



**Jefferson County**  
**Board of Zoning Appeals Agenda**  
**Thursday, June 27, 2024 at 2:00 p.m.**

Members  
Tyler Quynn, Chair  
Matthew McKinney, Vice Chair  
Jacob Harris, Secretary  
David Wiegand  
Stephen Guier  
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: 830 1313 0733  
ZOOM Meeting Link: <https://us02web.zoom.us/j/83013130733>  
Phone Option (Dial by Location): 301-715-8592

**Note:** *The County does not transcribe meeting proceedings. Any party desiring a meeting transcript is responsible for providing a stenographer at their own expense.*

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

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**Approval of Minutes: April 25, 2024**

**Public Hearing – Administer Oath**

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**Item #1      File #: 24-16-ZV**  
Request: Variance from Section 5.4B of the Zoning Ordinance, amended 05/01/03 to reduce the rear setback along the western property line for a deck.

Parcel Info: Frank and Elizabeth Casaleno, Property Owners  
Demory Farm Subdivision, Lot 30, 214 Killian Lane, Charles Town, WV  
Parcel ID: 02009B00300000; Size: .32 acres; Zoning District: Residential Growth

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**Item #2      File #: 24-17-ZV**  
Request: Variance from Appendix A to reduce the side setback along the eastern property line for a deck.

Parcel Info: Thomas and Ann Morgan, Property Owner  
Beallair Subdivision, Lot 303, 20 Shenandoah Crossing Drive, Charles Town, WV  
Parcel ID: 04010A03030000; Size: .10 acres; Zoning District: Residential Growth

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**Item #3      File #: 24-18-ZV**  
Request: Variance from Section 9.7 to reduce the front setback along Natalie Lane for a porch/deck.

Parcel Info: Jeffrey & Alita Kite, Property Owner  
Glen Haven Subdivision, Lot 16, 655 Mason Drive, Harpers Ferry, WV  
Parcel ID: 04003D00610000; Size: .30 acres; Zoning District: Rural

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**Item #4      File #: 24-19-ZV**  
Request: Variance from Section 4.11 and Appendix B to eliminate the landscaping requirements, the parking/drive aisle setbacks, and the building setbacks along the internal lot line to allow for the expansion of the existing Devil's Due Distillery facility without having to consolidate into a single lot.

Applicant: Devil's Due Distillery / Attn: Wylie McDade  
Parcel Info: Shenandoah Valley Holdings LLC, Property Owner  
Burr Business Park, 315 James Burr Blvd, Kearneysville, WV 25430  
Lot # 32 - Parcel ID: 02000101320000; Size: 2.7 acres; and  
Lot #33 - Parcel ID 02000101330000; Size: 2.83 acres;  
Zoning District: Industrial Commercial

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**Item #5 File #: 24-20-ZV**

Request: Variance from Appendix A to reduce the front setback along a proposed access easement along the southern property line for an existing detached accessory structure; and Section 9.6C to allow an accessory structure within the required front yard.

Parcel Info: Frank and Diane Hardy, Property Owner  
Katherine Chesbro Minor Subdivision, Lot A, 43 American Pride Lane, Kearneysville, WV  
Parcel ID: 07001300030014; Size: 5 ac; Zoning District: Rural

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**Item #6 File #: 24-21-ZV**

Request: Variance from Appendix A to reduce the front setback along a platted access easement along the western property line for an existing shed and lean-to, and a proposed pool; and Section 9.6C to allow an accessory structure within the required front yard.

Parcel Info: Westley Jenkins & Rebekah Walsh-Jenkins, Property Owner  
William MaCoughtry Minor Subdivision, Lot 6, 289 MaCoughtry Dr., Kearneysville, WV  
Parcel ID: 07002400040001; Size: 3.77 Ac; Zoning District: Rural

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**Item #7 File #: 24-22-ZV**

Request: Variance from Appendix A to reduce the required setbacks in order to allow three existing accessory structures to remain in their current locations for a proposed minor subdivision.

Applicant: Lane Donley

Parcel Info: Samuel J Donley Jr, Property Owner  
4368 Engle Molers Rd, Harpers Ferry, WV 25425  
Parcel ID: 09001900040000; Size: 97.3 acres; Zoning District: Rural

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**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 (continued from 03/28/24 meeting).

**Zoning Administrator Report**

- a. 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: March 28, 2024**

1. Variance request from Section 9.7. Owner: Jeffrey Black. File: 24-8-ZV.
2. Variance request from Section 5.7B. Owner: Joshua Madar. File: 24-9-ZV.

3. Variance request from Section 4.11A and Appendix B (File 24-10-ZV); and, Variance request from Appendix B (File 24-11-ZV). Owner: Beallair Community Conservancy, Inc. Applicant: Piedmont Design Group.

**Meeting: April 25, 2024**

1. Request for a Special Exception Permit to allow a second Accessory Dwelling Unit for a family member in accordance with Section 8.15. Owner: Linda Shirley, Et Al. File: 24-1-SE.
2. Variance from Section 9.6C. Owners: Debra and Thomas Traywick. File: 24-13-ZV.
3. Variance from Section 4.11 and Appendix B. Owner: Grace Baptist Church. File: 24-14-ZV.



## Draft Minutes

### Jefferson County Board of Zoning Appeals

- 1 Meeting Date: April 25, 2024  
2 Meeting Location: County Commission Meeting Room located in the lower level  
3 of the Charles Town Library (entrance on Samuel St.)  
4 200 East Washington Street, Charles Town, WV 25414  
5 Board Members Present: Tyler Quynn, Chair; Matthew McKinney, Vice Chair; Jacob Harris,  
6 Secretary; and Steve Guier were present in person.  
7 Board Members Absent: David Wiegand, and Mikala Shremshock, Alternate  
8 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator;  
9 and Jennilee Hartman, Zoning Clerk

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

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

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

#### 14 **Approval of Minutes: March 28, 2024**

15 Mr. McKinney moved to approve the minutes as presented, which carried unanimously.

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

#### 17 **Item #1 File #: 24-4-CUP – Postponed to May 23, 2024 (from March 28, 2024)**

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

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

26 Parcel Info: Mark D. Stolipher, Property Owner

27 261 Berry Hill Farm Ln, Summit Point, WV 25446

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

29 Parcel Info: Mark D. Stolipher, Property Owner

30 2998 Withers Larue Rd, Summit Point, WV 25446

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

32 Parcel Info: Mark D. Stolipher, Property Owner

33 322 Scooter Ln, Charles Town, WV 25414

34 Parcel ID: 06001900160000; Parcel/Project Size: 50 ac; Zoning District: Rural

35 Parcel Info: Michael Paul Chapman, Trustees, Property Owner

36 651 & 653 Franklinton Rd, Summit Point, WV 25446

37 Parcel ID: 06001900060000; Parcel/Project Size: 154.16 ac; Zoning District: Rural

38 Mr. Quynn noted that this item had been postponed.

39 Mr. Quynn called for the applicant listed for Item #4 to present first.

**1 Item #4 File #: 24-14-ZV**

2 Request: Variance from Section 4.11 and Appendix B to eliminate the required landscape buffer  
3 for a proposed modular classroom to be located on an existing church property; and to  
4 reduce the required setback along the western property line.

5 Parcel Info: Grace Baptist Church, Property Owner  
6 4272 Charles Town Rd, Kearneysville, WV  
7 Parcel ID: 07000200020006; Size: 3.91 ac; Zoning District: Rural

8 Mr. Craig Bush, Pastor for Grace Baptist Church, was present to address the Board. Ms. Beaulieu  
9 provided a brief history of the subject parcel and an overview of her staff report to the Board.

10 Pastor Bush explained the nature of the request to the Board noting that the required landscaping  
11 would be installed at the completion of Phase II of the approved Grace Baptist Church [File S17-03].

12 Pastor Bush provided a letter of support from the neighboring property owner, Ronald Slonaker.

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

14 Mr. Anthony Aaron and Ms. Jackie Shadle, church members, spoke in favor of the request.

15 Ms. Christine Marshall, county resident, asked a question about the application.

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

17 Mr. Harris moved to approve variance request #24-14-ZV with the condition that the applicant is  
18 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

**19 Item #2 File #: 24-1-SE**

20 Request: Request for a Special Exception Permit to allow a second Accessory Dwelling Unit for  
21 a family member in accordance with Section 8.15.

22 Parcel Info: Linda Shirley, Et Al, Property Owners  
23 4529 Middleway Pike, Kearneysville WV  
24 Parcel ID: 07001900160004; Size: 5.28 ac; Zoning District: Rural

25 Ms. Amy Rose, property owner, was present to address the Board. Ms. Beaulieu provided an  
26 overview of her staff report to the Board.

27 Ms. Rose explained the nature of the request to the Board and confirmed that the property had been  
28 posted. Ms. Rose stated that she has been working with the Jefferson County Health Department  
29 and is aware of their processing requirements.

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

31 Mr. Thomas Traywick, county resident, spoke in favor of the request.

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

33 Mr. McKinney moved to approve the request (#24-1-SE) with the condition that the applicant is  
34 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

**35 Item #3 File #: 24-13-ZV**

36 Request: Variance from Section 9.6C to allow an accessory structure (detached garage) within  
37 the required front yard; and Section 9.7 to reduce the front setback along the southern  
38 property line for a detached garage.

39 Owner: Debra and Thomas Traywick

1 Parcel Info: Avon Bend Subdivision, Sec. 23D, Lot 2331, 647 Avon Bend Rd, Charles Town, WV  
2 Parcel ID: 06009H00110000; Size: .87 ac; Zoning District: Rural

3 Mr. Thomas Traywick, property owner, was present to address the Board. Ms. Beaulieu provided an  
4 overview of her staff report to the Board.

5 Mr. Traywick stated that he hoped to erect the proposed garage on his adjoining lot (Parcel 12).

6 Mr. Traywick explained the purpose of the request is to keep the proposed garage out of the delineated  
7 floodway.

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

9 Ms. Christine Marshall, county resident, had a question about the floodplain regulations. Ms. Beaulieu  
10 advised that any questions pertaining to the floodplain ordinance should be directed to the Floodplain  
11 Ordinance Manager and that the Board's action would not supersede floodplain requirements.

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

13 Mr. McKinney moved to approve variance request #24-13-ZV as presented with the following  
14 conditions:

- 15 1. The applicant shall obtain the necessary permits; and
- 16 2. The applicant is bound by their testimony.

17 Mr. Quynn added that the request meets all of the criteria for a variance. Mr. Quynn called for a  
18 vote, which carried unanimously.

19 **Discussion and Possible Action:** Request to include language from WV State Code 8A-8-9 and  
20 Section 3.4A of the Zoning Ordinance into the Agenda Packet (continued from 03/28/24 meeting).

21 Mr. Harris stated that he believed including the text from WV State Code and the Zoning Ordinance  
22 as it relates to the Board's duties would help the public better understand their role in government.

23 Mr. McKinney moved to include the relevant language from WV State Code and the Zoning  
24 Ordinance into each Agenda Packet with the condition that it is evaluated by the Board's legal  
25 counsel.

## 26 **Zoning Administrator Report**

27 a. Update from 04/09/24 Planning Commission Meeting RE: letter from BZA requesting PC  
28 review Section 5.7D.2 of the Zoning Ordinance (Cluster Subdivisions).

29 Ms. Beaulieu provided the Board with an update on this item noting the Planning  
30 Commission stated that no changes should be made to the Zoning Ordinance until after the  
31 Comprehensive Plan has been updated.

32 b. Ms. Beaulieu stated that the next Public Input meeting related to the Comprehensive Plan  
33 update is May 13, 2024 at 7:00 pm

34 c. Monthly Zoning Certificate Activity Report.

35 The Report was included in the Agenda packet.

## 36 **Legal Update**

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

- 1 1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy  
2 Facility / File 22-9-CUP) Rockwell v. JCBZA
- 3 2. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence /  
4 23-13-ZV) Gallagher c JCBZA and Timothy Williamson
- 5 3. Jefferson County Circuit Court Case # CC-19-2024-C-14 (RE: Jeremy Martin, Tiffany  
6 Martin and Earthworx General Contracting Services, LLC v. Jefferson County Board of  
7 Zoning Appeals).

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

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

10 **Meeting: March 28, 2024**

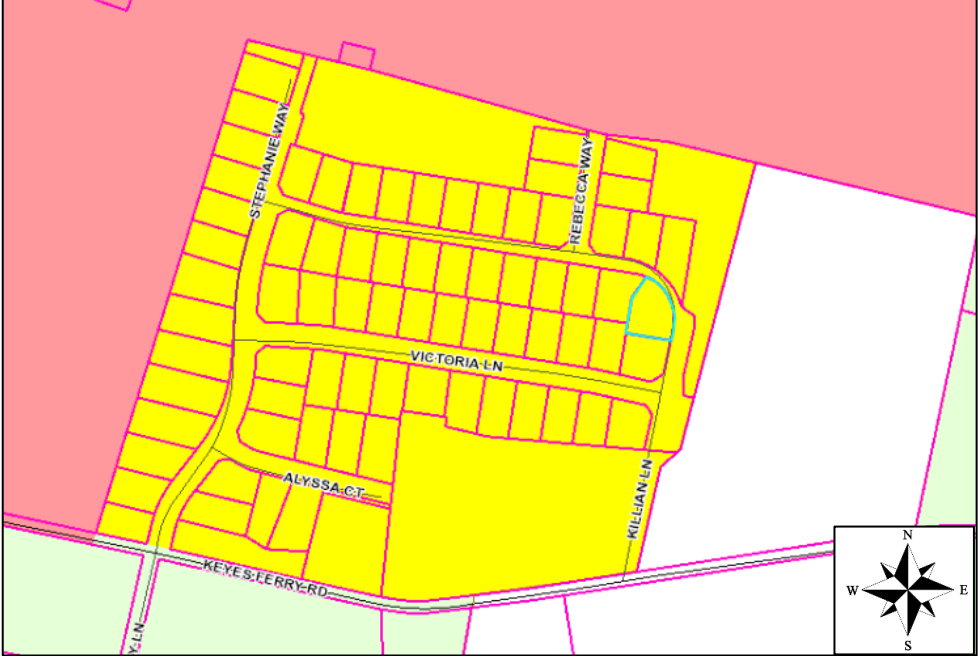
- 11 1. Variance request from Section 9.7. Owner: Jeffrey Black. File: 24-8-ZV.
- 12 2. Variance request from Section 5.7B. Owner: Joshua Madar. File: 24-9-ZV.
- 13 3. Variance request from Section 4.11A and Appendix B (File 24-10-ZV); and,  
14 Variance request from Appendix B (File 24-11-ZV). Owner: Beallair Community  
15 Conservancy, Inc. Applicant: Piedmont Design Group.

16 Ms. Beaulieu stated she did not have a copy of the draft Findings for the Chair's review.

17 Mr. Guier moved to adjourn the meeting at 3:02 pm. Mr. Quynn called for a vote, which carried  
18 unanimously.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**24-16-ZV Casaleno Variance Request**

Item #1 Variance request from Section 5.4B of the Zoning Ordinance (as amended 05/01/03), to reduce the rear setback along the western property line from 20' to 13' for a 12' x 16' deck.

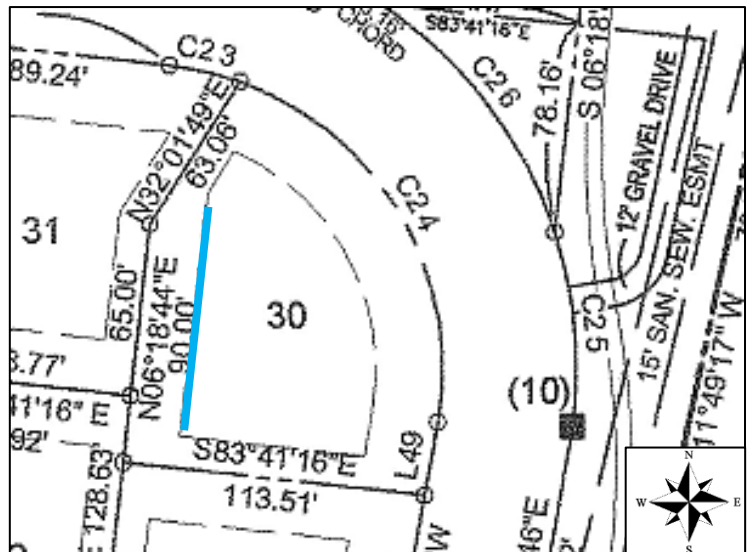
Owner/Applicant:	Frank and Elizabeth Casaleno
Parcel Information and Zoning District:	Demory Farm Subdivision, Lot 30, 214 Killian, Charles Town, WV Parcel ID: 02009B00300000; Size: .32 acres; Zoning District: Residential Growth
	
History:	03/11/05: Demory Farm Subdivision, recorded in PB 21, PG 79 (File #04-17)
Waivers/Variances:	None
Approved Activity:	Single Family Residence
Site Visit Conducted:	Site visit not conducted

**Staff Overview**

The subject parcel is Lot 30 of the Demory Farm Subdivision. The required setbacks are 25' Front; 12' Side; and **20' Rear**.

The western property line was designated as the rear property line when the subdivision was platted. The applicant is requesting to reduce the 20' setback requirement to 13' to allow for the construction of a 12' x 16' deck.

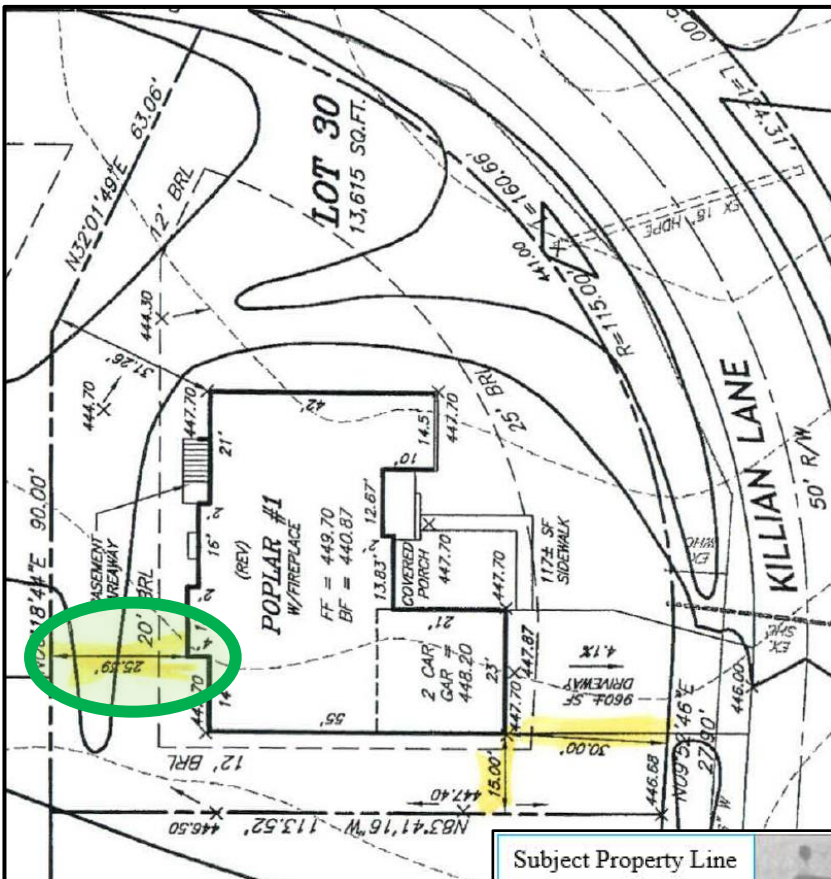
**Note:** While the application cites a reduction to 15', staff advised that based on a house location survey that was completed in 2008, the setback may actually need to be reduced to 13' to accommodate the proposed deck (see exhibit on pg 2).



