

Minutes

Jefferson County Board of Zoning Appeals

1 Meeting Date: March 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 telephone conference); Matthew
6 McKinney, Vice Chair; and, David Wiegand were present in person.
7 Board Members Absent: Steve Guier, Secretary; Jacob Harris, and Mikala Shremshock with
8 notification.
9 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; and Jennilee Hartman,
10 Zoning Clerk.

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

12 Mr. Quynn was present via telephone conference. Mr. McKinney presided over the meeting as he
13 was physically in attendance.

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

16 Mr. McKinney reviewed meeting protocol for those in attendance.

17 **Approval of Minutes: February 23, 2023**

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

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

21 **ITEM #1 FILE #: 23-8-ZV**

22 Request: Variance from Section 5.7(b) of the Zoning Ordinance (as amended 09/28/06) to
23 reduce the rear setback from 50' to 10' for a 30' x 40' accessory structure
24 (detached garage).

25 Owner: Bernard and Pamela Kershesh

26 Parcel Info: Lot 3 of a Family Transfer Subdivision, 294 Sisters Ln., Shepherdstown, WV
27 Parcel ID: 09001100010007; Size: 2 acres; Zoning District: Rural

28 Mr. Bernard Kershesh, property owner, was present to address the Board. Ms. Beaulieu provided an
29 overview of her staff report noting that the adjoining property had recently been placed in a
30 conservation easement. As such, no future development along the subject property line was
31 anticipated.

32 Mr. Kershesh explained the nature of the request to the Board and confirmed that the proposed
33 structure would be for personal use only.

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

35 Mr. McKinney closed the public hearing.

36 Mr. Wiegand moved to approve variance request #23-8-ZV with the condition that the applicant is
37 bound by their testimony. Mr. McKinney called for a vote, which carried unanimously.

38 **ITEM #2 FILE #: 23-9-ZV**

39 Request: Variance from Section 9.7 to reduce the side setback from 12' to 5' for a 20' x 28'
40 attached garage.

41 Owner: Karen and Glenn Frail

1 Parcel Info: Tuscowilla Hills Subdivision, Lot #354, 124 Fenway Drive, Charles Town, WV
2 Parcel ID: 02011B01880000; Size: ~.3 acres; Zoning District: Residential Growth

3 Mr. Glenn Frail, property owner, was present to address the Board. Ms. Beaulieu provided an
4 overview of her staff report.

5 Mr. Frail explained the nature of each request to the Board stating that the purpose of the structure
6 was to protect their vehicle from weather related damage and theft.

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

8 Mr. McKinney closed the public hearing.

9 Mr. Wiegand moved to approve variance request #23-9-ZV with the condition that the applicant is
10 bound by their testimony. Mr. McKinney called for a vote, which carried unanimously.

11 **ITEM #3 FILE #: 23-10-ZV**

12 Request: Variance from Appendix A to reduce the rear setback from 20' to 14' for a portion of
13 a 10' x 20' deck.

14 Owner: Travis and Emily Warner

15 Parcel Info: Colonial Hills Subdivision, Lot #S51, 58 Branson Circle, Shepherdstown, WV
16 Parcel ID: 09008D00D40000; Size: .28 acres; Zoning District: Residential Growth

17 Mr. Travis Warner, property owner, was present to address the Board. Ms. Beaulieu provided an
18 overview of her staff report and explained that only a portion of the proposed deck would be subject
19 to the required setback.

20 Mr. Warner explained the nature of the request to the Board stating that the deck is designed around
21 the location of the exterior door.

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

23 Mr. McKinney closed the public hearing.

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

26 **ITEM #4 FILE #: 23-11-ZV and 23-12-ZV**

27 Request #1: Variance from Appendix A to reduce the side setback from 15' to 6' along the eastern
28 property line to accommodate the concrete area surrounding an in-ground swimming
29 pool. The edge of the concrete area is approximately 62' long. (23-11-ZV).

30 Request #2: Variance from Appendix A to reduce the side setback from 15' to 8' along the eastern
31 property line for a 12' x 12' accessory structure (gazebo) (23-12-ZV).

32 Owner: Kanette Petry

33 Parcel Info: French Road, LLC MSD, Lot 4 (Residue), 245 Summerfield Way, Shenandoah
34 Junction, WV Parcel ID: 09002000110004; Size: 5 ac; Zoning District: Rural

35 Ms. Kanette Petry, property owner, was present to address the Board via ZOOM. Mr. McKinney
36 requested that Ms. Beaulieu present both staff reports. Ms. Beaulieu provided an overview of the
37 staff report for request #23-11-ZV. Ms. Beaulieu confirmed that the concrete wall had obtained a
38 variance from the setback requirements in 2022.

