

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 comment portion of the hearing. No members of the public
2 provided testimony. Mr. McKinney closed the public comment portion of the 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 comment portion of the hearing. No members of the public
24 provided testimony. Mr. McKinney closed the public comment portion of the 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 comment portion of the 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 comment portion of the 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.