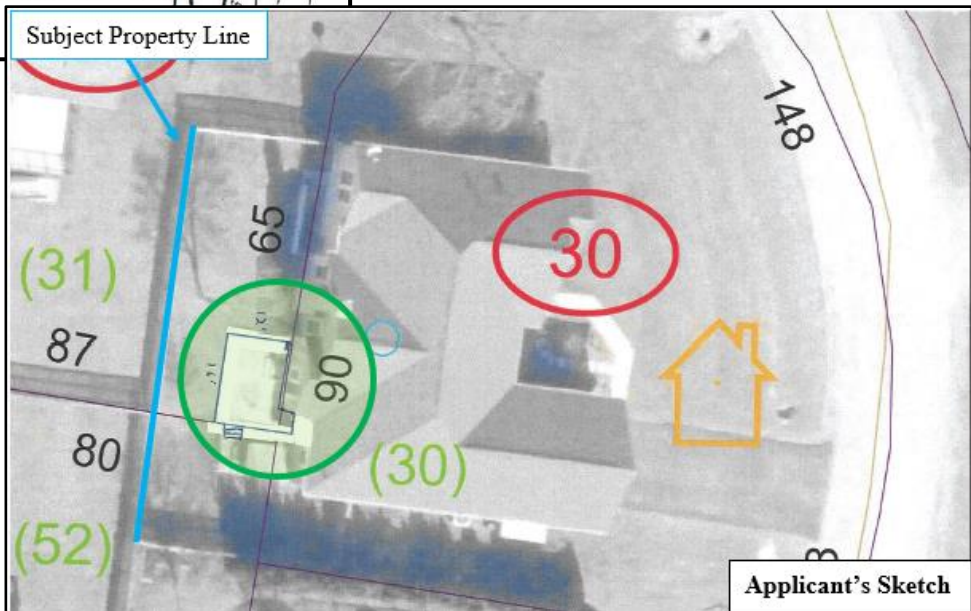
Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**24-16-ZV Casaleno Variance Request**

The purpose of a rear setback requirement 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.

The property contains a fence around the backyard. The proposed deck would be located within the fenced in area. The applicant represented that the Homeowner's Association approved the location and provided a letter of support from the adjoining property owners.



**Left Image:** Excerpt of house location survey from Building Permit File #08-657. Reflects that house is 25.39' from the rear property line.



**Applicant's Sketch**

Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**24-16-ZV Casaleno 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 conditions of approval were identified.

**Section of Ordinance to be Considered:**

**Zoning Ordinance, as amended 05/01/03**

**Section 5.4b Residential Growth District Height and Yard Requirements**

<u>Development Type</u>	<u>Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)</u>	<u>Required Yards</u>	<u>Maximum Building Height*</u>
1. Single family detached dwelling	6,000 sq. ft. ADU**		
Public/Central water and sewer	10,000 sq. ft. MLA	25 ft. front	40 ft.
Public/Central water or sewer	20,000 sq. ft. MLA	12 ft. side	
No Public/Central water or sewer	40,000. Sq. ft. MLA	20 ft. rear	





**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: 24-16-ZV  
 Staff Initials: gt  
 Meeting Date: 06-27-24  
 Fees Paid (\$100 or \$150): 100

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: FRANK + ELIZABETH CASALENO  
 Mailing Address: 214 KILLIAN LN CHARLESTOWN, WV 25414  
 Phone Number: 301-580-9744 Email: FCBEARKODAS@gmail.com

**Applicant Contact Information**

Name: FRANK + ELIZABETH CASALENO  
 Mailing Address: 214 KILLIAN LN CHARLESTOWN, WV 25414  
 Phone Number: 301-580-9744 Email: FCBEARKODAS@gmail.com

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

Name: N/A  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 214 KILLIAN LN  
 City: CHARLESTOWN State: WV Zip Code: 25414  
 Tax District: CHARLESTOWN Map No: 0009B Parcel No: 0030  
 Parcel Size: 0.31 Deed Book: 1238 1303 Page No: 666 681 gt

**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"/>	
<p align="center"><b>RECEIVED</b></p> <p align="center"><b>MAY 16 2024</b></p> <p align="center"><b>JEFFERSON COUNTY PLANNING ZONING &amp; ENGINEERING</b></p>			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"/>

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. 5.4B

Briefly describe the nature of the variance request:  
DECK DOES NOT meet 20' REAR SETBACK

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

Front Setback  Side Setback  Rear Setback  Reduction From 20' to 15'

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:

NOT A HIGH DECK AND HAVE APPROVAL FROM HOA AND THE NEIGHBOR BEHIND US.

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?

LAY OUT OF THE PROPERTY IS SUCH THAT THE SHORTEST PART OF THE YARD IS RIGHT WHERE WE NEED THE DECK TO BE PLACED

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

DECK WILL BE UP TO THE BACK DOOR AND ALLOW ACCESS RIGHT TO THE DECK. Only having a 15' setback will provide a reasonable size for the deck.

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

WE FEEL THAT WE HAVE ENOUGH SETBACK AND WILL NOT INTERFERE WITH OUR NEIGHBORS FROM WHICH WE HAVE OBTAINED APPROVAL

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.

Frank P. Curale 5-15-24  
Signature of Property Owner Date

Elizabeth Casale 5/15/24  
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

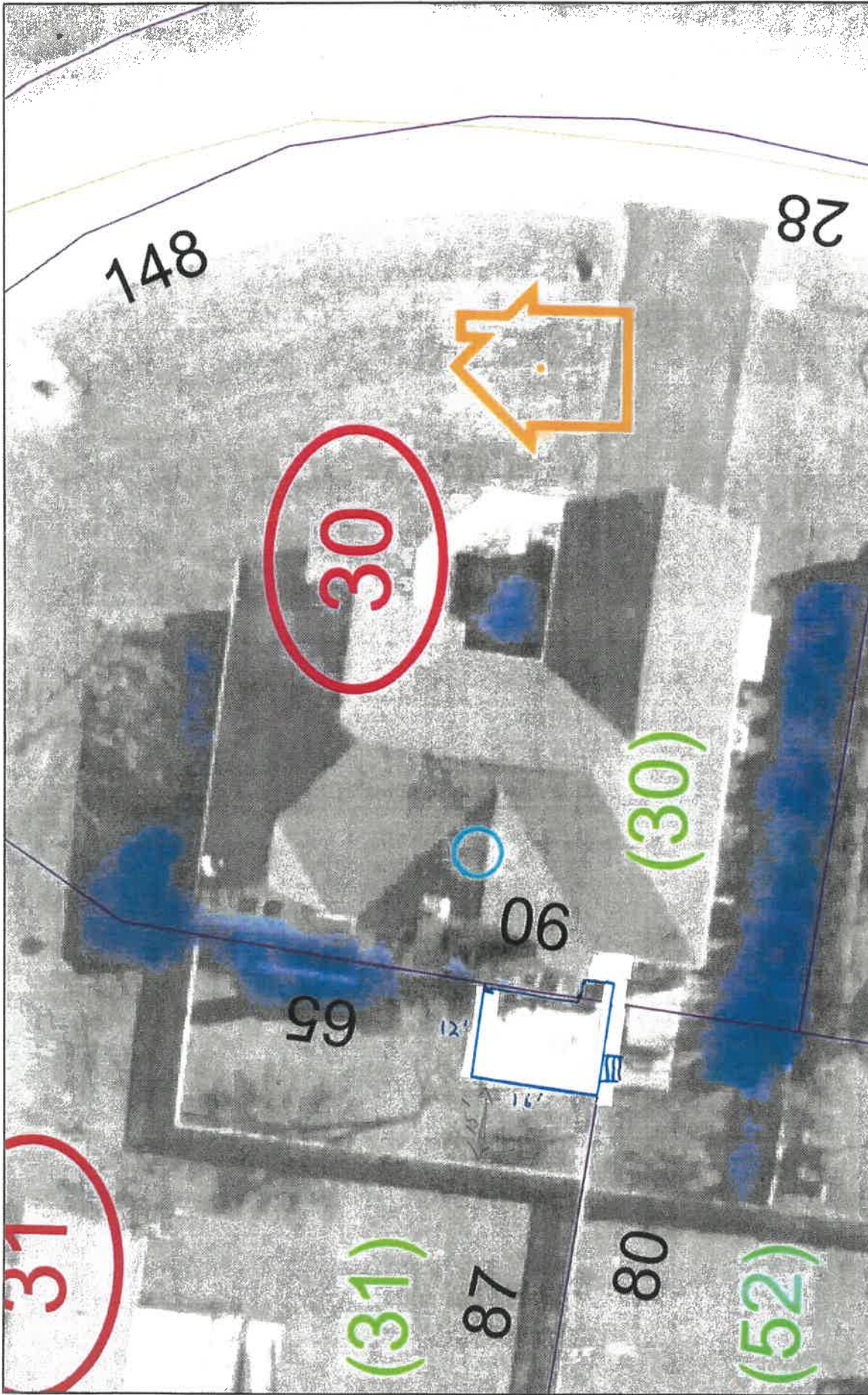
Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

06-27-24  
Date of Public Hearing

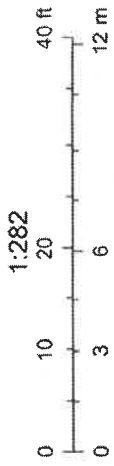
06-12-24  
Advertising Date

06-12-24  
Placard Posting Date

Viewer Map



12'x16' Compos Deck  
28" Elevatic Vinyl Deck  
Top Railin White PVC wrap + Riser



Me Copyright 2014

March 29, 2024

# DEMORY FARM ARCHITECTURAL IMPROVEMENT REQUEST FORM

Name of Applicant: Frank Casaleno Lot Number 30

Address: 214 Killian Lane Charles Town, WV 25414

Telephone: (H) (304) 930 1917 (W) \_\_\_\_\_ (Cell) (301) 580 9744

Email: FCBEARKODA@GMAIL.COM Start Date: ASAP Completion Date: TBD

## DETAILED DESCRIPTION OF PROPOSED IMPROVEMENT(S):

12'x16' FOOT composite deck  
with 28" elevation  
vinyl Decking (Trex), toasted sand  
Top Railing matching cocktail rail-toasted sand  
white railing with pvc wrap + riser board  
with black aluminum pickets  
in currently fenced area of back yard  
attached to backdoor  
with steps

Use this space to sketch a drawing, insert a picture or provide additional details.

see attached

24-16-ZV

05/17/24: addendum received via email (jth)

**APPLICATION REQUIREMENTS:** The following items must be submitted with this request form. Failure to submit these items will delay your request.

1. Plat or survey of your property indicating the location of the proposed change(s). If you are planning to install a fence, include the fence type, height and style of the lots directly connected to yours.
2. Manufacture's brochure, sketch (overhead and side view), and/or photograph showing the design or style of the proposed change(s).
3. **Detailed** written description of improvement including size, type of construction, color or finish, height for decks, etc.
4. Architectural plans or drawings (for major additions or improvements). Not necessary for fences, decks or patios.
5. Grading plan, if changes to the grading of your lot will change or affect adjoin lots.

**NEIGHBOR'S ACKNOWLEDGEMENT:**

You are required to obtain the signatures of the two (2) property owners whom will be most affected by the proposed change. Signature by your neighbors indicates an awareness of your request and **does not** constitute approval or disapproval on their part. Neighbors can contact the Architectural Review Committee if they have any questions or comments about your request.

Name: J PATTERSON

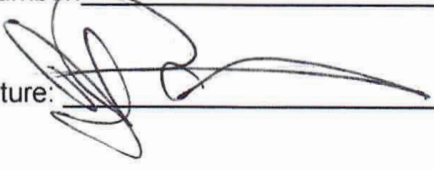
Name: TIM CLARKE

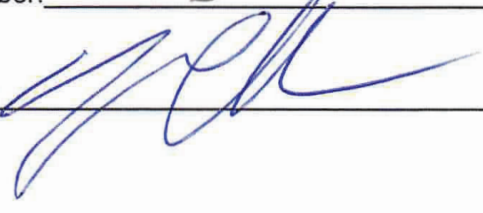
Address: 167 KILLIAN

Address: 183 VICTORIA

Lot Number: 31

Lot/Number: 53

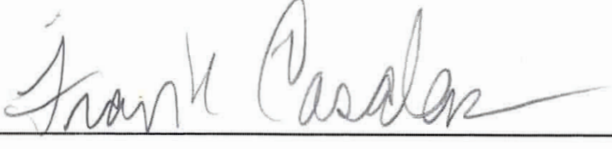
Signature: 

Signature: 

**Applicant hereby warrants that Applicant shall assume full responsibility for:**

- 1. All landscaping, grading and/or drainage issues relating to the improvements (including replacing bonds or escrows posted by the Developer currently in place affecting the lot)
- 2. Obtain all required city, town or county approvals relating to your request and comply with each.
- 3. Any damage to adjoining property (including common area) or injury to third persons associated with improvement.
- 4. Contacting Miss Utility at (800) 245-4848 and any other utility companies to ensure utilities are not disrupted.

The applicant hereby states that they have read the ARC guidelines and agree that all work performed will be in compliance with those guidelines.



Signature of Property Owner

4-7-24

Date

**Mail: Demory Farm Architectural Review Committee  
PO Box 781  
Ranson, WV 25438**

**Email: [board@demoryfarm.com](mailto:board@demoryfarm.com)**

---

***For Architectural Review Committee***

Date this request form was received: \_\_\_\_\_

**APPROVED AS SUBMITTED**

**APPROVED SUBJECT TO:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOT APPROVED DUE TO:** \_\_\_\_\_

\_\_\_\_\_

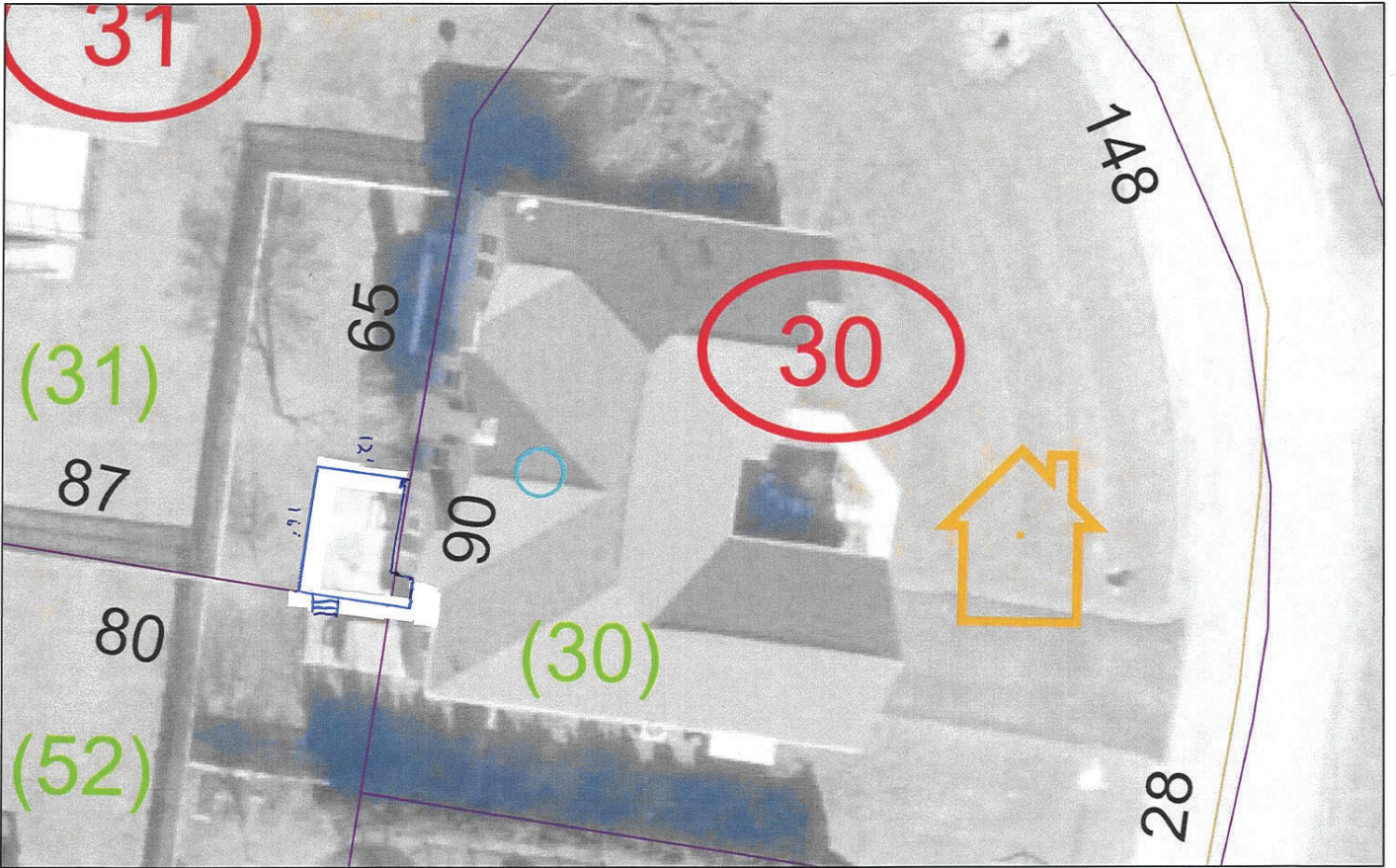
\_\_\_\_\_

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\_\_\_\_\_  
Signature of Architectural Review Committee Member

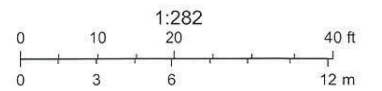
\_\_\_\_\_  
Date

# Viewer Map



March 29, 2024

12x16' composi  
Deck  
28" Elevation  
Vinyl Deck  
Top railing  
white PVC  
wrap + riser





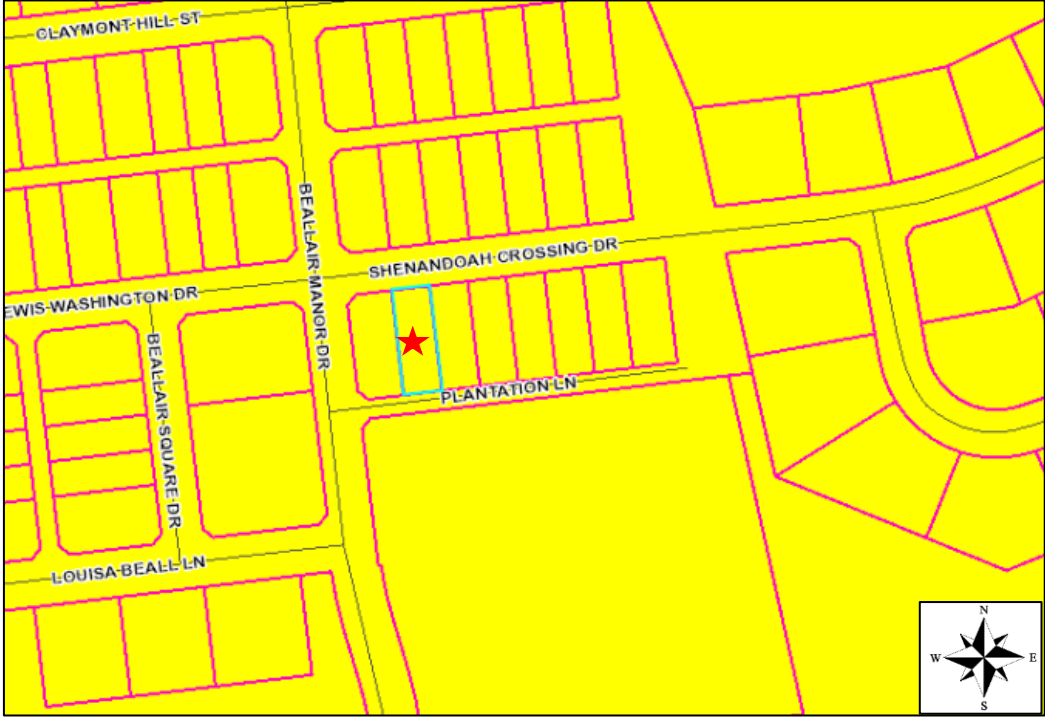
Trex Enhance / ROASTED OAK





Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**24-17-ZV Morgan Variance Request**

Item #2 Variance request from Appendix A to reduce the side setback from 5' to 3' for a 15' x 10' deck.

Owner:	Thomas and Ann Morgan
Parcel Information & Zoning District:	<p style="text-align: center;">Beallair Subdivision, Lot 303          20 Shenandoah Crossing Drive, Charles Town, WV          Parcel ID: 04010A03030000; Size: .10 acres          Zoning District: Residential Growth</p> 
History:	<p>02/16/22: Beallair Phase 3, Lots 203-233, 273-275, 283-304, Open Space SWM-1 and Residue Parcel A (File: 21-31-SD) PB 26, PG 351          01/13/23: Minor plat change: revise the front setback for Lots 214, 215 &amp; 217 located on a cul-de-sac (File: 23-1-MPC) PB 26, PG 484</p>
Waivers/Variations:	06/23/22: BZA denied request to reduce the front setback from 25' to 15'; the side setback from 12' to 10'; and the rear setback from 20' to 10' for Lots 203-233 & 273-275 for Phase 3 of Beallair (22-22-ZV).
Approved Activity:	Single family dwelling
Site Visit Conducted:	Site visit not conducted.

