

## Minutes

### Jefferson County Board of Zoning Appeals

- 1 Meeting Date: May 25, 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, Vice Chair; Jacob Harris, and  
6 David Wiegand were present in person.
- 7 Board Members Absent: Steve Guier, Secretary; and Mikala Shremshock, Alternate
- 8 Staff Members Present: Alexandra Beaulieu, Zoning Administrator and Jennilee Hartman,  
9 Zoning Clerk

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

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

#### 13 **Approval of Minutes: April 27, 2023**

14 Mr. McKinney moved to approve the minutes as presented. Mr. Quynn called for a vote, which  
15 carried unanimously.

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

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

- 18 Request: Request for a Conditional Use Permit to operate a Special Event Facility, as  
19 defined in Article 2 of the Zoning Ordinance (Project Name: "Colonial Estate").  
20 The proposal consists of hosting up to 5 events per year with a maximum capacity  
21 of 100 guests. The applicant is proposing a maximum of 30 grass parking spaces.  
22 No signs are proposed.
- 23 Owner: K5 Investments / Attn: Keith and Kelly LaGala
- 24 Applicant: Potomac Adventure, LLC / Attn: Cathy Gray
- 25 Parcel Info: 350 Bakerton Road, Harpers Ferry, WV 25425; Parcel ID: 04000700060000;  
26 Parcel Size: 13.4 acres; Project Size: 1 acre; Zoning District: Residential Growth

27 Ms. Cathy Gray with Potomac Adventure, LLC was present to address the Board. Ms. Beaulieu  
28 provided an overview of her staff report to the Board and reviewed the required criteria for a  
29 Conditional Use Permit. Ms. Beaulieu noted that as presented, the current proposal would not  
30 necessitate a site plan because no new structures were proposed.

31 Ms. Gray provided an overview of the proposed land use and addressed the Board's questions.

32 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn  
33 closed the public hearing.

34 The Board reviewed each of the General Standards outlined in Section 6.3A.1-8 of the Ordinance.

35 Mr. McKinney moved to approve the conditional use permit with the condition that the applicant is  
36 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

#### 37 **ITEM #2 FILE #: 23-16-ZV**

- 38 Request: Variance from Appendix A to reduce the minimum lot size requirement from 20,000  
39 square feet to 19,088 square feet to allow a six (6) unit apartment complex to be  
40 constructed (Aspen Hill Apartments File 23-2-SP).
- 41 Owner: L & C Horning LLC
- 42 Applicant: TriState Investments / Attn: Chris Hill

1 Parcel Info: Vacant lot on the northeastern corner of Martinsburg Pike and Maddex Drive,  
2 Shepherdstown, WV; Parcel ID: 09000800170001; Parcel Size: .43 acres;  
3 Zoning District: Residential Growth

4 Mr. Richard Klein with Alpha Associates and Mr. Chris Hill with TriState Investments were  
5 present to address the Board. Ms. Beaulieu provided an overview of her staff report. Ms. Beaulieu  
6 explained that the variance request would not increase the density rights of the proposed project and  
7 that all other site development standards would be accommodated.

8 Mr. Klein and Mr. Hill explained the nature of the request to the Board. Mr. Klein argued that the  
9 required extension of public water and sewer made developing the subject parcel for a single family  
10 home cost prohibitive. Mr. Klein stated that the project would meet all other site development  
11 standards. Mr. Hill noted that a minimum of six units would be required to make the project viable.  
12 In response to Mr. Quynn's inquiry, Mr. Hill stated that he had not approached the neighboring  
13 parcel to the east about a boundary line adjustment.

14 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn  
15 closed the public hearing. Mr. Harris noted for the record that the office had received two letters in  
16 opposition to the request.

17 Mr. Quynn expressed concern that the proposed request did not meet the four criteria required for a  
18 variance. The Board discussed each of the four criteria as it related to the request.

