

Minutes

Jefferson County Board of Zoning Appeals

1 Meeting Date: January 25, 2024
2 Meeting Location: County Commission Meeting Room located in the lower level
3 of the Charles Town Library (entrance on Samuel St.)
4 200 East Washington Street, Charles Town, WV 25414
5 Board Members Present: Tyler Quynn, Chair; Matthew McKinney, Vice Chair; Jacob Harris,
6 Secretary; Steve Guier, and, David Wiegand were present in person.
7 Board Members Absent: Mikala Shremshock, Alternate, without notification
8 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator;
9 Steve Groh, Assistant Prosecuting Attorney; and Jennilee Hartman,
10 Zoning Clerk

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

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

14 Mr. Quynn reviewed meeting protocol for those in attendance.

15 Election of Officers

16 Mr. Harris nominated Mr. Quynn as Chair. Mr. Guier seconded the nomination, which carried
17 unanimously.

18 Mr. Harris nominated Mr. McKinney as Vice Chair. Mr. Wiegand seconded the nomination, which
19 carried unanimously.

20 Mr. Wiegand nominated Mr. Harris as Secretary. Mr. Guier seconded the nomination, which carried
21 unanimously.

22 Mr. Quynn presided over the remainder of the meeting as Chair.

23 Approval of Minutes: December 14, 2023

24 Mr. Quynn suggested modifying all text pertaining to the public comment portion of the public
25 hearing to read as follows:

26 Example (old): *Mr. McKinney opened the public hearing. No members of the public provided*
27 *testimony. Mr. McKinney closed the public hearing.*

28 Example (proposed): *Mr. McKinney opened the public comment portion of the hearing. No members*
29 *of the public provided testimony. Mr. McKinney closed the public comment portion of the hearing.*

30 The Board concurred with the revised text.

31 Mr. McKinney motioned to approve the minutes as amended, which carried unanimously.

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

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

34 Request: Variance request from Section 9.7 to reduce the front setback along Mahoney Drive from
35 20' to 4' and, to reduce the rear setback along the eastern property lien from 12' to 2' for
36 an existing 12' tall fence.

37 Owner: Guy Chappuis

38 Parcel Info: 26 Benson Drive, Harpers Ferry, WV

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

40 This item was postponed until February 22, 2024 to ensure public notice requirements were met.

1 Agenda Item #3 File # 24-2-ZV

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

4 Owner: Beallair Homes, LLC

5 Parcel Info: Beallair Subdivision, Lot 273, 101 Claymont Hill Street, Charles Town, WV

6 Parcel ID: 04010A02730000; Size: .209 ac; Zoning District: Residential Growth

7 Mr. Todd Abe with Beallair Homes was present to address the Board. Ms. Beaulieu provided an
8 overview of her staff report to the Board.

9 Mr. Abe explained the nature of the request to the Board stating that the encroachment was due to
10 an in-house miscommunication and apologized for the oversight.

11 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided
12 testimony. Mr. Quynn closed the public comment portion of the hearing.

13 In response to Mr. Abe's presentation, Mr. Wiegand stated that he must recuse himself from this
14 Item as his company had been employed by the owners of Beallair Homes in the past. Mr. Wiegand
15 left the meeting room.

16 Mr. McKinney moved for a Summary Approval in accordance with Section 5.7(9) of the Boards'
17 Rules of Procedure (as amended 01/26/23). Mr. Quynn called for a vote, which carried unanimously.

18 Mr. Wiegand returned to the meeting room.

19 Agenda Item #4 File # 24-3-ZV

20 Request: Variance request from Section 5.6B to reduce the distance requirement for an Industrial
21 Use from 1,000' to 400' along the southern property line to allow for the construction
22 of a concrete plant accessory to the quarry operation.

23 Owner: Millville Quarry, Inc.

24 Applicant: Diamond Concrete, LLC

25 Parcel Info: 165 Bradstone Lane, Harpers Ferry, WV

26 Parcel ID: 04001100220000; Size: 272+ ac; Zoning District: Industrial Commercial

27 Mr. Paul Raco with P.J. Raco Consulting was present on behalf of the applicant to address the
28 Board. Ms. Beaulieu provided an overview of her staff report to the Board.

29 Mr. Raco provided a detailed history of the subject parcel and explained the nature of the request to
30 the Board. In addressing the Boards' questions regarding the various approvals required by the
31 State, Mr. Raco stated that the entire quarry had an existing NPDES Permit that was issued by the
32 West Virginia Department of Environmental Protection (WVDEP). Mr. Raco clarified that any and
33 all site work initiated by the property owner would be covered by the existing Permit.

34 Mr. Quynn opened the public comment portion of the hearing.

35 Ms. Nicola Bastian, neighboring property owner, and Ms. Christine Marshall, concerned resident,
36 were opposed to the request.

