



**Jefferson County**  
**Board of Zoning Appeals Agenda**  
**Thursday, January 25, 2024 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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**Meeting Location:** County Commission Meeting Room  
Located in the lower level of the Charles Town Library (entrance on Samuel Street)  
200 East Washington Street, Charles Town, WV 25414

**Broadcast Information:** ZOOM Meeting ID: 868 6030 9323  
ZOOM Meeting Link: <https://us02web.zoom.us/j/86860309323>  
Phone Option (Dial by Location): 301-715-8592

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

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**Election of Officers**

**Approval of Minutes: December 14, 2023**

**Public Hearing – Administer Oath**

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**Item #1 File # 23-36-ZV – postponed to February 22, 2024 (from December 14, 2023)**

**Request:** Variance request from Section 9.7 to reduce the front setback along Mahoney Drive from 20' to 4' and to reduce the rear setback along the eastern property line from 12' to 2' for an existing 12' tall fence.  
**Owner:** Guy Chappuis  
**Parcel Info:** 26 Benson Drive, Harpers Ferry, WV  
Parcel ID: 04003A00370000; Size: .58 acres, Zoning District: Village

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**Item #2 File # 24-1-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 a proposed five lot cluster subdivision.  
**Owner:** Debra Corbett  
**Applicant:** Mark Stacpoole  
**Consultant:** Josh Beall (real estate broker)  
**Parcel Info:** Vacant parcel on the southeast corner of Huyett Rd and Summit Point Rd, Charles Town, WV  
Parcel ID: 06001300050000; Size: 36 ac; Zoning District: Rural

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**Item #3 File # 24-2-ZV**

**Request:** Variance request from Appendix A to reduce the rear setback from 20' to 18' for a 20' wide screened in porch.  
**Owner:** Beallair Homes, LLC  
**Parcel Info:** Beallair Subdivision, Lot 273, 101 Claymont Hill Street, Charles Town, WV  
Parcel ID: 04010A02730000; Size: .209 ac; Zoning District: Residential Growth

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**Item #4 File # 24-3-ZV**

**Request:** Variance request from Section 5.6B to reduce the distance requirement for an Industrial Use from 1,000' to 400' along the southern property line to allow for the construction of a concrete plant accessory to the quarry operation.  
**Owner:** Millville Quarry, Inc.  
**Applicant:** Diamond Concrete, LLC  
**Parcel Info:** 165 Bradstone Lane, Harpers Ferry, WV  
Parcel ID: 04001100220000; Size: 272+ ac; Zoning District: Industrial Commercial

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**Item #5      File # 24-4-ZV**

**Request:** Variance request from Section 8.10 to allow placement of a staffed model home sales office on Lot 174 and Townhome Lot 21 of the Kings Crossing Subdivision (PC File #21-8-SD).

**Owner:** DR Acquisitions LLC

**Applicant:** DRB Group / Attn: Matt Monahan

**Parcel Info:** Kings Crossing Subdivision, Lot 174 and Townhome Lot 21  
Vacant Lots located off Aragon Drive and Armistead Place, Charles Town, WV  
Parcel ID: 02001700220000; Size: .219 ac. and .084 ac. (respectively);  
Zoning District: Residential Growth

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**Discussion with possible action re: Submission Deadline Policy (draft)**

**Discussion with possible action re: Meeting Protocol Preamble (draft)**

**Zoning Administrator Report**

- a. Monthly Zoning Certificate Activity Report

**Legal Update**

- a. Discussion with possible deliberative session 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 c JCBZA and Timothy Williamson
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions.

**Meeting: December 14, 2023**

- 1. Variance from App. B. Owner: Stephen Patrick Snyder. File: 23-37-ZV.
- 2. Request by Songbird House Assisted Living Residence for a CUP to operate a Nursing or Retirement Home. Owner: Blue Iris LLC and Blue Tulip LLC / Attn: Sharon Hallinan, Manager. Applicant: Songbird House Assisted Living Residence / Attn: Beata Scott. File: 23-10-CUP.

**DRAFT - Minutes**

**Jefferson County Board of Zoning Appeals**

- 1 Meeting Date: December 14, 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: Matthew McKinney, Vice Chair; Steve Guier, Secretary; David  
6 Wiegand, and Mikala Shremshock, Alternate, were present in person.  
7 Tyler Quynn, Chair, was present via telephone conference.  
8 Board Members Absent: Jacob Harris without 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. McKinney presided over the meeting as Vice Chair.

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

**16 Approval of Minutes: November 9, 2023**

17 Mr. Wiegand moved to approve the minutes as drafted. Mr. McKinney and Ms. Shremshock  
18 abstained from voting as they were not in attendance for the November meeting. Mr. McKinney  
19 called for a vote, which carried three (3) in support and two (2) abstentions (McKinney and  
20 Shremshock).

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

**22 AGENDA ITEM # 1 FILE #: 23-36-ZV – POSTPONED UNTIL JANUARY 25, 2024**

23 Request: Variance request from Section 9.7 to reduce the front setback along Mahoney Drive  
24 from 20' to 4'; and to reduce the rear setback along the eastern property line from 12'  
25 to 2' for an existing 12' tall fence.

26 Owner: Guy Chappuis

27 Parcel Info: 26 Benson Drive, Harpers Ferry WV

28 Parcel ID: 04003A00370000; Size: .58 acres; Zoning District: Village

29 This item was postponed until January 25, 2024.

**30 AGENDA ITEM # 2 FILE #: 23-37-ZV**

31 Request: Variance request from Appendix B to reduce the non-residential side setback  
32 requirement from 50' to 8' along the northern property line for a 12' x 28' shed to be  
33 used for equipment storage related to an existing landscaping business (Snyder's  
34 Property Squad, LLC).

35 Owner: Stephen Patrick Snyder

36 Parcel Info: Riverside Subdivision, Sec. 7A, Lot 735. 38 Marcum Lane, Harpers Ferry, WV

37 Parcel ID: 06002601510000; Size: 1.18 ac; Zoning District: Rural

38 Mr. Stephen Snyder, property owner, was present to address the Board. Ms. Beaulieu provided an  
39 overview of her staff report to the Board.

40 Mr. Snyder explained the nature of the request noting that the affected neighbor to the north had  
41 provided a letter of support.

- 1 Mr. McKinney opened the public hearing. No members of the public provided testimony.
- 2 Mr. McKinney closed the public hearing.
- 3 Mr. Guier moved to approve zoning variance #23-37-ZV with the condition that the applicant is
- 4 bound by their testimony. Mr. Wiegand seconded the motion, which carried unanimously.
- 5 Mr. McKinney called for Item #4 to be heard next.

6 **AGENDA ITEM # 4 FILE #: 23-38-ZV**

- 7 Request: Variance request from Section 5.6B to reduce the distance requirement for Industrial
- 8 Uses from 1,000' to 300' along the southern property line to allow for the construction
- 9 of an asphalt plant accessory to the quarry operation.
- 10 Owner: Millville Quarry, Inc.
- 11 Parcel Info: 165 Bradstone Lane, Harpers Ferry, WV 25425
- 12 Parcel ID: 04001100220000; Size: 272+ ac; Zoning District: Industrial Commercial

13 Mr. Paul Raco with P.J. Raco Consulting and Mr. Joe Knechtel with Potesta & Associates were  
14 present on behalf of the property owner to address the Board. Ms. Beaulieu provided an overview  
15 of her staff report to the Board.

16 Mr. Raco and Mr. Knechtel provided an overview of the request stating that the proposed asphalt  
17 plant would be replacing an existing asphalt plant that is located on a neighboring quarry property.  
18 Mr. Knechtel stated that the new asphalt plant and the operational areas, including storage areas,  
19 would be located outside of the 300' setback. Mr. Raco noted that the West Virginia Department of  
20 Environmental Protection required a 300' setback for the proposed use. The representatives  
21 confirmed that their understanding from WV Paving was that the existing asphalt plant would be  
22 decommissioned and demolished once the new plant is constructed and operational.

23 Mr. McKinney opened the public hearing. No members of the public provided testimony.  
24 Mr. McKinney closed the public hearing.

25 Mr. Wiegand moved to approve zoning variance #23-38-ZV with the condition that the applicants  
26 are bound by their testimony. Mr. Guier seconded the motion, which carried unanimously.

27 **AGENDA ITEM # 3 FILE #: 23-10-CUP**

- 28 Request: Request by Songbird House Assisted Living Residence for a Conditional Use Permit
- 29 to operate a Nursing or Retirement Home, as defined in Article 2 of the Zoning
- 30 Ordinance. The proposal consists of providing homecare for up to 16 residents. The
- 31 application includes a 560 square foot expansion to increase the existing living space.
- 32 The facility will have up to four (4) caregivers/employees. All parking will occur on
- 33 site. No signs are proposed.
- 34 Owner: Blue Iris LLC and Blue Tulip LLC / Attn: Sharon Hallinan, Manager
- 35 Applicant: Songbird House Assisted Living Residence / Attn: Beata Scott
- 36 Parcel Info: Farview Farm, Lot 8, 217 Deer Trail, Shepherdstown, WV
- 37 Parcel ID: 09000900350000; Size: 2.52 acres; Zoning District: Rural

38 Ms. Sharon Hallinan, Ms. Beata Scott, and Attorney Kelsey Miller were present to address the  
39 Board. Ms. Beaulieu provided an overview of her staff report to the Board and reviewed each of the  
40 criteria for a Conditional Use Permit. Mr. Quynn requested that Staff confirm that the County does  
41 not enforce private covenants and restrictions. Ms. Beaulieu confirmed that private covenants and  
42 restrictions are not enforceable by the County and any conflict would be considered a civil matter  
43 between the Homeowners Association and the residents.

1 Ms. Hallinan provided a supplemental handout to each Board member [a copy was provided for the  
2 project file]. Referring to the handout, Ms. Hallinan provided a detailed overview of the proposed  
3 land use.

4 Mr. McKinney opened the public hearing.

5 Marion Danson, John Brown, Ellen Cohen, Gail Patterson, and Dale Renninger, neighboring property  
6 owners, spoke in opposition to the request. Attorney Chris Stroeck, representing neighboring property  
7 owners Vernon Mower and Douglas Auerbach, also spoke in opposition to the request.

8 Mr. McKinney closed the public hearing.

9 Ms. Hallinan addressed the neighbors' concerns regarding traffic, well water usage, trash collection,  
10 and the potential for decreased property values. Ms. Hallinan acknowledged that the existing  
11 subdivision road was not in good shape and stated that they would be willing to pay more than their  
12 share of the required road maintenance. Ms. Hallinan also stated that they would maintain a snow  
13 removal contract to ensure the safety of the residents. Ms. Hallinan stated they would be willing to  
14 install landscaping to block visibility along the side property lines.

15 Mr. Guier moved to go into deliberative session at 3:56 pm. Mr. Wiegand seconded the motion,  
16 which carried unanimously.

17 Mr. Guier moved to come out of deliberative session at 4:35 pm. Mr. Quynn seconded the motion,  
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. Quynn moved to approve the conditional use permit with the following conditions:

- 21 1. The applicants are bound by their testimony.
- 22 2. A site plan is required to process for approval through the County.

23 Ms. Shremshock seconded the motion, which carried three (3) in support and two (2) opposed  
24 (Mr. Wiegand and Mr. Guier).

#### 25 **Zoning Administrator Report**

26 a. Monthly Zoning Certificate Activity Report.

27 The Report was included in the mailed packet.

28 Ms. Beaulieu noted that the next regularly scheduled meeting is scheduled for January 25, 2024.

#### 29 **Legal Update**

30 a. Discussion of the following pending lawsuits.

- 31 1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy  
32 Facility / File 22-9-CUP) Rockwell v. JCBZA
- 33 2. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence /  
34 23-13-ZV) Gallagher v. JCBZA and Timothy Williamson.

35 Mr. Groh stated that he had no update to present.

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

#### 37 **Meeting: November 9, 2023**

- 38 1. Variance request from Section 8.4. Applicant: QRF Solutions K9. Owner: Nicholas  
39 Russo and Alice Davenport. File: 23-34-ZV.

- 1           2. Variance request from Section 10.4.B.4. Applicant: Dino Kids / Attn: Cordelia
- 2           Courtney. Owner: Peter Corum. File: 23-35-ZV.
- 3           3. Request Earthworx General Contracting Services, LLC for a Conditional Use
- 4           Permit. Owner: Jeremy and Tiffany Martin. File: 23-9-CUP.
- 5           4. Request by Rippon Energy Facility, LLC for an extension of the previously issued
- 6           Conditional Use Permit for a Solar Energy Facility. Applicant: Rippon Energy
- 7           Facility, LLC / Attn: Sam Gulland and Brian Kusiak. Owners: Bullskin LLC,
- 8           Clarence E Hough, Et Al, View Mountain Farm LLC, and Stanley & Katherine
- 9           Dunn. File: 22-9-CUP.
- 10           The Findings were provided to Mr. McKinney for his review and signature.
- 11 Mr. Guier moved to adjourn the meeting at 5:02 pm. Mr. McKinney called for a vote, which carried
- 12 unanimously.



Staff Report  
Jefferson County Board of Zoning Appeals  
January 25, 2024  
**24-1-ZV Corbett (Green Space) Variance Request**

When considering smaller cluster subdivisions (i.e. five lots or fewer) 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.

Under the cluster provisions, the subject lot has the development rights to create seven lots total (including the residue). One of the seven lots is required to contain green space equal to or greater than 50% of the acreage that was on record in 1988. In this instance, the green space area is required to be 18+ acres in size.

The applicant has represented that they would like to create a five lot subdivision and that the biggest lot would be ten acres in size. The applicant does not want to create a single 18 acre tract to meet the green space requirements; therefore, the applicant is requesting a variance to allow the required green space to be dispersed across each of the proposed five lots and has proffered to place the allocated green space areas in permanent easements totaling up to 18+ acres.

