



**Jefferson County**  
**Board of Zoning Appeals Agenda**  
**Thursday, September 28, 2023 at 2:00 p.m.**

Members  
Tyler Quynn, Chair  
Matthew McKinney, Vice Chair  
Steven Guier, Secretary  
David Wiegand  
Jacob Harris  
Mikala Shremshock, Alternate

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**Effective July 27, 2023, Public Participation is available in-person only. The meeting will be broadcast live for viewing purposes only.**

**Meeting Location:** County Commission Meeting Room located in the lower level of the Charles Town Library (entrance on Samuel St.)  
200 East Washington Street, Charles Town, WV 25414

**Broadcast Information:** Meeting ID: 893 4814 7396  
Meeting Link: <https://us02web.zoom.us/j/89348147396>  
Phone Option (Dial by Location): 301-715-8592  
Find your local number: <https://us02web.zoom.us/u/kc9f7e0HWY>

*\*If watching live broadcast, please ensure your microphone is muted and be mindful that your video is streaming to others.*

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**All requests are pursuant to the Zoning & Land Development Ordinance.**

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**Approval of Minutes: August 24, 2023**

**Public Hearing – Administer Oath**

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**ITEM #1 FILE #: 23-27-ZV**

**Request:** Variance request from Section 9.7 to reduce the side setback along the northern property line from 6' to 4' and the rear setback along the eastern property line from 6' to 4' for a proposed 160 sf shed.  
**Owner:** Sharon Tennant  
**Parcel Info:** Mecklenburg Heights, Lot 72, 323 Woodcock Ave., Shepherdstown, WV  
Parcel ID: 09007C00070000; Size: .48 ac; Zoning District: Residential Growth

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**ITEM #2 FILE #: 23-28-ZV**

**Request:** Variance request from Section 8.10 to allow placement of a staffed model home sales office on Lots 36 & 37 of the Stonecrest Subdivision to increase visibility for incoming visitors.  
**Owner:** Flowing Springs Road, LLC  
**Parcel Info:** Stonecrest Subdivision, Lots 36 & 37, Vacant parcel off Flowing Springs Road (just north of the Aspen Greens S/D), Charles Town, WV  
Parcel ID: 02000300090000; Size: .24 and .16 ac (respectively); Zoning District: Residential Growth

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**ITEM #3 FILE #: 23-29-ZV**

**Request:** Variance request from Section 5.7B of the Zoning Ordinance (amended 09/28/06) to reduce the front setback along the eastern property line from 40' to 17' for a 30' x 30' detached garage; and Section 9.6C to allow an accessory structure in the required front yard.  
**Owner:** Charles and Shelly Wolfe  
**Parcel Info:** Carlos McDaniel Minor Subdivision, Lot 1, 1223 N. Childs Road, Kearneysville, WV  
Parcel ID: 07001700100014; Size: 1.18 ac; Zoning District: Rural

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**ITEM #4 FILE #: 23-2-SE and 23-30-ZV**

**Request #1:** Request for a Special Exception Permit for an Off-Premise Sign for Bakerton Market (File #23-2-SE).  
**Request #2:** Variance request from Section 10.5A.4 to reduce the front setback from 25' to 8' for an Off-Premise Sign; and Section 10.5A.5 to allow an Off-Premise Sign to be located closer than 100' to an intersection. (File #23-30-ZV).

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**ITEM #4 FILE #: 23-2-SE and 23-30-ZV (continued)**

Owner: Barbara Sullivan

Applicant: Bakerton Market / Attn: Kevin Cueller and Katty Vocal

Parcel Info: Vacant parcel adjacent to 3658 Bakerton Rd, Harpers Ferry, WV  
Parcel ID: 04000300230001; Size: 1.17 ac; Zoning District: Rural

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**ITEM #5 FILE #: 23-32-ZV**

Request: Variance request from Section 10.4B.2 to increase the permitted freestanding business sign height from 35' to 65'. The subject request is to allow an existing freestanding sign that was previously approved at the increased height of 65' to be relocated on the subject parcel for the Liberty/Circle K gas station.

Owner: Charles Town Burr Park Station, LLC

Applicant: Holtzman Oil Corp / Attn: Lindsay Racer

Parcel Info: Burr Business Park, Lot 16A, 60 War Admiral Blvd., Kearneysville, WV  
Parcel ID: 02000100690000; Size: ~5; Zoning District: Industrial Commercial

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**ITEM #6 FILE #: 23-31-ZV**

Request: Variance request from Section 5.7D.2.b.i(b) to allow the required 50% green space to be allocated on each of the individual lots within the cluster subdivision (applicant is proposing a maximum of four, five acre lots).

Owner: Elevation Properties, LLC

Applicant: P.J. Raco Consulting, LLC / Attn: Paul Raco

Parcel Info: 1208 Gardners Lane, Shepherdstown, WV  
Parcel ID: 09001700040004; Size: 20 ac; Zoning District: Rural

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**Zoning Administrator Report**

- a. Monthly Zoning Certificate Activity Report

**Legal Update**

- a. Discussion of the following pending lawsuits:
  - 1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy Facility / File 22-9-CUP) Rockwell v. JCBZA
  - 2. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence / 23-13-ZV) Gallagher v. JCBZA and Timothy Williamson
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions.

**Meeting: August 24, 2023**

- 1. Variance request from Section 10.4.A.2. Owner: Wall Street Partners WV1 LLC. Applicant: Mid-Atlantic Permitting Services, Inc. / Attn: Ken Padgett. File: 23-24-ZV.
- 2. Variance request from Section 9.7. Owner: Adranetta Sine (Weimer). File: 23-25-ZV.
- 3. Variance request from Section 5.4(b). Owner: Daniel Shelton. File: 23-26-ZV.

**DRAFT Minutes**

**Jefferson County Board of Zoning Appeals**

- 1 Meeting Date: August 24, 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; Jacob Harris, and Mikala Shremshock, Alternate, were  
7 present in person.  
8 Board Members Absent: David Wiegand with notification  
9 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator;  
10 Nathan Cochran, Assistant Prosecuting Attorney; and  
11 Jennilee Hartman, Zoning Clerk

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

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

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

16 **Approval of Minutes: July 27, 2023**

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

19 **ITEM #1 FILE #: 23-24-ZV**

- 20 Request: Variance request from Section 10.4.A.2 to allow an attached business sign to be  
21 installed in a location that faces an adjoining residential property.  
22 Owner: Wall Street Partners WV1 LLC  
23 Applicant: Mid-Atlantic Permitting Services, Inc. / Attn: Ken Padgett  
24 Parcel Info: Kramer Nonresidential Subdivision, Lot 1, 45 Amanda Court, Harpers Ferry, WV  
25 Parcel ID: 04001000110005; Size: 2.19 ac;  
26 Zoning District: Residential-Light Industrial-Commercial

27 Mr. Ken Padgett with Mid-Atlantic Permitting Services, Inc. was present on behalf of the property  
28 owner to address the Board. Ms. Beaulieu provided an overview of her staff report and referenced  
29 the suggested condition of approval that all exterior lights facing Shepherdstown Pike shall be  
30 turned off at closing, including any lighting placed to illuminate the subject sign.

31 Mr. Padgett explained the nature of the request to the Board and stated that the property owner is  
32 agreeable to staff's suggested condition.

33 Mr. Quynn opened the public hearing. Donnie Sine, resident, spoke in opposition to the request.  
34 Mr. Quynn closed the public hearing.

35 In rebuttal, Mr. Padgett reiterated that the sign meets the size criteria of the zoning ordinance.

36 Mr. McKinney moved to approve zoning variance #23-24-ZV with the following conditions:

- 37 1. The sign will be turned off at the close of business each day; and  
38 2. The applicant is bound by their testimony.

39 Mr. Quynn called for a vote, which carried three (3) in support and two (2) in opposition (Mr. Guier  
40 and Ms. Shremshock).

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

2 Request: Variance request from Section 9.7 to reduce the side setback from 12' to 8' along the  
3 southern property line for a proposed 28' x 35' detached garage.

4 Owner: Adranetta Sine (Weimer)

5 Parcel Info: John Brown Farm Subdivision, River Section, Lot 145A

6 50 Wild Dogwood Lane, Harpers Ferry, WV

7 Parcel ID: 06008E00080009; Size: 1.02 ac; Zoning District: Rural

8 Mr. Donnie Sine, applicant, was present to address the Board. Ms. Beaulieu provided an overview  
9 of her staff report and referenced the suggested condition of approval that no business could be  
10 operated from the proposed garage. Ms. Beaulieu noted that while Ms. Sine, the property owner,  
11 had verbally indicated that the adjoining neighbor to the south was in support of the request, a  
12 written letter of support had not been submitted for the record.

13 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn  
14 closed the public hearing.

15 Mr. Guier moved to approve zoning variance #23-25-ZV for a 28' x 35' detached garage to be  
16 placed 8' from the subject property line, with the condition that the applicant is bound by their  
17 testimony.

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

19 **ITEM #3 FILE #: 23-26-ZV**

20 Request: Variance request from Section 5.4(b) of the Zoning Ordinance, as amended 07/15/93,  
21 to reduce the rear setback from 20' to 15' along the northern property line for a  
22 proposed deck and screened-in porch (325 sq ft total).

23 Owner: Daniel Shelton

24 Parcel Info: Bon Aire Village, Lot 13, 25 Bon Aire Drive, Shepherdstown, WV 25443

25 Parcel ID: 09008B01500000; Size: ~0.11 ac; Zoning District: Rural

26 Mr. Daniel Shelton, property owner, was present to address the Board. Ms. Beaulieu provided an  
27 overview of her staff report noting that the proposed deck and screened-in porch would be replacing  
28 and expanding the footprint of an existing deck. Ms. Beaulieu stated that the applicant provided a  
29 letter of support signed by both property owners to the north and the east of the subject parcel.

30 Mr. Shelton explained the nature of the request to the Board. Mr. Shelton confirmed that there had  
31 never been any standing water within the stormwater management area with the existing deck and  
32 stated that he did not believe the proposed deck would impact the flow of water.

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

35 Mr. McKinney moved to approve zoning variance #23-26-ZV with the condition that the applicant is  
36 bound by their testimony.

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

38 **Zoning Administrator Report**

39 a. Monthly Zoning Certificate Activity Report.

40 The Report was included in the mailed packet.

1 Ms. Beaulieu informed the Board that the Comprehensive Plan Update is underway and that staff is  
2 currently operating a booth at the fair for public outreach. Ms. Beaulieu encouraged Board members  
3 to share information related to the Agricultural Input meeting scheduled for September 13, 2023.

#### 4 **Legal Update**

5 a. Discussion of the following pending lawsuits.

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

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

10 3. Jefferson County Circuit Court Case #CC-19-2023-C-131 f/k/a CC-19-2023-P-95 (RE:  
11 Williamson Fence / 23-13-ZV) Gallagher v. JCBZA and Timothy Williamson

12 Mr. Cochran stated he did not have anything to report to the Board.

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

#### 14 **Meeting: July 27, 2023**

15 1. Variance from Section 9.7. Owner: L. & A. Upwright. Applicant: C. Middleton.  
16 File: 23-21-ZV.

17 2. Request for a Conditional Use Permit to operate a homebased federal firearms business,  
18 to include limited gunsmithing (proposed land use as listed in Appendix C: Custom  
19 Manufacturing). Owner: R. Uhrich. Applicant: BRNDL Custom Works, LLC.  
20 File: 23-7-CUP-ZV.

21 3. Variance from Section 4.12B for Canter Hollow Apartments. Owner: Cantor Hollow, LLC.  
22 Applicant: Keane Enterprises File: 23-23-ZV.

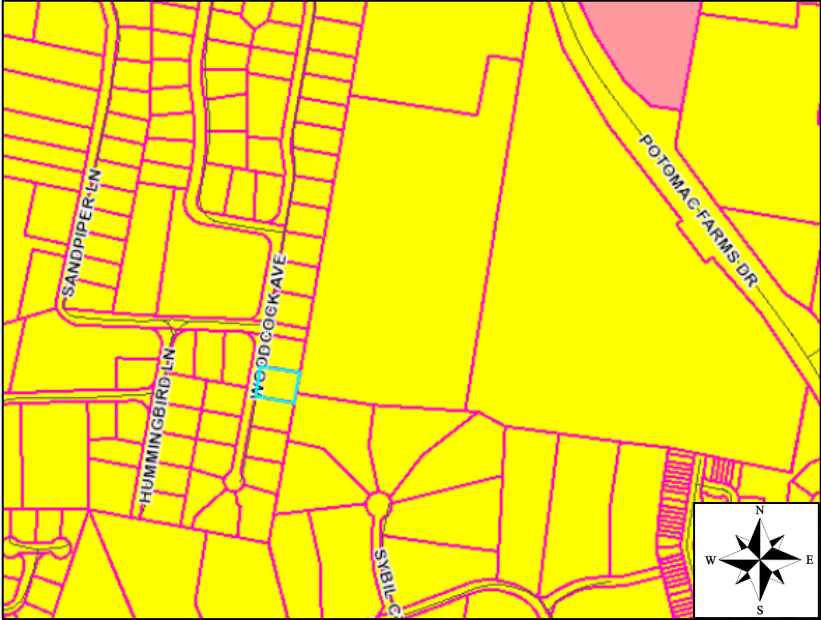
23 Mr. Quynn was provided a copy of the draft Findings for review.

24 Mr. McKinney moved to adjourn the meeting at 2:51 pm. Mr. Quynn called for a vote, which carried  
25 unanimously.



Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 28, 2023  
**23-27-ZV Tennant Variance Request**

Item #1 Variance request from Section 9.7 to reduce the side setback along the northern property line from 6' to 4' and the rear setback along the eastern property line from 6' to 4' for a proposed 160 square foot storage shed.

Owner:	Sharon Tennant
Parcel Information and Zoning District:	<p>Mecklenburg Heights, Lot 72, 323 Woodcock Ave., Shepherdstown, WV          Parcel ID: 09007C00070000; Size: .48 ac; Zoning District: Residential Growth</p> 
History:	<p>Mecklenburg Heights recorded on 05/15/70 in <a href="#">PB 1, PG 35A</a>          *Re-recorded on 02/11/72 in <a href="#">PB 2, PG 287</a></p>
Waivers/Variations:	05/26/22: BZA approved variance from Sec. 9.7 to reduce the side and rear setbacks from 6' to 4' for a detached garage and lean-to (22-18-ZV).
Approved Activity:	Single Family Residence
Site Visit Conducted:	No.

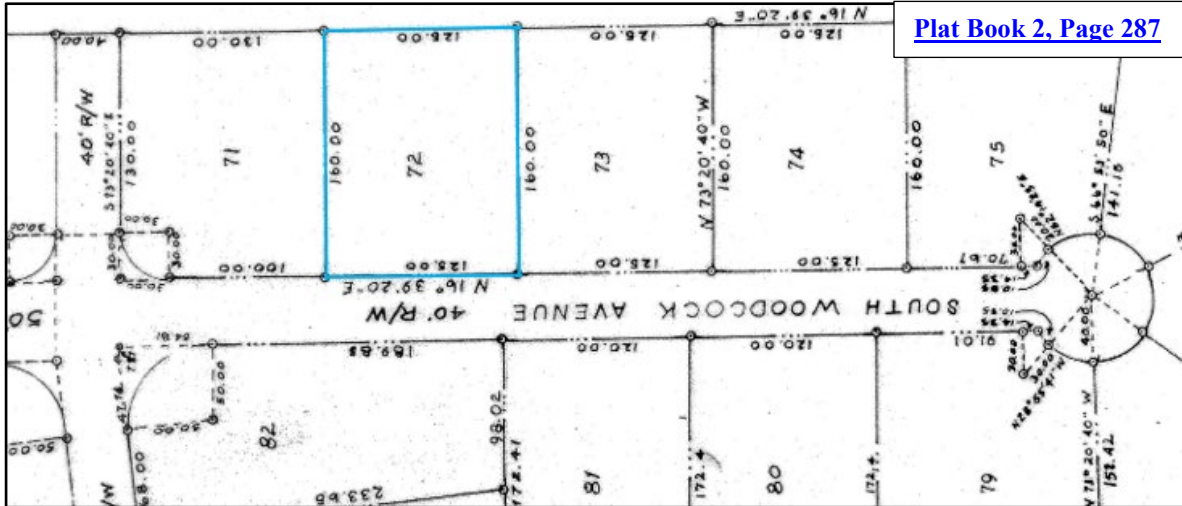
**Staff Overview**

The subject parcel is Lot 72 of the Mecklenburg Heights subdivision, which was originally recorded in October 1969 and subsequently re-recorded in February 1972 to include additional bearings and distances to describe the property boundaries. Since Lot 72 was created prior to the adoption of the Zoning Ordinance (1988), it is considered a legal non-conforming lot, as it does not meet the residential site development standards in the Zoning Ordinance. As such, the lot is subject to the setback requirements established in Section 9.7, which requires that detached accessory structures on lots that are less than 40,000 square feet in size be setback **6'** from the side and rear property lines. The applicant is requesting to reduce the setback requirement for both the side (northern) and rear (eastern) property lines from 6' down to **4'** for a proposed 160 square foot storage shed.

The purpose of side and rear setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of

Staff Report  
Jefferson County Board of Zoning Appeals  
September 28, 2023  
**23-27-ZV Tennant Variance Request**

the structure is feasible; to maintain adequate separation between structures for fire prevention purposes; and to allow room for utility easements.



Article 9 of the Zoning Ordinance includes several exceptions and modifications to the height and setback standards, including Section 9.7, which regulates lots created prior to the adoption of Zoning. It is worth nothing that Section 9.6A includes a provision which allows storage sheds that are 150 square feet or less in size to be as close as five feet from a property line. The proposed shed is 160 square feet in size and the applicants would like to construct it four feet from the side and rear property lines.

The adjoining lot to the north contains a dwelling unit that is approximately 65' from the shared property line (see exhibit below). The adjoining property to the east is Potomac Farms Nursery. The applicant provided a letter of support, signed by both of the property owners affected by the request.



Staff Report  
Jefferson County Board of Zoning Appeals  
September 28, 2023  
**23-27-ZV Tennant Variance Request**



Pursuant to [WV Code Chapter §8A-7-11](#) and Article 2 of the [Jefferson County Zoning Ordinance](#), a variance is defined as "...a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land."

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 6, Section 6.2 of the [Zoning Ordinance](#), the Board shall consider the following criteria and shall grant a variance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. No business may be operated from this structure without further review from the Board.

