

**Minutes**  
**Jefferson County Board of Zoning Appeals**

1 Meeting Date: August 22, 2024  
2 Meeting Location: County Commission Meeting Room located in the lower level  
3 of the Charles Town Library (entrance on Samuel St.)  
4 200 East Washington Street, Charles Town, WV 25414  
5 Board Members Present: Tyler Quynn, Chair; Matthew McKinney, Vice Chair; Jacob Harris,  
6 Secretary; Mikala Shremshock, Alternate; and David Wiegand were  
7 present in person.  
8 Board Members Absent: Steve Guier with notification  
9 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator; and  
10 Jennilee Hartman, Zoning Clerk were present in person. Steve Groh,  
11 Assistant Prosecuting Attorney, was present via phone conference.

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

13 Mr. McKinney moved to call the meeting to order at 2:02 pm. Mr. Quynn called for a vote, which  
14 carried unanimously.

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

16 **Approval of Minutes: July 25, 2024**

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

18 Mr. Quynn called for Item #4 to be considered first.

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

20 Mr. Harris recused himself from this Item due to a conflict of interest and left the meeting room.

21 **Agenda Item #4      File #: 24-28-ZV and 24-29-ZV**

22 Request #1: Variance from Appendix B to reduce the side setback & unscreened buffer area along  
23 the eastern property line for an addition to an accessory structure and the installation of  
24 a driveway (File 24-28-ZV).

25 Request #2: Variance from Appendix B to allow a portion of a chain link fence up to 8' in height  
26 and a portion of a baseball field to be located within the unscreened buffer area along  
27 the eastern property line (File 24-29-ZV).

28 Parcel Info: Fellowship Bible Church Trustees, Property Owner / Attn: Richard Beddow  
29 160 Daniel Rd, Shenandoah Junction, WV  
30 Parcel ID: 02000300040005; Size: 50± ac; Zoning District: Rural

31 Richard Beddow, Trustee of Fellowship Bible Church, was present to address the Board.

32 Ms. Beaulieu provided an overview of the projects and presented each staff report to the Board.

33 Ms. Beaulieu noted that each request would request a separate motion.

34 Mr. Beddow explained the nature of each request and addressed questions from the Board.

35 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided  
36 testimony. Mr. Quynn closed the public comment portion of the hearing.

37 Mr. McKinney moved for a Summary Approval for File #24-28-ZV in accordance with Section  
38 5.7(9) of the Boards' Rules of Procedure (as amended 01/26/23) with the condition that the applicant  
39 is bound by their testimony. Mr. Wiegand seconded the motion, which carried unanimously.

1 Mr. McKinney moved for a Summary Approval for File #24-29-ZV in accordance with Section  
2 5.7(9) of the Boards' Rules of Procedure (as amended 01/26/23) with the condition that the  
3 applicant is bound by their testimony and that they will maintain the 20' buffer along the eastern  
4 property line. Mr. Wiegand seconded the motion, which carried unanimously.

5 Mr. Harris returned to the meeting room for the duration of the meeting.

6 Mr. Quynn called for Items #2 & 3 to be considered together. Ms. Hartman swore in members of the  
7 public who indicated they would be providing testimony.

8 **Agenda Item #2 File #: 24-26-ZV**

9 Request: Variance from Section 8.17B.1 to reduce the minimum lot size of a proposed five (5)  
10 unit campground from 10 acres to 5.92 acres.

11 Parcel Info: Joseph & Shelby Herbert, Property Owners

12 1122 Duncan Rd, Harpers Ferry, WV

13 Parcel ID: 09001100100000; Size: 5.92 acres; Zoning District: Rural

14 **Agenda Item #3 File #: 24-27-ZV**

15 Request: Variance from Section 8.17B.1 to reduce the minimum lot size of a proposed four (4)  
16 unit campground from 10 acres to 3 acres.

