

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.