



**Jefferson County**  
**Board of Zoning Appeals Agenda**  
**Thursday, March 28, 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: 873 3332 7489  
ZOOM Meeting Link: <https://us02web.zoom.us/j/87333327489>  
Phone Option (Dial by Location): 301-715-8592

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

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**Approval of Minutes: February 22, 2024**

**Public Hearing – Administer Oath**

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**Item #1 File #: 24-8-ZV**

Request: Variance request from Section 9.7 to reduce the side setback along the eastern property line for an accessory structure (shed).

Owner: Jeffrey Black

Parcel Info: Walnut Grove Subdivision, Section E, Lot 8, 353 Marie Drive, Charles Town, WV  
Parcel ID: 02004C00790000; Size: .28 acres; Zoning District: Rural

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**Item #2 File #: 24-9-ZV**

Request: Variance request from Section 5.7B of the Zoning Ordinance (amended 05/01/03) to reduce the rear setback along the eastern property line for an accessory structure (shed).

Owner: Joshua Madar

Parcel Info: Edwin & Stephanie Simpson Minor Subdivision, Lot 1, 74 Saddlebred Lane, Kearneysville, WV  
Parcel ID: 07000500120023; Size: 1.31 acres; Zoning District: Rural

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**Item #3 File #: 24-10-ZV and 24-11-ZV**

Request 1: Variance request from Section 4.11A and Appendix B to eliminate the buffer and street tree requirements for the installation of the community pool and clubhouse (24-10-ZV).

Request 2: Variance request from Appendix B to eliminate the required parking lot setback along Plantation Lane for the installation of the community pool and clubhouse (24-11-ZV).

Owner: Beallair Community Conservancy, Inc.

Parcel Info: Beallair Subdivision, Commercial Parcel 1, 480 Beallair Manor Drive, Charles Town, WV  
Parcel ID: 04010ACOMM0000; Size: 3.31 ac; Zoning District: Residential Growth

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**Item #4 File #: 24-12-ZV**

Request: Variance from Section 5.7B of the Zoning Ordinance (amended 05/01/03) to reduce the front setback along the northern property line for a greenhouse; and Section 9.6C to allow an accessory structure within the required front yard.

Parcel Info: James and Julia Farrell, Property Owner  
Potomac Ridge Subdivision, Lot 5, 312 Potomac Ridge Ln, Shepherdstown, WV  
Parcel ID: 09001000090015; Size: 3.17 ac; Zoning District: Rural

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**Item #5      File #: 24-4-CUP – Postponed until April 25, 2024**

**Request:** Request for a Conditional Use Permit to operate a Solar Energy Facility, as defined in Article 2 of the Zoning Ordinance. Project Name: Franklinton Farm Solar Project. The proposal consists of constructing an 80-megawatt solar energy facility on 502 acres. The project consists of rows of solar modules, a new substation to connect the solar facility to the existing overhead electrical transmission line, and a 20MW Battery Energy Storage System (BESS). The Project also includes internal access roads, commercial entrance(s), security fencing, a buffer screen, and stormwater management.

**Applicant:** Franklinton Farm, LLC / Attn: Sam Judd

**Parcel Info:** Mark D. Stolipher, Property Owner  
261 Berry Hill Farm Ln, Summit Point, WV 25446  
Parcel ID: 06001900070000; Parcel/Project Size: 150.31 ac; Zoning District: Rural

**Parcel Info:** Mark D. Stolipher, Property Owner  
2998 Withers Larue Rd, Summit Point, WV 25446  
Parcel ID: 06001900080004; Parcel/Project Size: 146.84 ac; Zoning District: Rural

**Parcel Info:** Mark D. Stolipher, Property Owner  
322 Scooter Ln, Charles Town, WV 25414  
Parcel ID: 06001900160000; Parcel/Project Size: 50 ac; Zoning District: Rural

**Parcel Info:** Michael Paul Chapman, Trustees, Property Owner  
651 & 653 Franklinton Rd, Summit Point, WV 25446  
Parcel ID: 06001900060000; Parcel/Project Size: 154.16 ac; Zoning District: Rural

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**Review and Discuss:** DRAFT Letter to Planning Commission (PC) RE: Board’s request for PC to review Section 5.7D.2 of the Zoning Ordinance (Cluster Subdivisions)

**Discussion and Possible Action:** Request to include language from WV State Code 8A-8-9 and Section 3.4A of the Zoning Ordinance into the Agenda Packet (JH).

**Zoning Administrator Report**

- a. Final Draft of Submission Deadline Policy for Written Comments
- b. 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
  - 3. Jefferson County Circuit Court Case # CC-19-2024-C-14 (RE: Jeremy Martin, Tiffany Martin and Earthworx General Contracting Services, LLC v. Jefferson County Board of Zoning Appeals)

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

**Meeting: February 22, 2024**

1. Variance request from Section 9.7. Owner: Guy Chappuis. File: 23-36-ZV.
2. Request by Double Tap Arms, LLC for a Conditional Use Permit to operate a firearms business from an existing dwelling unit (proposed land use designation as listed in Appendix C of the Zoning Ordinance: Retail Sales and Service, General); and, a variance request from Section 4.6B. Owner: William & Kristen McClain. Files: 24-1-CUP and 24-5-ZV.
3. Request for a Conditional Use Permit to operate an assisted living facility from an existing dwelling unit (proposed land use designation as listed in Appendix C of the Zoning Ordinance: Nursing or Retirement Home). Owner: Mark and Jennifer Baldwin. Applicant: Blue Iris LLC / Attn: Sharon Hallinan, Manager & Songbird House LLC / Attn: Beata Scott. File: 24-2-CUP.
4. Variance request from App. B and Sec. 4.11. Owner: DALB, Inc. / Ken Steeley. File: 24-7-ZV.



**DRAFT - Minutes**

**Jefferson County Board of Zoning Appeals**

1 Meeting Date: February 22, 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, David Wiegand, and Mikala Shremshock,  
7 Alternate, were present in person.  
8 Board Members Absent: None  
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 moved to call the meeting to order at 2:01 pm. Mr. Quynn called for a vote, which  
14 carried unanimously.

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

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

17 **Approval of Minutes: January 25, 2024**

18 Mr. Guier moved to approve the minutes as presented, which carried unanimously.

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

20 **Agenda Item #1 File # 23-36-ZV – postponed from December 14, 2023 and January 25, 2024**

21 Request: Variance request from Section 9.7 to reduce the front setback along Mahoney Drive from  
22 20' to 4' and, to reduce the rear setback along the eastern property line from 12' to 2' for  
23 an existing 12' tall fence.

24 Owner: Guy Chappuis

25 Parcel Info: 28 Benson Drive, Harpers Ferry, WV

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

27 Mr. Guy Chappuis, property owner, was present to address the Board and noted that the physical  
28 address was listed incorrectly on the meeting agenda. Ms. Beaulieu provided an overview of her  
29 staff report to the Board.

30 Mr. Chappuis explained the nature of the request stating that the fence was 12' tall to account for  
31 the natural slope of the property. Mr. Chappuis explained that he did not think a building permit  
32 was required as he was replacing an existing fence.

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

34 Mr. Keith Jackson, neighboring property owner, spoke in opposition to the request.

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

36 Mr. Chappuis provided a rebuttal. Mr. Chappuis submitted eight letters of support from the  
37 community [the letters have been included in the project file].

38 Mr. McKinney asked the applicant to acknowledge that he understood a building permit was  
39 required for the fence. Mr. Chappuis stated he understood and would obtain a permit.

40 Mr. McKinney moved to approve the variance request as presented with the condition that the  
41 applicant is bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

1 Ms. Hartman swore in members of the public who arrived late to the meeting.

2 Mr. Quynn called for Item #5 to present.

3 **Agenda Item #5 File # 24-7-ZV**

4 Request: Variance request from Appendix B and Section 4.11 to eliminate the required street  
5 tree and landscaping buffer to allow for the expansion of an existing commercial  
6 facility (DALB Inc.).

7 Owner: DALB, Inc. / Ken Steeley

8 Parcel Info: Burr Industrial Park, Lots 1 & 2, 73 Industrial Blvd., Kearneysville, WV

9 Parcel ID: 02000200010007; Size: 2 acres; Zoning District: Industrial Commercial

10 Ms. Brooke Perry with Integrity Federal Services was present of behalf of the property owner to  
11 address the Board. Ms. Beaulieu provided an overview of her staff report to the Board. Ms. Beaulieu  
12 suggested that a possible condition of approval be to require the property owner to consolidate the  
13 existing lots into a single parcel to address the setback and landscaping concerns related to the  
14 internal lot lines.

15 Ms. Perry explained the nature of the request to the Board stating that she concurs with staff's  
16 opinion that the previously installed landscaping was most likely removed during the installation of  
17 the overhead power lines. Addressing staff's suggested condition of approval, Ms. Perry requested  
18 that should the Board be inclined to require the consolidation of the subject lots that the property  
19 owner be given one year to come into compliance with the condition.

20 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided  
21 testimony. Mr. Quynn closed the public comment portion of the hearing.

22 Mr. McKinney moved to approve the variance request as presented with the following conditions:

23 1. Within two years from the completion of the project the property owner must merge the lots  
24 together; and

25 2. The applicant is bound by their testimony.

26 Mr. Harris seconded the motion. Mr. Quynn called for a vote, which carried four in support and one  
27 in opposition (Mr. Wiegand).

28 **Agenda Item #2 File # 24-1-CUP and 24-5-ZV**

29 Request 1: Request for a Conditional Use Permit to operate a homebased federal firearms  
30 business from an existing dwelling unit (proposed land use designation as listed in  
31 Appendix C of the Zoning Ordinance: Retail Sales and Service, General). The  
32 applicant anticipates approximately 10-20 customers per month. No employees other  
33 than the residents of the property. No signs are proposed (File #24-1-CUP).

34 Request 2: Variance request from Section 4.6B to eliminate the 75' distance requirement along  
35 the northern, southern, and eastern property lines to operate a homebased federal  
36 firearms business from an existing dwelling unit. (File #24-5-ZV).

37 Owner: William & Kristen McClain

38 Applicant: Double Tap Arms, LLC

39 Parcel Info: Sheridan Estates, Lot 135, 374 Lookout Mountain Ct., Harpers Ferry, WV

40 Parcel ID: 04009D01350000; Size: .42 acres; Zoning District: Residential Growth

41 Mr. William McClain was present to address the Board. Ms. Beaulieu provided an overview of her  
42 staff report to the Board and reviewed each of the criteria for a Conditional Use Permit.

- 1 Mr. McClain provided a detailed overview of the proposed land use, noting that he was in the  
2 beginning stage of establishing a business with the goal to relocate into a retail space within two  
3 years. Mr. McClain addressed the Boards' questions. Mr. McClain stated that should the Board  
4 grant his request that he would apply for the required Federal Firearms License (FFL). Mr. McClain  
5 confirmed that no firearms testing would be done onsite.
- 6 Mr. Wiegand reminded the Board that as instructed by staff, the Board does not have the authority  
7 to enforce the private covenants and restrictions of the subdivision.
- 8 At Mr. Quynn's request, Mr. McClain also explained the purpose of the variance request. Mr. McClain  
9 said it was not feasible to comply with the distance requirement as the proposed business would be  
10 located inside the existing home.
- 11 Mr. Quynn opened the public comment portion of the hearing.
- 12 Tim Aymold, Todd Humphrey, and John Shoedel spoke in support of the request.
- 13 Carolina Moncada, Eric Mencha, Pam Brandon, Piper Jenkins with Clagett Management spoke in  
14 opposition to the request.
- 15 Mr. Quynn closed the public comment portion of the hearing.
- 16 Mr. McClain provided a rebuttal, noting that the business would be isolated to the garage.
- 17 Mr. McKinney reviewed the criteria noted in Section 8.9 with the applicant. Mr. McClain confirmed  
18 that he would adhere to the provisions in Section 8.9.
- 19 Mr. Harris asked the applicant if ammo would be sold as part of the operation. Mr. McClain stated  
20 that he would not be selling ammo right now, but that eventually he would include as part of his  
21 business.
- 22 Mr. Harris moved to go into deliberative session at 3:44 pm. Mr. Quynn called for a vote, which  
23 carried unanimously.
- 24 Mr. Harris moved to come out of deliberative session at 4:08 pm. Mr. Wiegand seconded the  
25 motion, which carried unanimously.
- 26 The Board reviewed each of the General Standards outlined in Section 6.3A.1-8 of the Ordinance.
- 27 Mr. McKinney moved to approve the conditional use permit with the following conditions:
- 28 1. The proposed business will be limited to no more than 20 customers per month.
  - 29 2. No business signs may be installed.
  - 30 3. The applicants is bound by their testimony.
  - 31 4. The applicant will obtain all necessary permits related to the business.
- 32 Mr. Wiegand seconded the motion. Mr. Quynn called for a vote, which carried three in support and  
33 two in opposition (Mr. Quynn and Mr. Harris).
- 34 Mr. McKinney moved to approve the variance request as presented with the condition that the  
35 applicant is bound by their testimony. Mr. Wiegand seconded the motion. Mr. Quynn called for a  
36 vote, which carried three in support and two in opposition (Mr. Quynn and Mr. Harris).
- 37 Mr. Wiegand moved that the Board take a five minute recess at 4:27 pm. Mr. Harris seconded the  
38 motion, which carried unanimously.
- 39 Mr. Harris moved to go back into regular session at 4:37 pm. Mr. Guier seconded the motion, which  
40 carried unanimously.

1 **Agenda Item #3 File # 24-2-CUP**

2 Request: Request for a Conditional Use Permit to operate an assisted living facility from an  
3 existing dwelling unit (proposed land use designation as listed in Appendix C of the  
4 Zoning Ordinance: Nursing or Retirement Home). The facility will provide homecare  
5 for up to 32 residents with up to 12 caregivers/employees. All parking will occur on  
6 site. No signs are proposed.

7 Owner: Mark and Jennifer Baldwin

8 Applicants: Blue Iris LLC / Attn: Sharon Hallinan, Manager

9 Songbird House LLC / Attn: Beata Scott

10 Parcel Info: Kristie George Minor Subdivision, Lot B, 1163 Gardners Ln, Shepherdstown, WV

11 Parcel ID: 09001700090003; Size: 6.63 acres; Zoning District: Rural

12 Ms. Sharon Hallinan and Ms. Beata Scott were present to address the Board. Ms. Beaulieu provided  
13 an overview of her staff report to the Board and reviewed each of the criteria for a Conditional Use  
14 Permit.

15 Ms. Hallinan provided a detailed overview of the proposed land use and addressed the Boards'  
16 questions. After consideration, Ms. Hallinan withdrew her testimony pertaining to the limitation of  
17 delivery and trash services as the subject parcel is located on a state road.

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

19 Colin Stine, Ken George, and Kristie George spoke in opposition to the request.

20 Mark Baldwin spoke in support of the request.

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

22 Ms. Hallinan provided a rebuttal and addressed the neighbors' concerns including traffic concerns  
23 and security for residents.

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

25 Mr. McKinney moved to approve the conditional use permit with the following conditions:

26 1. The applicants are bound by their testimony.

27 2. The applicant will satisfy all necessary requirements, including the installation of the  
28 parking area unless a variance is obtained.

29 3. The applicant shall pursue all necessary permits.

30 Mr. Wiegand seconded the motion, which carried unanimously.

31 **Agenda Item #4 File # 24-3-CUP and 24-6-ZV WITHDRAWN BY APPLICANT**

32 Request 1: Request for a Conditional Use Permit to operate a tree service business (proposed land  
33 use designation as listed in Appendix C of the Zoning Ordinance: Contractor with  
34 Outdoor Storage). The proposal consists of constructing a 40' x 60' pole building on a  
35 125' x 150' gravel pad to be used for employee parking and equipment storage, as  
36 well as maintenance of company vehicles and equipment. The business would employ  
37 up to 10 employees. No customers will come to the property. No signs are proposed.  
38 (File #24-3-CUP).

39 Request 2: Variance request from the following provisions: (File #24-6-ZV)

40 1. Appendix B and Section 4.11E to utilize existing vegetation in lieu of a planted  
41 buffer along the front (southern), side (eastern), and rear (northern) property lines.

1                   2. Appendix B to eliminate the building setbacks and landscaping requirements along  
2                   the internal property line between Parcels 7 & 7.1 (common ownership).

3 Owner: Erik and Cheryl Berndt

4 Applicant: Viking Tree Service, LLC

5 Parcel Info: Vacant parcel located northeast of 1227 River Road, Shepherdstown, WV

6 Parcel ID: 09001000070000; Size: 6 acres; Zoning District: Rural

7 Ms. Beaulieu noted that this Item was withdrawn by the property owner.

8 **Discussion with Possible Action** re: Submission Deadline Policy (draft) – continued discussion  
9 from the January 25, 2024 meeting.

10 The Board discussed the submission requirements of applications and public comment. Mr. Harris  
11 moved to amend the draft policy as follows:

12 1. To no longer accept written public comment after the one-week deadline.

13 2. That staff has the authority to advise the public that written comments submitted after the  
14 deadline will not be accepted.

15 3. That staff may advise the public that only verbal testimony will be permitted at the public  
16 hearing.

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

18 **Discussion and Possible Action:** Clarification of Board’s action on 07/27/2023 pertaining to  
19 hybrid (virtual and in-person) meeting options (DW).

20 Mr. McKinney moved to confirm and reaffirm that Board members may participate in meetings via  
21 video conference. Mr. Harris seconded the motion, which carried unanimously.

22 **Discussion and Possible Action:** Regarding Board’s discussion to request that the Planning  
23 Commission review Section 5.7D.2 of the Zoning Ordinance (Cluster Subdivisions) (DW).

24 Mr. Wiegand requested that staff draft a letter to the appropriate party to determine the appropriate  
25 process pertaining to the Boards’ questions regarding greenspace. Mr. McKinney offered a friendly  
26 amendment to clarify that the request was specifically in reference to the greenspace provision  
27 found in Section 5.7.D.2 of the Zoning Ordinance. Mr. Wiegand accepted the friendly amendment.

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

### 29 **Zoning Administrator’s Report**

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

31 1. The deadline for the March 28, 2024 meeting is March 1, 2024.

32 2. Ethics and Open Meetings Act Training – hosted by the WV Ethics Commission  
33 Ms. Beaulieu thanked Board members for attending the virtual training.

34 3. Zoning Certificate Activity report – included in the Packet.

### 35 **Legal Update**

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

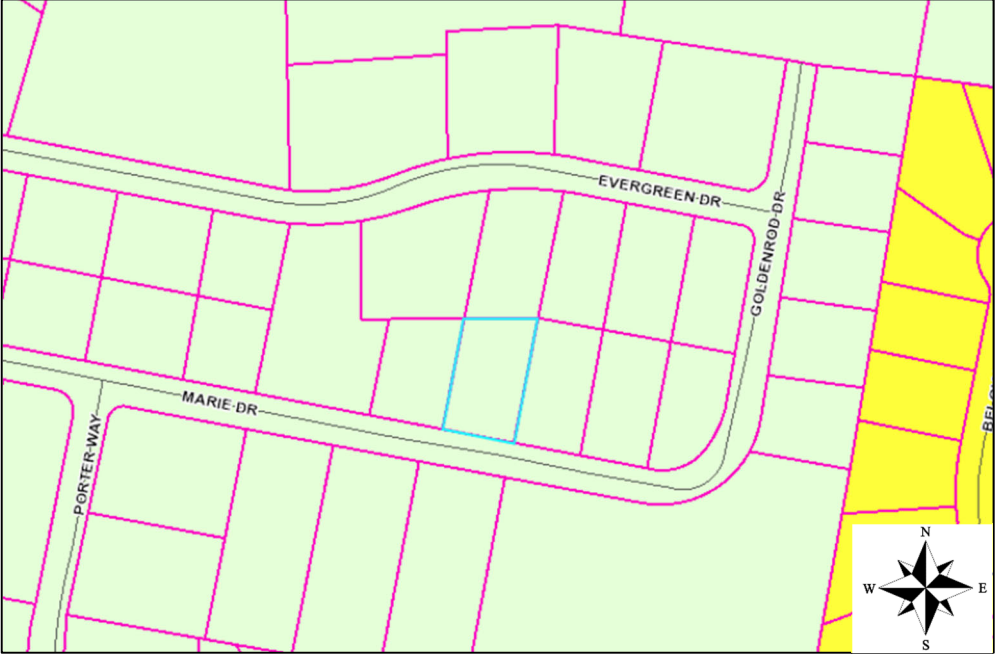
37 1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy  
38 Facility / File 22-9-CUP) Rockwell v. JCBZA

39 2. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence /  
40 23-13-ZV) Gallagher c JCBZA and Timothy Williamson

- 1           3. Jefferson County Circuit Court Case # CC-19-2024-C-14 (RE: Jeremy Martin, Tiffany
- 2           Martin and Earthworx General Contracting Services, LLC v. Jefferson County Board of
- 3           Zoning Appeals). Mr. Groh stated he would be filing a response on this Item.
- 4       b. Discussion with possible deliberative session and signing of draft Findings/Decisions.
- 5       **Meeting: December 14, 2023**
- 6           1. Variance from Section 5.7.D.2.b.i(b). Owner: Debra Corbett. Applicant: Mark Stacpoole.
- 7           Consultant: Josh Beall, Broker. File: 24-1-ZV.
- 8           2. Variance from Appendix A. Owner: Beallair Homes, LLC. File: 24-2-ZV.
- 9           3. Variance from Section 5.6B. Owner: Millville Quarry, Inc. Applicant: Diamond
- 10          Concrete, LLC. File: 24-3-ZV.
- 11          4. Variance from Section 8.10. Owner: DR Acquisitions LLC. Applicant: DRB Group /
- 12          Attn: Matt Monahan. File: 24-4-ZV.
- 13          Mr. Quynn was provided a copy of the Findings for review.
- 14 Mr. Harris moved to adjourn the meeting at 6:32 pm. Mr. Quynn called for a vote, which carried
- 15 unanimously.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 March 28, 2024  
**24-8-ZV Black Variance Request**

Item #1 Variance request from Section 9.7 to reduce the side setback along the eastern property line from 6' to 3' for a 420 square foot accessory structure (steel storage shed).