19 Mr. McKinney moved to go into deliberative session at 2:36 pm. Mr. Quynn called for a vote,  
20 which carried unanimously.

21 Mr. McKinney moved to come out of deliberative session at 2:52 pm. Mr. Quynn called for a vote,  
22 which carried unanimously.

23 The Board requested additional information from the applicant as it relates to the project's design.  
24 Ms. Beaulieu provided density calculations based on the parcel's current acreage and reiterated that  
25 the variance request would not increase the density rights of the proposed project.

26 Mr. McKinney moved to deny zoning variance request #23-16-ZV based on the fact that the  
27 applicant had not met all of the required criteria. Mr. Quynn called for a vote, which failed one (1)  
28 in support (Mr. Quynn) and three (3) in opposition.

29 Mr. McKinney moved to approve zoning variance request #23-16-ZV with the condition that the  
30 applicants are bound by their testimony and that all other site development standards of the Zoning  
31 Ordinance are met. Mr. Quynn called for a vote, which passed three (3) in support and one (1) in  
32 opposition (Mr. Quynn).

33 **ITEM #3 FILE #: 23-17-ZV**

34 Request: Variance from Section 5.7B of the Zoning Ordinance (as amended 07/15/93) to reduce  
35 the rear setback from 50' to 15' for a 30' x 80' accessory structure (2,400 sf detached  
36 garage).

37 Owner: Jason Duncan

38 Parcel Info: 111 Bitner Lane, Kearneysville, WV

39 Parcel ID: 07000300010003; Parcel Size: 2.73 acres; Zoning District: Rural

40 Ms. Sherry Duncan, representative for the property owner, was present to address the Board. Ms.  
41 Beaulieu provided an overview of her staff report. Ms. Beaulieu suggested that a possible condition  
42 of approval be that no business could be operated from the structure without additional processing.

1 Ms. Duncan explained the nature of the request to the Board noting that the property owner to the  
2 south was a family member who had submitted an email in support of the request. Ms. Duncan  
3 confirmed that the proposed structure would be for personal use only.

4 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn  
5 closed the public hearing.

6 Mr. McKinney moved to approve zoning variance request #23-17-ZV with the condition that the  
7 applicant is bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

8 **ITEM #4 FILE #: 23-18-ZV**

9 Request: Variance from Appendix A to reduce the rear setback from 50' to 4' along the southern  
10 property line for a 10' x 16' accessory structure (160 sf storage shed).

11 Owner: David Brown and Michelle Mitchell-Brown

12 Parcel Info: 229 Bethany Lane, Charles Town, WV

13 Parcel ID: 06002100070005; Parcel Size: 4.53 acres; Zoning District: Rural

14 Mr. David Brown and Ms. Michelle Mitchell-Brown, property owners, were present to address the  
15 Board. Ms. Beaulieu provided an overview of her staff report.

16 Mr. Brown and Ms. Mitchell-Brown explained the nature of the request to the Board and confirmed  
17 that the proposed structure would be for personal use only.

18 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn  
19 closed the public hearing.

20 Mr. McKinney moved to approve zoning variance request #23-18-ZV with the condition that the  
21 applicants are bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

22 **ITEM #5 FILE #: 23-5-CUP**

23 Request: Request for a Conditional Use Permit to operate a Commercial Storage facility, as  
24 defined in Article 2 of the Zoning Ordinance. The proposal includes expansion of an  
25 existing legal nonconforming self-storage facility, Valley Storage Shepherdstown.

26 Owner: Valley Storage Shepherdstown / Attn: Todd Snook

27 Parcel Info: 1744 Shepherd Grade Road, Shepherdstown, WV

28 Parcel ID: 09000300200001; Parcel Size: 10 acres; Zoning District: Rural

29 Mr. Todd Snook with Valley Storage Shepherdstown and Mr. Trevor Frederick with Frederick,  
30 Seibert & Associates were present to address the Board. Ms. Beaulieu provided an overview of her  
31 staff report to the Board and reviewed the required criteria for a Conditional Use Permit.