17 Parcel Info: Joseph & Shelby Herbert, Property Owners

18 Vacant parcel located SE of 1122 Duncan Rd, Harpers Ferry, WV

19 Parcel ID: 09001100100002; Size: 3 acres; Zoning District: Rural

20 Joseph and Shelby Herbert, property owners, were present to address the Board. Ms. Beaulieu  
21 provided an overview of the projects and presented each staff report to the Board. Ms. Beaulieu  
22 noted that each request would require a separate motion.

23 Mr. Herbert explained the nature of each request and addressed questions from the Board.

24 Mr. Quynn opened the public comment portion of the hearing. The following members of the public  
25 provided testimony: Shawn Paxton, Chris Marshall, Dana Neese-Paxton, Bill Seiders, Charles  
26 Axline, Kathy Loftin, Michael Johnson, Lauren Diehl, and Bob Commisso.

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

28 Mr. Herbert and Ms. Herbert addressed the comments presented by the public during their rebuttal.

29 Mr. Wiegand moved to go into deliberative session at 3:49 pm. Mr. Quynn called for a vote, which  
30 carried unanimously.

31 Mr. McKinney moved to go back into regular session at 4:10 pm. Mr. Quynn called for a vote,  
32 which carried unanimously.

33 Mr. Harris moved to approve File #24-27-ZV with the following conditions:

34 1. The applicant shall provide a 30' vegetative setback.

35 2. Staff's recommended condition of approval. [Excerpt from Staff Report: *The applicant*  
36 *shall submit documentation reflecting compliance with Section 8.17B of the Zoning*  
37 *Ordinance and Appendix B, Division 2, Section 8.2B of the Subdivision Regulations to*  
38 *ensure adequate buffering from adjacent properties is provided in order to protect and*  
39 *encourage the health, safety, and general welfare of the neighbors.].*

40 3. The applicants are bound by their testimony.

1 Mr. Quynn offered a friendly amendment to include the requirement of a site plan. Mr. Harris  
2 accepted the friendly amendment.

3 Mr. McKinney offered a friendly amendment to strike the condition requiring the 30' vegetative  
4 buffer. Mr. Quynn called for a vote on this amendment, which failed two (2) in support of the  
5 amendment (McKinney/Shremshock) and three (3) in opposition to the amendment (Quynn/  
6 Wiegand/Harris).

7 Mr. Wiegand requested an amendment to the motion to require the installation of a 100' long by  
8 8' tall privacy fence to be erected along the northern property line adjoining the Paxton property  
9 [Parcel ID: 09011A00730005]. Ms. Beaulieu explained that an 8' tall fence would require  
10 setbacks and that a fence would not be permitted within the platted easement. Mr. Wiegand stated  
11 a 6' fence would be acceptable. Mr. Quynn called for a vote on this amendment, which carried  
12 three (3) in support of the amendment (Quynn/Wiegand/Harris) and two (2) in opposition to the  
13 amendment (McKinney/Shremshock).

14 Ms. Beaulieu summarized the full motion to the Board. Mr. Wiegand clarified that the cited  
15 buffer and fence would only apply to the northern property line that borders the residential lot.  
16 Mr. Wiegand also noted that the fence should be appropriately placed to ensure sufficient  
17 protection for the existing home on the adjacent lot.

18 Mr. Quynn called for a vote on the amended motion to grant the request with the following  
19 conditions of approval:

- 20 1. The applicant shall provide a 30' vegetative buffer;
- 21 2. Staff's recommended condition of approval: *The applicant shall submit documentation*  
22 *reflecting compliance with Section 8.17 of the Zoning Ordinance and Appendix B, Division*  
23 *2, Section 8.2B of the Subdivision Regulations to ensure adequate buffering from adjacent*  
24 *properties is provided in order to protect and encourage the health, safety, and general*  
25 *welfare of the neighbors;*
- 26 3. The applicant shall process a site plan;
- 27 4. The applicant shall install a 100' long, 6' tall fence along the northern property line  
28 adjoining the Paxton property [Parcel ID: 09011A00730005]; and
- 29 5. The applicant is bound by their testimony.

