

Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: November 9, 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; Steve Guier, Secretary; Jacob Harris and David
6 Wiegand were present in person.
7 Board Members Absent: Matthew McKinney, Vice Chair and Mikala Shremshock, Alternate,
8 with notification
9 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator;
10 Steve Groh, Assistant Prosecuting Attorney; and Jennilee Hartman,
11 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 **Approval of Minutes: October 26, 2023**

16 Mr. Harris moved to approve the minutes as drafted. Mr. Quynn called for a vote, which carried
17 unanimously.

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

19 Mr. Quynn called for Item #4 to be heard first.

20 **AGENDA ITEM #4 EXTENSION REQUEST RE: FILE #22-9-CUP**

21 Request: Request by Rippon Energy Facility, LLC for an eighteen month extension of their
22 Conditional Use Permit to operate a Solar Energy Facility. Per Section 3.2G of the
23 Zoning Ordinance, the applicant is requesting an extension from June 7, 2024 to
24 December 7, 2025.

25 Applicant: Rippon Energy Facility, LLC / Attn: Sam Gulland and Brian Kusiak

26 Parcel Info: Bullskin LLC, Owner

27 673 Old Shennandale Rd, Charles Town, WV

28 Parcel ID: 06001100090000; Lot Size: 133.75 / Project Size: 106.52 ac

29 Parcel Info: Clarence E Hough, Et Al, Owner

30 Vacant parcel west of the property addressed as 957 Myerstown Rd, Charles Town, WV

31 Parcel ID: 06001000030001; Lot Size: 108.66 ac / Project Size: 99.84 ac;

32 Parcel Info: View Mountain Farm LLC, Owner

33 28 Dutch Hill Rd, Charles Town, WV

34 Parcel ID: 06002100060000; Lot Size: 101.6 ac / Project Size: 97.01 ac;

35 Parcel Info: Stanley & Katherine Dunn, Owner

36 2646 Kabletown Rd, Charles Town, WV

37 Parcel ID: 06002100050000; Lot Size: 174.6 ac / Project Size: 165.52 ac;

38 Parcel Info: Stanley & Katherine Dunn, Owner

39 Vacant parcel east of the property addressed as 28 Dutch Hill Rd, Charles Town, WV

40 Parcel ID: 06002100070000; Lot Size: 89.39 ac / Project Size: 86.07 ac

41 Parcel Info: Stanley & Katherine Dunn, Owner

42 Vacant parcel east of the property addressed as 2646 Kabletown Rd, Charles Town, WV

43 Parcel ID: 06002200050001; Lot Size: 232 ac / Project Size: 169.15 ac;

1 Parcel Info: Stanley & Katherine Dunn, Owner
2 1371 Myerstown Rd, Charles Town, WV
3 Parcel ID 06001000050000; Lot Size: 366 ac / Project Size: 12.27 ac

4 *All of the subject parcels are zoned Rural.

5 Mr. Brian Kusiak and Mr. Scott Leech were present to address the Board on behalf of Rippon
6 Energy, LLC. Ms. Beaulieu provided an overview of her staff report, noting that the request was
7 permitted in accordance with Section 3.2G and that the request was limited to the expiration date of
8 the CUP.

9 Mr. Kusiak explained the nature of the request to the Board and provided an overview of the
10 project's history and an explanation pertaining to hardship for the Board's evaluation.

11 Mr. Kusiak and Mr. Leech addressed the Board's questions.

12 Mr. Guier moved to approve the extension request as presented with the condition that the applicants
13 are bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

14 **AGENDA ITEM #1 FILE #: 23-34-ZV**

15 Request: Variance request from Section 8.4 to reduce the distance requirement from 300' to
16 135' along the western property line and from 300' to 75' along the eastern property
17 line for a proposed kennel with an outdoor training area.