Staff Report  
Jefferson County Board of Zoning Appeals  
September 28, 2023  
**23-27-ZV Tennant Variance Request**

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 9.7 Other Exceptions<sup>3</sup>**

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:<sup>23</sup>

Residential Growth District<sup>23</sup>

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear

**For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.**



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 23-272V  
 Staff Initials: GH  
 Meeting Date: 9/28/23  
 Fees Paid (\$100 or \$150): 100

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

**Zoning Variance Request**

*Variations from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: Sharon M Tennant  
 Mailing Address: 323 Woodcock Ave Shepherdstown, W.V. 25443  
 Phone Number: 304 820-6038 Email: smtennant1@gmail.com

**Applicant Contact Information**

Name: S/A  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)**

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 323 Woodcock Ave. Shepherdstown, W.V. 25443  
 City: Shepherdstown State: W. Va. Zip Code: 25443  
 Tax District: 9 Map No: 7C Parcel No: \_\_\_\_\_  
 Parcel Size: .48 Deed Book: 1227 Page No: 380

**Zoning District (please check one)**

09007C00070000

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**RECEIVED**

AUG 14 2023

JEFFERSON COUNTY PLANNING  
 ZONING & ENGINEERING

Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Section 9.7 (gH)

Briefly describe the nature of the variance request:  
\* Placement of a 10' x 16' shed 4' from the side & rear property line. (gH)

If this request is for a setback variance, please check one of the following:  
Front Setback  Side Setback  Rear Setback  Reduction From 6' to 4'

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:  
Mulch Plant behind - 6ft fence on side neighbor.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?  
4 feet or 10' they have a 6ft fence and a big dog. I feel knowing Elly like we do. It is no problem.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?  
Really thats the only nice almost flat part of the yard.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?  
The placement of Shed will be measured from groundstreak and visible.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

 08-11-23  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

**Notification Requirements (to be completed by staff)**

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

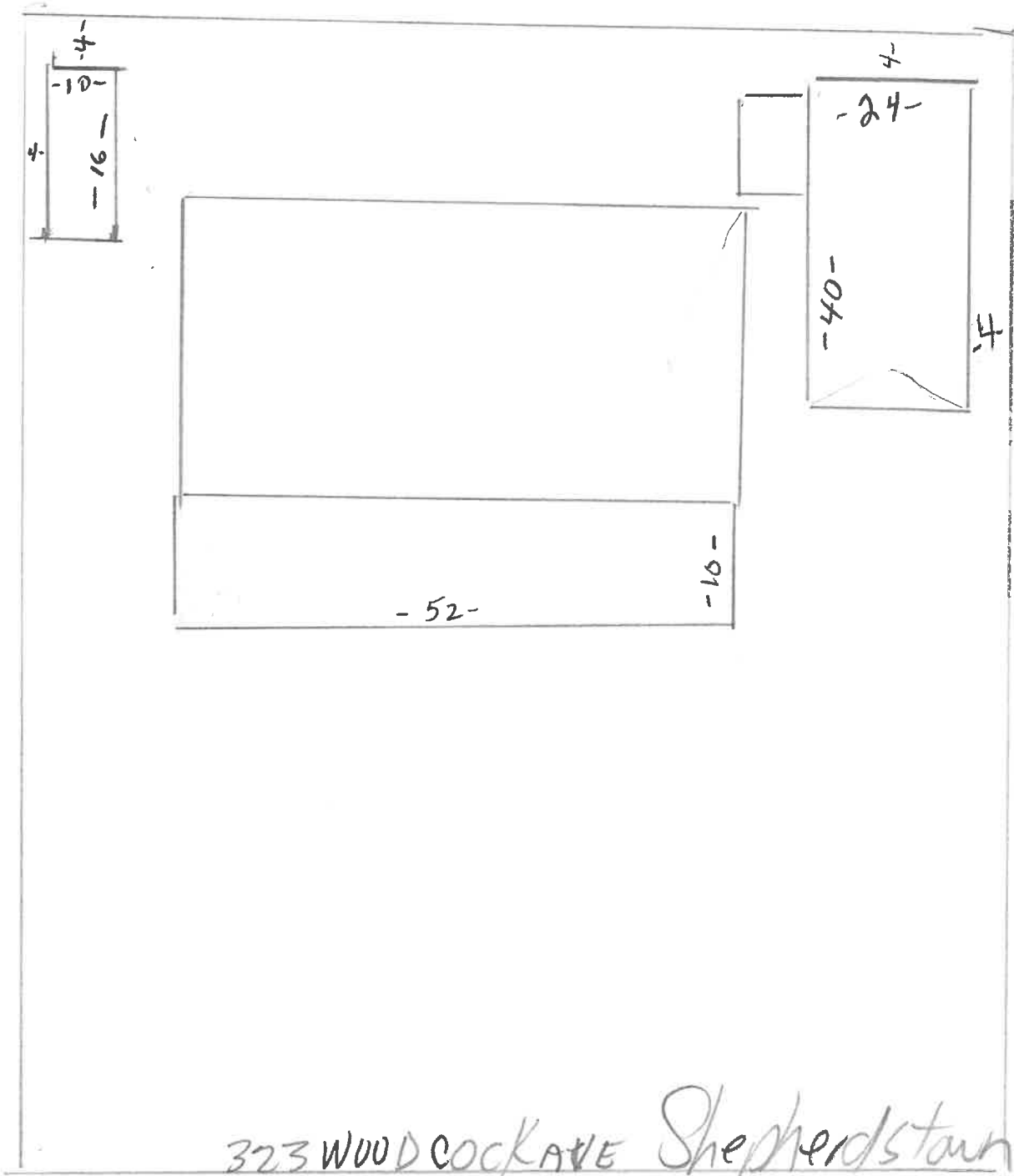
09-28-23  
Date of Public Hearing

09-13-23  
Advertising Date

09-13-23  
Placard Posting Date

08-11-23

New  
10x16



← O.Ked  
5/22

Elly

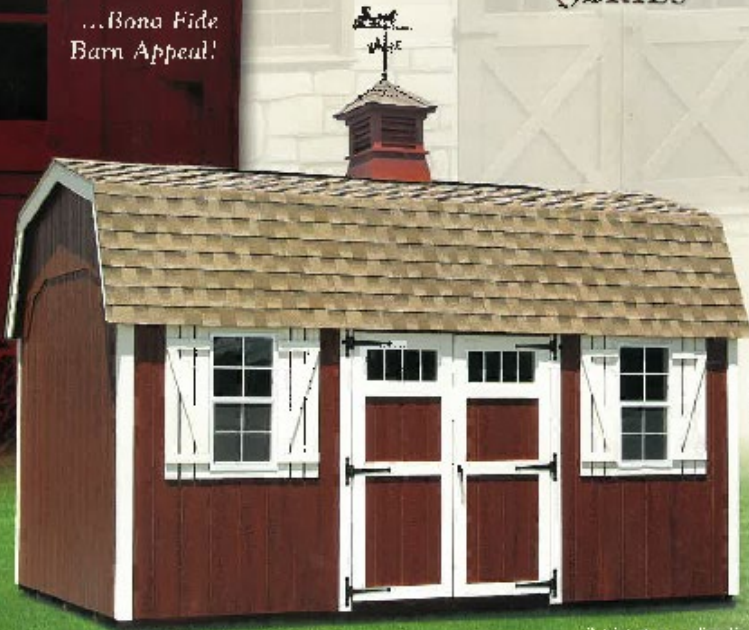
341 Gerry Burgers



Maximized  
Storage...

...Bona Fide  
Barn Appeal!

# THE TRADITIONAL GAMBREL BARN SERIES



© Pine Creek Structures, Inc. 112



12 x 20 Highwall Barn\*



10 x 16 Dutch Barn\*



10 x 14 Dutch Barn\*

10 x 16  
New England  
Dutch Barn\*



12 x 20 Dutch Barn\*

08-11-23  
323 Woodcock Ave  
Shepherdstown, W. Va  
25443  
304-820-6058

Neighbors, R Eliseo & Lowe Products

As your neighbor Sharon Tennant, I am requesting your signature of approval as I am submitting to the Jefferson County board of zoning for a variance request of 4' setback to place a 10' by 16' storage shed adjacent to your property.

Sincerely, Sharon Tennant

*Sharon*  
2026

RECEIVED

AUG 14 2023

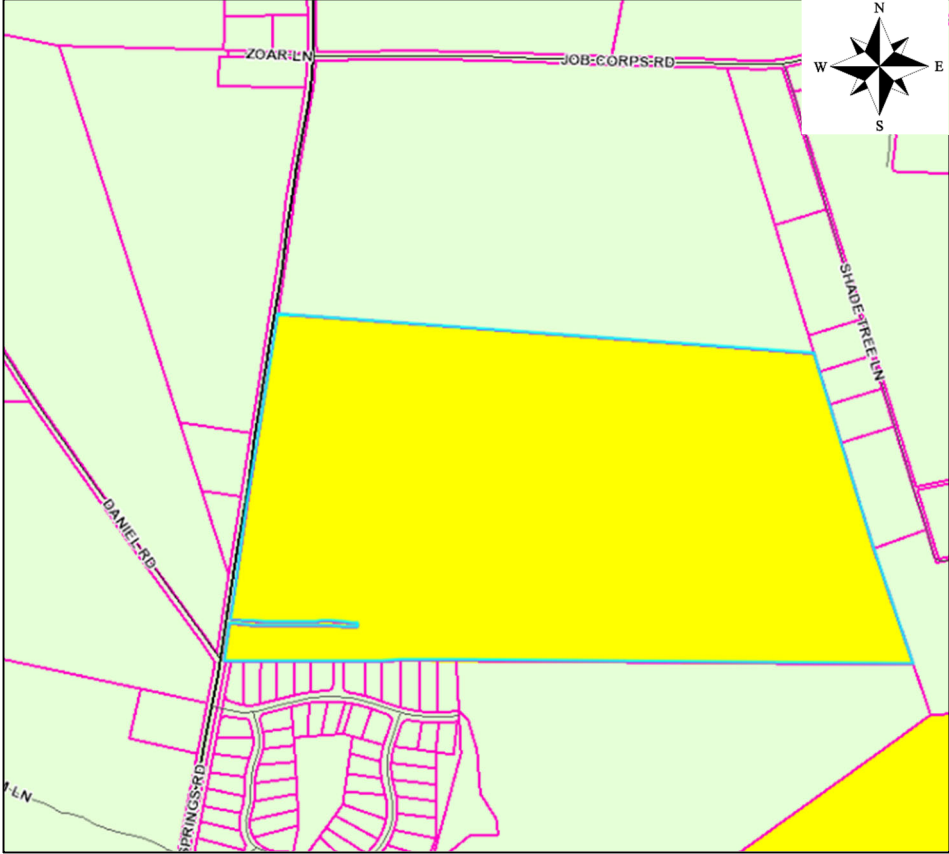
JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING



Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 28, 2023

**23-28-ZV Stonecrest (Model Home Lot) Variance Request**

Item #2 Variance request from Section 8.10 to allow placement of a staffed model home on Lots 36 & 37 to increase visibility for incoming visitors.

Owner/ Applicant:	Flowing Springs Road LLC / Contact:
Consultant	Integrity Federal Services (IFS) / Contact: Mark McDonald
Parcel Information and Zoning District:	<p style="text-align: center;">Stonecrest Subdivision, Lots 36 &amp; 37,          Vacant lots on Atkinson Street, Charles Town, WV          Parcel ID: 02000300090000; Size: .24 and .16 ac (respectively);          Zoning District: Residential Growth</p> 
History:	<p>02/13/23: Stonecrest Minor Subdivision, Lot 1 and Lot 2- Residue (Plat Book 26, Page 522)          08/21/23: Stonecrest Subdivision, Phase 1 (Plat Book 26, Page 601)</p>
Waivers/Variances:	<p>10/11/22: PC granted the following waivers:</p> <ul style="list-style-type: none"> <li>a) 22-21-PCW: Waiver from Sec. 21.101.A to allow more than six lots on a single block.</li> <li>b) 22-22-PCW: Waiver from Sec. 21.104.A to reduce the minimum lot width from 80' to 65'.</li> <li>c) 22-23-PCW: Waiver from Sec. 24.113.B.10 to eliminate the requirement for a Phase I archaeological study and a historic resources impact study to be included with the Preliminary Plat.</li> </ul>
Site Visit Conducted:	No

Staff Report  
Jefferson County Board of Zoning Appeals  
September 28, 2023

**23-28-ZV Stonecrest (Model Home Lot) Variance Request**

**Staff Overview**

The applicant is requesting a variance from Section 8.10 to allow a staffed model home on Lots 36 and 37 within Phase 1 of the Stonecrest Subdivision.

Section 8.10 of the Zoning Ordinance states, “Model homes with a staffed sales office for sales exclusively within the residential subdivision in which they are located are permitted provided that they are contained on the first lot on either or both sides of any road/right-of-way that enters the subdivision;... Model homes with a staffed sales office in any other location within the subdivision must be approved or denied by the Board of Zoning Appeals...”

The purpose of the requirement to place staff model homes on the first lot(s) on either/both sides of a road/right-of-way that enters the subdivision is to limit the amount of non-residential traffic coming in and out of the subdivision as a means to minimize traffic impact on adjacent homes.

The final plat for Stonecrest was recorded on August 21, 2023 and none of the lots have been sold or built on; therefore, any future buyers will be aware of the location of the staffed model home at the time of purchase. Additionally, while Lots 36 and 37 do not technically meet the requirement of Section 8.10, they are located off of Atkinson Street, which is a main thoroughfare in the subdivision.

The applicant’s exhibit below identifies the permitted locations verses the requested locations of the staffed model home sites.

*\*Note: a model home without staffed sales offices are permitted anywhere within the subdivision.*



Staff Report  
Jefferson County Board of Zoning Appeals  
September 28, 2023

**23-28-ZV Stonecrest (Model Home Lot) Variance Request**

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 2 of the [Jefferson County Zoning Ordinance](#), a variance is defined as “...a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land.”

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 6, Section 6.2 of the [Zoning Ordinance](#), the Board shall consider the following criteria and shall grant a variance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. Staffed sales office shall be used exclusively for sales of lots within the Stonecrest Subdivision.

**Section of Ordinance to be Considered**

**Section 8.10 Model Homes/Sales Offices**

Model homes with a staffed sales office for sales exclusively within the residential subdivision in which they are located are permitted provided that they are contained on the first lot on either or both sides of any road/right-of-way that enters the subdivision; provided also that they are so designated on the preliminary and final plats during the subdivision process.

Model homes with a staffed sales office in any other location within the subdivision must be approved or denied by the Board of Zoning Appeals after a public hearing advertised for 15 days.

Model homes without staffed sales offices are permitted internally within the subdivision.





**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 23-28-ZV  
 Staff Initials: AB  
 Meeting Date: 09/28/23  
 Fees Paid (\$100 or \$150): \$100.00

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

**Zoning Variance Request**

*Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: Flowing Springs Road, LLC - William Reilly  
 Mailing Address: 21631 Ridgetop Circle, Sterling, VA 20133  
 Phone Number: 704-444-4100 Email: bill@championtitle.com

**Applicant Contact Information**

Name: DR Horton  
 Mailing Address: 181 Harry S. Truman Parkway, Suite 250, Annapolis, MD 21401  
 Phone Number: 443-223-2032 Email: WRSudeck@drhorton.com

**Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)**

Name: Mark A. McDonald  
 Mailing Address: 148 S. Queen Street, Suite 201, Martinsburg, WV 25401  
 Phone Number: 304-725-8456 Email: mmcdonald@ifs-ae.com

**Physical Property Details**

Physical Address: Heading North on Flowing Springs Rd. the parcel is across from Fellowship Bible Church  
 City: Shenandoah Junction State: WV Zip Code: 25442  
 Tax District: Charles Town Map No: 3 Parcel No: 9  
 Parcel Size: 102 Acres Deed Book: 1255 Page No: 569

**Zoning District (please check one)**

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**RECEIVED**  
**AUGUST 21, 2023**  
 Jefferson County, WV  
 Office of Planning & Zoning

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: \_\_\_\_\_

Briefly describe the nature of the variance request:

See attached.

If this request is for a setback variance, please check one of the following:

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ to \_\_\_\_\_

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

See attached.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

See attached.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?


See attached.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

See attached.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

 9/13/23  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

September 28, 2023  
Date of Public Hearing

September 13, 2023  
Advertising Date

September 13, 2023  
Placard Posting Date

**Stonecrest Subdivision**  
**Zoning Variance Request (Model Home)**  
August 21, 2023

**Reference the section of the Zoning Ordinance pertaining to this request:**

**Section 8.10 Model Homes/Sales Offices:**

*Model homes with a staffed sales office for sales exclusively within the residential subdivision in which they are located are permitted provided that they are contained on the first lot on either or both sides of any road/right-of-way that enters the subdivision; provided also that they are so designated on the preliminary and final plats during the subdivision process.*

*Model homes with a staffed sales office in any other location within the subdivision must be approved or denied by the Board of Zoning Appeals after a public hearing advertised for 15 days.*

*Model homes without staffed sales offices are permitted internally within the subdivision.*

**Briefly describe the nature of the variance request:**

It is requested that lots 36 and 37 are available for use as a Model Home/Sale Office to increase sightlines for incoming visitors from the traffic circle to the sales office. This will promote better circulation, wayfinding and reduce congestion. (Flowing Springs Road, County Route 17).

**Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:**

The proposed sales office lots are across Atkinson Street from the previously approved model home locations (lots 66 & 67). Both the previously approved and proposed lots for the sales office will not have driveway access from the primary entry road (Stonecrest Avenue) and are similar in location. Switching the sales office to the opposite side of the street will have no adverse impacts on public health, safety or welfare, or the rights of adjacent property.

**In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?**

With the roundabout and the perpendicular roadway Atkinson Street being located at the entryway to the site, locating the model home/sales office on the “road that enters the site” arises three issues not typically associated with the zoning requirement.

- a) The first lot with direct access to an entryway road (Stonecrest Avenue) is located significantly further away from subdivision’s entrance (+/- 800 feet) at the corner of the intersection between Stonecrest Avenue and Sanders Way.

