



## Agenda

Jefferson County Planning Commission

Tuesday, October 10, 2023 at 7:00 PM

**By order of the President of the Jefferson County Planning Commission,  
Public Participation is available in-person only.  
The meeting will be broadcast live via ZOOM for viewing purposes only.**

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

**ZOOM Broadcast Information\***: Meeting ID: 893 1505 5108  
Meeting Link: <https://us02web.zoom.us/j/89315055108>

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

1. **Approval of Meeting Minutes:** September 12, 2023 and September 26, 2023
2. **Request for postponement.**
3. **POSTPONED until 11/14/23 by request of the Applicant: Public Workshop:** Concept Plan for Bakerton Monopole (fka Harvest Ct) Telecommunications Tower consisting of a 100' Monopole Telecommunications Tower with a 50' x 50' fenced compound. Applicant: Smartlink Group, LLC / Attn: Scott Nichols; Property Owner: Timothy R & Marla B Landis; Property Location: 248 Harvest Court, Harpers Ferry, WV; Parcel ID: 04000300750000; Size: 13.678 ac; Zoning District: Rural (File #23-5-SP).
4. **Public Hearing:** Waiver request from Section 21.402 to allow a six (6) foot tall privacy fence to remain within a platted drainage easement. Applicant/Property Owner: Jack & Helen Payne; Property Location: 247 Saber Drive, Charles Town, WV; Parcel ID: 02010F00570000; Size: 0.1768 ac.; Zoning District: Residential Growth (File #23-22-PCW).

**There is no public comment for the following items.**

5. **Review and Approval:** Planning Commission Calendar Year 2024 Meeting and Submission Dates
6. **Discussion/Possible Action:** Ordinance Rewrite Committee Report on Waiver Process
7. **Reports from Legal Counsel**
  - a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109 (RE: PC File #21-2-Z – Jefferson Orchards Rezoning).
  - b. Review and discuss Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731 and Jefferson County Circuit Court Civil Action No. 2023-C-112 (RE: PC File #ZTA19-03 Solar Energy Facilities text amendment).
  - c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: PC File #ZTA22-01 Solar Energy Facilities text amendment).
  - d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2023-C-48 (RE: PC File #21-8-SP Berryville Pike Telecommunications Tower).

- e. Discuss and review of VB BTS, LLC v. Jefferson County, WV and the Jefferson County Planning Commission, U.S. N.D. W. Va. Case No. 3:23-CV-171 (RE: PC File #23-3-SP – Shannondale Lake Telecommunication Tower).

**8. Planner's Memo**

**9. President's Report**

**10. Actionable Correspondence**

**11. Non-Actionable Correspondence**



**Draft Meeting Minutes**  
Jefferson County Planning Commission  
September 12, 2023

The Jefferson County Planning Commission met on September 12, 2023 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Steve Stolipher, County Commission Liaison; Wade Louthan, Secretary; Jack Hefestay; Aaron Howell; Tim Smith; and were present in person. Donnie Fisher was present via Zoom.

Matt Knott, Vice President was absent with notice; J Ware was absent without notice.

Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Alexandra Beaulieu, Deputy Director and Zoning Administrator; Nathan Cochran, Prosecuting Attorney; and Michelle Evers, Planning Clerk.

Mr. Shepp called the meeting to order at 7:00 pm. and confirmed a quorum was present.

**1. Approval of Meeting Minutes:** August 8, 2023, August 29, 2023, and September 6, 2023

Mr. Shepp stated the minutes stand approved without objection

**2. Request for postponement. Agenda Item #6 Legal Advice, Discussion and Action:** Discussion of VB BTS, LLC v. JEFFERSON COUNTY, WEST VIRGINIA, & THE JEFFERSON COUNTY PLANNING COMMISSION (United States District Court, Northern District Case No. 3:23-CV-171).

**3. Public Workshop:** Amended Concept Plan for Church of the Ascension for a Minor Site Development proposal consisting of four phases, including a 12,000 sq ft proposed Church and 6,000 sq ft proposed Fellowship Hall. Owner/Applicant: Church Of The Ascension; Property Location: SE corner of Border Road and Bunkhouse Rd, Kearneysville, WV; Parcel ID: 07000400090000; Size: 20.49 acres; Zoning District: Rural (File #22-3-SP).

Ms. Brockman provided an overview of the staff report explaining that because the proposed Site Plan showed an expansion from the previously approved Concept Plan for a 10,338 sq ft church and a 3,600 sq ft Fellowship Hall, staff determined that an amended Concept Plan should be processed.

The applicant's representative, Chris Waddell with JHA Companies, explained the nature of the request to the Planning Commission.

Mr. Shepp opened the public workshop. There was no public comment. Mr. Shepp closed the public workshop.

Mr. Hefestay made a motion to approve the request as presented. Mr. Stolipher seconded the motion, which carried unanimously.

**4. Public Hearing:** Request for a Waiver from Appendix B, Section 10.6 and Section 2.2.K to remove the requirement of a sidewalk along the front of the property at this time. Owner/Applicant: Church Of The Ascension; Property Location: SE corner of Border Road and Bunkhouse Rd, Kearneysville, WV; Parcel ID: 07000400090000; Size: 20.49 acres; Zoning District: Rural (File #23-21-PCW).

Ms. Brockman provided an overview of the staff report detailing the sidewalk requirements found in the Subdivision Regulations. Ms. Brockman stated that the staff recommends requiring the installation of the sidewalk along Border Road and an easement along Bunkhouse Road.

The applicant's representative, Chris Waddell with JHA Companies, explained the nature of the request to the Planning Commission and stated that the applicant is requesting to not have to install the sidewalks with Phase 1 and 2 and that, when required, the sidewalk be provided as a walking trail with a mulch surface.

