

Minutes
Jefferson County Board of Zoning Appeals

1 Meeting Date: June 27, 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; David Wiegand, and Steve Guier were present in person.
7 Board Members Absent: Mikala Shremshock, Alternate
8 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator;
9 and Shenandoah Olsen, Planning Staffer

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: April 25, 2024**

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

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

17 **Agenda Item #1 File #: 24-16-ZV**

18 Request: Variance from Section 5.4B of the Zoning Ordinance, amended 05/01/03 to reduce the
19 rear setback along the western property line for a deck.
20 Parcel Info: Frank and Elizabeth Casaleno, Property Owners
21 Demory Farm Subdivision, Lot 30, 214 Killian Lane, Charles Town, WV
22 Parcel ID: 02009B00300000; Size: .32 acres; Zoning District: Residential Growth

23 Mr. George Sanders with Jones Deck and Fence, LLC, applicant's contractor, was present to
24 address the Board. Ms. Beaulieu provided an overview of her staff report to the Board stating that
25 the request was to reduce the rear setback along the western property line from 20' to 13' for a 12' x
26 16' deck.

27 Mr. Sanders explained the nature of the request to the Board.

28 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided
29 testimony. Mr. Quynn closed the public comment portion of the hearing.

30 Mr. McKinney moved to approve the request with the condition that the applicant is bound by their
31 testimony. Mr. Quynn called for a vote, which carried unanimously.

32 **Agenda Item #2 File #: 24-17-ZV**

33 Request: Variance from Appendix A to reduce the side setback along the eastern property line
34 for a deck.
35 Parcel Info: Thomas and Ann Morgan, Property Owner
36 Beallair Subdivision, Lot 303, 20 Shenandoah Crossing Drive, Charles Town, WV
37 Parcel ID: 04010A03030000; Size: .10 acres; Zoning District: Residential Growth

38 Ms. Ann Morgan, property owner, George Sanders with Jones Deck and Fence, LLC, contractor,
39 were present to address the Board. Ms. Beaulieu provided an overview of her staff report to the
40 Board stating that the request was to reduce the side setback from 5' to 3' for a 15' x 10' deck. Ms.
41 Beaulieu noted an error on page 2 of the staff report, stating that the lot to the east was Lot #302
42 and not #304.

1 Ms. Morgan and Mr. Sanders explained the nature of the request to the Board.

2 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided
3 testimony. Mr. Quynn closed the public comment portion of the hearing.

4 Mr. Harris moved for a Summary Approval in accordance with Section 5.7(9) of the Boards' Rules
5 of Procedure. Mr. Quynn called for a vote, which carried unanimously.

6 **Agenda Item #3 File #: 24-18-ZV**

7 Request: Variance from Section 9.7 to reduce the front setback along Natalie Lane for a porch/deck.

8 Parcel Info: Jeffrey & Alita Kite, Property Owner

9 Glen Haven Subdivision, Lot 16, 655 Mason Drive, Harpers Ferry, WV

10 Parcel ID: 04003D00610000; Size: .30 acres; Zoning District: Rural

11 Mr. Jim Weddle, contractor for the property owners, was present to address the Board. Ms. Beaulieu
12 provided an overview of her staff report to the Board stating that the request was to reduce the front
13 setback from 20' to 8' along the southern property line adjoining Natalie Lane, for the purpose of
14 constructing a screened porch/deck. Ms. Beaulieu noted that the subject lot had two front yard
15 designations, one along Mason Drive and the other along Natalie Lane. Ms. Beaulieu stated that staff
16 was not aware of any proposals to widen either of these roads.

17 Mr. Weddle explained the nature of the request to the Board.

18 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided
19 testimony. Mr. Quynn closed the public comment portion of the hearing.

20 Mr. McKinney moved for a Summary Approval in accordance with Section 5.7(9) of the Boards'
21 Rules of Procedure. Mr. Quynn called for a vote, which carried unanimously.

22 Mr. Harris called for a five (5) minute break at 2:26 pm. Mr. Quynn called for a vote, which carried
23 unanimously.

24 Mr. McKinney moved to go back into public session at 2:33 pm. Mr. Quynn called for a vote,
25 which carried unanimously.

26 The applicant for Item #4 was not in attendance. The Board agreed to proceed with the remaining
27 items on the agenda to allow time for the applicant of Item #4 to arrive.

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

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

32 Parcel Info: Frank and Diane Hardy, Property Owner

33 Katherine Chesbro Minor Subdivision, Lot A

34 43 American Pride Lane, Kearneysville, WV

35 Parcel ID: 07001300030014; Size: 5 ac; Zoning District: Rural

36 Mr. Frank Hardy, property owner, was present to address the Board. Ms. Beaulieu provided an
37 overview of her staff report to the Board stating that the request was to reduce the front setback from
38 40' to 30' along a proposed access easement to allow an existing detached accessory structure to
39 remain in its current location.

40 Mr. Hardy explained the nature of the request to the Board.

1 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided
2 testimony. Mr. Quynn closed the public comment portion of the hearing.

3 Mr. Harris moved for a Summary Approval in accordance with Section 5.7(9) of the Boards' Rules
4 of Procedure. Mr. Quynn called for a vote, which carried unanimously.