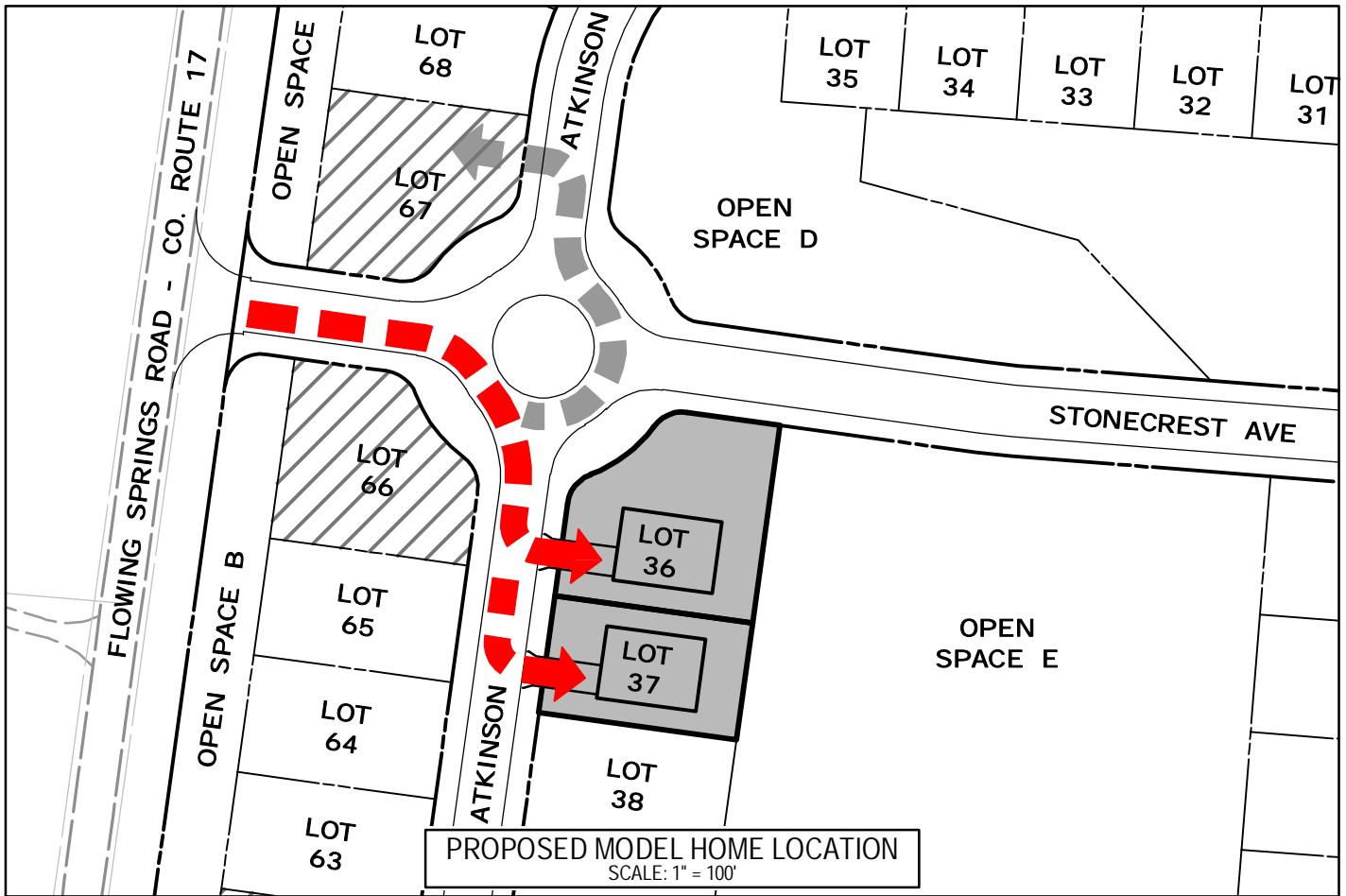
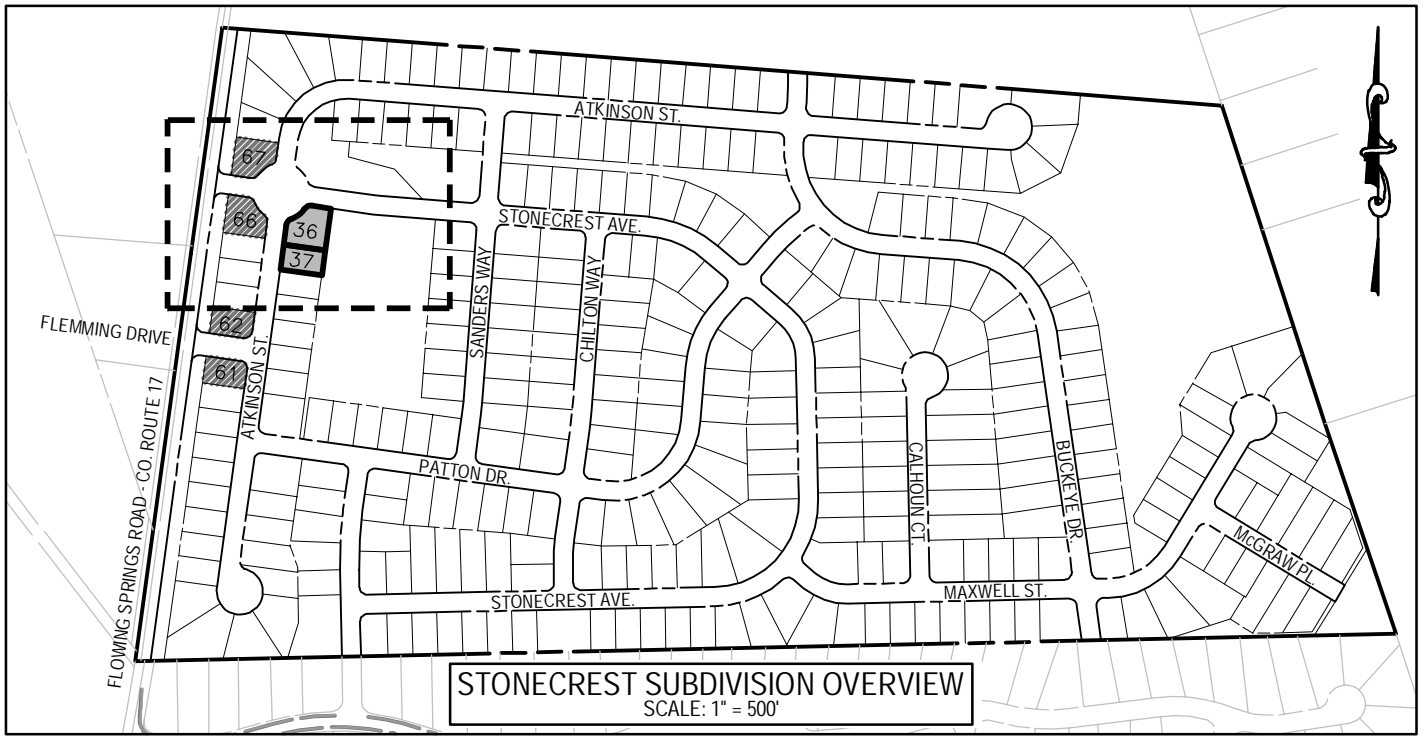
- b) The first lots with frontage (no direct access) to an entryway road (Stonecrest Avenue and Fleming Drive) are accessed from Atkinson Street (due to safety concerns of providing access on the entry roads). This positioning (lots 61, 62, 66, 67) forces access to the model homes to be achieved by making a 180 turn from the entrance. With standard vehicular traffic rates to a single-family home this is not considered an issue; however, model homes/sales office usage typically results in a temporary increase in traffic volume, of which the 180 degree traffic pattern is not desired.
- c) With standard Model Home/Sales Office placement, the building faces the entry roadway and is easily identified upon entry to the subdivision. As previously discussed, since lots 61, 62, 66, and 67 face Atkinson Street, the buildings cannot be easily identified as model homes/sales offices.

**How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?**

The subdivision design incorporates both a traffic circle and restricting driveway access until Stonecrest Avenues second internal road intersection (Sanders Way). These design features are to reduce congestion and conflicts until traffic may begin to disperse onto the subdivisions internal secondary road system. While these design features enhance the circulation of the overall subdivision, they do not provide the temporary sales office the best sightlines for wayfinding or direct access to the primary entry road. The Ordinance does not account for these design conditions when determining where to locate a sales office. This creates an unnecessary hardship in that the sales office location may not be placed in the logical and safest location.

**How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?**

It is of the opinion of IFS, placing the model homes/sales offices on lots 36 and 37 provide visitors the most easily identifiable and direct access to the model home, meeting the intention of Section 8.10 of placing the model homes/sales offices on the first lot of the road that enters the subdivision.



# STONECREST SUBDIVISION

## MODEL HOME VARIANCE EXHIBIT



**INTEGRITY  
FEDERAL SERVICES**

CIVIL ENGINEERING • LANDSCAPE ARCHITECTURE • PLANNING

148 S. Queen Street, Suite 201 • Phone: 304-725-8456  
Martinsburg, WV 25401 • www.ifs-ae.com

SCALE: VARIES
DATE: JULY 28, 2023
JOB: 2582-0103
DRAWN: JCH
CADD:
SHEET:

**JEFFERSON COUNTY, WEST VIRGINIA**  
**Office of Planning & Zoning**  
116 East Washington Street  
P.O. Box 716  
Charles Town, West Virginia 25414


Phone: (304) 728-3228  
Fax: (304) 728-8126

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

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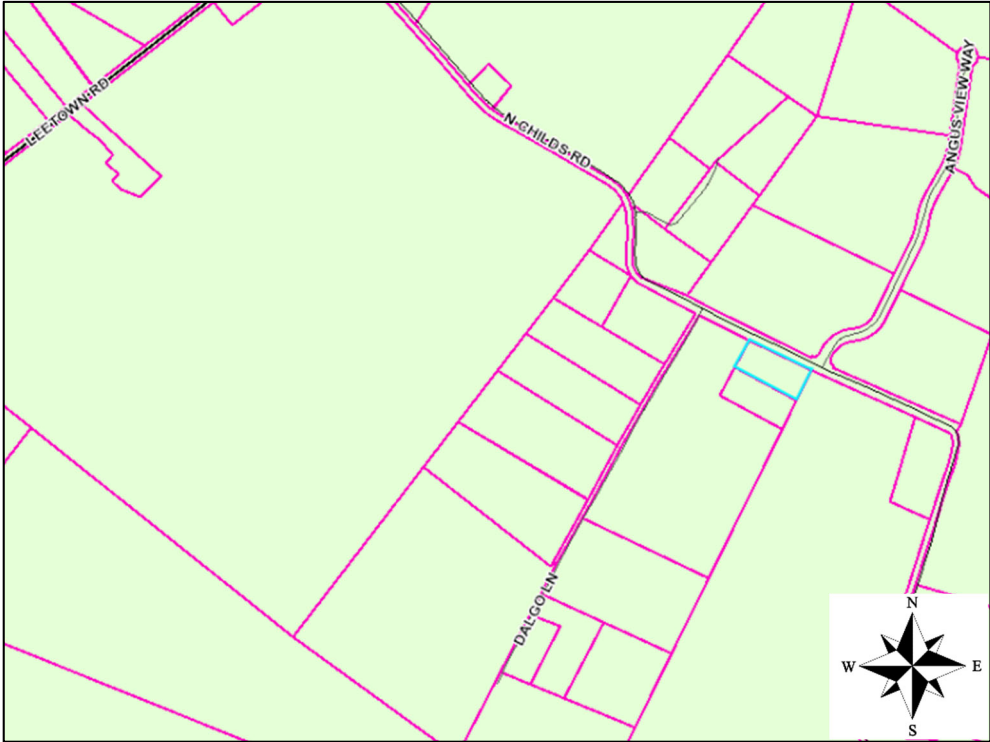
File Number: 23-28-ZV

I authorize Planning and Zoning staff to make necessary revisions to the enclosed submission, if required for processing. I understand that said revisions will be discussed with me prior to content modification.

Applicant PRINTED Name: William Reilly  
Applicant Signature:   
Contact Number: (603) 929-1751  
Date: 8/3/23

Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 28, 2023  
**23-29-ZV Wolfe Variance Request**

Item #3 Variance request from Section 5.7(b) of the Zoning Ordinance (amended 09/28/06) to reduce the front setback from 40' to 17' along the eastern property line for a 30' x 30' (900 sf) detached garage; and from Section 9.6C to allow an accessory structure in the required front yard.

Owner:	Charles and Shelly Wolfe, Jr.
Parcel Information and Zoning District:	1223 N. Childs Road, Kearneysville, WV Parcel ID: 07001700100014; Size: 1.18 ac; Zoning District: Rural
	
History:	Carlos McDaniel Minor Subdivision recorded on 03/26/07 in Plat Book 24, Page 4
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit Conducted:	No.

**Staff Overview**


The subject parcel is Lot 1 of the Carlos McDaniel Minor Subdivision, which was recorded in 2007. Pursuant to Section 5.7(b) and Note #20 on the recorded [final plat](#), the required setbacks are 40' Front, 15' Side, and 50' Rear. The applicant is requesting to reduce the front setback along the eastern property line from 40' to 17' for a 30' x 30' detached garage (900 square feet).

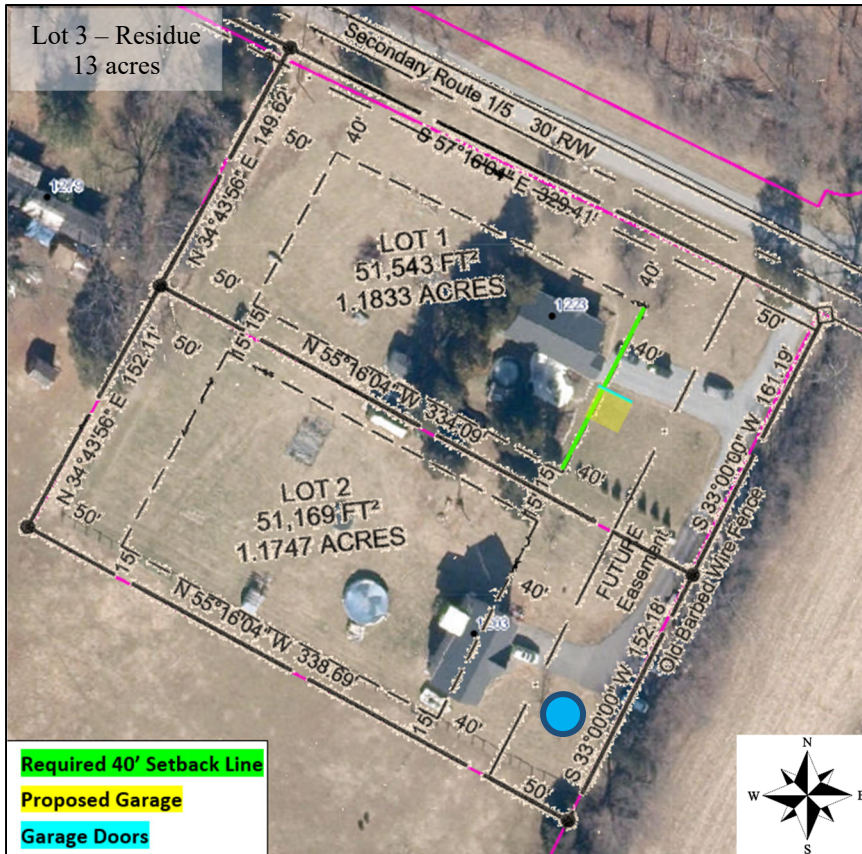
A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that traffic visibility is not impaired for drivers along the right-of-way. **Note:** Should Lot 3 of the Carlos McDaniel Minor Subdivision choose to further subdivide, the access easement will not have to be widened as easement meets the 50' wide requirement per the Subdivision Regulations.

The subject lot has two front yard designations – one along N. Childs Road (State Route 1/5) and another along the platted 50' access easement, which was created as part of the minor subdivision

Staff Report  
Jefferson County Board of Zoning Appeals  
September 28, 2023  
**23-29-ZV Wolfe Variance Request**

approval to provide access to the adjoining Lot 2. The request is to place the proposed detached garage 17' from the edge of the platted access easement, which means that the structure will actually be 67' from the eastern property line.

The applicant included a letter of support from the adjacent property owner to the south (Sneathen ) who shares the 50' access easement.



It should be noted that the Zoning Ordinance was amended in 2011 to create a definition for Corner Lot, which is a lot that abuts two intersecting streets. The subject lot fronts N. Childs Road, as well as the platted 50' wide access easement that serves less than five lots. Under the current Zoning Ordinance, the subject lot would be classified as a Corner Lot and would be permitted to utilize the 15' Side Setback requirement. However, because the final plat delineates the subject property line as a front property line with a 40' setback measured from the edge of the access easement, the amended provision is not applicable.

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 2 of the [Jefferson County Zoning Ordinance](#), a variance is defined as "...a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land."

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 6, Section 6.2 of the [Zoning Ordinance](#), the Board shall consider the following criteria and shall grant a variance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 28, 2023  
**23-29-ZV Wolfe Variance Request**

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. No business may be operated from this structure without further review from the Board.

**Section of Ordinance to be Considered:**

SECTION 5.7 Rural District

(b) Minimum Lot Area, Lot Width and Yard Requirements

Minimum lot sizes, lot width, and yard requirements are as follows for principal permitted uses. For any residential use that complies with the Development Review System, the setbacks and lot shall be as outlined in Article 5.4(b).

	Lot Area	Lot Width	Front Yard Depth	Side Yard Depth	Rear Yard Depth
Dwellings	40,000 sq. ft.	100	40	15	50
Churches	2 acres	200	50	50	50
Schools, Grades K-4	10 acres +	500	100	100	100
Schools, Grades 5-8	20 acres +	500	100	100	100
Schools, Grades 9-12	30 acres +	500	100	100	100
Hospitals	10 acres	500	100	100	100
Other permitted uses	40,000 sq. ft.	100	40	50	50

**Section 9.6 Accessory Structures**

Accessory structures, defined by Section 2.2, shall be permitted in all districts where single-family and two-family dwelling units are permitted. The provisions for accessory structures are as follows.

- A. The minimum distance to a lot line in any District from a single-story utility or storage shed, not exceeding 150 square feet, shall be five feet.
- B. In any District wherein single-family and two-family dwellings are permitted, the minimum distance from any accessory structure, not attached to the principal permitted use, to the side or rear lot line shall be not less than the longest horizontal dimension of the accessory structure or the minimum distance specified for that District, whichever is the lesser of the two.
- C. No accessory building shall be erected within the required front yard.