Owner:	Jeffrey Black
Parcel Information & Zoning District:	Walnut Grove Subdivision, Section E, Lot 8, 353 Marie Drive, Charles Town WV Parcel ID: 02004C00790000; Size: .28 acres; Zoning District: Rural
	
History:	07/11/1975: Walnut Grove Subdivision, Section E (recorded <a href="#">Plat Book 3 / PG 69</a> )
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit Conducted:	No.

**Staff Overview**

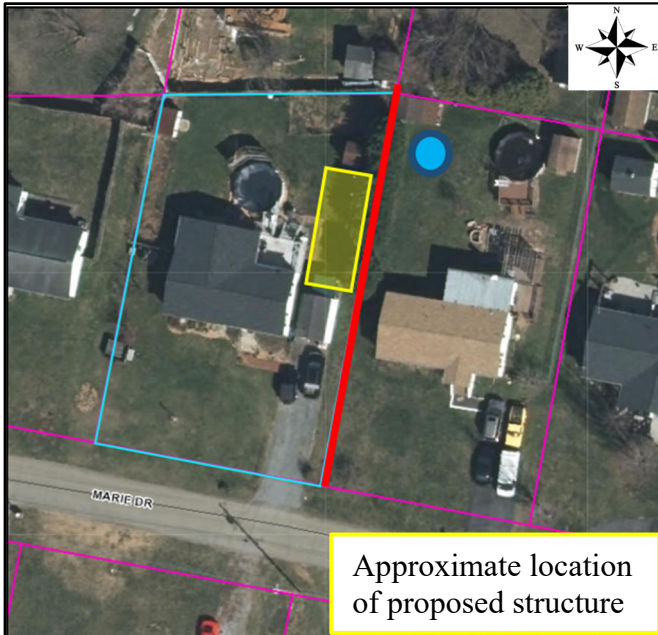


The subject parcel is Lot 8 in Section E of the Walnut Grove Subdivision. The lot was created in 1975, prior to the adoption of the Zoning Ordinance (1988) and is therefore, considered a legal nonconforming lot as it does not meet the residential site development standards in the current Zoning Ordinance.

The lot is subject to the setback requirements established in Section 9.7, which requires that detached accessory structures on lots that are less than 40,000 square feet in size be setback **6'** from the side and rear property lines. The applicant is requesting to reduce the setback requirement along the eastern side property line from 6' down to **3'** for a proposed 420 square foot accessory structure (steel storage building).

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  
March 28, 2024  
**24-8-ZV Black Variance Request**



The proposed storage building would be 35' long (along the eastern property line) and 12' wide (see approximate location in exhibit). The request is to place the structure 3' from the eastern property line, which is designated as a side yard. The required setback is 6'.

The applicant included a letter of support from the adjoining property owner to the east, Adina Allen (●), who shares the property line subject to the 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 business may be operated from this structure, and no one may reside within this structure, without further review from the Board.

Staff Report  
Jefferson County Board of Zoning Appeals  
March 28, 2024  
**24-8-ZV Black Variance Request**

**Section of Ordinance to be Considered:**

**Section 9.7 Other Exceptions<sup>3</sup>**

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:<sup>23</sup>

Residential Growth District<sup>23</sup>

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear

**For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.**





**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: 24-8-ZV  
 Staff Initials: AB  
 Meeting Date: 03-28-24  
 Fees Paid (\$100 or \$150): \$100.00(cc)

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: Jeff Black  
 Mailing Address: 353 Marie Dr. Charles Town Wv  
 Phone Number: 304-671-9094 Email: Wvfanatic@hotmail.com

**Applicant Contact Information**

Name: S/A  
 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: 353 Marie Dr. Lot #8, Section E Walnut Grove Subdivision AB  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: Charles Town (02) Map No: 4C Parcel No: 79  
 Parcel Size: .275ac. Deed Book: 966 Page No: 692 AB

**Zoning District (please check one)**

Residential Growth (RG) <input checked="" type="checkbox"/> <u>AB</u>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input checked="" type="checkbox"/> <u>AB</u>	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"/>
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**RECEIVED**

**FEB 09 2024**

**JEFFERSON COUNTY PLANNING ZONING & ENGINEERING**  
Place Received Date Stamp Here

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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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 9.7 AB

Briefly describe the nature of the variance request:

i would like to have a steel storage building built so I could demolish the 3 other structures that are currently on my property. the other buildings are delapidated and an eye sore. The new building would be very aesthetically pleasing and clear up my back yard for a bigger garden. The reason for the variance request is because its the only place i could

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

Front Setback  Side Setback  Rear Setback  Reduction From 8ft to 3ft.

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:

i have attached a letter from my nieghbor that the building would by closest to and she would actually be happy if I could have a new building instead of looking at the old building. It would give a much nicer look to the nieghborhood and both of our houses.

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?

the spot i want to build on is the only place i could do it. My back yard is on a gradual slope and would have to do alot of dirt work and file for a variance from the nieghbor to the rear of property.

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

The variance getting approved would eliminate the 3 old buildings that are currently standing on my property, it would eliminate having to try and figure out a way to keep the buildings standing and reduce fear of collapse. the building would eliminate the need to have to 3 older ugly buildings and clean up the look of the nieghborhood.

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

i have the blessing of my nieghbor whos property is closest to where i intend to build the storage building. she is completely happy and has no problem with it. she also has a very tall tree buffer that would make my building virtually invisible to her. i have attached the letter from her . thank you

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] 1-3-24  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

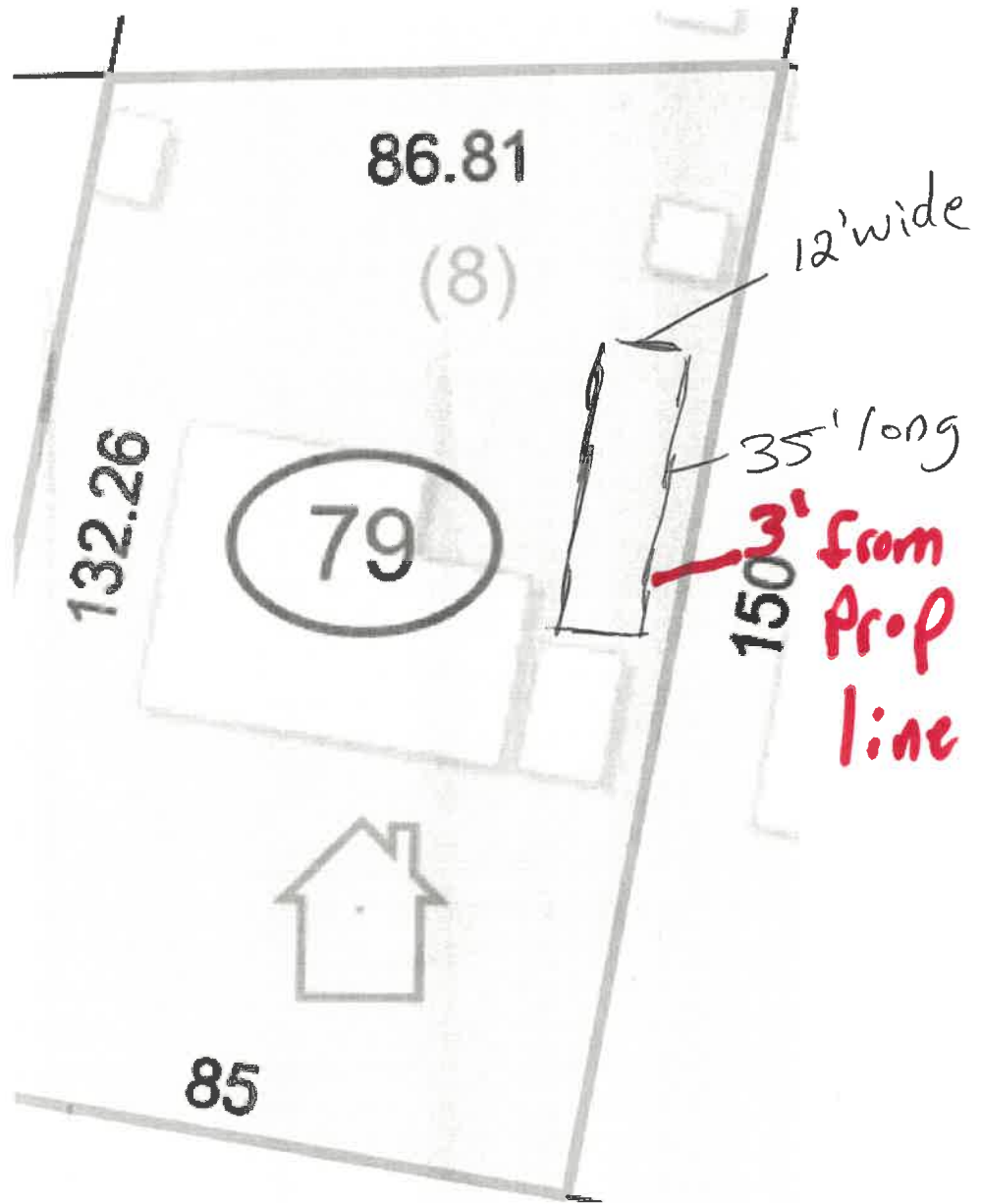
Notification Requirements (to be completed by staff)

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).

March 28, 2024  
Date of Public Hearing

March 13, 2024  
Advertising Date

March 13, 2024  
Placard Posting Date





12' wide

35' long

Marie Dr

Google

February 6, 2024

To whom it may concern,

My name is Adina Allen. I own the property 369 Marie Drive in Charles town WV. I am writing to provide a record of my permission for my neighbor Jeff Black to construct a storage building that is planned to sit roughly three feet from my property line. Mr. Black has disclosed the dimensions and details of this project to me, and I have no disputes with his current plans for the placement of this building.

If any additional information or inquiries regarding my stance on Mr. Black's request is needed, I can be contacted by the phone number or email address below.

Phone: 304-679-7633

Email: [addyolian@yahoo.com](mailto:addyolian@yahoo.com)

Best,

Adina Allen

A handwritten signature in black ink, appearing to read 'Adina Allen', written in a cursive style.

**JEFFERSON COUNTY, WEST VIRGINIA**

**Office of Planning & Zoning**

116 East Washington Street

P.O. Box 716

Charles Town, West Virginia 25414

Phone: (304) 728-3228

Fax: (304) 728-8126

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

---

File Number: 24-8-ZV

I authorize Planning and Zoning staff to make necessary revisions to the enclosed submission, if required for processing. I understand that said revisions will be discussed with me prior to content modification.

Applicant PRINTED Name:

Jeffery K. Black

Applicant Signature:

Jeff K Black

Contact Number:

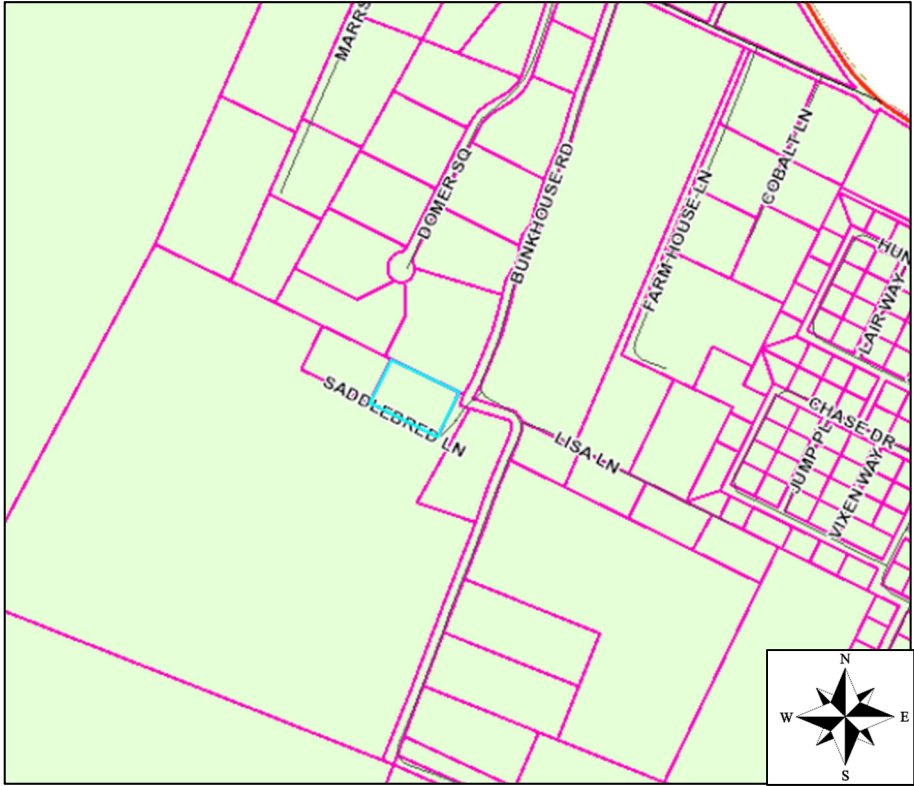
\_\_\_\_\_

Date:

02-09-2024

Staff Report  
 Jefferson County Board of Zoning Appeals  
 March 28, 2024  
**24-9-ZV Madar Variance Request**

Item #2 Variance request from Section 5.7B to reduce the rear setback along the northern property line from 50' to 5' for a 288 square foot accessory structure (storage shed).

Owner:	Joshua Madar
Parcel Information & Zoning District:	<p style="text-align: center;">Edwin &amp; Stephanie Simpson Minor Subdivision, Lot 1          74 Saddlebred Lane, Kearneysville, WV          Parcel ID: 07000500120023; Size: 1.31 acres; Zoning District: Rural</p> 
History:	12/04/03: Edwin & Stephanie Simpson Minor Subdivision (recorded <a href="#">Plat Book 20 @ PG 55</a> )
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit Conducted:	No

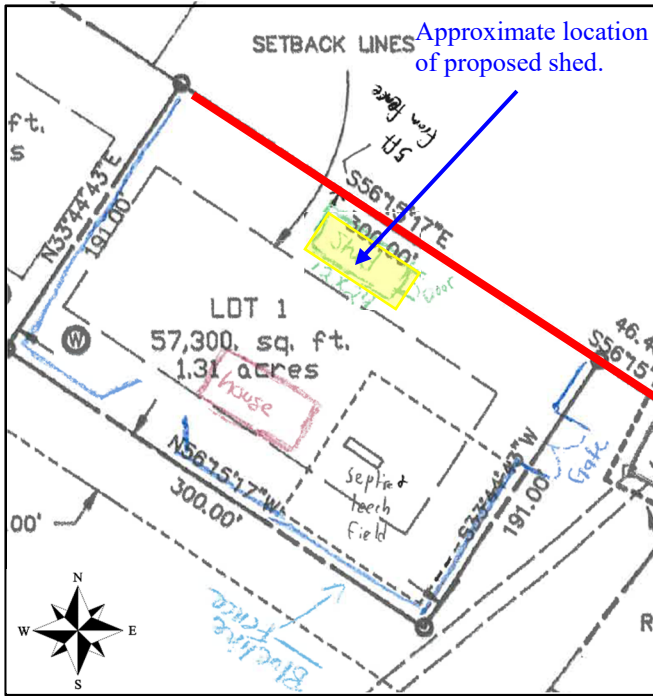
**Staff Overview**

The subject parcel is Lot 1 of the Edwin & Stephanie Simpson Minor Subdivision, which was recorded in December 2003. Pursuant to Section 5.7(b) of the Zoning Ordinance (as amended on 05/01/03), and Note #4 of the recorded final plat, the required setbacks are 40' Front; 15' Side; and **50' Rear**.

The applicant is requesting to construct a 288 square foot storage shed for personal use approximately 5' from the rear (northern) property line.

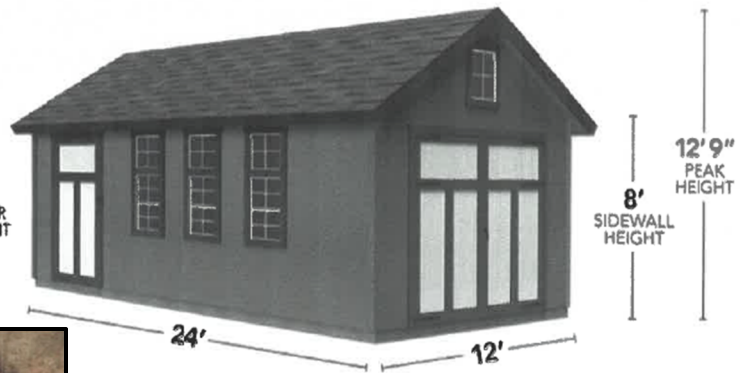
The purpose of side and rear setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of the structure is feasible; to maintain adequate separation between structures for fire prevention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

Staff Report  
 Jefferson County Board of Zoning Appeals  
 March 28, 2024  
**24-9-ZV Madar Variance Request**

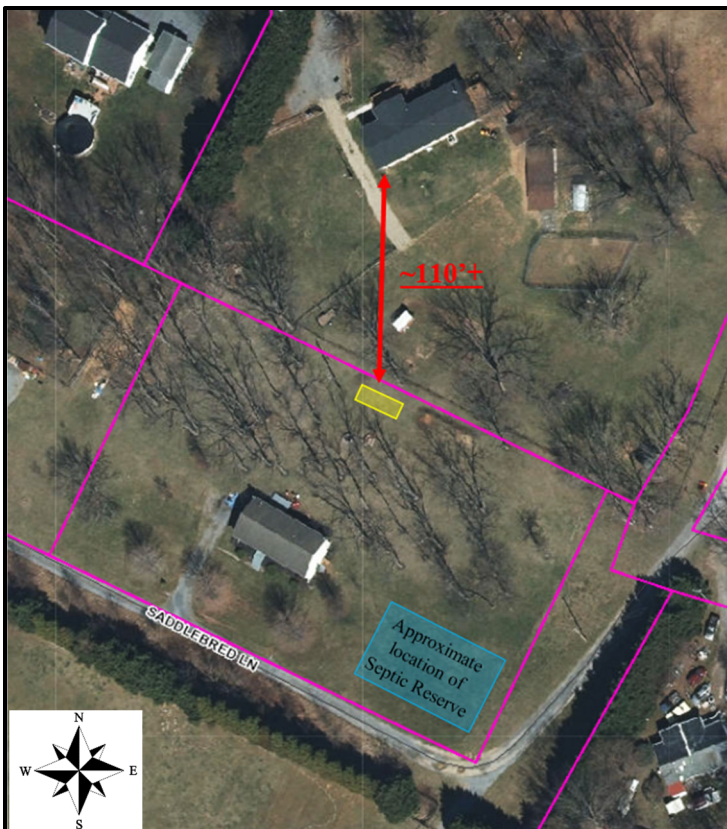


The proposed storage building would be 24' long (along the northern property line) x 12' wide (288 sf). The request is to place the structure 5' from the northern property line, which is designated as a rear yard. The required setback is 50'. The applicant has represented that the structure would be used for personal storage of lawn equipment and that the area selected was to account for the existing septic reserve area, as well as existing trees/vegetation on the property.

Using aerial imagery, it appears that the proposed shed will be over 110' away from the closest residence (see aerial exhibit below).



*Example of shed, submitted by applicant.*



Staff Report  
 Jefferson County Board of Zoning Appeals  
 March 28, 2024  
**24-9-ZV Madar 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 business may be operated from this structure, and no one may reside within this structure, without further review from the Board.

**Section of Ordinance to be Considered:**

*\*Zoning Ordinance in effect as of May 1, 2003*

**SECTION 5.7 Rural District**

**(b) Minimum Lot Area, Lot Width and Yard Requirements**

Minimum lot sizes, lot width, and yard requirements are as follows for principal permitted uses. For any residential use that complies with the Development Review System, the setbacks and lot shall be as outlined in Article 5.4(b).

