

Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: July 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; Steve Guier, Mikala Shremshock, Alternate were
6 present in person. Matthew McKinney, Vice Chair; and David Wiegand
7 were in attendance via ZOOM.
8 Board Members Absent: Jacob Harris, Secretary (absent with notice)
9 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator; Steve Groh,
10 Assistant Prosecuting Attorney; and Jennilee Hartman, Zoning Clerk

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

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

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

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

16 **Approval of Minutes: June 27, 2024**

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

18 **Agenda Item #1 File #: 24-23-ZV**

19 Request: Variance request from Section 9.7 to reduce the side setback along the northern
20 property line from 12' to 4' for an 8' x 16' deck.

21 Parcel Info: Nicholas Lowe, Property Owner
22 272 No Name Lane, Kearneysville, WV

23 Parcel ID: 07001900180003; Size: .46 acres; Zoning District: Rural

24 Deborah Lowe, property owner representative, was present to address the Board. Ms. Beaulieu
25 provided an overview of her staff report to the Board clarifying that the request was to reduce the
26 side setback along the northern property line from 8' as opposed to the 12' referenced in the agenda.

27 Ms. Lowe explained the nature of the request to the Board and confirmed that her family owned the
28 adjoining parcel that would be impacted by the request.

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

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

33 **Agenda Item #2 File #: 24-5-CUP and 24-24-ZV**

34 Request #1: Request for a Conditional Use Permit to establish a construction company (proposed
35 land use designation as listed in Appendix C of the Zoning Ordinance: Contractor with
36 Outdoor Storage). The proposal consists of construction a 100' x 100' building,
37 employee parking, and outdoor equipment storage area. The business may employ up
38 to five (5) employees. On-site customer visits will be minimal. A freestanding business
39 sign in accordance with Article 10 is proposed. (File #24-5-CUP)

40 Request #2: Variance request from Appendix B and Section 4.11E to utilize existing vegetation in
41 lieu of a planted buffer along all property lines. (File #24-24-ZV)

1 Parcel Info: Global Environmental & Remediation LLC /
2 Contact: Raymond Johnson, Property Owner
3 Parcel located north of the Middleway Pike and Shirley Road intersection
4 formerly addressed as 7367 Middleway Pike, Charles Town, WV
5 Parcel ID: 07002000090001; Size: ~6 acres; Zoning District: Rural

6 Raymond Johnson, property owner, was present to address the Board. Ms. Beaulieu provided an
7 overview of her staff report to the Board and reviewed each of the criteria for a Conditional Use
8 Permit. Ms. Beaulieu stated that as the application did not include any information related to signage
9 that any proposed sign may require evaluation by the Board at a future meeting. Ms. Beaulieu also
10 provided a brief overview of her staff report related to the zoning variance. Ms. Beaulieu noted that a
11 separate motion would be required for each request.

12 Mr. Johnson provided an overview of the proposed land use and addressed the Boards' questions.
13 Mr. Johnson explained that he would like to place a sign with a brick base at the entrance of the
14 property. Mr. Johnson estimated that the proposed sign would be approximately 3' x 8' in size. Mr.
15 Johnson stated that he would be willing to work with the neighbors to address any of their concerns
16 regarding the land use or the variance.

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

18 Mark and Jane Uhl, adjacent property owners, spoke in opposition to the request pertaining to the
19 variance request. Mr. Uhl stated that he did not want any of the existing vegetation to be removed and
20 requested that a row of white pine evergreen trees be planted in a staggering formation where the
21 existing vegetation is sparse along the northern property line.

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

23 Mr. Johnson provided a rebuttal and addressed the neighbors' concerns stating that he would be
24 willing to plant the trees as requested by Mr. Uhl.

25 The Board reviewed each of the General Standards outlined in Section 6.3A.1-8 of the Ordinance
26 finding that the proposed use did meet the required criteria.

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

- 28 1. The applicant is bound by their testimony.
- 29 2. Any proposed signage related to the land use will require evaluation by the Board at a future
30 meeting.

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

32 Mr. Guier moved to approve the zoning variance request as presented for the eastern, western, and
33 southern property lines; and granted the variance request for the northern property line with the
34 following conditions:

- 35 1. The applicant shall retain existing foliage along the northern property line and plant the
36 required 20' – 40' wide landscaping buffer along the northern property line in any location
37 that is lacking a sufficient buffer.
- 38 2. The applicant shall maintain existing vegetation along all other property lines.
- 39 3. The applicant is bound by their testimony.