**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**

**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 23-29-ZV  
 Staff Initials: gt  
 Meeting Date: 09-28-23  
 Fees Paid (\$100 or \$150): 100-

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

**Zoning Variance Request**

*Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: Charles Wolfe Jr Shelly Wolfe  
 Mailing Address: 1223 North Childs Road Kearneysville WV 25430  
 Phone Number: 304-616-7198 Email: ChazWolfeJr@gmail.com

**Applicant Contact Information**

Name: Same As Owner  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)**

Name: NONE  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 1223 North Childs Road  
 City: Kearneysville State: WV Zip Code: 25430  
 Tax District: 7 Map No: 17 Parcel No: 10.14  
 Parcel Size: 1.18 Deed Book: 1057 Page No: 47

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input checked="" type="checkbox"/>	Residential-Light Industrial-Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>
Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>		

**RECEIVED**

**AUG 21 2023**

**JEFFERSON COUNTY PLANNING ZONING & ENGINEERING**

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Section 5.7B

Briefly describe the nature of the variance request:

Front set Back From 40 Feet TO 17 Feet  
For a 30x30 Garage

If this request is for a setback variance, please check one of the following:

Front Setback  Side Setback  Rear Setback  Reduction From 40 to 17

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

See Attached

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

See Attached

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

See Attached

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

See Attached

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

Charles Wayne Jr 8/19/23  
Signature of Property Owner Date

[Signature] 8/19/2023  
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

09-28-23  
Date of Public Hearing

09-13-23  
Advertising Date

09-13-23  
Placard Posting Date

**Please explain why granting of the variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:**

As the only potentially affected party, Joshua Sneathen has provided a letter stating he has no objection. Please see attached.

**In what way does this request arise from special conditions or attributes which pertain to the property for which variance is sought and which were not created by the person seeking the variance?**

Proposed location is the only usable site on the property, due to all other set backs and septic field.

**How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?**

Without this variance approval, we would only have rights or access to roughly a 1/3 of the total 1.18 acres, which already is occupied by our home. Due to the septic field and set backs there is no other area on the property to build a garage.

**How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?**

As stated, we have no other buildable location on the 1.18 acres for a garage due to the set backs, septic field and shape of the property being rectangular. The zoning ordinance allows variances to be sought under the due public hearing process. And if approved, the variance stands to benefit all parties involved including Jefferson County, with increased property value and justly permitting more usage of the property for the landowner.

sign *Charles Woff* date 8/21/23



# Jefferson County WV My Government Online Map

Jefferson County GIS/Addressing Office

Help





Joshua "Kyle" Sneathen  
1203 North Childs Road  
Kearneysville, WV 25430  
August 19, 2023

Jefferson County Zoning Board of Appeals  
P.O. Box 716  
116 East Washington Street  
Charles Town, WV

RE: Wolfe's Request for Front Set Back Variance

Dear Board Members:

My name is Joshua Sneathen and I have lived next door to Charles & Shelly Wolfe for well over thirteen years. I have no objection to them building a garage on their property; nor object to it being closer to the front set back.

I understand they are seeking a variance from the front set back requirement of 40 feet to 17 feet. As the only neighbor potentially affected by their request, would not oppose the Board granting the set back variance. In actuality, since it would further raise both of our property values, am in favor of their request.

Sincerely,



Joshua K. Sneathen

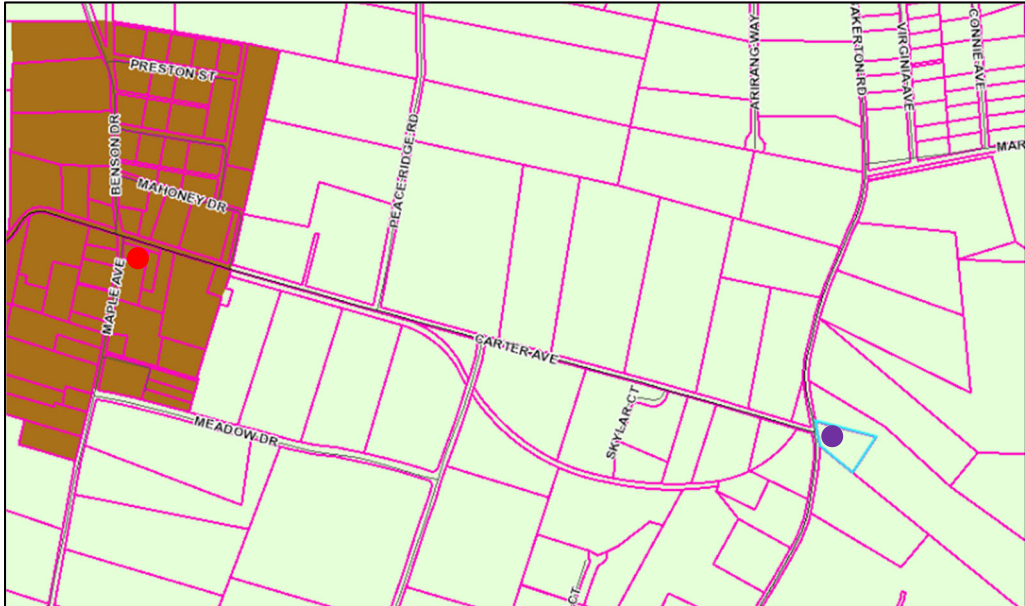
Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 September 28, 2023

**Bakerton Market – Off-Premises Sign**

**Special Exception Request (File #23-2-SE) and Variance Request (File #23-30-ZV)**

Item #4 Request #1: Request for a Special Exception Permit to allow an off-premises sign for Bakerton Market (File #23-1-SE).

Request #2: Variance request from Section 10.5A.4 to reduce the front setback from 25' to 8' for an Off-Premise Sign; and Section 10.5A.5 to allow an Off-Premise Sign to be located closer than 100' to an intersection. (File 23-30-ZV).

Owner/Applicant:	Barbara Sullivan
Applicant:	Bakerton Market / Attn: Kevin Cueller and Katty Vocal
Parcel Info & Zoning District:	<p>Vacant parcel adjacent to 3658 Bakerton Rd, Harpers Ferry, WV                  Parcel ID: 04000300230001; Size: 1.17 ac; Zoning District: Rural</p>  <p>● Proposed Sign Location                  ● Bakerton Market Location</p>
Surrounding Properties:	Zoning Map Designation: North, East, South, and West: Rural
History:	07/30/1979: Boundary Line Adjustment via Deed Book 458, Page 626
Waivers/Variances:	None
Site Visit Conducted:	No

**Staff Overview**

The applicant, Bakerton Market, is requesting to install a 3.5' x 2.5' freestanding sign on the subject vacant parcel property, which is located at the intersection of Bakerton Road and Carter Avenue, approximately 7/10 of a mile from Bakerton Market. As the sign is proposed to be located on a separate parcel from where the market is located, pursuant to Section 10.5 of the Zoning Ordinance, the sign is classified as an Off-Premises Sign and requires a Special Exception Permit.

Article 2 of the Zoning Ordinance defines an Off-Premises Sign as: *A sign structure which directs attention to a business, commodity, service, or entertainment not necessarily conducted, sold, or offered upon the premises where such a sign is located.*

**Bakerton Market – Off-Premises Sign**

**Special Exception Request (File #23-2-SE) and Variance Request (File #23-30-ZV)**

The purpose of Article 10 is to “...regulate all exterior signs and interior signs placed for exterior observance so as to protect property values and the character of the County. Any sign placed on land or on a building for the purposes of identification or for advertising a use conducted therein or thereon shall be deemed to be accessory and incidental to such land, building, or use.”

Off-Premises Signs essentially become the principal or primary use of the property as the business for which they are advertising is not located on the same property. Pursuant to Section 10.5A, Off-Premises Signs require processing a Special Exception Permit before the Board of Zoning Appeals in accordance with the procedures of Section 6.5. The Board’s role in evaluating a Special Exception Permit Application for an Off-Premises Sign is to determine if such a sign conforms to existing state law and does not have a negative effect on the neighborhood or intent of the Zoning Ordinance (see Section 6.5B).

Staff is not aware of any state laws, including regulations under the WV Division of Highways, which would prohibit placement of the sign in the proposed location.

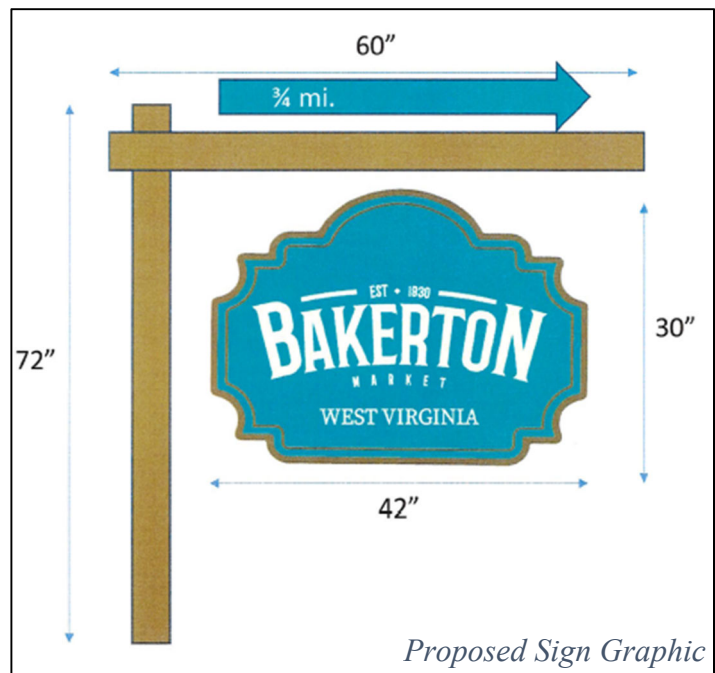
The adjoining parcel to the north & east is owned by the subject parcel’s property owner (Sullivan). The dwelling on the adjoining parcel to the south is approximately 620’ from the proposed sign location while their driveway is located approximately 420’ from the proposed sign location. The dwellings located on the parcels to the west (across Bakerton Road) are approximately 120’ from the proposed sign location (see aerial image on page 3).

The applicant has indicated that the purpose of the proposed sign is to increase awareness for Bakerton Market and to direct traffic accordingly.

The second part of the request is for a variance to deviate from the minimum standards outlined in Section 10.5A as follows:

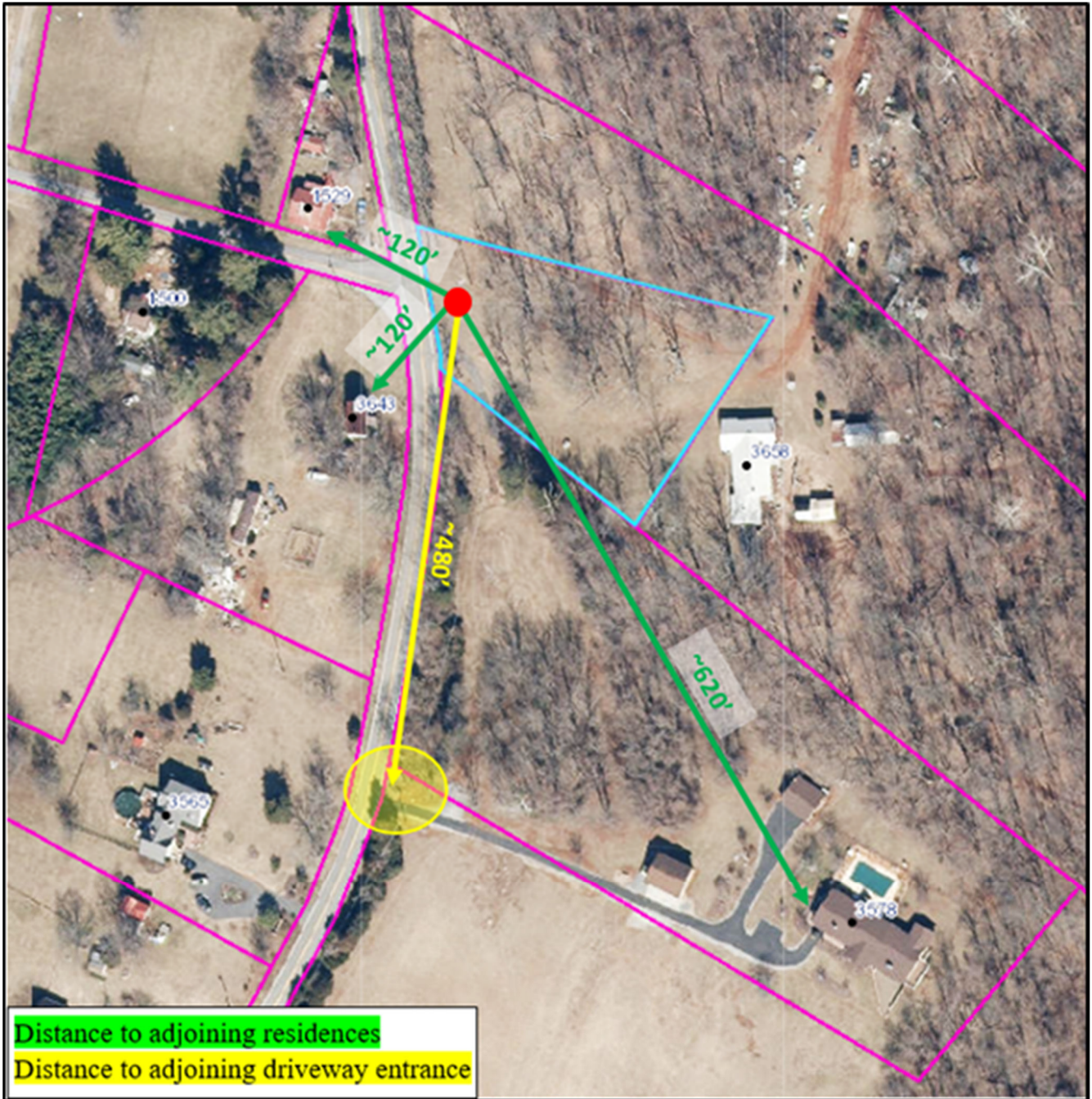
- To reduce the front yard setback from 25’ to 8’ (Section 10.5A.4); and
- Allow the sign to be placed closer than 100’ to an intersection (Section 10.5A.5).

A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that traffic visibility is not impaired for drivers along the right-of-way.



At this point in time, staff is unaware of any plans to expand this section of Bakerton Road (Route 28) which appears to be a platted 50’ wide right-of-way. In order to ensure that the sign is located *outside* of the WVDOH right-of-way area, the applicant can measure 25’ from the centerline of the road, which will provide an approximate location of the front property line for the subject parcel, and pursuant to the subject request the sign would then be placed 8’ from the front property line / 33’ from the center of the improved roadway.

**Bakerton Market – Off-Premises Sign**  
**Special Exception Request (File #23-2-SE) and Variance Request (File #23-30-ZV)**



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
September 28, 2023

**Bakerton Market – Off-Premises Sign**  
**Special Exception Request (File #23-2-SE) and Variance Request (File #23-30-ZV)**



Figure 1 View Northbound Rt. 28



Figure 2 View Southbound on Rt. 28

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. Approval of the Special Exception Permit and Variance request is limited to the subject Bakerton Market sign.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
September 28, 2023

**Bakerton Market – Off-Premises Sign  
Special Exception Request (File #23-2-SE) and Variance Request (File #23-30-ZV)**

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**ARTICLE 10**

**Section 10.5 Signs Requiring a Special Exception Permit**

The following signs shall require processing a Special Exception Permit before the Board of Zoning Appeals pursuant to Section 6.5. Any deviation from the provisions of this section shall require consideration and approval by the Board as part of the Special Exception application.

A. Off-Premises Signs

Signs approved by the Board shall adhere to the following:

1. Off-Premises Signs shall not exceed 60 square feet and shall be no more than 25 feet in height.
2. When located in the commercial/industrial zoning districts, there shall be a minimum of 300 feet between signs.
3. When located in the Rural/residential zoning districts, there shall be 1,000 feet between signs.
4. Off-Premises Signs shall comply with front yard setback provisions in the districts in which they are permitted.
5. Off-Premises Signs shall not be located closer than 300 feet to an intersection on a dual or proposed dual highway or within 100 feet of any other intersection; however, signs may be affixed to or located adjacent to a building at such intersections in such a manner as not to materially cause any greater obstruction of vision than caused by the building itself. No business sign shall be so located to obstruct the vision of traffic using entrance ways, driveways, or any public road intersection.
6. In addition to the provisions herein, electronic signs shall also conform to the criteria outlined in Section 10.7.





**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, 2<sup>nd</sup> Floor  
 P.O. Box 716  
 Charles Town, West Virginia 25414

File #: SE 23 - 2-SE  
 Mtg. Date: 09/28/23  
 Fee Paid: \$ 100  
 Staff Int.: jth

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

**Application for a Special Exception**

The Special Exception process is outlined in Article 6 of the Zoning Ordinance. See Supplemental Handout for additional information.

**Type of Special Exception**

Accessory Dwelling Unit       Off-Premises Sign       Special Event Facility

**Property Owner Information**

Name: Barbara Sullivan  
 Business Name: N/A  
 Mailing Address: 3658 Bakerton Road, Harpers Ferry, WV 25425 Mail  Yes  
 Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_ Response:  No

**Applicant Information**

Name: Kevin Cuellar  
 Business Name: Bakerton Central LLC (DBA: Bakerton Market)  
 Mailing Address: 834 Carter Ave, Harpers Ferry, WV 25425 Mail  Yes  
 Phone Number: 571-422-9731 Email Address: kevin@bakerton.market Response:  No

**Engineer(s), Surveyor(s), or Consultant(s) Information**

Name: None  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Mail  Yes  
 Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_ Response:  No

**Physical Property** \*Vacant parcel adjacent to 3658 Bakerton Rd, Harpers Ferry, WV 25425 (jth)

Physical Address: 3658 Bakerton Road, Harpers Ferry WV 25425  
 Tax District: 4 - Harpers Ferry District Map No: 0003 Parcel No. ~~0023~~ 23.1 (jth)  
 Parcel Size: 1.17 Acres Deed Book: 498 Page No: 419

**Zoning District** (please check one)

Residential Growth (RG)	Industrial Commercial (I-C)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> (jth)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General Commercial (GC)	Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Sketch Plan** (see Supplemental Handout for description)  Attached

The information given is correct to the best of my knowledge.

