

Minutes
Jefferson County Board of Zoning Appeals

- 1 Meeting Date: March 28, 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: Matthew McKinney, Vice Chair; Jacob Harris, Secretary; Steve Guier,
6 and David Wiegand were present in person. Tyler Quynn, Chair, was
7 present virtually.
- 8 Board Members Absent: Mikala Shremshock, Alternate
- 9 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator;
10 and Jennilee Hartman, Zoning Clerk
- 11 All requests were pursuant to the Jefferson County Zoning and Land Development Ordinance.
- 12 Mr. McKinney presided over the meeting as Mr. Quynn was unable to attend the meeting in-person
13 and attended the meeting virtually.
- 14 Mr. Harris moved to call the meeting to order at 2:00 pm. Mr. McKinney called for a vote, which
15 carried unanimously.
- 16 Mr. McKinney reviewed meeting protocol for those in attendance.
- 17 Ms. Hartman swore in members of the public who indicated they would be providing testimony.
- 18 **Approval of Minutes: February 22, 2024**
- 19 Mr. Quynn requested that staff verify the information regarding property ownership related to
20 Line 34 on Page 1. Ms. Beaulieu noted that staff would review the record and if a change were
21 necessary that staff would bring the minutes back to the Board.
- 22 Mr. Harris moved to approve the minutes contingent upon staff reviewing the record as noted.
23 Mr. McKinney called for a vote, which carried unanimously.
- 24 **Item #1 File #: 24-8-ZV**
- 25 Request: Variance request from Section 9.7 to reduce the side setback along the eastern property
26 line for an accessory structure (shed).
- 27 Owner: Jeffrey Black
- 28 Parcel Info: Walnut Grove Subdivision, Section E, Lot 8, 353 Marie Drive, Charles Town, WV
29 Parcel ID: 02004C00790000; Size: .28 acres; Zoning District: Rural
- 30 Mr. Jeffrey Black, property owner, was present to address the Board. Ms. Beaulieu provided an
31 overview of her staff report to the Board.
- 32 Mr. Black provided a copy of the letter of support that was included in Board's agenda packet.
33 Mr. Black explained the nature of the request to the Board. Mr. Black verified that he would not be
34 operating a business from the structure.
- 35 Mr. McKinney opened the public comment portion of the hearing.
- 36 Ms. Christine Marshall, County resident, asked if the property owner had a survey in order to verify
37 the actual property line.
- 38 Mr. McKinney closed the public comment portion of the hearing.
- 39 In rebuttal, Mr. Black confirmed that the subject property line had been surveyed.
- 40 Mr. Guier moved to approve the variance request as presented with the condition that the applicant
41 is bound by their testimony. Mr. Harris seconded the motion, which carried unanimously.

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

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

5 Owner: Joshua and Amanda Madar

6 Parcel Info: Edwin & Stephanie Simpson Minor Subdivision, Lot 1, 74 Saddlebred Lane,
7 Kearneysville, WV

8 Parcel ID: 07000500120023; Size: 1.31 acres; Zoning District: Rural

9 Ms. Amanda Madar, property owner, was present to address the Board. Ms. Beaulieu provided an
10 overview of her staff report to the Board.

11 Ms. Madar explained the nature of the request to the Board. Ms. Madar verified that the structure
12 would be utilized for personal storage of lawn equipment and that they would not be operating a
13 business from the structure.

14 Mr. McKinney opened the public comment portion of the hearing. No members of the public
15 provided testimony. Mr. McKinney closed the public comment portion of the hearing.

16 Mr. Guier moved to approve the variance request as presented with the condition that the applicant
17 is bound by their testimony. Mr. Harris seconded the motion, which carried unanimously.

18 Mr. McKinney called for Item #4 to present.

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

20 Request: Variance request from Section 5.7B of the Zoning Ordinance (amended 05/01/03) to
21 reduce the front setback along the northern property line for a greenhouse; and Section
22 9.6C to allow an accessory structure within the required front yard.

23 Parcel Info: James and Julia Farrell, Property Owner

24 Potomac Ridge Subdivision, Lot 5, 312 Potomac Ridge Ln, Shepherdstown, WV

25 Parcel ID: 09001000090015; Size: 3.17 ac; Zoning District: Rural

26 Ms. Julia Farrell, property owner, was present to address the Board. Ms. Beaulieu provided an
27 overview of her staff report to the Board.

28 Ms. Farrell explained the nature of the request to the Board. Ms. Farrell verified that they would not
29 be operating a business from the structure.

30 Mr. McKinney opened the public comment portion of the hearing. No members of the public
31 provided testimony. Mr. McKinney closed the public comment portion of the hearing.

32 Mr. Harris moved to approve the variance request as presented with the condition that the applicant
33 is bound by their testimony. Mr. Guier seconded the motion, which carried unanimously.