37 Ms. Jackie Milliron approached the dais and was sworn in as she arrived after that occurred at the
38 beginning of the meeting. Ms. Milliron asked questions pertaining to process.

39 Mr. Quynn closed the public comment portion of the hearing.

40 Mr. Raco provided a rebuttal in response to public comment. Mr. Raco confirmed that the new
41 structures would adhere to all clean air and water provisions regulated by the State.

1 Mr. McKinney moved to approve the request with the following conditions:

2 1. The applicant is bound by their testimony.

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

7 Mr. Harris seconded the motion, which carried unanimously.

8 **Agenda Item #5 File # 24-4-ZV**

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

12 Owner: DR Acquisitions LLC

13 Applicant: DRB Group / Attn: Matt Monahan

14 Parcel Info: Kings Crossing Subdivision, Lot 174 and Townhome Lot 21

15 Vacant Lots located off Aragon Drive and Armistead Place, Charles Town, WV

16 Parcel ID: 02001700220000; Size: .219 ac. and .084 ac. (respectively);

17 Zoning District: Residential Growth

18 Ms. Brooke Perry with Integrity Federal Services was present on behalf of the property owner to
19 address the Board. Ms. Beaulieu provided an overview of her staff report to the Board.

20 Ms. Perry explained the nature of the request to the Board stating that the proposed location of the
21 model home sites would allow two unit types to be marketed and would facilitate a more fluid
22 traffic pattern.

23 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided
24 testimony. Mr. Quynn closed the public comment portion of the hearing.

25 Mr. Harris moved for a Summary Approval in accordance with Section 5.7(9) of the Boards' Rules
26 of Procedure (as amended 01/26/23). Mr. Quynn called for a vote, which carried unanimously.

27 **Agenda Item #2 File # 24-1-ZV**

28 Request: Variance request from Section 5.7D.2.b.i(b) to allow the required 50% green space to
29 be allocated on each of the individual lots within a proposed five lot cluster subdivision.

30 Owner: Debra Corbett

31 Applicant: Mark Stacpoole

32 Consultant: Josh Beall (real estate broker)

33 Parcel Info: Vacant parcel on the southeast corner of Huyett Rd & Summit Point Rd, Charles Town, WV

34 Parcel ID: 06001300050000; Size: 36 ac; Zoning District: Rural

35 Mr. Josh Beall, consultant, and Mr. Doug Lance, the new property owner (*as of 01/18/2024*), were
36 present to address the Board. Ms. Beaulieu provided an overview of her staff report to the Board.

37 Ms. Beaulieu noted that under Section 5.7D.2.b the property could be subdivided into seven (7)
38 total lots. She noted that the subject request would not allow for a greater density than would
39 otherwise be permitted and noted that the applicant proffered in their application to not allow any
40 further subdivisions to occur beyond the proposed five lots.

41 Mr. Beall and Mr. Lance explained the nature of the request to the Board stating that they believed
42 the intent of the Ordinance would be upheld. Making reference to the proposed conditions of
43 approval, the Board concurred that the intent to preserve greenspace would be upheld.

- 1 Mr. Quynn opened the public comment portion of the hearing.
- 2 Ms. Christine Marshall, concerned resident, stated that while she was not opposed to the request,
- 3 she questioned whether the request upheld the intent of the Cluster provisions.
- 4 Mr. Quynn closed the public comment portion of the hearing.
- 5 Discussion ensued regarding the intent of the greenspace provisions. The Board questioned if the
- 6 current interpretation could be changed to allow the greenspace to be allocated as requested.
- 7 Ms. Beaulieu stated that she stands by her original interpretation regarding the location of the
- 8 greenspace and that to date, no applicants had pursued an appeal of her decision. Mr. Wiegand
- 9 asked if they could send a letter to the Planning Commission requesting that they clarify the intent
- 10 of the greenspace provisions. Ms. Beaulieu explained that in order for the interpretation to be
- 11 modified, a member of the public would have to initiate an appeal of her determination; or petition
- 12 for a text amendment to the Zoning Ordinance to change the text. Ms. Beaulieu stated that in the
- 13 past when multiple variances that are similar in nature process before the Board, that the Board has
- 14 sent a letter to the Planning Commission requesting that they evaluate the text to determine if an
- 15 amendment is needed. Ms. Beaulieu stated she could draft a letter on behalf of the Board to the
- 16 Planning Commission requesting that this section of the Ordinance be re-evaluated to provide
- 17 clearer insight with regard to the greenspace provision. Ms. Beaulieu stated she could bring the
- 18 draft letter to the next meeting for the Board's review.
- 19 Ms. Beaulieu and Mr. Groh advised addressing the current request as presented.
- 20 Mr. McKinney moved to approve the request with the following conditions:
 - 21 1. The applicant seek all approvals during the development.
 - 22 2. The applicant is bound by their testimony.
- 23 Mr. Harris requested a friendly amendment to address the conditions of approval noted in the staff
- 24 report. The Board concurred with the request. Ms. Beaulieu summarized the following conditions of
- 25 approval as noted in the staff report and recommended by the Board:
 - 26 1. The applicant shall place a preservation easement on each of the proposed five lots, with the
 - 27 total greenspace area equal to or greater than the required 50%. The easement areas shall be
 - 28 delineated on the final plat in accordance with a design that is acceptable to the Zoning
 - 29 Administrator. A note shall be added to the final plat that stating that no driveways and no
 - 30 structures which require a building permit shall be placed within the delineated easement
 - 31 areas; and
 - 32 2. The applicant shall add a note on the plat that no further subdivision of the lots can occur; and
 - 33 3. The applicant is bound by their testimony.
- 34 Mr. McKinney agreed with the revised conditions.
- 35 Mr. Quynn called for a vote, which carried unanimously.
- 36 Mr. Wiegand requested that staff draft a letter to the appropriate party to determine the appropriate
- 37 process pertaining to the Boards' questions regarding greenspace. Mr. Quynn called for a vote,
- 38 which carried unanimously. Mr. McKinney clarified that the draft letter would be brought to the
- 39 Boards' February meeting for discussion and action.
- 40 Mr. Wiegand asked that the Board re-evaluate their July 2023 decision regarding member
- 41 participation via ZOOM. Ms. Beaulieu stated that she would bring all of the documents related to
- 42 the July 2023 decision to the February meeting for discussion and/or action.