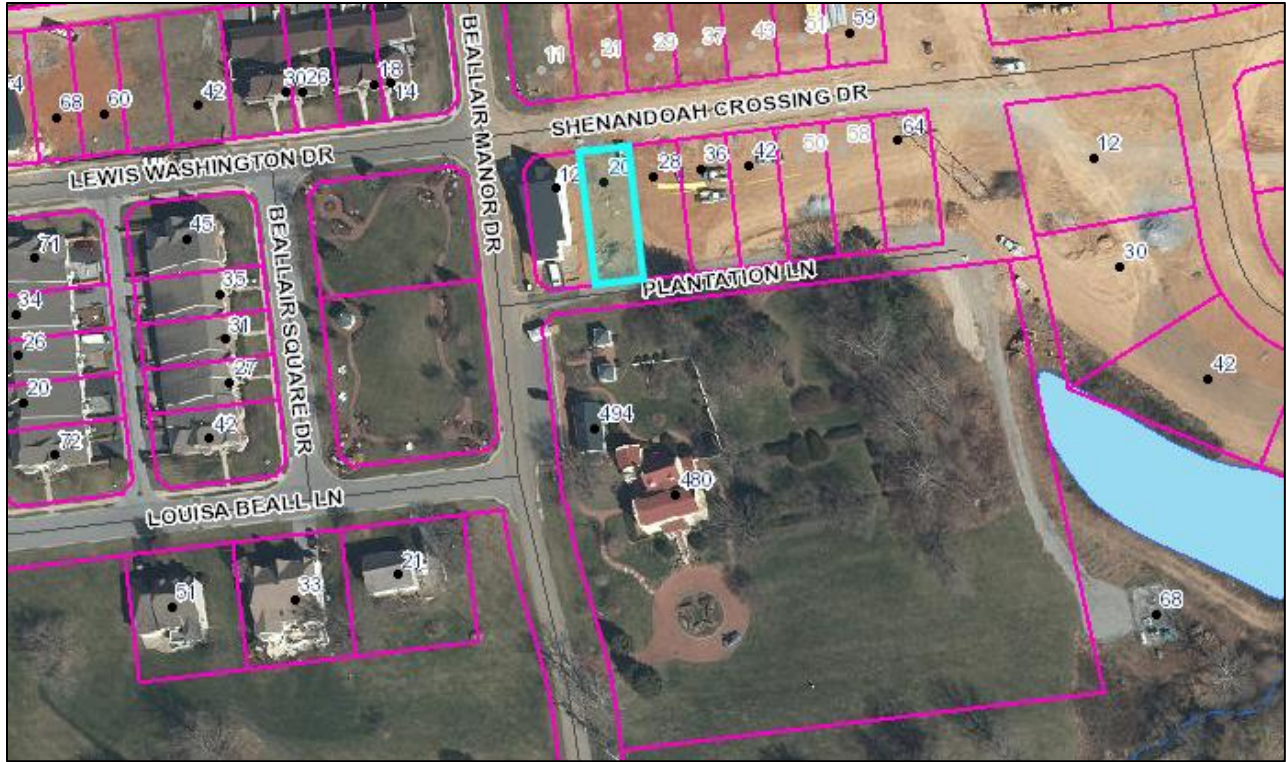
**Staff Overview**

The subject parcel is Lot 303 of the Beallair Subdivision, Phase 3. The required setbacks for this lot are 10' Front, **5' Side**, and 20' Rear.

The applicant is requesting to reduce the 5-foot side setback requirement to approximately 3' to allow for the construction of a 10' x 15' deck.



Staff Report  
Jefferson County Board of Zoning Appeals  
June 27, 2024  
**24-17-ZV Morgan 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 conditions of approval were identified.

**Section of Ordinance to be Considered**

**APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE (attached)**

**APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE<sup>27, 32, 42</sup>**

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft. ***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks				Parking/ Drive Aisle Setbacks	Screened Buffers Sec. 4.11		
							Front	Side	Street Side	Rear				
Residential Growth (RG)	Single Family Detached Dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20	N/A	N/A		
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"				
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"				
	Small Lot Single-Family Detached Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20				
	Duplex Dwelling Unit	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20				
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"				
	Townhouse Dwelling <sup>42</sup>	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20				
	Multi-Family Dwelling (See Section 4.12)	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30			12 side 15 front 15 rear	12 side 15 front 15 rear
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	‡	12			N/A	N/A
		30,000 sq. ft. to 40,000 sq. ft.	N/A	N/A	N/A	40	20	10	‡	12				
Under 30,000 sq. ft.		N/A	N/A	N/A	40	20	8	‡	12					
Rural (R) (See Sec. 5.7)	Dwellings		40,000	N/A	100	45	40	15	‡	50	N/A	N/A		
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 2 acres	N/A	N/A	N/A	45	40	15	‡	50				
		40,000 sq. ft. to 2 acres	N/A	N/A	N/A	45	25	12	‡	12				
		30,000 sq. ft. to 39,999 sq. ft.	N/A	N/A	N/A	45	20	10	‡	12				
		Under 30,000 sq. ft.	N/A	N/A	N/A	45	20	8	‡	12				
Cluster Subdivision	See RG District													
Village (V)	Residential uses	See RG District												
Residential-Light Industrial-Commercial (RLIC)	Residential uses	See RG District <sup>ϕ</sup>												
Industrial-Commercial (IC)	Residential uses	See Rural setbacks for lots not previously stipulated by the Planning Commission.												
Neighborhood Commercial (NC)	Residential uses	See RG District												
General Commercial (GC)	Residential uses	See RG District												
Highway Commercial (HC)	Residential uses	N/A												
Light Industrial (LI)	Residential uses	N/A												
Major Industrial (MI)	Residential uses	N/A												
Office / Commercial Mixed Use (OC)	Residential uses	See RG District												
Planned Neighborhood Development (PND)	Residential uses	See RG 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.

For all lots approved prior to Sept. 1, 1989, lots under 40,000 sq. ft. side & rear setbacks for residential accessory structures shall be 6'. NOTE: In RG district side & rear setbacks for accessory structures under 144 sq. ft. shall be 6'. See Article 8 of the Zoning and Land Development Ordinance for building setbacks for certain land uses.

All dimensions are in feet unless otherwise indicated.

ϕ In the RLIC and RG districts, townhouse lots with a lot depth of 110 linear feet or less and/or a lot area of 3,500 square feet or less, the rear setback of a deck for a townhouse may be reduced to 10', if the adjacent property located to the rear of the subject lot is a dedicated easement or common area and is not a lot that includes a residence.

‡ See setback requirements noted in Sec. 2.2, definition of "Lot, Corner."

\* Maximum height subject to Section 9.2

\*\* Exterior side only.

\*\*\* The balance square footage between the ADU and the MLA shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.

\*\*\*\* The front setback for a Small lot single-family detached dwelling may be reduced to 10' if the front yard does not contain a driveway.



**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: 24-17-ZV  
 Staff Initials: gm  
 Meeting Date: 06.27.24  
 Fees Paid (\$100 or \$150): 100-

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: Thomas R. & Ann Y. Morgan  
 Mailing Address: 20 Shenandoah Crossing Drive Charles Town, WV 25414  
 Phone Number: 304.280.2983 Email: morgan\_6@comcast.net

**Applicant Contact Information**

Name: Same as Listed Above  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name: Section N/A  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 20 Shenandoah Crossing Drive  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: HFD Map No: 10-A Parcel No: 303  
 Parcel Size: 0.1 acre Deed Book: 1317 Page No: 142

**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"/>

**RECEIVED**

**MAY 16 2024**

**JEFFERSON COUNTY PLANNING  
 ZONING & ENGINEERING**

Place Received Date Stamp Here

Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
<input type="checkbox"/>	<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: Parcel Side Setback Restriction

Briefly describe the nature of the variance request:

Appendix A (gr)

Waive current side setback (5' or 60") to allow for property owners to construct a deck at the rear corner of their lot. The actual variance request involves encroaching on the current 60" side setback by 20" or 1'8". If granted the variance request would create a side setback of 40" instead of the current 60"

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

Front Setback  Side Setback  Rear Setback  Reduction From 60" to 40"

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 request has no impact on public health, safety or welfare. As to the rights of the adjacent property owners, they maintain all existing rights afforded to them with the purchase of their property.

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?

Lot 303 is included in the "Small Lot" section (Lots 283-304) of Wormald's phase 3 Beallair development. As such, most if not all lots have the same side setback restriction (5" or 60"). The builder offers as an option for the specific model home being built on these small lots to construct a 12' x 10' deck which would encroach on the 5' SBL.

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

The area on our lot at the rear corner of our home is currently not accessible using the back door on our home. We want to make full use of our property by constructing a deck that is 10' wide to enable us to make full use of all our

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

Granting this variance does not diminish the intent of the current zoning ordinance. The combined SBL between lot 303 and lot 302 has already been encroached in two areas through the installation of a compressor heat pump and egress window well. In both instances, the SBL has been encroached by 36".

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.

Alison R. May 5/16/24  
Signature of Property Owner Date

Ann Y. Morgan 5/16/24  
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).

06.27.24

Date of Public Hearing

06.12.24

Advertising Date

06.12.24

Placard Posting Date

PIR for Attached Deck  
20 Shenandoah Crossing Drive  
Lot 303  
March 2024

Project Description

Our intentions are to build a 10' x 15' deck in the offset at the rear of our Middleton home. This area is intended to be an outdoor space occupied by a deck or patio. This deck will be the first of its kind for the Middleton model home. The deck will be attached to the home and built to be a step out from the current back door. The height of the threshold to the back door is approximately 34" and the top of the deck boards will be approximately 28" in height. The length of the deck will be approximately 15' near the approximate location of the rear MBSL dimension for our plat. The width of the deck is currently planned at 10' which would fall outside the dimensional boundary of our home which is also the MBSL on the side of our property. My justification for choosing this dimension is the Middleton floor plan lists as an option a 12' x 10' patio and that layout shows the deck built out past the corner of the building clearly exceeding the MBSL on most if not all the "small lot standards" (Lots 283-304).....see attachment #1. In our plan we would exceed the MBSL on the side next to lot 302 by 1' 8". We would be within our lot boundary by 3' 4".

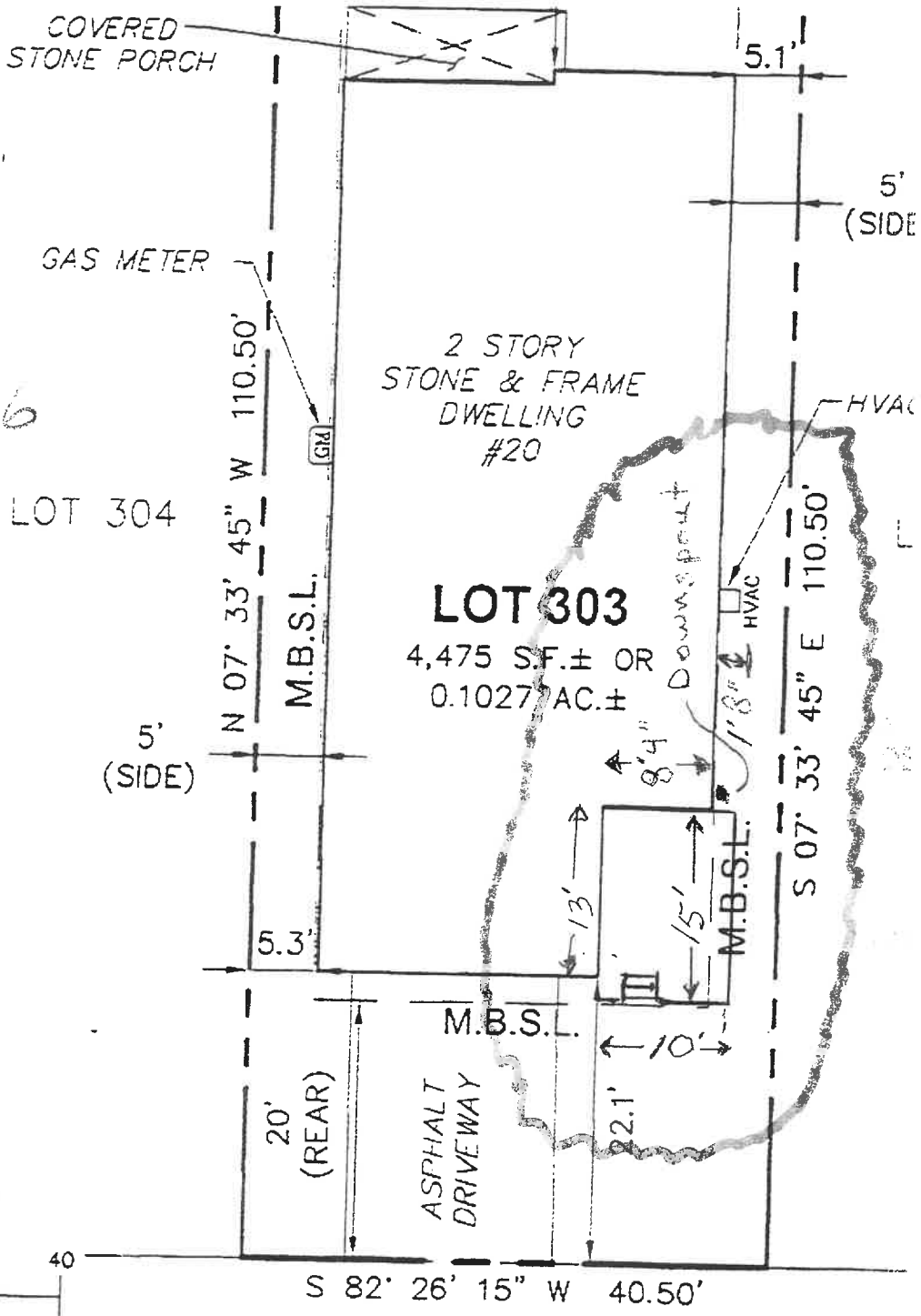
The deck will be constructed by Jones Deck & Fence and they will follow DCA 6 (Design for Code Acceptance 6) as a construction standard which is also the standard that the County Inspection Group utilizes. A copy of the contract (attachment #2) has been provided. It can be amended as needed per George Saunders, the owner of Jones Deck & Fence. A copy of the county permit application (attachment #3) has also been provided which will also be amended as needed. The substructure will be constructed of pressure treated Southern Pine grade 2 or better. The support posts will be buried 30" deep in concrete and backfilled with soil from the hole. The hardware used during deck construction will meet or exceed the DCA 6 standards. The attachment to the home will again be done in accordance with the deck standard. The deck will be constructed using composite material such as Trex or Timber Tech and will be brown in color. The vinyl railing used for construction of the railing will be as good or better than Envision Outdoor Living Fairway vinyl railing model V 215 product almond in color. The railing will utilize black powder coated aluminum stiles.

Our hope is to begin construction on or before May 13<sup>th</sup> completing the project by May 20<sup>th</sup>. These estimates are based on county permit approval as well as ARB approval and no construction will take place until both parties have approved our plans. Attachment #4 is a scale drawing of the deck relative to our home to give one a sense of dimension relative to our home. There is a downspout drop at the side of the home next to the edge of the deck. Drainage from that downspout flows out and down following the swale between lot 303 and lot 302. The project will not impact drainage on that side of our yard. Attachment #5 is a plat drawing for lot 303. Attachment #6 is an enlarged plat drawing showing the footprint of the deck relative to our home. Attachments #7, #8, #9 and #10 are scale drawings with dimensions. I apologize for the font size as it is small and hard to read but that is what the contractor supplied. Attachment #11 is a physical picture of the actual area where the deck is to be located representing the footprint near the house.

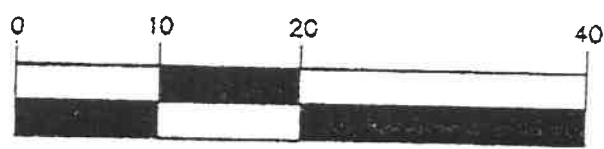
*Thom R. May* 5/16/24

Attachment #6

TRM  
& A.Y.M.



GRAPHIC SCALE



(IN FEET)  
1 inch = 20 ft.

