

Minutes
Jefferson County Board of Zoning Appeals

1 Meeting Date: September 22, 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; Steve Guier, and Matthew McKinney (in person).
6 Mikala Shremshock, alternate member via ZOOM.
7 Board Members Absent: Deirdre Catterton, Vice Chair and Leeds Corbin (with notification)
8 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Steve Groh and Nathan
9 Cochran, Assistant Prosecuting Attorneys; and Jennilee Hartman,
10 Zoning Clerk (ZOOM)

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

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

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

15 **Approval of Minutes: August 25, 2022**

16 Mr. Guier moved to approve the minutes as presented. Mr. Quynn called for a vote, which carried
17 unanimously.

18 Due to technical difficulties, Ms. Shremshock was unable to participate in the meeting. Ms. Shremshock
19 remained on the virtual meeting until 3:00 p.m. to listen to the meeting but did not vote on any of the
20 agenda items.

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

22 **AGENDA ITEM #1 FILE #: 22-6-CUP**

23 Request: Request for a Conditional Use Permit to establish a federal firearms business, located
24 within an existing barn. The proposed land use designation is listed in Appendix C as
25 *Retail Sales and Service, General* as defined in Article 2. The proposal consists of
26 converting an existing structure into a retail business that specifically sells firearms to
27 local, state, and federal law enforcement agencies, as well as military components.
28 The business will not be open to the public and will not have employees other than
29 the owners of the property. At this time, no new structures or additions to existing
30 structures are proposed. Signage will not be visible to the general public from the
31 road or adjoining properties.

32 Applicant: Mission Critical Defense Solutions, LLC / Elliott Kletter

33 Parcel Info: Elliott Kletter, Jan Kletter, and Marguerite Kletter, Property Owners
34 Febrey Minor Subdivision, Lot B, 500 Febrey Rd., Kearneysville, WV
35 Parcel ID: 07000200030000; Lot Size: ~116 acres; Zoning District: Rural

36 Elliott Kletter, property owner, was present to address the Board. Ms. Beaulieu provided an overview
37 of her staff report to the Board and reviewed the required criteria for a Conditional Use Permit.

38 Ms. Beaulieu stated that as presented, the proposal would not necessitate a site plan.

39 Mr. Kletter explained the nature of the request to the Board clarifying that the intended customers
40 would be local, state and federal law enforcement officers, in their capacity as enforcement officers,
41 and not as civilians. Mr. Kletter confirmed that the request did not include a shooting range and that
42 he anticipated approximately 5 -10 customers per month.

43 Mr. Quynn opened the public hearing.

1 Martha McIntosh, adjacent property owner, had questions regarding the location of the existing
2 structure in relation to her house and barn. Ms. McIntosh did not provide testimony that was either
3 for or against the request.

4 Mr. Quynn closed the public hearing.

5 Mr. McKinney moved to go into deliberative session at 2:32 pm. Mr. Quynn called for a vote,
6 which carried unanimously.

7 Mr. Guier moved to come out of deliberative session at 2:44 pm. Mr. Quynn called for a vote,
8 which carried unanimously.

9 The Board reviewed each of the General Standards outlined in Section 6.3A.1-8 of the Ordinance.
10 Mr. McKinney stated that it appears that the project complies with all of the required criteria and
11 noted that a shooting range is not intended as part of the business operation at this time. Mr.
12 McKinney concluded that it appeared the use would have little impact, if any, on adjoining
13 properties. The Board concurred with this assessment.

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

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

16 2. The project shall comply with all local, state and Federal regulations.

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

18 **AGENDA ITEM #2 FILE #: 22-7-CUP**

19 Request: Request for a Conditional Use Permit to operate a Medical/Dental/Optical Office, as
20 defined in Article 2. The proposal consists of converting an existing church into an
21 urgent care and medical office complex. Parking requirements will be met on-site.
22 Signage will adhere to Article 10.