If the proposal included a green space lot that contained the full acreage for a cluster subdivision (i.e. 18+ acres), there would be no restriction pertaining to the type or quantity of structures that could be built on the green space lot. For example, a single family dwelling, an agricultural caretaker residence\*, barn, greenhouse, shed, garage, etc. could all be placed on the green space lot if the full 50% were retained as required by the Zoning Ordinance.

*\*A detached Agricultural Caretaker Residence is permitted by zoning on a lot that contains 10+ acres and has well and septic approvals from the Health Department.*

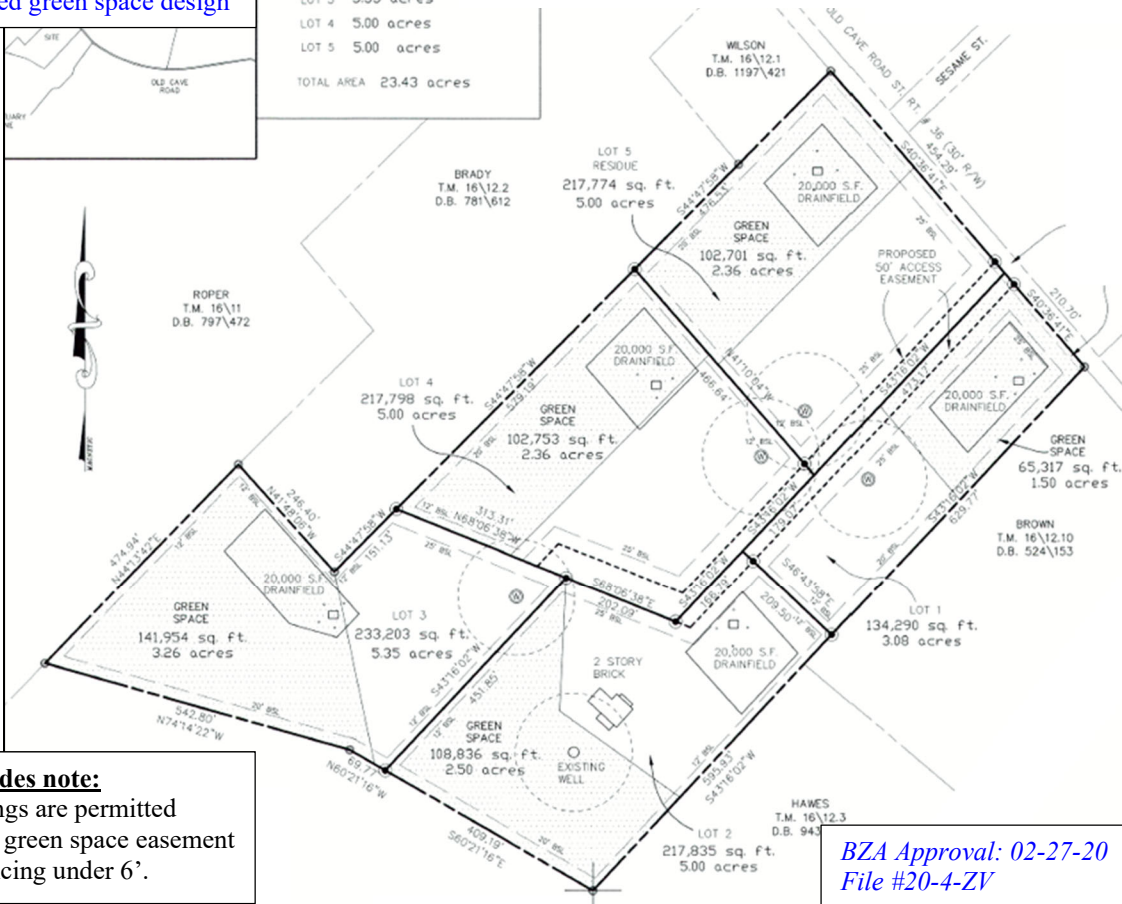
The follow pages of the staff report contain two examples of two different cluster subdivisions that processed with similar proposals for modified green space in 2020. While no *true* cluster subdivisions have been recorded since the adoption of the revised cluster provisions in 2017, two examples of conceptual layouts for two different cluster subdivisions have also been provided as exhibits for the Board to review for a better understanding of the intent of a true cluster development. While reviewing the below examples, keep in mind that the subject lot is 36 acres and a total of five lots are proposed. The applicant provided a sketch of a possible layout in their application for the Board's consideration.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 25, 2024  
 24-1-ZV Corbett (Green Space) Variance Request

Exhibit 1 –  
 modified green space design

LOT 1	3.08 acres
LOT 2	5.00 acres
LOT 3	5.35 acres
LOT 4	5.00 acres
LOT 5	5.00 acres
<b>TOTAL AREA</b>	<b>23.43 acres</b>

*PC File #20-8-SD / Plat Book 26 @ Page 105*



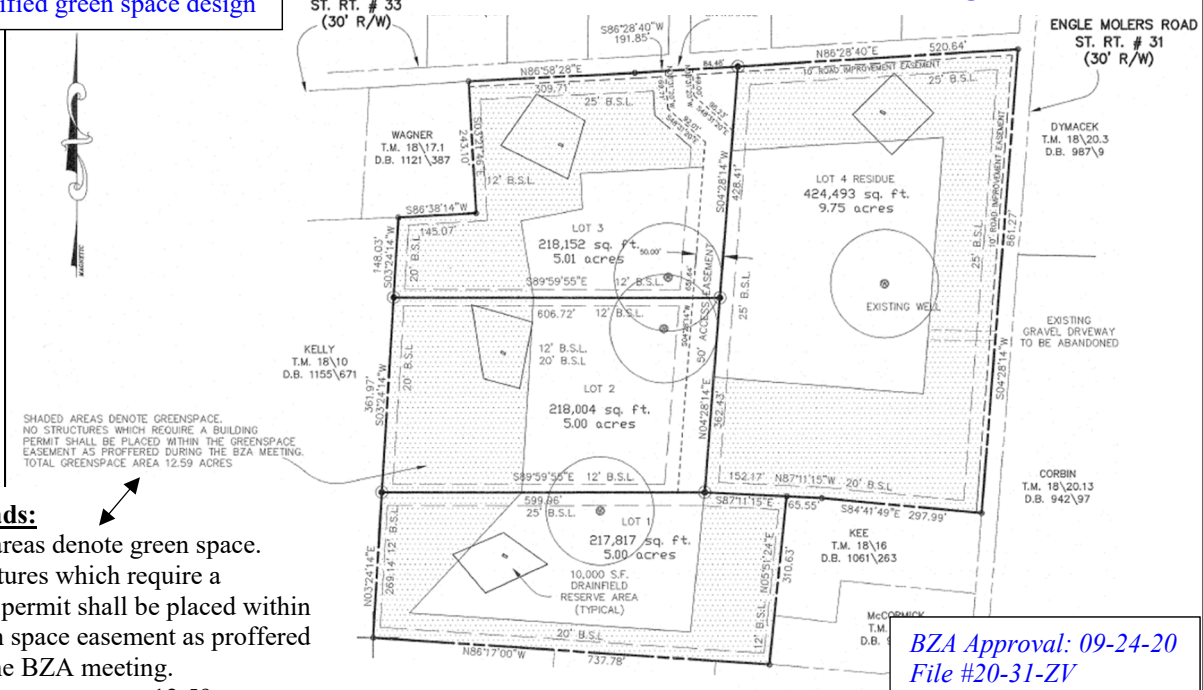
**Plat includes note:**

No buildings are permitted within the green space easement except fencing under 6'.

*BZA Approval: 02-27-20  
 File #20-4-ZV*

Exhibit 2 –  
 modified green space design

*PC File #20-23-SD / Plat Book 26 @ Page 185*



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.

**Note reads:**

Shaded areas denote green space. No structures which require a building permit shall be placed within the green space easement as proffered during the BZA meeting. Total green space area 12.59 acres.

*BZA Approval: 09-24-20  
 File #20-31-ZV*

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Jefferson County Board of Zoning Appeals  
January 25, 2024  
24-1-ZV Corbett (Green Space) Variance Request

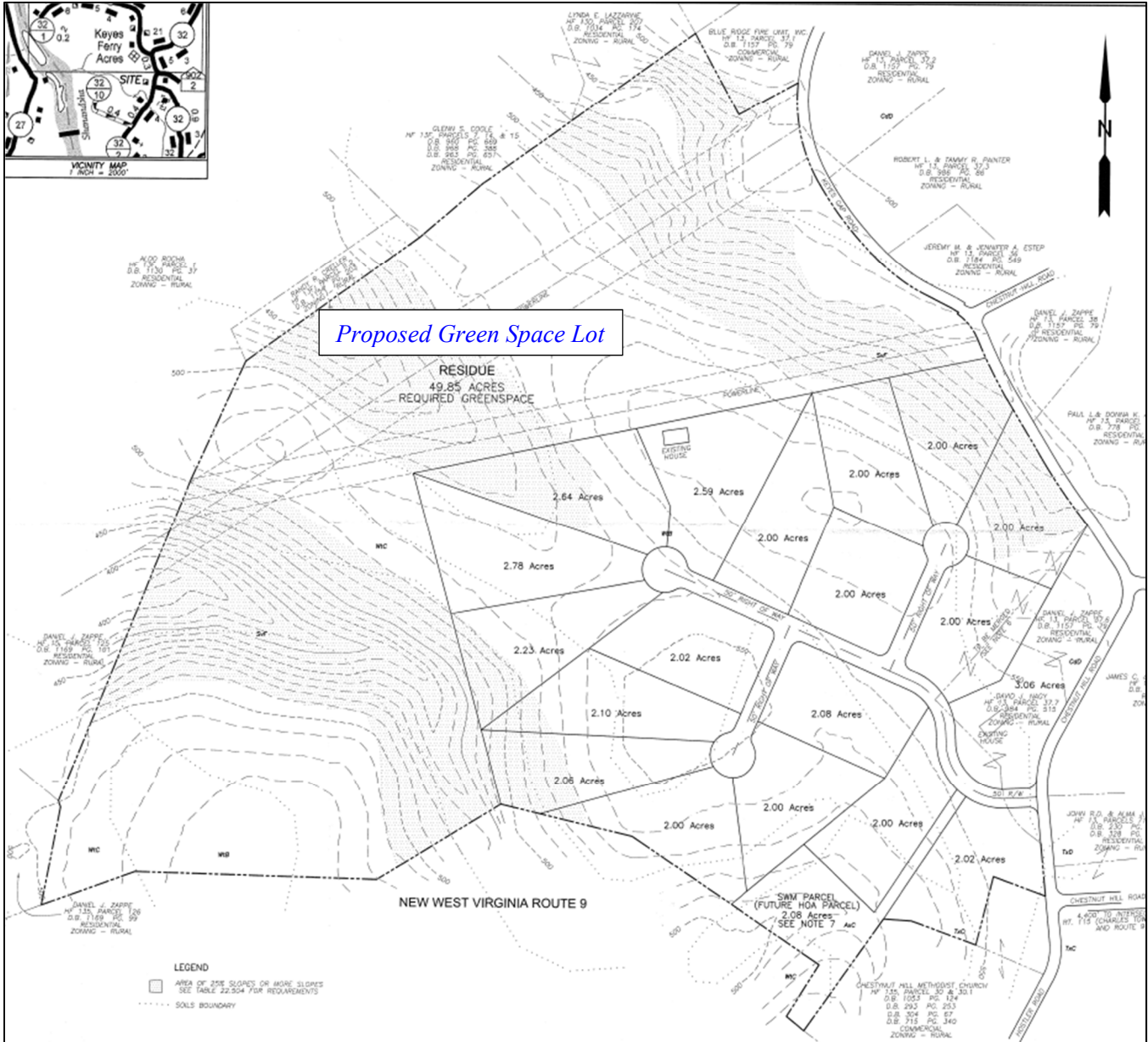


Exhibit 3: 18-Lot Cluster Development with 49.85 acre green space lot. Conceptual Design Only. Subdivision was never platted/recorded.