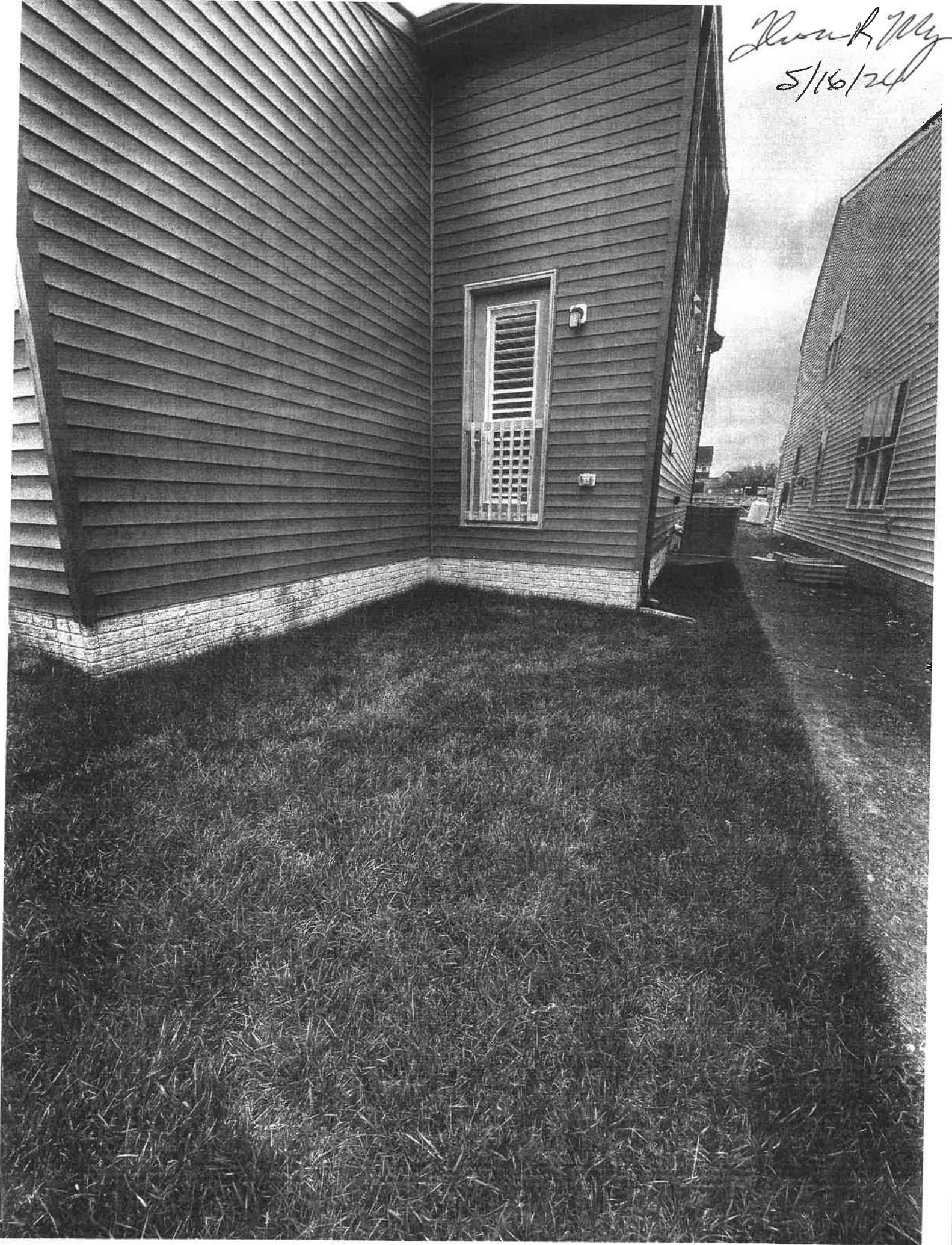
*Thom R. My*  
5/16/24

PLANTATION I  
(20' WIDE RIGHT OF WAY)  
P.B.25, PG.184

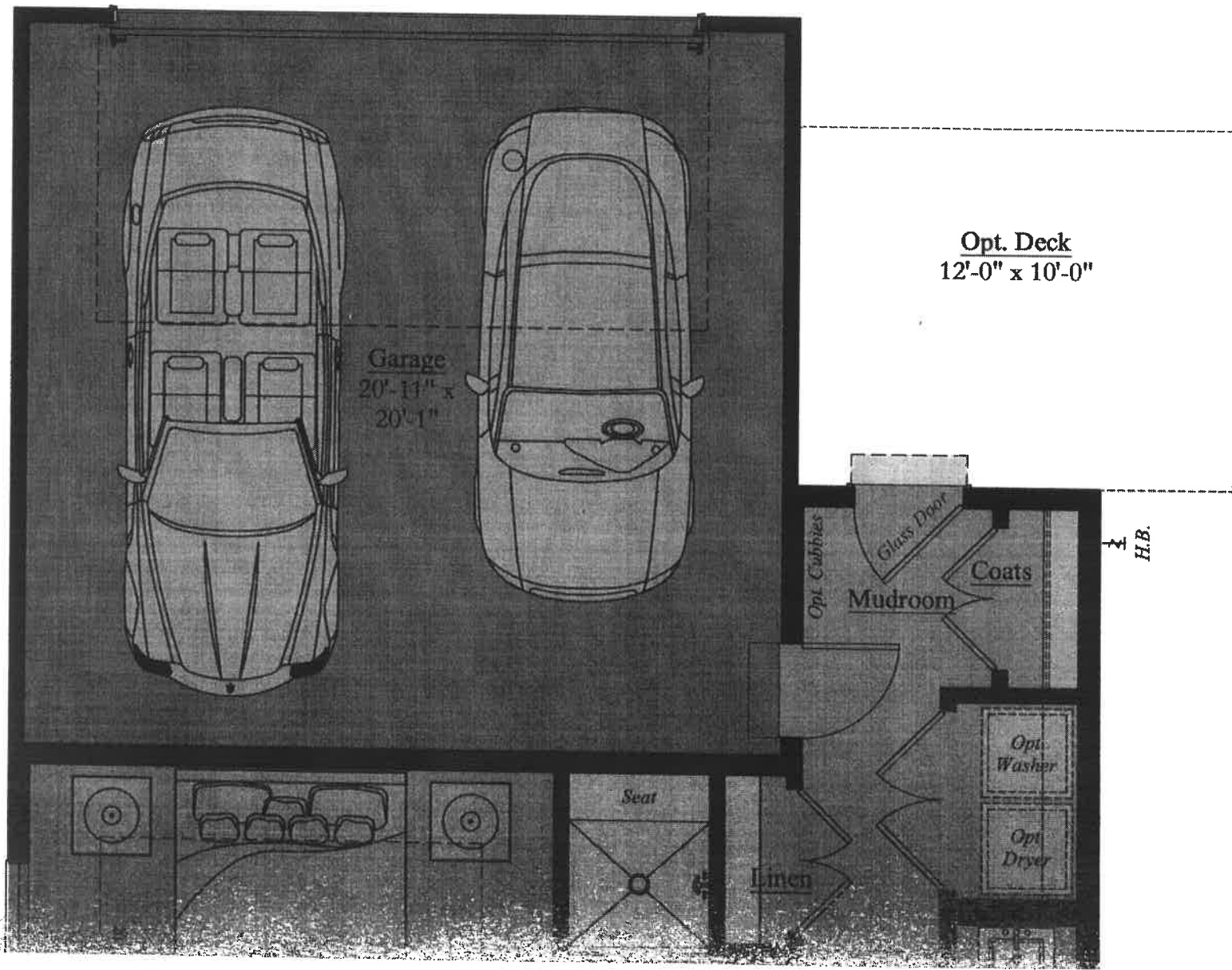
NOTES:

1. BEING LOT 303 AS SHOWN ON PLAT ENTITLED, "FINAL PLAT SHOWING LOTS 203- OPEN SPACE SWM-1 AND RESIDUE PARCEL A, BEALLAIR - PHASE 3 - RESIDENTIAL" AMONG THE LAND RECORDS OF JEFFERSON COUNTY, WEST VIRGINIA AT PLAT BOOK 484E.
2. BLANKET DRAINAGE AND UTILITY EASEMENTS ALONG ALL LOT LINES=10.
3. MINIMUM BUILDING SETBACK LINES (M.B.S.L.) FOR SINGLE-FAMILY DETACHED RESIDENTIAL LOT STANDARDS (LOTS 283-304) PER ZONING ORDINANCE SHOWN HEREON:  
FRONT=10'      SIDE=5'      REAR=20'
4. PROPERTY SHOWN HEREON IS IN ZONE X, AREA OF MINIMAL FLOOD HAZARD AS SHOWN ON...

*Frank Wly*  
*5/16/24*



# THE MIDDLETON | MAIN LEVEL



*Sharon R. May*  
5/16/24

Attachment #1

# ***Beallair Community Conservancy***

---

**Clagett Management**

115 N. Queen Street, Martinsburg, WV 25401

Phone: 304.596.6630

rsanders@clagett.com

Thomas R. & Ann Y. Morgan  
20 Shenandoah Crossing Drive  
Charles Town, WV 25414

Property Address: 20 Shenandoah Crossing Drive

April 26, 2024

## **CONDITIONAL APPROVAL**

Dear Homeowner(s),

Your request for an architectural change on your lot has been approved with conditions. Specifically, you have approval to **install a deck at the back of your house**, with the following conditions in mind:

- The project should follow all guidelines specified in the CC&Rs and in any other governing documents of the Association;
- The project should not have any adverse drainage to the Lot or adjacent Lots or obstruct/encroach on any easements that may fall on your lot, *if applicable*;
- The project must be within your lot/property lines. It is recommended to have a surveyor assess your lot when installing anything near your property line if you haven't already done so;
- Should any portion of common area be damaged during install, it is the responsibility and cost of the owner to repair or replace;
- It is the responsibility of the owner to obtain any and all building permits, variances, etc., if required by the county, and to construct the improvements in a craftsman-like manner and in compliance with all applicable building/zoning codes and ordinance requirements, as well as contacting any Utility Companies before digging.
- It is the responsibility of the owner to discuss your project plans with any neighbors involved.

We reserve the right to make a final inspection of the change for compliance purposes. Please follow the submitted plans per the conditional approval as outlined in this letter, above. If you need to make any deviations to the plans or have any questions in regards to the conditions listed above, please contact me immediately to discuss this matter and/or to submit a revised architectural change request.

We appreciate your cooperation in submitting this request for approval. An attractive community helps everyone receive the full value of their homes should you ever decide to sell. If you have questions please feel free to call or email me using the information listed above.

Sincerely,

***Renee Sanders, CMCA, AMS***  
Community Manager



Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**#24-18-ZV Kite Variance Request**

Item #3 Variance from Section 9.7 to reduce the front setback along the southern property line (adjoining Natalie Lane) from 20' to 8' for a screened porch/deck.

Owner:	Jeffrey & Alita Kite
Consultant:	Jim Weddle, Contractor
Parcel Information & Zoning District:	<p style="text-align: center;">Glen Haven Subdivision, Lot 16, 655 Mason Drive, Harpers Ferry, WV          Parcel ID: 04003D00610000; Size: .30 acres; Zoning District: Rural</p> 
History:	08/05/1971: Glen Haven Subdivision, Section 3 (recorded <a href="#">PB 1, PG 233</a> )
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit:	Site visit not conducted.

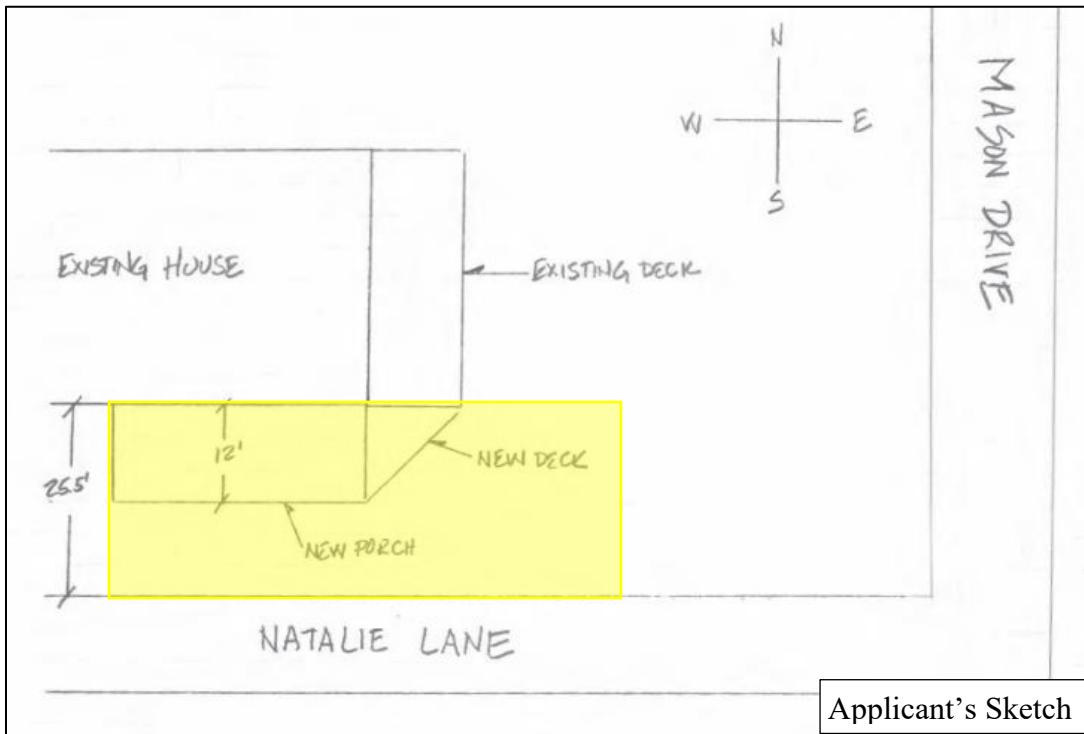
Staff Report  
Jefferson County Board of Zoning Appeals  
June 27, 2024  
**#24-18-ZV Kite Variance Request**

**Staff Overview**

The subject parcel is Lot 16 in Section 3 of the Glen Haven Subdivision. The lot was created in 1971, prior to the adoption of the Zoning Ordinance (1988); therefore, it is considered a legal nonconforming lot, as it does not meet the residential site development standards in the current Zoning Ordinance.

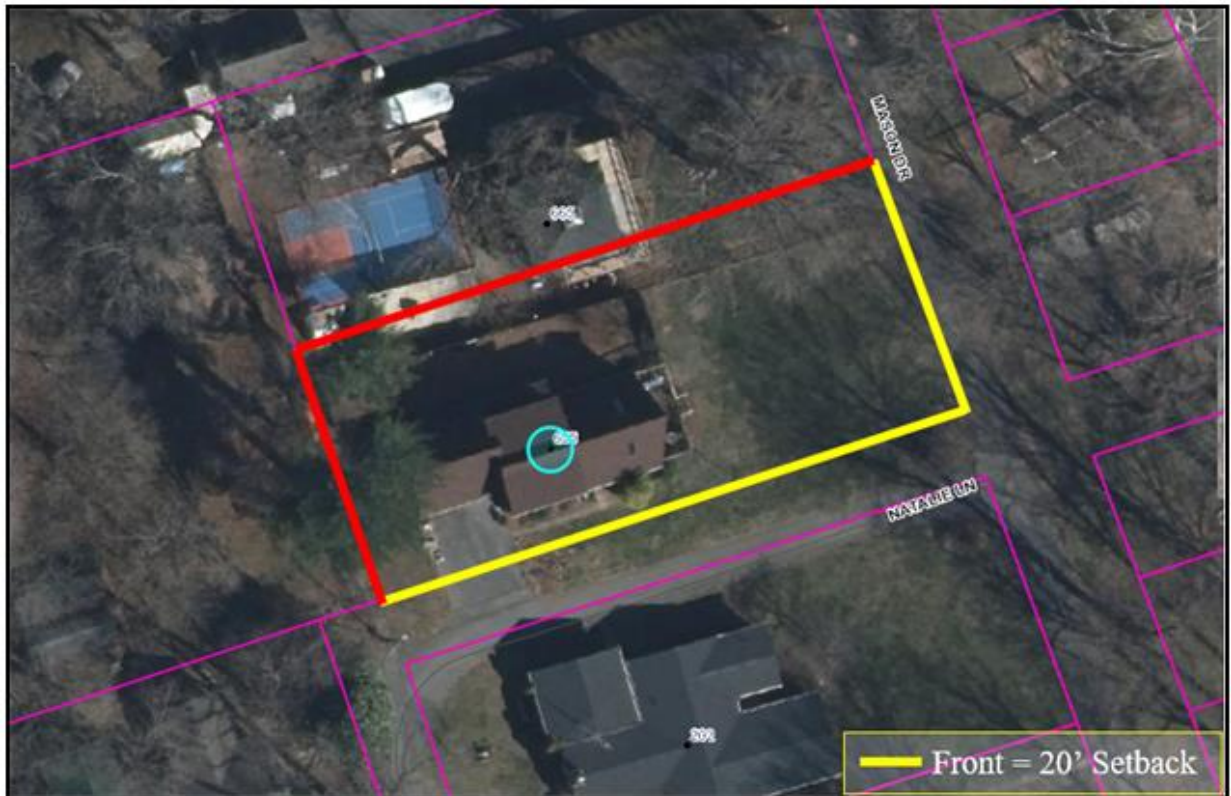
Pursuant to Section 9.7 of the Zoning Ordinance, based on the acreage of the lot, the required setbacks are **20' Front**, 8' Side, and 12' Rear. The applicant is requesting to reduce the front setback requirement along the southern property line (adjoining Natalie Lane) from 20' down to 8' to allow for the construction of a 12' x 24' (288 sf) screened in porch with connection to the existing deck.

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.



The property has two front yard designations, one along the eastern property line, adjoining Mason Drive and the other along the southern property line, adjoining Natalie Lane. Both property lines are subject to the 20' front setback requirement. Neither of these roads appear to be state roads. As such, they would be designated as private roads, owned and maintained by the residents in Glen Haven. According to the Plat for this section of the Glen Haven subdivision, Mason Drive is a 30-foot wide road and Natalie Lane is a 20-foot wide road. Presently, there are no known plans or proposals to widen either of these roads.

Staff Report  
Jefferson County Board of Zoning Appeals  
June 27, 2024  
**#24-18-ZV Kite 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 conditions of approval have been identified.

Staff Report  
Jefferson County Board of Zoning Appeals  
June 27, 2024  
**#24-18-ZV Kite 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>

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
<b>under 30,000 sq. ft. --</b>	<b>20' front,</b>	<b>8' side</b>	<b>and</b>	<b>12' rear</b>



**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: 24-18-ZV  
 Staff Initials: AB  
 Meeting Date: 06-27-24  
 Fees Paid (\$100 or \$150): \$100.00

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: JEFFREY D. KITZ ALITA R. KITZ  
 Mailing Address: 207 TEAPOT COURT REISTERSTOWN, MD 21136  
 Phone Number: 443-690-8380 Email: JEFFKITZ@COMCAST.NET

**Applicant Contact Information**

Name: JAMES WEDDLE WNO60792  
 Mailing Address: 249 WINTER CAMP TRAIL HEDGESVILLE, WV 25927  
 Phone Number: 304-896-9634 Email:  JWEDDLE491@GMAIL.COM

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

Name: ED JOHNSON  
 Mailing Address: 674 ACOEN CIRCLE HARPER'S FERRY, WV 25425  
 Phone Number: 304-279-9924 Email: EDJOHNSON59@FRONTIERNET.NET

**Physical Property Details**

Physical Address: 655 MASON DRIVE HARPER'S FERRY, WV 25425  
 City: Harpers Ferry State: WV Zip Code: 25425  
 Tax District: \_\_\_\_\_ Map No: 3D Parcel No: 0061  
 Parcel Size: \_\_\_\_\_ Deed Book: 1117 Page No: 490

**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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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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**RECEIVED**  
**MAY 20, 2024**  
**OFFICE OF PLANNING & ZONING**  
**JEFFERSON COUNTY, WV**  
 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: SECTION 9.7

Briefly describe the nature of the variance request:

THE PROPERTY IS A CORNER LOT BOTH THE EAST AND SOUTH BOUNDARY LINES WERE ZONED FRONT YARDS WITH A 20' SETBACK EVEN THOUGH THE SOUTH BOUNDARY IS ACTUALLY THE SIDE OF THE HOUSE

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

Front Setback  Side Setback  Rear Setback  Reduction From 20' to 3'

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 EXISTING HOUSE IS 25.5' FROM NATALIE LANE TO THE SOUTH. WE PROPOSE TO CONSTRUCT A NEW COVERED PORCH WITH A DECK TIED TO AN EXISTING DECK ON THE EAST ELEVATION. THE NEW PORCH AND DECK WILL EXTEND 12' FROM THE SOUTH ELEVATION LEAVING 13.5' TO N.L.

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?

WE DID NOT ANTICIPATE THE SOUTH BOUNDARY BEING ZONED A FRONT BOUNDARY.

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

IT WILL ALLOW THE PERMITTING OFFICE TO ISSUE A PERMIT AND WE CAN MOVE FORWARD WITH OUR COMMITMENT TO THE OWNERS

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

IT WILL DESIGNATE THE SOUTH ELEVATION AS A SIDE BOUNDARY. THE PROPERTY ADDRESS REFERENCES THE EAST BOUNDARY. WE FEEL IT JUST TO SIGNIFY THIS AS THE ONLY FRONT BOUNDARY.

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.

Jeff Kix 5/16/24  
Signature of Property Owner Date

Alto Kix 5/16/24  
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).

JUNE 27, 2024

Date of Public Hearing

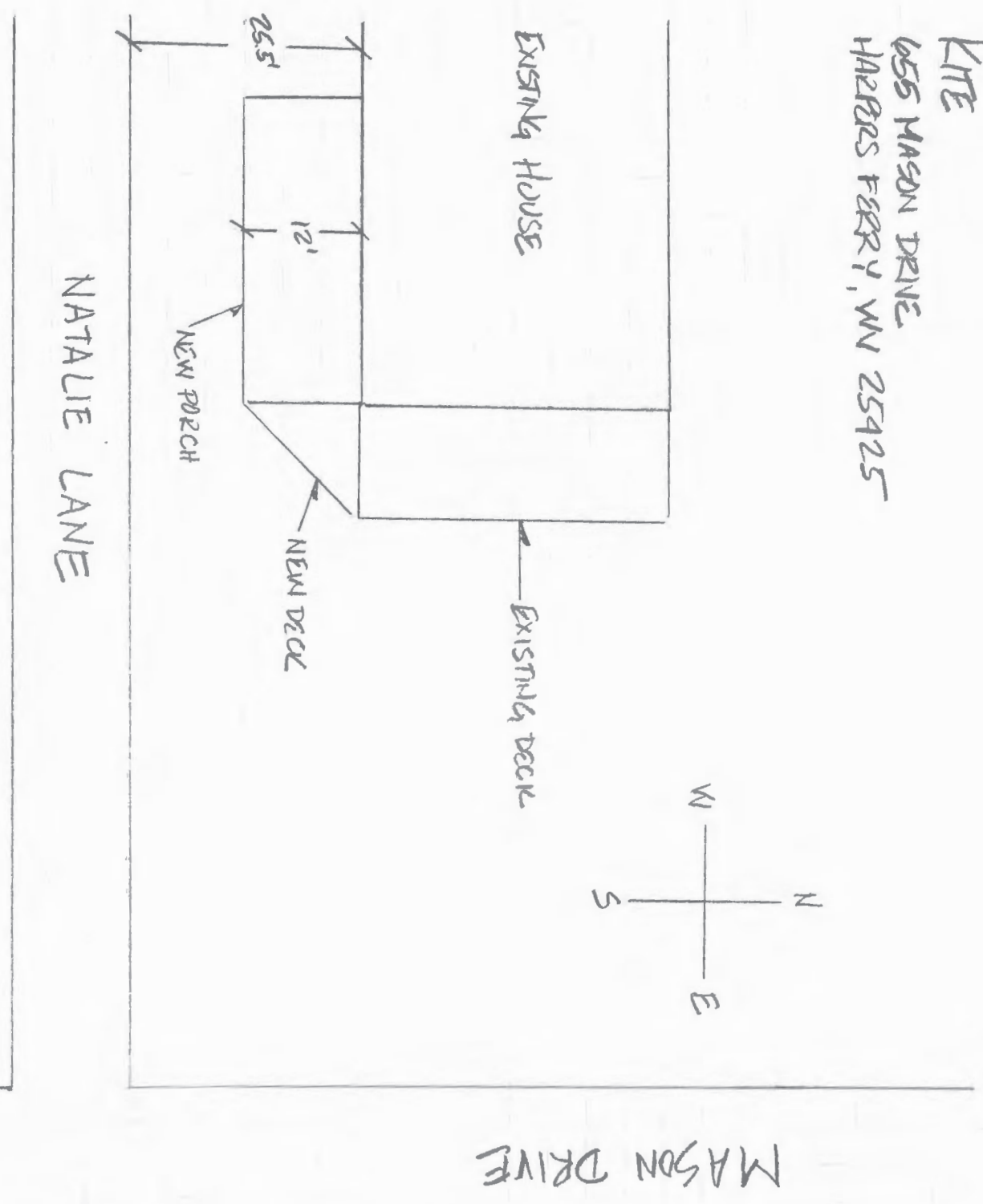
JUNE 12, 2024

Advertising Date

JUNE 12, 2024

Placard Posting Date

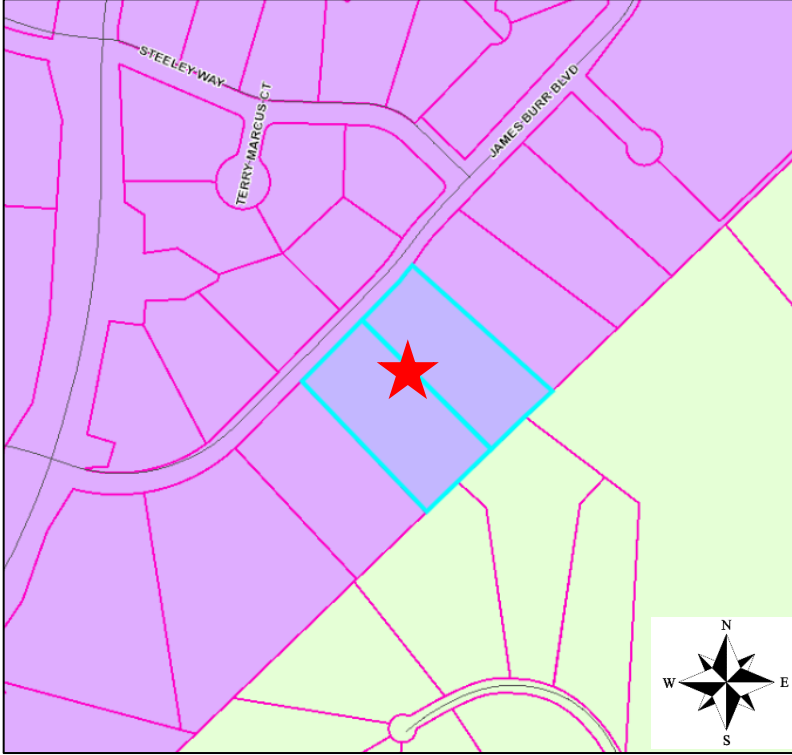
KITE  
655 MASON DRIVE  
HARRIS FERRY, WV 25925





Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**#24-19-ZV Devil's Due Distillery Variance Request**

Item #4 Variance from Section 4.11 and Appendix B to eliminate the landscaping requirements, the parking/drive aisle setbacks, and the building setbacks for the internal lot line to allow for the expansion of the existing Devil’s Due Distillery facility.