Mr. Shepp opened the public hearing.

- Mr. Steven Thompson provided public comment and requested that the applicant include a walking trail during Phase 1 of the Concept Plan along Bunkhouse Road.

Mr. Waddell responded to Mr. Thompson requests and stated it wouldn't be feasible to create a walking trail down Bunkhouse Road during Phase 1, but that it would be revisited during Phases 3 and 4.

Mr. Shepp closed the public hearing.

Mr. Stolipher suggested that an easement be reserved for a walking trail to be installed during Phases 3 and 4.

Mr. Shepp made a motion to approve a sidewalk easement along Border and Bunkhouse Road during Phase 1 and that a walking trail be installed along Bunkhouse Road during Phases 3 and 4. Mr. Stolipher seconded the motion, which carried unanimously.

There is no public comment for the following items.

## 5. Reports from Legal Counsel

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.
- b. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731.
- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2023-C-48 (RE: PC File #21-8-SP Berryville Pike Telecommunications Tower).
- e. Discuss and review of VB BTS, LLC v. Jefferson County, WV and the Jefferson County Planning Commission, U.S. N.D. W. Va. Case No. 3:23-CV-171.

Mr. Cochran requested to go into Executive Session to discuss Item A at the end of the meeting.

Mr. Shepp postponed 'Reports from Legal Counsel' until the end of the meeting.

6. **POSTPONED to 9/26/23: Legal Advice, Discussion and Action:** Discussion of VB BTS, LLC v. JEFFERSON COUNTY, WEST VIRGINIA, & THE JEFFERSON COUNTY PLANNING COMMISSION (United States District Court, Northern District Case No. 3:23-CV-171) including potential resolution/settlement offer presented by Plaintiff and Plaintiff's response to Planning Commission's counter offer.

## **7. Planner's Memo**

Ms. Brockman reminded the Planning Commission about the upcoming Agricultural Public Workshop on September 13, 2023 at Washington High School and the 2<sup>nd</sup> 2045 *Comprehensive Plan* Public Workshop on September 18, 2023 at Jefferson High School. Ms. Brockman also reminded the Planning Commission of future additional meeting dates.

## **8. President's Report**

Mr. Shepp requested from staff to include a discussion and direction on the Zoning Ordinance regarding Solar Energy Facilities and legal advice regarding current and future projects on the upcoming Special Meeting on September 26, 2023.

### **Item 5. Reports from Legal Counsel (continued from above)**

Mr. Shepp moved to go into Executive Session for the purpose of receiving legal advice on Item A under 'Reports from Legal Counsel' at 7:20 pm. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Howell and Mr. Smith of the Planning Commission recused themselves from Executive Session as they were not a part of the Planning Commission when this case was acted on.

Mr. Shepp moved to go back into regular session at 7:28 pm. Mr. Louthan seconded the motion, which carried unanimously.

## **9. Actionable Correspondence**

## **10. Non-Actionable Correspondence**

Mr. Seigfried clarified that the upcoming Joint Planning/County Commission meeting will begin at 1:30 pm on October 5, 2023.

Mr. Stolipher made a motion to adjourn the meeting at 7:29 pm. Mr. Louthan seconded the motion, which carried unanimously.

These minutes were prepared by Michelle Evers, Planning Clerk.



**Draft Meeting Minutes**  
Jefferson County Planning Commission  
September 26, 2023

The Jefferson County Planning Commission met on September 26, 2023 at 6:00 pm with the following Planning Commission members present: Mike Shepp, President; Matt Knott, Vice President; Steve Stolipher, County Commission Liaison; Wade Louthan, Secretary; Jack Hefestay; Aaron Howell; and Tim Smith.

Donnie Fisher and J. Ware were absent without notice.

Staff members present included Alexandra Beaulieu, Deputy Director and Zoning Administrator; Luke Seigfried, County Planner; Nathan Cochran, Prosecuting Attorney; and Michelle Evers, Planning Clerk.

Mr. Shepp called the meeting to order at 6:00 pm. and confirmed a quorum was present.

**There is no public comment for the following items.**

- 1. Legal Advice, Discussion and Action:** Discussion of VB BTS, LLC v. JEFFERSON COUNTY, WEST VIRGINIA, & THE JEFFERSON COUNTY PLANNING COMMISSION (United States District Court, Northern District Case No. 3:23-CV-171) including potential resolution/settlement offer presented by Plaintiff and Plaintiff's response to Planning Commission's counter offer.

Mr. Howell of the Planning Commission recused himself from this agenda item.

Mr. Cochran requested to go into executive session to discuss Item #1 on the agenda.

Mr. Shepp moved to go into executive session for the purpose of receiving legal advice on Item #1 at 6:03 pm. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Shepp moved to go back into regular session at 6:25 pm. Mr. Louthan seconded the motion, which carried unanimously

Mr. Cochran read into the record the response from Vertical Bridge with the public regarding the Planning Commission's counter offer stating that they were in agreement with the terms requested. *A copy of the letter was submitted for the record and posted to the website for public review the following business day.*

Mr. Hefestay requested that the new settlement include the exact location and visuals to reflect the changes in the settlement.

Mr. Knott made a motion to accept the terms of the settlement which met the conditions of the concept plan with the condition that Vertical Bridge provide a sketch reflecting the coordinates of the new location of the monopole with the original proposed location. Mr. Stolipher seconded the motion, the motion passed with the vote 5 to 1 (Mr. Hefestay opposed).

Mr. Cochran asked Mr. Shepp for the approval to work with the VB BTS, LLC attorney to draft the final settlement agreement. Mr. Shepp confirmed that was the direction.

Mr. Howell of the Planning Commission rejoined the meeting.