	<u>Lot Area</u>	<u>Lot Width</u>	<u>Front Yard Depth</u>	<u>Side Yard Depth</u>	<u>Rear Yard Depth</u>
Dwellings	40,000 sq. ft.	100	40	15	50
Churches	2 acres	200	50	50	50
Schools, Grades K-4	10 acres +	500	100	100	100
Schools, Grades 5-8	20 acres +	500	100	100	100
Schools, Grades 9-12	30 acres +	500	100	100	100
Hospitals	10 acres	500	100	100	100
Other permitted uses	40,000 sq. ft.	100	40	50	50





**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: 24-9-ZV  
 Staff Initials: gjt  
 Meeting Date: 03-28-24  
 Fees Paid (\$100 or \$150): 100-

Email: [zoning@jeffersoncountywv.org](mailto: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: Joshua E. Madar  
 Mailing Address: 74 Saddlebred Ln. Kearneysville, WV 25430  
 Phone Number: 423-484-4867 Email: joshmadar90@gmail.com

**Applicant Contact Information**

Name: Joshua E Madar  
 Mailing Address: 74 Saddlebred lane Kearneysville WV 25430  
 Phone Number: (423)484-4867 (423) 484 7653 Email: Joshmadar90@gmail.com

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

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

**Physical Property Details**

Physical Address: 74 Saddlebred Ln. Kearneysville WV 25430  
 City: Kearneysville State: WV Zip Code: 25430  
 Tax District: Middleway Map No: 5 Parcel No: 12.23  
 Parcel Size: 1.31 acres (57,300 sq. ft.) Deed Book: 1304 Page No: 728

**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 type="checkbox"/>	<input checked="" 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>FEB 14 2024</b>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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: Sec. 5.7 B gal

Briefly describe the nature of the variance request:

To place our shed further back from the house, away from septic field. Our property has many mature trees, this is a clear area that would be suitable for a structure.

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

Front Setback  Side Setback  Rear Setback  Reduction From 50' ~~gal~~ to 5 ft.

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:

This will be a simple structure for storage of lawn equipment. we wanted it away from septic area. There are no other structures near by.

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?

This area is free from existing trees, shrubs, and septic.

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

It will prevent us from to relocate or remove existing established trees.

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

This structure is of common use, and appropriate for the type of 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] 2-14-2024  
Signature of Property Owner Date

[Signature] 2-14-2024  
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).

03-28-24

Date of Public Hearing

03-13-24

Advertising Date

03-13-24

Placard Posting Date





118

74

332

Bunk

Bunk House Rd

Saddlebred Ln

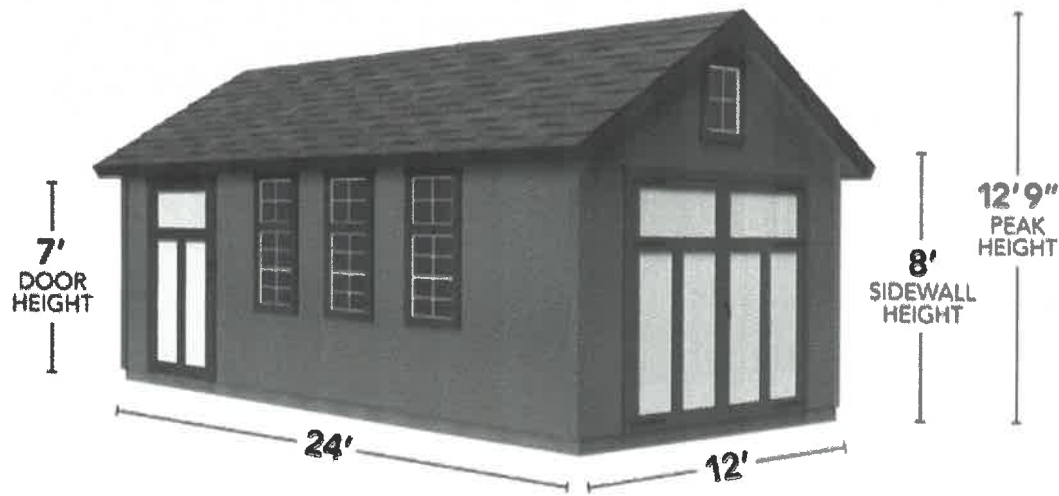
Saddlebred Ln

Saddlebred Ln

Saddlebred Ln

Google

Rd



## Specs

- **Common Size (W x D X H):** 12' x 24' x 12' 9"
- **Cubic Feet Storage:** 2872
- **Square Footage:** 288
- **Number of Rafters:** 11 sets
- **Assembled Weight:** TBD
- **Loft (W x D):** 12' x 4'
- **Vents:** Wall Vents (2)



## Yardline Upton 12' x 24' Wood Shed – Do It Yourself or Pro Installed

★★★★★ (0) [Write a review](#)



### Product Details

### Specifications

### Shipping & Returns

### Reviews

- **Roof Style:** Gable
- **Roof Pitch:** 7/12
- **Maximum Roof Load (lbs./ sq. ft.):** 30
- **Maximum Wind Resistance (mph):** 115
- **Warranty:** Limited 15-year warranty

See Fine Print

### Product Details

- DIY assembly with pre-cut wood – no saw needed
- 2" x 4" framing (16" on-center studs) stands up to demanding wind (115 mph) and snow loads (23 psf)
- Primed and treated wood siding provides protection against dents, moisture, decay, and insects
- No warping like resin sheds; no rusting like metal sheds
- Extra-wide 96" double doors and 48" wide single side service door make grabbing equipment a breeze
- Three operable windows with screens, two fixed gable windows, and two wall vents allow for natural light and airflow
- 8' tall sidewalls and steep roof pitch provide plenty of vertical storage space
- Storage loft adds additional overhead storage space
- Floor not included – ready to install on a concrete pad

### Specifications

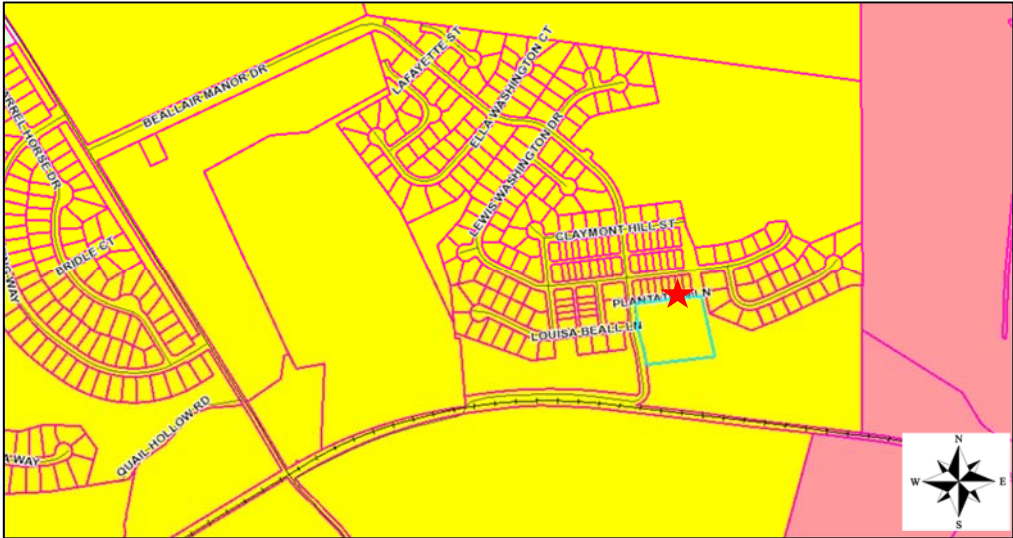
### Shipping & Returns



Staff Report  
 Jefferson County Board of Zoning Appeals  
 March 28, 2024  
**24-10-ZV Beallair (Landscaping) Variance Request**

Item #3 Variance request from the following:

Request 1: Variance request from Section 4.11A and Appendix B to eliminate the buffer and street tree requirements for the installation of the community pool and clubhouse.

Owner:	Beallair Community Conservancy Inc
Applicant:	Piedmont Design Group / Attn: Mike Wiley
Parcel Information & Zoning District:	<p style="text-align: center;">Beallair Subdivision, Commercial Parcel 1,          480 Beallair manor Drive, Charles Town, WV          Parcel ID: 04010ACOMM0000; Size: 3.31 ac;          Zoning District: Residential Growth</p> 
<p><b>Subdivision History</b>  <u>Community of Beallair Subdivision (PC Files 02-36, 05-41, 08-21, 19-16-SD, 21-31-SD, 22-15-SD)</u>          Note: This project fell under the 2010 SB 595 (WV State Code), which allowed an extension of the entire project. Further extensions relating to SB595 were approved as follows: 07/13/10 (PC), 06/21/12 (CC), 08/08/14 (CC), and 03/13/17 (CC).</p>	
History:	01/25/2010: Beallair, Phase 3 - Commercial Parcel 1 and Residue Parcel A Recorded in <a href="#">PB 25 / PG 184</a>
Waivers/Variations:	03/12/2024: PC approved a variance from Sec. 11.2e.1 of the 1979 Subdivision Ordinance to waive the screening and landscaping requirement.
Approved Activity:	Single family dwelling
Site Visit:	Site visit not conducted.

**Staff Overview**

The subject request is to eliminate the landscaping buffer and street tree requirements that would be required as part of the proposed community pool and clubhouse (PC File #23-10-SP).

The purpose of the landscape buffer requirement is to reduce the impact that a land use might cause to an adjacent property by serving as a barrier to visibility, airborne particles, glare, or noise.

Staff Report  
Jefferson County Board of Zoning Appeals  
March 28, 2024  
**24-10-ZV Beallair (Landscaping) Variance Request**

Pursuant to Appendix B and Section 4.11I of the Zoning Ordinance, street trees are required to be planted along the two property lines with street frontage (identified in red in the below exhibit). The street tree requirement is to plant 4 street trees per 100 feet of frontage. Each property line is over 300' in length; therefore, four street trees would be required to be installed along each of the two front property lines, for a total of eight street trees.

A buffer screen is required to be installed along the side and rear property lines (identified in green in the below exhibit) in accordance with the medium buffer detail (Standard Detail M-53), which is 20'-40' wide, with evergreen trees and shrubs.

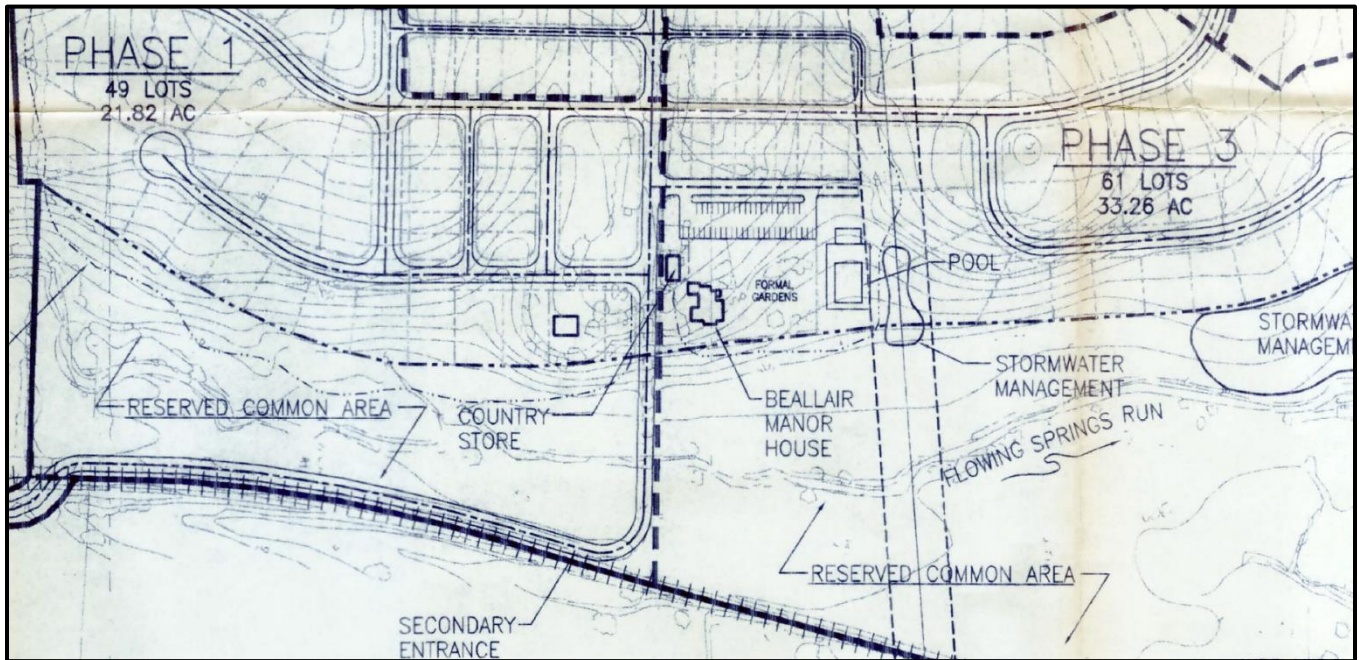


The applicant is requesting to eliminate the requirement to install street trees and landscape buffers for the proposed community pool and clubhouse, which will be limited to use by residents of the Beallair community and will not be open to the general public. The applicant is proposing to retain existing gardens and to plant some new landscaping interior to the property.

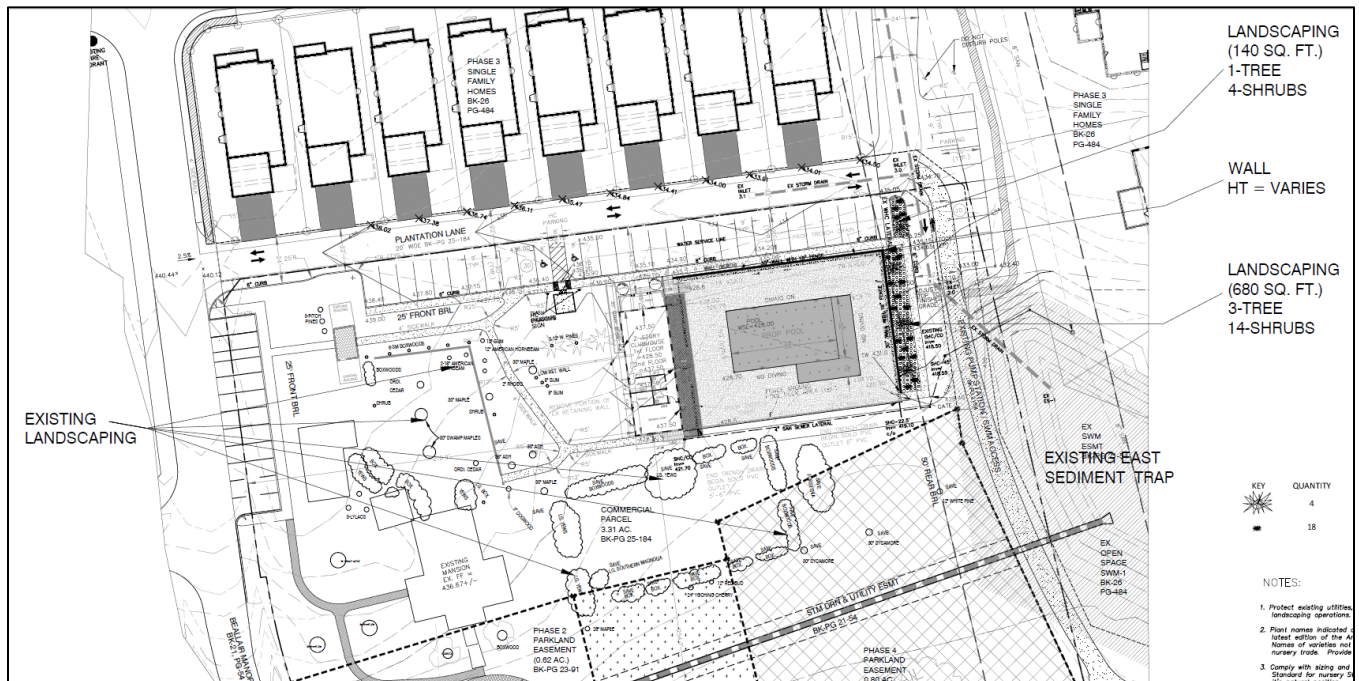
The Zoning Ordinance requirements for a swimming pool/community center do not distinguish between public facilities and residential subdivision amenities that are limited to use by residents. Since the pool and clubhouse were proposed as part of the original subdivision design, and the facilities would not be open for use by the general public, the need for a buffer between uses may be excessive; however, staff does not have the administrative discretion to deviate from the requirements of the Ordinance.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 March 28, 2024  
**24-10-ZV Beallair (Landscaping) Variance Request**

The original proposal for the Beallair Subdivision included a pool and clubhouse (see excerpt below, PC File #02-36).



An excerpt of the current design proposal is below (PC File #23-10-SP).



Staff Report  
Jefferson County Board of Zoning Appeals  
March 28, 2024  
**24-10-ZV Beallair (Landscaping) Variance Request**

**Variance Criteria**

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. The applicant shall retain the existing gardens and proposed greenspace areas as shown on the variance sketch and sheet 6 of the site plan (File #23-10-SP – Pending Review).

**Section of Ordinance to be Considered**

**Section 4.11 Landscaping, Screening and Buffer Yard Requirements (attached)**

- **Standard Detail M-53 attached for reference per Section 4.11E**

**Appendix B: Non Residential Site Development Standards Table (attached)**

2. Uses permitted within the Protection Radius include Residential Uses as listed in Appendix C, barns, and residential accessory structures as defined by this Ordinance. Existing structures (which existed prior to the adoption of this text amendment) within the protection radius may be converted to a non-residential use in accordance with Appendices B & C and shall comply with applicable district regulations as required by Article 5.

#### **Section 4.7 Essential Utility Equipment**

Essential utility equipment, as defined in Section 2.2, shall be permitted in any district, as authorized and regulated by law and ordinances of Jefferson County, it being the intention hereof to exempt such essential utility equipment from the application of this Ordinance. Wireless telecommunication towers, however, shall conform to the requirements of Article 4B.<sup>7, 22</sup>

#### **Section 4.8 Buildable Lot**

Any lot which was a buildable lot under the terms or regulations in effect at the time of the adoption of this ordinance and which was established or recorded at that time shall be deemed a buildable lot for the erection of a single-family dwelling, subject to the provisions of the appropriate district regulations of this Ordinance.

#### **Section 4.9 Traffic Visibility Across Corner Lots**

On any corner in all districts, there shall be no obstruction to traffic visibility within 35 feet of the intersection of the two street property lines of the corner lot. Site plan and subdivision applications must comply with the Intersection Design requirements of the Subdivision and Land Development Regulations.<sup>23</sup>

#### **Section 4.10 Site Plan Requirements<sup>39</sup>**

- A. Submittal and approval of a site plan is required for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.<sup>23, 26</sup>
- B. Site plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- C. Site Plan submittal is not required for any Agricultural Use defined in Article 2. Agricultural Uses which are open to the public (Agricultural Special Event Facility, Farm Market, etc.) established on parcels of less than 20 acres shall process a Concept Plan in accordance with the Subdivision and Land Development Regulations.
- D. The site plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations, and this Ordinance.<sup>23</sup>
- E. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.<sup>10, 17, 21, 23</sup>

#### **Section 4.11 Landscaping, Screening and Buffer Yard Requirements**

Buffer yard requirements are as shown in Appendix A and B of this Ordinance, and are summarized in this section.<sup>27</sup>

- A. Commercial Development<sup>27</sup>
  1. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a 50 foot or greater unscreened green space buffer or a 15 foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

2. All commercial development adjacent to all other uses must maintain ten foot side and rear yard landscape buffers.<sup>5</sup>

B. Industrial Development<sup>27</sup>

1. All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall have an unscreened buffer yard of no less than 200 feet. No structures, stored materials, or vehicular parking shall be permitted within the buffer yard.
2. All industrial development adjacent to any use other than an industrial use shall have screened front yard buffers of no less than one-half ( $\frac{1}{2}$ ) the front yard building setback, which may be included within the 200-foot buffer required in this subsection.<sup>5, 7</sup>
3. All industrial development adjacent to any use shall have 20 foot screened side and rear landscape buffers.

C. Multi-family Development<sup>27</sup>

1. All multi-family adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have, along common property lines, screened green space buffers as follows:
  - a. Front and rear: a minimum of 15 feet
  - b. Side: a minimum of 12 feet

- D. In all buffer yards, the exterior width beyond the vegetative screen shall be planted with grass, seed, sod, or ground cover.

- E. All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare or noise. Such screen planting shall meet the following requirements.

1. Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least six (6) feet in height.<sup>7, 23, 27, 28</sup>

However, any development where a 10 foot side and/or rear yard vegetative landscaping buffer is required adjacent to proposed commercial uses and where no outdoor storage is being proposed or provided, the following standards shall be met:<sup>27, 28</sup>

- a. One (1) deciduous or evergreen tree with a height of six (6) feet or more when planted, likely to reach a height of 20 feet or more at maturity, planted every 50 linear feet; at least every other tree shall be an evergreen;
- b. One (1) ornamental tree with a height of four (4) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every 50 linear feet; and
- c. Three (3) shrubs per each 25 feet along the property line, round upward.
- d. These requirements shall be required on both sides of a property line for adjoining properties.
- e. A 10 foot landscape area on the property unless shared parking is proposed. In the event shared parking is proposed, the required property line planting would be in addition to other plantings.<sup>7, 23, 26</sup>

2. It will be the responsibility of the landowner to replace any trees that die and shall be so noted on the site plan.

3. Screen planting shall be a minimum of ten (10) feet wide but shall be placed so that it is no closer than four (4) feet at maturity from a property line or from any street.
4. No structure, fence, planting, or other obstruction shall be permitted which would interfere with traffic visibility.