Owner:	Shenandoah Valley Holdings LLC
Applicant:	Devil's Due Distillery / Wylie McDade
Consultant:	Civil & Environmental Consultants, Inc. / Marcus Spina
Parcel Information & Zoning District:	<p style="text-align: center;">Burr Business Park, 315 James Burr Blvd, Kearneysville, WV 25430          Lot # 32 - Parcel ID: 02000101320000; Size: 2.7 acres; and,          Lot #33 - Parcel ID 02000101330000; Size: 2.83 acres;          Zoning District: Industrial Commercial</p> 
Subdivision History:	2007/12/18: Burr Business Park Subdivision, Lots 1-44 (recorded PB 24, PG 73) 2008/05/06: Minor Plat Change re floodplain & SWM (recorded PB 25, PG 28)
Waivers/Variations:	2006/01/24: PC approved a variance from Sec. 8.2b.b to eliminate sidewalks for the entire development. 2024/05/07: PC approved the following waivers for the Devil’s Due expansion: <ul style="list-style-type: none"> <li>• Section 10.5A to allow a gravel parking area as opposed to an asphalt/concrete (paved) parking lot for public use (24-11-PCW).</li> <li>• Section 2.3B.5 to allow an asphalt apron entrance as opposed to the required concrete apron (24-12-PCW).</li> </ul>
Approvals:	2020/05/29: Devil’s Due Distillery Site Plan Approved (File #20-2-SP) 2024/18/03: Devil’s Due Distillery ABC Approval Letter
Site Visit:	Site visit not conducted.

Staff Report  
Jefferson County Board of Zoning Appeals  
June 27, 2024  
**#24-19-ZV Devil's Due Distillery Variance Request**

**Staff Overview**

The property owner is currently processing a site plan to expand the existing Devil's Due Distillery. The expansion includes additional parking areas and an event venue space. There are a total of two parcels included in the proposed project area, both are under the same ownership. Due to financial reasons imposed by the lender, the applicant represented that the two properties could not be consolidated; therefore, in order to proceed with the proposed site development, staff advised that a variance is required to eliminate the site development standards for the internal lot line.

The applicant is requesting a variance from Appendix B to eliminate the site development standards along the interior lot line of the two lots for the Devil's Due Distillery expansion, primarily as it pertains to the installation of the entrance, parking lot, and pedestrian walkway, which will cross over the interior property line. The request includes eliminating the landscape buffer, the 10' parking and drive aisle setback, and the 25' building setback and is limited only to the interior lot line between the two lots included in the applicant's proposal.

The purpose of the landscape buffer requirements is typically to lessen the impact between adjacent land uses, including the visual impact of parking, truck loading area, etc. Landscape buffers contribute by reducing the impact that a land use might cause to an adjacent property by serving as a barrier to visibility, airborne particles, glare, or noise.

The purpose for building 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.

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

Applying setbacks to individual lots within a multi-lot development under the same ownership may



appear redundant; however, the purpose of this requirement is to protect future lot owners in the event that an individual lot is sold or foreclosed on in the future.

Due to the fact that the two parcels are under the same ownership and that they are both part of the proposed development, it appears that there will be no significant impact on adjoining properties. It is feasible to comply with the Ordinance by processing a merger; however, the applicant represented that this is not a viable option.

*Aerial Image (left):* The yellow line is the internal property line that is subject to the variance request. The red lines are the exterior boundary lines, which are not subject to the variance request.

Staff Report  
Jefferson County Board of Zoning Appeals  
June 27, 2024  
**#24-19-ZV Devil's Due Distillery 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 buildings shall cross the internal lot line.
2. A note shall be added to the site plan stating, "The owner/developer agrees that if either of the individual lots are conveyed to an outside party, all appropriate or necessary road and/or parking easements will be conveyed to the grantee if appropriate at the time of such transfer."

**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
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: 24-19-24  
 Staff Initials: gt  
 Meeting Date: 06-27-24  
 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: Wylie McDade  
 Mailing Address: 315 James Burr Boulevard Kearneysville, WV 25430  
 Phone Number: (681) 252-1246 Email: wylie.mcdade@gmail.com

**Applicant Contact Information**

Name: Same as Owner  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

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

Name: Civil & Environmental Consultants, Inc.  
 Mailing Address: 786 Foxcroft Ave Martinsburg, WV 25401  
 Phone Number: (304) 620-2319 Email: mospina@cecinc.com

**Physical Property Details**

Physical Address: 315 James Burr Blvd Lots 33 + 32 - Burr Park gt  
 City: Kearneysville State: WV Zip Code: 25430  
 Tax District: Charles Town Map No: 1 Parcel No: 133 + 132 gt  
 Parcel Size: 2.83 Acres + 2.7 ac gt Deed Book: 1301 + 1236 gt Page No: 204 + 629 gt

**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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**RECEIVED**

**MAY 24 2024**

**JEFFERSON COUNTY PLANNING  
 ZONING & ENGINEERING**

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, Setbacks

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

The property owner cannot merge the two parcels (TM 1 - PARCEL NO. 132 & TM 1- PARCEL 133). This Variance is strictly for these improvements and serves to establish a connection between the proposed parking lot and the existing business.

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

Front Setback  Side Setback  Rear Setback  Reduction From 25 to 0

**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 Variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners because the setbacks being modified are between two parcels owned by the same entity (applicant). Also, the Variance is meant to provide safe travel from the proposed parking to the existing business.

**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 applicant sought to merge the parcels but due to lender constraints, this could not be done.

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

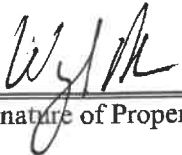
The applicant would not have to connect sidewalk to the road and intrude into public right-of-way to connect the two parcels.

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

The applicant seeks to provide a walkway to fulfill the intent and justice of the ordinance by connecting the proposed parking and existing business and do so off-street.

**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

5/27/24

Date



Signature of Property Owner

5/27/24

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).

06.27.24

Date of Public Hearing

06.12.24

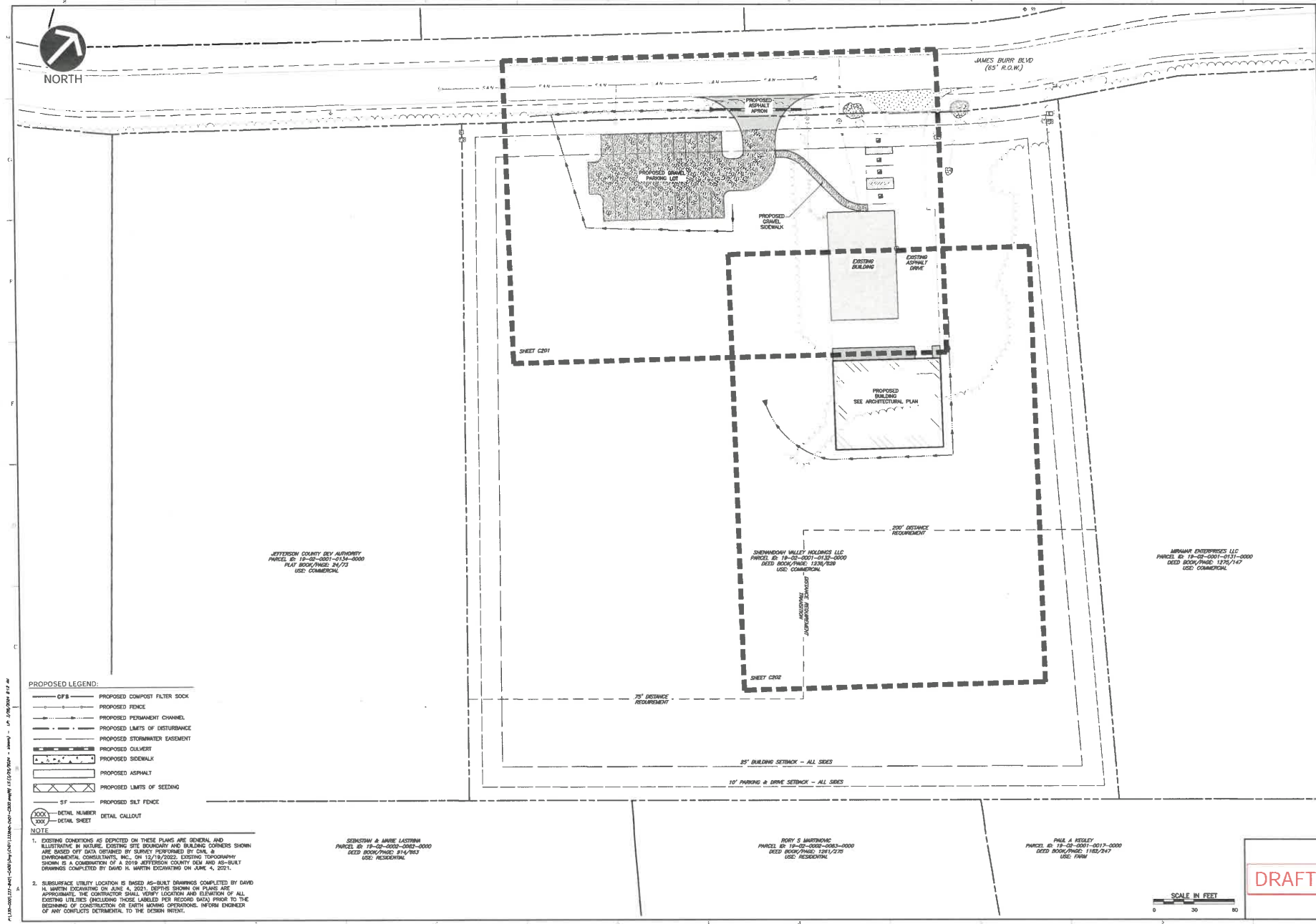
Advertising Date

06.12.24

Placard Posting Date



NORTH



JEFFERSON COUNTY DEV AUTHORITY  
PARCEL ID: 18-02-001-0154-0000  
PLAT BOOK/PAGE: 24/71  
USE: COMMERCIAL

SHENANDOAH VALLEY HOLDINGS LLC  
PARCEL ID: 18-02-001-0155-0000  
DEED BOOK/PAGE: 1376/228  
USE: COMMERCIAL

MIRAMAR ENTERPRISES LLC  
PARCEL ID: 18-02-001-0151-0000  
DEED BOOK/PAGE: 1375/147  
USE: COMMERCIAL

SEBASTIAN & ANNE LASTRINI  
PARCEL ID: 18-02-003-0363-0000  
DEED BOOK/PAGE: 814/263  
USE: RESIDENTIAL

DORY S. MATHIAS  
PARCEL ID: 18-02-003-0363-0000  
DEED BOOK/PAGE: 1261/212  
USE: RESIDENTIAL

PAUL A. KESLEY  
PARCEL ID: 18-02-001-0217-0000  
DEED BOOK/PAGE: 1182/247  
USE: FARM

- PROPOSED LEGEND:**
- PROPOSED COMPOST FILTER SOCK
  - PROPOSED FENCE
  - PROPOSED PERMANENT CHANNEL
  - PROPOSED LIMITS OF DISTURBANCE
  - PROPOSED STORMWATER EASEMENT
  - PROPOSED CULVERT
  - PROPOSED SIDEWALK
  - PROPOSED ASPHALT
  - PROPOSED LIMITS OF SEEDING
  - PROPOSED SILT FENCE
  - DETAIL NUMBER
  - DETAIL SHEET

**NOTE**

1. EXISTING CONDITIONS AS DEPICTED ON THESE PLANS ARE GENERAL AND ILLUSTRATIVE IN NATURE. EXISTING SITE BOUNDARY AND BUILDING CORNERS SHOWN ARE BASED OFF DATA OBTAINED BY SURVEY PERFORMED BY CIVIL & ENVIRONMENTAL CONSULTANTS, INC. ON 12/19/2022. EXISTING TOPOGRAPHY SHOWN IS A COMBINATION OF A 2019 JEFFERSON COUNTY DEM AND AS-BUILT DRAWINGS COMPLETED BY DAVID H. WATSON ENGINEERING ON JUNE 4, 2021.

2. SUBSURFACE UTILITY LOCATION IS BASED AS-BUILT DRAWINGS COMPLETED BY DAVID H. WATSON ENGINEERING ON JUNE 4, 2021. DEPTHS SHOWN ON PLANS ARE APPROXIMATE. THE CONTRACTOR SHALL VERIFY LOCATION AND ELEVATION OF ALL EXISTING UTILITIES (INCLUDING THOSE LABELED FOR RECORD DATA) PRIOR TO THE BEGINNING OF CONSTRUCTION OR EARTH MOVING OPERATIONS. NOTIFY ENGINEER OF ANY CONFLICTS INSTRUMENTAL TO THE DESIGN INTENT.



**DRAFT**

NO.	DATE	REVISION / RECORD

786 Foxcroft Ave.  
Martinsburg, WV 25401  
Ph: 304.808.7600  
www.cecinc.com



DEVIL'S DUE DISTILLERY, LLC  
315 JAMES BURR BOULEVARD  
KEARNEYSVILLE, WV 25430

SITE LAYOUT PLAN OVERVIEW

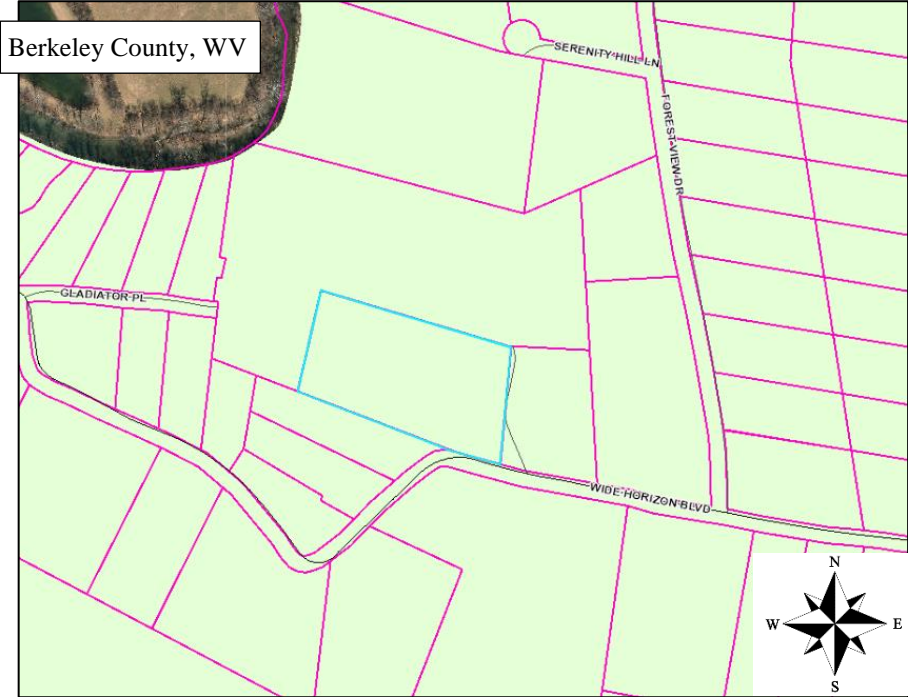
DATE:	JUL
PROJECT NO.:	AS 2300M
DRAWN BY:	AS 2300M
CHECKED BY:	AS 2300M
PROJECT NO.:	AS 2300M
PROJECT NO.:	AS 2300M

DRAWING NO. **C200**  
SHEET 6 OF 22



Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**24-20-ZV Hardy Variance Request**

Item #5 Variance from Appendix A to reduce the front setback along a proposed access easement along the southern property line for an existing detached accessory structure; and Section 9.6C to allow an accessory structure within the required front yard.

Owner:	Frank and Diane Hardy
Parcel Information & Zoning District:	<p style="text-align: center;">Katherine Chesbro Minor Subdivision, Lot A          43 American Pride Lane, Kearneysville, WV          Parcel ID: 07001300030014; Size: 5 ac; Zoning District: Rural</p> 
History:	1995/09/28: Katherine Chesbro Minor Subdivision recorded in PB 13, PG 52 2024/00/00: Frank and Diane Hardy Minor Subdivision ( <i>pending approval</i> ) PC File #24-10-SD
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit:	Site visit not conducted

**Staff Overview**

The applicant is currently processing a minor subdivision on Parcel 3.1, which adjoins the parcel subject to this request. The project consists of subdividing Parcel 3.1 into Lot B1 and Lot B2-Residue. As part of the proposal, the applicant is proposing to plat the required 50' access easement along the southern property line of Parcel 3.14 (subject parcel) for the purpose of providing access to proposed Lot B1 (see pending plat below).