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

2 Ms. Beaulieu read the proposed Policy into the record. Ms. Beaulieu explained that the intent of the
3 Policy was to provide clear direction regarding the submission of public comments. Mr. Wiegand
4 requested that the Policy be revised to include text that prohibits the applicant and the public from
5 submitting lengthy handouts at the meeting. Mr. Wiegand clarified that any material that could be
6 verbally presented as part of the applicant/public testimony would be permitted.

7 Ms. Beaulieu suggested that the Board make a motion to request that staff do additional research
8 related to submission deadlines and the Rules of Procedure and to include the item on the February
9 agenda. Mr. Wiegand so moved. Mr. Harris seconded the motion, which carried unanimously.

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

11 Mr. Quynn stated he did not believe the draft document needed to be accepted by the Board as it
12 was it was only intended to be informational. The Board concurred.

13 Zoning Administrator's Report

14 Ms. Beaulieu addressed the following items noted in her report:

- 15 1. The next regular meeting is scheduled for February 22, 2024.
- 16 2. There are two alternate member positions open.
- 17 3. 2045 Comprehensive Plan Status Update: 3rd Public Input Meeting was held on
18 January 23, 2024 at Jefferson High School
- 19 4. Ethics and Open Meetings Act Training – hosted by the WV Ethics Commission
20 Ms. Beaulieu noted that the Interim County Administrator requested that each member
21 confirm their attendance.
- 22 5. Zoning Certificate Activity report – included in the Packet.

23 Legal Update

24 a. Discussion with possible deliberative session of the following pending lawsuits:

- 25 1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy
26 Facility / File 22-9-CUP) Rockwell v. JCBZA
- 27 2. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence /
28 23-13-ZV) Gallagher c JCBZA and Timothy Williamson
- 29 3. Jefferson County Circuit Court Case # CC-19-2024-C-14 (RE: Jeremy Martin, Tiffany
30 Martin and Earthworx General Contracting Services, LLC v. Jefferson County Board of
31 Zoning Appeals)

32 Mr. Groh stated he did not have a legal update for Items 1 and 2. Mr. Groh recommended
33 going into deliberation session to discuss Item #3.

34 Mr. Harris moved to go into deliberative session at 4:35 pm., Mr. Quynn called for a vote,
35 which carried unanimously.

36 Mr. Guier moved to come out of deliberative session at 4:44 pm. Mr. Quynn called for a
37 vote, which carried unanimously.

38 No action was taken.

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

2 **Meeting: December 14, 2023**

3 1. Variance from App. B. Owner: Stephen Patrick Snyder. File: 23-37-ZV.

4 2. Request by Songbird House Assisted Living Residence for a CUP to operate a Nursing
5 or Retirement Home. Owner: Blue Iris LLC and Blue Tulip LLC / Attn: Sharon
6 Hallinan, Manager. Applicant: Songbird House Assisted Living Residence / Attn:
7 Beata Scott. File: 23-10-CUP.

8 Mr. Quynn was provided a copy of the Findings for review.

9 Mr. McKinney moved to adjourn the meeting at 4:45 pm. Mr. Quynn called for a vote, which carried
10 unanimously.