30 The motion carried three (3) in support (Quynn/Harris/Shremshock) and two (2) in opposition  
31 (Wiegand/McKinney).

32 Mr. McKinney moved to approve File #24-26-ZV with the following conditions:

- 33 1. The applicant shall obtain site plan approval.
- 34 2. The applicant shall relinquish the previously issued Farm Vacation Enterprise Zoning  
35 Certificate (File #22-1-ZC).

36 Ms. Shremshock offered a friendly amendment to nullify the previously issued Conditional Use  
37 Permit for the Special Event Facility. Mr. Quynn called for a vote, which carried three (3) in  
38 support (Quynn/Harris/Shremshock) and two (2) in opposition (Wiegand/McKinney).

39 Mr. Quynn offered a friendly amendment to include that the applicants are bound by their testimony.  
40 The friendly amendment was accepted.

1 Mr. Quynn called for a vote, which carried three (3) in support (Quynn/Harris/Shremshock) and  
2 two (2) in opposition (Wiegand/McKinney).

3 In response to Mr. Harris' inquiry, Ms. Beaulieu stated that the vegetative buffer and the fence  
4 would not be permitted within the existing [access] easement.

5 Mr. Harris moved to take a five (5) minute break at 4:36 pm. Mr. Quynn called for a vote, which  
6 carried unanimously.

7 Mr. Harris moved to go back into regular session at 4:47 pm. Mr. Quynn called for a vote, which  
8 carried unanimously.

9 Mr. Quynn called for Item #1 to be considered. Ms. Hartman swore in members of the public who  
10 indicated they would be providing testimony.

11 **Agenda Item #1      File #: 24-4-CUP**

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

19 Applicant:    Franklinton Farm, LLC / Attn: Ashley Smith, P.E., Enel North America, Inc

20 Parcel Info:    Mark D. Stolipher, Property Owner  
21                      261 Berry Hill Farm Ln, Summit Point, WV 25446  
22                      Parcel ID: 06001900070000; Parcel/Project Size: 150.31 ac; Zoning District: Rural

23 Parcel Info:    Mark D. Stolipher, Property Owner  
24                      2998 Withers Larue Rd, Summit Point, WV 25446  
25                      Parcel ID: 06001900080004; Parcel/Project Size: 146.84 ac; Zoning District: Rural

26 Parcel Info:    Mark D. Stolipher, Property Owner  
27                      322 & 288 Scooter Ln, Charles Town, WV 25414  
28                      Parcel ID: 06001900160000; Parcel/Project Size: 50 ac; Zoning District: Rural

29 Parcel Info:    Michael Paul Chapman, Trustees, Property Owner  
30                      651 & 653 Franklinton Rd, Summit Point, WV 25446  
31                      Parcel ID: 06001900060000; Parcel/Project Size: 154.16 ac; Zoning District: Rural

32 Ashley Smith with Enel North America, on behalf of Franklinton Farm LLC, Joe Knechtel with  
33 Potesta & Associates, and Paul Raco with P.J. Raco Consulting were present to address the Board.  
34 Ms. Beaulieu provided an overview of her staff report to the Board and reviewed each of the criteria  
35 for a Conditional Use Permit.

36 Ms. Smith and Mr. Raco provided an overview of the proposed land use and presented a PowerPoint  
37 presentation that outlined the scope of the project. A copy of the presentation will be included in the  
38 project file. Ms. Smith and Mr. Raco addressed the Boards' questions. Ms. Smith and Mr. Raco  
39 highlighted the fact that the proposed setbacks and landscape buffers exceed the setback and buffer  
40 requirements outlined in the Zoning Ordinance. The applicant submitted a copy of the following  
41 studies, which were referenced during their presentation, for inclusion in the project file:  
42 Franklinton Farm Solar Project Glare Analysis, Franklinton Farm Solar Project Pre-Construction

1 Acoustical Assessment, Franklinton Farm Solar Project Vegetation Management Plan, an  
2 Appraisal Report from Kirkland Appraisals, LLC, and a copy of the Circuit Court's Ruling affirming  
3 the Board's decision regarding the Rippon Solar Project. The Board stated they would not have time  
4 to evaluate the submitted materials.