2. **Discussion and Action:** Discussion of Section 8.20 of the Zoning Ordinance regarding Solar Energy Facilities and legal advice regarding current and future projects.

Mr. Cochran requested to go into executive session to discuss Item #2 on the agenda.

Mr. Shepp moved to go into executive session for the purpose of receiving legal advice on Item #2 at 6:42 pm. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Shepp moved to go back into regular session at 7:01 pm. Mr. Louthan seconded the motion, which carried unanimously.

Mr. Stolipher made a motion to adjourn the meeting at 7:02 pm. Mr. Knott seconded the motion, which carried unanimously.

These minutes were prepared by Michelle Evers, Planning Clerk.

**From:** [Sonya Hemphill](#)  
**To:** [Planning Department](#)  
**Subject:** RE: 23-5-SP Bakerton Request To Postpone to November 14 2023 Planning Commission Public Workshop Meeting  
**Date:** Wednesday, October 4, 2023 10:37:59 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)

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**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

Good Morning Jennifer,

The reason for the postponement is because Vertical Bridge & Verizon conducted a community meeting with the surrounding neighbors to inform them of the upcoming application & meeting. We would like to fine-tune our application/submittal based on comments/results from that meeting to ensure we have everything in order.

Thank you,  
Sonya Hemphill  
Smartlink Group

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**From:** Planning Department <PlanningDepartment@jeffersoncountywv.org>  
**Sent:** Tuesday, October 3, 2023 2:32 PM  
**To:** Sonya Hemphill <sonya.hemphill@smartlinkgroup.com>  
**Subject:** RE: 23-5-SP Bakerton Request To Postpone to November 14 2023 Planning Commission Public Workshop Meeting

**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.**

Sonya

We are in receipt of your request to postpone until the November 14, 2023 meeting. For the record, can you please provide us with a reason for the postponement so that we can include in the information the Planning Commission packet.

Sincerely,

Jennifer M. Brockman, AICP  
Chief County Planner  
Jefferson County Office of Planning and Zoning

116 E. Washington St  
Charles Town, WV 25414  
304-728-3228  
[planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

**From:** Sonya Hemphill <[sonya.hemphill@smartlinkgroup.com](mailto:sonya.hemphill@smartlinkgroup.com)>  
**Sent:** Tuesday, October 3, 2023 2:24 PM  
**To:** Planning Department <[PlanningDepartment@jeffersoncountywv.org](mailto:PlanningDepartment@jeffersoncountywv.org)>  
**Subject:** 23-5-SP Bakerton Request To Postpone to November 14 2023 Planning Commission Public Workshop Meeting

**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

Hello Jefferson County Planning Department,

Thank you for adding our concept plan to the agenda for the October 10, 2023 Planning Commission Public Workshop meeting. We are requesting a postponement until the November 14, 2023 meeting.

Thank you,



1997 Annapolis Exchange Pkwy  
Suite 200  
Annapolis, MD 21401

**Sonya Hemphill**  
**Real Estate Specialist III**  
[sonya.hemphill@smartlinkgroup.com](mailto:sonya.hemphill@smartlinkgroup.com)  
[www.smartlinkgroup.com](http://www.smartlinkgroup.com)  
O: 410-263-5465  
C: (407) 970-1550

*Celebrating 20 Years*

Link with us.

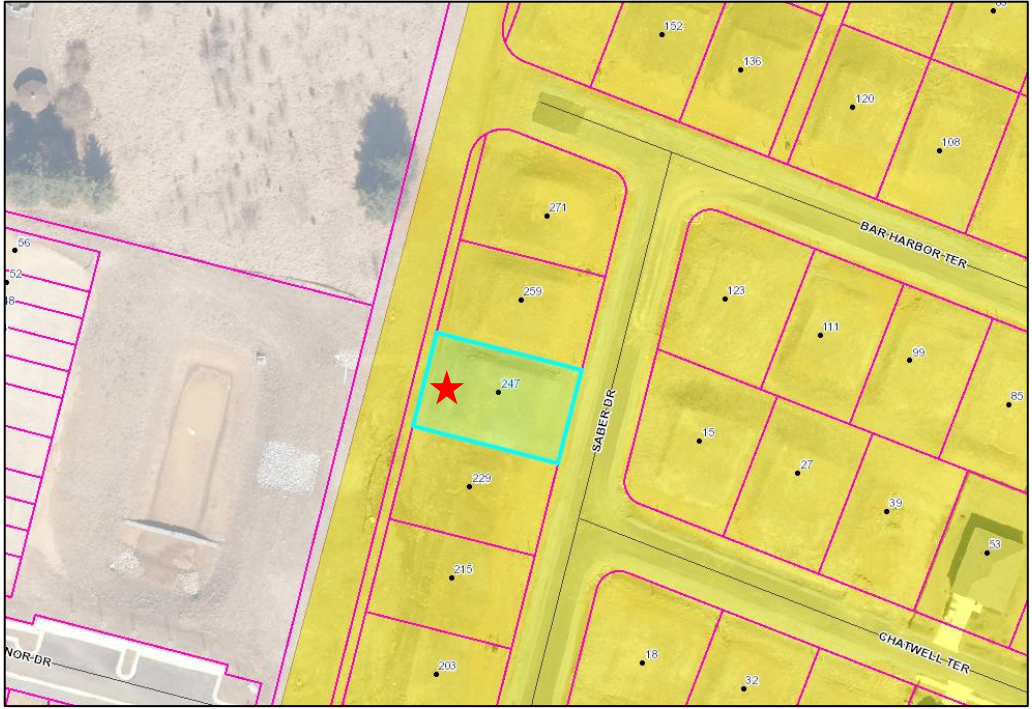


Thought for everyday,  
A person who feels appreciated, will always do more than is expected.