- F. In any Commercial, Industrial, Institutional, or Residential development, all dumpsters shall be screened from any residences or from view of a public highway.<sup>23</sup>
- G. All buffer yards shall be maintained by the property owner.
- H. All development adjacent to a Sensitive Natural Area shall have a buffer of natural vegetation. Environmental standards contained in Section 8.9A, 1 through 7, will apply. The buffer shall meet the current Federal standard except as required in Table 4.11 -1 below:<sup>23</sup>

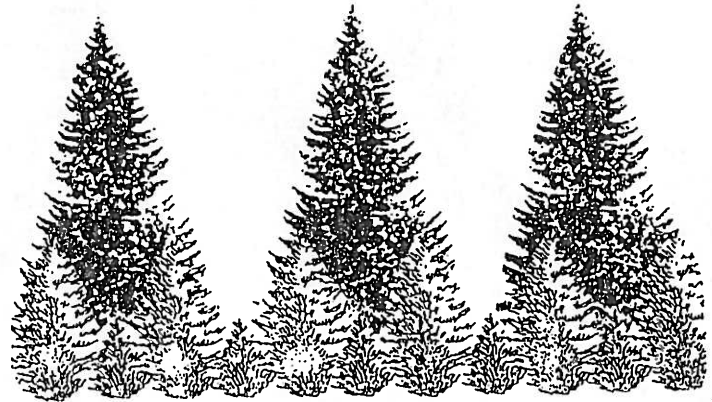
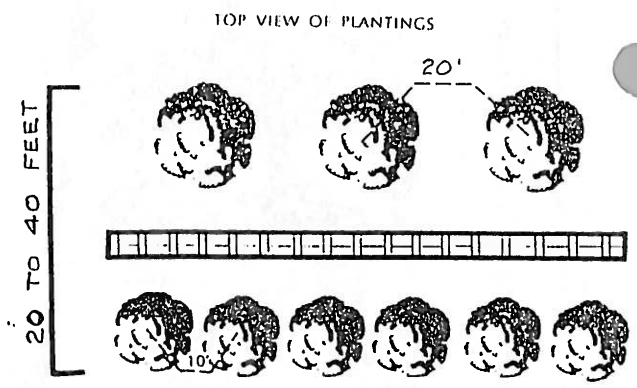
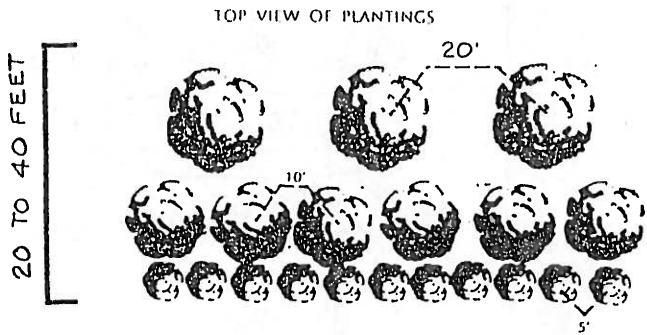
**Table 4.11 -1 Wetland Size in Acres<sup>5, 8, 23</sup>**

Greater Than	Less Than	Buffer Width in Feet
0.05	0.10	30
0.10	0.16	35
0.15	0.21	40
0.20	0.26	50
0.25	0.31	55
0.30	0.36	60
0.35	0.41	65
0.40	0.46	70
0.45	0.51	75
0.50	0.66	80
0.65	0.81	85
0.80	0.96	90
0.95	1.21	95
1.20	--	100

- I. All required landscape plans shall contain the following elements:<sup>7</sup>
1. Deciduous street trees for shade and aesthetics, planted at the following average spacing:<sup>23</sup>
    - a. Site with street frontage of up to 200 feet: 1 tree per 50 feet.
    - b. Site with street frontage exceeding 200 feet: The greater of 4 trees or 1 tree per 100 feet.
  2. Evergreen buffer planting, as required, for full screening.
  3. Parking lot and internal drive plantings (mix of evergreen and deciduous) for partial screening and limited shade.
  4. Structure plants for aesthetics and limited shade.
  5. Schedule of plants including common name, scientific name, minimum size (height, caliper, etc.) quantity and specific limitation notes.
- J. Required landscape buffers for a non-residential use are indicated in Appendix B.<sup>27</sup>

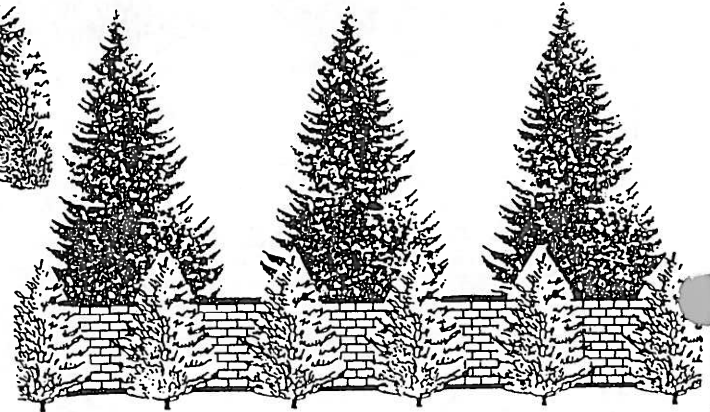
**Section 4.12 Design Standards for Multi-Family Developments<sup>23</sup>**

- A. Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational use shall be within the 100 year Floodplain.



FRONT VIEW OF ULTIMATE GROWTH

OPTION D



FRONT VIEW OF ULTIMATE GROWTH

OPTION E

OPTION D

Planting Description - one row of evergreen shrubs with a height of two (2) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every five (5) linear feet; one row of medium evergreen trees with a height of six (6) feet or more when planted, likely to reach a height of twenty (20) feet or more at maturity, planted every ten (10) linear feet; one row of large evergreen trees with a height of six (6) feet or more when planted, likely to reach a height of thirty (30) feet or more at maturity, planted every twenty (20) linear feet.

OPTION E

Planting Description - one row of medium evergreen trees with a height of six (6) feet or more when planted, likely to reach a height of twenty (20) feet or more at maturity, planted every ten (10) linear feet; a solid board fence, masonry or brick wall with a height of six (6) feet; one row of large evergreen trees with a height of six (6) feet or more when planted, likely to reach a height of thirty (30) feet or more at maturity, planted every twenty (20) linear feet.

JEFFERSON COUNTY, WEST VIRGINIA	APPROVED: August 8, 1990	screen planting medium buffer	REVISIONS:	DETAIL No.
	<i>[Signature]</i>			M -53
	COUNTY ENGINEER			

**APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE<sup>27, 32, 35</sup>**

Zoning District	Development Type <sup>⊖</sup>	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imperious Surface Limit	Building Setbacks		Parking/ Drive Aisle Setbacks			Buffers (Sec. 4.11) (Screened / Unscreened) Adjacent Use						
											A Residential district, or any lot with a residence, school, church, or institution of human care (Distance per Sec. 4.6)			Commercial Use		Industrial Use	
						Front	Side	Rear	Front	Side	Rear	Distance Front Side Rear	Front	Side & Rear	Front	Side & Rear	Front
Industrial – Commercial (IC) **	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25		15	4	4	75	Street Trees	Narrow Buffer Detail No. M-54	N/A	10(S)	N/A	10(S)
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25		15	10	10	75	Street Trees	Medium Buffer Detail No M-53	N/A	10(S)	N/A	10(S)
	Industrial	3 ac ***	N/A	75	90%	50 or 25 if adjacent to Industrial Use		25 or 20 if adjacent to Industrial Use			200	Street Trees	Wide Buffer Detail No. M-52	25(S)	20(S)	N/A	20(S)
Residential-Light Industrial-Commercial (RLIC)	Commercial or Industrial	N/A	N/A	75	80%	See IC District											
Rural (R)	Churches	2 acres	200	45	N/A	25	50	50	See IC District for commercial sites			N/A	50(U) or 15 (S)	N/A	10(S)	N/A	10(S)
	Schools, Grades K-12	K-4: 10 ac+ 5-8: 20 ac+ 9-12: 30 ac+	500	45	N/A	100						N/A	N/A	N/A	N/A	N/A	N/A
	Hospitals	10 ac	500	45	N/A	100						N/A	N/A	N/A	N/A	N/A	N/A
	Other Rural principal permitted uses	40,000	100	45	N/A	40	50	50				N/A	See I-C District for commercial or industrial use; Otherwise, N/A				
	Commercial or Industrial**	See IC District															
Village (V)	Commercial <sup>¥</sup>	N/A	N/A	35	N/A	25	10	40	See IC District								
	Industrial**	See IC District			35	See IC District											
Residential Growth (RG)	Commercial or Industrial**	See IC District			35	See IC District											
Neighborhood Commercial (NC)	Commercial	N/A	N/A	35	70%	15 min 25 max	10 <sup>£</sup>	10 <sup>⊖</sup>	See I-C District	25	See IC District						
General Commercial (GC)	Commercial	N/A	N/A	75	80%	20	10	25	See IC District								
Highway Commercial (HC)	Commercial	N/A	N/A	75	80%	25	25	25									
Light Industrial (LI)	Commercial or Industrial	N/A	N/A	75	80%	25	25	25									
Major Industrial (MI)	Commercial	N/A	N/A	75	90%	25	10	50									
	Industrial	3 ac ***	N/A	75	90%	25	50	50									
Office/Commercial Mixed Use (OC)	Commercial	N/A	N/A	75	80%	15 min 25 max	10 <sup>£</sup>	10 <sup>⊖</sup>									
Planned Neighborhood Development (PND)	Commercial	3 acres	See GC District Note: Planning Commission may amend development standards for developments in the PND District (see Article 5).														

The requirements in this table are in addition to any other applicable requirements in the text of this Ordinance. In the event of a conflict with the text, this table shall prevail.

All dimensions are in feet unless otherwise indicated by “ac” (acres).

\* Maximum building height is subject to Sec. 9.2.

\*\* If land use(s) approved via the Conditional Use process in accordance with this Ordinance.

\*\*\* MLA for Industrial uses does not apply if the site is located in an approved Industrial Park [Source: Sec. 5.6E]

\*\*\*\* Schools in Rural district: Plus one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewer treatment plant and retention ponds are required, acreage shall be increased accordingly.

¥ Non-Residential Site Development in an existing structure in the Village District shall comply with Section 5.10A.2.

‡ Setback may be reduced if adjacent to industrial use.

⊕ For an industrial use, no structures, stored materials, or vehicular parking shall be permitted within the buffer yard. For a commercial use, no structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

⊖ A rear yard setback may be reduced to 10' for a non-residential use abutting a commercial or industrial use at a rear lot line

⊖ Churches in any district: (1) are treated as a commercial use on a lot of greater than 1.5 acres in determining buffer requirements and parking/drive aisle setbacks; (2) building setbacks are 25' (front) and 50' (side/rear); and (3) distance requirements do not apply.

£ For a non-residential use abutting a commercial or industrial use, no side yard setback is required, unless required by Building Code or other law or regulation.





**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: 24-10-2V  
 Staff Initials: gH  
 Meeting Date: 03-28-24  
 Fees Paid (\$100 or \$150): 100-

Email: [zoning@jeffersoncountywv.org](mailto: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: Beallair Homes, LLC  
 Mailing Address: 5283 Corporate Drive, Suite 300, Frederick, MD, 21703  
 Phone Number: 301-695-6614 Email: robert.wormald@wormald.com

**Applicant Contact Information**

Name: Todd Abe  
 Mailing Address: 283 Corporate Drive, Suite 300, Frederick, MD, 21703  
 Phone Number: 304-492-5553 Email: todd.abe@wormald.com

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

Name: Piedmont Design Group, LLC  
 Mailing Address: 283 Corporate Drive, Suite 300, Frederick, MD, 21703  
 Phone Number: 301-695-6614 Email: mike.wiley@wormald.com

**Physical Property Details**

Physical Address: Community of Beallair - Plantation Lane  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: Harpers Ferry Map No: 10A Parcel No: Comm  
 Parcel Size: 3.13 Deed Book: 25 Page No: 184

**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 checked="" type="checkbox"/>	<input 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>FEB 16 2024</b>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>JEFFERSON COUNTY PLANNING ZONING &amp; ENGINEERING</b>							

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: 4.11.A

Briefly describe the nature of the variance request:

To waive the buffer along property lines. This site plan is part of the existing community as the private amenity and is located within the interior of the community. It is part of an approved CIS.

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:

The SITE PLAN is part of an approved CIS. It is a private amenity for the community residents and guests only.

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?

This request is due to the conditions and attributes of a planned community. This amenity is part of the community. A buffer would separate it from the community and provide an unfavorable detached isolated impression.

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

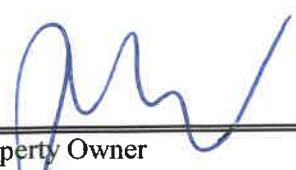
Granting this request would eliminate the unnecessary need to provide a buffer isolating it from the private community it serves. It will eliminate the removal of existing landscape gardens and landscaping on the remaining lot.

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

Granting this request would honor the approved CIS and maintain the integrity of the community feeling at the Community of Beallair.

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.

 2/9/24

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).

03-28-24

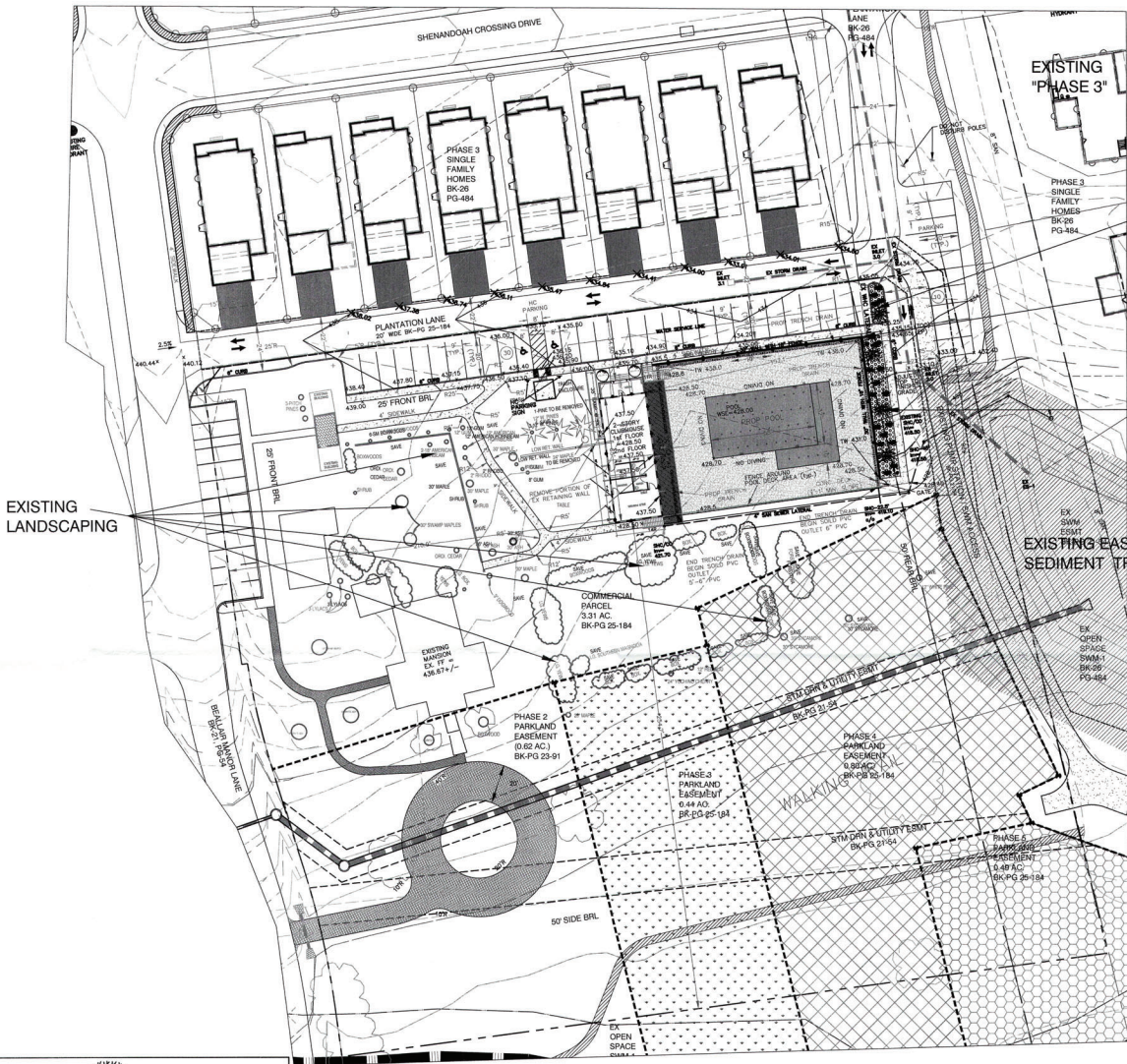
Date of Public Hearing

03-13-24

Advertising Date

03-13-24

Placard Posting Date



LANDSCAPING  
(140 SQ. FT.)  
1-TREE  
4-SHRUBS

WALL  
HT = VARIES

LANDSCAPING  
(680 SQ. FT.)  
3-TREE  
14-SHRUBS

LANDSCAPING REQUIREMENTS (5% OF PARKING AREA)			
PARKING AREA	40	180	7200 SQ FT
DRIVE AISLE	15 FT	360 FT	5400 SQ FT
REQUIRED TOTAL AREA X 5%	12600	0.05	630 0.014663
PROVIDED			650

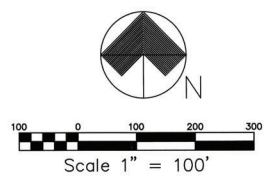
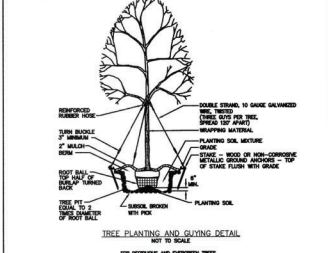
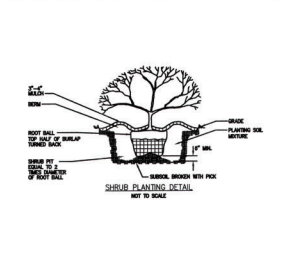
LANDSCAPING TABLE			
KEY	QUANTITY	BOTANICAL / COMMON NAME	REMARKS
	4	Ilex opaca 'Savannah'	6ft HT @ Planting; B&B
	18	Euonymus alatus 'Compacta'	2ft HT @ Planting; 1 gal container

- NOTES:
1. Protect existing utilities, paving and other facilities from damage caused by landscaping operations.
  2. Plant names indicated comply with "Standard Plant Names" as adopted by the latest edition of the American Joint Committee of Horticultural Nomenclature. Names of varieties not listed, conform generally with names accepted by the nursery trade. Provide stock true to botanical name and highly tagged.
  3. Comply with staking and grading standards of the latest edition of "American Standard for nursery stock". A plant shall be dimensioned as it stands in its natural position.
  4. All plants shall be nursery grown under climatic conditions similar to those in the locality of the project for a minimum of two years.
  5. Stock furnished shall be of at least the minimum size indicated. Larger stock is acceptable, at the discretion of the owner, and providing that the larger plants will not be out of scale with the site. Provide plants indicated by two measures so that only a maximum of 25% are of the minimum size indicated and 75% are of the maximum size indicated.
  6. A complete list of plants, including a schedule of sizes, quantities and other requirements is shown on the drawings. In the event that quantity discrepancies or material omissions occur in the plant materials list, the planting plans shall govern.
  7. Perform cleanup during installation of the work and upon completion of the work. Remove from site all excess materials, soil, debris and equipment. Repair damage resulting from planting operations.

THE COMMUNITY OF BEALLAIR POOL AND CLUBHOUSE  
SE CORNER BEALLAIR MANOR DRIVE AND PLANTATION LANE  
PROPERTY OF  
BEALLAIR COMMUNITY CONSERVANCY INC.  
TAX MAP D19A, PG PARCEL COMM  
HARRERS FERRY ELECTION DISTRICT  
JEFFERSON COUNTY, WV

LANDSCAPING  
PLAN FOR PARKING, POOL AND  
CLUB HOUSE DESIGN

DATE:	REVISION DESCRIPTIONS:	SCALE: N/A	DESIGNED BY: ZTA	CHECKED BY: MTR	IN CHARGE: JBT
		6 of 8			



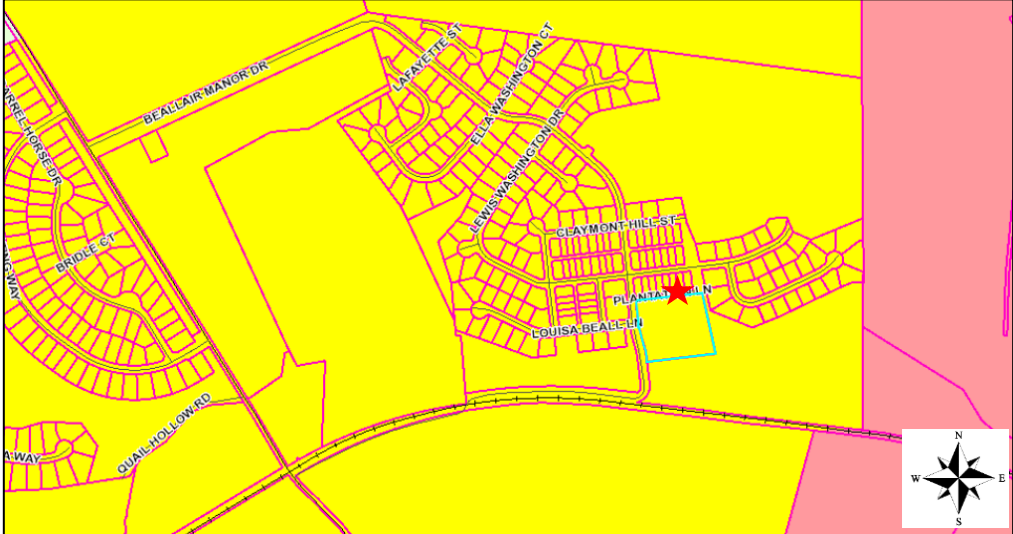
No grading, excavating, removal or destruction of topsoil, trees or other vegetative cover or construction activity shall result in point or non-point loading of suspended matter such that turbidity standards spelled out in the Water Resources Board legislative rules are violated. Said standards state that turbidity shall not exceed 10 NTU's over background turbidity when the background is 50 NTU's or less, or have more than a 10 percent increase in turbidity (plus 10 NTU minimum) when the background turbidity is more than 50 NTU's. This limitation shall be determined by measuring stream quality directly above and below the area where drainage from such activity enters the affected stream. Any earth disturbance activity continuous or intermittently carried on by the same or associated persons on the same stream or tributary segment shall be allowed a single net loading increase.



