28 Parcel ID: 09001400060001; Size: .5 ac; Zoning District: Rural

29 James Presley with Falconer Design Build was present to address the Board. Ms. Beaulieu provided
30 an overview of her staff report. Mr. Presley explained the nature of the request to the Board noting
31 that the property owner recently obtained a new survey of the subject parcel and that the proposed
32 addition would be approximately 12' from the front property line, as opposed to the requested 15'.

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

34 Ms. Catterton closed the public hearing.

35 Mr. Quynn moved to approve the variance with the condition that the applicant was bound by their
36 testimony. Mr. McKinney suggested a friendly amendment to revise the motion to reflect the revised
37 reduction to 12'. Mr. Quynn accepted the friendly amendment. Ms. Catterton called for a vote,
38 which carried unanimously.

1 **ITEM #3 FILE #: 22-28-ZV**

2 Request: Variance from Section 9.7 to reduce the front setback from 40' to 20' along the
3 eastern property line (Macbeth Drive) and the southern property line (Bedford Drive)
4 for a 36' x 26' addition (attached in-law suite).

5 Parcel Info: Russell and Jackie Keaveny, Owner
6 Avon Bend Subdivision, Lot 115, 551 Macbeth Dr., Charles Town, WV
7 Parcel ID: 06009F00240000; Size: 4 ac; Zoning District: Rural

8 Russell Keaveny, property owner, was present to address the Board. Ms. Beaulieu provided an
9 overview of her staff report. Mr. Keaveny explained the nature of the request to the Board stating
10 that the proposed addition would benefit his ailing parents and that the specific location was chosen
11 due to existing site constraints such as floodplain and topography. Mr. Keaveny added that the
12 proposed location was optimal due the layout of the existing home and garage access.

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

14 Ms. Catterton closed the public hearing.

15 Mr. McKinney moved to approve the variance with the condition that the applicant was bound by
16 their testimony. Ms. Catterton called for a vote, which carried unanimously.

17 **ITEM #4 FILE #: 22-29-ZV**

18 Request: Variance from Section 8.2 to reduce the distance requirement from 50' to 15' along
19 the western property line for an existing 48' x 28' barn.

20 Parcel Info: Robin Young, Owner
21 John and Susan Holloway Minor Subdivision, Lot 1;
22 141 Sunnyside Ln. Shenandoah Junction, WV
23 Parcel ID: 09001800050008; Size: 3 ac; Zoning District: Rural

24 Robin Young, property owner, was present to address the Board. Ms. Beaulieu provided an overview
25 of her staff report noting that there was a staff oversight in the issuance of the building permit, which
26 allowed the applicant to construct the barn in its present location in 2018. Ms. Beaulieu noted that
27 the structure complies with the accessory structure setback for storage; however, it does not comply
28 with the distance requirement for a structure that houses animals. Ms. Young explained the nature
29 of the request to the Board noting that the barn currently houses two horses and two donkeys.

30 Ms. Young explained that the building permit process was handled by the contractor and she was
31 unaware that the building permit had been issued as a storage structure only. Ms. Young emphasized
32 the fact that the building permit application sketch and construction plans clearly indicated that the
33 proposed structure would be a barn and that the "storage building" option on the first page of the
34 permit application had likely been selected due to there not being an option for a barn. Ms. Young
35 noted that the permit application has since been revised to include options for agricultural structures.

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

37 Ms. Catterton closed the public hearing.

38 Mr. McKinney moved to approve the variance with the condition that the applicant was bound by
39 their testimony. Ms. Catterton called for a vote, which carried unanimously.

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

1 AGENDA ITEM #1 FILE #: 22-5-CUP

2 Request: Request for a Conditional Use Permit to operate a Solar Energy Facility, as defined
3 in Article 2 of the Zoning Ordinance. Project Name: Wild Hill Solar. The subject
4 application pertains to the 262 acre portion of the 841-acre project that is located
5 outside of the Charles Town Urban Growth Boundary, to the west of Kabletown
6 Road. The project includes construction of a 92.5 megawatt alternating current solar
7 energy facility comprised of rows of solar modules and includes construction of a
8 new substation to connect the solar facility with the electric grid. The project site has
9 existing high voltage power lines running through a portion of the property.

10 Applicant: Wild Hill Solar, LLC

11 Parcel Info: Clarence & Donna Hough, Owner

12 Vacant parcel north of the property located at 340 Old Shennandale Rd., Charles
13 Town, WV; Parcel ID: 06000500060000; Lot Size: 49.04 ac / Project Size: 49.04 ac;
14 Zoning District: Rural

15 Parcel Info: T. Todd & Susan Hough, Trustees

16 340 Old Shennandale Rd, Charles Town, WV; Parcel ID: 06000500010000;
17 Lot Size: 206.84 ac / Project Size: 181.70 ac; Zoning District: Rural

18 Parcel Info: Charles & Marie Hough (Life), Owner

19 620 Old Shennandale Rd, Charles Town, WV; Parcel ID: 06001100080000;
20 Lot Size: 118.05 ac / Project Size: 32.11 ac; Zoning District: Rural

21 Mr. Paul Raco with P.J. Raco Consulting, Mr. Christopher Sternhagen with EDF Renewables and
22 Wild Hill Solar, LLC, and Mr. Rob Potesta with Potesta Associates were present to address the
23 Board. Ms. Beaulieu provided an overview of her staff report to the Board and reviewed the required
24 criteria for a Conditional Use Permit and Solar Energy Facility.