Barbara B. Sullivan 8/25/2023  
 Property Owner Date

\_\_\_\_\_  
 Property Owner Date

**Property Information:**

Applicant Name(s): Kevin Cuellar

Property Owner Name(s): Barbara Sullivan

Physical Address: \*Vacant ~~3658~~ Baker Tom Rd. Harpers Ferry WV 25425

Parcel ID: ~~-0003-00 73~~ 04000300230001 Zoning District: ~~4--Harpers Ferry District~~ Rural (jth)

**Type of Sign and requirements (defined per Section 2.2):**

*Sign, Off-Premises* "A sign structure which directs attention to a business, commodity, service, or entertainment not necessarily conducted, sold, or offered upon the premises where such sign is located."

1. Off-Premises Signs shall not exceed 60 square feet and shall be no more than 25 feet in height.
2. When located in the commercial/industrial zoning districts, there shall be a minimum of 300 feet between signs.
3. When located in Rural/residential zoning districts, there shall be 1,000 feet between signs.
4. Off-Premises Signs shall comply with front yard setback provisions in the districts in which they are permitted.
5. Off-Premises Signs shall not be located closer than 300 feet to an intersection on a dual or proposed dual highway or within 100 feet of any other intersection; however, signs may be affixed to or located adjacent to a building at such intersections in such a manner as not to materially cause any greater obstruction of vision than caused by the building itself. No business sign shall be so located to obstruct the vision of traffic using entrance ways, driveways, or any public road intersection.
6. In addition to the provisions herein, electronic signs shall also conform to the criteria outlined in Section 10.7.

*Sign, Billboard* "A structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located."

1. No billboard sign face shall exceed a total of 300 square feet in surface area including trim, nor shall it contain more than one message per sign face.
2. No billboard shall exceed 35 feet in height.
3. No billboard shall be closer to any public highway right-of-way than 300 feet.
4. Placement of a billboard must be in a location that is within 800 feet of an existing business.
5. There shall be a minimum of 1000 feet between billboards.
6. A billboard shall be no closer than 500 feet from church, school, or cemetery.

I certify that the sign shall adhere to Section 10.2 and 10.5 of the Zoning Ordinance, as noted above.

Barbara B. Sullivan  
Property Owner Signature

8/25/2023  
Date

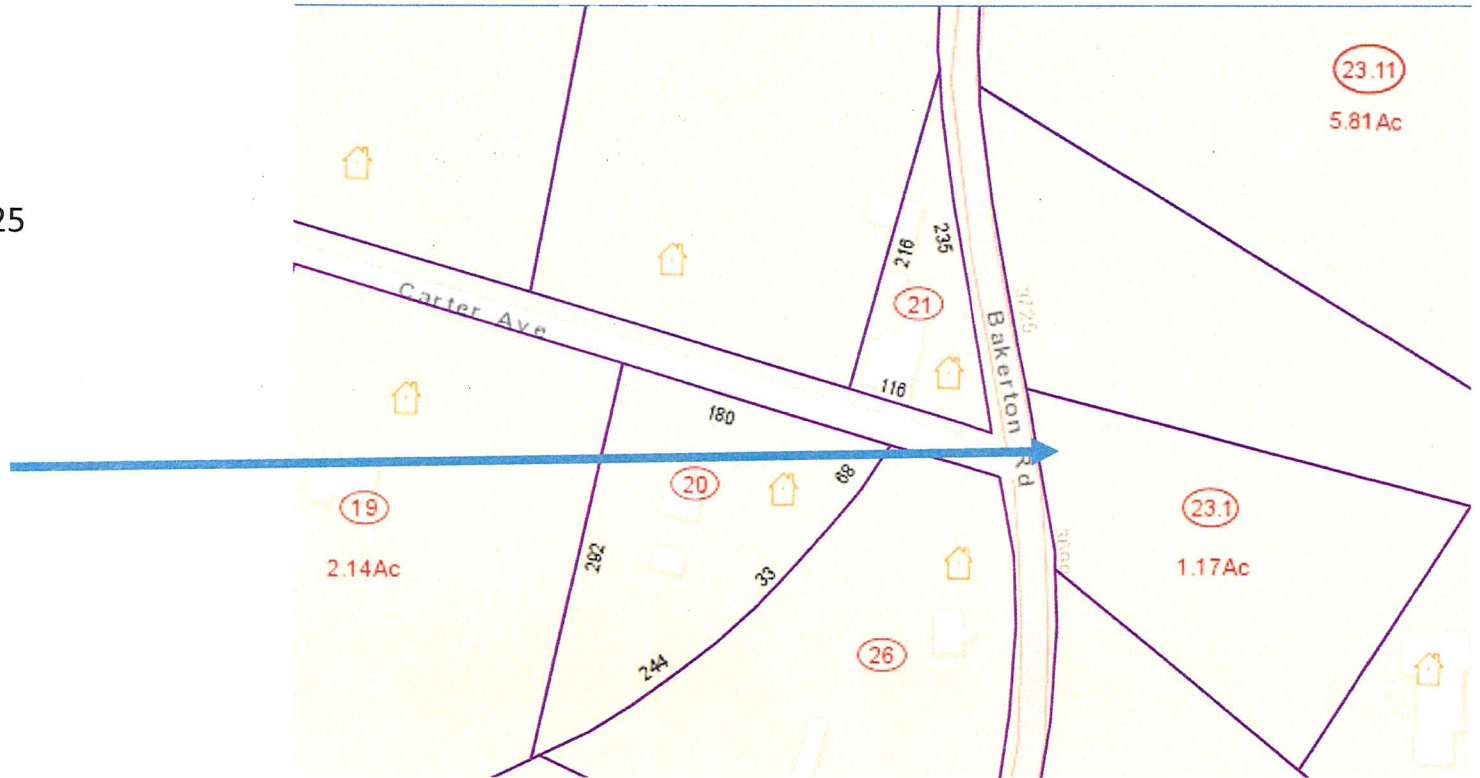
# Bakerton Market Off-Premise Sign Request

**Physical Location:**

3658 Bakerton Road  
Harpers Ferry, WV 25425

**Sign Location Request**

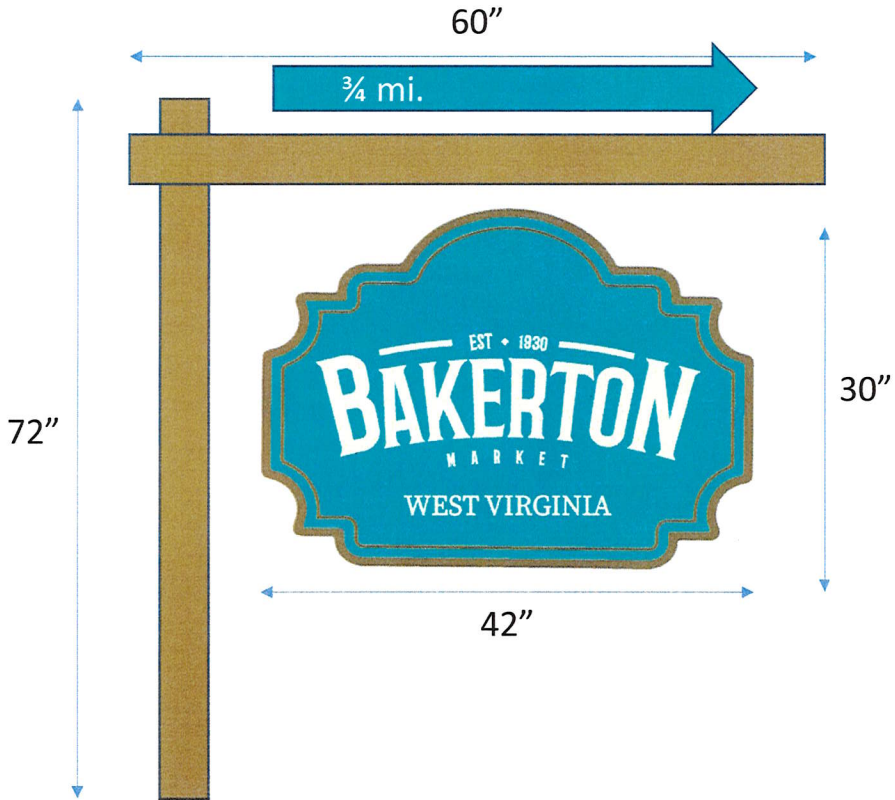
Front set back: 8'  
Side set back: > 10'  
Back set back: > 40'

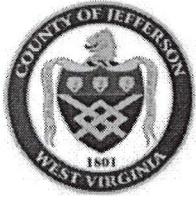


# Bakerton Market Off-Premise Sign Request

**Physical Location:**  
3658 Bakerton Road  
Harpers Ferry, WV 25425

\*Actual Sign Design





**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 23-30-ZV  
 Staff Initials: jth  
 Meeting Date: 09/28/23  
 Fees Paid (\$100 or \$150): \$100

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

**Zoning Variance Request**

*Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: Barbara Sullivan  
 Mailing Address: 3658 Bakerton Road, Harpers Ferry, WV 25425  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Contact Information**

Name: Kevin Cuellar  
 Mailing Address: 834 Carter Ave, Harpers Ferry, WV 25425  
 Phone Number: 571-422-9731 Email: kevin@bakerton.market

**Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)**

Name: None  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details \*Vacant parcel adjacent to 3658 Bakerton Rd., Harpers Ferry, WV (jth)**

Physical Address: 3658 Bakerton Road, Harpers Ferry, WV 25425  
 City: Harpers Ferry State: WV Zip Code: 25425  
 Tax District: 4 - Harpers Ferry District Map No: 0003 Parcel No: 0023.1 (jth)  
 Parcel Size: 0 ; 1.17 Acres Deed Book: 0 498 Page No: 419

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input checked="" type="checkbox"/> (jth)	Residential- Light Industrial- Commercial (R-LI-C) <input checked="" type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
<b>Received via email 08/28/23 (jth)</b> Place Received Date Stamp Here			Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Section 10.2 - General Provisions for Signs

Briefly describe the nature of the variance request:

The signage to be erected has a square footage small enough to not impede on the harmony of the neighborhood. It was designed to complement the surroundings, while still encouraging passersbys of the convenience for food and drink. This request is to post the sign closer to the front property line for appropriate visibility

If this request is for a setback variance, please check one of the following:

Front Setback  Side Setback  Rear Setback  Reduction From 25' to 8'

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

The signage promotes a useful community-oriented retail service that has potential benefit to all residents. This sign communicates wholesome messaging guiding residents in the area to a closer location for food and drink.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

This g lot is surrounded by trees, a house and high shrubs. g. Setting a small sign 25ft back from the front property places it in the middle of the owner's yard does not provide a harmonious look for the neighbor.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

A setback of 25' from the property line places the signage closer to the middle of the owner's property and may actually become a hazard to drivers attempting to get a better visualization of the messaging as they drive by. By placing the signage closer to the road, they are able to safely observe the message

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

This service to the community is the substantial justice. Customers have frequently said if they knew this market was just down the road from them, they wouldn't have to go into town. The Bakerton Market has represented the Bakerton community for almost 100 years. We will carry that tradition including in the design of the sign that meets Zoning Or.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

Barbara B. Sullivan 8/25/2023  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

09/28/23

Date of Public Hearing

09/13/23

Advertising Date

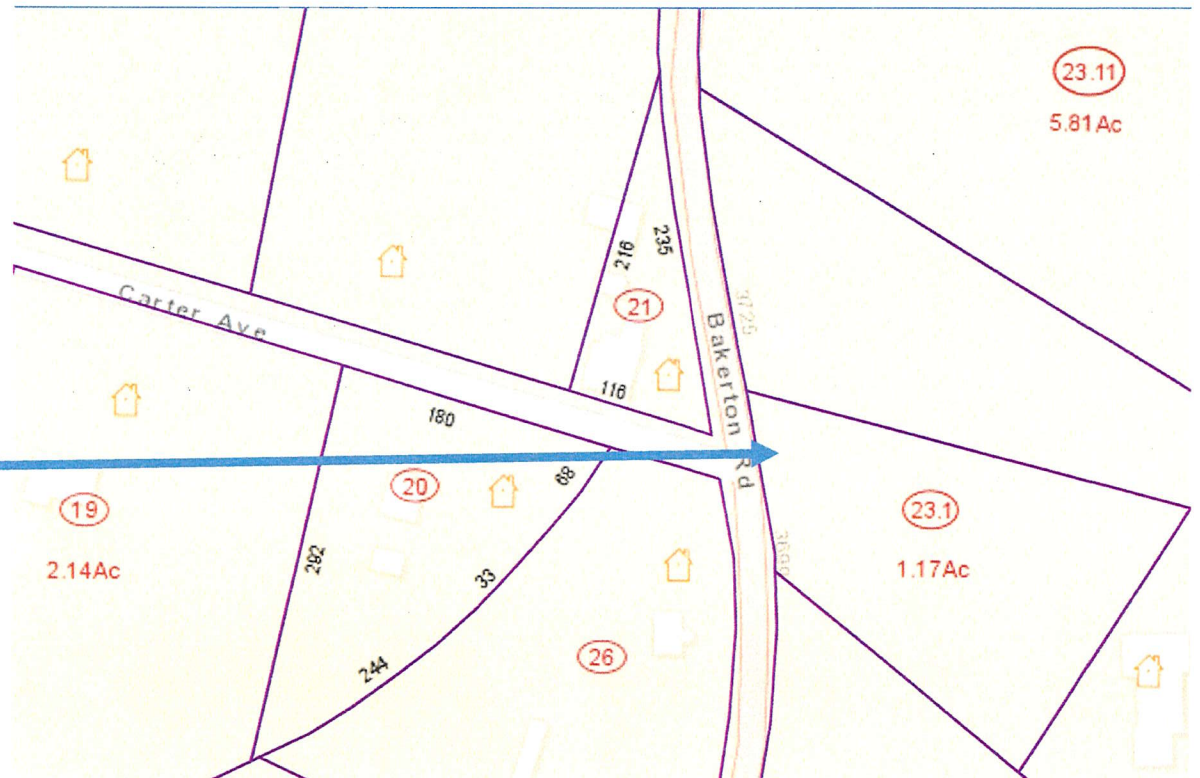
09/13/23

Placard Posting Date

# Bakerton Market Off-Premise Sign Request

**Physical Location:**  
3658 Bakerton Road  
Harpers Ferry, WV 25425

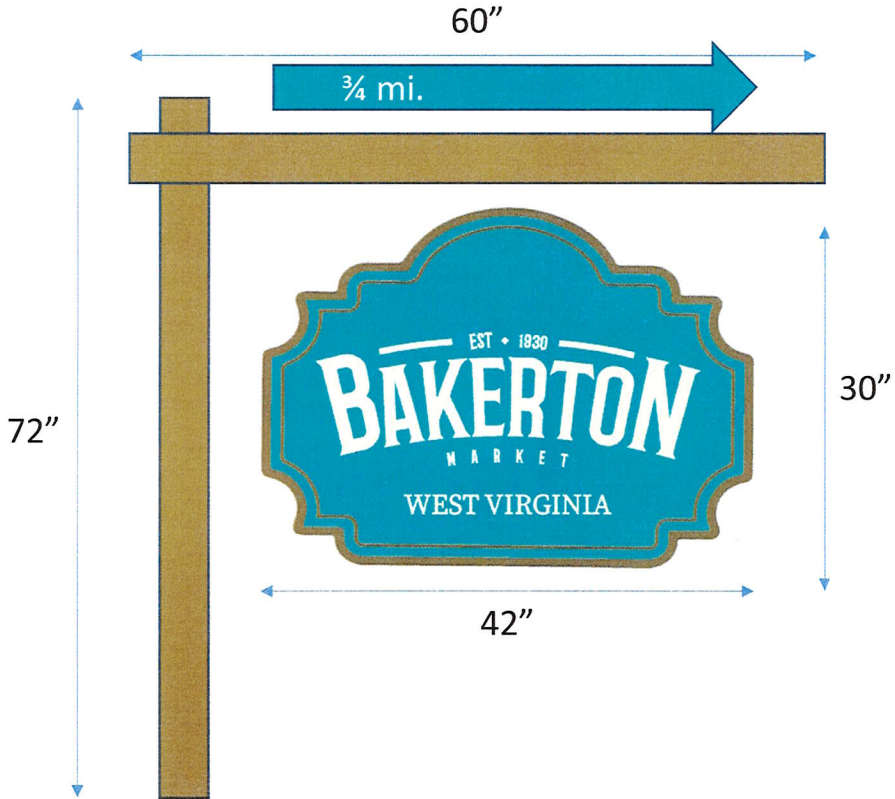
**Sign Location Request**  
Front set back: 8'  
Side set back: > 10'  
Back set back: > 40'



# Bakerton Market Off-Premise Sign Request

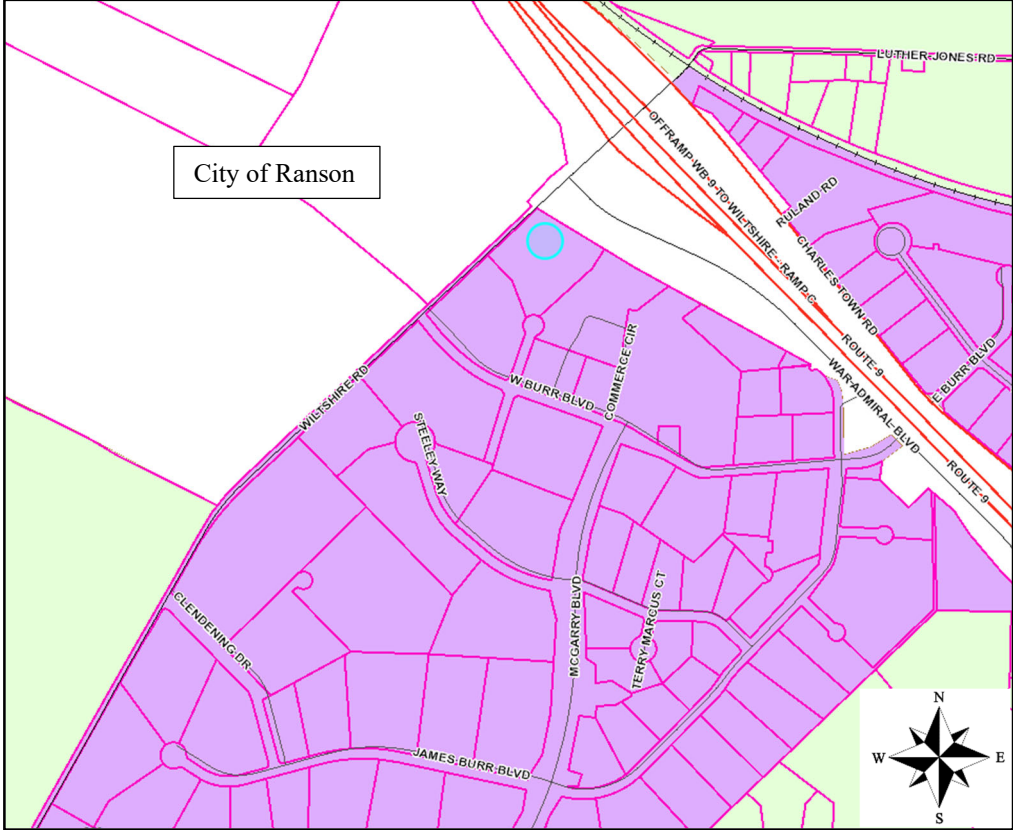
**Physical Location:**  
3658 Bakerton Road  
Harpers Ferry, WV 25425

\*Actual Sign Design



Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 28, 2023  
**23-32-ZV Holtzman Oil (Sign) Variance Request**

Item #5 Variance request from Section 10.4B.2 to increase the permitted freestanding business sign height from 35' to 65'.