34 Mr. McKinney called for Item #3 to present.

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

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

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

40 Owner: Beallair Community Conservancy, Inc.

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

1 Mr. Todd Abe, representative with Piedmont Design Group / Beallair Homes, LLC, was present to
2 address the Board. Ms. Beaulieu provided an overview of her staff report for each request to the
3 Board. Ms. Beaulieu noted that the current site development standards do not differentiate between
4 a private community pool versus a commercial/public pool. As such, some of the requirements
5 pertaining to landscaping and parking are not conducive to a community design.

6 Mr. Abe explained the nature of each request to the Board. Mr. Abe argued that as the overall
7 project is over 20-years old, that it is challenging to meet the current site development standards as
8 they are written today. Mr. Abe concurred with Ms. Beaulieu's assessment of the current
9 regulations.

10 Mr. McKinney opened the public comment portion of the hearing.

11 Ms. Jackie Milliron, County resident, stated that trees could be planted in a stormwater management
12 area.

13 Mr. McKinney closed the public comment portion of the hearing.

14 In rebuttal, Mr. Abe noted that the existing community garden and trees interior to the subject
15 parcel would be retained.

16 Mr. Harris moved to approve variance request #24-10-ZV as presented with the following conditions:

- 17 1. The applicant is bound by their testimony; and,
- 18 2. The applicant shall retain the existing gardens and proposed greenspace areas as shown on
19 the variance sketch and sheet 6 of the site plan (File #23-10-SP – Pending Review).

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

21 Mr. Guier moved to approve variance request #24-11-ZV as presented with the following conditions:

- 22 1. The applicant is bound by their testimony; and,
- 23 2. The applicant shall process the site plan.

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

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

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

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

34 Parcel Info: Mark D. Stolipher, Property Owner

35 261 Berry Hill Farm Ln, Summit Point, WV 25446

36 Parcel ID: 06001900070000; Parcel/Project Size: 150.31 ac; Zoning District: Rural

37 Parcel Info: Mark D. Stolipher, Property Owner

38 2998 Withers Larue Rd, Summit Point, WV 25446

39 Parcel ID: 06001900080004; Parcel/Project Size: 146.84 ac; Zoning District: Rural

1 Parcel Info: Mark D. Stolipher, Property Owner
2 322 Scooter Ln, Charles Town, WV 25414
3 Parcel ID: 06001900160000; Parcel/Project Size: 50 ac; Zoning District: Rural

4 Parcel Info: Michael Paul Chapman, Trustees, Property Owner
5 651 & 653 Franklinton Rd, Summit Point, WV 25446
6 Parcel ID: 06001900060000; Parcel/Project Size: 154.16 ac; Zoning District: Rural

7 Ms. Beaulieu noted that this item has been postponed until April 25, 2024.

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

10 Mr. Harris moved to accept the letter as drafted by staff and to forward it to the Planning
11 Commission for their consideration. Mr. Wiegand seconded the motion, which carried
12 unanimously.

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

15 Mr. Harris moved to table this Item until the next meeting in order to review it with legal counsel.
16 Mr. Wiegand seconded the motion, which carried unanimously.

17 **Zoning Administrator Report**

18 a. Final Draft of Submission Deadline Policy for Written Comments

19 Mr. Wiegand moved to approve the Policy as written. Mr. Harris seconded the motion,
20 which carried unanimously.

21 b. Monthly Zoning Certificate Activity Report

22 The Activity Report was included in the packet.

23 Ms. Beaulieu stated the next meeting is scheduled for April 25, 2024.

24 **Legal Update**

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

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

28 2. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence /
29 23-13-ZV) Gallagher c JCBZA and Timothy Williamson

30 3. Jefferson County Circuit Court Case # CC-19-2024-C-14 (RE: Jeremy Martin, Tiffany
31 Martin and Earthworx General Contracting Services, LLC v. Jefferson County Board of
32 Zoning Appeals)

33 No action was taken as legal counsel was not present for this meeting.

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

35 **Meeting: February 22, 2024**

36 1. Variance request from Section 9.7. Owner: Guy Chappuis. File: 23-36-ZV.

- 1 2. Request by Double Tap Arms, LLC for a Conditional Use Permit to operate a firearms
2 business from an existing dwelling unit (proposed land use designation as listed in
3 Appendix C of the Zoning Ordinance: Retail Sales and Service, General); and, a
4 variance request from Section 4.6B. Owner: William & Kristen McClain.
5 Files: 24-1-CUP and 24-5-ZV.

- 6 3. Request for a Conditional Use Permit to operate an assisted living facility from an
7 existing dwelling unit (proposed land use designation as listed in Appendix C of the
8 Zoning Ordinance: Nursing or Retirement Home). Owner: Mark and Jennifer Baldwin.
9 Applicant: Blue Iris LLC / Attn: Sharon Hallinan, Manager & Songbird House LLC /
10 Attn: Beata Scott. File: 24-2-CUP.

- 11 4. Variance request from App. B and Sec. 4.11. Owner: DALB, Inc. / Ken Steeley.
12 File: 24-7-ZV.

- 13 Ms. Beaulieu noted the Findings would be provided to the Chair for his review and
14 signature.

- 15 Mr. Harris moved to adjourn the meeting at 3:24 pm. Mr. McKinney called for a vote, which carried
16 unanimously.