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24-1-ZV Corbett (Green Space) Variance Request

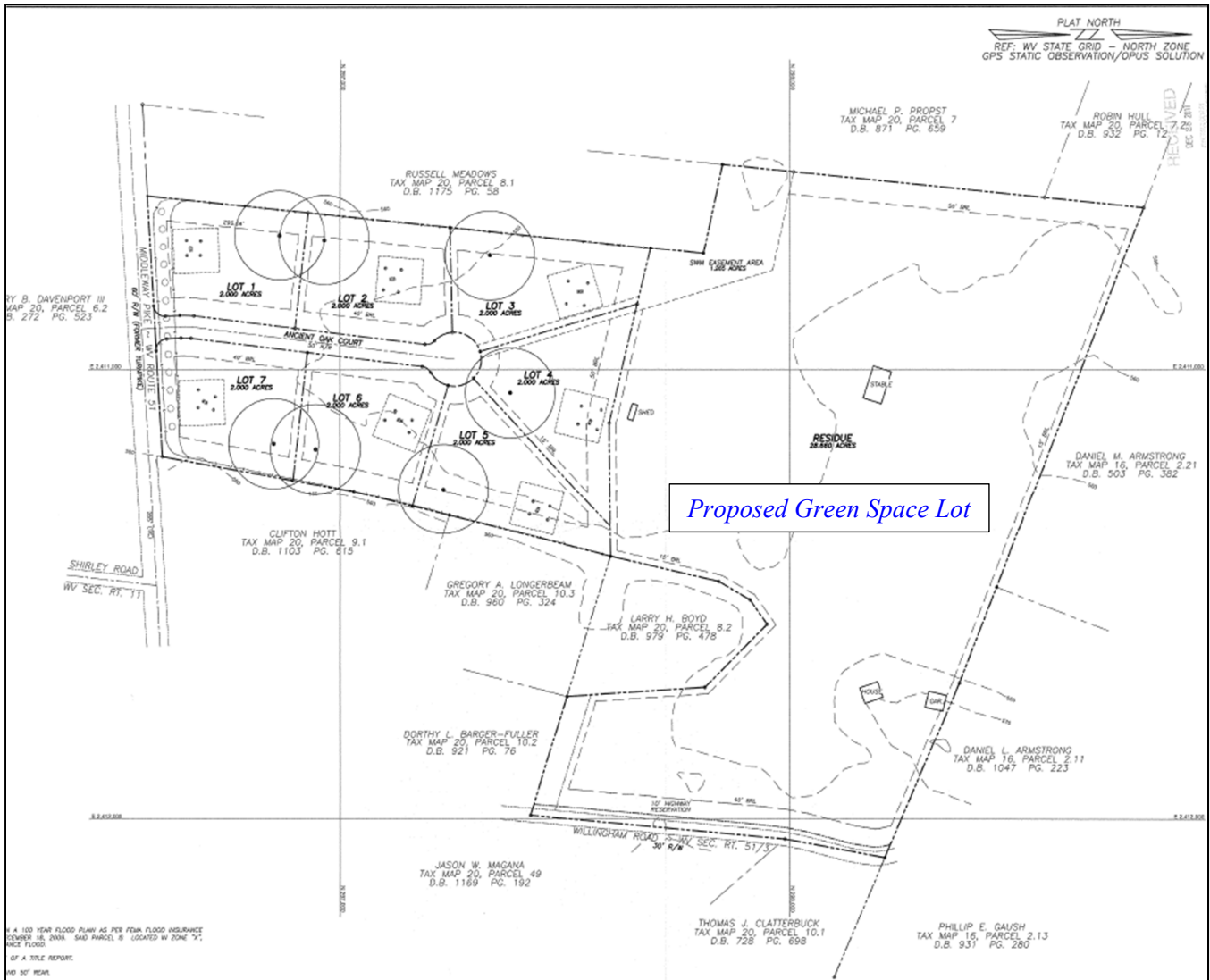


Exhibit 4: 8-Lot Cluster Development with 43.63 acre green space lot. Conceptual Design Only.  
Subdivision was never platted/recorded.

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**24-1-ZV Corbett (Green Space) 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 five lots, with the total green space area equal to or greater than the required 50% (18 acres total). The easement areas shall be delineated on the final plat in accordance with a design that is acceptable to the Zoning Administrator. A note shall be added to the final plat stating that no driveways and no structures which require 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  
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**24-1-ZV Corbett (Green Space) 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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**24-1-ZV Corbett (Green Space) 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>

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**24-1-ZV Corbett (Green Space) 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: 24-1-ZV
Staff Initials: ghl
Meeting Date: 01/25/24
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: Debra R Corbett
Mailing Address: 128 Eastland Dr, Charles Town WV 25414
Phone Number: Email:

Applicant Contact Information

Name: Mark Stacpoole
Mailing Address: 157 Homewood Dr, Charles Town WV 25414
Phone Number: Email:

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

Name: Josh Beall (real estate broker)
Mailing Address: PO Box 593, Charles Town WV 25414
Phone Number: 703-975-2046 Email: josh@atokaproperties.com

Physical Property Details

Physical Address: At the corner of Huyett Rd and Summit Point Rd; legal description 36 1/4 AC-EBY HOME
City: Charles Town State: WV Zip Code: 25414
Tax District: 6 - Kabletown District Map No: 0013 Parcel No: 0005
Parcel Size: 36.43 (deeded); 36.17 (calculated) Deed Book: 1278 Page No: 706

Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG), Industrial Commercial (IC), Rural (R), Residential-Light Industrial-Commercial (R-LI-C), Village (V), Neighborhood Commercial (NC), General Commercial (GC), Highway Commercial (HC), Light Industrial (LI), Major Industrial (MI), Planned Neighborhood Development (PND), Office/Commercial Mixed-Use (OC). Rural (R) is checked.

RECEIVED

DEC 27 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:

5.7.D.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.

*Debra Corbett*

12/26/2023, 10:10:38 AM EST

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).

01-25-24

Date of Public Hearing

01-10-24

Advertising Date

01-10-24

Placard Posting Date

Request for Variance  
Article 5, Sections 5.7.D.2(b)i(b)  
Jefferson County Zoning Ordinance

Article 5, Section 5.7.D.2(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 five lots. The exact area and amount of greenspace per lot will vary based on the existing topography and suitability for septic and well sites, but we expect the lots to vary in size from 4 to 10 acres, as shown on the attached sketch. The Applicant proposes the required 50% open space to be a Platted and Deeded Preservation Easement on the lots.

Under the Cluster Subdivision, the 36 acre parcel is permitted to subdivide into a total of 7 lots (5.7.D.2.b.i says "One (1) lot may be subdivided for every five (5) acres"). In this case the necessary 50 percent would be 18 acres which would need to be left in open/green space.

The applicant is proposing to create a total of five lots, and as was proposed and approved by the Board in the past, the Applicant is proposing to spread the 18 acres throughout the five other 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 18 acres in areas as approved by the Zoning Administrator as directed by the Board, and may contain well and septic sites.

It is anticipated that most of the area will be 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 18 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.

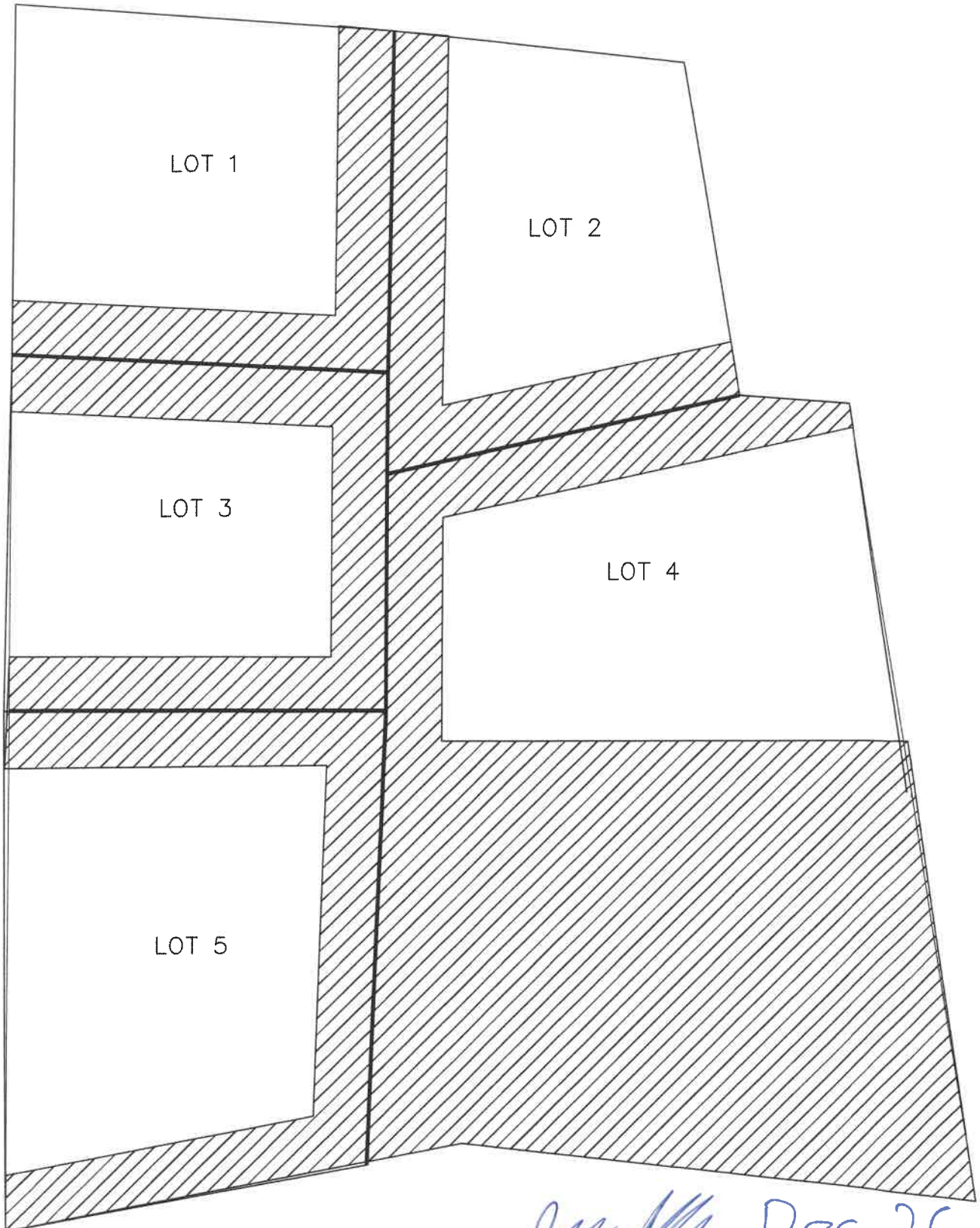
The applicant could also develop this property by subdividing the property into 2 lots and a residue every 5 years until the entire property is developed into 20 or more lots over time. If the Applicant is granted the variance as requested, then the land will only develop into the 5 lots as proposed 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 18 acres will be platted and deeded as a Preservation Easement in perpetuity. Currently under the existing provision, if the 18 acres were provided on the residue only, no preservation easement is required by the Ordinance. This variance guarantees that the 18 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 18 acres of open space be placed on the 5 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.

*Cross-hatched areas represent possible greenspace locations.  
Actual greenspace locations will be determined based on suitability for  
driveway entrances, well, septic, and building sites, but will total no less  
than 50% of existing parcel*

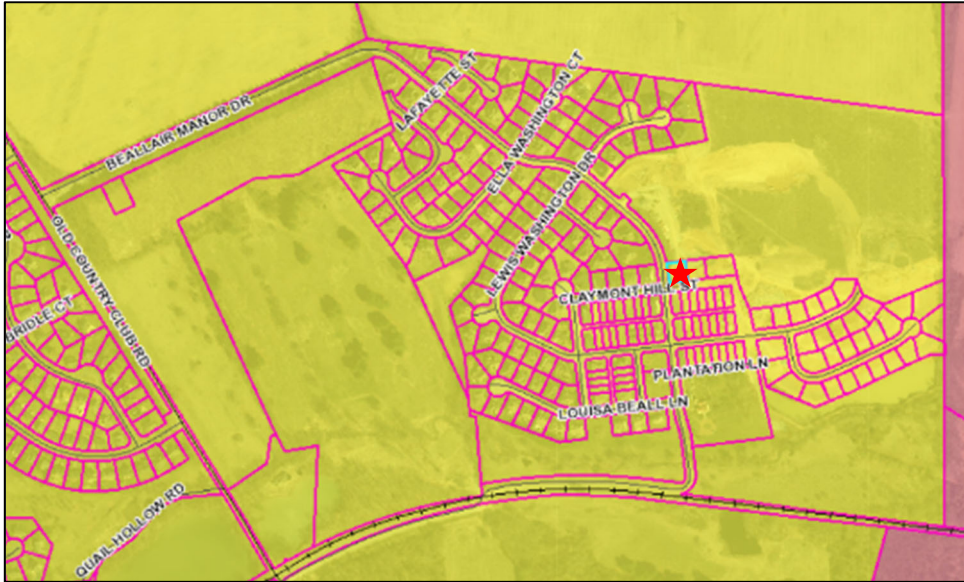


*Jan M Dec 26, 2023*



Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 25, 2024  
**24-2-ZV Beallair (Setback) Variance Request**

Item #3 Variance request from Appendix A to reduce the rear setback from 20' to 18' for a 20' wide screened in porch.

Owner:	Beallair Homes, LLC
Applicant:	Piedmont Design Group / Attn: Mike Wiley
Parcel Information & Zoning District:	<p>Beallair Subdivision, Lot 273, 101 Claymont Hill Street, Charles Town, WV          Parcel ID: 04010A02730000; Size: .209 ac; Zoning District: Residential Growth</p> 
History:	<p>02/16/22: Beallair Phase 3, Lots 203-233, 273-275, 283-304, Open Space SWM-1 and Residue Parcel A (File: 21-31-SD) PB 26, PG 351          01/13/23: Minor plat change: revise the front setback for Lots 214, 215 &amp; 217 located on a cul-de-sac (File: 23-1-MPC) PB 26, PG 484</p>
Waivers/Variations:	06/23/22: BZA denied request to reduce the front setback from 25' to 15'; the side setback from 12' to 10'; and the rear setback from 20' to 10' for Lots 203-233 & 273-275 for Phase 3 of Beallair (22-22-ZV).
Approved Activity:	Single family dwelling
Site Visit Conducted:	Site visit not conducted.