Owner:	Charles Town Burr Park Station, LLC / Attn: Richard Koontz, Jr.
Consultant	Holtzman Oil Corp
Parcel Information and Zoning District:	<p style="text-align: center;">Burr Business Park, Lot 16A, 60 War Admiral Blvd., Kearneysville, WV;          Parcel ID: 02000100690000; Size: ~5; Zoning District: Industrial Commercial</p> 
History:	<p>19-4-S: Construction of a Gas Station, Large with ~4,700 sq. ft. convenience store and associated fuel pumps.          22-4-RR: Approved redline revision to include a drive through to the store.</p>
Waivers/Variations:	<p>07/25/19: BZA approved the following variances:</p> <ul style="list-style-type: none"> <li>• 19-16-ZV: Section 10.4B.2 to increase the permitted freestanding business sign height from 35' to 65'. <i>*Sign subject to this request.*</i></li> <li>• 19-17-ZV: App. B and Sec. 4.11E to allow the proposed modified planting standard from a previous variance for lots within the Burr Industrial Park granted in 2016 (ZV16-14) to be utilized; and Sec. 8.9A.10 to allow the street tree standard in lieu of the required 50' landscape buffer strip for lots along or .5 miles from a limited access highway.</li> </ul> <p>02/23/23: BZA approved a variance from Section 10.4B.2 to increase the maximum size of a freestanding sign face from 100 sf. to 122 sf (23-6-ZV).</p>
Approved Activity:	Gas Station and Convenience Store with drive through
Site Visit Conducted:	Site visit conducted 09/14/23

Staff Report  
Jefferson County Board of Zoning Appeals  
September 28, 2023  
**23-32-ZV Holtzman Oil (Sign) Variance Request**

**Staff Overview**

The applicant is requesting a variance from Section 10.4B.2 to increase the permitted freestanding business sign height from 35' to 65'. The subject request is to allow an existing freestanding sign that was previously approved at the increased height of 65' to be relocated on the subject parcel for the Liberty/Circle K gas station.

Sign height is often based on the speed limit of a road with taller/larger signs being permitted along major roads and shorter/smaller signs permitted along local roads with slower speed limits. The applicant has pointed out that visibility of the sign from Route 9 may be impacted “[d]ue to the vertical elevation differential between the site and Route 9”.

In July 2019, the Board approved a request to increase the height of a freestanding sign to 65' on the subject property at the corner of War Admiral Blvd and Wiltshire Road. The sign was erected earlier this year and the applicant has since determined that they would prefer to relocate the sign south of the current location, for placement near the entrance off War Admiral Blvd.



As noted in 2019, there are no other business signs in Burr Park at the proposed height. Most of the businesses in Burr Park have utilized attached business signs. Within close proximity, there is a water tower that appears to be approximately 150' in height (estimated using aerial imagery).

It is worth noting that maximum building height in the Industrial Commercial zoning district is 75'. The sign is still within the permitted maximum height for a building and would have less visual impact than a building of that height.

Staff Report  
Jefferson County Board of Zoning Appeals  
September 28, 2023  
**23-32-ZV Holtzman Oil (Sign) Variance Request**



Google Map Image

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 2 of the [Jefferson County Zoning Ordinance](#), a variance is defined as “...a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land.”

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 6, Section 6.2 of the [Zoning Ordinance](#), the Board shall consider the following criteria and shall grant a variance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. Article 10 allows digital signs by right in the Industrial-Commercial zoning district; therefore, it may be reasonable to include as a condition of approval that if the sign is ever upgraded or the business changes, if a digital sign is proposed, a digital sign would require approval from the Board (if proposed to retain the varied height).

**Section of Ordinance to be Considered:**

**Section 10.4 Signs Requiring a Zoning Certificate<sup>36</sup>**

**B. Freestanding Business Signs**

Freestanding business signs related to the subject land use are permitted, provided:

1. The lot frontage is at least 40 feet.
2. One freestanding sign per street frontage is permitted. The total area for any sign or signs on one supporting structure shall not exceed 100 square feet and **the maximum height of the sign structure shall not exceed 35 feet.**

Staff Report  
Jefferson County Board of Zoning Appeals  
September 28, 2023  
**23-32-ZV Holtzman Oil (Sign) Variance Request**

3. Freestanding business signs shall be located in such a manner that no part of the supporting structure is less than 25 feet from the street right-of-way, and that no part of the sign is closer than five feet to the right-of-way.
4. Freestanding business signs shall not face an adjacent residence.
5. Properties which consist of more than one land use shall be required to use a pylon sign. One pylon sign is permitted on each street frontage.<sup>8, 32, 35</sup>
6. In addition to the provisions herein, electronic signs shall conform to the criteria outlined in Section 10.7.



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 23-32-ZV  
 Staff Initials: AB  
 Meeting Date: 09/28/23  
 Fees Paid (\$100 or \$150): \$100.00

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

**Zoning Variance Request**

*Variations from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: EPIC at Burr Park, LLC  
 Mailing Address: 17037 Bold Venture Dr. Leesburg Va 20176  
 Phone Number: (703) 969-1197 Email: \_\_\_\_\_

**Applicant Contact Information**

Name: Holtzman Oil Corp.  
 Mailing Address: 57 Main Street Mt. Jackson, VA 22842  
 Phone Number: (540) 333-2479 Email: \_\_\_\_\_

**Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)**

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 60 War Admiral Blvd.  
 City: Kearneysville State: WV Zip Code: 25430  
 Tax District: Charles Town Map No: 1 Parcel No: 69/69.1  
 Parcel Size: 5.02 Ac Deed Book: 1103 Page No: 3

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input checked="" type="checkbox"/>	Rural (R) <input type="checkbox"/>	Residential-Light Industrial-Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
<div style="border: 2px solid blue; padding: 5px; width: fit-content;"> <p align="center">RECEIVED            SEPTEMBER 8, 2023            Jefferson County, WV            Office of Planning &amp; Zoning</p> </div>			Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Section 10.4B.2 / AB

**Briefly describe the nature of the variance request:**

Relocate previously installed 65' Brand and Fuel Price Sign to a new location on same property. Sign color, image, structure, lighting and height will remain the same as previously approved. The new location will provide better visibility for motorist on Route 9. To increase maximum height from 35' to 65' for relocation of existing pylon sign. / AB

**If this request is for a setback variance, please check one of the following:**

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ to \_\_\_\_\_

**Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:**

The sign will not change in function from the current approved use and will not negatively impact the public or adjacent property owners.

**In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?**

The intention of the new location of the current 65' sign is to provide great visibility to motorists on Route 9 to have increase time to make more informed and safer decision to navigate to fuel / food / convenience center, especially when traveling from Charles Town.

**How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?**

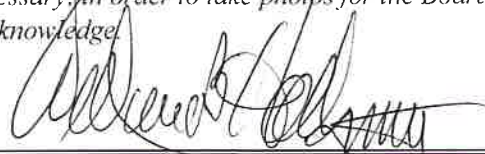
Granting the variance will allow the current sign to function correctly and provide the greatest visibility for motorists traveling on Route 9.

**How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?**

Since the proposed relocation of the existing sign will not change in function or structure, the original intent of the sign and zoning ordinances will still apply. The sign will still not impact adjacent users.

**Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.**

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

 9-10-23

Signature of Property Owner Date

REVISED Page 2 - RECEIVED  
SEPTEMBER 8, 2023  
Office of Planning & Zoning

Signature of Property Owner Date

**Notification Requirements (to be completed by staff)**

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

September 28, 2023  
Date of Public Hearing

September 13, 2023  
Advertising Date

September 13, 2023  
Placard Posting Date

**JEFFERSON COUNTY, WEST VIRGINIA**

**Office of Planning & Zoning**

116 East Washington Street

P.O. Box 716

Charles Town, West Virginia 25414

Phone: (304) 728-3228

Fax: (304) 728-8126

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

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File Number: 23-32-ZV

I authorize Planning and Zoning staff to make necessary revisions to the enclosed submission, if required for processing. I understand that said revisions will be discussed with me prior to content modification.



Applicant PRINTED Name:

Andrew S. HOLTZMAN

Applicant Signature:

*Andrew S. Holtzman*

Contact Number:

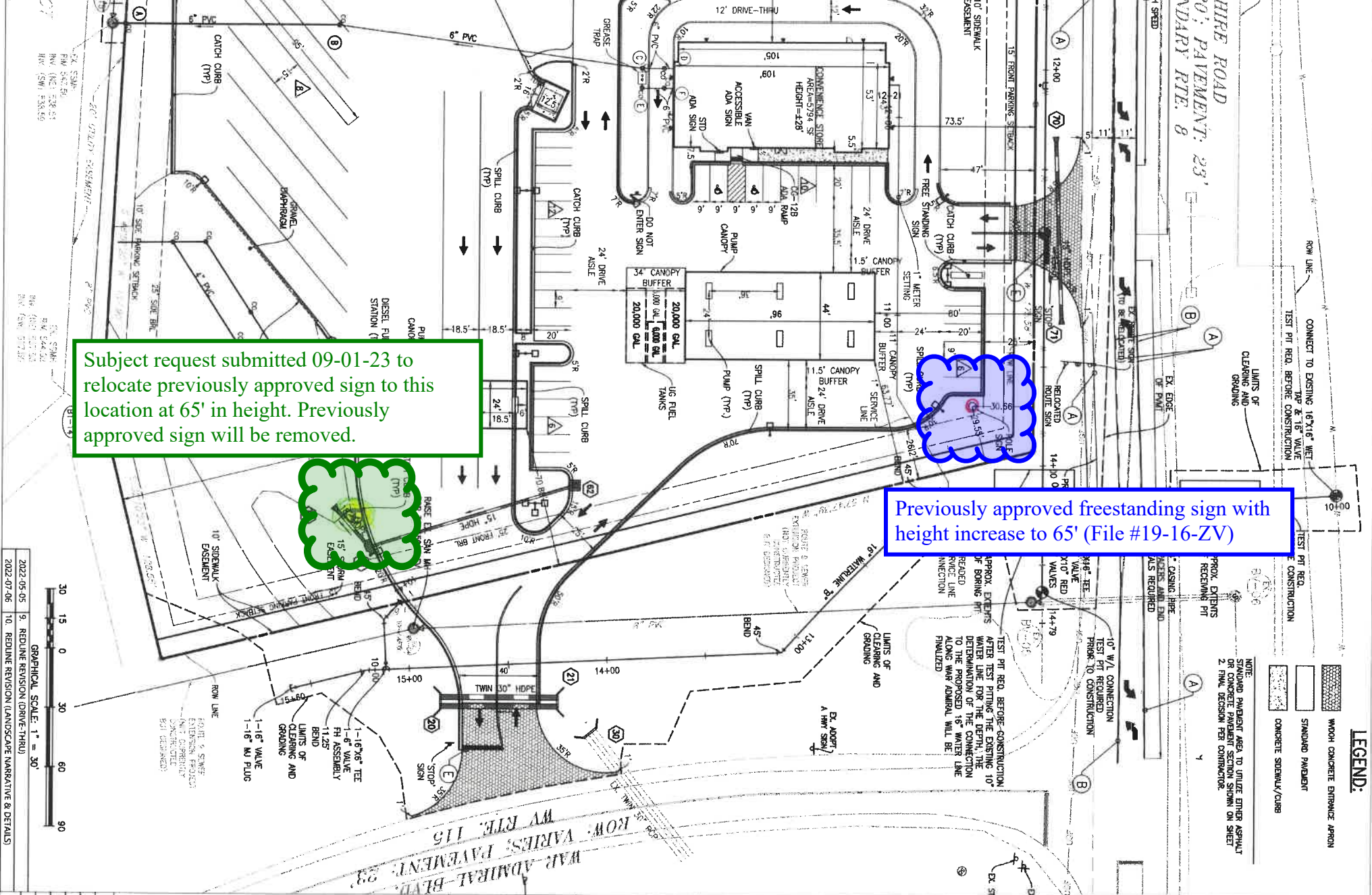
540-477-3131

Date:

8.20.23

Subject request submitted 09-01-23 to relocate previously approved sign to this location at 65' in height. Previously approved sign will be removed.

Previously approved freestanding sign with height increase to 65' (File #19-16-ZV)

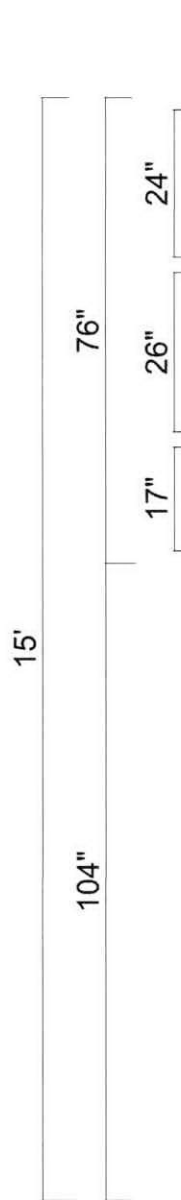


2022-07-06 10. REDLINE REVISION (LANDSCAPE & DETAILS)  
 2022-05-05 9. REDLINE REVISION (DRIVE-THRU)  
 GRAPHICAL SCALE: 1" = 30'

JOB NO.: 20783 SCALE: 1"=30' DATE: 08/09/20 DRAWN BY: DEM DESIGN BY: DEM REVIEW BY: JWE	<b>SITE LAYOUT AND UTILITY PLAN</b> <b>BURR BUSINESS PARK</b> LOT 16 TAX MAP 1 PARCEL 69 CHARLES TOWN DISTRICT JEFFERSON COUNTY, WEST VIRGINIA				<b>MORRIS &amp; RITCHIE ASSOCIATES, INC.</b> ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS 604 SOUTH KING STREET, SUITE 200 LEESBURG, VA 20175 PHONE: (703) 994-4047 MRAGTA.COM	Copyright © 2020 Morris & Ritchie Associates, Inc.	DATE: 2019-09-10 REVISIONS: 1. ADDRESS CTUB, JEFFERSON UTILITY, & WVDOH COMMENTS
	DATE: 2019-09-12 REVISIONS: 2. ADDRESS JEFFERSON COUNTY COMMENTS						
	DATE: 2019-10-23 REVISIONS: 3. ADDRESS JEFFERSON COUNTY COMMENTS					DATE: 2019-11-19 REVISIONS: 4. ADDRESS JEFFERSON COUNTY COMMENTS	
	DATE: 2020-08-07 REVISIONS: 5. ADDRESS WVDEP COMMENTS					DATE: 2020-09-10 REVISIONS: 6. ADDRESS JEFFERSON COUNTY COMMENTS	
	DATE: 2021-05-10 REVISIONS: 7. ADDRESS JEFFERSON COUNTY COMMENTS					DATE: 2021-05-18 REVISIONS: 8. ADDRESS JEFFERSON COUNTY COMMENTS	

100 SQ FT 12" 80"

65'



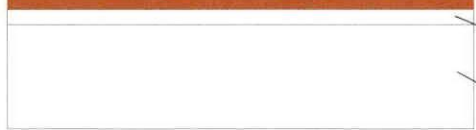
80"



11.5" LH



2.5" DIVIDER BAR  
9.5" LH

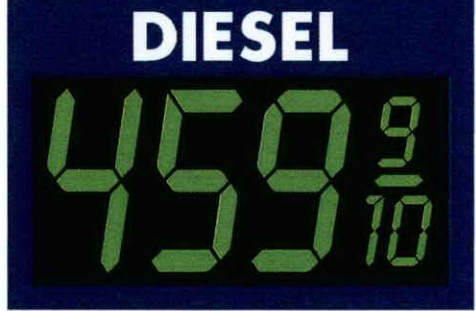


2.5" DIVIDER BAR  
BLANK FACE



8" LH

30" DAK 3000  
LED FUEL PRICE DISPLAY



8" LH

30" DAK 3000  
LED FUEL PRICE DISPLAY

**eddie edwards signs**  
Incorporated

540-434-8595 800-697-7446  
FAX: 540-434-8561  
580 WATERMAN DR.  
HARRISONBURG, VA 22802

[eesigns.biz](http://eesigns.biz)

PROJECT: \_\_\_\_\_

**HOC**  
**Burr Park**  
**65' Pylon Sign**

This document represents only an approximation of material colors specified. Actual product colors may vary from this print or digital image.

