

Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: January 26, 2023
- 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; Matthew McKinney, Secretary; Steve Guier,
6 David Wiegand, and Mikala Shremshock, Alternate Member, were all
7 present in person.*
- 8 Board Members Absent: None
- 9 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Steve Groh, Assistant
10 Prosecuting Attorney; and Jennilee Hartman, Zoning Clerk

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. Ms. Shremshock initially joined the meeting via ZOOM. Ms. Shremshock
14 arrived at the meeting in person at 2:13 pm.*

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

16 Election of Officers

17 Mr. Guier nominated Mr. Quynn as Chair. Mr. Wiegand seconded the nomination, which carried
18 unanimously.

19 Mr. Guier nominated Mr. McKinney as Vice Chair. Mr. Quynn called for a vote, which carried
20 unanimously.

21 Mr. McKinney nominated Mr. Guier as Secretary. Mr. Wiegand seconded the nomination, which
22 carried unanimously.

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

24 Approval of Minutes: December 8, 2022

25 Ms. Beaulieu, Mr. Wiegand, and Mr. Quynn noted corrections to the minutes. Mr. McKinney moved
26 to approve the minutes with the following corrections:

- 27 1. Page 1, Line 15: change the date from *November 9* to *November 10*.
- 28 2. Page 1, Line 17: note Mr. Wiegand's abstention from voting on the draft minutes as he was
29 not present at the following meeting.
- 30 3. Page 2, Line 12: change the word *acknowledge* to *acknowledged*.

31 Mr. Quynn called for a vote on the corrected minutes, which carried unanimously.

32 Ms. Hartman swore in members of the public who indicated they would be providing testimony.

33 ITEM #1 FILE #: 23-1-ZV and 23-3-ZV

34 Request #1: Variance from Appendix B to reduce the distance requirement from 75' to 25' along
35 the western property line and the rear setback along the western property line from
36 40' to 25' for an addition to the existing Summit Point Library (23-1-ZV).

37 Request #2: Variance from Appendix B to modify the landscape buffer requirement along the
38 rear (western) property line. The applicant is proposing to utilize existing vegetation
39 along a portion of the property line and a modified planting along the remaining
40 portions of the property line. The modified planting is to accommodate an expansion
41 to the existing stormwater management facility (23-3-ZV).

1 Parcel Info: Summit Point Library Commission, Property Owner

2 49 Church St., Summit Point, WV

3 Parcel ID: 06016C00190001; Size: 1.35 acres; Zoning District: Village

4 Mr. Joe Hague, P.E. with JHA Companies was present to address the Board. Ms. Beaulieu provided
5 an overview of her staff report for each request. Ms. Beaulieu noted that the proposed expansion
6 would necessitate a site plan and that the existing parking lot would be brought into compliance
7 with County regulations.

8 Ms. Shremshock arrived at the meeting in person at 2:13 pm.

9 Mr. Hague explained the nature of each request to the Board stating that it was not feasible to
10 comply with the site development standards due to the subject parcel's lot size and the existing
11 stormwater management features.

12 Regarding request 23-1-ZV, Mr. Hague explained that the pavilion was intentionally designed to be
13 located behind the library in order to provide a safe buffer for the planned children's activities from
14 the three state roads.

15 Regarding request 23-3-ZV, Mr. Hague explained that landscaping is not encouraged or permitted
16 within stormwater management areas. Mr. Hague confirmed that the Library would be retaining
17 some of the existing vegetation; would be planting new shrubs pursuant to Option F of Standard
18 Detail M-54 as a modified buffer planting where there is currently no landscaping along the
19 southern portion of the property; and a portion of the buffer along the northern portion of the
20 property would be planted in accordance with Option F of Standard Detail M-54, as depicted in the
21 application.

22 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
23 closed the public hearing.

24 Mr. McKinney moved to approve zoning variance 23-1-ZV with the condition that the applicant is
25 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

26 Mr. McKinney moved to approve zoning variance 23-3-ZV with the condition that the Library
27 would install the modified planting screen as depicted on their sketch and that the applicant is
28 bound by their testimony. Mr. Wiegand seconded the nomination, which carried unanimously.

29 **ITEM #2 FILE #: 23-2-ZV**

30 Request: Variance from Section 5.7D.2 of the Zoning Ordinance (as amended 09/28/06) to
31 increase the maximum lot size from 3 acres to approximately 5 acres to allow for a
32 proposed boundary line adjustment between Lot 7 and the Residue Parcel of The
33 Woods at Wheatland Subdivision.