Staff Report  
 Jefferson County Board of Zoning Appeals  
 March 28, 2024  
**24-11-ZV Beallair (Parking Setbacks) Variance Request**

Item #3 Variance request from the following:

Request 2: Variance request from Appendix B to eliminate the required parking lot setback along Plantation Lane for the installation of the community pool and clubhouse (24-11-ZV).

Owner:	Beallair Community Conservancy Inc
Applicant:	Piedmont Design Group / Attn: Mike Wiley
Parcel Information & Zoning District:	<p style="text-align: center;">Beallair Subdivision, Commercial Parcel 1,          480 Beallair Manor Drive, Charles Town, WV          Parcel ID: 04010ACOMM0000; Size: 3.31 ac;          Zoning District: Residential Growth</p> 
<b>Subdivision History</b>	
<p><u>Community of Beallair Subdivision (PC Files 02-36, 05-41, 08-21, 19-16-SD, 21-31-SD, 22-15-SD)</u>          Note: This project fell under the 2010 SB 595 (WV State Code), which allowed an extension of the entire project. Further extensions relating to SB595 were approved as follows: 07/13/10 (PC), 06/21/12 (CC), 08/08/14 (CC), and 03/13/17 (CC).</p>	
History:	01/25/2010: Beallair, Phase 3 - Commercial Parcel 1 and Residue Parcel A Recorded in <a href="#">PB 25 / PG 184</a>
Waivers/Variations:	03/12/2024: PC approved a variance from Sec. 11.2e.1 of the 1979 Subdivision Ordinance to waive the screening and landscaping requirement.
Approved Activity:	Single family dwelling
Site Visit:	Site visit not conducted.

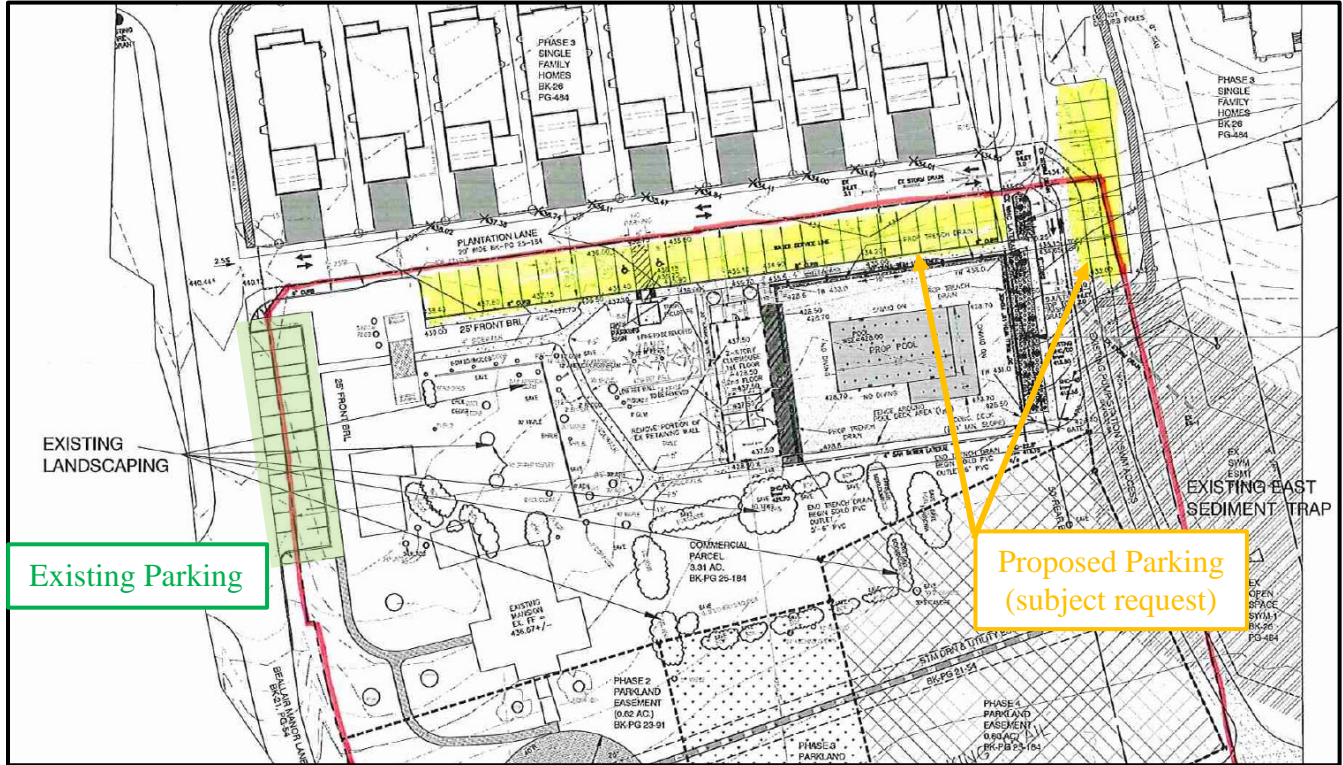
**Staff Overview**

The subject request is to eliminate the required parking lot setback along Plantation Lane as part of the proposed community pool and clubhouse (PC File #23-10-SP).

The purpose of parking and drive aisle setbacks is to reduce negative interactions between vehicles, as well as pedestrians, traveling on the roadway and using the parking area. Parking setbacks also serve to

Staff Report  
Jefferson County Board of Zoning Appeals  
March 28, 2024  
**24-11-ZV Beallair (Parking Setbacks) Variance Request**

reduce the impact that a land use might have on an adjacent property, such as the glare from headlights and engine noise.



*Excerpt from Applicant's Sketch*

Pursuant to Appendix B of the Zoning Ordinance, parking spaces are required to be setback 15' from the front property line. The applicant is requesting to eliminate the required parking setbacks to allow motorists to access parking spaces directly from the internal subdivision roads. All of the parking spaces will be located either on the subject lot for the proposed pool and clubhouse or within the adjoining roadways/stormwater management areas owned and maintained by the Beallair community.

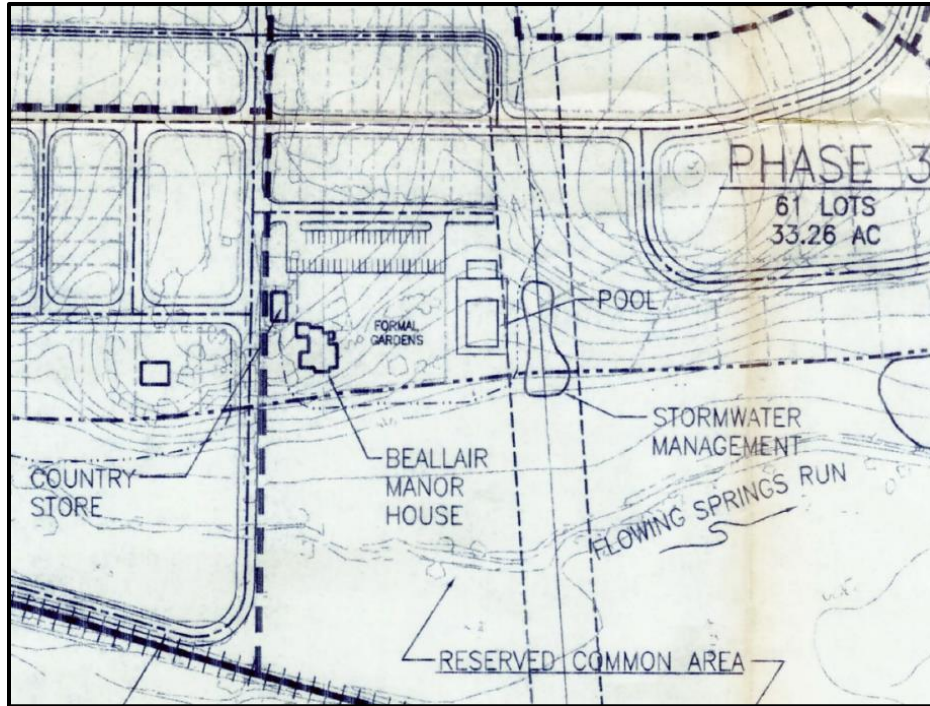
The applicant stated that granting the request will allow them to retain the existing gardens and landscaping on the lot.

The County Engineer stated that the applicant's design as proposed is sufficient, particularly because Plantation Drive is not a main thoroughfare and also because the pool and clubhouse are limited to use by community residents and their guests (i.e. minimal vehicular traffic is anticipated).

The original proposal for the Beallair Subdivision included a pool and clubhouse. An excerpt from the original Community Impact Statement (CIS) sketch that processed 20+ years ago (PC File #02-36) is included on page 3 of this report. The CIS sketch proposed a different design for access and parking from what is currently proposed (PC File #23-10-SP).

**Note:** The Zoning Ordinance does not distinguish between swimming pool/community centers that are public facilities and ones that are included as part of the amenities for a residential subdivision. As such, the non-residential site development standards are applicable to the subject proposal and staff does not have the administrative discretion to deviate from the requirements of the Ordinance.

Staff Report  
Jefferson County Board of Zoning Appeals  
March 28, 2024  
**24-11-ZV Beallair (Parking Setbacks) Variance Request**



**Variance Criteria**

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. The applicant shall retain the existing gardens and proposed greenspace areas as shown on the variance sketch and sheet 6 of the site plan (File #23-10-SP – Pending Review).

**Section of Ordinance to be Considered**

**Appendix B: Non Residential Site Development Standards Table (attached)**

**APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE<sup>27, 32, 35</sup>**

Zoning District	Development Type <sup>⊖</sup>	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imper-vious Surface Limit	Building Setbacks			Parking/ Drive Aisle Setbacks			Buffers (Sec. 4.11) (Screened / Unscreened) Adjacent Use						
												A Residential district, or any lot with a residence, school, church, or institution of human care (Distance per Sec. 4.6)			Commercial Use		Industrial Use	
						Front	Side	Rear	Front	Side	Rear	Distance Front Side Rear	Front	Side & Rear	Front	Side & Rear	Front	Side & Rear
Industrial – Commercial (IC) **	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25			15	4	4	75	Street Trees	Narrow Buffer Detail No. M-54	N/A	10(S)	N/A	10(S)
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25			15	10	10	75	Street Trees	Medium Buffer Detail No M-53	N/A	10(S)	N/A	10(S)
	Industrial	3 ac ***	N/A	75	90%	50 or 25 if adjacent to Industrial Use			25 or 20 if adjacent to Industrial Use			200	Street Trees	Wide Buffer Detail No. M-52	25(S)	20(S)	N/A	20(S)
Residential-Light Industrial-Commercial (RLIC)	Commercial or Industrial	N/A	N/A	75	80%	See IC District												
Rural (R)	Churches	2 acres	200	45	N/A	25	50	50	See IC District for commercial sites			N/A	50(U) or 15 (S)		N/A	10(S)	N/A	10(S)
	Schools, Grades K-12	K-4: 10 ac+ 5-8: 20 ac+ 9-12: 30 ac+	500	45	N/A	100						N/A	N/A		N/A	N/A	N/A	N/A
	Hospitals	10 ac	500	45	N/A	100						N/A	N/A		N/A	N/A	N/A	N/A
	Other Rural principal permitted uses	40,000	100	45	N/A	40	50	50				N/A	See I-C District for commercial or industrial use; Otherwise, N/A					
	Commercial or Industrial**	See IC District																
Village (V)	Commercial <sup>‡</sup>	N/A	N/A	35	N/A	25	10	40	See IC District									
	Industrial**	See IC District			35	See IC District												
Residential Growth (RG)	Commercial or Industrial**	See IC District			35	See IC District												
Neighborhood Commercial (NC)	Commercial	N/A	N/A	35	70%	15 min 25 max	10 <sup>£</sup>	10 <sup>⊖</sup>	See I-C District	25	See IC District							
General Commercial (GC)	Commercial	N/A	N/A	75	80%	20	10	25	See IC District									
Highway Commercial (HC)	Commercial	N/A	N/A	75	80%	25	25	25										
Light Industrial (LI)	Commercial or Industrial	N/A	N/A	75	80%	25	25	25										
Major Industrial (MI)	Commercial	N/A	N/A	75	90%	25	10	50										
	Industrial	3 ac ***	N/A	75	90%	25	50	50										
Office/Commercial Mixed Use (OC)	Commercial	N/A	N/A	75	80%	15 min 25 max	10 <sup>£</sup>	10 <sup>⊖</sup>	See IC District									
Planned Neighborhood Development (PND)	Commercial	3 acres	See GC District Note: Planning Commission may amend development standards for developments in the PND District (see Article 5).															

The requirements in this table are in addition to any other applicable requirements in the text of this Ordinance. In the event of a conflict with the text, this table shall prevail.

All dimensions are in feet unless otherwise indicated by “ac” (acres).

\* Maximum building height is subject to Sec. 9.2.

\*\* If land use(s) approved via the Conditional Use process in accordance with this Ordinance.

\*\*\* MLA for Industrial uses does not apply if the site is located in an approved Industrial Park [Source: Sec. 5.6E]

\*\*\*\* Schools in Rural district: Plus one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewer treatment plant and retention ponds are required, acreage shall be increased accordingly.

‡ Non-Residential Site Development in an existing structure in the Village District shall comply with Section 5.10A.2.

‡ Setback may be reduced if adjacent to industrial use.

⊖ For an industrial use, no structures, stored materials, or vehicular parking shall be permitted within the buffer yard. For a commercial use, no structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

⊖ A rear yard setback may be reduced to 10' for a non-residential use abutting a commercial or industrial use at a rear lot line

⊖ Churches in any district: (1) are treated as a commercial use on a lot of greater than 1.5 acres in determining buffer requirements and parking/drive aisle setbacks; (2) building setbacks are 25' (front) and 50' (side/rear); and (3) distance requirements do not apply.

£ For a non-residential use abutting a commercial or industrial use, no side yard setback is required, unless required by Building Code or other law or regulation.



**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: 24-11-ZV  
 Staff Initials: jth  
 Meeting Date: 03/28/24  
 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: Beallair Homes, LLC  
 Mailing Address: 5283 Corporate Drive, Suite 300, Frederick, MD, 21703  
 Phone Number: 301-695-6614 Email: ed.wormald@wormald.com

**Applicant Contact Information**

Name: Todd Abe  
 Mailing Address: 283 Corporate Drive, Suite 300, Frederick, MD, 21703  
 Phone Number: 304-492-5553 Email: todd.abe@wormald.com

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

Name: Piedmont Design Group, LLC  
 Mailing Address: 283 Corporate Drive, Suite 300, Frederick, MD, 21703  
 Phone Number: 301-695-6614 Email: mike.wiley@wormald.com

**Physical Property Details**

Physical Address: Community of Beallair - Plantation Lane  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: Harpers Ferry Map No: 10A Parcel No: Comm  
 Parcel Size: 3.13 Deed Book: 25 Page No: 184

**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"/>
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Received via email 02/29/24 (jth)

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: Appendix B

**Briefly describe the nature of the variance request:**

To waive the parking setback along property lines. This site plan is within the existing community as the private amenity and is located in the interior of the community.

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

Front Setback  Side Setback  Rear Setback  Remove 15ft front / 10ft side (Parking Setback)

**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:**

It is a private amenity planned for the community residents and guests only.

**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?**

This request is due to the conditions and attributes of a planned community. A setback would impeded the existing vegetative garden improvements and desirable areas to remain undisturbed.

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

Granting this request will eliminate the need for removal of existing landscape gardens and landscaping on the remaining lot.

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

Granting this request would honor and maintain the integrity of the community feeling at the Community of Beallair.

**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 2/26/2024  
Edward E. Wormald, Assistant General Manager

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).

03/28/24

Date of Public Hearing

03/13/24

Advertising Date

03/13/24

Placard Posting Date



LANDSCAPING  
(140 SQ. FT.)  
1-TREE  
4-SHRUBS

WALL  
HT = VARIES

LANDSCAPING  
(680 SQ. FT.)  
3-TREE  
14-SHRUBS

LANDSCAPING REQUIREMENTS (5% OF PARKING AREA)		
PARKING AREA SPACES	9FT x 20FT	7200 SQ FT
DRIVE AISLE WIDTH	15FT	5400 SQ FT
DRIVE AISLE LENGTH	360FT	
REQUIRED TOTAL AREA X 5%	12600 SQ FT	0.05 ACRES
PROVIDED	650	0.014463 ACRES



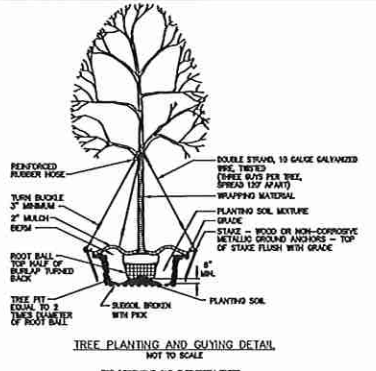
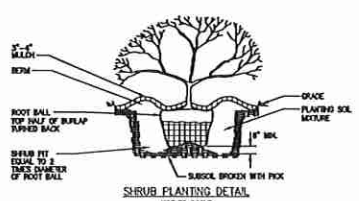
KEY	QUANTITY	BOTANICAL / COMMON NAME	REMARKS
☼	4	Ilex opaca 'Savannah'	6ft HT @ Planting; 8&B
☼	18	Euonymus alatus 'Compacta'	2ft HT @ Planting; 1 gal container

- NOTES:
1. Protect existing utilities, paving and other facilities from damage caused by landscaping operations.
  2. Plant names indicated comply with "Standard Plant Names" as adopted by the latest edition of the American Joint Committee of Horticultural Nomenclature. Names of varieties not listed, contain generally with names accepted by the nursery trade. Provide stock true to botanical name and legibly tagged.
  3. Comply with sizing and grading standards of the latest edition of "American Standard for nursery stock". A plant shall be dimensioned as it stands in its natural position.
  4. All plants shall be nursery grown under climatic conditions similar to those in the locality of the project for a minimum of two years.
  5. Stock furnished shall be at least the minimum size indicated. Larger stock is acceptable, at no additional cost, and providing that the larger plants will not be cut back to size indicated. Provide plants indicated by two measures so that only a maximum of 25% are of the minimum size indicated and 75% are of the maximum size indicated.
  6. A complete list of plants, including a schedule of sizes, quantities and other requirements is shown on the drawings. In the event that quantity discrepancies or material omissions occur in the plant materials list, the planting plans shall govern.
  7. Perform cleanup during installation of the work and upon completion of the work. Remove from site all excess materials, soil, debris and equipment. Repair damage resulting from planting operations.