**Staff Overview**

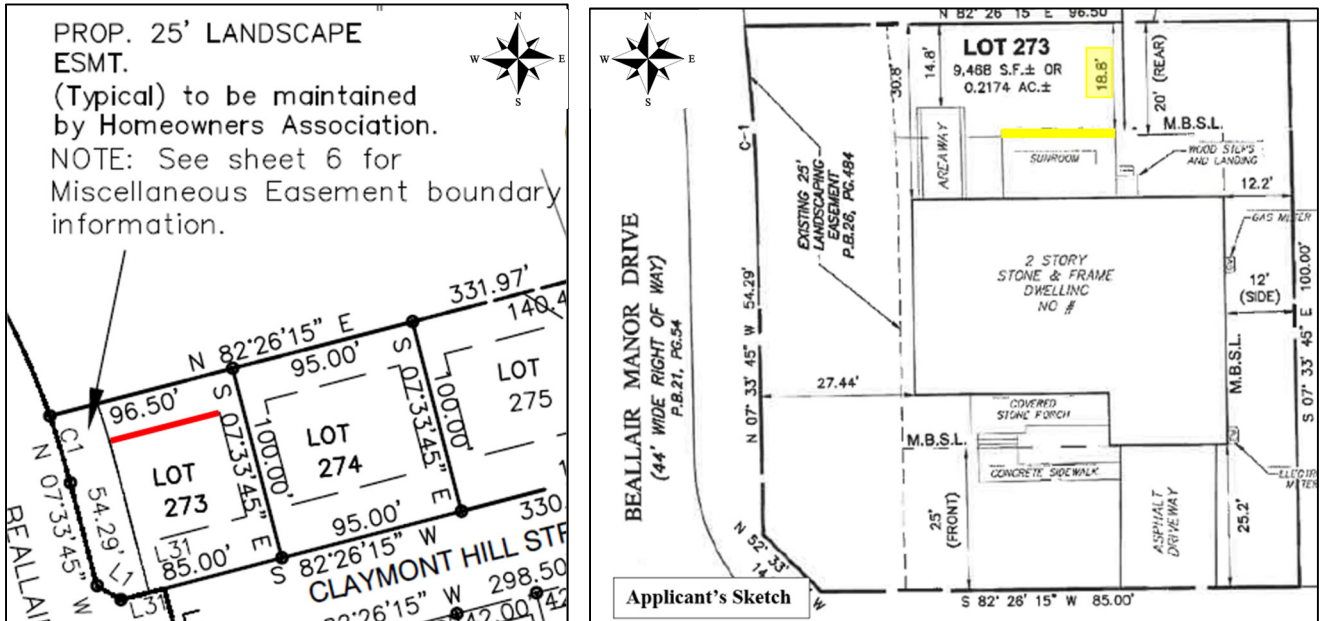
The subject parcel is Lot 273 of the Beallair Subdivision, Phase 3, which was recorded in February 2022. Pursuant to Appendix A of the Zoning Ordinance, the required setbacks for this lot are 25' Front, 12' Side, and **20' Rear**.

The applicant is requesting to reduce the rear setback requirement from 20' to 18' for a 20' wide screened in porch that was constructed within the required setback area.

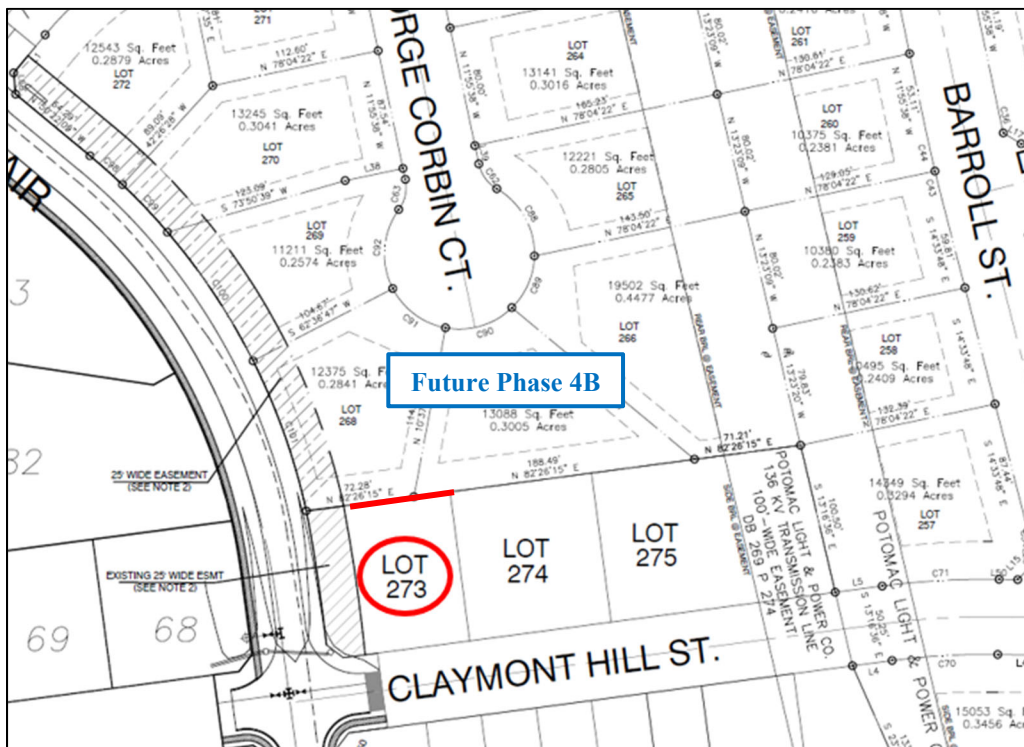
The purpose of side and rear setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of the structure is feasible; to maintain adequate separation between structures for fire prevention purposes; and to allow room for utility easements.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 25, 2024  
**24-2-ZV Beallair (Setback) Variance Request**

The subject lot was platted with two front setbacks, which reduces the buildable area of the subject lot. Additionally, the property contains a 25' wide landscape easement along the western property line, fronting Beallair Manor Drive.



The property located to the north of the subject lot, adjoining the rear property line, is reflected as Future Phase 4B on the approved preliminary plat (PC File #22-15-SD). In accordance with Appendix A, the two proposed lots adjoining the subject lot 273 will be platted with a 20' rear setback.



Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 25, 2024  
**24-2-ZV Beallair (Setback) 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 conditions of approval were identified.

**Section of Ordinance to be Considered**

**APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE**

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft.***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks			
							Front	Side	Street Side	Rear
Residential Growth (RG)	Single Family Detached Dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"
	Small Lot Single-Family Detached Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20
	Duplex Dwelling Unit	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"
	Townhouse Dwelling <sup>42</sup>	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20
		Multi-Family Dwelling (See Section 4.12)	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	†	12
		30,000 sq. ft. to 40,000 sq. ft.	N/A	N/A	N/A	40	20	10	†	12
Under 30,000 sq. ft.		N/A	N/A	N/A	40	20	8	†	12	





**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: 24-2-ZV  
 Staff Initials: GA  
 Meeting Date: 01/25/24  
 Fees Paid (\$100 or \$150): 150-

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: Beallair Homes, LLC  
 Mailing Address: 5283 Corporate Drive, Suite 300, Frederick, MD 21703  
 Phone Number: 301.695.6614 Email: leah.sheckels@wormald.com

**Applicant Contact Information**

Name: Beallair Homes, LLC  
 Mailing Address: 5283 Corporate Drive, Suite 300  
 Phone Number: 301.695.6614 Email: leah.sheckels@wormald.com

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

Name: Piedmont Design Group, LLC  
 Mailing Address: 5283 Corporate Drive, Suite 300, Frederick, MD 21703  
 Phone Number: 301.695.6614 Email: mike.wiley@wormald.com

**Physical Property Details**

Physical Address: 101 Claymont Hill Street  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: 10A Map No: \_\_\_\_\_ Parcel No: 04010A02730000  
 Parcel Size: .2174 Deed Book: 26 Page No: 216

**Zoning District (please check one)**

Residential Growth (RG) <input checked="" type="checkbox"/>	Industrial Commercial (IC) <input 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"/>	
<p align="center"><b>RECEIVED</b></p> <p align="center">DEC 28 2023</p> <p align="center">JEFFERSON COUNTY PLANNING ZONING &amp; ENGINEERING</p> <p align="center"><small>Place Record Date Stamp Here</small></p>			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: 5.4B.1 and Appendix A

Briefly describe the nature of the variance request:

The screen porch is over the rear setback/BRL by 2 feet.

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

Front Setback  Side Setback  Rear Setback  Reduction From 20 to 18

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 area in question is not adjacent to any public right of ways or public utilities. And does not encroach on the use adjacent properties, Lot 268. Future dwelling on lot 268 will remain 38 feet away from the screen porch.

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?

Adjoining property is located on a proposed culdesac, the set backs were misdetermined based on the proposed orientation of the future dwelling. This proposed property has not yet been developed.

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


It will permit the screen porch to be consistent in size and dimensions with other similar structures in the Beallair Community.

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

The variance if granted will not result in an undo encroachment on adjacent property and will not affect reasonable use of the adjacent property.

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.

  
Signature of Property Owner Date 12.21.2023

Signature of Property Owner Date

ROBERT K. WORMATO, JR. - GENERAL MANAGER

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).

01-25-24

Date of Public Hearing

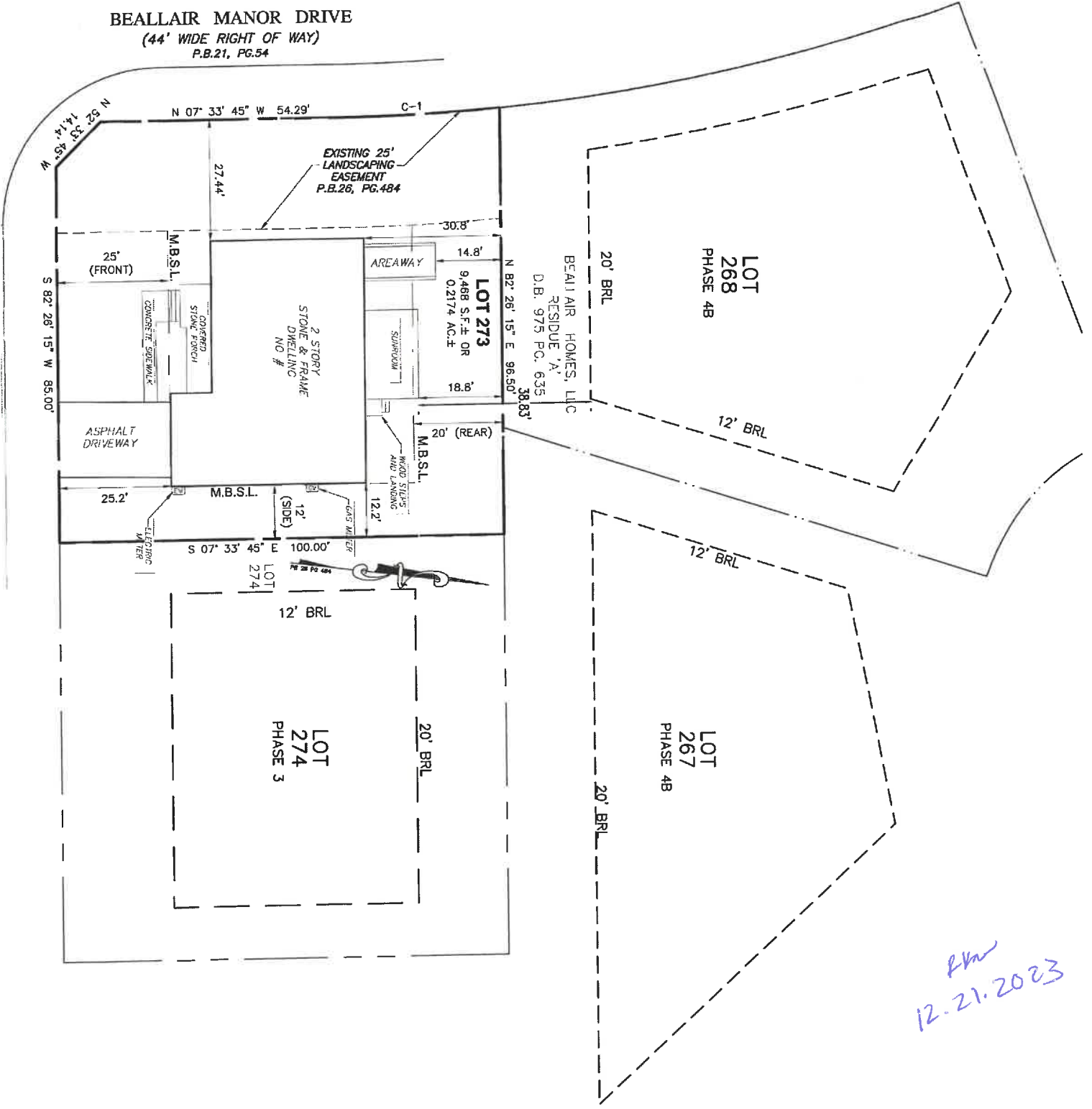
01-10-24

Advertising Date

01-10-24

Placard Posting Date

**BEALLAIR MANOR DRIVE**  
 (44' WIDE RIGHT OF WAY)  
 P.B.21, PG.54

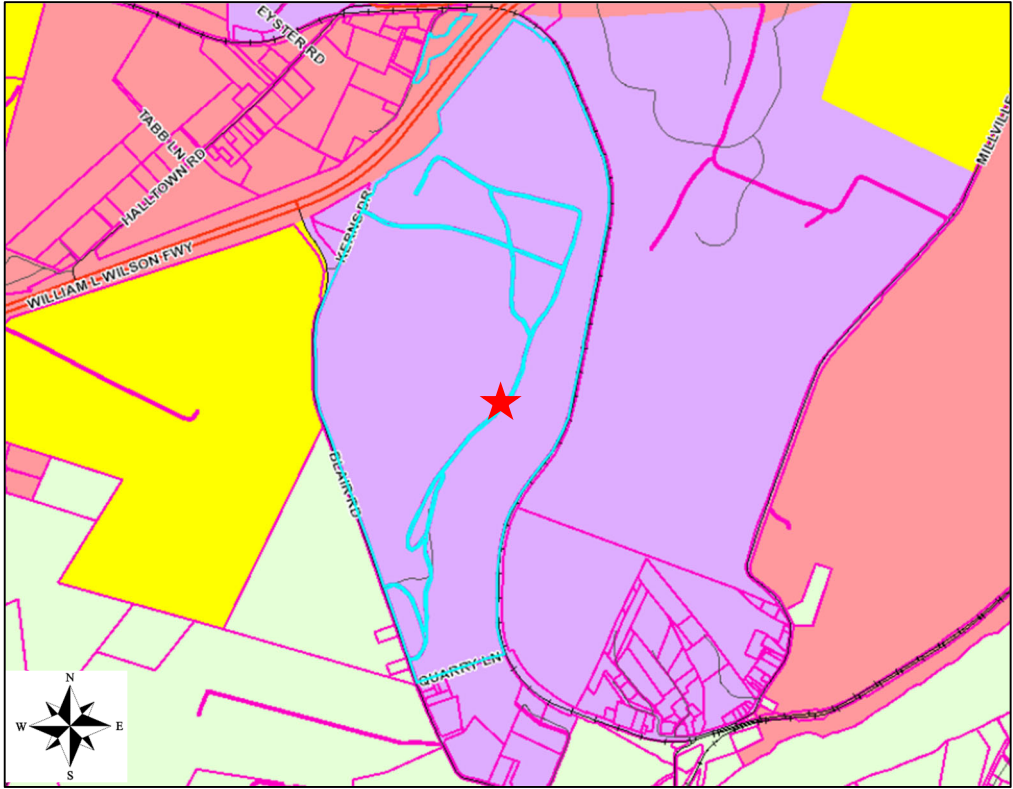


*P. 21*  
 12.21.2023



Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 25, 2024  
**24-3-ZV Millville Quarry (Distance) Variance Request**

Item #4 Variance request from Section 5.6B to reduce the distance requirement for Industrial Uses from 1000' to 400' along the southern property line to allow for the construction of a concrete plant accessory to the quarry operation.