39 Ms. Beaulieu provided an overview of the staff report for request #23-12-ZV. Ms. Beaulieu noted
40 that the Zoning Ordinance has a provision to allow storage sheds that are 150 square feet in size to
41 be located as close as five feet to the property line; however, the exception is specific to storage

1 sheds and did not include reference to accessory structures broadly. Therefore, the subject gazebo
2 was not permitted to utilize the reduced setback provision.

3 Ms. Petry explained the nature of each request stating that they had misunderstood that the concrete
4 surrounding the pool needed to adhere to the required setbacks. Ms. Petry also stated that they were
5 unaware that the gazebo would not be considered a storage shed for the purpose of the setback
6 requirements. Ms. Petry acknowledged that the gazebo was built without a building permit and
7 noted that it could be relocated as it was braced to the concrete but it was not set into the concrete.

8 Mr. McKinney opened the public hearing.

9 Mr. David Gray, neighboring property owner, provided testimony.

10 Mr. McKinney closed the public hearing.

11 Ms. Petry stated she did not have any additional information to provide to the Board.

12 In response to Mr. Quynn's inquiry, Ms. Petry confirmed that she had a law degree and that her
13 husband worked in construction. Ms. Petry confirm that her husband built their home.

14 Mr. Wiegand moved to approve variance request #23-11-ZV with the condition that the applicant is
15 bound by their testimony. Mr. McKinney called for a vote, which carried unanimously.

16 Mr. Wiegand moved to approve variance request #23-12-ZV with the condition that the applicants
17 are bound by their testimony. Mr. McKinney called for a vote, which carried two (2) in support and
18 one (1) in opposition (Mr. Quynn). Mr. Quynn stated for the record that he did not believe the
19 property owner met the required criteria for a variance.

20 **ITEM #5 FILE #: 23-2-CUP**

21 Request: Request for a Conditional Use Permit to establish a federal firearms business to
22 include gunsmithing and retail sales. The proposal consists of utilizing a 10 acre
23 portion of the 92 acre tract. The use will initially be conducted from the existing
24 structures, with the option to construct new buildings/additions to existing buildings
25 within the 10 acre area delineated in the application in the future. No signs are
26 proposed. Proposed land use designations as listed in Appendix C are Custom
27 Manufacturing and Retail Sales and Service, General, as defined in Article 2.

28 Owner: 375 Dorland LLC / Attn: Mark Lazar

29 Parcel Info: Daniel Zappe Minor Subdivision, Lot 2, 1195 Chestnut Hill, Harpers Ferry, WV
30 Parcel ID: 04001300370000; Project Size: 10 acres; Parcel Size: 92.6 acres;
31 Zoning District: Rural

32 Mr. Paul Raco with P.J. Raco Consulting, LLC and Mr. Mark Lazar, principal for 375 Dorland LLC,
33 were present to address the Board. Ms. Beaulieu provided an overview of her staff report to the
34 Board and reviewed the required criteria for a Conditional Use Permit. Ms. Beaulieu noted that as
35 presented, the current proposal would not necessitate a site plan because no new structures were
36 proposed.

37 Mr. Raco provided a detailed overview of the conditional use permit application and the associated
38 criteria. Mr. Raco expounded on the definition of artisan as it relates to gunsmithing. Mr. Raco
39 confirmed that the proposal would adhere to all state and federal regulations related to firearms.
40 Mr. Raco and Mr. Lazar addressed the Board's questions regarding the anticipated traffic count and
41 flow.

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

43 Mr. McKinney 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. Quynn moved to approve the conditional use permit in accordance with Section 6.3E of the
- 3 Zoning Ordinance, with the condition that the applicant is bound by their testimony. Mr. McKinney
- 4 called for a vote, which carried unanimously.

5 **Zoning Administrator's Report**

- 6 Ms. Beaulieu noted the next meeting date was April 27, 2023.

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

8 **Legal Update**

- 9 a. Discussion of the following pending lawsuit(s):

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

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

14 No legal update was provided.

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

16 Meeting: February 23, 2023

17 1. Variances from Sections 8.9A.9 and 11.1A. Applicant: Dewberry / Attn: Carolyn
18 Howard. Owner: SUSO 2 ALABAMA LP. File: 23-4-ZV & 23-5-ZV.

19 2. Variance from Section 10.4B.2. Applicant: Holtzman Oil Corp. Owner: Charles Town
20 Burr Park Station, LLC / Attn: Richard Koonz, Jr. File: 23-6-ZV.

21 3. Variance from Section 9.6C and 9.7. Owner: Douglas and Lenore Stroop. File: 23-7-ZV

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

23 Mr. Wiegand moved to adjourn the meeting at 3:32 pm. Mr. McKinney called for a vote, which
24 carried unanimously.