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

1 Agenda Item #3 File #: 24-6-CUP and 24-25-ZV

2 Request #1: Request for a Conditional Use Permit to establish a Special Event Facility in
3 conjunction with the existing Bakerton Market. The proposal consists of hosting a
4 variety of community events such as flea markets, car shows, movie nights, etc. on a
5 weekly, quarterly, and annual basis. The proposal also includes a picnic area and the
6 addition of alcohol sales for on-premises consumption. (File #24-6-CUP)

7 Request #2: Variance request from Section 8.14B to reduce the minimum lot size requirement for a
8 Special Event Facility from 5 acres to .65 acre; and to eliminate the buffer screen
9 requirement to accommodate the proposed parking area. (File #24-25-ZV)

10 Parcel Info: Carter & Maple Properties, LLC, Property Owner
11 Bakerton Central, LLC / Contact: Kevin Cuellar, Applicant
12 Vacant parcel located south of 834 Carter Ave, Harpers Ferry, WV
13 Parcel ID: 04003A00230000; Size: .65 acre; Zoning District: Village

14 Kevin Cuellar and Kathy Vocal, property owners, were present to address the Board. Ms. Beaulieu
15 informed the Board that due to the unique nature of the requests that the Conditional Use Permit
16 and the Zoning Variance to reduce the minimum lot size would need to be evaluated together as one
17 could not be approved without the other.

18 Ms. Beaulieu provided an overview of her staff report to the Board and reviewed each of the criteria
19 for a Conditional Use Permit. Ms. Beaulieu also provided a brief overview of her staff report related
20 to the zoning variance. Ms. Beaulieu reiterated that while the requests must be evaluated together
21 that a separate motion would be required for each request.

22 Mr. Cuellar gave an overview of the proposed land use and provided examples of the types of
23 events that would be hosted on the property, such as Halloween and Christmas community
24 gatherings. Mr. Cuellar explained that the portion of the request as it pertains to alcohol
25 consumption is meant to be secondary to the proposed land use. Mr. Cuellar clarified that the intent
26 of providing alcohol sales is to add to the customer's experience and is not meant to be the primary
27 use or focus of the events. Mr. Cuellar added that a community event calendar that would include
28 attendee restricted events, such as Paint Nights, will help keep the events organized. Mr. Cuellar
29 addressed the Boards' questions.

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

31 Jacquelyn Milliron, resident, spoke in opposition to the request citing concerns regarding noise,
32 emergency service response times, and water pollutants.

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

34 Mr. Cuellar provided a rebuttal. Mr. Cuellar stated that large festivals/events were not anticipated.
35 Mr. Cuellar explained that because the intent of the request is to facilitate a need for a community
36 space within Bakerton that they would be working directly with the neighboring residents to ensure
37 that the proposed events were compatible with the area. The Board discussed the number of potential
38 attendees during the events. Mr. Cuellar answered the Board's questions regarding Bakerton
39 Market's occupancy. Ms. Beaulieu explained that the Bakerton Market is a separate, legal
40 nonconforming use and clarified that the evaluation of the Conditional Use Permit should be limited
41 to the vacant parcel.

42 Mr. Guier moved to go into deliberative session at 3:54 pm. Mr. Guier moved to go back into
43 regular session at 4:23 pm.

1 The Board reviewed each of the General Standards outlined in Section 6.3A.1-8 of the Ordinance
2 and determined that the proposed use did not meet the required criteria to establish an event facility.

3 The Board stated that the request to reduce the minimum lot size was too significant and did not
4 meet the intent of the code.

5 Ms. Shremshock moved to deny the zoning variance request. Mr. Quynn called for a vote, which
6 carried unanimously.

7 Mr. Guier moved to deny the conditional use permit citing that there were alternative ways to
8 accomplish the proposal. Ms. Shremshock seconded the motion, which carried unanimously.

9 **Zoning Administrator Report**

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

- 11 1. The next regularly scheduled meeting is August 22, 2024.
- 12 2. The 2045 Comprehensive Plan Update Public Hearing will be held on August 27, 2024 in the
13 Washington High School Auditorium.
- 14 3. Monthly Zoning Certificate Activity Report. The Report was included in the Agenda packet.

15 **Legal Update**

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

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

19 Mr. Groh stated that items 1 and 3 were pending motions and that he was waiting for a
20 ruling.

- 21 2. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence /
22 23-13-ZV) Gallagher c JCBZA and Timothy Williamson

23 Mr. Groh stated that the parties involved in this action have settled and that as a result he
24 expects this Item will be dismissed.

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

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

29 **Meeting: March 28, 2024**

30 1. Variance request from Section 9.7. Owner: Jeffrey Black. File: 24-8-ZV.

31 2. Variance request from Section 5.7B. Owner: Joshua Madar. File: 24-9-ZV.

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

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

36 Ms. Shremshock moved to adjourn the meeting at 4:43 pm. Mr. Quynn called for a vote, which
37 carried unanimously.