Staff Report  
 Jefferson County Planning Commission Meeting  
 October 10, 2023

**Payne (Easement) Waiver Request (File: 23-22-PCW)**

**Item #4: Public Hearing:** Waiver request from Section 21.402 to allow a six (6) foot tall privacy fence to remain within a platted drainage easement.

Owner/Applicant:	Jack & Helen Payne
Parcel Information and Zoning District:	<p style="text-align: center;">Magnolia Springs Subdivision, Phase III, Lot 57, 247 Saber Drive, Charles Town          Parcel ID: 02010F00570000; Size: 0.1768,          Zoning District: Residential Growth</p> 
Surrounding Zoning:	<i>North, South, East:</i> Residential Growth; <i>West:</i> Incorporated Town
Proposed Activity	To install a six (6) foot tall privacy fence within a platted drainage easement.
Approvals:	<p>04/10/18: Planning Commission Concept Plan Public Workshop – Approved          12/11/18: Planning Commission Preliminary Plat Public Hearing – Approved  <i>Staff Approved Redline Revisions to Preliminary Plat</i>          01/31/20: RE: Stormwater Management (SWM) Redline #1          04/08/20: RE: Update Owner Information Redline #2          02/09/21: RE: Entry Feature Redline #3          04/26/21: RE: Temporary Parking Lot Redline #4  <i>Staff Approved Final Plats:</i>          09/25/20: Magnolia Springs Subdivision, Phase I (recorded in <u>PB 26 / PG 126</u>)          02/20/20: Staff Approved Minor Plat Change          09/14/20: Staff Approved Minor Plat Change          10/23/20: Magnolia Springs Subdivision, Phase III (recorded in <u>PB 26 / PG 156</u>)          09/07/21: Magnolia Springs Subdivision, Phase II (recorded in <u>PB 26 / PG 273</u>)</p>

Staff Report  
 Jefferson County Planning Commission Meeting  
 October 10, 2023

**Payne (Easement) Waiver Request (File: 23-22-PCW)**

Waivers/Variances	<p>04/10/18: PC approved the following Waiver requests:</p> <ul style="list-style-type: none"> <li>• Section 21.101.A to increase the maximum block length from 6 lots to 12 lots on one side of the street (File PCW18-03).</li> <li>• Section 21.104.A to reduce the minimum lot frontage width from 80' to 70' (File PCW18-04)</li> <li>• Section 21.306 to allow the road intersections to be permitted within 175', as measured at the road centerlines, for internal subdivision streets only due to shallow block depth, topography and natural resources (File PCW18-05).</li> <li>• Section 2.2.K.1 to waive the requirement of roadway, curbs, gutters and sidewalks in residential subdivisions where the net density is greater than three DU/acre of land where lot frontages are 80' or less (File PCW18-06).</li> </ul>
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**Summary of the Request**

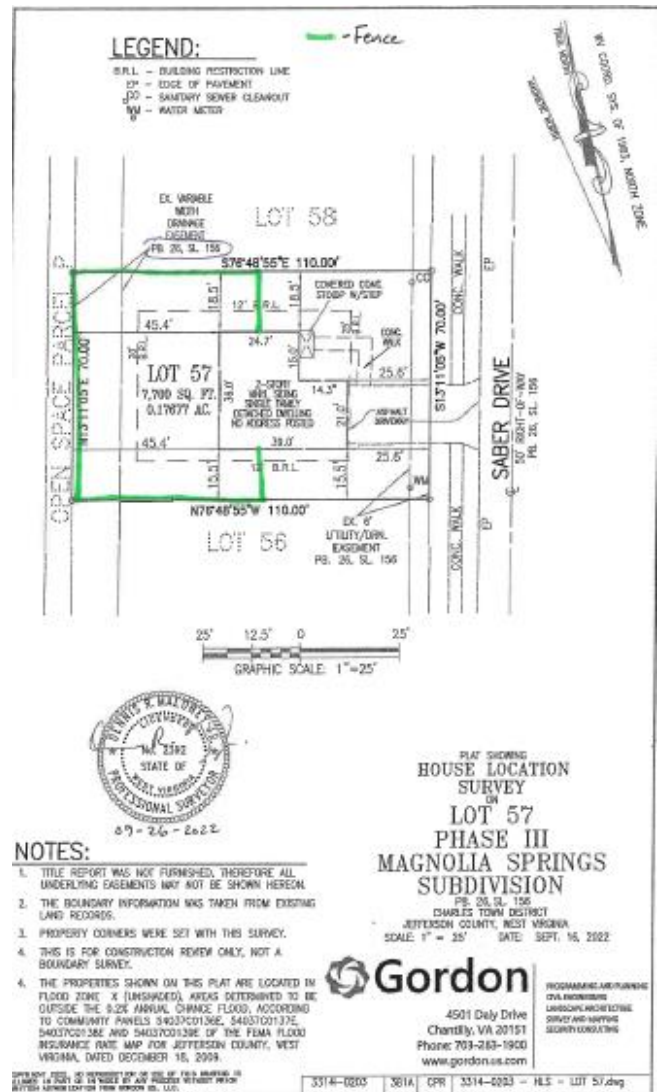
The applicant is requesting to be permitted to allow a six (6) foot tall privacy fence to remain within a platted drainage easement on the western edge of Lot 57, found in Phase III of the Magnolia Springs Subdivision (PB26/PG156I, Sheet 10 of 12). This variable width drainage easement is located along Open Space Parcel P, which parallels a 42' reservation for a Future Belvedere Drive.

Note #15 on Sheet 1 of 12 (PB26/PG156) states that “no structures, fences, or landscaping shall be located in the easements”, in accordance with Section 21.402 of the Jefferson County Subdivision and Land Development Regulations.