\* CUSTOMER APPROVAL: \_\_\_\_\_

\* AUTHORIZED SIGNATURE \_\_\_\_\_

\* DATE \_\_\_\_\_

WORK ORDER NO. \_\_\_\_\_

REVISIONS

- 1 8/19/19 Revised Height
- 2 10/25/19 Revised Height
- 3 1/10/2020 Revised Cabinet Sizes
- 4 4/14/2022 Revised Cabinet Sizes
- 5 8/29/2022 Revised Cabinet Sizes/Layout
- 11/14/2022 Revised Graphics/Layout

REPRESENTATIVE \_\_\_\_\_

BR

PROJECT MANAGER \_\_\_\_\_

MR

DRAWN BY \_\_\_\_\_

KB

DATE \_\_\_\_\_

7/7/2021

FILE NAME \_\_\_\_\_

HOC - Burr Park Pylon

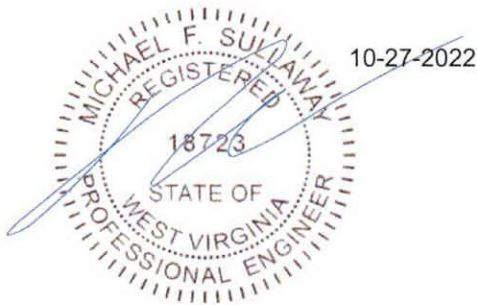
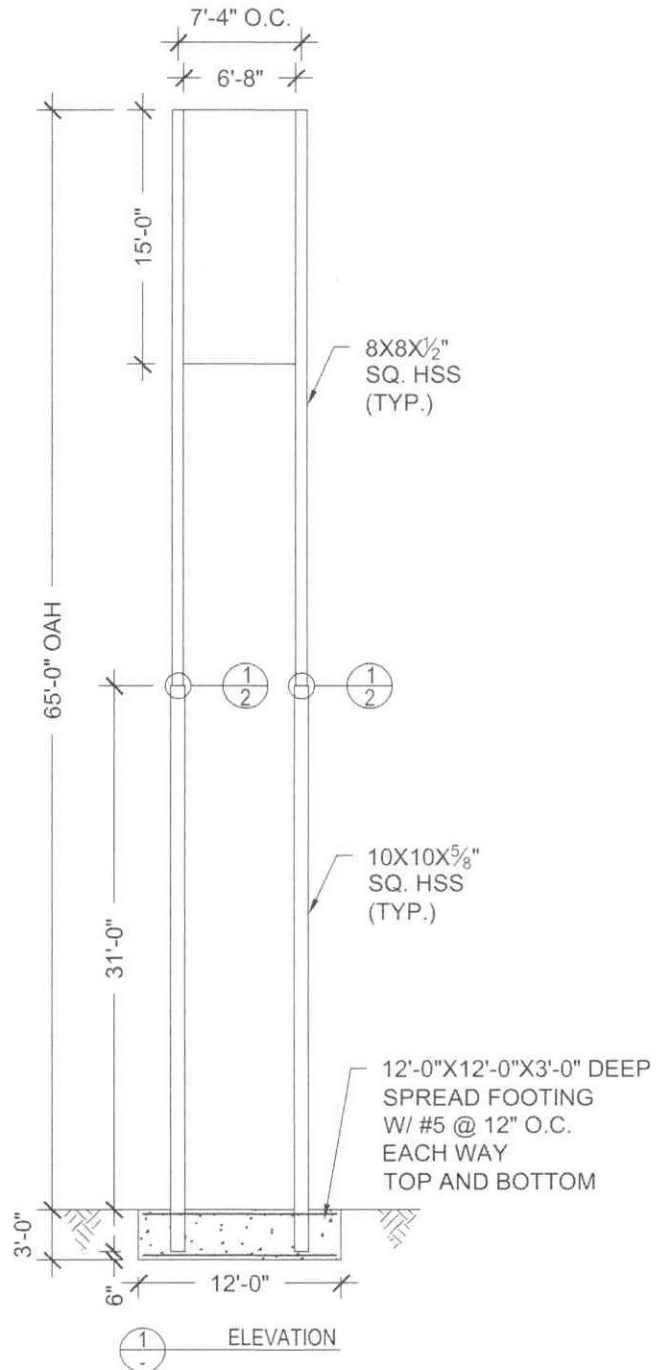
NOT TO SCALE



11545 W. BERNARDO COURT, SUITE 201  
 SAN DIEGO, CA 92127  
 PROJECTMANAGER@SULLAWAYENG.COM  
 PHONE: 1-858-312-5150 FAX: 1-858-777-3534

PROJECT: HOC- BURR PARK LIBERTY, SIGN TYPE: 60FT PYLON, 60 WAR ADMIRAL RD, KEARNEYSVILLE, WV  
 PROJECT #: 37087B-2  
 CLIENT: EDDIE EDWARDS SIGNS, INC.

DATE: 10/27/2022  
 ENGINEER: RM  
 LAST REVISED:



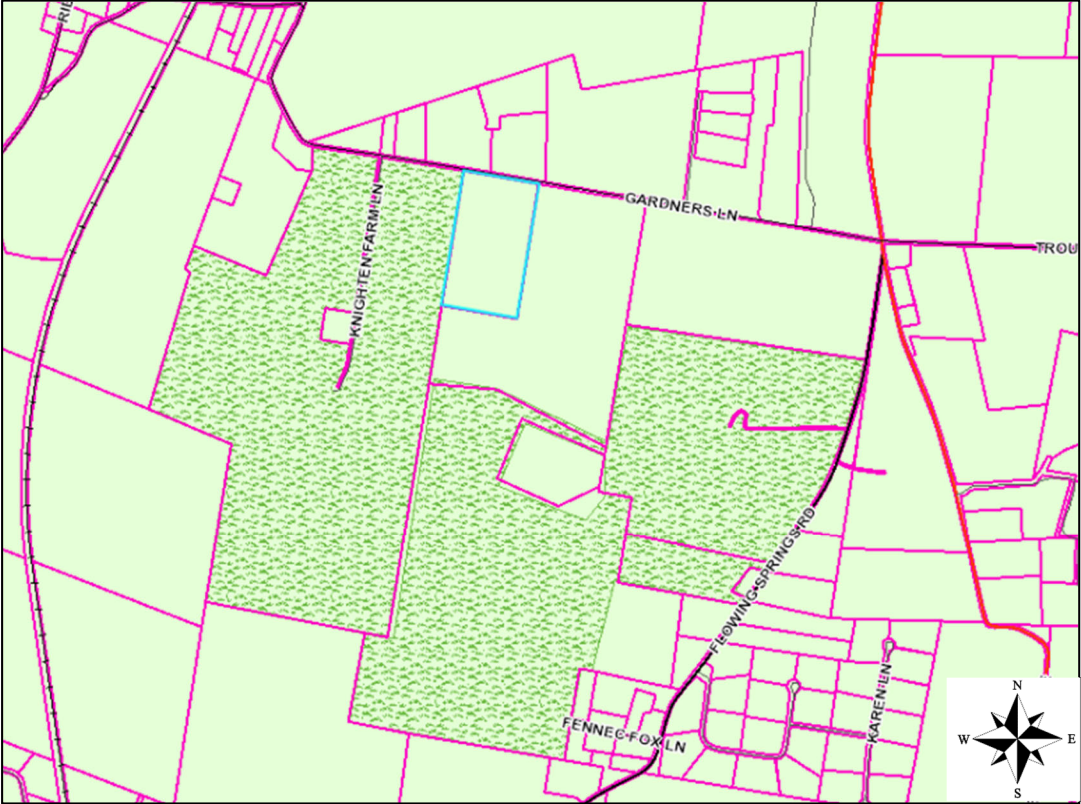

**GENERAL NOTES**

1. DESIGN CODE: IBC 2018
2. DESIGN LOADS: ASCE 7-16
3. WIND VELOCITY 110 MPH EXPOSURE C
4. CONCRETE 3000 PSI MINIMUM
5. SQ. HSS STEEL ASTM A500 GR. B,  $F_y = 46$  KSI MIN.
6. STEEL REINFORCEMENT IN CONCRETE ASTM A615 GR 60
7. PROVIDE MIN. 3" CLEAR COVER ON ALL STEEL EMBEDDED IN CONCRETE WHEN CAST AGAINST SOIL
8. VERTICAL SOIL BEARING PER IBC CLASS 4 (2000 PSF)
9. PROVIDE PROTECTION AGAINST DISSIMILAR METALS
10. ALL DIMENSIONS TO BE VERIFIED PRIOR TO FABRICATION

Staff Report  
 Jefferson County Board of Zoning Appeals  
 September 28, 2023

**23-31-ZV Elevation Properties (Greenspace) Variance Request**

Item #6 Variance request from Section 5.7D.2.b.i(b) to allow the required 50% green space to be allocated on each of the individual lots within the cluster subdivision (applicant is proposing a maximum of four lots).

Owner:	Elevation Properties, LLC
Consultant	P.J. Raco Consulting, LLC / Attn: Paul Raco
Parcel Information and Zoning District:	1208 Gardners Lane, Shepherdstown, WV Parcel ID: 09001700040004; Size: 20 ac; Zoning District: Rural
	 <p style="text-align: center;">  Conservation Easements       </p>
History:	06/04/77: created via DB 423, PG 563
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit Conducted:	No.

**Staff Overview**

The applicant is requesting a variance from Section 5.7D.2.b.i(b) to allow the required 50% green space area to be allocated on each of the four lots within the proposed cluster subdivision and has proffered to place a preservation easement on each of the lots to preserve the green space areas.

The intent of the cluster provisions in Section 5.7D.2 is to provide for a well planned development while minimizing the use of prime agricultural land. The purpose for requiring a portion of the property to be retained as green space is to ensure that farmland and other natural features are preserved while balancing the development rights of landowners.

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**23-31-ZV Elevation Properties (Greenspace) Variance Request**

Density (development rights) is calculated based on the acreage on record in 1988. The subject 20 acre parcel was created in 1977 and has not been divided since then; therefore, density is based on the 20 acres on record as of 1977. There is no minimum or maximum acreage requirement for the parent tract to utilize the cluster provisions, which means that 20 acres is about the smallest size lot that could reasonably develop under the cluster provisions, otherwise a three lot division would process under Section 5.7D.3 and not be required to retain greenspace.

When considering smaller cluster subdivisions (i.e. less than five lots) such as the subject proposal, it appears that the intent of the Ordinance can be upheld through placement of individual preservation easements on each lot which ensures that a portion of the parent tract is maintained in its natural condition on each lot. In this instance, the applicant could create one ten acre parcel, and three 3.33 acre parcels by right with administrative review/approval (i.e. no public process). However, while not enforceable by the County, the deed contains a private restriction which states that the lot cannot be divided into parcels of less than 5 acres each (see excerpt below from [Deed Book 423 at Page 563](#)). While not explicitly stated, it appears that the applicant is exploring avenues to utilize the maximum development rights available (i.e. four 5-acre lots), while still working within the confines of the above noted deed restriction. The proffer to allocate individual preservation easements on each lot, with a combined acreage of ten acres (total), appears to meet the overall intent of the cluster provisions, while still working within the confines of the private deed restriction.

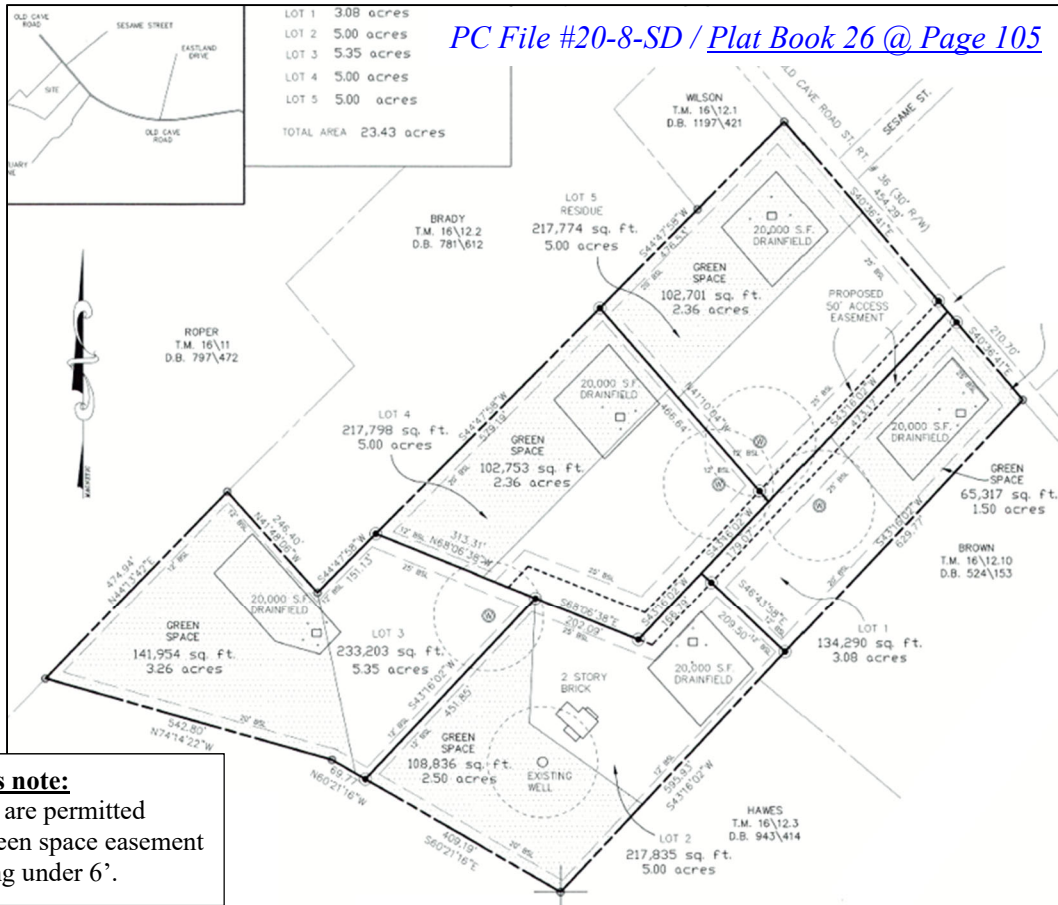
2. The property herein conveyed shall not be split, divided or subdivided for sale, resale, gift, transfer or otherwise into parcels of less than 5 acres each.



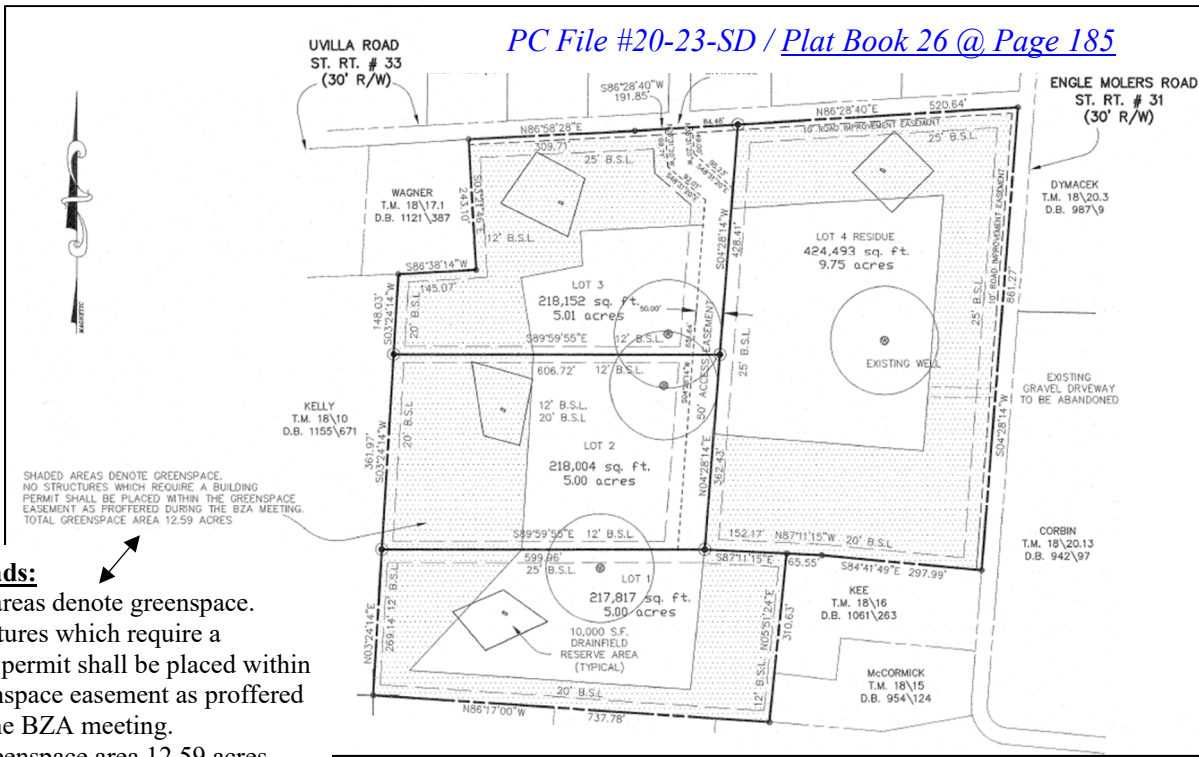
Below are two examples of two cluster subdivisions that processed with similar proposals in 2020.

Staff Report  
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**23-31-ZV Elevation Properties (Greenspace) Variance Request**



**Plat includes note:**  
 No buildings are permitted within the green space easement except fencing under 6'.



**Note reads:**  
 Shaded areas denote greenspace.  
 No structures which require a building permit shall be placed within the greenspace easement as proffered during the BZA meeting.  
 Total greenspace area 12.59 acres.

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**23-31-ZV Elevation Properties (Greenspace) Variance Request**

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 2 of the [Jefferson County Zoning Ordinance](#), a variance is defined as "...a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land."

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 6, Section 6.2 of the [Zoning Ordinance](#), the Board shall consider the following criteria and shall grant a variance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

- a) The applicant, as proffered, shall place a preservation easement on each of the proposed four lots, with the total green space area equal to or greater than the required 50% (10 acres total). The easement areas shall be delineated on the final plat with a note stating that no structure which requires a building permit shall be placed within the delineated easement areas.

**Section of Ordinance to be Considered:**

**Section 5.7 Rural (R) District<sup>23, 32</sup>**

The purpose of this district is to provide a location for low density single family residential development in conjunction with providing continued farming activities. This district is generally not served with public water or sewer facilities, although certain size developments processed under the cluster provision of Section 5.7D(2) may choose to do so. A primary function of the low density residential development permitted within this section is to preserve the rural character of the County and the agricultural community. All lots subdivided in the Rural District are subject to Section 5.7D. The Envision Jefferson 2035 Comprehensive Plan recommends that the cluster provision of the Zoning Ordinance be the preferred method of residential development in the Rural zoning district.<sup>8, 23, 32</sup>

**A. Principal Permitted and Conditional Uses<sup>23, 27, 32</sup>**

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.<sup>27, 32</sup>
2. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.<sup>27, 32</sup>

Staff Report  
Jefferson County Board of Zoning Appeals  
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**23-31-ZV Elevation Properties (Greenspace) Variance Request**

**B. Minimum Lot Area, Lot Width and Yard Requirements<sup>23</sup>**

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance.<sup>27</sup>
2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.<sup>23</sup>
3. Any building or feeding pens in which farm animals are kept shall comply with distance requirements specified in Section 4.6 and the requirements for barns and feeding pens specified in Article 8. Also, any buildings used to store manure shall comply with distance requirements specified in Section 4.6A.<sup>23</sup>

**C. Height Regulations**

No structure shall exceed 45 feet in height except as provided in Section 9.2.<sup>32</sup>

**D. Maximum Number of Lots Allowed**

All parcels of land that were on record as of October 5, 1988 are entitled to subdivide for single family detached residences based on Subsections 5.7D.1, 5.7D.2 or 5.7D.3 below.