25 Mr. Raco presented a detailed PowerPoint presentation of the proposed land use. A printed version of
26 the presentation has been included in the project file. The presentation outlined the project details,
27 such as the scope of work and the proposed location of the solar panels and substation. Mr. Raco
28 outlined how the proposal was consistent with the County's Comprehensive Plan and reviewed how
29 the proposal met the Conditional Use Permit criteria as required by the Zoning Ordinance. Mr. Raco
30 also noted that less than 1/3 of the total project is located outside of the Urban Growth Boundary and
31 subject to the Conditional Use criteria, with the bulk of the project permitted by right. Mr. Raco
32 confirmed that the project would include a decommissioning plan with the WV Department of
33 Environmental Protection. Mr. Raco argued that the solar energy facility would have no greater
34 impact than that of an active farm. Mr. Raco stated that the entrance to the substation would be
35 located off of Old Shennandale Road. Mr. Raco and Mr. Sternhagen addressed the Board's questions
36 regarding environmental and traffic impacts, the energy usage and distribution, and buffering
37 requirements. Mr. Sternhagen confirmed that he had been in contact with both the Sheriff and Fire
38 Departments regarding an emergency management plan.

39 Ms. Catterton opened the public hearing.

40 The following members of the public provided public comment:

41 Property owners Patricia Zigler Wachter, Susan Hough, and Richard Zigler spoke in support of the
42 project. Ms. Patricia Funk spoke in opposition to the request and expressed concerns regarding noise
43 and light pollution, visual impact, EMF radiation, impact on Old Shennandale Road from increased
44 traffic, and property values.

1 Ms. Catterton closed the public hearing.

2 In rebuttal, Mr. Raco stated that there would not be lighting throughout the project and that the
3 project would adhere to the noise level requirements listed in Section 8.9 of the Ordinance. Mr. Raco
4 concluded his presentation by reviewing the project's compatibility with the surrounding area.
5 Mr. Raco confirmed that the only proposed signage would be located at the entrance of the project
6 and that there would not be any commercial signage.

7 In response to Ms. Catterton's questions regarding the impact on wildlife, Mr. Sternhagen stated
8 that the project plans were reviewed by both the West Virginia State Wildlife and the US Fish and
9 Wildlife agencies and that neither had expressed any concerns regarding the impact on wildlife.

10 Mr. Quynn moved to go into deliberative session at 3:45 pm. Ms. Catterton called for a vote, which
11 carried unanimously.

12 Mr. McKinney moved to go back into regular session at 4:12 pm. Mr. Quynn called for a vote, which
13 carried unanimously.

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

15 The Board reviewed each of the General Standards outlined in Section 6.3A.1-8 of the Ordinance.
16 Mr. Quynn stated that it appears that the project complies with all of the required criteria. Mr. Guier
17 stated that he agreed it met the criteria and that the proposed use would maintain the agricultural
18 land.

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

- 20 1. That the applicant be bound by their testimony.
- 21 2. The applicant shall process a Concept Plan through the Planning Commission.
- 22 3. The project shall comply with all local, state and Federal regulations.

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

24 **Zoning Administrator's Report**

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

26 Ms. Beaulieu noted that the next meeting was scheduled for September 22, 2022.

27 **Legal Update**

28 a. Discussion of the following pending lawsuit:

29 1. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy
30 Facilities). No discussion.

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

32 **Meeting: July 28, 2022**

33 1. Request for a Conditional Use Permit to operate a Solar Energy Facility. Applicant:
34 Horus West Virginia 1. Owners: Thorn Hill LLC & Peel Properties WVA LLC.
35 File: 22-4-CUP

36 2. Variance from Section 4.12B & 4.11C. Applicant: Keane Enterprises. Owner: Miller
37 Gerald A Estate. File: 22-23-ZV and 22-24-ZV.

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- 1 3. Variance from Section 5.7B. Owner: Chad Dinges. File: 22-25-ZV.
- 2 4. Variance from Section 5.7B. Owner: Brian and Vanessa McGuigan. File: 22-26-ZV.
- 3 Mr. Quynn was provided a copy of the draft Findings for review.
- 4 Ms. Catterton moved to adjourn the meeting at 4:23 pm. Mr. Quynn called for a vote, which carried
- 5 unanimously.