The applicant indicated that the fence company installed the fence in the easement contrary to the requirement, but that they believe that there has been no negative impact on the stormwater flow as a result of the fence. This application is a request to be permitted to retain the fence within the easement as constructed.

**Background**

In October 2020, Phase III of the Magnolia Springs Subdivision was approved and recorded in PB26/PG156, creating Lots 11-17, 27-31, 49-65, 74-100, 103-107, 123-124, 136-137 and 160-191 and related Open Space Parcels.



**Payne (Easement) Waiver Request (File: 23-22-PCW)**

**Subdivision Requirements and Discussion**

Section 21.402 “Public Easements” of the Subdivision Regulations (excerpt below), Subsection D “Encroachments, Structures and Landscaping” also states, “no permanent encroachments, structures, fences or landscaping shall be allowed to be located within any easement area”.

This waiver is requesting to be allowed to retain a fence that has been constructed within a variable drainage easement along the western edge of Lot 57 as described above.

**Waiver Requirements**

The applicant provides a response to the requirements found in “Division 24.300 Waivers” of the Subdivision Regulations, which is attached to the application. Waivers from the minimum standards in these Regulations may be granted by the Planning Commission only when the Planning Commission finds that granting a waiver will be consistent with all of the following criteria:

- (1) that the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature;
- (2) that the waiver, if granted, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
- (3) that the waiver, if granted, will be in keeping with the intent and purpose of these Regulations; and
- (4) that the waiver if granted will result in a project of better quality and/or character.

Process and procedural waivers shall be reviewed and found consistent with the above criteria prior to approval.

**Staff Recommendation**

Typically, no structures or landscaping are permitted within any easements so as not to impede whatever use the easement is dedicated to, including access, utility and drainage easements and to ensure that the easement holder has full access to the easement to perform maintenance or make repairs as necessary.

The topic of discussion is a drainage easement for a drainage swale. A drainage easement is to convey storm water from one point to another within a dedicated area. This area is to remain free from any impediments like fences or debris. These impediments could affect the flow and may cause a larger storm event, causing water surface elevation to extend pass the limitation of the easement, affecting adjacent landowners and restrict maintenance for the swale. However, an engineer could analyze the situation to determine if the proposed fence would or would not have an adverse effect on the water flow. Therefore, engineering would recommend approval of this waiver if a professional engineer determines that there is no adverse effect placing a fence within the drainage easement and the owner accepts all liability if the fence needs removed for maintenance or any unforeseen event.

If the Planning Commission is inclined to approve this waiver without a professional engineer’s evaluation, the motion should be very clear that the property owner will accept all liability and cost associated with this proposal in the event it affects an adjacent landowner or the swale needs maintenance that requires removal of the fence and for any unforeseen event.

**Payne (Easement) Waiver Request (File: 23-22-PCW)**

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**Sections of Subdivision Regulations under Consideration:**

**Section 21.402 Public Easements**

General. All easements for all public (water, sewer, stormwater management or storm drainage facilities) or public service type facilities (telephone, electric, gas, cable) that serve the subdivision or site development shall be set forth on the plat or in the deed. Such easements shall be located in street right-of-ways, alleys, or side or rear yards as determined by the County in accordance with the particular plans and layout of the utility or other service providing company. All easements shall provide for access without notification to the property owner for the maintenance, repair, or other work needed in the easement or to the facility in the easement.

**D. Encroachments, Structures and Landscaping.** No permanent encroachments, structures, fences or landscaping shall be allowed to be located within any easement area. The homeowner's association, business owner's association and any of the public service providers shall have the right to remove any encroachment, structures, landscaping, fencing or any other improvements placed upon such public easements.



Jefferson County, West Virginia  
 Department of Engineering, Planning and Zoning  
**Office of Planning and Zoning**  
 116 E. Washington Street, 2<sup>nd</sup> Floor  
 P.O. Box 716  
 Charles Town, West Virginia 25414

File #: 23-22-PCW  
 Mtg Date: 10-10-23  
 Date Rec'd: 09-18-23  
 Fees Paid: 100  
 Staff Int: gpt  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

Waivers must comply with Division 24.300 of the 2008 Subdivision Regulations, as amended.

**Property Owner Information**

Owner Name: Jack Payne  
 Business Name: \_\_\_\_\_  
 Mailing Address: 247 Saber Dr, Charles Town, WV 25414  
 Phone Number: (478) 442-0590 Email: jackpayne821@gmail.com

**Applicant Contact Information**

Applicant Name: Jack Payne Same as owner:   
 Business Name: \_\_\_\_\_  
 Mailing Address: 247 Saber Dr, Charles Town, WV 25414  
 Phone Number: (478) 442-0590 Email: jackpayne821@gmail.com

**Consultant Information** 478-442-0266 \*

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

**Physical Property Details**

Physical Address: 247 Saber Dr, Charles Town, WV 25414 Vacant Lot:   
 Tax District: Charles Town Map No: 10 1292 gpt Parcel No: 8.6  
 Parcel Size: .17677 ac gpt Deed Book: 1227/1244 Page No: 490/1666 648 gpt  
 Zoning District: Jefferson County Dept of Engineering, Planning and Zoning R.G. gpt

On a separate sheet of paper sketch the shape and location of the lot. Show the location of the intended construction or land use and indicate building setbacks, size, and height. Identify existing easements, roads, buildings, structures, or land uses on the property. Sign and date the sketch.

Included (Plat)  Not applicable (include a vicinity map if a sketch is not applicable)

What Section of the Subdivision Regulations and year of the Regulations are you requesting to Waive?

Section 21.402 Public Easements, General, D. Encroachments, Structures and Landscaping.

