

## Minutes

### Jefferson County Board of Zoning Appeals

- 1 Meeting Date: February 23, 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 (present via ZOOM); Matthew McKinney, Vice  
6 Chair; Steve Guier, Secretary; David Wiegand, and Jacob Harris were all  
7 present in person.
- 8 Board Members Absent: Mikala Shremshock with notification
- 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. Wiegand moved to call the meeting to order at 2:00 pm. Mr. Quynn called for a vote, which  
13 carried unanimously.

14 Mr. Quynn, present via ZOOM, requested that Mr. McKinney preside over the meeting as he was  
15 physically in attendance. Mr. McKinney presided over the meeting. Mr. McKinney welcomed  
16 Mr. Jacob Harris as a new member to the Board. Mr. McKinney reviewed meeting protocol for  
17 those in attendance.

#### 18 **Approval of Minutes: January 26, 2023**

19 Mr. Guier moved to approve the minutes as presented. Mr. McKinney called for a vote, which  
20 carried unanimously.

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

#### 22 **ITEM #1 FILE #: 23-4-ZV and 23-5-ZV**

23 The following two requests pertain to a 2,420 square foot addition to the existing Walmart Store in  
24 Charles Town. The existing retail store and shopping center site plan was approved in 1996 (Site  
25 Plan File #S96-16).

26 Request #1: Variance from Section 8.9A.9 to eliminate the requirement to install a frontage road  
27 (similar request granted for original site design in 1996 – File #ZV96-55); and  
28 Section 8.9.A.10 to maintain landscape buffer standard that was approved in 1996  
29 (File #ZV96-52) along US Route 340 which was reduced from 50' to a varying  
30 width of approximately 21'- 40'; and to reduce the commercial setback from 25' to  
31 24' from the edge of the existing landscape buffer for the proposed 2,420 sf addition.  
32 (File #23-4-ZV)

33 Request #2: Variance from Section 11.1A to waive the requirement to install an additional 13  
34 parking spaces for the proposed expansion; to remove ten existing parking spaces  
35 where the addition will be constructed; and to reduce the number of required parking  
36 spaces from 1,204 (as approved via variance on 08/21/03 – File #ZV03-21) to 1,154  
37 (actual number of parking spaces on site, after construction of proposed addition).  
38 (File #23-5-ZV)

39 Applicant: Dewberry / Attn: Carolyn Howard

40 Owner: SUSO 2 ALABAMA LP

41 Parcel Info: 96 Patrick Henry Way, Charles Town WV; Parcel ID: 02000800290002;

42 Size: ~21 acres; Zoning District: Residential- Light Industrial-Commercial

1 Ms. Carolyn Howard with Dewberry was present to address the Board. Ms. Beaulieu provided an  
2 overview of her staff report for each request. Ms. Beaulieu referred to the sketch provided to the  
3 Board that was submitted by the applicant on February 21, 2023. She noted that the numbers  
4 delineated on the sketch represented that after construction of the proposed addition there would be  
5 1,086 parking spaces. Ms. Beaulieu further noted that 79 of the parking spaces are used for an  
6 outdoor display of garden center inventory and therefore, the actual number of parking spaces after  
7 construction would be 1,007.

8 Ms. Howard explained the nature of each request to the Board. Ms. Howard addressed the Board's  
9 questions regarding the proposed redesign of the existing parking area subject to this request.

10 Mr. McKinney opened the public hearing. No members of the public provided testimony.

11 Mr. McKinney closed the public hearing.

12 Mr. Quynn moved to go into deliberative session at 2:28 pm. Mr. Guier seconded the motion, which  
13 carried unanimously.

14 Mr. Guier moved to come out of deliberative session at 2:41 pm. Mr. Quynn seconded the motion,  
15 which carried unanimously.

16 Mr. Guier moved to approve variance request #23-4-ZV and variance request #23-5-ZV for a  
17 reduction in the number of required parking spaces to 1,086 spaces with the following conditions:

18 a. The parking spaces shall not be used for storage of inventory items except for the 79  
19 parking spaces delineated on the 2003 variance sketch to allow display of garden center/  
20 seasonal items March through August. All other areas in the parking lot currently used  
21 for storage of inventory shall be cleared and remain fully accessible for use by  
22 customers and employees; and

23 b. The applicant is bound by their testimony.