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

6 The following members of the public provided testimony concerning the project:

7 Jeffery Albert, Chris Marshall, Rebecca Thompson, Bob Aitcheson, Brian Sokel, Mike Chapman,  
8 Greg Jenkins, Karen Bailey [submitted a Petition and Letters of Support for the project file],  
9 Christine Wimer on behalf of the Jefferson County Foundation, and Kelly Brown.

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

11 Addressing the public's concerns regarding health and safety, Ms. Smith stated that they would  
12 develop an emergency response plan that would be shared with local first responders and that training  
13 would be provided to ensure the plan is implemented effectively. Ms. Smith deferred to the following  
14 health, safety, and environmental experts to provide testimony relevant to their fields of study.

15 Mr. Bill Goodfellow, an environmental toxicologist, a principle scientist, and Practice Director at  
16 Exponent, addressed the public's concerns regarding damaged solar panels, the potential for leaching  
17 chemicals related to the damaged solar panels, and biodegradable cleaning solvents. Mr. Ryan Spray,  
18 a chemist with Exponent who specializes in battery and electric chemistry, addressed the public's  
19 concerns regarding the potential hazards of leaching and fire safety as it relates to the battery units.  
20 Ms. Smith explained how the proposed project would protect farmland compared to a residential  
21 housing development. Ms. Smith also addressed the Boards' questions regarding the existing slope  
22 and grading for the project. Richard Kirkland, a licensed appraiser, provided an overview of his  
23 findings noting that there was no significant decrease in home values for properties that are adjacent  
24 to a solar farm/facility. Mr. Raco addressed the public's concerns regarding setbacks, stormwater  
25 management, and landscaping installation/management. Bob McClusky, attorney, spoke to the  
26 compatibility of the project as it relates to the Comprehensive Plan and Judge Hammer's ruling in a  
27 previous Circuit Court decision regarding a local solar energy facility.

28 Mr. Wiegand moved to go into deliberative session at 7:13 pm. Mr. Harris seconded the motion,  
29 which carried four (4) in support and one in opposition (McKinney).

30 Mr. McKinney moved to go back into regular session at 7:24 pm. Mr. Quynn called for a vote,  
31 which carried unanimously.

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

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

- 35 1. The applicants are bound by their testimony.
- 36 2. The applicant shall obtain all necessary approvals and licensing.

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

### 38 **Zoning Administrator Report**

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

- 40 1. The next regularly scheduled meeting is September 26, 2024.

- 1        2. A reminder that the 2045 Comprehensive Plan Update Public Hearing will be held on  
2            August 27, 2024 in the Washington High School Auditorium.
- 3        3. Monthly Zoning Certificate Activity Report. The Report was included in the Agenda packet.
- 4 Ms. Beaulieu stated that this would be her last meeting as the Zoning Administrator. The Board  
5 thanked Ms. Beaulieu for her service and dedication to the Board.

6 **Legal Update**

- 7        a. Discussion with possible deliberative session of the following pending lawsuits:
- 8            1. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence /  
9                23-13-ZV) Gallagher c JCBZA and Timothy Williamson.
- 10            None.
- 11        b. Discussion with possible deliberative session and signing of draft Findings/Decisions.
- 12            **Meeting: July 25, 2024**
- 13            1. Variance request from Section 9.7. Owner: Nicholas Lowe. File: 24-23-ZV.
- 14            2. Request by Global Environmental & Remediation LLC for a Conditional Use Permit.  
15                Owner: Raymond Johnson. File: 24-5-CUP.
- 16            3. Variance request from Appendix B and Section 4.11E. Owner: Raymond Johnson.  
17                File: 24-24-ZV.
- 18            4. Request by Bakerton Central for a Conditional Use Permit. Owner: Carter & Maple  
19                Properties, LLC. File: 24-6-CUP.
- 20            5. Variance request from Section 8.14B. Owner: Carter & Maple Properties, LLC.  
21                File: 24-25-ZV.
- 22            No action was taken as the findings were not available.
- 23 Mr. Wiegand moved to adjourn the meeting at 7.38 pm. Mr. Harris seconded the motion, which  
24 carried unanimously.