

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

1 Meeting Date: September 28, 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 David Wiegand were present in person.  
7 Board Members Absent: Mikala Shremshock, Alternate, with notification  
8 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator;  
9 Steve Groh, Assistant Prosecuting Attorney; and Jennilee Hartman,  
10 Zoning Clerk

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

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

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

15 Mr. Quynn requested a deliberative session.

16 Mr. Guier moved to go into deliberative session at 2:04 pm. Mr. Wiegand seconded the motion.

17 Mr. Quynn called for a vote, which carried four (4) in support and one opposed (Mr. McKinney).

18 Mr. Wiegand moved to come out of deliberative session at 2:15 pm. Mr. Guier seconded the motion,  
19 which carried unanimously.

20 Mr. McKinney moved to approve the minutes as presented. Mr. Quynn called for a vote, which  
21 carried four (4) in support and one (1) abstention (Mr. Wiegand). Mr. Wiegand stated his reason for  
22 abstaining was because he did not attend the August meeting.

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

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

25 Request: Variance request from Section 9.7 to reduce the side setback along the northern property  
26 line from 6' to 4' and the rear setback along the eastern property line from 6' to 4' for a  
27 proposed 160 sf shed.

28 Owner: Sharon Tennant

29 Parcel Info: Mecklenburg Heights, Lot 72, 323 Woodcock Ave., Shepherdstown, WV  
30 Parcel ID: 09007C00070000; Size: .48 ac; Zoning District: Residential Growth

31 Ms. Sharon Tennant, property owner, was present to address the Board. Ms. Beaulieu provided an  
32 overview of her staff report noting that a letter of support from the adjoining neighbors had been  
33 submitted for the record. Ms. Beaulieu stated that the applicant had acknowledged that a business  
34 could not be operated from the proposed structure without further consideration by the Board.

35 Ms. Tennant explained the nature of the request to the Board.

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

38 Mr. Guier moved to approve zoning variance #23-27-ZV with the condition that the applicant is  
39 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

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

2 Request: Variance request from Section 8.10 to allow placement of a staffed model home sales  
3 office on Lots 36 & 37 of the Stonecrest Subdivision to increase visibility for  
4 incoming visitors.

5 Owner: Flowing Springs Road, LLC

6 Parcel Info: Stonecrest Subdivision, Lots 36 & 37, Vacant parcel off Flowing Springs Road (just  
7 north of the Aspen Greens S/D), Charles Town, WV

8 Parcel ID: 02000300090000; Size: .24 and .16 ac (respectively);

9 Zoning District: Residential Growth

10 Mr. Jason Gerhart, representative with Integrity Federal Services, LLC, was present to address the  
11 Board on behalf of the property owner. Ms. Beaulieu provided an overview of her staff report  
12 noting that while a model home is permitted anywhere within the development that staffed model  
13 homes in the subject locations required action from the Board.

14 Mr. Gerhart explained the nature of the request to the Board noting that one of the lots would  
15 contain the staffed model home and the other lot would contain the temporary parking lot for the  
16 model home. Mr. Gerhart confirmed that the staffed model home would be a speculative (spec)  
17 home as opposed to a sales trailer and stated that eventually both lots would be converted to  
18 residential homes.

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

21 Mr. McKinney moved for a summary approval in accordance with Section 5.7 of the Boards'  
22 Rules of Procedure (as amended 01/26/23). Mr. Wiegand seconded the motion, which carried  
23 unanimously.

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

25 Request: Variance request from Section 5.7B of the Zoning Ordinance (amended 09/28/06)  
26 to reduce the front setback along the eastern property line from 40' to 17' for a  
27 30' x 30' detached garage; and Section 9.6C to allow an accessory structure in the  
28 required front yard.

29 Owner: Charles and Shelly Wolfe

30 Parcel Info: Carlos McDaniel Minor Subdivision, Lot 1, 1223 N. Childs Road, Kearneysville, WV  
31 Parcel ID: 07001700100014; Size: 1.18 ac; Zoning District: Rural

32 Mr. Charles Wolfe, property owner, was present to address the Board. Ms. Beaulieu provided an  
33 overview of her staff report and noted that a letter of support from the adjoining neighbor had been  
34 submitted for the record. Ms. Beaulieu noted that the applicant had acknowledged that a business  
35 could not be operated from the proposed structure without further consideration by the Board.

36 Mr. Wolfe explained the nature of the request to the Board, noting that the buildable area was  
37 limited due to the location of the septic reserve area and well.

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

40 Mr. Harris moved to approve zoning variance #23-29-ZV with the condition that the applicant is  
41 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

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

2 Request #1: Request for a Special Exception Permit for an Off-Premise Sign for Bakerton Market  
3 (File #23-2-SE).

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

7 Owner: Barbara Sullivan

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

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

11 Mr. Kevin Cueller, owner of Bakerton Market, was present to address the Board on behalf of the  
12 property owner. Ms. Beaulieu provided an overview of her staff report as it related the Special  
13 Exception request and the Zoning Variance request.

14 Mr. Cueller explained that nature of each request to the Board. Mr. Cueller confirmed that  
15 Ms. Sullivan, property owner of the subject parcel, was in support of the request by virtue of the  
16 fact that she had signed the application forms and was in attendance. Mr. Cueller also confirmed  
17 that the sign would not contain any lighting features.