34 Parcel Info: Barry and Jody Swaldo, Property Owner

35 The Woods at Wheatland, Lot 7, 449 Jenkins Hill Rd., Charles Town, WV

36 Parcel ID: 06001200160012; Size: 3 acres; Zoning District: Rural

37 Mr. Barry Swaldo, property owner, was present to address the Board. Ms. Beaulieu provided an
38 overview of her staff report and explained the relevance of the section of Ordinance pertaining to
39 the request. Ms. Beaulieu stated that this request was unique and that the proposed boundary line
40 adjustment did not increase the applicant's development rights. Ms. Beaulieu noted that a boundary
41 line adjustment from the residue parcel to a lot outside of the subdivision would not necessitate a
42 variance and that the variance was specific to the maximum lot size requirements of the cluster
43 development regulation in place at the time the subdivision was created.

1 Mr. Swaldo explained the nature of the request to the Board stating that he intended on clearing the
2 land in order to obtain a better view of the mountains.

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 for a Summary Approval in accordance with Section 5.7(9) of the Boards'
6 Rules of Procedure (as amended 10/27/22). Mr. Quynn called for a vote, which carried
7 unanimously.

8 **ITEM #3 FILE #: 23-1-CUP**

9 Request: Request for a Conditional Use Permit to operate a Special Event Facility, as defined
10 in Article 2 of the Zoning Ordinance (Project Name: "The Quarry"). The proposal
11 consists of hosting an average of 15 events per year with a maximum capacity of 125
12 guests. The applicant is proposing a maximum of 30 grass parking spaces. Events
13 that may necessitate additional parking will be addressed by requiring small group
14 transport services.

15 Parcel Info: Alexis Bonnell and Kerian McManus, Property Owner
16 Mallard's Paddle Place Subdivision, Lot 3, 144 Quarry Run Road, Harpers Ferry, WV
17 Parcel ID: 04000400080000; Parcel Size: 21 acres; Project Size: 18 acres;
18 Zoning District: Rural

19 Ms. Alexis Bonnell, property owner, was present to address the Board. Ms. Beaulieu provided an
20 overview of her staff report to the Board and reviewed the required criteria for a Conditional Use
21 Permit. Ms. Beaulieu noted that as presented, the proposal would not necessitate a site plan because
22 no structures were proposed and the parking would occur on grass.

23 Ms. Bonnell explained the nature of the request to the Board and addressed their questions
24 regarding quarry safety, parking, noise, and neighborhood compatibility. Ms. Bonnell stated that the
25 property was unique and she wanted to find a way to share the unique qualities of the property with
26 other people, while continuing to be good stewards of the land. Ms. Bonnell stated that she and her
27 husband do not have any plans to move and that she was agreeable to not transferring the business
28 with any future sale of the property.

29 Mr. Quynn opened the public hearing.

30 The following members of the public provided testimony:

31 Steve Whitmore, Pam Underhill, and Matt Cockerham, adjacent property owners, spoke in support
32 of the request noting that they would be willing to work directly with the applicant pertaining to
33 their concerns regarding noise and traffic as opposed to the Board imposing conditions of approval.
34 Each neighbor addressed questions from the Board, including Mr. Cockerham who stated that the
35 access easement is wide enough to accommodate incoming and outgoing traffic.

36 Joanne Cembrook and Eric Cembrook adjacent property owners, spoke in opposition to the request
37 citing concerns regarding noise, traffic safety, and impact on property values.

38 Mr. Quynn closed the public hearing.

39 In response to the neighbor's concerns regarding traffic safety at the entrance to the property, Mr.
40 Quynn advised that the property owner contact the West Virginia Division of Highways to evaluate
41 the property's entrance(s).

42 Ms. Bonnell addressed the following items during her rebuttal:

- 1 a) Ms. Bonnell stated that the proposal would promote recreational tourism, which is
2 encouraged by the County's Comprehensive Plan.
- 3 b) To mitigate visual and audible impacts, Ms. Bonnell noted that when she purchased the
4 property, she planted 350 Green Giant evergreen trees planted along the perimeter of the
5 property. Ms. Bonnell stated she would be willing to work with her neighbors to identify
6 where to plant additional trees.
- 7 c) Ms. Bonnell stated that only temporary, directional signs would be utilized to identify the
8 property to incoming traffic and no permanent signs were proposed.
- 9 d) Ms. Bonnell stated that the number of events would be limited to a total of 15-events per
10 year.
- 11 e) Ms. Bonnell stated she would be willing to limit the Conditional Use Permit approval to her
12 ownership only and that it would not transfer to the next property owner.
- 13 f) Ms. Bonnell stated she would not be obtaining a WV ABC license for the event venue as the
14 expectation would be that if a guest wanted to provide alcohol to guests at an event, they
15 would hire a caterer/vendor who held an ABC license or it would be a bring your own
16 beverage event.
- 17 g) Ms. Bonnell noted that the 30 parking spaces would be inclusive of all guests as well as all
18 vendors related to the event.
- 19 h) Ms. Bonnell added that use of vendors at events would support other local businesses such
20 as florists, caterers, lodging, etc. and benefit the local economy.
- 21 i) Ms. Bonnell stated she would be willing to require that events end at 9:00 pm and would
22 allow for an additional hour for event clean-up to be completed between 9:00 p.m. and
23 10:00 p.m.
- 24 j) Ms. Bonnell stated she has a decibel meter to monitor noise levels to help ensure
25 compliance with the noise criteria in the Zoning Ordinance.