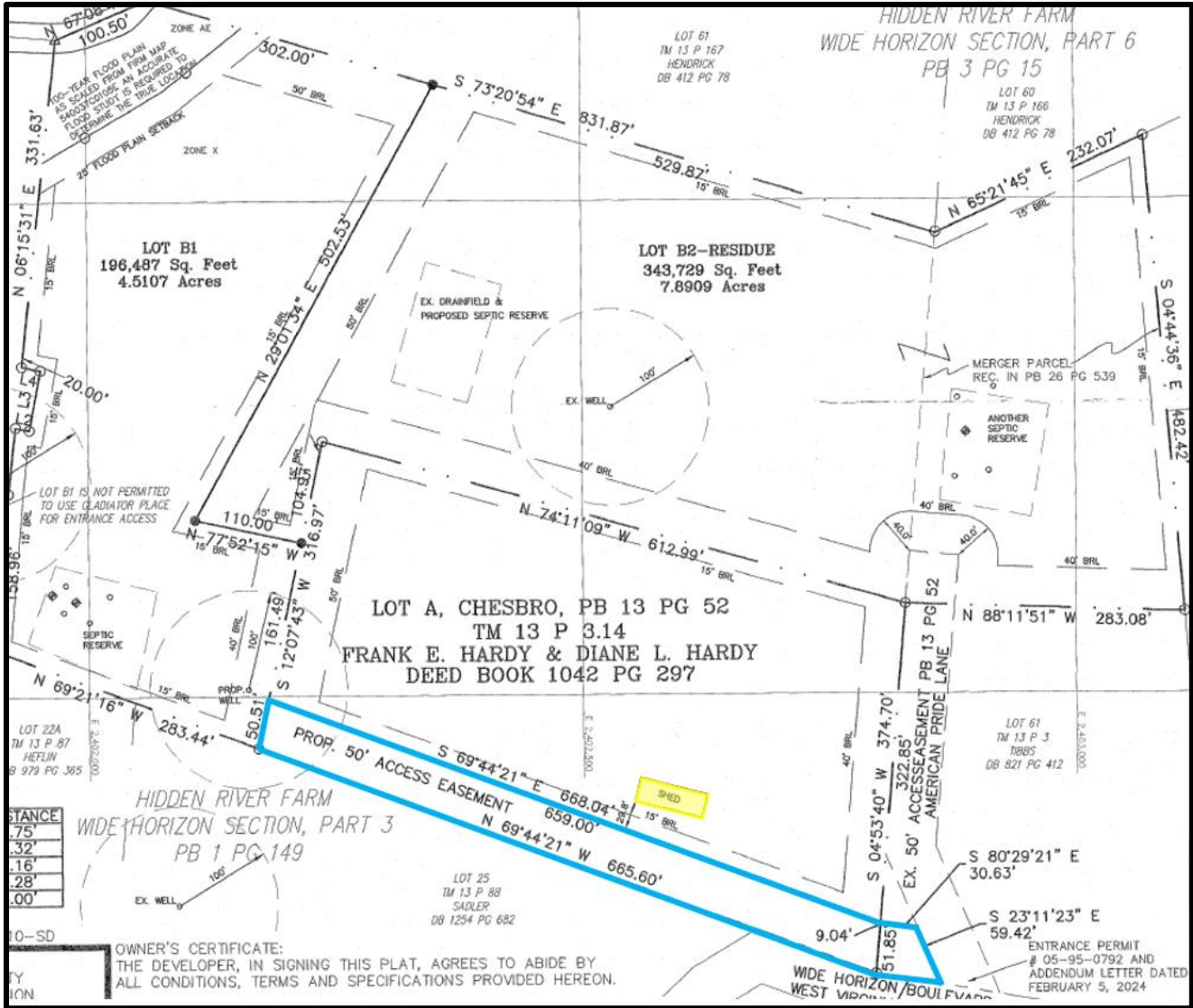
The platting of a new access easement along the southern property line of Parcel 3.14 will create a setback violation for an existing storage structure. Pursuant to Appendix A of the Zoning Ordinance, the required setbacks are **40' Front**, 15' Side, and 50' Rear. The applicant is requesting to reduce the required front setback to 30' from the edge of the proposed access easement in order to retain the existing storage structure in its current location.

Staff Report  
Jefferson County Board of Zoning Appeals  
June 27, 2024  
**24-20-ZV Hardy Variance Request**

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  
 June 27, 2024  
**24-20-ZV Hardy 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.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**24-20-ZV Hardy Variance Request**

**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.

**Section of Ordinance to be Considered:**

**Appendix A Residential Site Development Standards Table**

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft.***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks			
							Front	Side	Street Side	Rear
Rural (R) (See Sec. 5.7)	Dwellings		40,000	N/A	100	45	40	15	±	50
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 2 acres	N/A	N/A	N/A	45	40	15	±	50
		40,000 sq. ft. to 2 acres	N/A	N/A	N/A	45	25	12	±	12
		30,000 sq. ft. to 39,999 sq. ft.	N/A	N/A	N/A	45	20	10	±	12
		Under 30,000 sq. ft.	N/A	N/A	N/A	45	20	8	±	12
Cluster Subdivision	See RG District									

**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: 24-20-ZV  
 Staff Initials: jth  
 Meeting Date: 06/27/24  
 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: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Contact Information**

Name: \_\_\_\_\_  
 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: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
 Tax District: \_\_\_\_\_ Map No: \_\_\_\_\_ Parcel No: \_\_\_\_\_  
 Parcel Size: \_\_\_\_\_ Deed Book: \_\_\_\_\_ Page No: \_\_\_\_\_

**Zoning District (please check one)**

Residential Growth (RG) <input 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"/>	
Jefferson County Office of Planning & Zoning Received 05/30/2024 (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"/>

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 A & Sec. 9.6C (jth)

Briefly describe the nature of the variance request:

Reduce the front setback requirement along a proposed access easement for a pending minor subdivision (File #24-10-SD)

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

Front Setback  Side Setback  Rear Setback  Reduction From 40' to 30' gnt

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: WE ARE THE PROPERTY OWNERS.

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? EXISTING STRUCTURE

The most reasonable place to put the easements

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

In order to create lot, we had to put in a new easement which results in set-back violations

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

as the property owners we are okay with it.

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.

Frank S. [Signature] 5/30/24  
Signature of Property Owner Date

[Signature] 5-30-24  
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).

06.27.24

Date of Public Hearing

06.12.24

Advertising Date

06.12.24

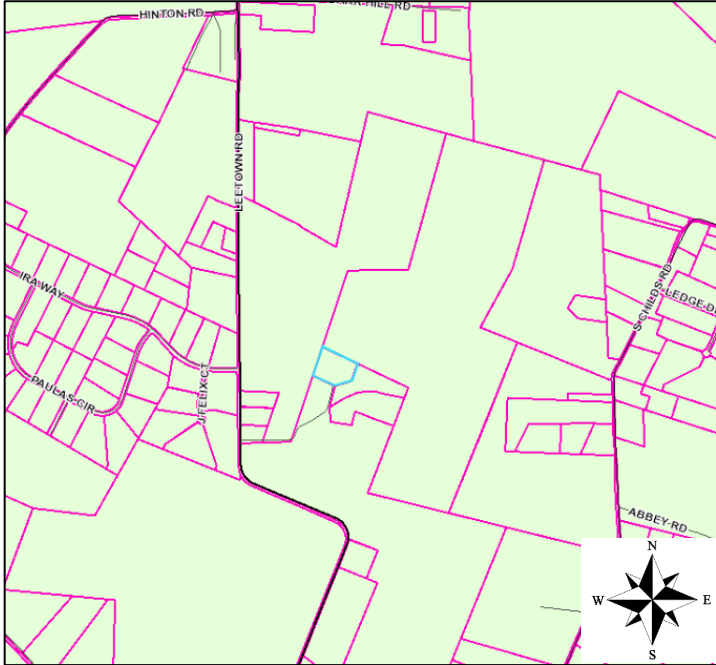
Placard Posting Date





Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**24-21-ZV Jenkins Variance Request**

Item #6 Variance from Appendix A to reduce the front setback along a platted access easement along the western property line for an existing shed and lean-to, and a proposed pool; and Section 9.6C to allow an accessory structure within the required front yard.

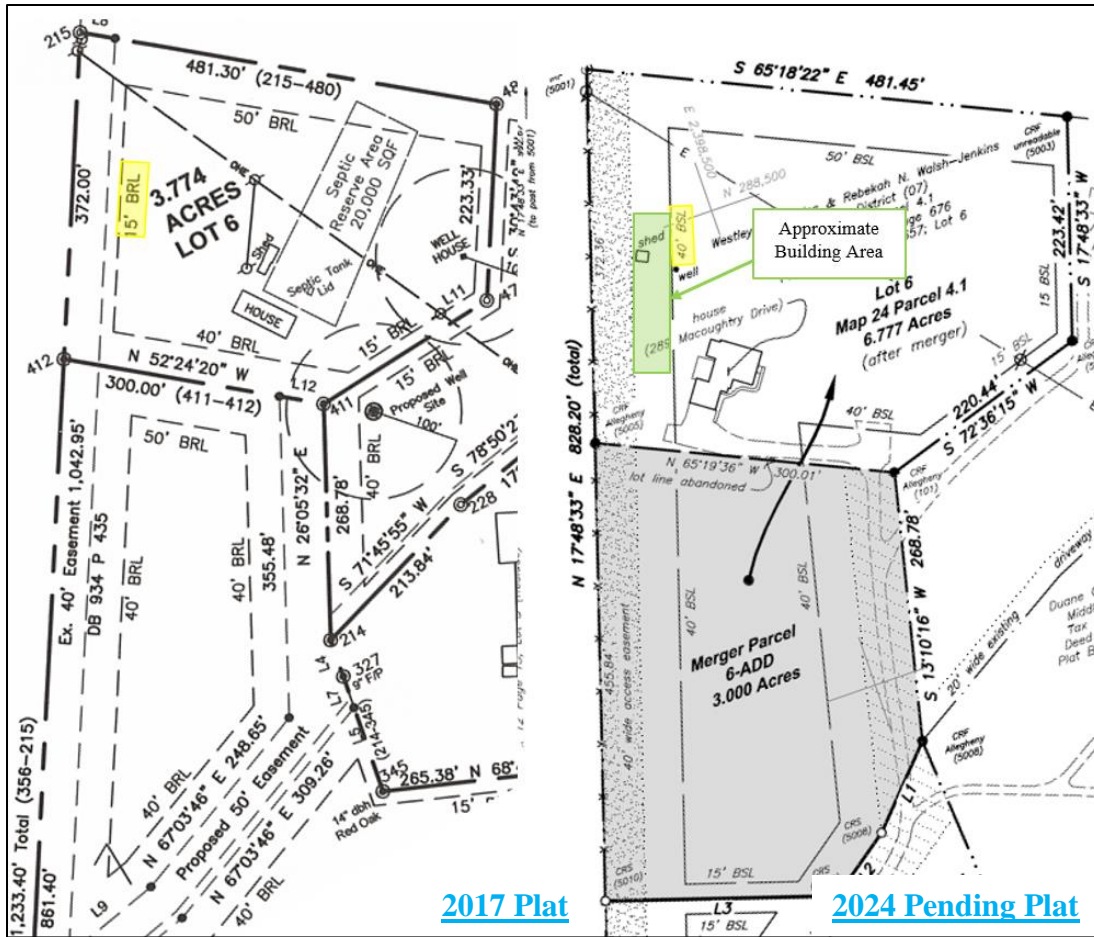
Owner:	Westley Jenkins & Rebekah Walsh-Jenkins
Parcel Information & Zoning District:	<p style="text-align: center;">William MaCoughtry Minor Subdivision, Lot 6          289 MaCoughtry Dr., Kearneysville, WV          Parcel ID: 07002400040001; Size: 3.77 Ac; Zoning District: Rural</p> 
History:	1992/02/26: Hardesty Minor Subdivision recorded in <a href="#">PB 17 / PG32</a> 2017/11/17: William MaCoughtry Minor Subdivision recorded in <a href="#">PB 25 / PG657</a> 2024/06/00: <i>Pending Boundary Line Adjustment to increase the subject parcel's acreage from 3.77 to 6.77 acres.</i>
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit:	Site visit not conducted

**Staff Overview**

In 2017, the subject lot was approved with a 15-foot side setback along a 40-foot wide access easement that provides access to an adjoining 144 acre farm. The applicant is currently processing a boundary line adjustment to increase the lot size from 3.77 acres to 6.77 acres. During the review of the proposed boundary line adjustment, staff noted the incorrect setback distance on the 2017 plat. As such, the previously approved 15'-side setback will need to be modified to reflect a 40'-front setback as part of the current boundary line adjustment review (see exhibits on page 2).

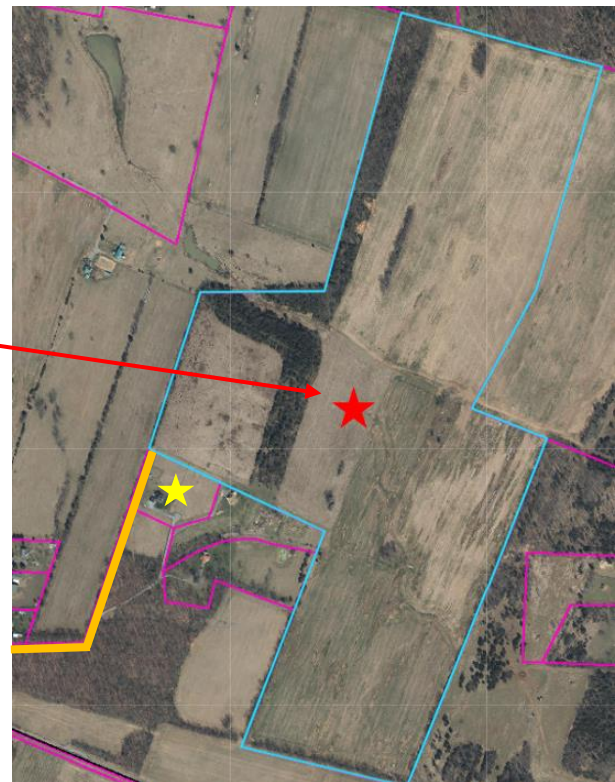
A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that traffic visibility is not impaired for drivers along the right-of-way.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**24-21-ZV Jenkins Variance Request**



The trustees of the adjoining 144-acre farm property, James Amon Grantham and Peggy Grantham, submitted a letter of support for this request.

Property that has the right to use the platted access easement (DB 934 / PG 435).  
 Parcel ID: 07002400040000  
 James A. Grantham Jr & Peggy G. Grantham (Trustees)



Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**24-21-ZV Jenkins 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 conditions of approval have been identified.

**Section of Ordinance to be Considered:**

**Appendix A Residential Site Development Standards Table**

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft.***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks			
							Front	Side	Street Side	Rear
Rural (R) (See Sec. 5.7)	Dwellings		40,000	N/A	100	45	40	15	±	50
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 2 acres	N/A	N/A	N/A	45	40	15	±	50
		40,000 sq. ft. to 2 acres	N/A	N/A	N/A	45	25	12	±	12
		30,000 sq. ft. to 39,999 sq. ft.	N/A	N/A	N/A	45	20	10	±	12
		Under 30,000 sq. ft.	N/A	N/A	N/A	45	20	8	±	12
Cluster Subdivision	See RG District									

**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: 24-21-24  
 Staff Initials: Jrt  
 Meeting Date: Dec 27, 24  
 Fees Paid (\$100 or \$150): 100-

Email: 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: WES JENKINS  
 Mailing Address: 289 MACAUGHTRY DR. KEARNEYSVILLE, WV 25430  
 Phone Number: 484 (663) 1536 Email: WJENKINS416@GMAIL.COM

**Applicant Contact Information**

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

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

Name: N/A  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 289 MACAUGHTRY DR.  
 City: KEARNEYSVILLE State: WV Zip Code: 25430  
 Tax District: 07 Map No: 24 Parcel No: 4.1  
 Parcel Size: 6.77 AC Deed Book: 110410 1215 Page No: 676

**Zoning District (please check one)**

- |  |   |   |   |  |   |   |   |
|--|---|---|---|--|---|---|---|
| Residential Growth (RG) <input type="checkbox"/>   | Industrial Commercial (IC) <input type="checkbox"/> | Rural (R) <input checked="" 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"/>                |   |
| <p align="center"><b>RECEIVED</b></p> <p align="center"><b>MAY 30 2024</b></p> <p align="center"><b>JEFFERSON COUNTY PLANNING ZONING &amp; ENGINEERING</b></p> |   |   | 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"/> |

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: App. A & Sec. 9.6C

Briefly describe the nature of the variance request:

OLD PLAT SHOWS 15' BSL BY COUNTY MISTAKE. NEW PLAT SHOWS 40' BSL. TWO BUILDINGS ARE ALREADY ON THE LAND AND COMPLIANT W/ 15' BSL. OWNER IS ALSO REQUESTING TO INSTALL POOL AND WITH NEW 40' BSL THEY CANNOT.

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

Front Setback  Side Setback  Rear Setback  Reduction From 40' to 15'

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:

SEE LETTER. NO OPPOSITION. THESE ARE THE ADJACENT OWNERS THAT HAVE THE R.O.W.

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 COUNTY MADE A MISTAKE ON THE 2017 PLAT AND APPROVED A 15' BSL.

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

OWNER WILL HAVE 80' OF UNUSABLE LAND AND HAVE TO MOVE BUILDINGS

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

THE PROPERTY HAS SPENT THE LAST 7 years WITH A 15' SETBACK AND HAS BEEN SETUP ACCORDINGLY W/ HOUSE, ~~OWN~~ PASTURE FIELDS, AG BUILDINGS, ETC

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]  
Signature of Property Owner  
5/30/24  
Date

[Signature]  
Signature of Property Owner  
5/30/24  
Date

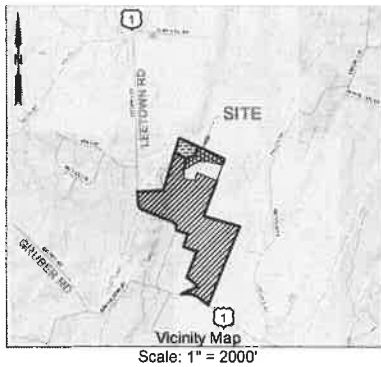
Notification Requirements (to be completed by staff)

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).

06.27.24  
Date of Public Hearing

06.12.24  
Advertising Date

06.12.24  
Placard Posting Date



**Vicinity Map Legend**

	Lot 5 (Residue)
	Lot 6
	Lot 7

**Jefferson County Planning Commission-Waivers**  
(Table 1.2-2)

Section of Subdivision Regulations	Waiver	Date Granted
	None	

**Jefferson County Zoning Board of Appeals**  
Variances

Section of Ordinance	Variance	Date Granted
	None	

**ACREAGE TABLE**

Lot 5 (Residue) Per Tax Map	127.297 Acres
Lot 6	3.774 Acres
Lot 7	4.757 Acres
<b>Total Per Tax Map</b>	<b>135.828 Acres</b>

- NOTES:**
- Property corners are set 5/8" by 30" Rebar with I.D. caps, unless noted otherwise. Property corners 200, 201, 214, 215, 217, 226, 232, 233, and 234 are Found 50" Rebar with I.D. Caps previously set.
  - By graphic plotting only, this property is in Zone "C" per F.J.R.M. Map 5403/CD115E dated 18 December 2008. Exact designation can only be determined by an elevation certificate. Based on the above information, no portion of this property is in a special flood hazard area.
  - Set Back Lines: 40' Front, 15' Side, and 50' Rear per JGZC.
  - The seller of any lot within this subdivision shall provide the buyer with a reasonable opportunity, before settlement, to determine that the lot is suitable for construction of a septic disposal system. If, before settlement, the buyer is denied a septic system construction permit by the County Health Dept., the buyer may refuse to purchase the property without penalty.
  - No structures, fences, or landscaping shall be located in the easements.
  - There are no proposed Restrictive Covenants at this time.
  - WVDOT Highway Entrance Permit #03-2017-0508.
  - Jefferson County Health Department Permit # SDA 19-1716-008.
  - There are no known Existing, Proposed, or Future Right-of-Ways or Easements hereon, except as shown.
  - There are no remnants or unlocated parcels created by this Minor Subdivision.
  - There are no reservations of public land or lands for semi-public use, except as shown.
  - By graphic plotting only, there are no known wetlands on this property per The National Wetlands Inventory Map, Middletown, WV, and there are no known sensitive areas.
  - Lots 6 and 7 to be served by the 50' proposed access easement only.
  - Each lot owner along the private road/access easement shall have unobstructed right of ingress and egress over said private road/access easement to and from their respective residence or property. Each lot owner shall share equally in the cost of maintaining said private road/access easement to keep it in a state of repair that is, at a minimum, as good as the condition of the private road/access easement at the time of closing.
  - The parties hereto state and acknowledge that said access road or access easement is private and its maintenance, including snow removal, is NOT a public responsibility, the responsibility of Jefferson County, or the State of West Virginia.
  - Driveway curbs to be a minimum 15" round CMP or equivalent curb CMP unless noted otherwise.
  - Public Service District may require in the future each property owner to abandon well and septic systems and to connect to a centralized system when and if it becomes available.
  - Verification from a well driller that a pressure grouted well has been drilled and is producing water at a quantity approved by the local or State Health Department is required prior to the issuance of an Improvement Location Permit. Certification that this water is potable must be submitted to the Planning Commission office within 6 months of the issuance of an Improvement Location Permit.
  - A blanket easement is granted to the appropriate Public Service District in all road ROW for construction and maintenance of water and sanitary sewer lines.
  - All building lots shall have a stabilized construction entrance established prior to beginning construction on the lot.
  - Bar on Lot 7 shall not be used to house or feed animals.
  - 20' Easement for existing driveway has not been granted to anyone, however the owner, in an abundance of caution and based on the Pre-Proposal Conference, wishes show an easement along the existing driveway to eliminate any potential controversy between the buyer of Lot 7 and the adjoining property owner.

