

**Minutes**  
**Jefferson County Board of Zoning Appeals**

1 Meeting Date: July 27, 2023  
2 Meeting Location: County Commission Meeting Room located in the lower level  
3 of the Charles Town Library (entrance on Samuel St.)  
4 200 East Washington Street, Charles Town, WV 25414  
5 Board Members Present: Tyler Quynn, Chair; Matthew McKinney, Vice Chair; Steve Guier,  
6 Secretary; David Wiegand, Jacob Harris, and Mikala Shremshock,  
7 Alternate, were present in person.  
8 Board Members Absent: None  
9 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator;  
10 Steve Groh, Assistant Prosecuting Attorney; and  
11 Jennilee Hartman, Zoning Clerk

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

13 Due to technical difficulties, the virtual meeting option was not available.

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

16 **Approval of Minutes: June 25, 2023**

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

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

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

21 Request: Variance request from Section 9.7 to reduce the rear setback from 50' to 14' along  
22 the western property line for an above ground pool.  
23 Owner: Leon and Andrew Upwright  
24 Applicant: Cheryl Middleton  
25 Parcel Info: 2253 S Childs Rd, Kearneysville, WV 25430  
26 Parcel ID: 07002100030001; Size: 2.23 ac; Zoning District: Rural

27 Ms. Cheryl Middleton, applicant, and Mr. Leon Upwright, property owner, were present to address  
28 the Board. Ms. Beaulieu provided an overview of her staff report noting that the applicant did not  
29 propose any dimensions for a surrounding deck for the Board to consider. Ms. Beaulieu noted that  
30 the adjoining property owner provided a letter of support for the request.

31 Ms. Middleton and Mr. Upwright explained the nature of the request to the Board and noted that  
32 they did not know what size deck they would be installing in the future. Ms. Middleton and Mr.  
33 Upwright acknowledged that a separate variance would be required for the deck.

34 The Board discussed the option of allowing a deck up to 20' in length to be included as part of the  
35 request. Ms. Beaulieu confirmed that the legal ad included text referring to an "above ground pool  
36 and surrounding deck".

37 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn  
38 closed the public hearing.

39 Mr. McKinney moved to approve the zoning variance request to reduce the rear setback from 50' to  
40 14' along the western property line for an above ground pool and a deck/patio up to 20' x 20' in size  
41 with the condition that the applicants are bound by their testimony. Mr. Quynn called for a vote,  
42 which carried unanimously.

1 **ITEM #2 FILE #: 23-6-CUP and 23-22-ZV**

2 Request 1: Request for a Conditional Use Permit to operate as a Contractor with Outdoor Storage,  
3 as defined in Article 2 of the Zoning Ordinance (Project Name: "Tree Nexus"). The  
4 proposal consists of parking employee vehicles and storing company vehicles and  
5 equipment related to a tree service business. No signs are proposed as part of the  
6 operation. No customers will visit the property (File #23-6-CUP)

7 Request 2: Variance request to from Appendix B, Sections 4.6 and 4.11 to eliminate the non-  
8 residential site development standards required for a tree service business (Tree  
9 Nexus). The request includes a reduction of the 25' commercial setback down to  
10 0' along the interior property line; reduction of the 75' distance requirement to  
11 25' along the western property line; and to eliminate the requirement to install a  
12 landscape buffer along the perimeter of the property and the interior property line.  
13 (File #23-22-ZV).

14 Owner: Carl Epstein / Applicant: Tree Nexus

15 Parcel Info: Vacant Parcels; Section 7, Lots 713 & 714 of Riverside Subdivision, Marcum Ln,  
16 Harpers Ferry; Parcel ID: 06002600980000 & 06002600990000;  
17 Combined Size: 2.39 ac; Zoning District: Rural

18 Mr. Carl Epstein submitted an email to the office on July 27, 2023 withdrawing the conditional use  
19 permit and zoning variance requests.

20 **ITEM #3 FILE #: 23-7-CUP**

21 Request: Request for a Conditional Use Permit to operate a homebased federal firearms  
22 business, to include limited gunsmithing from an existing dwelling unit (proposed land  
23 use as listed in Appendix C: Custom Manufacturing). The business is primarily  
24 internet based. No employees other than the residents of the property. Business hours  
25 are by appointment only, with limited customer visits (approximately two per month).  
26 No signs are proposed.