26 Mr. McKinney moved to go into deliberative session at 4:01 pm. Ms. Shremshock seconded the
27 motion, which carried unanimously.

28 Mr. McKinney moved to come out of deliberative session at 4:39 pm. Ms. Shremshock seconded
29 the motion, which carried unanimously.

30 The Board reviewed each of the General Standards outlined in Section 6.3A.1-8 of the Ordinance,
31 noting the following:

- 32 1. The Comprehensive Plan promotes tourism and compatible businesses in the Rural district.
33 The subject request appears to comply with the goals of the Comprehensive Plan and meets
34 the criteria of the Zoning Ordinance.
- 35 2. The proposed use will not pose a threat to the public health, safety, and welfare, particularly
36 if certain conditions of approval are required. The Board acknowledged that the applicant
37 represented that she has a good relationship with the Jefferson County Water Rescue Team
38 and it appears that safety is a priority in using the property, especially any use of the quarry.
39 Traffic increase would be marginal, and no new buildings or permanent parking lots were
40 proposed; therefore, the proposal does not appear to change the character of the area.
- 41 3. The proposed use does not appear to hinder or discourage future development of adjacent
42 land and buildings. The Board noted that the surrounding properties were already

1 substantially developed and future development is not anticipated, nor would it be hindered
2 by the proposed use.

3 4. The Board acknowledged that the applicant had installed trees to along the perimeter of the
4 property to mitigate impact on adjoining properties and to improve the property. The Board
5 also acknowledged that the applicant stated she was willing to work in collaboration with
6 adjoining property owners to plant additional trees where needed.

7 5. The Board acknowledged that the applicant was taking the necessary steps to ensure
8 compliance with Section 8.9 by purchasing the decibel meter and agreeing to a reasonable
9 end time for events.

10 6. The Board stated that Engle Switch Road not named in the Highway Problem Areas map
11 and that the anticipated traffic count would be a minimal increase to the existing road.

12 Additional discussion regarding the conditional use criteria ensued.

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

14 1. Event parking is prohibited on the southeast end of the property.

15 2. The southeast gate located along Engle Switch Road shall be closed during events except in
16 the event of an emergency. Only the main entrance will be used during the events.

17 3. Event parking is limited to the northwest corner of the property.

18 4. The applicant is bound by their testimony.

19 Mr. Quynn offered an amendment to include the following condition:

20 1. As proffered by the applicant, the conditional use permit shall become void after the sale of
21 the property to anyone outside of the family.

22 Mr. Quynn called for a vote on the amendment, which carried three (3) in support and two (2) in
23 opposition (Mr. McKinney and Ms. Shremshock).

24 Mr. Wiegand offered a second amendment to the amended motion to include the following
25 condition:

26 1. To limit the number of event to three (3) events per month.

27 Mr. Quynn called for a vote on the second amendment, which carried three (3) in support and two
28 (2) in opposition (Mr. McKinney and Ms. Shremshock).

29 Mr. Quynn called for a vote on the amended motion, which carried unanimously.

30 **Review and Approval of the revised Board of Zoning Appeals Rules of Procedure (RoP), as**
31 **amended by the Board on 10/27/22.**

32 The Board requested that the original text of Section 3.4 remain in the RoP and the reference to the
33 Secretary language be added as a new Section (3.5).

34 Mr. Guier moved to approve the changes as discussed. Mr. Quynn called for a vote, which carried
35 unanimously.

36 **Zoning Administrator's Report**

37 Ms. Beaulieu noted the next meeting date was February 23, 2023.

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

1 **Legal Update**

2 a. Discussion of the following pending lawsuit:

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

5 2. Jefferson County Circuit Court Case #CC-19-2022-C-103 (RE: 22-4-CUP Blake Solar
6 Energy Facility) Stone v. JCBZA.

7 3. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy
8 Facility / File 22-9-CUP) Rockwell v. JCBZA.

9 Mr. Groh informed the Board that Items #1 and #3 listed above are still ongoing and that
10 Item #2 has been resolved and may be removed from the agenda.

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

12 Meeting: December 8, 2022

13 1. Variance from Section 9.7. Owner: Ricki & Dawn Hoffman. File: 22-39-ZV.

14 2. Variance from Section 4.11 and Appendix B. Owner: SAB real Estate. File: 22-40-ZV.

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

16 Mr. McKinney moved to adjourn the meeting at 5:15 pm. Mr. Quynn called for a vote, which carried
17 unanimously.