Owner:	Millville Quarry, Inc.
Applicant:	Diamond Concrete, LLC
Consultant:	P.J. Raco Consulting, LLC / Attn: Paul Raco
Parcel Information & Zoning District:	<p style="text-align: center;">165 Bradstone Lane, Harpers Ferry, WV          Parcel ID: 04001100220000; Size: 272± acres          Zoning District: Industrial Commercial</p> 
History:	S04-14 Bradstone - Shenandoah Casting Plant
Waivers/Variations:	<p>04/21/04: BZA approved a variance request from Section 5.6B to reduce the distance requirement from 1,000' to 200' along the western property line for a concrete plant (File #04-25-ZV).</p> <p>12/14/23: BZA approved a variance request from Section 5.6B to reduce the distance requirement from 1,000' to 300' along the southern property line for an asphalt plant (File #23-38-ZV).</p> <p>01/16/24: Request for a waiver from Section 20.203A.2a of the Subdivision Regulations to waive the requirement of a Concept Plan for a proposed Asphalt Plant (File 24-1-PCW). <i>Postponed due to inclement weather. – pending PC action.</i></p>
Approved Activity:	Millville Quarry
Site Visit Conducted:	No.

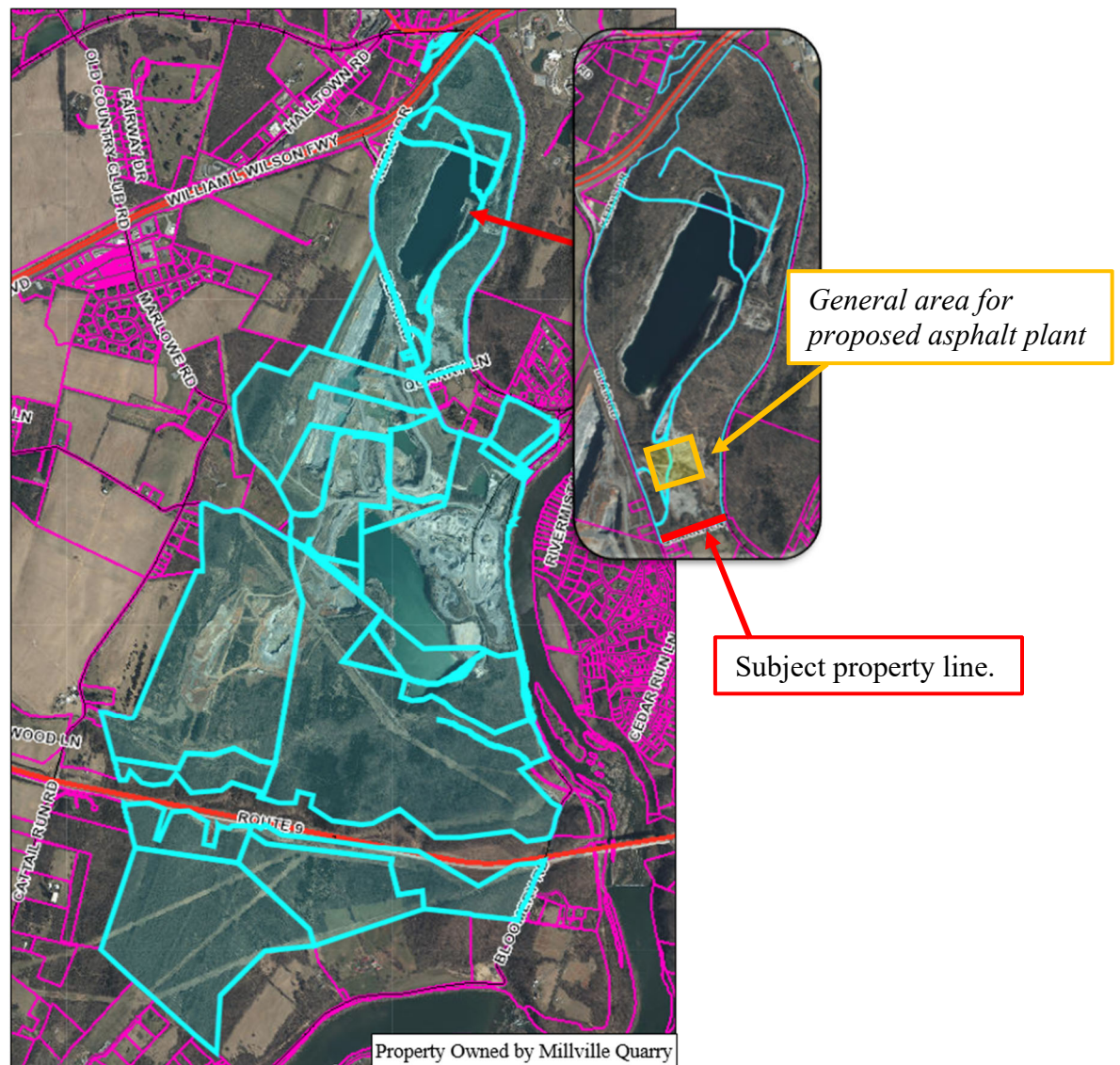
Staff Report  
Jefferson County Board of Zoning Appeals  
January 25, 2024  
**24-3-ZV Millville Quarry (Distance) Variance Request**

**Staff Overview**

The subject request pertains to the construction of a new concrete plant facility and associated stockpile areas. The applicant represented that the State Department of Environmental Protection permitting process for a concrete plant requires a 300' setback. The applicant is requesting to reduce the 1,000 foot distance requirement required by the Zoning Ordinance down to 400' from the southern property line, adjoining residential properties. The applicant stated that the actual concrete plant is proposed to be located approximately 700' from the subject property line but that stockpiles will be as close as 400'.

The purpose of non-residential site development standards is typically to lessen the impact that a non-residential use (*in this instance, a heavy industrial use*) may have on an adjoining residential use, including the visual impact created from the glare of exterior lights, noise generated from the land use, etc.

Exact dimensions of the concrete facility and stockpile area(s) were not included with the application. An exhibit was provided by the applicant to delineate the approximate location of the proposed concrete plant.



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**24-3-ZV Millville Quarry (Distance) Variance Request**

Deed research indicates that the subject parcel was used for quarrying stone as early as 1908, when a portion of the property was leased to Blair Limestone Company (*DB 102 @ PG 18*). Subsequent deeds indicate that various entities subleased the property for quarrying purposes. The current property owner, Millville Quarry, Inc., purchased the property in 1998 (*DB 889 @ PG 271*).

In 2004, it was determined that a batch plant operation could be established on the subject parcel as an accessory use to the quarry operation. The property owner at the time was granted a similar variance to reduce the 1,000 sf distance requirement down to 200' along the western property line (*File #04-25-ZV*). The applicant subsequently processed a site plan (*File #S04-14*) and obtained a building permit / zoning certificate (*File #05-116*).

The applicant represented that the subject location was selected for the proposed concrete plant due to an existing, long established compacted area and an existing natural vegetative buffer (see pages 5 & 7 of application).

Existing concrete batch plant located on subject parcel.  
Applicant states this plant is used to cast concrete pavers and other concrete products (page 5 of application).



Staff Report  
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January 25, 2024  
**24-3-ZV Millville Quarry (Distance) Variance Request**



*Above: Google Street View Picture Taken July 2021 – existing vegetation at the corner of Blair & Quarry Road  
Below: Staff Site Visit Photo Taken December 2023 – existing vegetation at the corner of Blair & Quarry Road*



Staff Report  
Jefferson County Board of Zoning Appeals  
January 25, 2024  
**24-3-ZV Millville Quarry (Distance) Variance Request**



Subject property line - view from Quarry Road



Subject property line - view from Quarry Road

Staff Report  
Jefferson County Board of Zoning Appeals  
January 25, 2024  
**24-3-ZV Millville Quarry (Distance) 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 the request to reduce the distance requirement down to 400', possible conditions of approval include:

1. Applicant shall maintain a 300' unscreened buffer yard. No structures, stored materials, or vehicular parking shall be permitted within the 300' buffer yard area. The required buffer screen shall be installed within the 300' unscreened buffer area, along the southern property line, in accordance with Appendix B and Standard Detail M-52.

**Section of Ordinance to be Considered**

**Section 5.6 Industrial – Commercial (IC) District (attached)**

## Section 5.5 Reserved<sup>23</sup>

### Section 5.6 Industrial - Commercial (IC) District<sup>23, 32</sup>

The purpose of this district is to provide locations for manufacturing, processing, and commercial uses which may require extensive transportation and central or public water and sewer services. It is not the purpose of this district to encourage the use of land within the district for retail services; however, it is anticipated that there may be areas or locations where retail services can be reasonably and logically considered due to their relationship with other uses existing within the district, as well as their relationship with the district boundary line or the configuration of the property and the relative scale of the project.

#### A. Principal Permitted and Conditional Uses<sup>23, 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 and this section.<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 the requirements of this section and to review and approval by the Board of Zoning Appeals per the requirements of this Ordinance.<sup>27, 32</sup>

#### B. The following heavy industrial uses shall require review and approval of the Board of Zoning Appeals under the Conditional Use Permit process and shall not be located less than 1000 feet from any Residential property line or property listed on the National and State Historic Register/Survey.<sup>32</sup>

1. Bituminous concrete mixing and recycling plants
2. Concrete and ceramic products manufacture, including ready mixed concrete plants
3. Petroleum products refining or storage (subject to the requirements for such standards in Article 8)<sup>23</sup>
4. Commercial sawmills
5. Salvage Yards (subject to the Jefferson County Salvage Yard Ordinance)
6. Garbage or dead animal reduction or processing
7. Slaughterhouses, Stockyards
8. Acid or heavy chemical manufacturer, processing or storage
9. Cement or lime manufacture
10. Explosive manufacture or storage
11. Foundries and/or casting facilities
12. Mineral extraction, mineral processing
13. Jails and Prisons (subject to requirements for this use in Article 8)<sup>23</sup>

#### C. Height Regulations

No structure shall exceed 75 feet in height except as provided in Section 9.2.

#### D. Development Standards

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>5, 23, 27</sup>
2. Compliance with Section 4.11 and Section 8.9A(1-9)<sup>7, 23</sup>

3. Distance Requirements
  - a. Commercial shall comply with Section 4.6B
  - b. Industrial shall comply with Section 4.6A<sup>7, 23</sup>

E. Lot Area

A minimum lot size of three acres shall be required for any industrial use unless the site is located in an approved Industrial Park.<sup>23</sup>

F. Additional Commercial and Industrial Design Standards<sup>27</sup>

1. Commercial Design Standards<sup>23, 27</sup>

- a. Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 80% of the gross area of the site.
- b. Adequate provision shall be made for storage and collection of refuse. Refuse containers are subject to Section 4.11F.<sup>27</sup>
- c. Permeable areas of the site shall be planted with ground cover, shrubs and trees.
- d. Lighting shall be provided for all parking areas which will receive night use. Such lighting shall be directed to the parking area and be shielded to prevent adverse glare on adjacent public highways, streets and properties.

2. Industrial Design Standards

- a. Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 90% of the gross area of the site.<sup>23</sup>
- b. Adequate provision shall be made for storage and collection of refuse, subject to Section 4.11F.<sup>27</sup>
- c. Permeable areas of the site shall be planted with ground cover, shrubs or trees if subject to Section 4.6.

**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>

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



**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: 24-3-ZV

Staff Initials: jth

Meeting Date: 01/25/24

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: Millville Quarry Inc  
 Mailing Address: 6211 N Ann Arbor Road, Dundee, MI 48131  
 Phone Number: c/o Paul 304/676-8256 Email: pjraco.consulting@gmail.com

**Applicant Contact Information**

Name: Diamond Concrete LLC  
 Mailing Address: 1234 Myerstown Road, 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: Joe Knechtel, P.E. Potesta & Associates, Inc P.J. Raco Consulting, LLC  
 Mailing Address: 15 S Braddock Street, Winchester, VA 22601  
 Phone Number: 540.450-0180 Email: kjknechtel@potesta.com

**Physical Property Details**

Physical Address: Corner of Bradstone Lane and Blair Road 164 Bradstone Lane, Halltown  
 City: Harpers Ferry State: WV Zip Code: 25425  
 Tax District: Harpers Ferry Map No: 11 Parcel No: 22  
 Parcel Size: 272+- Acres Deed Book: 889 Page No: 271

**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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>RECEIVED</b>			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
<b>DEC 28 2024 - JH</b>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jefferson County Planning, Zoning and 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 5.6B

Briefly describe the nature of the variance request:

Reduce the 1000' Location Requirement to the required 400' Distance Requirement for Industry

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

Front Setback  Side Setback  Rear Setback  Reduction From 1000 to 400

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.