**STATEMENT OF ACCEPTANCE**  
The owner/developer, in signing this plat, agrees to abide by all conditions, terms, and specifications provided herein.

William Macoughtry  
6705 Brooklyn Bridge  
Lazard, MD 20707  
(301) 776-9554

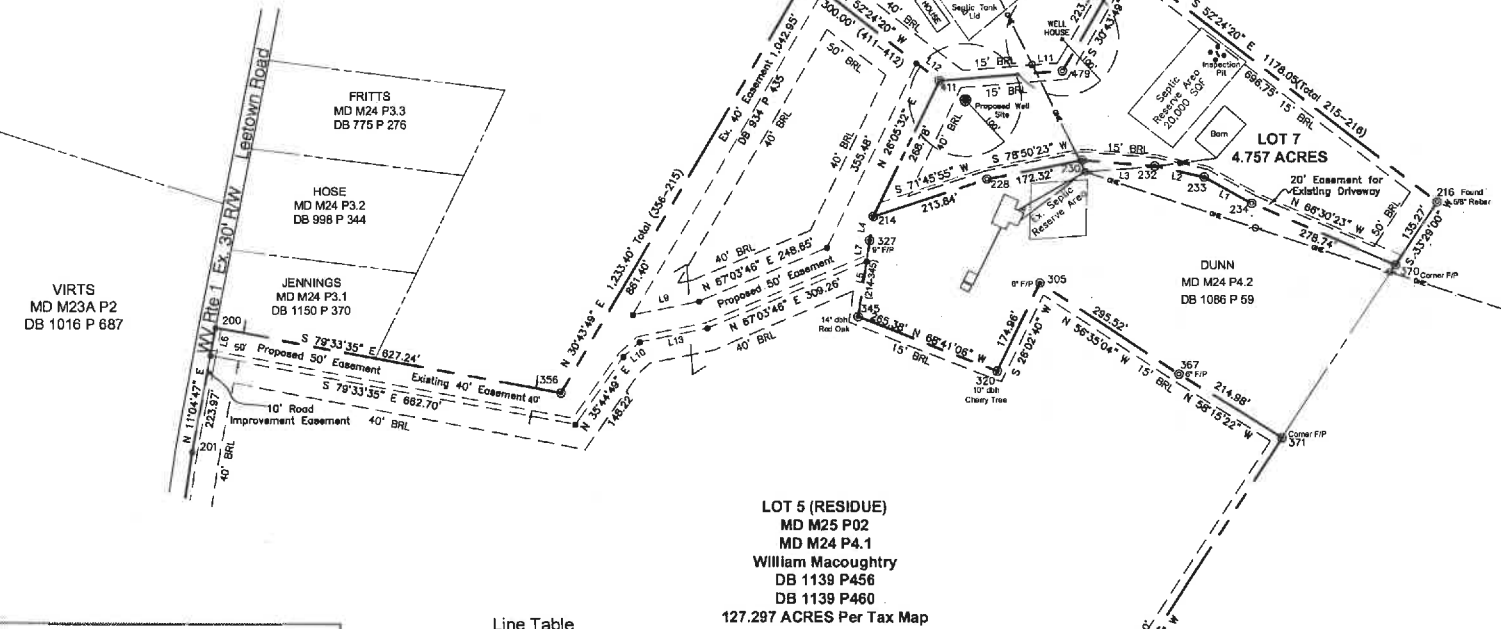
owner/developer

JCYZC Approval

Jefferson County Office of Planning and Zoning

**SURVEYOR'S CERTIFICATION**  
The perimeter as shown hereon has been established by a network of traverse-control having a relative error of closure of 1:7500 or better.

R. Michael Shepp, PS



**LOT 5 (RESIDUE)**  
MD M25 P02  
MD M24 P4.1  
William Macoughtry  
DB 1139 P456  
DB 1139 P460  
127.297 ACRES Per Tax Map

**Line Table**

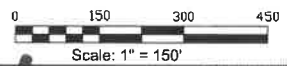
LINE	BEARING	DISTANCE
L1	N 61°02'27" W	96.39'
L2	N 77°23'52" W	89.95'
L3	N 85°30'09" W	129.88'
L4	S 08°45'53" W	43.62'
L5	S 08°45'53" W	138.55'
L6	S 10°57'07" W	50.00'
L7	S 08°45'53" W	37.59'
L8	S 52°24'20" E	40.29'
L9	S 78°28'57" W	120.80'
L10	N 48°48'51" E	39.18'
L11	S 85°31'31" W	220.29'
L12	N 52°24'20" W	51.02'
L13	N 78°28'57" E	123.51'

**LEGEND**

- ⊙ Set 5/8" by 30" Rebar w/ I.D. Caps
- Unmarked Point
- Perc Hole
- Boundary Line
- - - Adjoiner Line
- Overhead Lines & Poles

**REVISIONS**

No.	Revision	Date
1	Planning Commission Comments	18 October 2017
1	Planning Commission Comments	26 October 2017



Final Plat Showing Lots 5 (Residue), 6, & 7  
**WILLIAM MACOUGHTRY**  
Minor Subdivision  
Middleway District Map 25 Parcel 02 & Map 24 Parcel 4.1  
DB 1139 P 456 & DB 1139 P460  
Jefferson County, WV  
Scale: 1" = 150'

Martinsburg Office  
Phone: (304) 901-2182  
Fax: (304) 901-2182

25 Lights Addition Drive  
Martinsburg, WV 25404  
www.sleighsurveys.com

**SLIGH SURVEYS**  
REGISTERED PROFESSIONAL SURVEYORS

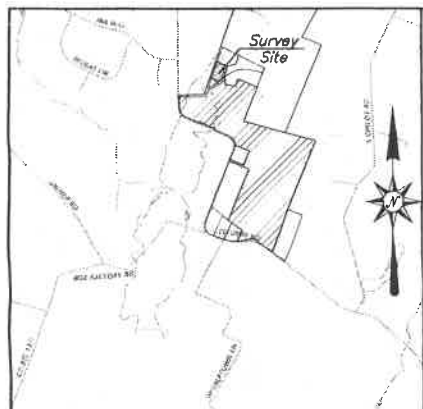
PARTY CHIEF: CWM  
RESEARCH: R. Michael Shepp  
SURVEYED: 08 Aug 2017  
FIELD CREW: CWM, LC

DWG: MACOUGHTRY SUB  
PROJECT NO: 19517  
PREPARED: 19 August 2017  
DRAWN BY: A. Dax

OLD PLAT W/ 15' BSL

LAWN MOWER SHED.

POLE BARN LEAN TO SHED

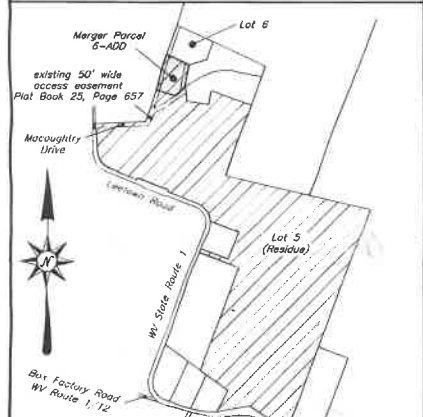


Merger Acreage Table		
	Lot 5 (Residue)	Lot 6
Existing*	127.297	3.777
Merger +	0.000	3.000
Merger -	3.000	0.000
Final Area	124.297	6.777

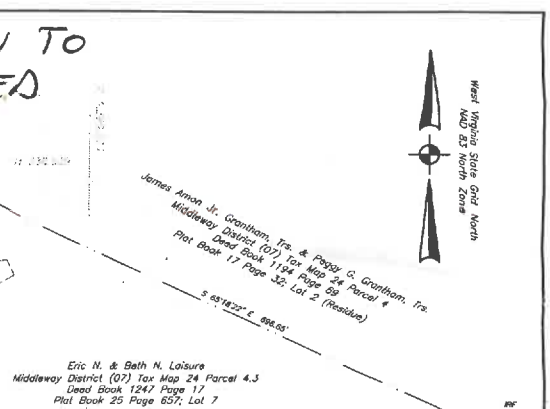
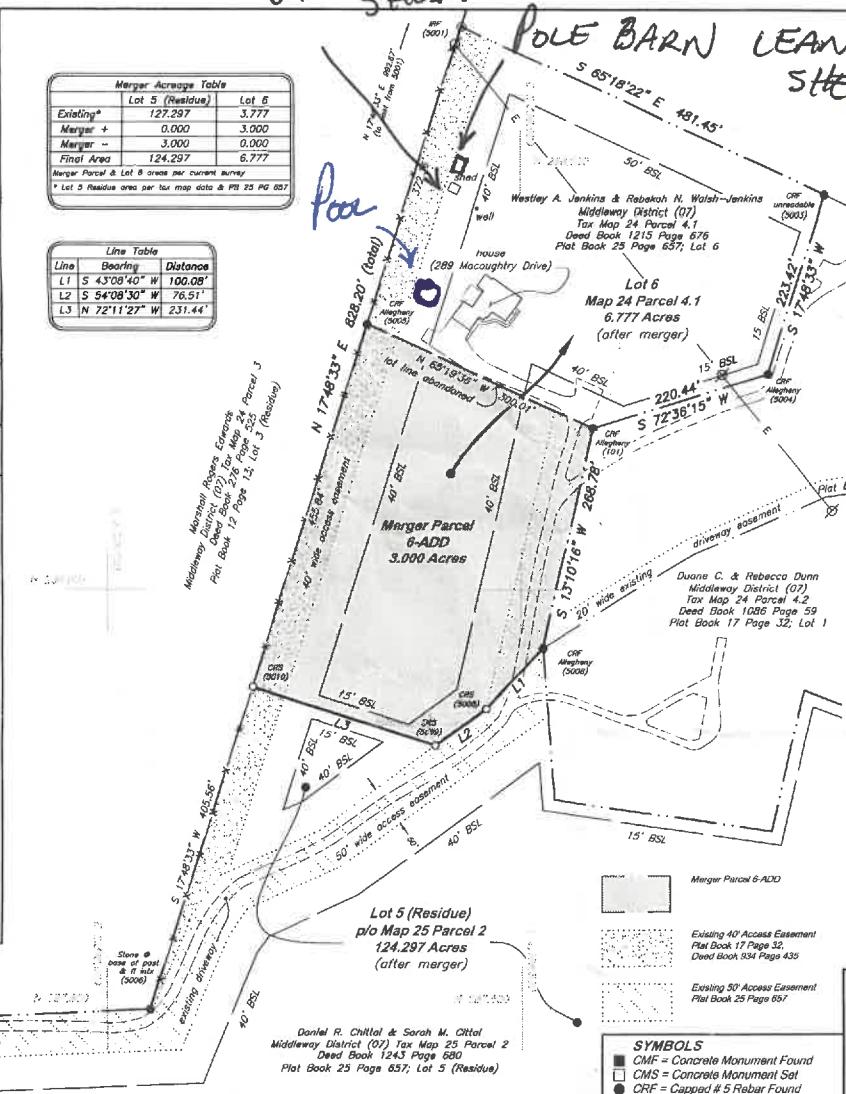
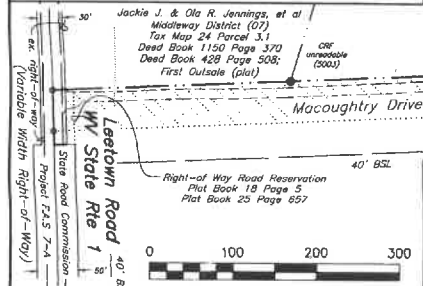
Merger Parcel & Lot 6 areas per current survey  
 \* Lot 5 Residue area per tax map data & PI 25 PG 657

Line Table		
Line	Bearing	Distance
L1	S 43°08'40" W	100.00'
L2	S 54°08'30" W	76.51'
L3	N 72°11'27" W	231.44'

QUAD MAP LOCATION  
 SCALE: 1" = 2,000'



INDEX MAP  
 SCALE: 1" = 1,000'



PLANNING COMMISSION APPROVAL / ORDINANCE CITATIONS  
 FINAL PLAT APPROVED BY JEFFERSON CO. ENGINEERING, PLANNING & ZONING  
 Subdivision Ordinance October 9, 2008; Amended February 1, 2018  
 Zoning Ordinance July 7, 1988; Amended June 16, 2022

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_  
 OFFICE OF PLANNING & ZONING JCEPZ FILE: # 24-6-N

JEFFERSON COUNTY - COMPLETE LIST OF WAIVERS / VARIANCES			
Ordinance	Section	Description	Granted
		(None)	

REVISIONS		
No.	Date	Description
1	3-21-24	address JCEP&Z comments

LINE LEGEND	
E	Ovrdhd Utility
X	Wire Fence
BSL	Building Setback
---	Ex. Property Line
---	New Property Line
---	Ex. Easement Line

I CERTIFY THAT THIS SURVEY PLAT WAS MADE BY ME AND ITS ACCURACY IS WITHIN THE ACCEPTED STANDARDS. ERROR OF CLOSURE 1:7500 OR BETTER

**ZONING**  
 Rural Zone Subsects: 40' front, 50' rear, 15' side. Barns and feeding pens shall be setback 50 feet from all property lines

**FLOOD PLAIN INFORMATION**  
 This property is delineated, by approximate graphic profiling only, in Flood Zone "X" per F.I.R.M. Map 54037C01 15E Panel 115 of 245 dated December 15, 2009.

**WETLAND INFORMATION**  
 By graphic plotting only, the wetlands / sensitive areas shown on this property are per The National Wetlands Inventory Mapper.

**BUILDING SETBACK COMPLIANCE**  
 At the time of this survey all structures were in compliance with County setback requirements with regard to the new lot lines as shown hereon.

**ACCESS / EASEMENTS & RIGHT-OF-WAYS**  
 Access to all lots included on this plat are not adversely affected and are depicted on this plat. No new easements or Right-of-Ways are proposed.

**TITLE INFORMATION**  
 The title information for the properties, easements, right-of-ways, etc. shown hereon was researched and obtained by Gary A. Frey, P.S. and is not based on a title commitment or information provided by a title company or an attorney. This information may not be absolute and additional information may be discovered and disclosed in a title commitment.

**PROPERTY / PLANIMETRIC INFORMATION / PREVIOUS SUBDIVISIONS**  
 The planimeter property information on this plat is from a survey by Gary A. Frey, P.S. using GPS RTK methods oriented to West Virginia State Grid North NAD83 (2011). Field locations and aerial imagery were utilized for the planimetric information shown. See the following documents for previous subdivision notes and restrictions (if any): Plat Book 13 Page 46; Plat Book 17 Page 32; Plat Book 19 Page 5 and Plat Book 25 Page 657

Boundary Line Adjustment and Merger of Merger Parcel 6-ADD from the lands of Daniel R. Chittal & Sarah M. Chittal (Deed Book 1243 Page 680); Lot 5 (Residue) Middleway Tax District (07), Map 25 / Parcel 2 to the lands of Westley A. Jenkins & Rebekah N. Walsh-Jenkins (Deed Book 1215 Page 676); Lot 6 Middleway Tax District (07), Map 24 / Parcel 4.1 Jefferson County, West Virginia Plat Book 25 Page 657

Owner / Developer: Daniel R. Chittal & Sarah M. Chittal  
 Contact: 4464 Lostown Rd Kearneysville, WV 25430 304-620-2735



**GARY A. FREY, P.S.**  
 Professional Land Surveyor  
 P.O. Box 1218  
 Harpers Ferry, WV 25425  
 304-820-9331

**OWNER STATEMENT OF ACCEPTANCE**  
 The lands hereby conveyed are adjacent to and contiguous with those certain parcels of land which are owned by the Grantors herein, having been conveyed to them by deed of record in the Clerk's office of Jefferson County in Deed Book 1215, Page 676, and this conveyance is made for the purpose of adjusting the boundary lines of said presently owned lands of the grantless. In signing this plat, we agree to abide by all conditions, terms and specifications provided herein.

Westley A. Jenkins, Owner      Rebekah N. Walsh-Jenkins, Owner

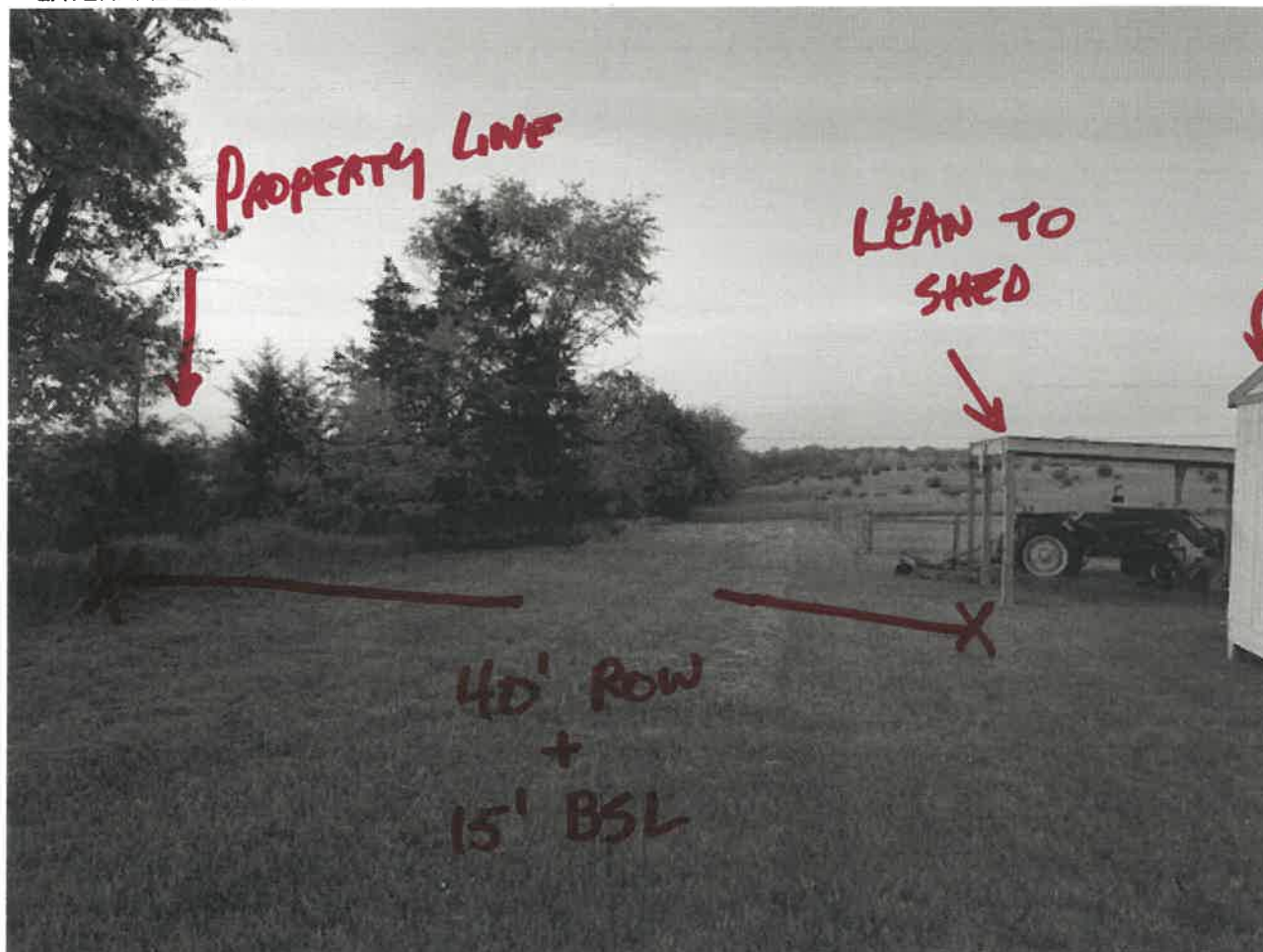
NEW PLAT WITH 40' BSL

## Westley Jenkins

---

**From:** Wes Jenkins <wjenkins416@gmail.com>  
**Sent:** Thursday, May 30, 2024 10:25 AM  
**To:** Westley Jenkins

\*\*EXTERNAL EMAIL\*\*



Sent from my iPhone

CURRENT LAND SETUP.