**Briefly Describe the Nature of Your Waiver Request:**

To waive Note #15 'No structures, fences, or landscaping shall be located in the easements' for 247 Saber Dr (Plat/Lot 57) on the Final Plat of Magnolia Springs Subdivision Phase 1. Deed Book 1227 - Page 490 - Tax Map 10 - Parcels 8 + 8.6 - Charles Town Tax District. Jefferson County, West Virginia

**Explain how the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County Parks Plan or benefits of a similar nature.**

The design of the project will allow the homeowners to efficiently maintain the full extent of their property with adequate lawn care + maintenance.

**Explain how the waiver, if granted, will not adversely affect the public health, safety, or welfare or the rights of adjacent property owners or residents.**

The design of the project will not interfere with the storm water easement's ability to properly drain water thus incurring no damage to the current or neighboring lots.

**Explain how the waiver, if granted, will be in keeping with the intent and purpose of this Ordinance.**

For this waiver to grant permission by Jefferson County for the current fence to remain in place following the property line as annotated on the attached plat.

**Explain how the waiver, if granted, will result in a project of better quality and/or character.**

The ability for the homeowners to adequately maintain the full extent of their property will keep with the standards of the community and reduce the possibility of pests, vermin, and other noxious animals crossing into the current and neighboring lots.

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.



Property Owner Signature

09/17/2023

Date

Property Owner Signature

Date

**Notification Requirements**

The subject parcel shall be posted with a minimum of one 28" x 22" placard at least 14 days prior to the public hearing. The placard(s) will be prepared by the Staff and posted by the applicant. Adjacent property owner name and address information shall be provided by the applicant so that notification letters can be mailed by Staff least 14 days prior to the public hearing.

10-10-23

Public Hearing Date

10-26-23

Date Placard Posted

10-26-23

Date Adjoiners Mailed

**Planning Commission Determination**

Approved

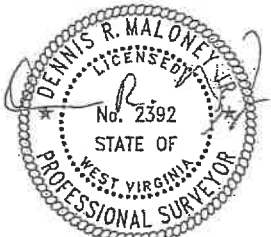
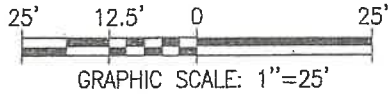
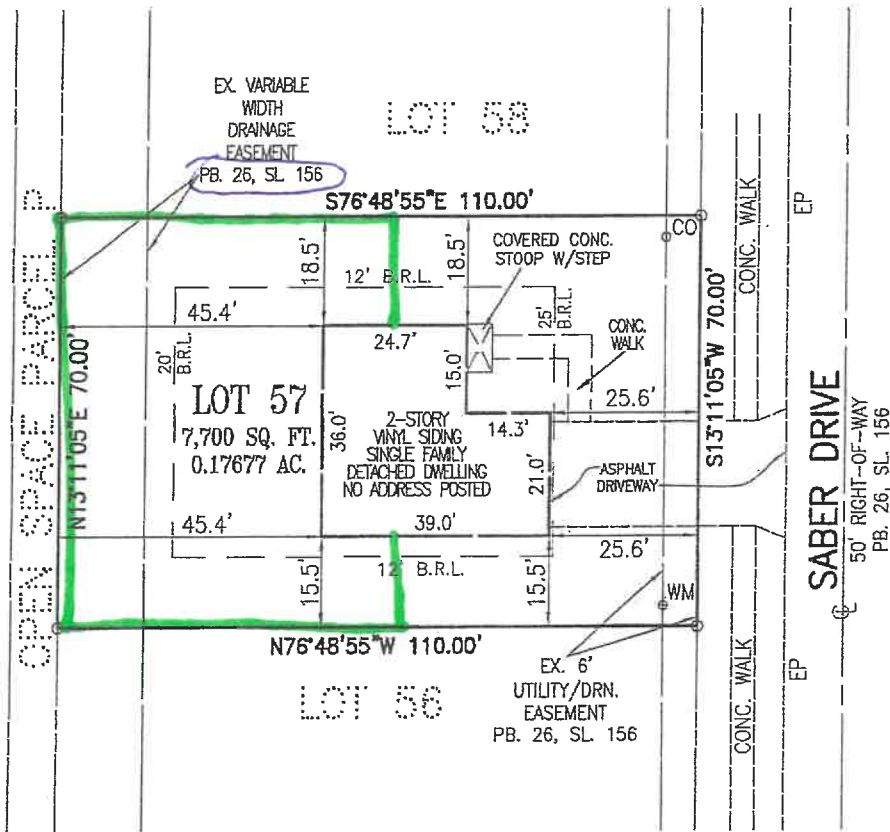
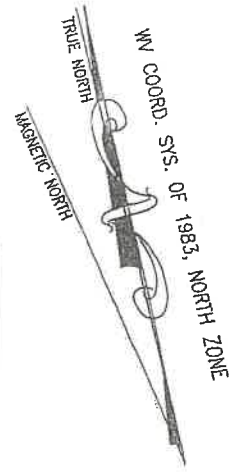
Denied

Date: \_\_\_ / \_\_\_ / \_\_\_

**LEGEND:**

- B.R.L. - BUILDING RESTRICTION LINE
- EP - EDGE OF PAVEMENT
- CO - SANITARY SEWER CLEANOUT
- WM - WATER METER

- Fence



09-26-2022

**NOTES:**

1. TITLE REPORT WAS NOT FURNISHED, THEREFORE ALL UNDERLYING EASEMENTS MAY NOT BE SHOWN HEREON.
2. THE BOUNDARY INFORMATION WAS TAKEN FROM EXISTING LAND RECORDS.
3. PROPERTY CORNERS WERE SET WITH THIS SURVEY.
4. THIS IS FOR CONSTRUCTION REVIEW ONLY, NOT A BOUNDARY SURVEY.
4. THE PROPERTIES SHOWN ON THIS PLAT ARE LOCATED IN FLOOD ZONE X (UNSHADED), AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD, ACCORDING TO COMMUNITY PANELS 54037C0136E, 54037C0137E, 54037C0138E AND 54037C0139E OF THE FEMA FLOOD INSURANCE RATE MAP FOR JEFFERSON COUNTY, WEST VIRGINIA, DATED DECEMBER 18, 2009.