Signature of Property Owner: [Handwritten Signature] Date: 12/20/23

Notification Requirements (to be completed by staff)

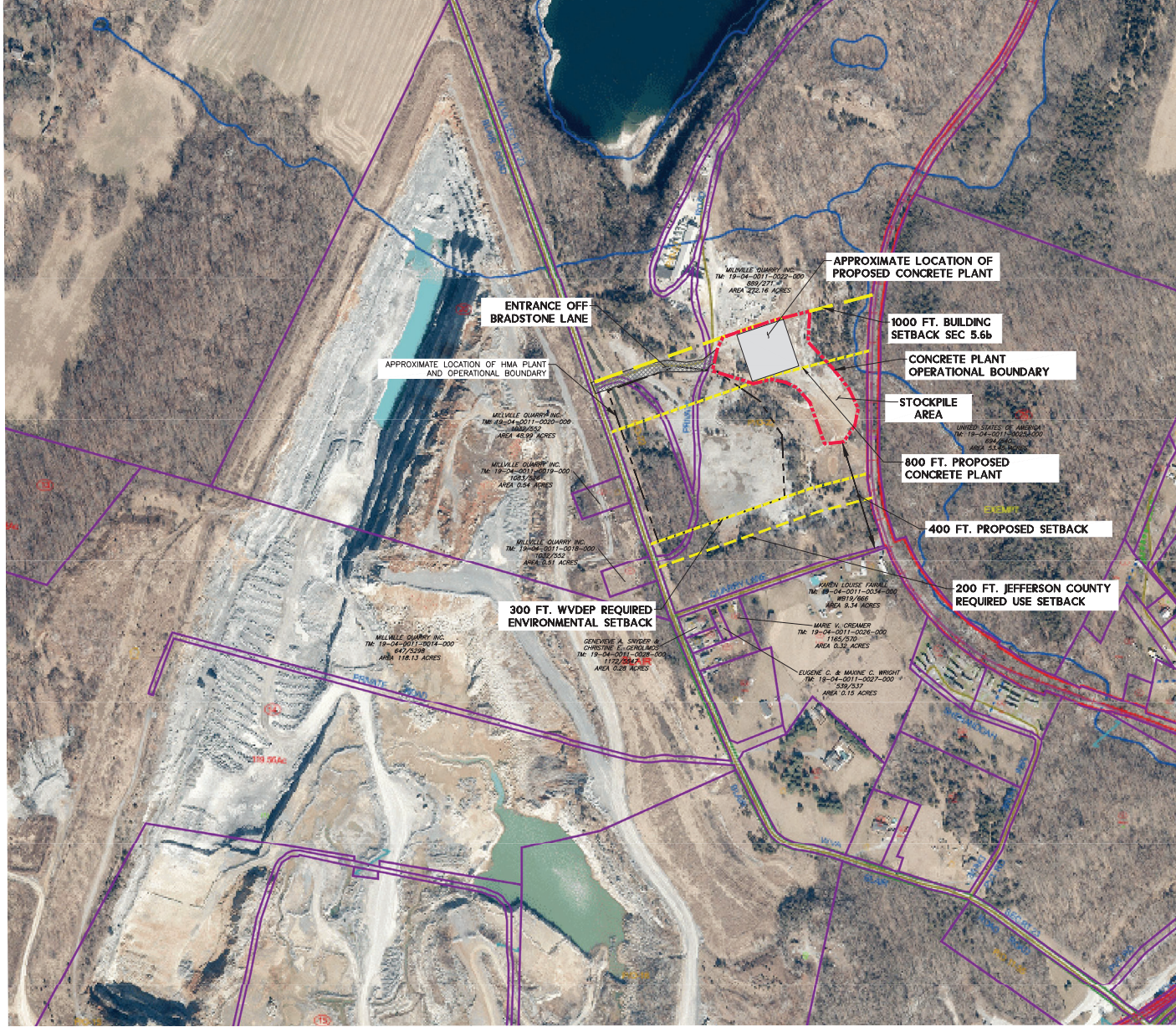
Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant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

01/25/24 Date of Public Hearing

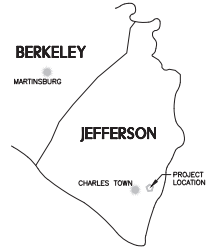
01/10/24 Advertising Date

01/24/24 Placard Posting Date

THE UNIVERSITY OF VIRGINIA ENGINEERING CENTER, 101 ENGINEERING CENTER DRIVE, CHARLOTTESVILLE, VA 22904-4111  
 PROJECT NO. 23-0348



No.	Date	Eng.	Revision



SKETCH PLAT  
 CAD File No.  
 POTESTA  
 Drawn  
 POTESTA  
 Checked  
 POTESTA  
 Approved  
 NOTED  
 DATE  
 DECEMBER 2023  
 PROJECT NO.  
 23-0348

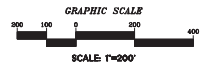
**POTESTA & ASSOCIATES, INC.**  
 ENGINEERS AND ENVIRONMENTAL CONSULTANTS  
 16 South Broadway St., Winchester, VA 22601  
 TEL: 540-403-9888  
 FAX: 540-403-9889  
 WWW.POTESTA-VA.COM



DIAMOND CONCRETE, LLC  
 311 SOLDIERS LANE  
 BERRYVILLE, VIRGINIA 22811

SKETCH PLAT  
 PROPOSED CONCRETE PLANT LOCATION  
 JEFFERSON CO., WEST VIRGINIA

Title  
**1**  
 Drawing No.



**SKETCH PLAT**

ISSUE DATE: 12/28/2023



Millville Quarry, Inc  
Diamond Concrete, LLC  
Dry-Mix Style Facility  
Article 5, Section 5.6(B)  
1000' Setback to Residential Property  
Jefferson County Board of Zoning Appeals  
December 28, 2023

Brief Description

The Ordinance has several setback provisions for Concrete Plants. As discussed at the last Board Meeting, there is a general setback for all industry of 200' from residential uses and then another distance requirement for uses such as Concrete and Asphalt Plants that is 1000 feet. The State DEP Permitting process for their approval is 300 feet. This Application seeks a 400 feet distance requirement from the residential property line to the south for the proposed quarry material stockpile to be used for the small plant that will be approximately 700 feet from the southern property line. A State Permit may be issued by the time this BZA Meeting is held. If issued, it will be presented at the meeting if not sooner.

Again, as stated at the last meeting, Millville Quarry, Inc owns multiple properties in the area which comprises over 1900 acres for Heavy Industrial Mineral Extraction. The uses of Concrete Plants and Asphalt Plants have been determined to be Accessory Uses to the operation of an active quarry. This Plant will be located on a quarry property also Zoned for Heavy Industrial Uses as is the residentially used property to the south of this property. So, the proposed use is a Permitted Use, but the existing residential use is considered a nonconforming use under the current Zoning Ordinance in this Zoning District.

The proposed Plant is intended to replace other Concrete Plants that have previously been on Millville Quarry properties. These other plants were always considered 'temporary' plants and the last one has not been operating in Jefferson County for about two years. The new Plant will be similar in that it is just a small plant that provides the raw material for concrete into special trucks primarily owned by Diamond Concrete that mixes the dry ingredients as the trucks travel to the end user. A large majority of the raw materials are produced by Millville Quarry on the properties. There has been a gap in the local availability of this type of plant and services in Jefferson County since the previous one closed.

The new Plant will be located where there is heavy existing buffer existing between the site and the uses to the South. It will be located within an existing and long established 18-44 inch compacted aggregate base that has been left after years of being used for staging area and other uses. The actual plant will be further away from the southern properties than the Asphalt Plant that was just approved.

Finally, as previously presented to the board and attorney, the Prosecuting Attorney's Office has long maintained in other quarry zoning matters through the years since Zoning was adopted in 1988 in Jefferson County, that Quarrying, Mineral Extraction, Complete Use of Natural Resources and Protection of Existing, Expansion, and Future Satellite Industrial and Manufacturing Uses appear to be addressed in WV Code 8A-7-10(c) and (e) as it relates to Zoning in the West Virginia State Code (attached). This section replaces the similar long time existing section that was provided for in Previous 8-24-50 of the State Code that was in place until replaced by 8A in 2004. This is provided as a reference for the Board to seek advice from the Board's Counsel if deemed necessary. It is only provided for your counsel as a notation and is not a legal opinion or legal advice.

Millville Quarry, Inc.  
Diamond Concrete, LLC  
Article 5, Section 5.6(B)  
1000' Setback to Residential Property  
Jefferson County Board of Zoning Appeals  
December 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.

This property and the adjacent residential properties are all Zoned Industrial-Commercial. The intent of this zone is to allow all industrial use. In this case the small dry mix style Concrete Plant, Quarry Operation, and all Accessory Uses are the Permitted Uses in this Zone, and any residential uses are actually the nonconforming uses. This small Concrete facility will need to receive approved State Approvals and then the Plant will have to have an Engineered Site Plan approved by the County that addresses Health and Highway Permits, along with SWM Approvals as addressed by either the Planning Commission or County Engineer if one is not needed. The Project will also need an NPDES Permit for both Industrial and Storm Water Discharge through the DEP during this phase that is addressed in the Quarry's Permit. These reviews are all intended to ensure public health, safety, and welfare of the County.

Furthermore, the proposed Concrete Facility is on the Millville Quarry Inc Properties. This will be a temporary style dry mix Plant that replaces previous iterations of concrete facilities in the County that will fill a gap in this industry. This area has been an active and taxpaying industry for many, many years in Jefferson County that has provided an extraordinary amount of employment through the years. The County continues to recognize this industrial use in the official Future Land Use Map/Guide in the Jefferson County Comprehensive Plan both on the subject parcel and the adjacent parcels to the south.

Finally, as stated in the description and explained in previous applications, according to the Jefferson County Assessor's records, Millville Quarry, Inc owns over 1,900 acres in this area all of the way to the south side of Route 9. Furthermore, as it has been previously held by the Prosecuting Attorney's Office in other quarry zoning matters, Quarrying, Mineral Extraction, Complete Use of Natural Resources, and Protection of Existing, Expansion, and Future Satellite Industrial and Manufacturing Uses appear to be addressed in WV Code 8A-7-10(c) and (e) as it relates to Zoning in the West Virginia State Code (attached). This section replaces the similar long time existing section that was provided for in Previous 8-24-50 of the State Code that was in place until replaced by 8A in 2004. This is provided as a reference for the Board to seek advice from the Board's Counsel if deemed necessary. It is only provided for your counsel as a notation and is not a legal opinion.

The small operation will be located north of where there is a heavy existing buffer between the site and the uses to the South. The plant and the stockpiles will be on an existing and long established 18-44 inch compacted aggregate base that has been left after years of being used for staging area and other uses. And the plant will be further away from the affected property line than the Asphalt Plant which was approved for the same variance at the last meeting.

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?*

As explained in the Description, this approximately 1900 acre group of properties are protected at the State and Local Zoning Level for continued and complete use for the extraction of minerals and natural resources. When seeking a location to replace previously existing concrete plants/facilities, this parcel was already almost impervious since the entire area that is not planted in heavy buffer is already a compacted pad of aggregate. This area and parcel also includes an existing Bradstone Plant that was granted the same variance to cast concrete pavers and other concrete products utilizing the natural resources available from the quarries. The new Plant that will share the entrance to the Bradstone Plant and Asphalt Plant and will be built on the existing compacted pad. This site shares similar uses and traffic on the same access road. It is the logical place for the new concrete plant that will meet all current State and applicable local standards.

As previously discussed at the Board, the Quarry and its associated mining and related industrial operations have always been told by the County that they will be able to continue to do so on these properties based on the Codes that allow these uses and the complete use of the minerals and natural resources. These uses are permitted by both the State and Local Ordinances. This portion of this parcel is the most logical place to utilize since active quarrying is on Blair Road and there is already a buffered compacted subbase. Also, the Bradstone Plant and proposed Asphalt plant are located on this particular parcel with a good entrance and the proposed industrial use in the Permitted Use in this District.

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

This property is zoned for Industrial Use. Also, the State further recognizes existing industrial and manufacturing uses, along with mineral extraction and complete use of natural resources on the property. The State Department of Environmental Protection has established a 300 feet buffer/setback, and the small plant will meet that setback. The County willfully zoned this property Industrial, because of the location of the quarry. It does not seem logical to zone it for these industrial uses, just to disallow 1000 feet around the perimeter of all 1900+ acres properties owned by Millville to be used for that use. The hardship would be to continue to pay the State and Local Taxes for Industrial uses but not allow the reasonable industrial use of 1000 feet completely around each of the properties. This site will share the Road with another Accessory Industrial Concrete Plant and Asphalt Plant. This site was also selected specifically because of the existence of a completely compacted area within a natural buffer of heavy vegetation. The reasonable use of this land has been determined by the County Commission and the Planning Commission in both the Comprehensive Plan and the Zoning Ordinance.

Finally, it is completely reasonable to use this site to allow a small concrete plant that uses the products, minerals, and natural resources from the existing Quarry properties.