32 Ms. Beaulieu noted that as presented, the current proposal would necessitate a concept plan and a  
33 site plan.

34 Mr. Frederick provided an overview of the conditional use permit application and the associated  
35 criteria. Mr. Snook provided detailed information regarding the expansion. Mr. Frederick and  
36 Mr. Snook addressed the Board's questions regarding the anticipated traffic count and flow.

37 Mr. Quynn opened the public hearing.

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

39 Blanca Gwise and Theresia Wells, neighboring property owners, spoke in opposition to the request.

40 Mr. Quynn closed the public hearing.

1 In rebuttal, Mr. Snook addressed the public's concerns regarding access to the property from Fiddlers  
2 Way, lighting, toxic materials. Mr. Snook stated that storage of toxic materials is not permitted and  
3 that customers are required to sign a lease acknowledging this standard. Mr. Snook also stated that he  
4 would be willing to install additional landscaping along the southern boundary line should it be  
5 required as part of the site plan processing and provided the landscaping could be accommodated  
6 between the property line and the existing buildings.

7 The Board reviewed each of the General Standards outlined in Section 6.3A.1-8 of the Ordinance.

8 Mr. Harris moved to approve the conditional use permit with the condition that the applicants are  
9 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

#### 10 **Zoning Administrator Report**

11 a. Revised 2023 Board of Zoning Appeals Meeting Schedule.

12 Ms. Beaulieu stated that on April 11, 2023 the Spirit of Jefferson had sent out a notice  
13 regarding their new legal ad deadline policy. Ms. Beaulieu explained that this policy may  
14 impact staff's ability to process and review applications in a timely manner for the purpose  
15 of drafting the required legal ad. Ms. Beaulieu requested that the Board review the proposed  
16 changes to their deadline schedule (included in the packet).

17 Mr. McKinney moved to approve the revised deadline schedule as presented by staff.  
18 Mr. Quynn called for a vote, which carried unanimously.

19 b. Memorandum re: Finalized Rules of Procedure that were amended October 27, 2022.

20 Ms. Beaulieu stated the purpose of this item was to obtain the Chair's signature for the  
21 revised Rules of Procedure which were approved by the Board in January so they can be  
22 posted to the County's webpage.

23 Mr. Quynn signed the revised Rules of Procedure.

24 c. Discussion related to various zoning application types and the Board's role/authority.

25 Ms. Beaulieu provided an overview of the Boards' role and authority with respect to various  
26 application types. Ms. Beaulieu distributed some reading materials to Board members to  
27 provide additional information on various application types, including Article 6 of the  
28 Zoning Ordinance and WV Chapter 8A.

29 a. Monthly Zoning Certificate Activity Report.

30 The Report was included in the mailed packet.

31 Ms. Beaulieu noted the next meeting date was June 22, 2023.

#### 32 **Legal Update**

33 a. Discussion of the following pending lawsuits. None.

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-141 (RE: Rippon Solar Energy  
37 Facility / File 22-9-CUP) Rockwell v. JCBZA

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

39

1           **Meeting: April 27, 2023**

- 2           1. Appeal of the Zoning Administrator's determination. Applicant: Panhandle Legal /  
3           Attn: Christopher Stroeck, Esq. Owner: Whisper Ridge LLC / Attn: Patricia Sanderson.  
4           File 23-1-AP.
- 5           2. Request for a Special Exception Permit for an off-premise sign for Auto Depot (23-1-SE);  
6           and, Variance from Section 10.5. (23-15-ZV). Owner: Jackson Kiley.
- 7           3. Variance from Section 9.7. Owner: Tim Williamson. File: 23-13-ZV.

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

9 Mr. Wiegand moved to adjourn the meeting at 4:31 pm. Mr. Quynn called for a vote, which carried  
10 unanimously.