PLAT SHOWING  
HOUSE LOCATION  
SURVEY  
ON  
LOT 57  
PHASE III  
MAGNOLIA SPRINGS  
SUBDIVISION

PB. 26, SL. 156  
CHARLES TOWN DISTRICT  
JEFFERSON COUNTY, WEST VIRGINIA  
SCALE: 1" = 25' DATE: SEPT. 16, 2022



4501 Daly Drive  
Chantilly, VA 20151  
Phone: 703-263-1900  
www.gordon.us.com

PROGRAMMING AND PLANNING  
CIVIL ENGINEERING  
LANDSCAPE ARCHITECTURE  
SURVEY AND MAPPING  
SECURITY CONSULTING

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To whom it may concern,

Firstly, thank you for taking the time to review our forms for a request to waive restrictions on our property to be able to keep our fence. We found ourselves in a situation where the fence company had built our fence into the easement after we expressed that we were unable to do so.

We are hoping to rectify this issue through the waiver process so that not only may we maintain the fence in its current location but we would be fully able to care for and maintain the landscaping for optimal water flow.

Since the fence was installed, neither ourselves nor our neighbors have had any issues with water flow of any kind. This is one of the reasons we had no idea that the fence had been installed into the easement.

We hope all the additional information is of use to you and look forward to hearing your decision on the matter.

Kind Regards

The Payne Family

47 Saber Dr  
Charles Town  
WV  
25414

**RECEIVED**

SEP 18 2023

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

23-22-PCW

Wendy Brodhead  
259 Saber Dr.  
Charles Town, WV 25414  
September 14, 2023

To Whom It May Concern:

I am a neighbor to Jack and Helen Payne of 247 Saber Dr., and I am writing to express my full support for their right to make improvements to their property, including the installation and maintenance of a fence.

Having observed the situation since the fence was installed, I can confidently state that there have been no adverse effects on my property or damage as a result of the fence. In fact, the fence has been a well-thought-out addition to their property, enhancing its aesthetics and ensuring privacy. I appreciate the care they took to review their plans with me ahead of time to ensure that it does not encroach upon or negatively impact neighboring properties.

Furthermore, I have not noticed any changes in the water drainage patterns or standing water issues since the installation of the fence. It is evident that necessary precautions have been made to maintain the natural flow of water, which is essential to prevent any potential water-related concerns.

Please consider this letter as a formal statement of my support for the fence as installed and a declaration that it has not caused any issues on my property. If you require any further assistance or would like to discuss this matter in more detail, please do not hesitate to reach out to me.

Sincerely,

  
Wendy Brodhead

Cell: (571) 723-6158

Email: jswbrcr@gmail.com

RECEIVED

SEP 18 2023

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

To Whom It May Concern:

I am writing this statement to indicate that my next door neighbor's fence at 247 Sabar Dr. has caused no water flow, and nor has it caused water drainage to my side of my properties. No concerns on my side at all.



my Abdul  
229 Sabar Dr.  
Charles town, WV 25414

**RECEIVED**

SEP 18 2023

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING



Jefferson County, West Virginia  
Department of Engineering, Planning and Zoning  
**Office of Planning and Zoning**  
116 E. Washington Street, 2<sup>nd</sup> Floor, P.O. Box 716  
Charles Town, West Virginia 25414

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

Phone: 304-728-3228

**2024 MEETING SCHEDULE**  
**JEFFERSON COUNTY PLANNING COMMISSION**

Unless otherwise posted, Planning Commission meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street at 7:00 p.m.

<u>Waiver/Variance*</u>	<u>Concept Plan**</u>	<u>Regularly Scheduled Meeting<sup>^</sup></u>
Tuesday, December 19, 2023	Wednesday, November 22, 2023	Tuesday, January 9, 2024
Tuesday, January 23, 2024	Friday, December 29, 2023	Tuesday, February 13, 2024
Tuesday, February 20, 2024	Friday, January 26, 2024	Tuesday, March 12, 2024
Tuesday, March 19, 2024	Friday, February 23, 2024	Tuesday, April 9, 2024
<b>Tuesday, April 23, 2024</b>	<b>Friday, March 29, 2024</b>	<b>Tuesday, May 14, 2024</b>
Tuesday, May 21, 2024	Friday, April 26, 2024	Tuesday, June 11, 2024
Tuesday, June 18, 2024	Friday, May 24, 2024	Tuesday, July 9, 2024
Tuesday, July 23, 2024	Friday, June 28, 2024	Tuesday, August 13, 2024
Tuesday, August 20, 2024	Friday, July 26, 2024	Tuesday, September 10, 2024
Tuesday, September 17, 2024	Friday, August 23, 2024	Tuesday, October 8, 2024
Tuesday, October 22, 2024	Friday, September 27, 2024	Tuesday, November 12, 2024
Tuesday, November 19, 2024	Friday, October 25, 2024	Tuesday, December 10, 2024

<sup>^</sup>Regularly scheduled Planning Commission Meetings are held on the second Tuesday of each month. The Planning Commission may choose to schedule a Tentative Meeting (as needed) on the fourth Tuesday of every month to conduct Commission business or to meet required deadlines that are in accordance with the Planning Commission's 4<sup>th</sup> Tuesday Meeting policy (approved 11/14/17). Please check with office Staff for a list of Tentative Meeting dates.