THE COMMUNITY OF BEALLAIR POOL AND CLUBHOUSE  
SE CORNER BEALLAIR MANOR DRIVE AND PLANTATION LANE  
PROPERTY OF  
BEALLAIR COMMUNITY CONSERVANCY INC.  
DB1215 / PG228  
TAX MAP D10A, P/O PARCEL COMM  
HARRERS FERRY ELECTION DISTRICT  
JEFFERSON COUNTY, WV

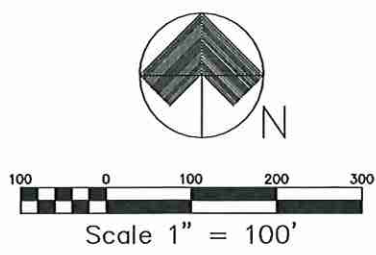
LANDSCAPING  
PLAN FOR PARKING, POOL AND  
CLUB HOUSE DESIGN

DATE:	REVISION DESCRIPTIONS	SCALE	N/A
		DESIGNED BY: JTA	CHECKED BY: MTW
		APPROVED BY: MTW	
		6 of 8	
		DATE: AUGUST 2023	
		DRAWING FILE: Beallair Pool Design	



Property Area of Request

MW  
02/26/24

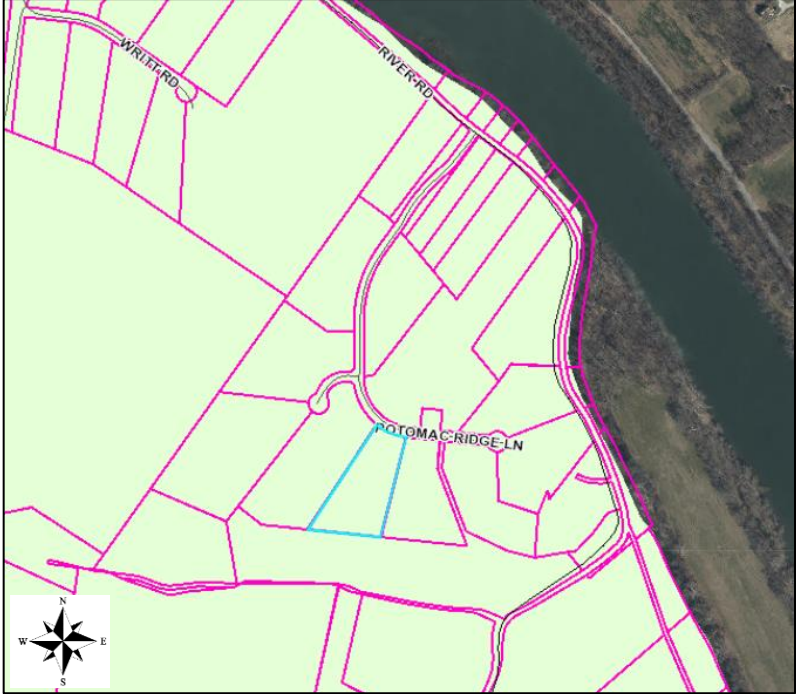


No grading, excavating, removal or destruction of topsoil, trees or other vegetative cover or construction activity shall result in point or non-point loading of suspended matter such that turbidity standards spelled out in the Water Resources Board legislative rules are violated. Said standards state that turbidity shall not exceed 10 NTU'S over background turbidity when the background is 50 NTU'S or less, or have more than a 10 percent increase in turbidity (plus 10 NTU minimum) when the background turbidity is more than 50 NTU'S. This limitation shall be determined by measuring stream quality directly above and below the area where drainage from such activity enters the affected stream. Any earth disturbance activity continuously or intermittently carried on by the some or associated persons on the same stream or tributary segment shall be allowed a single net loading increase.



Staff Report  
 Jefferson County Board of Zoning Appeals  
 March 28, 2024  
**24-12-ZV Farrell Variance Request**

Item #4 Variance from Section 5.7B of the Zoning Ordinance (amended 05/01/03) to reduce the front setback along the northern property line for a greenhouse; and Section 9.6C to allow an accessory structure within the required front yard.

Owner:	James and Julia Farrell
Parcel Information & Zoning District:	<p>Potomac Ridge Subdivision, Lot 5, 312 Potomac Ridge Ln, Shepherdstown, WW          Parcel ID: 09001000090015; Size: 3.17 ac; Zoning District: Rural</p> 
History:	<p>03/31/06: Rattlesnake Run Subdivision Final Plat recorded in <a href="#">PB 23, PG 1</a>          11/25/08: Potomac Ridge Subdivision Minor Plat Change to rename the subdivision to Potomac Ridge recorded in <a href="#">PB 25, PG 85</a>  <a href="#">03/21/19</a>: Potomac Ridge Subdivision Minor Plat Change to relocate the well/septic areas for Lot 5 recorded in <a href="#">DB 1220, PG 192</a></p>
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit:	Site visit not conducted

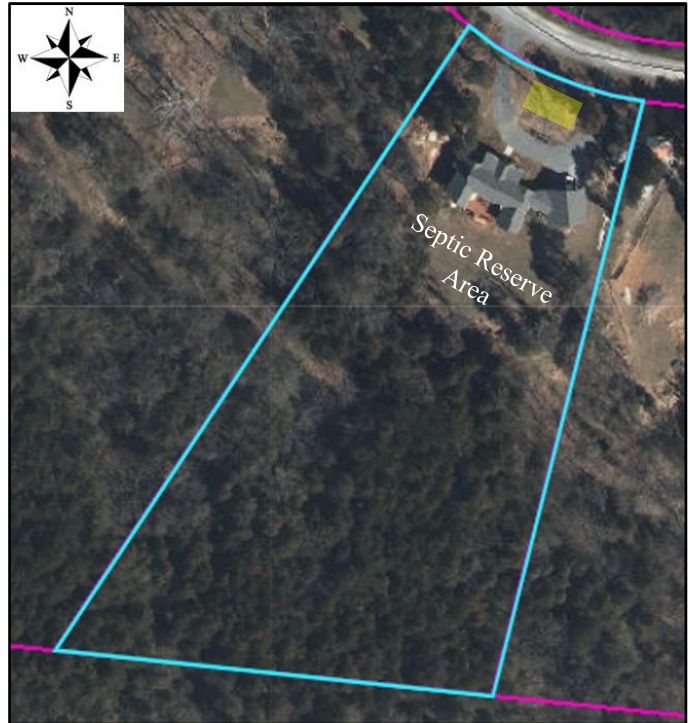
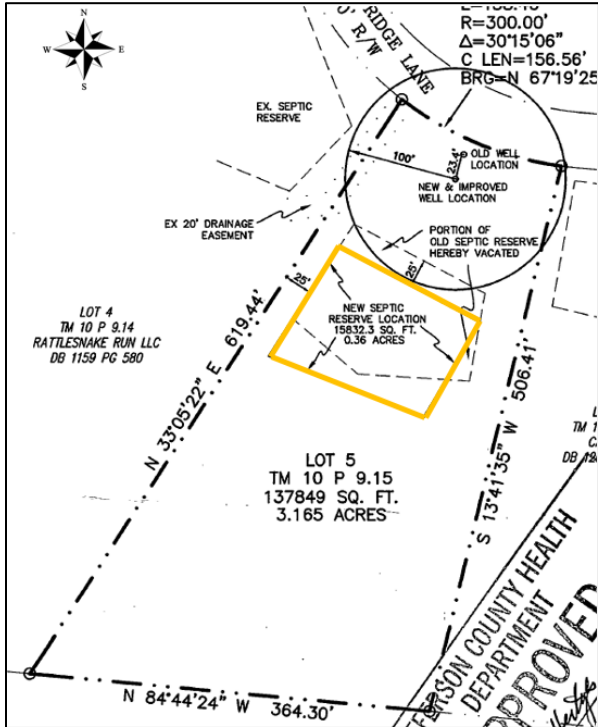
**Staff Overview**

The subject parcel is designated as Lot 5 of the Potomac Ridge Subdivision. Pursuant to Section 5.7B of the Zoning Ordinance (amended 05/01/03) and Note #1 on the Final Plat, the required setbacks are **40' Front**, 15' Side, and 50' Rear. The applicant is requesting to place a 14' x 9.5' (133 sf) greenhouse for personal use approximately 20' from the front property line.

A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that traffic visibility is not impaired for drivers along the right-of-way.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 March 28, 2024  
**24-12-ZV Farrell Variance Request**

The applicant represented that the proposed location was selected in order to place the greenhouse within an existing fenced area, as well as to maintain the existing forested area on the property and to account for the topography of the property. The applicant also noted that the septic reserve area is located behind the house, which precludes placement of the structure within that area.



The applicant provided several exhibits delineating the proposed location for the greenhouse, as well as the style greenhouse they have selected for the location.



Staff Report  
Jefferson County Board of Zoning Appeals  
March 28, 2024  
**24-12-ZV Farrell 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 business may be operated from this structure without further review from the Board.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 March 28, 2024  
**24-12-ZV Farrell Variance Request**

**Section of Ordinance to be Considered:**

SECTION 5.7 Rural District

(b) Minimum Lot Area, Lot Width and Yard Requirements

Minimum lot sizes, lot width, and yard requirements are as follows for principal permitted uses. For any residential use that complies with the Development Review System, the setbacks and lot shall be as outlined in Article 5.4(b).

	<u>Lot Area</u>	<u>Lot Width</u>	<u>Front Yard Depth</u>	<u>Side Yard Depth</u>	<u>Rear Yard Depth</u>
Dwellings	40,000 sq. ft.	100	40	15	50
Churches	2 acres	200	50	50	50
Schools, Grades K-4	10 acres +	500	100	100	100
Schools, Grades 5-8	20 acres +	500	100	100	100
Schools, Grades 9-12	30 acres +	500	100	100	100
Hospitals	10 acres	500	100	100	100
Other permitted uses	40,000 sq. ft.	100	40	50	50

**Section 9.6 Accessory Structures**

Accessory structures, defined by Section 2.2, shall be permitted in all districts where single-family and two-family dwelling units are permitted. The provisions for accessory structures are as follows.

- A. The minimum distance to a lot line in any District from a single-story utility or storage shed, not exceeding 150 square feet, shall be five feet.
- B. In any District wherein single-family and two-family dwellings are permitted, the minimum distance from any accessory structure, not attached to the principal permitted use, to the side or rear lot line shall be not less than the longest horizontal dimension of the accessory structure or the minimum distance specified for that District, whichever is the lesser of the two.
- C. No accessory building shall be erected within the required front yard.



**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: 24-12-ZV  
 Staff Initials: gal  
 Meeting Date: 03.28.24  
 Fees Paid (\$100 or \$150): gal

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: JULIA FARRELL  
 Mailing Address: 312 POTOMAC RIDGE LN SHEPHERDSTOWN WV 25443  
 Phone Number: 240-691-2205 Email: jfarrell5000@gmail.com

**Applicant Contact Information**

Name: JULIA FARRELL  
 Mailing Address: 312 POTOMAC RIDGE LN SHEPHERDSTOWN WV 25443  
 Phone Number: 240-691-2205 Email: jfarrell5000@gmail.com

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

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

**Physical Property Details**

Physical Address: 312 POTOMAC RIDGE LN SHEPHERDSTOWN WV 25443  
 City: SHEPHERDSTOWN State: WV Zip Code: 25443  
 Tax District: 09-SHEPHERDSTOWN DIST Map No: 10 Parcel No: 9.15  
 Parcel Size: 3.16 acre Deed Book: - Page No: -

**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 type="checkbox"/>	<input checked="" 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)
<b>MAR 01 2024</b>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Office/Commercial Mixed-Use (OC)
<b>JEFFERSON COUNTY PLANNING</b>			<b>ZONING &amp; ENGINEERING</b>			
<small>Place Received Date Stamp Here</small>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<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: Sec. 5.7B gH

Briefly describe the nature of the variance request: 9.6C gH

PLEASE SEE ATTACHED

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

Front Setback  Side Setback  Rear Setback  Reduction From 40' to 20'

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:

PLEASE 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?

PLEASE SEE ATTACHED

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

PLEASE SEE ATTACHED

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

PLEASE 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.

Julia M. Farrell 3/1/2024  
Signature of Property Owner Date

Jane Farrell 3/1/2024  
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).

03.28.24  
Date of Public Hearing

03.13.24  
Advertising Date

03.13.24  
Placard Posting Date

*Briefly describe the nature of the variance request:*

I am requesting a variance of my front setback from 40' to 20' in order to put a greenhouse inside a fenced in area which lies inside an island created by the circular driveway in the front of the house.

*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:*

Granting this variance will not have any kind of adverse effect on any neighbors or the public as the greenhouse will be screened from the road by existing cedar trees. Neighbors on either side and lot owner across the street have been queried regarding their feelings about this addition and all have expressed approval.

*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?*

This variance is essential due to the grading of the slopes that are on either side of the residence. Those areas require ground cover and grass to hold the soil in place to preclude runoff and erosion. There is a septic tank and septic reserve behind the residence— so that area is also unavailable for any kind of structure and garden. The area that lies beyond the septic area is heavily treed and would need to be cleared to get adequate space and sunshine—we would prefer this wooded area stay forested. The area that sits within the circular drive is the only area that is level and open. It was cleared when the residence was built. Native plants to be grown from heirloom seeds germinated in the greenhouse would provide habitat for birds and insects in this area.

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

Granting this variance will allow a 14'x9.5'x9' greenhouse (photo attached) to be sited in an area that doesn't interfere with the roots and drip line of two large, established trees. It will also enable me to have all supplies right where I garden. I currently have to carry all shovels, soil, buckets and all other supplies from a storage shed (and I am considered elderly!) to the garden area.

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

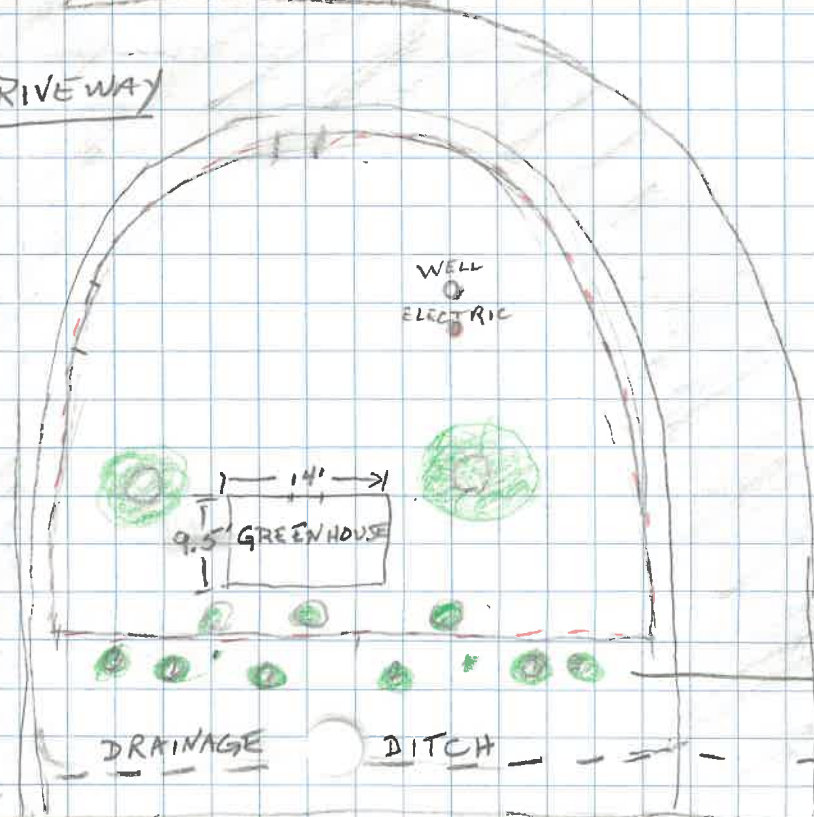
Authorizing the setback variance will improve the homeowner's quality of life and improve the general appearance of this section of the subdivision.

00111



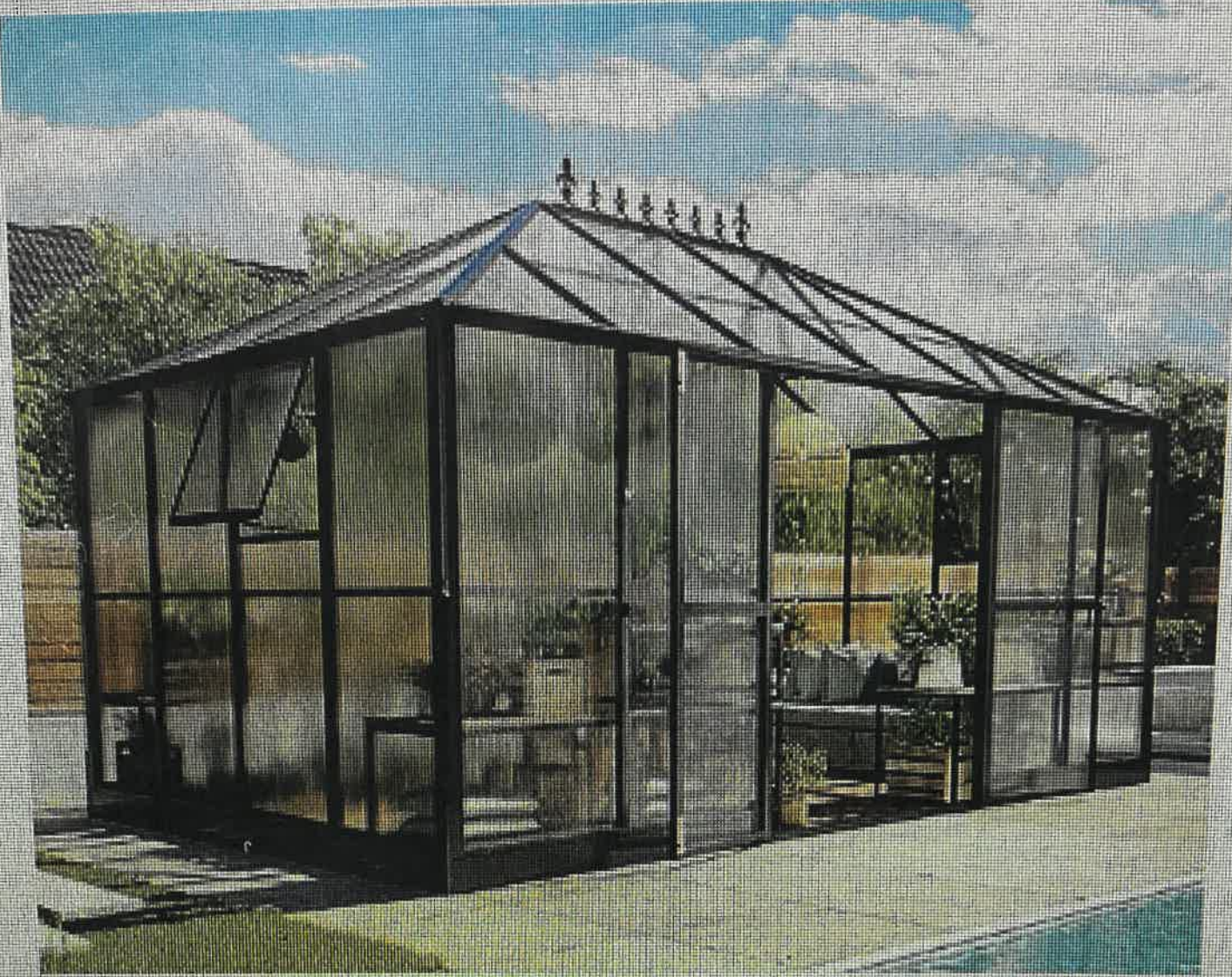
Julia M. Farrell  
3/1/2024


DRIVEWAY



2.5 ft = 1 sq

POTOMAC RIDGE LANE



Sponsored 

Jocisland 14x9.5x9 FT

Polycarbonate Greenhouse- 6 FT  
Wall Height Outdoor Aluminum  
Greenhouses with 2 Ventilation...

★★★★☆ ~ 6

50+ bought in past month

S

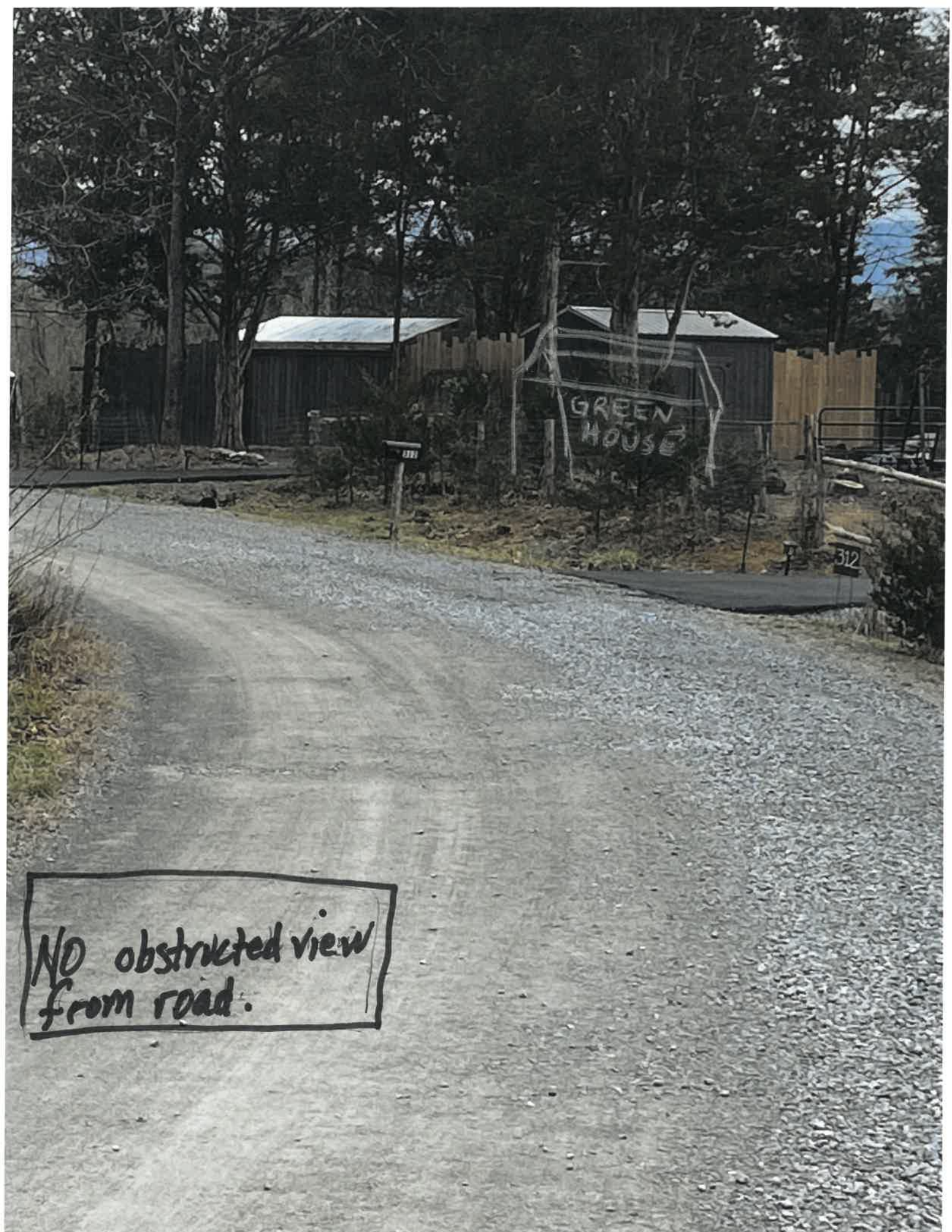
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NO obstructed view  
from road.



greenhouse illustration shown at 20' from easement





## JEFFERSON COUNTY, WEST VIRGINIA

### Office of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor

Charles Town, WV25414

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### MEMO

**TO: Planning Commission**

**FROM: Alexandra Beaulieu, Deputy Director & Zoning Administrator**

**DATE: 03/28/24 for 04/09/24 Planning Commission Meeting**

**RE: Request from Board of Zoning Appeals to review Cluster Provisions**

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On February 22, 2024 the Board of Zoning Appeals directed Staff to submit a letter to the Planning Commission requesting that they review the green space requirements for a Cluster Subdivision in Section 5.7D.2 of the Zoning Ordinance. The motion included a request to clarify whether the green space was required to be included on a single lot within the cluster subdivision or if the green space requirement can be satisfied by designating green space area on multiple lots within the subdivision.