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

The intent of the Ordinance and the Comprehensive Plan along with the WV State Code is to allow Industrial Use and Expansion, along with Mineral Extraction on this property and in this area. The State requires a 300 feet buffer/setback for this use and that will be achieved. This 300' buffer/setback is more than the normally required 200' distance requirement for other industrial uses in Jefferson County. Where the 1000' setback may make sense in other areas of the County not specifically intended for Quarrying (nearly 2000 acres in this area owned by Millville Quarry) and Industrial Use. This area has been historically many years before zoning was contemplated or considered in Jefferson County. This is the only logical area for Concrete Plants and Asphalt Plants to utilize the resources that are available from the mining operation. Allowing them in other certain areas of the County may necessitate a 1000' setback, but this area is the historical area set aside for quarrying, mineral extraction, and industrial uses in Jefferson County

Substantial justice would be to approve the requested variance, so that this long time owner and business applicant can continue to thrive in the area of Jefferson County that has been deemed in the Comprehensive Plan as the preferred and intended area for this use and any other industrial related uses to quarrying.

The Board's approval of the variance would be greatly appreciated.

## WEST VIRGINIA CODE: §8A-7-10

### §8A-7-10. Effect of enacted zoning ordinance.

(a) After enactment of a zoning ordinance by a municipality or county, all subsequent land development shall be done in accordance with the provisions of the zoning ordinance.

(b) All zoning ordinances, and all amendments, supplements and changes thereto, legally adopted under any prior enabling acts, and all actions taken under the authority of any such ordinances, are hereby validated and continued in effect until amended or repealed by action of the governing body of the municipality or the county taken under authority of this article. These ordinances shall have the same effect as though previously adopted as a comprehensive plan of land use or parts thereof.

(c) Land, buildings or structures in use when a zoning ordinance is enacted may continue the same use and that use may not be prohibited by the zoning ordinance so long as the use of the land, buildings or structures is maintained, and no zoning ordinance may prohibit alterations or additions to or replacement of buildings or structures owned by any farm, industry or manufacturer, or the use of land presently owned by any farm, industry or manufacturer but not used for agricultural, industrial or manufacturing purposes, or the use or acquisition of additional land which may be required for the protection, continuing development or expansion of any agricultural, industrial or manufacturing operation of any present or future satellite agricultural, industrial or manufacturing use. A zoning ordinance may provide for the enlargement or extension of a nonconforming use, or the change from one nonconforming use to another.

(d) If a use of a property that does not conform to the zoning ordinance has ceased and the property has been vacant for one-year, abandonment will be presumed unless the owner of the property can show that the property has not been abandoned: *Provided*, That neither the absence of natural resources extraction or harvesting nor the absence of any particular agricultural, industrial or manufacturing process may be construed as abandonment of the use. If the property is shown to be abandoned, then any future use of the land, buildings or structures shall conform with the provisions of the zoning ordinance regulating the use where the land, buildings or structures are located, unless the property is a duly designated historic landmark, historic site or historic district.

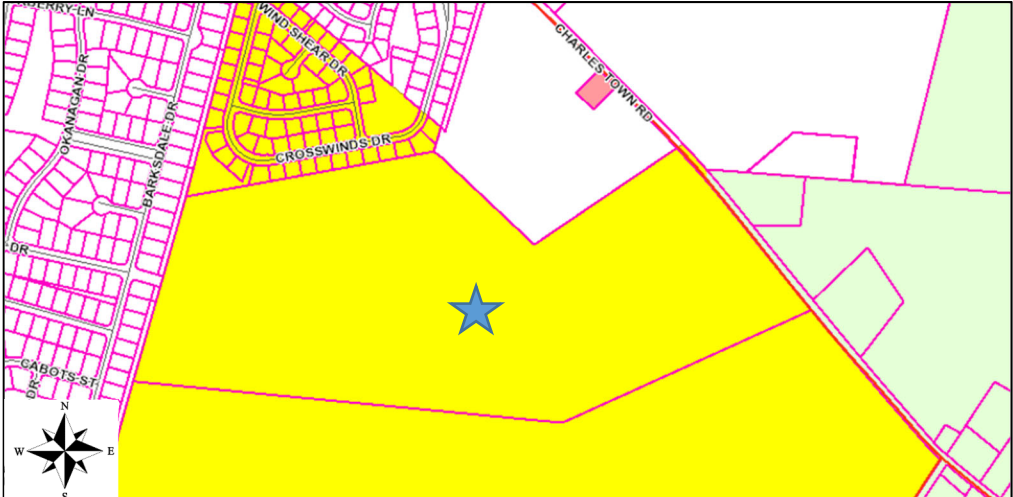
(e) Nothing in this chapter authorizes an ordinance, rule or regulation preventing or limiting, outside of municipalities or urban areas, the complete use (i) of natural resources by the owner; or (ii) of a tract or contiguous tracts of land of any size for a farm or agricultural operation as defined in §19-19-2 by the owner. For purposes of this article, agritourism includes, but is not limited to, the definition set forth in §19-36-2.



Staff Report  
 Jefferson County Board of Zoning Appeals  
 January 25, 2024

**24-4-ZV Kings Crossing (Model Home Lot) Variance Request**

Item #5 Variance request from Section 8.10 to allow placement of a staffed model home sales office on Lot 174 and Townhome Lot 21 of the Kings Crossing Subdivision. (PC File #21-8-SD).

Owner/ Applicant:	DR Acquisitions LLC / DRB Group (Matt Monahan)
Consultant	Integrity Federal Services (IFS) / Contact: Brooke Perry
Parcel Information & Zoning District:	<p>Kings Crossing Subdivision, Lot 174 and Townhome (TH) Lot 21, vacant lots located off Aragon Drive and Armistead Place, Charles Town, WV          Parcel ID: 02001700220000; Size: .219 and .084 (respectively);          Zoning District: Residential Growth</p> 
History:	05/10/23: Kings Crossing Subdivision, Phase 1A (Plat Book 26, Page 556)
Waivers/Variations:	<p>04/13/21: PC granted the following waivers:</p> <ul style="list-style-type: none"> <li>a) Waiver from Sec. 21.101.A to allow more than six lots on a single block (21-6-PCW).</li> <li>b) Waiver from Sec. 21.104.A to reduce the minimum lot width from 80' to 60' (21-7-PCW).</li> </ul> <p>05/17/22: PC granted a waiver from Sec. 24.113.B.10 to eliminate the requirement for a Phase I archaeological study &amp; a historic resources impact study (22-10-PCW).</p> <p>06/14/22: PC granted a waiver to allow the issuance of an early grading permit prior to final plat recordation (22-16-PCW).</p>
Site Visit Conducted:	No

**Staff Overview**

The applicant is requesting a variance from Section 8.10 to allow a staffed model home on Lot 174 and Townhome Lot 21 within Phase 1A of the Kings Crossing 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....”

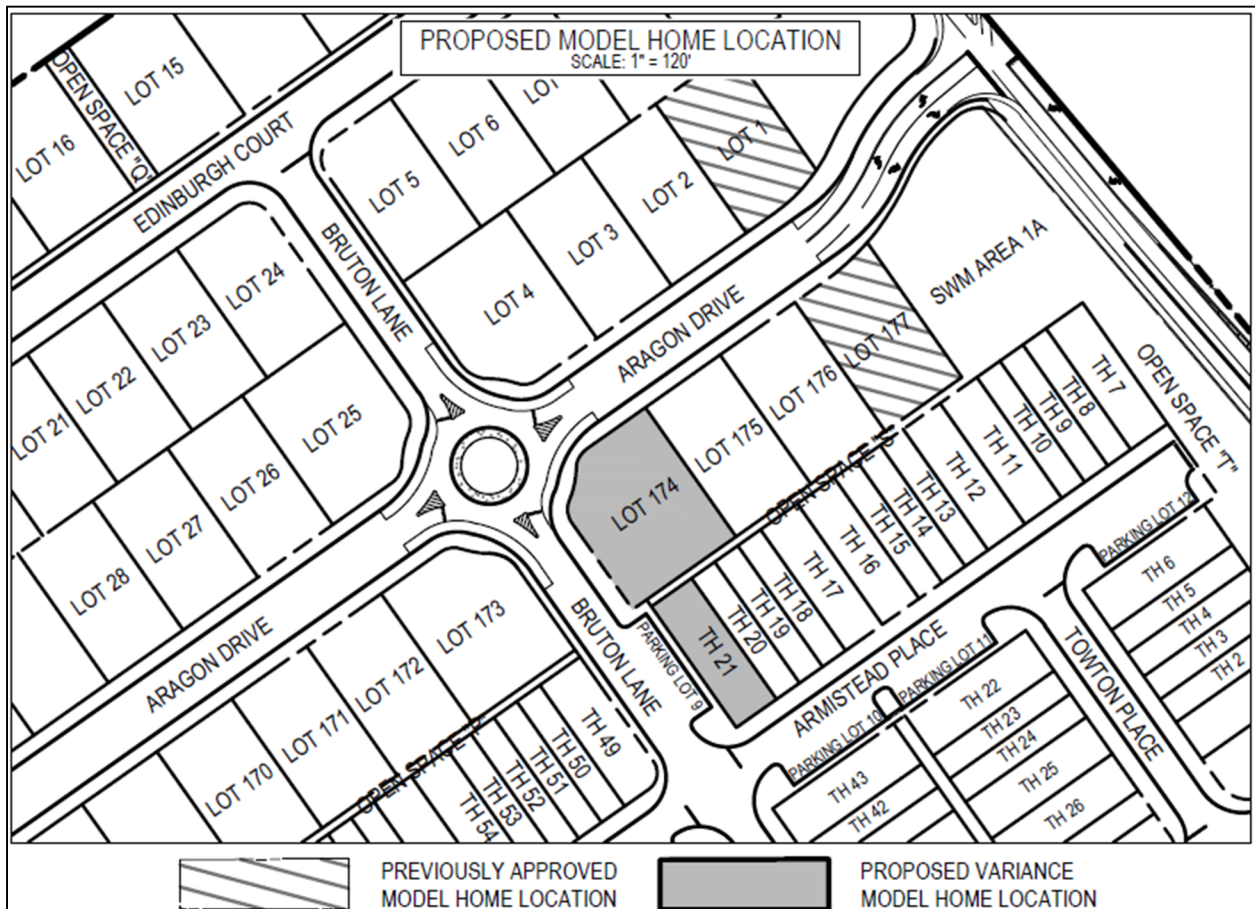
Staff Report  
Jefferson County Board of Zoning Appeals  
January 25, 2024

**24-4-ZV Kings Crossing (Model Home Lot) Variance Request**

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 Kings Crossing was recorded on May 1, 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.

The applicant's exhibit below identifies the permitted locations for staffed model homes (Lots 1 and 177) and the requested locations of the staffed model home sites (Lot 174 and townhome lot 21).



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

Staff Report  
Jefferson County Board of Zoning Appeals  
January 25, 2024

**24-4-ZV Kings Crossing (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 offices on Lot 174 and townhome lot 21 shall be used exclusively for sales of lots within the King’s Crossing 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: \_\_\_\_\_  
 Staff Initials: \_\_\_\_\_  
 Meeting Date: \_\_\_\_\_  
 Fees Paid (\$100 or \$150): \_\_\_\_\_

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

**Applicant Contact Information**

Name: \_\_\_\_\_  
 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: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Tax District: \_\_\_\_\_ Map No: \_\_\_\_\_ Parcel No: \_\_\_\_\_  
 Parcel Size: \_\_\_\_\_ Deed Book: \_\_\_\_\_ Page No: \_\_\_\_\_

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input 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"/>
---	--	--	---	--	--	---

**RECEIVED**

**JAN 02 2024 - JH**

Jefferson County  
 Planning, Zoning and Engineering

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"/>
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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.

  
Signature of Property Owner      12/29/2023  
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).

01/25/24  
Date of Public Hearing

01/10/24  
Advertising Date

01/10/24  
Placard Posting Date

**Kings Crossing Subdivision**  
**Zoning Variance Request (Model Home)**  
December 18, 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 174 and TH21 are available for use as a Model Home/Sale Office, rather than the previously denoted lots 1 & 177. This change allows both model home lots to be consolidated to one centralized location, abutting at their rear lot lines, and depicting both product types (Single-family Detached and Single-family Attached).

This provides a safer route for pedestrians to access the model homes from the designated parking areas, as well as improves vehicular traffic at the entry by removing the need for pedestrians to cross the street to access the model home lots. Additionally, this change shall increase sightlines for incoming visitors from the traffic circle to the sales offices. This will promote better circulation, wayfinding, and reduce congestion (Charles Town Road, County Route 115).

**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 single-family detached (SFD) sales office lot, lot 174, is located approximately 158' from the previously approved model home location of lot 177. The proposed single-family attached (SFA) sales office lot, lot TH21, is located at the first SFA lot encountered from the entrance road. The previously approved model home location of lot 1 was not denoted as a SFA product, and therefore switching the sales offices to both be located on the South-East side of the entrance road will consolidate the marketing services for each product type to a centralized location.

The previously denoted model home lots would be disruptive to the community circulation and pose a safety risk regarding ingress/egress & parking locations. The newly proposed model home lots provide parking directly adjacent to the model homes. Therefore, the proposed change will have no adverse

impacts on public health, safety or welfare, or the rights of adjacent property. In fact, it is anticipated that this change will improve all conditions listed above.

**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?**

During the site development process, certain contingencies always remain flexible due to agency, developer, and property owner input. It has now been determined which product will be placed on the lots, and therefore the previously denoted model home lots are no longer the most logical selection.

With the traffic circle located approximately 400' from the entrance, a double turn lane provided for egress from the subdivision, and two different product types, locating the model home/sales office on the *"first lot... of any road/right-of-way that enters the subdivision"* arises three issues not typically associated with the zoning requirement.