The required application, supporting documentation and applicable fees must be submitted to the office by close of business on the Submission Deadline date.

\*The Waiver and Variance deadline is 21 calendar days prior to the meeting to allow for Staff review the applications, and to accommodate the 14-day notice requirements for the placard/sign and mailings to adjacent property owners.

\*\*The Concept Plan (subdivision or site plan) deadline is 45 calendar days prior to the meeting to allow for Staff review of the Plan, and to accommodate the 21-day legal advertisement requirement, and the 14-day notice requirements for the placard/sign and mailings to adjacent property owners.

Changes in the time or location of the meeting shall be noticed on the County's website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org).  
Note: if the President of the County Commission or the Planning Commission determines that weather conditions make travel unsafe for the public, County offices may close and/or the meeting may be cancelled. Please check the County's website for possible meeting updates during inclement weather.

Agenda items that have been deferred due to a cancellation will be rescheduled. No additional public notice shall be given. All signs must remain posted on the respective properties until the rescheduled meeting date. Please call the office or check the County's website for the rescheduled meeting date.



## Alexandra Beaulieu

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**From:** Michael Shepp <michaelshepp@me.com>  
**Sent:** Thursday, October 5, 2023 4:22 PM  
**To:** Alexandra Beaulieu; Jennifer Brockman; Planning Department  
**Subject:** Fwd: Committee Report on Waiver Process by Staff

**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

Alex:

Please put this in the PC agenda for discussion/possible action.

Thanks

Michael Shepp  
Sent from my iPhone

Begin forwarded message:

**From:** Paul Raco <pjraco.consulting@gmail.com>  
**Date:** October 5, 2023 at 2:29:46 PM EDT  
**To:** "R. Michael Shepp" <Michaelshepp@me.com>  
**Subject:** Committee Report on Waiver Process by Staff

Mike,

As we discussed in the Committee Meetings, there seems to be a problem with the currently applied Waiver Process for the Planning Commission.

Currently, as applicant for a Waiver is being required by the Staff to submit the Application for a waiver at least three weeks in advance to a regular Planning Commission meeting. An Applicant is required to submit the neighboring property owner information so that Staff can send a Notice of the Planning Commission meeting that Staff has scheduled on an upcoming PC Meeting. Currently, the Applicant is contacted to pick up a large placard to post on the site announcing a Public Hearing including date and time of the upcoming Planning Commission meeting. And finally, the Staff also prepares and sends a Legal Notice for the Spirit of Jefferson to place a Legal Advertisement announcing the Public Hearing, as well.

During my research for the Committee, I could not find any Ordinance or State Code requirement for all of the above procedures that the Staff are requiring for Waiver Applicants. I asked Staff why they were requiring all of these notices and scheduling of a Public Hearing and asked for either the Section of the Ordinance that requires this process, or in absence of an ordinance standard, if there was a Policy that had been adopted by a prior Planning Commission that I was not aware. After a period of research, I was told by Staff that there was no Planning Commission Policy or Ordinance requirement for a Public Hearing, legal advertisement/notice, or posting requirement for a Waiver from the standards of the Subdivision/Site Plan Ordinance. In fact, Article 24, Division 24.300, appears only to require the Planning

Commission to make a decision utilizing prescribed criteria without a Public Hearing. That provision does not appear to require a Public Notice or a Legal Advertisement (which makes sense since it is not intended to be a Public Hearing). Additionally, it does not establish an onsite Posting requirement, as found in the Zoning Ordinance for Zoning Variances. The only thing that is required under Division 24.300 is that the neighboring (adjoining) property owners receive a Staff prepared and mailed notice of the meeting. It appears that at some point, Staff expanded the waiver process to include all of the other items such as posting, legal advertisement, and a Public Hearing.

The State Code allows the PC to write ordinance procedures for waivers. It appears that the PC and the CC have and prescribed those standards in Division 24.300. I would suggest that without the ordinance being amended, it is clear that the process for waivers should return to how they were done in the past and as intended in Division 24.300. As Nathan has told the Commission in the past from both sides of the table, Due Process is entitled to both the Public AND the Applicant, as outlined in State or Local Law/Ordinance. My recommendation is that the Ordinance be followed as written for the waiver process.

Please let me know if you have any questions.

Thanks, Paul

--

Paul J. Raco  
P. J. Raco Consulting, LLC  
PO Box 548  
Charles Town, WV 25414  
304/676-8256



# 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: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

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

Phone: (304) 728-3228

Fax: (304) 728-8126

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## Planner's Memorandum Planning Commission Meeting October 10, 2023

### 1) Engineering, Planning and Zoning County Offices Contact Information

The Department of Engineering, Planning and Zoning Mason Building is open to the public.

BUILDING PERMITS & INSPECTIONS 304-725-2998 [permits@jeffersoncountywv.org](mailto:permits@jeffersoncountywv.org)

IMPACT FEES 304-728-3331 - [mmason@jeffersoncountywv.org](mailto:mmason@jeffersoncountywv.org)

ENGINEERING 304-728-3257 - [engineering@jeffersoncountywv.org](mailto:engineering@jeffersoncountywv.org)

PLANNING & ZONING 304-728-3228 - [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org), [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

GIS & ADDRESSING 304-724-6759 - [gis@jeffersoncountywv.org](mailto:gis@jeffersoncountywv.org)

### 2) Upcoming PC meetings

#### ❖ November Meeting:

- Next Regular meeting date: **November 14, 2023**
  - 5:30 pm Comprehensive Plan Work Session
  - 7:00 pm Planning Commission Meeting
    - Bakerton Monopole Concept Plan Public Workshop