The Board's request is in response to a number of variance requests that have processed over the last three-four years to allow the green space for a cluster subdivision to be dispersed across multiple lots, as opposed to one single lot.

The cluster provisions in Section 5.7D.2 of the Zoning Ordinance were amended in 2017 as a result of the Envision Jefferson 2035 Comprehensive Plan, which recommended eliminating the Land Evaluation Site Assessment (LESA) for residential subdivisions in the Rural zoning district and to modify the cluster provisions to allow for a higher density residential development while preserving farmland, open space, and/or forest woods.

Density for a cluster subdivision is calculated based on the acreage on record as of October 5, 1988. The Zoning Ordinance does not include a minimum or maximum acreage requirement for the parent parcel to utilize the cluster provisions.

The cluster provisions allow 1 lot per 5 acres to be subdivided, provided 50% of the acreage is retained in green space. For example, a 30 acre tract could be subdivided to create six lots total ( $30 / 5 = 6$ ) provided 15 acres is retained in green space on one of the lots (50% of 30 acres = 15 acres).

Section 5.7D.2 of the Zoning Ordinance states that the purpose and intent of the cluster provisions is as follows:

- 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.

- To provide for a well planned development while minimizing the use of prime agricultural land.

The definition of Green Space is:

- Land required to be set aside under Section 5.7 Cluster Provisions, for the purpose of retaining active or passive farmland, wooded or forested areas, significant natural or environmentally sensitive features, historic structures and/or core battlefields, and parks.

Green space may include open space as defined herein.

Land indicated as green space in a cluster development shall be permitted to maintain one single family dwelling unit, and an accessory agricultural dwelling unit (if it meets the qualifications), and may be in private ownership or a homeowner's association.

Between 2020 and 2024, four variance requests have processed before the Board of Zoning Appeals to allow the required 50% acreage to be dispersed across multiple lots\*, with the **proffer** that the green space will be allocated in the form of an easement with a note stating that no structures which require a building permit will be permitted within the green space area. This means that garden beds, fences under 6' in height, playground equipment, etc. would be permitted within the easement area, but sheds, garages, houses, pools, decks, etc. would not be permitted within the designated easement areas.

**\*Note:** All of the referenced variances were related to cluster subdivisions proposing four or five lot subdivisions on 20-35 acre size parcels.

### **Conclusion**

As a result of the variance requests that have processed over the last few years, the BZA is requesting that the Planning Commission evaluate the cluster provision requirements to determine if a text amendment is needed to modify the green space requirement.

### **Attachments:**

- Excerpt from the 02/22/2024 BZA Meeting Minutes
- Excerpts from the Envision Jefferson 2035 Comprehensive Plan
- Section 5.7D of the Zoning Ordinance
- Examples of Cluster Subdivision Proposals



## JEFFERSON COUNTY, WEST VIRGINIA

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### **Index of Excerpts from Envision Jefferson 2035 Comprehensive Plan**

- Rural Land Use Planning – Page 34
- Rural Land Use Planning Recommendations - Page 39 & 40
- Economic Development, Employment, and Infrastructure Element - Page 75 & 76
- Finance and Public Safety Element - Pages 147 & 148
- Appendix D – Goals and Objectives - Pages 190 & 191

## 1.B. Rural Land Use Planning

Between 1974 and 2007, nearly 14,000 acres of land were removed from agricultural production in the County. Approximately 78% of these acres were lands with prime soils or soils of statewide importance. It is important that viable existing farmlands are protected. By encouraging cluster residential development, a large portion of the property will be maintained for farming activities, which would allow Jefferson County's agricultural and rural character to be maintained. Below is a soils map of Jefferson County and a larger version can be found in Appendix F – Maps.

and septic systems, with a limited probability that public services will be extended to these properties in the future. The preservation of the quality of life and rural lifestyle for existing and future residents is of great importance for property owners in these communities.

The following recommendations address the needs of the agricultural community, artisan community and the rural environment.

<b>Rural Land Use Planning Recommendations (Goal 2)</b>	
<b>1.</b>	Recognize the rights and viability of existing rural residential neighborhoods.
	<b>a.</b> Balance artisan, home occupation, and cottage industry rights with the maintenance of the character of rural neighborhoods by considering the size and scope of all activities within designated rural neighborhoods.
<b>2.</b>	Allow and promote a greater range of agricultural and/or artisan uses within the rural areas on existing farmlands to incentivize the expansion of the rural economy within Jefferson County.
	<b>a.</b> Collaborate with key stakeholders in the agricultural community to update the County's zoning and land use recommendations to broaden the range of permitted complementary and accessory on-farm uses.
	<b>b.</b> Identify types of farm activities that may be successful based on the soils on individual properties and the proximity of Jefferson County to relevant markets.
<b>3.</b>	Revise existing Jefferson County land use requirements and site plan standards to reduce regulatory barriers related to agricultural and/or artisan operations.
	<b>a.</b> Revise local regulations to balance production and marketing of artisan or agricultural products on-site, considering the individual use, size, and scale of the operation as appropriate to the property site.
	<b>b.</b> Waive or modify the roads, parking, and stormwater regulations on farms for on-site production and marketing enterprises, to the extent possible.
<b>4.</b>	<b>Protect the viability of agricultural lands and wildlife corridors by encouraging the utilization of cluster subdivisions as the preferred form of residential development within rural areas.</b>
	<b>a.</b> Allow residential development outside of the Urban Growth Boundaries or Preferred Growth Areas to develop only as rural cluster subdivisions, in accordance with existing land use rights.
	<b>b.</b> Amend the Zoning Ordinance to eliminate the Land Evaluation Site Assessment (LESA) system and to modify the Conditional Use Permit (CUP) process in the Rural Zoning District, which would be used for compatible non-residential development only.

	<p><b>c.</b> Amend the Zoning Ordinance density provisions related to Cluster Developments to utilize a higher density such as one unit per five acres, with provisions for a maximum lot size and a mandatory retention of a set percentage of the original tract in agricultural uses, open space, and/or forest/woods, instead of allowing for rural residential development to occur using the LESA/CUP system.</p>
	<p><b>d.</b> Amend the Subdivision Regulations to permit a Cluster Development of any size to process as a minor subdivision, provided that the subdivision standards shall apply.</p>
	<p><b>e.</b> Encourage the creation of subdivisions that incorporate working farmland or community gardens in Development Supported Agriculture programs.</p>
	<p><b>f.</b> Consider amending the provision in the Jefferson County Zoning and Land Development Ordinance related to the transfer of land between parent and child to include other family members, such as sibling to sibling.</p>
<b>5.</b>	<p>Encourage a variety of mechanisms to protect existing farmlands, key farm buildings, and scenic corridors within Jefferson County.</p>
	<p><b>a.</b> Identify funding sources for farmland protection which could come from local, state and federal sources in addition to fundraising opportunities.</p>
<b>6.</b>	<p>Involve members of the agricultural community in planning and land use decisions related to rural lands within Jefferson County.</p>
	<p><b>a.</b> Establish collaborative and interactive mechanisms for the Planning and Zoning staff and economic development officials to coordinate with the agriculture community that will enable the farming community's input in the planning and zoning process.</p>
<b>7.</b>	<p>Explore policies in concert with the Public Service District (PSD) and municipalities regarding rural water and sewer infrastructure.</p>
	<p><b>a.</b> Explore legislative options that would allow equitable distribution of cost sharing with entire development community along with rate paying base (i.e. Capital Improvement Fees).</p>

complex could serve as another means of selling the County's farm products and could include dining and/or commercial kitchen facilities.

While the farmers' markets have helped individual farm operators differentiate between their products, there is still a limited local or regional identity when it comes to agriculture in the Eastern Panhandle. In some cases, individual farms have addressed this concern through the creation of an identity for the farm and/or for the product being produced. It would be beneficial to the Jefferson County rural economy if a more unified effort occurred through a shared marketing mechanism, regional branding, or the creation of common distribution and marketing facilities.

An increasing movement toward smaller farming operations of less than 40 acres in size in the County should not be discounted, even though a number of farms in Jefferson County are located on large tracts of land. According to the 2012 U.S. Agricultural Census, over half of all farms in Jefferson County provide a limited income to farm operators; however, there are opportunities for expansion of smaller farming operations. The majority of the farms in Jefferson County have the opportunity to provide a viable range of income generating agricultural activities to an individual farm operator.

### **Enhance Farmland Protection Activities**

In 2000, Jefferson County formed a Farmland Preservation Program that is funded by a portion of the transfer tax collected when a house or land is sold. To date, this program has purchased the development rights of 3,900 acres. As mentioned in the Land Use element, the funding that is available to support the County's farmland protection program is much less than the demand from farm operators to participate in it. Since the County's farmland protection program is funded by a portion of the transfer tax, the viability of the program is subject to a widely fluctuating real estate marketplace. In times when there is a great deal of real estate activity, revenue generated for the program is strong, enhancing the ability to purchase development rights and protect farmlands. Conversely, in times when the real estate market is slow, the amount of money available for protection efforts is limited. Therefore, it is important to establish reliable funding sources to support farmland protection activities. One option to protect farmland is to coordinate with the American Battlefield Protection program to make the most efficient use of funding resources.

To reduce the conversion of farmland, the Plan recommends that clustering should be the preferred method of any rural residential development. This would allow land owners to group lots in a traditional rural community pattern, while retaining a majority of the land for agricultural and rural economic uses. Even when the development of a residential cluster results in the loss of some farm land, the goal of the regulations related to cluster developments is to retain as much farmland as possible by adjusting the number and size of the lots in the cluster and requiring the balance of the farm (the residue) to be retained as a permanent agricultural use. Cluster developments on a property should minimize the use of high quality soils and maximize the use of less

productive agricultural land. In order to retain the maximum amount of land in farm use and rural economic activity, the open space requirement for residential cluster development shall be met by the residue which will retain no development rights.

### **Transportation in the Rural Environment**

The County's rural road network originally evolved serving the needs of the farming community and is not intended to serve the needs associated with the higher traffic volumes and speeds required for large residential subdivisions. At certain seasons of the year conflict can be created between residential traffic and large pieces of slow moving farm equipment. The LESA/CUP system has not effectively protected the rural road network from this type of development pressure. As such, this Plan recommends utilizing cluster developments as the preferred form of residential development within the rural areas. Limiting suburban development in the rural area helps protect agricultural land use activities.

Most of the roads in the County's rural area are paved, but tend to have narrow widths, excessive horizontal and vertical curvatures, bridge and drainage problems, and poor intersection alignments. These conditions contribute to the safety concerns associated with increasing motor vehicle traffic on the rural roads. The increased residential densities that have occurred in the rural area in the past are producing additional traffic volume and requiring more maintenance of the rural road network of predominantly narrow, two-lane paved roads with existing design issues.

### **Agriculture Tourism**

The rural areas of the County contribute to the local tourism economy in a variety of ways. Not least of these is the maintenance of attractive viewsheds to enhance the experience of visitors to battlefields, historic sites and villages. Tourism is addressed later in this Element on page 81.

The following recommendations provide action steps to foster and expand the diverse rural economy through a variety of policy, regulatory, incentive-based, and programmatic approaches that will protect the rural land, structures, and character necessary to advance the rural economy.

7. Guiding consistent communication and coordination between the local governmental entities and the regional and state transportation planning authorities;
8. Establishing effective public/private partnerships to implement the community's Vision and the Plan's recommendations;
9. Facilitating urban level activity within the Urban Growth Boundaries and Preferred Growth Areas as designated on the Future Land Use Guide;
10. Providing infrastructure improvements through mutual cooperation and support;
11. Locating public facilities and amenities either in advance of or concurrent with, the development in the designated growth areas;
12. Developing pedestrian and bikeway linkages in coordination with quality of life and recreation goals;
13. Facilitating opportunities in the Rural/Agricultural areas to encourage a robust agricultural economy, including on-site production and marketing of goods and reduced site plan standards;
14. Revitalizing and enhancing the viability of the County's villages.

### Implementation Tools

#### **Zoning, Zoning Districts, and Zoning Text Amendments**

Zoning Ordinances are established to ensure orderly and compatible land use development. Jefferson County has zoning districts that are designated and illustrated on the County Zoning Map. The official Zoning Map divides the County into a series of zoning districts and the zoning text describes the regulations for the use of land within those specified districts. Zoning is typically the primary tool used by local governments to implement various planning policies and recommendations. The Zoning Ordinance should be effective at addressing subjects such as permitted uses within specific zoning districts, lot sizes allowed, appropriate setback distances, density standards, and design controls. Zoning also conserves and protects property values by prohibiting objectionable land uses in certain districts. Modern applications of zoning have broadened to provide orderly community growth, enhance and diversify a community's tax base, maintain or achieve beauty and variety in the physical environment, accommodate complex and unique land uses and, in sum, make a community livable.

This Plan recommends zoning text amendments to provide opportunities to create or amend existing zoning districts that would better facilitate the types of activity outlined.

- An overlay district or similar mechanism could be used on a section or area to ensure development patterns are in keeping with the Plan. Such a district, if created, could include elements specific to the area that ensure it fits with the intended goals.

- Another land use tool would be the adoption of a district that requires a mixture of uses. Such a district would provide the applicant an opportunity to create a project that could result in a better development and greater flexibility in design with less regulatory barriers and the community could gain a unique development that is appropriate for its particular setting. Mixed use developments that provide dense walkable communities with New Urbanism/Smart Growth design principles should be encouraged in locations delineated on the Future Land Use Guide (see Appendix E – Design Guidelines Images).
- The Zoning Ordinance could provide incentives or density/intensity bonus for development plans that preserve key natural or historic features.
- The cluster provisions in the Zoning Ordinance should be amended to permit a greater density, while preserving a minimum of 50% of the agricultural land, instead of allowing for residential rural development to occur using the LESA/CUP system.

A key component of this Plan is that any zoning map amendments (rezoning requests) that are requested would have to be in conformance with all the recommendations created as part of this Plan. As noted in the Land Use and Growth Management Element of this Plan, the areas zoned Rural within the Urban Growth Boundaries (UGB) of Charles Town and Ranson do not have specific future land use classifications. This was done with the understanding these areas are anticipated for growth and the properties could either be annexed into the applicable municipality or rezoned using the County's zoning map amendment process. The Future Land Use Guide was created to provide an understanding of the types of activity that would be within those locations and provide other agencies, such as the WVDOH and the local water and sewer providers an ability to plan for where their limited resources need to be programmed.

### **Subdivision Regulations**

Subdivision Regulations are adopted to provide quality control for public improvements constructed by private development. Subdivision Regulations also let a local government require minimum or maximum thresholds for improvements in a subdivision and site plans, such as roads, sidewalks, bike paths, stormwater systems, sanitary sewers and open space. While zoning addresses the types and locations of various land use activities, the Subdivision Regulations address the process for receiving development approval.

This Plan encourages efficient layout and design of new and redeveloped sites. This permits greater and more intense use of the land. In some instances, standards should be established for design guidelines for new development which are discussed below.

The Subdivision Regulations should promote road, trail, and sidewalk interconnectivity between and among developments and recreation areas and parks. Active and

## Appendix D – Goals and Objectives

### Land Use and Growth Management Element (includes Housing and Intergovernmental Coordination)

**Goal #1:** Require Urban Intensity Residential and Non-Residential Development to Occur within Existing Urbanized Areas, Approved Urban Growth Boundaries, Villages, and/or the County's Identified Preferred Growth Areas.

- Objective #1:** Recognize the existing vested rights, development entitlements, and permitted density levels on properties in Jefferson County.
- Objective #2:** Require that any rezoning of properties adhere to all of the recommendations created as part of the Comprehensive Plan.
- Objective #3:** Establish a broader variety of commercial, residential, and mixed-use zoning categories appropriate to the County's needs.
- Objective #4:** Permit the creation of urban level uses (particularly residential development) within approved Urban Growth Boundaries (UGBs), Villages, or in the Preferred Growth Areas (PGAs) through rezoning that is consistent with the recommendations of this Plan.
- Objective #5:** Allow areas outside of the UGBs or PGAs to develop as rural cluster subdivisions; in accordance with existing land use rights; and/or as compatible non-residential development utilizing the Conditional Use Permit (CUP) process.
- Objective #6:** Encourage the location of new community facilities (such as schools, libraries, parks and other county facilities) and infrastructure within municipalities, UGBs, PGAs, and Villages.
- Objective #7:** Establish that new development adjacent to municipal boundaries, Villages, or within UGBs is designed and built in a way that enables connectivity to the existing street and infrastructure network or for future connectivity as development is extended to these areas.
- Objective #8:** Encourage the adaptive reuse of existing buildings and previously used sites within Jefferson County, paying particular attention to brownfield and greyfield sites.
- Objective #9:** Establish a plan to provide incentives to encourage residential developments to locate in designated growth areas (within the municipalities, UGBs, PGAs, and Villages where water and sewer services are available).

**Goal #2: Maintain and Enhance the Agricultural and Artisan Economy, Rural Land Uses, Rural Neighborhoods, and Rural Character of the Areas of the County Outside the Preferred Growth Areas.**

- Objective #1:** Review and revise the existing Jefferson County Subdivision and Land Use Regulations and site plan standards to reduce regulatory barriers to agricultural and/or artisan operations.
- Objective #2:** Review and revise local regulations to ensure that production and marketing of artisan or agricultural products can occur on-site in the Rural district; based on the size and scale of the operation and the property.
- Objective #3:** Enhance the viability of existing farmlands within Jefferson County by allowing a greater range of agricultural and/or artisan uses within existing rural areas.
- Objective #4:** Provide a variety of mechanisms to protect existing farmlands, key farm buildings, and scenic corridors within Jefferson County.
- Objective #5:** Identify methods to involve members of the agricultural community in planning and land use decisions related to rural lands within Jefferson County.
- Objective #6:** Recognize the vested rights that are present on existing properties in Jefferson County.
- Objective #7:** Protect the viability of agricultural lands and wildlife corridors by encouraging the utilization of cluster subdivisions as the preferred form of residential development within rural areas
- Objective #8:** Recognize the rights and viability of existing rural residential neighborhoods.

**Goal #3: Encourage Renewal, Redevelopment, and Limited Expansion of Villages to Allow Village-Scale Residential Development and Compatible Neighborhood Commercial Activities.**

- Objective #1:** Identify resources to enable the rehabilitation of key structures within the village areas.
- Objective #2:** Provide land use tools to encourage expansions to the village areas and to provide a continuation of village scale and design into these areas.
- Objective #3:** Utilize shared public infrastructure to allow the construction of village-scaled businesses, residential uses (including small-scale multi-family housing) and applicable community facilities within designated village areas and in potential village expansion areas.