A property owner may use a combination of these Subsections, provided that the number of lots are prorated by density. The density rights for any rural development shall be based on the parcel of record as of October 5, 1988 utilizing the following alternatives:<sup>8, 32</sup>

1. A property owner may create one (1) lot for every 15 acres with a minimum lot size of three (3) acres.<sup>17, 21</sup>
  - a. Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.<sup>32</sup>
  - b. A property owner may transfer rights to adjacent parcels which are owned by the same entity.<sup>17, 21</sup>

**2. Clustering**

**a. Purpose and Intent**

- i. To encourage the conservation of farmland in the Rural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract while retaining a portion of the property as green space<sup>32</sup>.
- ii. To provide for a well planned development while minimizing the use of prime agricultural land.

**b. Requirements**

- i. One (1) lot may be subdivided for every five (5) acres.<sup>17, 21, 23, 32</sup>
  - (a) Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.<sup>32</sup>

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**23-31-ZV Elevation Properties (Greenspace) Variance Request**

(b) A minimum of 50% of the property shall be retained as green space and shall contain no further development rights unless the property is placed in another zone or further subdivision is allowed by ordinance. A note to this effect shall be placed on all cluster subdivision plats.<sup>32</sup>

(c) For every additional 5% green space preservation, the following sliding scale may be utilized:<sup>32</sup>

55% green space	1 lot per 4.5 acres
60% green space	1 lot per 4 acres
65% green space	1 lot per 3.5 acres
70% green space	1 lot per 3 acres
75% green space	1 lot per 2.5 acres

ii. The residue of a lot divided utilizing either 5.7D.1 or 5.7D.2 prior to the date of adoption of this amendment on March 16, 2017, shall have additional rights based on the provisions of this Subsection, provided that the total lots developed shall not exceed one lot per five acres based on the parent parcel on October 5, 1988 and all other provisions of this Subsection are complied with.<sup>32</sup>

iii. Minimum lot size shall be 40,000 square feet for lots that will be served by individual wells and septic systems; 20,000 square feet for lots that will be served by a central water OR central sewerage system; and 10,000 square feet for lots that will be served by both a central water AND central sewerage system.<sup>17, 21, 32</sup>

(a) Setbacks shall be 25' front, 12' sides, and 20' rear.

(b) All clusters of three (3) or more lots shall be served by an internal road; provided that all clusters utilizing the sliding scale in 5.7D.2.b shall have an internal road with direct access to a public road identified as a Major Collector or a Minor or Principal Arterial on the Envision Jefferson 2035 Comprehensive Plan Roadway Classification Map.<sup>23</sup>

(c) Clusters of three (3) or more lots shall not be along an existing public road.

(d) A property owner may transfer rights to adjacent parcels which are owned by the same entity.<sup>17, 21</sup>

iv. Procedures<sup>23</sup>

(a) Concept Plan. For the subdivision of tracts eligible for cluster lots, a concept plan must be submitted pursuant to the requirements of the Jefferson County Subdivision and Land Development Regulations. All cluster developments must be processed as a Major Subdivision.<sup>17, 21, 23</sup>

(b) The Concept Plan for a proposed Cluster Development can be combined with the required submittal and process requirements for a Concept Plan for a Major Subdivision as outlined in the Subdivision Regulations, provided that the Concept Plan includes all requirements of the Concept Plan in the Subdivision Regulations and includes the necessary soils and topographic data, together with a written narrative, required for the analysis listed below.<sup>32</sup>

Staff Report  
Jefferson County Board of Zoning Appeals  
September 28, 2023

**23-31-ZV Elevation Properties (Greenspace) Variance Request**

- (c) The Staff shall review and make a recommendation to the Planning Commission regarding the proposed design and layout of the proposed Cluster Development. Staff shall consider the following when reviewing the Cluster Concept Plan:<sup>32</sup>
    - (1) Soils: The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.
    - (2) Surrounding land use and zoning: The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.
  - (d) If the concept plan is approved by the Planning Commission, the applicant may then proceed with platting of the clustered development in accordance with the Jefferson County Subdivision and Land Development Regulations and the approved concept plan. The plat shall bear a statement indicating “The land lies within an approved rural cluster development and no further subdivision of the remaining land is permitted unless the property is placed in another zone or further subdivision is allowed by ordinance or regulation”.<sup>23</sup>
- 3. If the development rights under Subsections 5.7D.1 and 5.7D.2 above have not been utilized, any property that was a lot of record as of October 5, 1988 may create three (3) total lots (including the residue) during any five year period. Such application may process as a Minor Subdivision, in accordance with the Subdivision Regulations, and shall be exempt from density limitations provided that all subdivision requirements are satisfied. Applications which exceed this number during any five year period shall process under Subsection 5.7D.1 or 5.7D.2 above. Only the residue or parent parcel may qualify under this provision once the original subdivision takes place. All lots that qualify under this section must meet subdivision requirements.<sup>32</sup>
  - 4. Subdivisions involving transfers of land between family members known as “Family Transfers”, as defined in Article 2, shall not be subject to the density requirements of this section. All lots that qualify under this section must meet subdivision requirements. Family transfers are not entitled to further subdivide except as another Family transfer.<sup>32</sup>
  - 5. Once the maximum number of lots are created under 5.7D, the property cannot be further subdivided unless the Ordinance is amended to allow such.





**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414  
 www.jeffersoncountywv.org

File Number: 23-31-ZV  
 Staff Initials: jth  
 Meeting Date: 09/28/23  
 Fees Paid (\$100 or \$150): \$100

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

**Zoning Variance Request**

*Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: Elevation Properties, LLC  
 Mailing Address: 151 Starsign Lane, Charles Town, 25414  
 Phone Number: c/o Paul 304/676-8256 Email: c/o pjraco.consulting@gmail.com

**Applicant Contact Information**

Name: Josh Beall Paul J Raco, P.J. Raco Consulting, LLC  
 Mailing Address: 151 Starsign Lane, Charles Town, WV 25414  
 Phone Number: c/o Paul 304/676-8256 Email: pjraco.consulting@gmail.com

**Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)**

Name: Paul J Raco, P.J. Raco Consulting, LLC  
 Mailing Address: P.O. Box 548, Charles Town, WV 25414  
 Phone Number: 304/676-8256 Email: pjraco.consulting@gmail.com

**Physical Property Details**

Physical Address: 1208 Gardners Lane, Shepherdstown, WV 25443  
 City: Shepherdstown State: WV Zip Code: 25443  
 Tax District: Shepherdstown Map No: 17 Parcel No: 4.4  
 Parcel Size: 20 +- Acres Deed Book: 1305 Page No: 422

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input checked="" type="checkbox"/>	Residential- Light Industrial- Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>
---	--	---	---	--	--	---

Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>
---	---	---	---	--

Received via email on 08/30/23 (jth)

Place Received Date Stamp Here

**On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.**

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: 5.7D.2.b.i.b

**Briefly describe the nature of the variance request:**

See Attached

**If this request is for a setback variance, please check one of the following:**

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ to \_\_\_\_\_

**Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:**

See Attached

**In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?**

See Attached

**How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?**

See Attached

**How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?**

See Attached

**Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.**

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

Elevation Properties, by  
Joshua M. Bell Member  
Signature of Property Owner Date Aug 16, 2023

\_\_\_\_\_  
Signature of Property Owner Date

**Notification Requirements (to be completed by staff)**

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

09/28/23

Date of Public Hearing

09/13/23

Advertising Date

09/13/23

Placard Posting Date

Elevation Properties, LLC  
Request for Variance  
Article 5, Sections 5.7D2(b)i(b)  
Jefferson County Zoning Ordinance

**Brief Description**

Article 5, Section 5.7D2(b)i(b) requires that 50% of land developing under this section be retained in open space, farm, green space, forest, etc. As explained to the Board in previous applications for the same variance, the Ordinance is unclear on where the 50% needs to be located. As such, the Staff has made the determination that it be located on the Residue, unless a variance is granted by the Board. Accordingly, the applicant is proposing to retain the 50% open space on the proposed four lots. This means that the open area will be about half (approximately 2.5 acres) of each 5 acre lot. The Applicant proposes this area as a Platted and Deeded Preservation Easement on the lots.

The 20 acre parcel is permitted to subdivide into a total of 4 lots (3 lots and a residue) under this Cluster provision of the ordinance. In this case the necessary 50 percent would be 10 acres which would need to be left in open/green space. As was proposed and approved by the Board in the past, the Applicant is proposing to spread the 10 acres throughout the four 5 acre parcels. Generally, this area, as will be approved by the Zoning Administrator at the Final Plat stage, will be placed in a perpetual green space easement which would allow for no building in that area. It is listed as 'generally' in this application because the final location will be determined after the Highway and Health Departments approve the entrance and septic locations. It will be a total of 10 acres in areas as approved by the Zoning Administrator as directed by the Board.

It is anticipated that most of the area will be around the existing wooded portions of the property and around the perimeter to provide a suitable buffer to surrounding open land. The Applicant believes that this would allow the area around the subdivision to be buffered from each house construction site and will also preserve many of the trees, while still accomplishing the goal of keeping 10 acres in open and green area. This would allow the same number of lots as permitted by a cluster subdivision with the same amount of required open space.

The applicant could also develop this property by subdividing the property into 2 lots and a residue every 5 years until the entire property is developed into approximately 10 to 14 lots over time. If the Applicant is granted the variance as requested, then the land will only develop into the 4 lots as proposed and presented with this variance under this clustering provision.

Again, if the Board approves the variance, the final area will be platted on the Final Plat and may shift based on the necessary septic, well, and highway approvals. The Zoning Administrator will approve the final layout as she did with the last several similarly requested and approved variances from this section.

Finally, the greatest benefit of this variance is that the total of 10 acres will be platted and deeded as a Preservation Easement in perpetuity. Currently under the existing provision, if the 10 acres were provided on the residue only, no preservation easement is required by the Ordinance. This variance guarantees that the 10 acres will be preserved and enforced by both Deed Restrictions and the County.

Accordingly, the Applicant respectfully requests that the variance be granted to allow the required 10 acres of open space be placed on the 4 Lots, as approved by the Zoning Administrator, with the open space being placed in an easement on the actual lots as opposed to just on the residue.

Elevation Properties, LLC  
Variance Request: Article 5, Sections 5.7D2(b)i(b)  
Jefferson County Zoning Ordinance  
August 28, 2023

Four Criteria

1. Granting the variances will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

The Applicant is not asking for any additional lots than what is already permitted under the Cluster Provision and is also preserving the entire required 10 acres in open space. In fact, if the Applicant subdivided the property to the maximum density permitted, he could do an additional 8 or more lots over time utilizing the 2 lots every five year provision. Allowing the Applicant to develop 4 larger lots instead of 3 small lots and a larger residue will allow the rural nature of the area with the required 10 acres of open/green space being provided across all of the lots instead of just on the Residue. In other words, the overall density stays the same as what is permitted by the Cluster provision with the same amount of open, preserved green space. However, it eliminates the additional density as allowed by the 2 lots every 5 years provision. The final layout will be approved by the Zoning Administrator based on the final location of the septic, wells, and entrance.

Each lot will still need to obtain Health Department Approval and the subdivision will still need the appropriate Highway Department approval. Instead of having 3 lots as small as 1 acre with a larger residue, the applicant is requesting a total of four 5 acre parcels and a residue, with the open space being provided on the lots instead of just on the residue. And the 10 acres will be platted and deeded as a Preservation Easement which protects the neighborhood in the future. If the variance is denied, then the Applicant will either process twice as many lots over time utilizing the 5 year provision; or use the Cluster Provision and leave a 10 acre residue, that can be further subdivided even though it counts as the 50% open space. This variance guarantees the preservation of the 10 acres in a perpetual easement.

2. In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought, and which were not created by the person seeking the variance?

This property is surrounded by larger parcels, so the four 5 acre parcels with the green space on each parcel is more compatible with the area than 3-12 small lots if the variance is not approved. The idea of requiring 50% of the land in the rural district to remain in open/green space is to allow a larger residue to be farmed. This provision is set up for larger properties and works when the parent parcel is much larger, and this provision would leave a workable farm. When the

properties are less than 50 acres (only 20 acres in this case), it is more viable to allow the proposed larger lot sizes which fit in better in this area with the buffers provided around the perimeter of the 4 lots. In this case, since three of the sides are bordered by the large parcels, it makes sense that the platted Preservation Easement is proposed along the remaining neighboring open land. So, the Applicant can still meet the requirement of 10 acres of open/green space but provide for lots of equal size with large preservation easements on each large lot.

The Applicant could still develop using different permitted provisions of the Zoning Ordinance. One provision would allow the Applicant to develop into 12 or more lots over the course of time. Instead, the Applicant is proposing to develop only 4 lots as permitted by clustering. This utilizes all of the allocated lots under the Cluster provision and will ensure that the property can't develop anymore in the future under this provision or the 2 lots every 5 year provision. Additionally, the Applicant is going to meet the open space by providing for a preservation easement on the required 10 acres divided through the lots. The proposed arrangement is actually more consistent with the Comprehensive Plan, since if the open/green space were platted under the current interpretation, the residue would not have to provide for a deeded Preservation Easement. In other words, as proposed, the 10 acres will be in a platted and deeded preservation easement that allows for no construction. As the ordinance is currently written, no preservation easement would be required on the residue if the variance is rejected.

3. *How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?*

As stated above, for this property, there are 2 (3 with rezoning) ways to develop the property. One is to develop 2 lots every 5 years which would result in over 12 lots over time. Another way is to cluster 3 small lots with a residue of about 10 acres. This would push all the lots up front along the road, which is not good planning practice in the rural area. The final way is to have this variance granted which would allow the same number of lots as the Cluster, but to spread it over the entire land. This would seem to meet the rural intent of the area and is consistent with the Comprehensive Plan. The Applicant believes that the third way would also be the best for the area since each of the new lots will contain about 5 acres with about half of lots (give or take) being placed in a preservation agreement with the location approved by the Zoning Administrator taking in account the intent of the Ordinance.

4. *How will granting this variance allow the intent of this Zoning Ordinance to be observed and substantial justice to be done.*

There are several purposes of this ordinance provision. First, it would allow cluster developments with large residues that could be lumped together to be compatible for farming. In this case, the property is only 20 acres and bordered by larger properties on three sides with the State Road on the fourth side. So,

the area proposed to be protected in a preservation easement will be along that area of the property adjacent to the bordering open land. This approach will also allow larger lots (as opposed to the small, clustered lots) which are more compatible with the surrounding land and lots. The Staff has said in the past that it seems the Cluster provision is more compatible with larger farms, rather than smaller lots under around 50 acres. The proposed layout with the variance is actually more in sync with the intent of the ordinance than the 3 or more small lots and a residue.

Secondly, this ordinance provision allows for half of property to remain undeveloped. In this case, that half equals 10 acres. By setting aside the same required 10 acres of land in a preservation easement on the lots, it still meets the goals and intent of the Zoning Ordinance to preserve half of the property. Furthermore, the proposed approach is more consistent with the goals of the Comprehensive Plan, since this open/green land will be in an actual Preservation Easement that prevents construction in the area. As such, this land remains protected and cannot be further subdivided in that area of the lots.



# PARCEL ID: 19-09-0017-0004-0004



## Legend

### District

 Districts

### Parcel

 WVParcels

## User Notes:

Map created on June 21, 2023

### Owner(s):

HUBBARD JAMES P

### Address:

1208 GARDNERS LN

### Class Type:

Farm

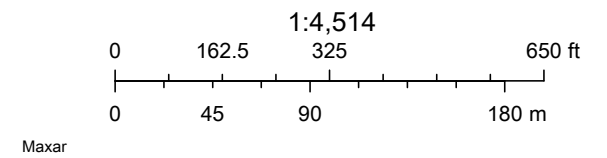
### Legal Description:

20 A OR PARCEL A COLD SPRING

# Viewer Map



August 23, 2023





# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor

Charles Town, WV 25414

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

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**Zoning Administrator's Report**  
**September 28, 2023 Board of Zoning Appeals Meeting**

**Date of Memo: September 18, 2023**

- 1) The next regular meeting is scheduled for **October 26, 2023**
  - Deadline for submission is Friday, September 29, 2023.
- 2) Two alternate member positions remain open. One term ending 01/01/24 and the other term ending 01/01/25.
  - Persons interested in serving on the Board of Zoning Appeals should contact the County Commission Office at 304-728-3284 / [jjames@jeffersoncountywv.org](mailto:jjames@jeffersoncountywv.org).
- 3) 2045 Comprehensive Plan Status Update
  - Agricultural Public Input Meeting (September 13, 2023)
  - 2<sup>nd</sup> Public Input Meeting (September 18, 2023)
- 4) Zoning Certificate Activity Report



Jefferson County, West Virginia  
Department of Engineering, Planning and Zoning  
**Office of Planning and Zoning**  
116 E. Washington Street, 2<sup>nd</sup> Floor  
Charles Town, West Virginia 25414  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

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**September 2023**  
**Zoning Certificate Activity Report**

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<b>File #</b>	<b>23-43-ZC</b>
Request:	Bed and Breakfast (owner occupied short term rental)
Property Owner:	Kathryn Lowell and Alison Spencer
Parcel Information:	Shannondale Section 19J, Lots 20 & 21, 18 Moonridge Lane, Harpers Ferry, WV Parcel ID: 02023G00460002; Size: 1.049 acres; Zoning District: Rural; Deed Book: 1049; Page: 306
Date of Issuance:	08/21/2023
<b>File #</b>	<b>23-44-ZC</b>
Request:	Bed and Breakfast (owner occupied short term rental)
Property Owner:	Suzan Schnitzius
Parcel Information:	Shannondale Section 1F, Lots 60-63, 50 Mosby Drive, Harpers Ferry, WV Parcel ID: 06006A00280000; Size: .76+ acres; Zoning District: Rural; Deed Book: 1237; Page: 504
Date of Issuance:	09/05/2023
<b>File #</b>	<b>23-45-ZC</b>
Request:	Short Term Rental
Property Owner:	David Phelan
Parcel Information:	79 Featherbed Ln, Harpers Ferry, WV 25425 Parcel ID: 06008C00570000; Size: .301 ac; Zoning District: Rural; Deed Book: 1242, Page: 264
Date of Issuance:	09/07/2023

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