23 Applicant: Dr. Kolawale Oshiyoye, Kingdom Ventures, LLC

24 Parcel Info: Crossroads Church Trustees, Property Owners
25 7595 Martinsburg Pike, Shepherdstown, WV; Parcel ID: 09007B00010000;
26 Size: 2.69 ac; Zoning District: Residential Growth

27 Dr. Kolawale Oshiyoye and Dr. Ngozi Ude-Oshiyoye, applicants, were present to address the Board.
28 Ms. Beaulieu provided an overview of her staff report to the Board and reviewed the required criteria
29 for a Conditional Use Permit. Ms. Beaulieu stated that as presented, the proposal may not necessitate
30 a site plan. Ms. Beaulieu explained that the applicants were aware that the parking area had been
31 expanded beyond what had been evaluated and approved by the Board in 2014 and noted that a
32 portion of the parking appeared to have been placed within the Division of Highway's right-of-way
33 and that the parking lot may need to be brought into compliance by either returning the expanded
34 parking area back to natural condition, processing a site plan, or seeking another variance to waive the
35 site plan criteria for the expanded parking area.

36 Dr. Oshiyoye and Dr. Ude-Oshiyoye explained the nature of the request to the Board noting that the
37 Shepherdstown area was lacking in urgent care facilities. Dr. Oshiyoye stated that the proposed land
38 use would not generate more traffic than the previous church. Dr. Ude-Oshiyoye explained that in
39 her experience from previous locations, the site had ample parking. Dr. Oshiyoye acknowledged
40 staff's concern regarding the expanded parking area and agreed to bring the site into compliance.

41 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
42 closed the public hearing.

1 The Board reviewed each of the General Standards outlined in Section 6.3A.1-8 of the Ordinance.
2 Mr. McKinney stated that it appears that the project complies with all of the required criteria. The
3 Board concurred with this assessment.

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

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

6 2. The project shall comply with all local, state and Federal regulations.

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

8 **AGENDA ITEM #3 FILE #: 22-30-ZV**

9 Request: Variance from Section 5.7B of the Zoning Ordinance (as amended 05/01/03) to reduce
10 the rear setback from 50' to 5' for a 66' x 40' accessory structure (detached garage).

11 Parcel Info: Stephanie Hazelton & Dale Sanauskas, Property Owner

12 Potomac Ridge Subdivision, Lot 3, 50 Valentine Ct., Shepherdstown, WV

13 Parcel ID: 09001000090013; Size: ~6 acres; Zoning District: Rural

14 Stephanie Hazelton and Dale Sanauskas, property owners, were present to address the Board.

15 Ms. Beaulieu provided an overview of her staff report noting that the subject parcel contained a
16 1.3 acre preservation easement, which prohibits clearing, cutting, or filling. Ms. Beaulieu also stated
17 that there was a farmland protection easement on the adjoining property to the west and that the
18 farmland protection easement prohibits development within the easement.

19 Ms. Hazelton explained the nature of the request to the Board stating that the proposed location was
20 preferable due to the location of the existing driveway and the access to the home. Ms. Hazelton
21 explained that the southeast corner of the property was encumbered by a septic reserve area and
22 underground utilities. Ms. Hazelton acknowledged that they would not be operating a business from
23 the proposed structure; that it would not contain another residence; and that it would be used for
24 storage only.

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

27 Mr. McKinney moved to approve the variance with the condition that the applicants were bound by
28 their testimony. Mr. Quynn called for a vote, which carried unanimously.

29 **Zoning Administrator's Report**

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

31 Ms. Beaulieu noted that the next meeting was scheduled for October 27, 2022.

32 **Legal Update**

33 a. Discussion of the following pending lawsuit:

34 1. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy
35 Facilities) Rockwell v. JCPC, JCBZA and JCCC.

36 2. Jefferson County Circuit Court Case #CC-19-2022-C-103 (RE: ZTA22-01 Solar Energy
37 Facilities) Stone v. JCBZA.

38 Mr. Cochran stated that his office had filed a response to this case on behalf of the Board.

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

1 **Meeting: August 25, 2022**

2 1. Request by Wild Hill Solar Project for a Conditional Use Permit to operate a Solar
3 Energy Facility. Applicant: Wild Hill Solar, LLC. Owners: Clarence & Donna
4 Hough, T. Todd & Susan Hough, Charles & Marie Hough (Life). File: 22-5-CUP

5 2. Variance from Section 9.7. Owner: Garland and Poppy Chrisman. File: 22-27-ZV.

6 3. Variance from Section 9.7. Owner: Russell and Jackie Keaveny. File: 22-28-ZV.

7 4. Variance from Section 8.2. Owner: Robin Young. File: 22-29-ZV.

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

9 Mr. McKinney moved to adjourn the meeting at 3:40 pm. Mr. Quynn called for a vote, which carried
10 unanimously.