18 Mr. Quynn opened the public hearing. Pastor Adam Johnson, local resident, spoke in support of the  
19 request. Mr. Quynn closed the public hearing.

20 Mr. Guier moved to approve the Special Exception Permit for an Off-Premises Sign for Bakerton  
21 Market (File #23-2-SE) and the Zoning Variance (#23-30-ZV) with the condition that the applicant  
22 is bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

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

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

28 Owner: Charles Town Burr Park Station, LLC

29 Applicant: Holtzman Oil Corp / Attn: Lindsay Racer

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

32 Ms. Hartman swore in the property owner's representative, Mr. Runion, as he was not in attendance  
33 at the beginning of the meeting.

34 Mr. Marshal Runion, representative with Eddie Edward Signs, and Mr. Dexter Mumaw,  
35 representative with Holtzman Oil Corp., were present to address the Board. Ms. Beaulieu provided  
36 an overview of her staff report. Ms. Beaulieu noted that the request is to move the existing sign  
37 from its current location, which was previously approved by the Board, to the newly proposed  
38 location to increase visibility.

39 Mr. Runion and Mr. Mumaw explained the nature of the request noting that no changes to the  
40 existing sign were proposed.

41 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn  
42 closed the public hearing.

1 Mr. Harris moved to approve zoning variance #23-32-ZV with the condition that the applicant is  
2 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

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

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

7 Owner: Elevation Properties, LLC

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

9 Parcel Info: 1208 Gardners Lane, Shepherdstown, WV

10 Parcel ID: 09001700040004; Size: 20 ac; Zoning District: Rural

11 Mr. Paul Raco with P.J. Raco Consulting, LLC, and Mr. Josh Beall with Elevation Properties,  
12 property owner, were present to address the Board. Ms. Beaulieu provided a detailed overview of  
13 her staff report.

14 Mr. Raco explained the nature of the request to the Board noting that each lot within the proposed  
15 subdivision would retain approximately 2.5 acres in a platted preservation easement. Mr. Raco  
16 stated that no structures that necessitate a building permit would be permitted within the  
17 preservation easement areas. Mr. Raco stated that his client was not contesting staff's interpretation  
18 of the Zoning Ordinance as it relates to the greenspace provisions. Mr. Raco argued that the  
19 proposed preservation easement areas met the intent of the greenspace provision. Mr. Raco stated  
20 that the exact locations of the proposed preservation easement areas would be confirmed after perc  
21 tests are completed and that his client would work closely with the Zoning Administrator to ensure  
22 the final configuration is consistent with the intent of the Ordinance.

23 Mr. Quynn opened the public hearing. Mr. Collin Stine and Ms. Susan Donham, adjoining property  
24 owners, spoke in opposition to the request. Mr. Quynn closed the public hearing.

25 In rebuttal, Mr. Raco noted that the subject parcel did not contain any delineated flood plain and was  
26 not on the National Historic Registry. Mr. Raco reiterated that, as proposed, the request met the intent  
27 of the Zoning Ordinance by preserving the required 10 acres of greenspace in a restrictive easement.

28 The Board discussed the zoning variance criteria.

29 Mr. Wiegand moved to approve zoning variance #23-31-ZV with the condition that the applicant is  
30 bound by their testimony. Mr. Guier seconded the motion, which carried four (4) in support and one  
31 (1) opposed (Mr. Harris).

32 **Zoning Administrator Report**

33 a. Monthly Zoning Certificate Activity Report.

34 The Report was included in the mailed packet.

35 Ms. Beaulieu noted that the next regular scheduled meeting is October 26, 2023.

36 **Legal Update**

37 a. Discussion of the following pending lawsuits.

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

40 o Mr. Groh stated the County had retained outside legal counsel for this item.

- 1           2. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy  
2           Facility / File 22-9-CUP) Rockwell v. JCBZA
- 3           ○ Mr. Groh did not have a legal update for this item.
- 4           3. Jefferson County Circuit Court Case #CC-19-2023-C-131 f/k/a CC-19-2023-P-95 (RE:  
5           Williamson Fence / 23-13-ZV) Gallagher v. JCBZA and Timothy Williamson
- 6           ○ Mr. Groh explained that this item was on hold until a separate legal case, unrelated  
7           to the County, was resolved.
- 8       b. Discussion with possible deliberative session and signing of draft Findings/Decisions.
- 9       **Meeting: August 24, 2023**
- 10       1. Variance request from Section 10.4.A.2. Owner: Wall Street Partners WV1 LLC.
- 11       2. Applicant: Mid-Atlantic Permitting Services, Inc. / Attn: Ken Padgett. File: 23-24-ZV.
- 12       3. Variance request from Section 9.7. Owner: Adranetta Sine (Weimer). File: 23-25-ZV.
- 13       4. Variance request from Section 5.4(b). Owner: Daniel Shelton. File: 23-26-ZV.
- 14       Mr. Quynn will be provided a copy of the draft Findings for review.
- 15       Mr. Wiegand moved to adjourn the meeting at 3:52 pm. Mr. Quynn called for a vote, which carried  
16       unanimously.