24 Mr. McKinney called for a vote, which carried unanimously.

25 **ITEM #2 FILE #: 23-6-ZV**

26 Request: Variance from Section 10.4B.2 to increase the maximum size of a freestanding sign  
27 face from 100 sq. ft. to 122 sq. ft. for a gas station and convenience store (Site Plan  
28 File #19-4-S).

29 Applicant: Holtzman Oil Corp

30 Owner: Charles Town Burr Park Station, LLC / Attn: Richard Koonz, Jr.

31 Parcel Info: Burr Business Park, Lot 16A, 60 War Admiral Blvd., Kearneysville, WV;

32 Parcel ID: 02000100690000; Size: ~5 acres; Zoning District: Industrial Commercial

33 Marshall Runion with Eddie Edwards Signs and Bill Holtzman, property owner, were present to  
34 address the Board. Ms. Beaulieu provided an overview of her staff report. Ms. Beaulieu explained  
35 the purpose of the proposed condition of approval should the Board grant the request.

36 Mr. Runion and Mr. Holtzman explained the nature of the request to the Board stating that the  
37 purpose of the enlarged sign would be to accommodate future tenants on the property.

38 Mr. McKinney opened the public hearing. No members of the public provided testimony.

39 Mr. McKinney closed the public hearing.

40 Mr. Wiegand moved to approve variance request #23-6-ZV with the condition that the applicants  
41 are bound by their testimony. Mr. McKinney called for a vote, which carried unanimously.

1 **ITEM #3 FILE #: 23-7-ZV**

2 Request: Variance from Section 9.6C to allow an accessory structure within the required front  
3 yard; and Section 9.7 to reduce the front setback from 20' to 10' along a platted 30' wide  
4 right-of-way (McShanes Landing Ln) for a 36' x 20' accessory structure (pavilion).

5 Owner: Douglas and Lenore Stroop

6 Parcel Info: River Farm Subdivision, Section 3, Lot 12,

7 200 McShanes Landing Ln, Shepherdstown, WV

8 Parcel ID: 09011A00550000; Size: ~0.41 ac; Zoning District: Rural

9 Mr. Doug Stroop, property owner, was present to address the Board. Ms. Beaulieu provided an  
10 overview of her staff report noting that the 30' wide private right-of-way (McShanes Landing Lane)  
11 was platted through the lower portion of the lot and that the front setback was measured from each  
12 side of the right-of-way.

13 Mr. Stroop explained the nature of the request to the Board stating that the proposed pavilion would  
14 be for personal use and that he was working with an architect to ensure compliance with the flood-  
15 plain requirements. Mr. Stroop stated that while there is an existing electric hookup near the  
16 proposed structure, the structure itself would not contain electric.

17 Mr. McKinney opened the public hearing. No members of the public provided testimony.

18 Mr. McKinney closed the public hearing.

19 Mr. Guier moved to approve variance request #23-7-ZV with the condition that the applicant is  
20 bound by their testimony. Mr. McKinney called for a vote, which carried unanimously.

21 **Zoning Administrator's Report**

22 Ms. Beaulieu noted the next meeting date was March 23, 2023.

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

24 **Legal Update**

25 a. Discussion of the following pending lawsuit:

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

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

30 Mr. Groh stated he did not have an update to provide the Board.

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

32 Meeting: January 26, 2023

33 1. Variances from Appendix B. Owner: Summit Point Library Commission. File: 23-1-ZV  
34 & 23-3-ZV.

35 2. Variance from Section 5.7D.2. Owner: Barry and Jody Swaldo. File: 23-2-ZV.

36 3. Request by "The Quarry" for a Conditional Use Permit to operate a Special Event  
37 Facility. Owner: Alexis Bonnell and Kerian McManus. File: 23-1-CUP.

38 Mr. McKinney was provided a copy of the draft Findings for review.

39 Mr. Guier moved to adjourn the meeting at 3:01 pm. Mr. McKinney called for a vote, which carried  
40 unanimously.