

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 2nd 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.