27 Owner: Ryan Uhrich

28 Applicant: BRNDL Custom Works, LLC / Attn: Ryan Uhrich

29 Parcel Info: 412 Revenoor Rd, Harpers Ferry, WV 25425

30 Parcel ID: 06006K00260000; Size: .52 ac; Zoning District: Rural

31 Mr. Ryan Uhrich, property owner, was present to address the Board. Ms. Beaulieu provided an  
32 overview of her staff report to the Board and reviewed the required criteria for a Conditional Use  
33 Permit. Ms. Beaulieu noted that as presented, the current proposal would not necessitate a site plan  
34 because no new structures were proposed.

35 Mr. Uhrich provided an overview of the proposed land use and addressed the Board's questions.

36 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn  
37 closed the public hearing.

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

39 Mr. Wiegand moved to approve the conditional use permit with the following conditions:

- 40 1. The applicant shall obtain a Federal Firearms License (FFL) prior to commencement; and
- 41 2. The applicant is bound by their testimony.

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

1 **ITEM #4 FILE #: 23-23-ZV**

2 Request: Variance from Section 4.12B to increase the maximum impervious surface limit  
3 from 50% to 60% for the proposed Canter Hollow Apartment complex (fka Miller  
4 Station Apartments).

5 Owner: Cantor Hollow, LLC

6 Applicant: Keane Enterprises

7 Parcel Info: Vacant lots located on Captain Chews Trace, Charles Town, WV

8 Parcel ID: Tax District: Charles Town (02); Tax Map: 8C; Parcels: 1 – 8

9 Size: 10 acres (combined); Zoning District: Residential-Light Industrial-Commercial

10 Mr. Todd Heck, representative with Morris & Ritchie Associates, Inc., was present to address the  
11 Board. Ms. Beaulieu provided an overview of her staff report stating that in July of 2022 the  
12 applicant had received a similar variance to increase the maximum impervious limit for the  
13 proposed apartment complex (see File #22-23-ZV). Ms. Beaulieu stated that the applicant had  
14 redesigned the layout of the proposed apartment complex. Ms. Beaulieu explained that the  
15 Subdivision Regulations state that a modification to a site plan can be administratively approved  
16 provided the number of buildings is not increased by more than 5%. As the modified layout for the  
17 apartment complex exceeds 5% of the total buildings, staff determined that they did not have the  
18 discretion to apply the previous variance approval to the redesigned project.

19 Mr. Heck explained the nature of the request to the Board and clarified that the request is to allow  
20 up to 60% of the subject parcel to be developed. Mr. Heck stated that this would allow his client the  
21 flexibility to include amenities as they finalize the project.

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

24 Mr. Quynn moved to approve zoning variance request #23-23-ZV with the condition that the  
25 applicant is bound by their testimony. Mr. McKinney suggested a friendly amendment to modify  
26 the motion to reaffirm that the maximum impervious surface limit may be up to 60% for the  
27 proposed apartment complex. Mr. Quynn accepted the friendly amendment. Mr. Wiegand seconded  
28 the modified motion, which carried unanimously.

29 **Zoning Administrator Report**

30 a. Monthly Zoning Certificate Activity Report.

31 The Report was included in the mailed packet.

32 Ms. Beaulieu informed the Board that the Comprehensive Plan Update is underway and that staff is  
33 working to obtain a booth at the fair for public outreach.

34 **Discussion regarding the continuation of hybrid meeting options (TQ)**

35 The Board discussed various options for conducting their meetings.

36 Mr. Wiegand moved to reinstate the Board's previous meeting option as follows:

37 The meetings shall be in-person only for applicants and the public. ZOOM will be available for live  
38 broadcasts only.

39 Mr. McKinney seconded the motioned, which carried three (3) in support and two (2) in opposition  
40 (Mr. McKinney and Mr. Guier).

41 The Board confirmed that this will go into effect beginning with the August 2023 meeting.

1 **Legal Update**

2 a. Discussion of the following pending lawsuits.

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

7 Mr. Groh informed the Board that a new lawsuit had been filed pertaining a previous  
8 determination made by the Board. Mr. Groh indicated that he would have more information  
9 at the next meeting.

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

11 **Meeting: June 22, 2023**

12 1. Variance from Section 9.7. Owner: Lori and Mario DiGiambattista. File: 23-19-ZV

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

14 Mr. Wiegand moved to adjourn the meeting at 3:14 pm. Mr. Quynn called for a vote, which carried  
15 unanimously.