- a) The first SFD lot with direct access to an entryway road (Aragon Drive) is located at the initiation of the egress double turning lanes. 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 proximity to the turning lanes is not desired. The previously denoted locations have the potential to increase congestion at the point of ingress/egress, and cause traffic to back up on Charles Town Road (CR 115) when entering the site, and along Aragon Drive when exiting.
- b) The first SFA lots encountered when entering the subdivision are not located on the entry road (Aragon Drive) and are accessed via the perpendicular roadway of Burton Avenue, and subsequently Armstead Place. Armstead Place runs parallel to the entry road. This placement is due to encouraging a "neighborhood feel" within the subdivision of the different product types available, and minimizing grading efforts required for these units, and therefore environmental impacts. This positioning forces access to the SFA model home to be achieved by continuing through the roundabout and making a 90-degree left turn from the entrance to access the provided parking along Burton Avenue (parking lot 9). This unit is approximately 700' from the entrance. There are no SFA lots provided along the entrance road (Aragon Drive) until approximately 1,500' into the subdivision, after passing through two traffic circles. This is over double the distance of the proposed SFA model home lot from the entry.
- 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 the roundabout is located only +/- 400' from the subdivision entrance this could increase congestion at the point of ingress/egress, and cause traffic to back up along Charles Town Road (CR 115). Additionally, the change shall increase sightlines for incoming visitors from the traffic circle to both sales offices. This will promote better circulation, wayfinding, and easy identification 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 traffic circles and restricting the majority of driveway access until Aragon Drive's intersection with Burton Avenue. These design features are to reduce congestion and conflicts until traffic may begin to disperse onto the subdivision's internal secondary road system. While these design features enhance the circulation of the overall subdivision, they do not provide the previously proposed temporary sales office lots the best sightlines for wayfinding or direct access to the anticipated parking lots (parking lot 9). Specifically in the case of the SFA model home, it would be situated 800' further away from the entry than the proposed location. 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 locations, if designated per the ordinance, would not be placed in the most logical and safe locations.

Granting this variance will allow the model homes to be consolidated to one location, abutting each other at the rear property line, and provide direct parking access. This will improve the community circulation and isolate the marketing services to a centralized location, as close as feasible to the entry of the subdivision.

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

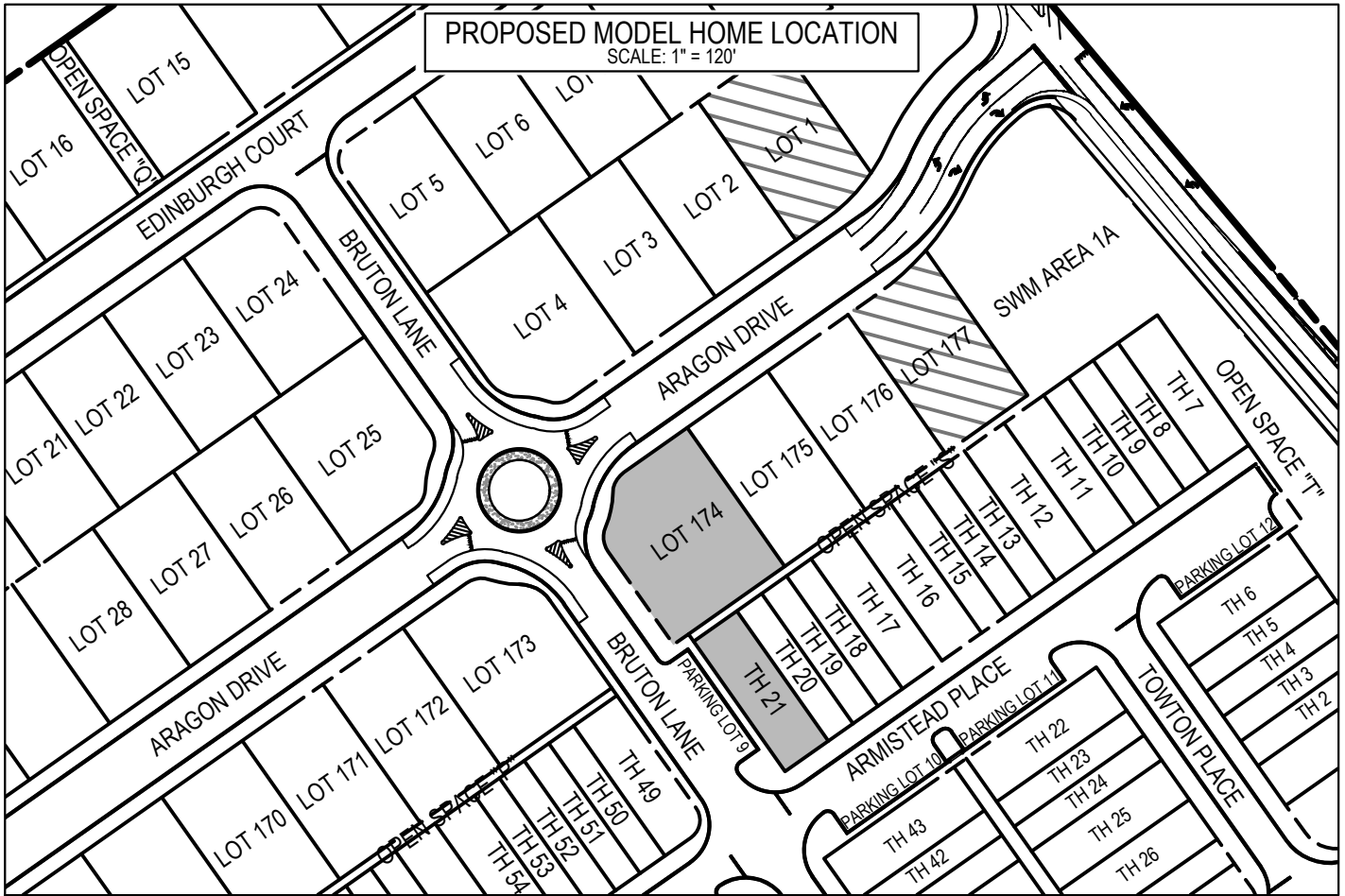
It is of the opinion of IFS, that placing the model homes/sales offices on lots 174 and TH21 provide visitors the most easily identifiable and safest access to the model homes, meeting the intention of Section 8.10 by placing the model homes/sales offices in a central location, as close as feasible to the entrance of the subdivision.

Section 8.10 states "*Model homes with a staffed sales office in any other location (first lot on ingress/egress) within the subdivision must be approved or denied by the Board of Zoning Appeals...*". This request meets the overarching goal, which is to ensure safe and efficient movement of vehicular and pedestrian traffic to and from the model home lots, and situate these lots as close as feasible to the entry of the subdivision to discourage increased traffic volumes within the subdivision's internal secondary roadway system.

KINGS CROSSING SUBDIVISION OVERVIEW  
SCALE: 1" = 500'



PROPOSED MODEL HOME LOCATION  
SCALE: 1" = 120'



PREVIOUSLY APPROVED  
MODEL HOME LOCATION



PROPOSED VARIANCE  
MODEL HOME LOCATION

KINGS CROSSING 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: DECEMBER 18, 2023
JOB: 3035
DRAWN: ABP
CADD:
SHEET:



# 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@jeffersoncountyv.wv.org](mailto:zoning@jeffersoncountyv.wv.org)

Phone: (304) 728-3228

## Memorandum

**Date:** December 19, 2023

**To:** Board of Zoning Appeals

**From:** Alexandra Beaulieu, Deputy Director and Zoning Administrator

**Subject:** Review of proposed policy handout regarding deadlines to submit written comments

Staff has historically advised that the submission deadline to include written comments in the Board's agenda packet is one week prior to the scheduled meeting, but with electronic submittals becoming increasingly more common, submissions after 5:00 p.m. are occurring regularly and staff felt that in order to ensure the policy is enforced consistently, it would be beneficial to have the policy in writing.

Staff prepared the enclosed policy to post to the County's website and distribute to members of the public when inquiring about submitting written comments. Board approval does not appear to be required (see excerpt from Rules of Procedure below); however, Staff felt that it would be beneficial to both the Board and the Public to place the policy in Board's agenda packet for review and consideration.

### **Section 5.6 of the Rules of Procedure state:**

Submissions regarding all items for Board consideration shall be made in accordance with the Ordinance, these Rules, and relevant staff procedures. Staff may establish deadlines for submittal of applications and supplemental material. Late submissions, including submissions made the day before or the day of any meeting of this Board, may not receive full consideration by the Board due to the lack of time for proper Board and staff review.

The policy states that written comments submitted after 5:00 p.m. on the Thursday before the scheduled meeting will not be included in the Board's agenda packet. Electronic submittals that are date stamped after 5:00 PM will be considered late submittals and not included in the Board's agenda packet. Any late submissions that are more than five pages in length will necessitate that the individual submitting said comments bring seven paper copies to the meeting (one for each Board member, one for the Board's legal counsel, and one to retain in the project file).

**Note:** applicants are required to submit a complete application by 5:00 pm on the submission deadline date noted on the Board's adopted meeting calendar. Applicants are also required to submit any addendums by 5:00 pm on the Thursday prior to the scheduled meeting date for inclusion in the Board's agenda packet. Late submittals require that the applicant bring copies of their supplemental information to the meeting.



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

**DRAFT**

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

Phone: 304-728-3228

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January 00, 2024

**Board of Zoning Appeals**

**Submission Deadline Policy for Written Comment**

Electronic and/or hard copy written comments regarding a specific item on the Board of Zoning Appeals Agenda must be submitted to the Office of Planning and Zoning no later than 5:00 pm, one week prior to the meeting for inclusion in their Packet.

Any written comments submitted after 5:00 pm will be provided to the Board at the corresponding meeting and a copy will be included in the relevant project file. Any written comments submitted after 5:00 pm which are greater than five pages in length will require that the individual submitting bring seven copies to the meeting – one for each Board member, one for legal counsel, and one for the project file. Note: late submissions may not receive the Board's full attention.

Written comments may be mailed or hand delivered during regular business hours to:

116 E. Washington St., Charles Town, WV 25414; or may be emailed to [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org).

By Order of the Board of Zoning Appeals

\_\_\_\_\_, Chair

# **Board Of Zoning Appeals Jefferson County, West Virginia**

Good evening All,

The Board Of Zoning Appeals for “Month / Year” is now officially in session.

As a matter of protocol the board will follow its agenda. You can find copies at the rear of the room. First we will address our minutes. Then Staff will swear in anyone who wishes to speak either for, or against an item during the public hearings before the board.

When we call an Item or Case we ask that the Applicant or the Applicant’s Representative move to the front of the room to the podium. Identify themselves (Name, Address). Staff will give a summary of the requests to everyone here. The applicant will present their case. After the applicant presents their case there will be an opportunity for public input. First in support of or for the particular application. Then opposed or against the Item. After the public input the applicant will have the opportunity for rebuttal. After rebuttal the Board may or may not choose to go into what is called a “Deliberative Session”. If the Board goes into “Deliberative Session” we ask that the room be vacated. Everyone will exit out into the hall taking all of your possessions coats, bags, electronics, etc.

The Board will deliberate with council. Then we will return to public hearing. You will return to the room. We will have a discussion and then a motion on the case.

After we hear all of the cases we will continue with the agenda until we adjourn.

Now we will review the Minutes..... Mr. Chair...





# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

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## Zoning Administrator's Report January 25, 2024 Board of Zoning Appeals Meeting

### Date of Memo: January 9, 2024

- 1) The next regular meeting is scheduled for **February 22, 2024**
  - Deadline for submission is Friday, January 26, 2023.
- 2) Two alternate member positions remain open. One term ending 01/01/25 and the other term ending 01/01/27.
  - 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) Review of submission policy for written comments
- 4) 2045 Comprehensive Plan Status Update
  - 3<sup>rd</sup> Public Input Meeting was held on January 23<sup>rd</sup>, 2024 at Jefferson High School
- 5) Ethics and Open Meetings Act Training – hosted by the WV Ethics Commission
  - February 8, 2024 @ Noon – Virtual via GoogleMeets:  
<https://meet.google.com/tvm-kdwd-dhr?hs=224>
- 6) Zoning Certificate Activity Report



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**January 2024**  
**Zoning Certificate Activity Report**

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<b>File #</b>	<b>23-53-ZC</b>
Request:	Change in Use/Tenant: Accessory Use: Fitness Center
Property Owner:	Summit Point Automotive Research Center LLC
Parcel Information:	155 Gasoline Alley, Units #1 and #2, Summit Point WV 25446 Parcel ID: 06001700020000; Size: 415.32 acres*; Zoning District: General Commercial; Deed Book: 1096; Page: 472 Zoning Map Amendment approved 07/21/22 (File #22-3-Z)
Date of Issuance:	12/18/2023
<b>File #</b>	<b>23-55-ZC</b>
Request:	Change in Land Use: Kennel: K-9 training to include Explosive Detector Dogs (EDD's) / Storage of Firearms Permitted as an Accessory Use
Applicant:	GardaWorld Federal Services LLC / Attn: Bryan Miller
Property Owner:	Summit Point Ventures, LLC / Attn: Jim Bradury
Parcel Information:	500 Motorsports Park Circle, Summit Point WV 25446 Parcel ID: 06001700020003; Size: 3.35 acres; Zoning District: General Commercial; Deed Book: 1092; Page: 176 Zoning Map Amendment (rezoning) approved 03/29/18 (File#Z18-01) Site Plan File# S10-08 (Automobile Research and Development Facility)
Date of Issuance:	12/13/2023
<b>File #</b>	<b>23-57-ZC</b>
Request:	Short Term Rental
Property Owner:	Katherine Wong / dba Park Row LLC
Parcel Information:	1447 Lakeside Drive, Harpers Ferry, WV 25425 Parcel ID: 06006E02130000; Size: .54 ac; Zoning District: Rural; Deed Book: 1308, Page: 328
Date of Issuance:	12/18/2023

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