24.21-ZV

2517 South Childs Rd.  
Kearneysville, WV 25430  
5/20/2024

Wes and Rebekah Jenkins  
289 Macoughtry Drive  
Kearneysville, WV 25430

RE: Adjacent Lot Existing Structures and Pool

To Whom it may concern,

James Amon and Peggy Grantham, who are adjacent property owners to Wes and Rebekah Jenkins, take no opposition to the construction of new pool at the original fifteen-foot setback of the right away. We recognize that this will allow the pool structure within the new forty-foot setback. Also, we have no opposition to the two existing agriculture structures on Wes and Rebekah's property that are within the forty-foot setback.

Sincerely,



James Amon and Peggy Grantham


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MAY 30 2024

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**24-22-ZV Donley Variance Request**

Item #7 Variance from Appendix A to reduce the required setbacks in order to allow three existing accessory structures to remain in their current locations for a proposed minor subdivision.

Owner:	Samuel J Donley Jr
Applicant:	Edwina (Lane) Donley
Parcel Information & Zoning District:	<p style="text-align: center;">4368 Engle Molders Rd, Harpers Ferry, WV 25425          Parcel ID: 09001900040000; Size: 97.3 acres; Zoning District: Rural</p> 
History:	<p>1991/11/01: Merger Parcels for Margret V. Donley Estate (PB10/PG52-52C) which created this parcel, "Parcel 4" totaling 103.74 acres</p> <p>2004/02/24: Boundary Line Adjustment (DB985/PG590) BLA of 5.261 acres to Parcel 25 (leaving 97.479 acres for Parcel 4) Parcel 09001900030000 consists of 1 ac (identified as Exception B), that the map card deducts from Parcel 4 (leaving 102.741 acres for Parcel 4)</p> <p>2016/05/09: Boundary Line Adjustment (DB1173/PG690) BLA of 0.177 acres to Parcel 1.1 (leaving 97.302 acres for Parcel 4)</p>
Conservation Easement:	2004/12/10: Conservation Easement of 93 acres held by the Jefferson County Farmland Protection Board and the Land Trust of the Eastern Panhandle. Excluding Exception A (4.3863 acres) and Exceptions B & C (1 acre each) via DB 999 / PG 317.
Waivers/Variances:	2024/06/11: PC approved a waiver request of Sec. 20.201 to reduce the easement width from 50' to 20' for an MSD.
Approved Activity:	Residential & Conservation Easement
Site Visit:	Site visit not conducted

Staff Report  
Jefferson County Board of Zoning Appeals  
June 27, 2024  
**24-22-ZV Donley Variance Request**

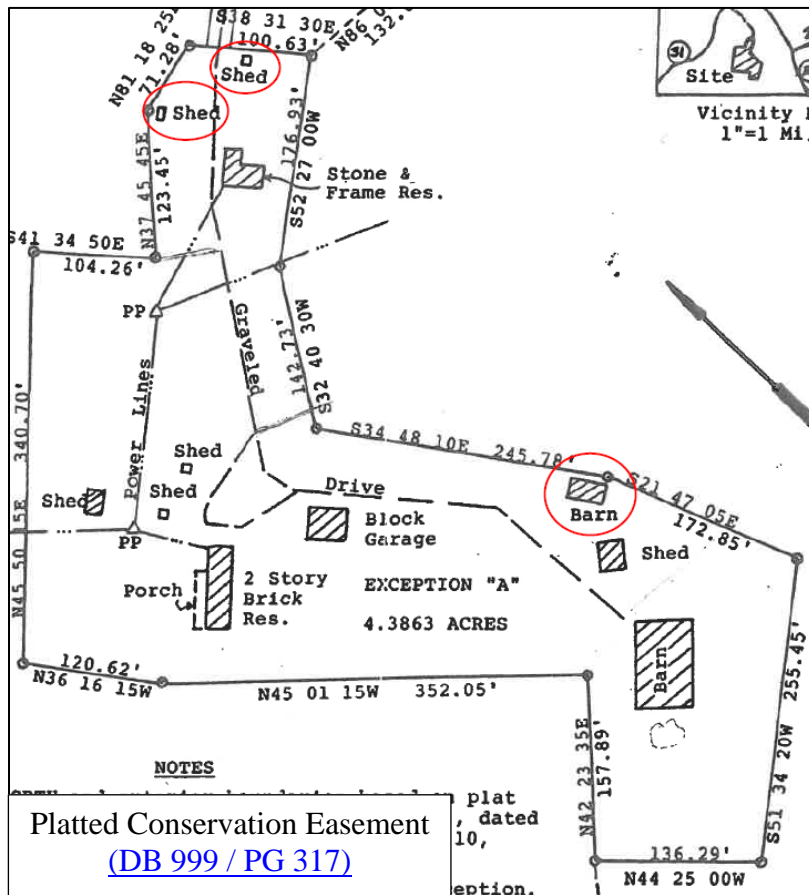
**Staff Overview**

Pursuant to Appendix A of the Zoning Ordinance, the required setbacks for each new lot created through the minor subdivision process are **40' Front, 15' Side, and 50' Rear**. The applicant is requesting to retain three existing detached accessory structures in their current locations with their future subdivision proposal. As a new survey has not yet been completed, the applicant is uncertain of the exact distance of the existing structures in reference to the proposed property lines and/or access easements. The structures subject to this request are noted on the exhibit below.

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.

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.

Because the applicant was uncertain of the configuration of the proposed lot and therefore, uncertain of the exact distance of the structures from any proposed lots lines and/or access easements, staff was unable to specify whether the request related to front, side, or rear property lines. As such, if the Board is inclined to grant the request, it seems reasonable to impose a minimum setback, such as 5' for the existing structures only. If the applicant is unable to comply with a 5' setback, then the structures would either need to be razed or another variance would need to process.

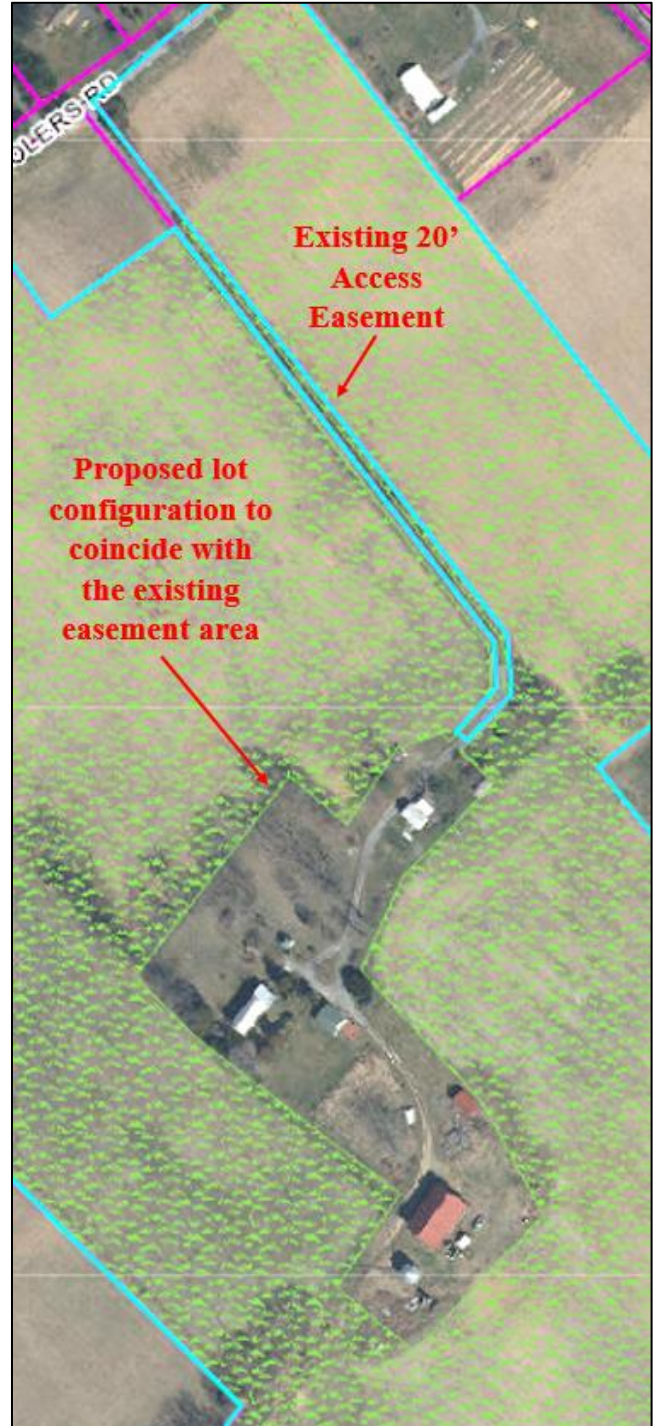


Staff Report  
Jefferson County Board of Zoning Appeals  
June 27, 2024  
**24-22-ZV Donley Variance Request**

In 2004, the applicant processed a Conservation Easement deed and plat with the Jefferson County Farmland Protection Board and the Land Trust of the Eastern Panhandle. The Terms of the Conservation Easement agreement limited the buildable area of the subject parcel to the area identified as “Exception A” (see delineated area below).

In 2023 the property owner, who is in the process of estate planning, contacted the office to determine if processing a subdivision would be feasible. The applicant would like to divide the buildable area from the conservation easement.

Staff researched the history of the property and determined that the property could be subdivided in accordance with Section 5.7D.3 of the Zoning Ordinance. Staff also met with representatives of the Jefferson County Farmland Protection Board and the Land Trust of the Eastern Panhandle to ensure that the Terms of the easement would be upheld.



Staff Report  
 Jefferson County Board of Zoning Appeals  
 June 27, 2024  
**24-22-ZV Donley 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 these structures without further review from the Board.
2. The structures shall be at least five feet from any new property lines and/or access easements created as part of the proposed subdivision.

**Section of Ordinance to be Considered:**

**Appendix A Residential Site Development Standards Table**

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft.***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks			
							Front	Side	Street Side	Rear
Rural (R) (See Sec. 5.7)	Dwellings		40,000	N/A	100	45	40	15	±	50
		Over 2 acres	N/A	N/A	N/A	45	40	15	±	50
		40,000 sq. ft. to 2 acres	N/A	N/A	N/A	45	25	12	±	12
		30,000 sq. ft. to 39,999 sq. ft.	N/A	N/A	N/A	45	20	10	±	12
		Under 30,000 sq. ft.	N/A	N/A	N/A	45	20	8	±	12
	Cluster Subdivision	See RG District								

**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: 24-22-2V  
 Staff Initials: gh  
 Meeting Date: 06-27-24  
 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: Samuel J. and Edwina Donley  
 Mailing Address: 4368 ENGLE MOIER RD STEPTERDSTOWN WV 25443  
 Phone Number: 304-876-2168/304-886-7404 Email: lanedonley05@gmail.com

**Applicant Contact Information**

Name: Edwina Donley  
 Mailing Address: 4368 ENGLE MOIER RD STEPTERDSTOWN WV 25443  
 Phone Number: 304-886-2168/304-886-7404 Email: lanedonley05@gmail.com

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

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

**Physical Property Details**

Physical Address: 4368 ENGLE MOIER RD  
 City: STEPTERDSTOWN State: WV Zip Code: 25443  
 Tax District: 09 STEPTERDSTOWN Map No: 19 Parcel No: 0900190004000  
 Parcel Size: 101.6 ac (current) \* Deed Book: 742 Page No: 102

Zoning District (please check one) \* 4.38 ac (proposed) gh

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input checked="" 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"/>
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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MAY 31 2024

JEFFERSON COUNTY PLANNING  
 ZONING & ENGINEERING

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 A

Briefly describe the nature of the variance request:

Shed (identified as barn) too close to protected property line. PROTECTED property will never be built on - only farmland

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

Front Setback  Side Setback  Rear Setback  Reduction From 15' to ~5' - 10'

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 IS NOT CLOSE TO ROAD OR RESIDENTIAL PROPERTY. NO ONE IS IMPACTED BY THIS SMALL STORAGE BUILDING

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?

NEARNESS TO PROPERTY LINE WAS ACCEPTABLE WHEN PROPERTY ENTERED FARMLAND PROTECTION

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

BUILDING CAN CONTINUE USE AS STORAGE FOR FARM EQUIPMENT BUT DOES NOT IMPACT PLANTING ON PROTECTED FARMLAND

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

EXISTING BLDG - THE FARMLAND WILL NOT BE IMPACTED

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.

Edena M. B. Donley 5.31.24  
Signature of Property Owner Date

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

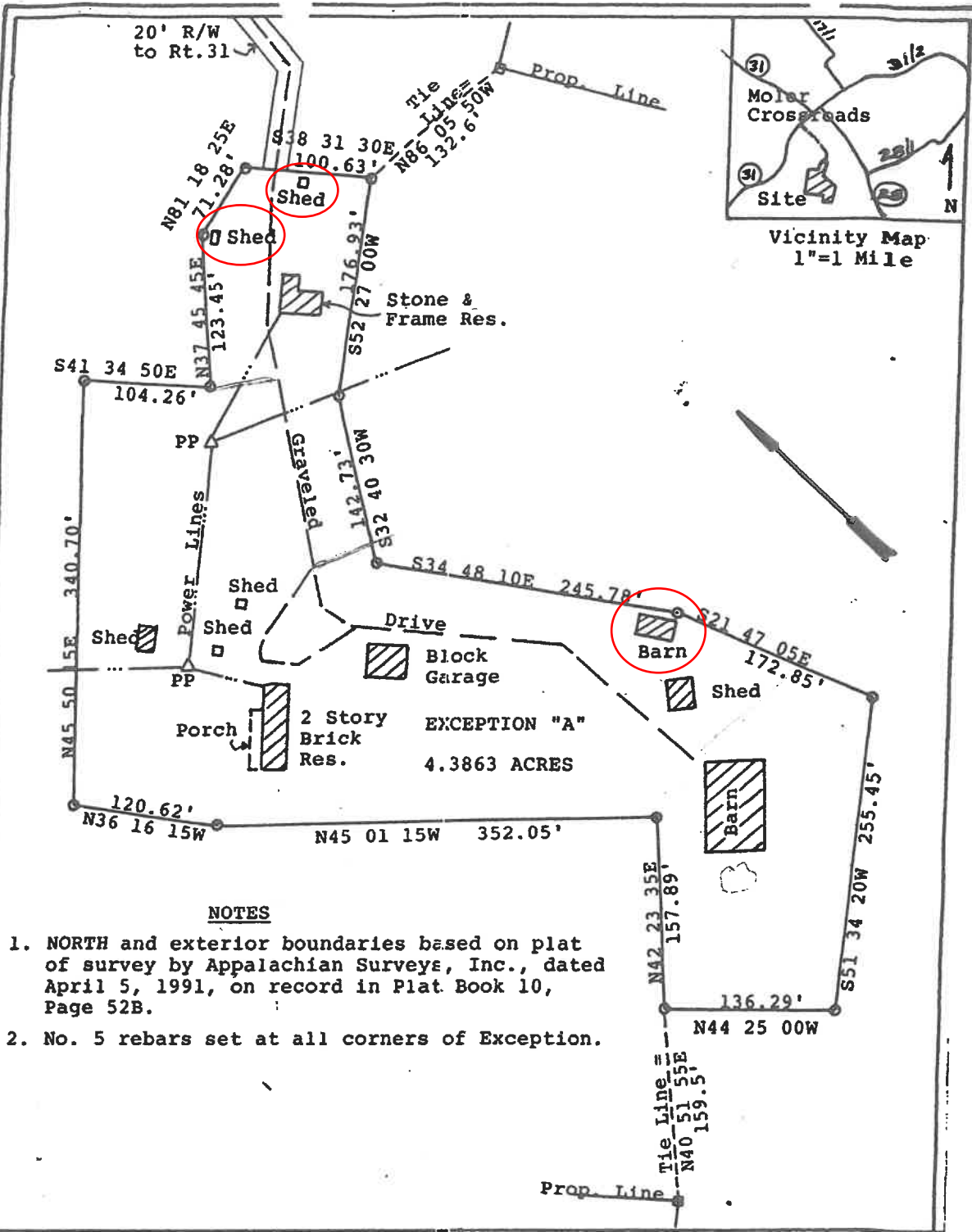
Notification Requirements (to be completed by staff)

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).

\_\_\_\_\_  
Date of Public Hearing

\_\_\_\_\_  
Advertising Date

\_\_\_\_\_  
Placard Posting Date



**NOTES**

1. NORTH and exterior boundaries based on plat of survey by Appalachian Surveys, Inc., dated April 5, 1991, on record in Plat Book 10, Page 52B.
2. No. 5 rebars set at all corners of Exception.

**DATE:** February 25, 2004

**SCALE:** 1" = 100'



BY: David W. Hurst, L.S.  
90 Chalet Drive  
Hedgesville, WV  
25427

**PLAT OF EXCEPTION "A"**  
**4.3863 ACRES**  
**FROM CONSERVATION EASEMENT OF**  
**THE LAND TRUST OF THE EASTERN PANHANDLE**

Land of Samuel J. Donley, Jr.  
Deed Book 742; Page 102  
Tax Map 19, Parcel 4  
Shepherdstown District  
Jefferson County, WV



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:



- 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.



# 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 June 27, 2024 Board of Zoning Appeals Meeting

**Date of Memo: June 17, 2024**

- 1) The next regular meeting is scheduled for **July 25, 2024**
  - Deadline for submission is Friday, June 28, 2024.
- 2) 2045 Comprehensive Plan Status Update
- 3) 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).
- 4) Zoning Certificate Activity Report





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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**May & June 2024**  
**Zoning Certificate Activity Report**

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<b>File #</b>	<b>24-18-ZC</b>
Request:	Home Occupation Level 1 – production and distribution of handmade art pieces and household goods for herbalists (tincture pouches, bags, etc.)
Applicant:	ApotheCarrie Herbal, LLC
Property Owner:	Carrie Whitaker
Parcel Information:	Colonial Hills Subdivision - Phase II, Lot 43, 364 Starkeys Landing Shepherdstown Parcel ID: 09008E00430000; Size: .046 acre; Zoning District: Residential Growth; Deed Book: 1219; Page: 629; Plat Book: 21 @ Page 86
Date of Issuance:	04/29/2024
<b>File #</b>	<b>24-20-ZC</b>
Request:	Nonconforming Use: Shopping Center (Change in Tenant – Daycare Center)
Property Owner:	SBABA, LLC / Attn: Praveen Khurana
Applicant:	Growing Tree Learning Center, LLC / Attn: Douglas Keefer
Parcel Information:	9 Tusawilla Drive, Charles Town Parcel ID: 02011D00070000; Size: 1.03 acres; Zoning District: Residential Growth; Deed Book: 574; Page: 74
Date of Issuance:	05/03/2024
<b>File #</b>	<b>24-21-ZC</b>
Request:	Temporary Sale of Legal Fireworks
Property Owner:	SUSO 2 Alabama, LP
Applicant:	American Promotional Events, Inc. – East / DBA TNT Fireworks / Attn: Jerri Morfa
Parcel Information:	Charles Town Plaza, 96 Patrick Henry Way, Charles Town Parcel ID: 02000800290002; Size: 21.33 acres; Site Plan File #S96-16 Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1170; Page: 471
Date of Issuance:	05/03/2024
<b>File #</b>	<b>24-22-ZC</b>
Request:	Temporary Sale of Legal Fireworks
Property Owner:	B33 Jefferson Crossing II LLC
Applicant:	American Promotional Events, Inc. – East / DBA TNT Fireworks / Attn: Jerri Morfa
Parcel Information:	Jefferson Crossing, 188 Flowing Springs Rd, Charles Town Parcel ID: 02000800240004; Size: 15.16 acres; Site Plan File #94-04 Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1239; Page: 670
Date of Issuance:	05/03/2024
<b>File #</b>	<b>24-24-ZC</b>
Request:	Equipment Modifications to an Existing 199' Telecommunications Tower Site
Property Owner:	Sarah E Walker, et al
Applicant:	SBA Network Services LLC / Attn: Chris Blackburn
Parcel Information:	67 Granny Smith Lane, Kearneysville Parcel ID: 07000300220000; Size: 77 acres; Zoning District: Rural; Deed Book: 882 @ Page: 493; PC File #S02-18
Date of Issuance:	06/13/2024

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