18 Owner: Nicholas Russo and Alice Davenport

19 Parcel Info: 1899 Trough Road, Shepherdstown, WV

20 Parcel ID: 09000900070006; Size: 10 acres; Zoning District: Rural

21 Mr. Nicholas Russo and Ms. Alice Davenport, property owners, were present to address the Board.

22 Ms. Beaulieu provided an overview of her staff report to the Board noting that the Planning
23 Commission had lifted the single family restriction from the subject parcel for the purpose of
24 operating the proposed kennel, which is a permitted use in the rural zoning district.

25 Mr. Russo provided an overview of the proposed kennel business, noting that the primary
26 component included training for government dogs (including scent detection), service dogs, task
27 oriented training, etc. Mr. Russo stated that no outdoor runs were proposed and noted that the entire
28 property is fenced. Mr. Russo stated that the existing structure is cement cinder block, which
29 mitigates sound. Mr. Russo stated that there are 18 stalls, each 12' x 12', within the cinder block
30 structure. Mr. Russo stated that outdoor training with dogs will only occur with trainers present.
31 Mr. Russo stated that boarding would be an incidental service to the dog training.

32 Mr. Quynn opened the public hearing. Ms. Hartman swore in additional members of the public who
33 arrived after the start of the meeting.

34 Mr. Steve Flowers and Ms. Suellen Wimsatt, county residents, spoke in support of the request.

35 Mr. Quynn closed the public hearing.

36 Mr. Russo noted that he lived on the subject property and would therefore ensure that any sound
37 associated with the business was properly mitigated.

38 Mr. Harris moved to approve zoning variance #23-34-ZV with the condition that the applicants are
39 bound by their testimony.

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

1 AGENDA ITEM #2 FILE #: 23-35-ZV

2 Request: Variance request from Section 10.4.B.4 to allow a freestanding business sign to be
3 installed in a location that faces an adjoining residential property.

4 Owner: Peter Corum

5 Applicant: Dino Kids Childcare, LLC / Attn: Cordelia Courtney

6 Parcel Info: 3988 Kearneysville Pike, Shepherdstown, WV 25443

7 Parcel ID: 09001300260002; Size: 2 acres; Zoning District: Neighborhood Commercial

8 Ms. Cordelia Courtney, applicant, was present to address the Board. Ms. Beaulieu provided an
9 overview of her staff report to the Board.

10 Ms. Courtney provided an overview of the request stating that the proposed sign would make
11 identifying the property easier and therefore safer for parents. Ms. Courtney also noted that the sign
12 would help advertise the day care to future clients. Ms. Courtney confirmed that the proposed sign
13 would meet the setback requirements.

14 Mr. Quynn opened the public hearing.

15 Mr. Joseph Spurgas, adjoining neighbor, stated he was not opposed to the daycare business but had
16 concerns pertaining to traffic safety.

17 Mr. Quynn closed the public hearing.

18 Ms. Courtney reiterated that the sign would help parents to identify the property sooner, which
19 would allow them sufficient time to slow down and access the property safely. Ms. Courtney stated
20 that she is working with the WV Division of Highways regarding the daycare and will be installing
21 traffic safety measures on the property.

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

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

25 AGENDA ITEM #3 FILE #: 23-9-CUP

26 Request: Request by Earthworx General Contracting Services, LLC for a Conditional Use
27 Permit to operate a Contractor with Outdoor Storage business, as defined in Article 2
28 of the Zoning Ordinance. The proposal consists of storing construction equipment on
29 an outdoor gravel pad. No customers will come to the property. No new structures or
30 signs are proposed.

31 Owner: Jeremy and Tiffany Martin

32 Applicant: Earthworx General Contracting Services, LLC

33 Parcel Info: 104 Winebrenner Road, Shepherdstown, WV 25443

34 Parcel ID: 09000700020002; Size: 16.5 acres; Zoning District: Rural

35 Mr. Jeremy Martin and Ms. Tiffany Martin, property owners, were present to address the Board.

36 Ms. Beaulieu provided an overview of her staff report to the Board and reviewed each of the criteria
37 for a Conditional Use Permit.