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>
  - (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>
  - (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.
6. Notwithstanding any other provision contained in Article 5, Section 5.7D, if a property was previously subdivided under the one (1) lot per ten (10) acre provision after October 5, 1988 and before this Ordinance was amended on March 1, 2018, then the property may continue to subdivide, or finish subdividing, utilizing the property’s remaining development rights as they existed at the time(s) when the subdivision was previously processed. These vested rights may be shown on a previously approved Preliminary or Final Plat, Concept Plan, or Community Impact Statement, or otherwise contained within the property’s subdivision files within the Department of Engineering, Planning, and Zoning.<sup>34</sup>

### **Section 5.8 Residential-Light Industrial-Commercial (R-LI-C) District<sup>1</sup>**

The purpose of this district is to guide high intensity growth into the designated growth area. Light industrial uses are defined in Section 2.2. All other perceived light industrial uses shall be referred to the Jefferson County Development Authority for a recommendation on whether a use is a light industrial or heavy industrial use. The final decision on use classification shall be made by the Zoning Administrator.<sup>23</sup>

#### **A. Principal Permitted and Conditional Uses<sup>23, 27, 32</sup>**

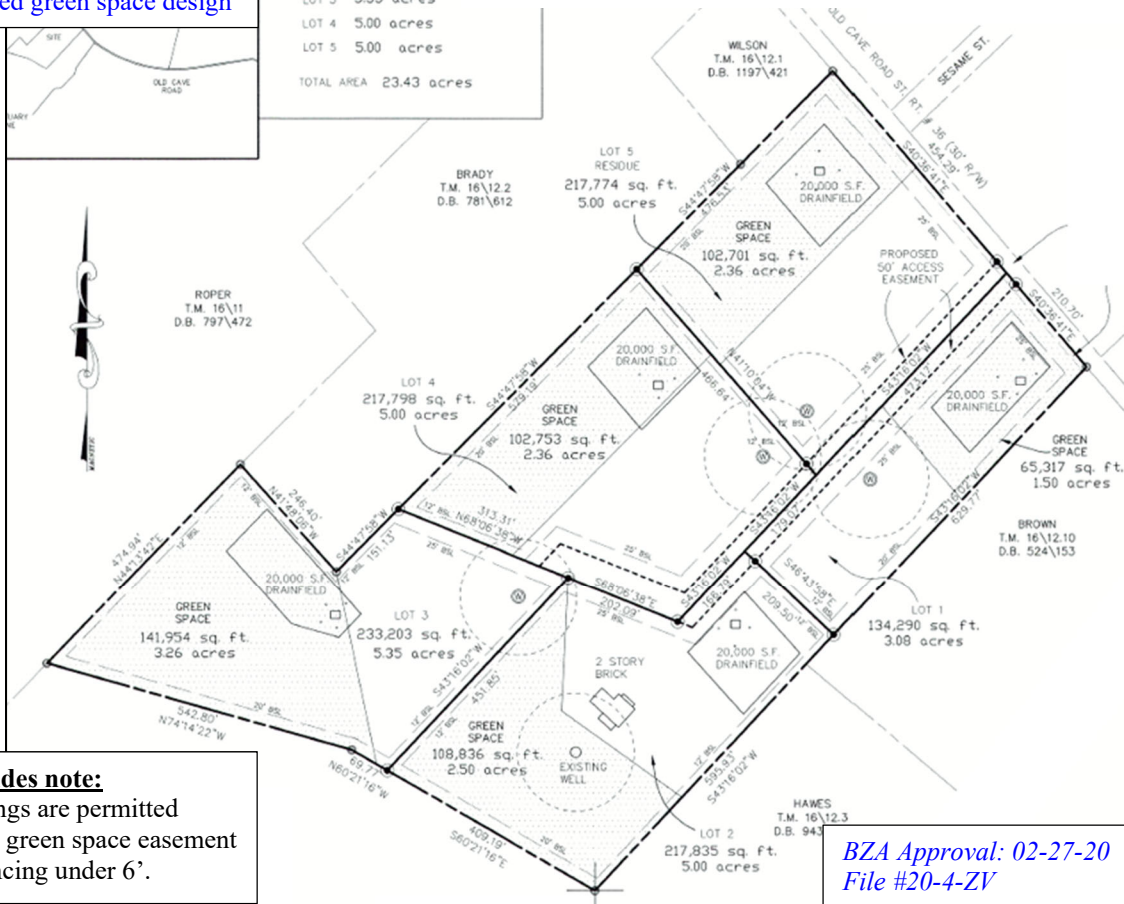
1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.<sup>27, 32</sup>
2. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall 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  
 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  
 TOTAL AREA 23.43 acres

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



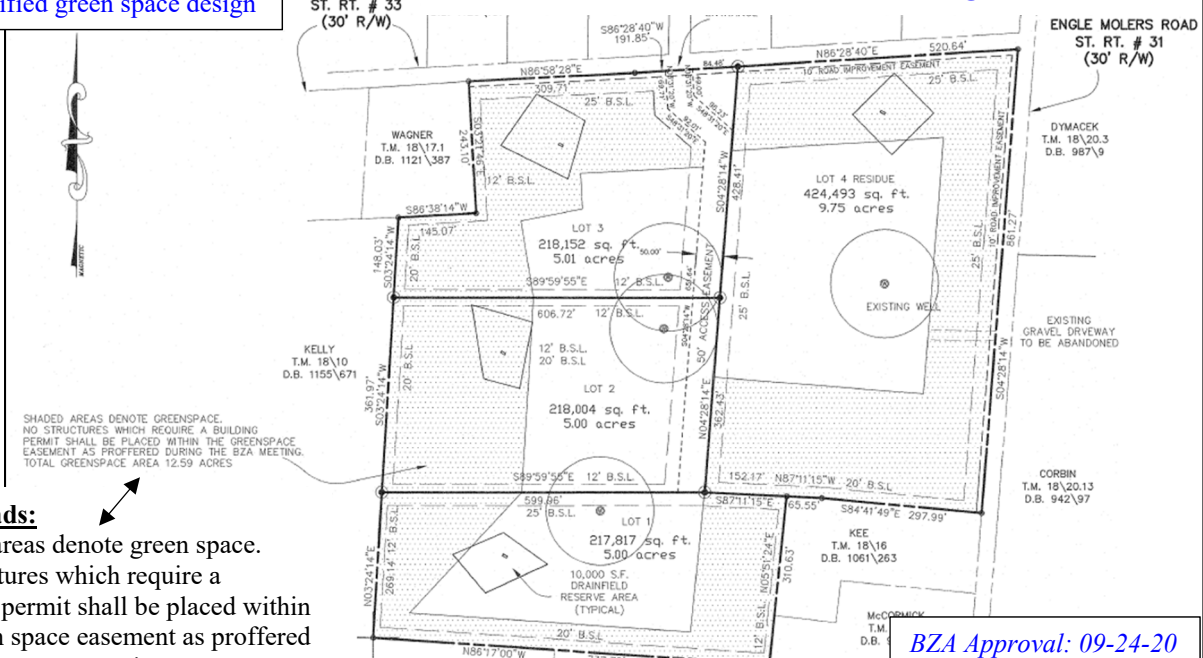
**Plat includes note:**

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*



**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*

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

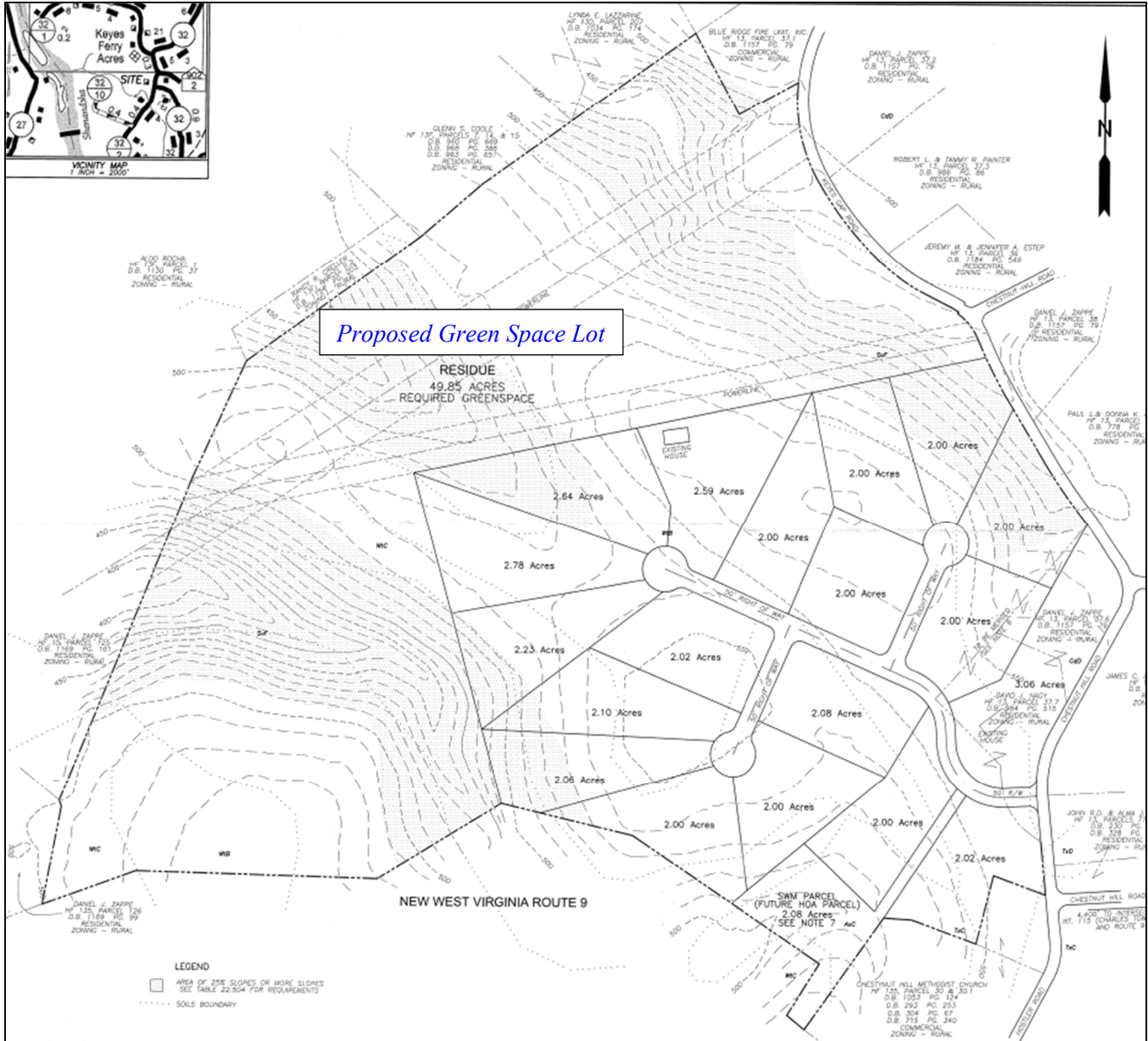


Exhibit 3: 18-Lot Cluster Development with 49.85 acre green space lot. Conceptual Design Only. Subdivision was never platted/recorded.



- G. A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months. Pursuant to Chapter 8A of the West Virginia Code as amended, a Zoning Certificate or Conditional Use Permit associated with a subdivision or land development plan - whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010 - shall remain valid until July 1, 2012, provided that the land development plan or plat received at least preliminary approval by the Planning Commission or County Commission by March 1, 2010.<sup>17, 21, 23</sup>
- H. A filing fee, in accordance with the County fee structure, shall be charged for all zoning certification.

### **Section 3.3 Enforcement**

- A. The Zoning Administrator or Staff shall promptly investigate any written complaint alleging a violation of this Ordinance and determine if a violation has occurred.<sup>17, 21</sup>
- B. As provided in §8A-1-1 et seq of the West Virginia Code, as amended, any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty (\$50.00) or more than five hundred dollars (\$500.00) per day. Each day during which any violation of this Ordinance continues shall constitute a separate offense.<sup>5, 17, 21</sup>
- C. When it appears to the Board of Zoning Appeals or the Zoning Administrator or Staff that a violation of this Ordinance has occurred, the County shall notify the responsible person by means of a written Violation Notice. The Violation Notice shall specify the nature of the violation and shall request that the violation be terminated within 15 days from the date appearing on the Notice. Failure to terminate the violation within the requested time shall be cause for the Board of Zoning Appeals or the Zoning Administrator or Staff pursuant to §8A-10-1, 2 and 3 of the West Virginia Code, as amended, to:<sup>17, 21, 23</sup>
1. Seek an injunction in the Circuit Court of Jefferson County to restrain the responsible person from continuing the violation cited or seek an injunction requiring the removal of structures or land uses from the property involved; or,
  2. Issue a warrant for the arrest of the person responsible for the violation and seek a conviction in the Circuit Court of Jefferson County.

### **Section 3.4 Boards and Commissions<sup>23, 32</sup>**

- A. Board of Zoning Appeals
1. The Board of Zoning Appeals will consist of five members to be appointed by the County Commission. Their terms of office, succession, removal, filing of vacancies, and their powers and duties shall be provided in Chapter 8A of the West Virginia Code, as amended.
  2. Meetings of the Board of Zoning Appeals shall be conducted according to the Rules of Procedure adopted by the Board of Zoning Appeals. In the event of a conflict between this Ordinance and the Rules of Procedure, the Rules of Procedure shall prevail.<sup>2</sup>
  3. The powers and duties of the Board of Zoning Appeals include but are not limited to the following:
    - a. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.<sup>32</sup>

- b. The Board of Zoning Appeals shall consider requests for variances, seasonal use permits, and special exceptions from the terms of this Ordinance.<sup>32</sup>
- c. The Board of Zoning Appeals shall have authority over the issuance or denial of a Conditional Use Permit.<sup>32</sup>

#### B. Planning Commission<sup>23</sup>

1. Membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Planning Commission and Chapter 8A of the West Virginia Code, as amended.
2. The powers and duties of the Jefferson County Planning Commission include but are not limited to the following:
  - a. Review applications for major site plans, major subdivisions, and waivers from minimum standards, pursuant to the Subdivision and Land Development Regulations;
  - b. Review requests for amendments to the County zoning map and Zoning and Land Development Ordinance;
  - c. Research and recommend to the County Commission improvements to the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations;
  - d. Make recommendations to the County Commission concerning planning and zoning issues;
  - e. Make an annual report to the County Commission concerning the operation of the Planning Commission and the status of planning within its jurisdiction;
  - f. Prepare the Jefferson County Comprehensive Plan and recommend to the County Commission for adoption or amendment.

#### C. County Commission<sup>23</sup>

1. General. The County Commission shall have all powers conferred upon it by the Constitution, the laws of the State of West Virginia, and the County Charter. With respect to development approval and amendments to this Ordinance and the County's Comprehensive Plan, the powers that the County Commission retains and shall exercise include but are not limited to the powers set out in this Section.
2. Approvals. Following a public hearing and the submittal of recommendations by Staff and the Planning Commission, the County Commission may take action on the proposed adoption of, or amendments to, the following, including text, maps, and other elements:
  - a. Comprehensive Plan
  - b. Zoning and Land Development Ordinance
  - c. Subdivision and Land Development Regulations
  - d. The Jefferson County Zoning Map
  - e. An Urban Growth Boundary in accordance with Chapter 8 of the West Virginia Code, as amended:
    - i. A boundary shall be established by the County Commission in agreement with each individual municipality regarding that municipality's boundary.
    - ii. If the County Commission and municipality cannot agree upon the location or size of the boundary, either party may file for declaratory judgment relief in the circuit court which shall submit the dispute to mediation or arbitration prior to final resolution by the circuit court.

At its first regular meeting each year, a board of zoning appeals shall elect a chairperson and vice chairperson from its membership. The vice chairperson shall have the power and authority to act as chairperson during the absence or disability of the chairperson.

#### **§8A-8-8. Governing body's duties.**

The county commission in the case of a county board of zoning appeals, and the governing body of the municipality in the case of a municipal board of zoning appeals, shall provide the board of zoning appeals with:

- (1) Suitable offices for the holding of meetings and the preservation of plans, maps, documents and accounts; and
- (2) Appropriate money to defray the reasonable expenses of the board.

#### **§8A-8-9. Powers and duties of board of zoning appeals.**

A board of zoning appeals has the following powers and duties:

- (1) Hear, review and determine appeals from an order, requirement, decision or determination made by an administrative official or board charged with the enforcement of a zoning ordinance or rule and regulation adopted pursuant thereto;
- (2) Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in the zoning ordinance;
- (3) Hear and decide conditional uses of the zoning ordinance upon which the board is required to act under the zoning ordinance;
- (4) Authorize, upon appeal in specific cases, a variance to the zoning ordinance;
- (5) Reverse, affirm or modify the order, requirement, decision or determination appealed from and have all the powers and authority of the official or board from which the appeal was taken;
- (6) Adopt rules and regulations concerning:
  - (A) The filing of appeals, including the process and forms for the appeal;
  - (B) Applications for variances and conditional uses;
  - (C) The giving of notice; and
  - (D) The conduct of hearings necessary to carry out the board's duties under the terms of this article;
- (7) Keep minutes of its proceedings;
- (8) Keep an accurate and complete audio record of all the board's proceedings and official actions and keep the audio record in a safe manner, which audio record is accessible within twenty-four hours of demand, for three years;
- (9) Record the vote on all actions taken;
- (10) Take responsibility for the custody and preservation of all papers and documents of the board. All minutes and records shall be filed in the office of the board and shall be public records;
- (11) With consent from the governing body, hire employees necessary to carry out the duties and responsibilities of the board: Provided, That the governing body sets the salaries; and
- (12) Supervise the fiscal affairs and responsibilities of the board.

## **PART II. APPEAL PROCESS TO BOARD OF ZONING APPEALS.**

#### **§8A-8-10. Appeal to board of zoning appeals.**

- (a) An appeal from any order, requirement, decision or determination made by an administrative official or board charged with the enforcement of a zoning ordinance, or rule and regulation adopted pursuant to a zoning ordinance, shall be filed with the board of zoning appeals.
- (b) The appeal shall:





# 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

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## Zoning Administrator's Report March 28, 2024 Board of Zoning Appeals Meeting

**Date of Memo: March 21, 2024**

- 1) The next regular meeting is scheduled for **April 25, 2024**
  - Deadline for submission is Friday, March 29, 2024.
- 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@jeffersoncountyv.wv.org](mailto:jjames@jeffersoncountyv.wv.org).
- 3) 2045 Comprehensive Plan Status Update
  - Final Public Input Meeting = Monday, April 13, 2024 @ 7:00 PM  
Location = Jefferson High School
- 4) Final Draft of Submission Deadline Policy for Written Comments
- 5) Zoning Certificate Activity Report

# Final Public Input Meeting

2045 Comprehensive Plan Update

Date: May 13th, 2024  
Time: 7 pm - 9 pm  
Location: Jefferson High School

Join us for a public input meeting  
and share your insights on future  
County projects!

Come and see the  
proposed Future  
Land Use Map!



For any questions you can reach us at  
[complan2045@jeffersoncountywv.org](mailto:complan2045@jeffersoncountywv.org)



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

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

Phone: 304-728-3228

March 28, 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 scheduled meeting for inclusion in their Agenda Packet. Late submissions of written comments/documents will not be accepted. Anyone who has missed the submission deadline and wishes to provide public comment is encouraged to attend the public hearing in person.

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 Jefferson County Board of Zoning Appeals

\_\_\_\_\_  
Tyler Quynn, Chair

\_\_\_\_\_  
Date





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  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

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**March 2024**  
**Zoning Certificate Activity Report**

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<b>File #</b>	<b>23-49-ZC</b>
Request:	Short Term Rental – Skyview / The Paddock
Property Owner:	Skyview Property Management, LLC / Attn: Jairo Pena
Parcel Information:	1086 Tuscawilla Dr., Charles Town, WV 25414 Parcel ID: 02011A00110000; Size: .33 ac; Zoning District: Residential Growth; Deed Book: 1300 @ Page: 729
Date of Issuance:	02/21/2024
<b>File #</b>	<b>24-5-ZC</b>
Request:	Telecommunications Monopole Tower Equipment Modifications
Property Owner:	Summit Point Automotive Research Center, LLC
Applicant:	Verizon c/o NB+C / Attn: Nicole Bennett
Parcel Information:	770 Hardesty Road, Summit Point, WV 25446 Parcel ID: 06001700020000; Size: 415.32 acres; Zoning District: Rural; Deed Book: 1096; Page: 472; Site Plan File: S10-07
Date of Issuance:	03/05/2024
<b>File #</b>	<b>24-6-ZC</b>
Request:	Manufacturing, Limited & Retail Sales, Limited
Property Owner:	KITA LLC / 1st Management Group LLC
Applicant:	The Gun Sommelier LLC / Attn: Melissa Stanley dba Two Rivers Armory, Too
Parcel Information:	Burr Industrial Park, Phase 1, Lot 44, 43 Ruland Rd, Ste. A, Kearneysville, WV Parcel ID: 02000100160015; Size: 6.24 acres; Zoning District: Industrial Commercial; Deed Book: 1211; Page: 505; Site Plan File #S06-06
Date of Issuance:	02/16/2024
<b>File #</b>	<b>24-7-ZC</b>
Request:	Accessory Dwelling Unit: In-Law Suite
Property Owner:	Pamela Mellott
Applicant:	Variety Construction / Attn: William Walls
Parcel Information:	147 Possum Trot Lane, Kearneysville, WV 25430 Parcel ID: 07000600010029; Size: 5.68 acres; Zoning District: Rural; Deed Book: 1266; Page: 415; Plat Book: 25; Page: 620
Date of Issuance:	02/26/2024
<b>File #</b>	<b>24-8-ZC</b>
Request:	Nonconforming Use: Shopping Center, Change in Tenant: Dream Driven Properties – Real Estate Agency
Property Owner:	SBABA, LLC / Attn: Praveen Khurana
Applicant:	Dream Driven Properties
Parcel Information:	15 Tuscawilla Drive, Charles Town, WV 25414 Parcel ID: 02011D00070000; Size: 1.03 acres; Zoning District: Residential Growth Deed Book: 967 @ Page: 149 / Final Plat: Deed Book: 574 @ Page: 74 (1987)
Date of Issuance:	02/27/2024

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Zoning Certificate Activity Report

May 2023

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<b>File #</b>	<b>24-9-ZC</b>
Request:	Change in Tenant – Shopping Center / Nail Salon
Property Owner:	Maddex Square Investors, LLC
Applicant:	Rose Nails / Attn: Tin Le
Parcel Information:	Maddex Square Shopping Center 91 Maddex Square Drive, Shepherdstown, WV Parcel ID: 09008C00650000; Size: 5.94 acres; Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1242; Page: 278; See PC File: 89-32
Date of Issuance:	03/08/2024

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