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

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

9 Parcel Info: Westley Jenkins & Rebekah Walsh-Jenkins, Property Owner
10 William MaCoughtry Minor Subdivision, Lot 6
11 289 MaCoughtry Dr., Kearneysville, WV
12 Parcel ID: 07002400040001; Size: 3.77 Ac; Zoning District: Rural

13 Mr. Westley Jenkins, property owner, was present to address the Board. Ms. Beaulieu provided an
14 overview of her staff report to the Board stating that the request was to reduce the front setback from
15 40' to 15' for an existing shed and lean-to and a proposed pool. Ms. Beaulieu noted that the shed and
16 lean-to structures were built in accordance with the setbacks that were platted in 2017. Ms. Beaulieu
17 stated that a boundary line adjustment was currently pending and it was noted that the setback was
18 platted incorrectly in 2017 and would be corrected as part of the pending boundary line adjustment
19 plat. Ms. Beaulieu noted that the adjoining property owner, who shares use of the access easement,
20 provided a letter of support for the request.

21 Mr. Jenkins explained the nature of the request to the Board.

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

24 Mr. Guier moved to approve the request with the condition that the applicant is bound by their
25 testimony. Mr. Quynn called for a vote, which carried unanimously.

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

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

29 Applicant: Lane Donley

30 Parcel Info: Samuel J Donley Jr, Property Owner
31 4368 Engle Molders Rd, Harpers Ferry, WV 25425
32 Parcel ID: 09001900040000; Size: 97.3 acres; Zoning District: Rural

33 Ms. Lane Donley, applicant, was present to address the Board. Ms. Beaulieu provided an overview
34 of her staff report to the Board stating that the request was to allow the existing accessory structures
35 to remain in their current locations with the proposed minor subdivision. Ms. Beaulieu noted that the
36 structures appear to be approximately five feet from the approximate location of the proposed lot
37 lines.

38 Mr. Donley explained the nature of the request to the Board. Ms. Donley noted that the two sheds
39 located near the access easement may be removed by the end of the year but stated that the storage
40 structure labelled as a "barn" on the easement plat was over 50 years old and the family would like
41 to keep it in its current location. Ms. Donley stated that the structure has not been used for housing
42 or feeding animals and would not be used for that purpose, if allowed to remain in the current
43 location.

1 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided
2 testimony. Mr. Quynn closed the public comment portion of the hearing.

3 Mr. McKinney moved to approve the request with the condition that the applicant is bound by their
4 testimony. Mr. Quynn called for a vote, which carried unanimously.

5 **Agenda Item #4 File #: 24-19-ZV**

6 Request: Variance from Section 4.11 and Appendix B to eliminate the landscaping requirements,
7 the parking/ drive aisle setbacks, and the building setbacks along the internal lot line to
8 allow for the expansion of the existing Devil's Due Distillery facility without having to
9 consolidate into a single lot.

10 Applicant: Devil's Due Distillery / Attn: Wylie McDade

11 Parcel Info: Shenandoah Valley Holdings LLC, Property Owner

12 Burr Business Park, 315 James Burr Blvd, Kearneysville, WV 25430

13 Lot # 32 - Parcel ID: 02000101320000; Size: 2.7 acres; and

14 Lot #33 - Parcel ID 02000101330000; Size: 2.83 acres;

15 Zoning District: Industrial Commercial

16 Ms. Beaulieu swore in the applicant for this request as they were not present at the beginning of the
17 meeting.

18 Mr. Wylie McDade, property owner, was present to address the Board. Ms. Beaulieu provided an
19 overview of her staff report to the Board.

20 Mr. McDade explained the nature of the request to the Board.

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

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

24 1. No buildings shall cross the internal lot line.

25 2. A note shall be added to the site plan stating, "The owner/developer agrees that if either of the
26 individual lots are conveyed to an outside party, all appropriate or necessary road and/or
27 parking easements will be conveyed to the grantee if appropriate at the time of such transfer."

28 3. The applicant is bound by their testimony.

29 Mr. Quynn called for a vote, which carried unanimously.

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

32 Ms. Beaulieu provided an update regarding legal counsel's opinion on this item.

33 Mr. McKinney moved to deny the request to include language from WV State Code 8A-8-9 and
34 Section 3.4A of the Zoning Ordinance into the Agenda Packet and to leave the Agenda Packets in
35 the current format. Mr. Wiegand seconded to the motion. Mr. Quynn called for a vote, which
36 carried four (4) in support of the motion and one (1) in opposition (Harris).

37 **Zoning Administrator Report**

38 Ms. Beaulieu provided the Board with the following information:

39 1. The next regularly scheduled meeting is July 25, 2024.

- 1 2. An update regarding Parts 1 and 2 of the 2045 Comprehensive Plan Update.
- 2 3. Monthly Zoning Certificate Activity Report. The Report was included in the Agenda packet.

3 **Legal Update**

- 4 a. Discussion with possible deliberative session of the following pending lawsuits:
 - 5 1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy
 - 6 Facility / File 22-9-CUP) Rockwell v. JCBZA
 - 7 2. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence /
 - 8 23-13-ZV) Gallagher c JCBZA and Timothy Williamson
 - 9 3. Jefferson County Circuit Court Case # CC-19-2024-C-14 (RE: Jeremy Martin, Tiffany
 - 10 Martin and Earthworx General Contracting Services, LLC v. Jefferson County Board of
 - 11 Zoning Appeals).

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

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

14 **Meeting: March 28, 2024**

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

20 No action was taken as the findings were not available.

21 Mr. McKinney moved to adjourn the meeting at 3:36 pm. Mr. Quynn called for a vote, which carried
22 unanimously.