38 Mr. Martin provided an overview of the proposed land use including an explanation of business
39 hours and operation. Mr. Martin emphasized that their equipment was used both for their off-site
40 excavation business and their farm operations. Mr. Martin stated that he was aware of the noise
41 requirements of the Ordinance and confirmed that the business operations would adhere to the noise
42 restrictions. Ms. Martin stated that they had planted 21 evergreen trees along the northern property

1 line since purchasing the property. Mr. Martin added that they had snow removal contracts, which
2 would necessitate early hour operations in the event of inclement weather.

3 Mr. Quynn opened the public hearing.

4 Andrew Long, Tad Kochel, Deb Blake, Shannon Plotner, Ted Maciag, Melissa Murray, David
5 Bateman, and Marco Cerbone spoke in opposition to the request.

6 Erik Berndt, Mason Cantrell, Tanner Cantrell, Randy Davis, Karen Lemons, and Kenneth Sutton
7 spoke in support of the request. As Heather Duncan was unable to stay for the duration of the meeting,
8 Ms. Martin submitted Ms. Duncan's written comments for the record.

9 Mr. Quynn closed the public hearing.

10 The Martins addressed their neighbors' concerns regarding traffic, noise, pollution, and the potential
11 for decreased property values. Ms. Martin noted that they had purchased a decibel meter to ensure
12 that their business did not exceed the permissible noise level. Ms. Martin reiterated that since they
13 lived on the subject property that they would not conduct activities that would pollute their ground
14 water.

15 Mr. Wiegand moved to go into deliberative session at 4:26 pm. Mr. Quynn called for a vote, which
16 carried unanimously.

17 Mr. Harris moved to come out of deliberative session at 4:43 pm. Mr. Quynn called for a vote,
18 which carried unanimously.

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

20 Mr. Harris moved to approve the conditional use permit with the following conditions:

- 21 1. The applicants are bound by their testimony.
- 22 2. The applicant shall relocate their business equipment storage area and employee parking
23 area to the southern border of the property, in accordance with County setback
24 requirements, within 12 months.
- 25 3. The applicant shall access the storage and parking area from the western property line /
26 southern end of the platted 40' access easement and not through the subject parcel via the
27 existing driveway.

28 Mr. Guier seconded the motion, which carried unanimously.

29 **Zoning Administrator Report**

30 a. Monthly Zoning Certificate Activity Report.

31 The Report was included in the mailed packet.

32 Ms. Beaulieu noted that the last regularly scheduled meeting for 2023 is December 14 and that the
33 first regularly scheduled meeting for 2024 would be January 25.

34 **Legal Update**

35 a. Discussion of the following pending lawsuits.

- 36 1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy
37 Facility / File 22-9-CUP) Rockwell v. JCBZA
- 38 2. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence /
39 23-13-ZV) Gallagher v. JCBZA and Timothy Williamson.

1 Mr. Groh stated that there were no changes to the status of Item #1 and that Item #2 had
2 been stayed.

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

4 **Meeting: October 26, 2023**

5 1. Variance from Section 5.4B. Owner: David Cebulski. File: 23-33-ZV.

6 2. Request by Tracy Dove dba Charles Town Storage for a Conditional Use Permit. Owner:
7 Tracy and Marketa Dove. File: 23-8-CUP.

8 3. Request by Wild Hill Solar Project for an extension of the previously issued Conditional
9 Use Permit. Applicant: Wild Hill Solar, LLC. Owners: Clarence & Donna Hough, T. Todd
10 & Susan Hough, and Charles & Marie Hough (Life). File: 22-5-CUP.

11 The findings were not available at the meeting. Legal Counsel will provide at a later date.

12 Mr. Wiegand moved to adjourn the meeting at 5:13 pm. Mr. Quynn called for a vote, which carried
13 unanimously.