

Meeting Minutes
Jefferson County Board of Zoning Appeals

1 Meeting Date: January 23, 2025
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; David Wiegand, and Jacob Harris were in
6 attendance in person.
7 Board Members Absent: Matthew McKinney, Vice Chair, and Mikala Shremshock, Alternate
8 were absent with notice.
9 Staff Members Present: Mason Carter, Acting Zoning Administrator; and Colin Uhry, Planning &
10 Zoning Clerk

11 Mr. Harris 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 **Election of Officers**

15 Mr. Harris nominated Mr. Quynn as Chair. Mr. Wiegand seconded the nomination, which carried
16 unanimously.

17 Mr. Harris nominated Mr. McKinney as Vice Chair. Mr. Wiegand seconded the nomination, which
18 carried unanimously.

19 Mr. Wiegand nominated Mr. Harris as Secretary. Mr. Quynn seconded the nomination, which carried
20 unanimously.

21 Mr. Quynn presided over the remainder of the meeting as Chair.

22 **Approval of Minutes: Approval of the December 12, 2024 Minutes**

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

24 Mr. Wiegand moved to postpone Agenda Item 4 to the last item of the meeting, which carried
25 unanimously.

26 Mr. Uhry swore in members of the public who indicated they would be providing testimony.

27 **Agenda Item #1: File #: 25-1-ZV**

28 Request #1: Variance from Section 9.7 to reduce the rear setback from 12' to 8' to replace an
29 existing 12' x 60' mobile home with a 16' x 60' mobile home.

30 Parcel Info: Richard A Shiflett et al. / Attn: William Shiflett, Jr.

31 41 Prospect Ave, Charles Town, WV.

32 Parcel ID: 02010A01220000; Property Size: .34 ac; Zoning District: Residential
33 Growth

34 Mr. William Shiflett and Ms. Cynthia Shiflett, applicants, were present to address the Board.

35 Mr. Carter provided an overview of his staff report to the Board stating that the request was to replace
36 a fourth mobile home on the property and allow for a 4' encroachment along the rear setback. This
37 property would have the same setbacks as the existing mobile home but due to the size the applicant
38 needed a variance to account for the extra width along the rear setback.

39 Mr. Shiflett explained that due to pricing of mobile homes, the cost for the same sized mobile home
40 as the one he seeks to replace costs more than one with a width of an extra four feet. He also

1 explained that the variance was due to the extra width on the home being along the setback, noting
2 the home would be the same distance from the alleyway as previously established.

3 Mr. Quynn opened the public comment portion of the hearing. The following member of the public
4 provided testimony: Mr. Danny Craig. Mr. Quynn closed the public comment portion of the hearing.

5 In rebuttal, Mr. Shiflett noted that he does not block the alleyway located behind the property and it is
6 possible for him to be able to drive and access his property through the alleyway, as that is what other
7 property owners in the area do. Mr. Harris noted that the Board cannot control the public behavior,
8 and that if they approve or deny this variance they would not have the authority should Mr. Shiflett
9 continue using the alleyway for access. Mr. Shiflett also proffered communicating with Mr. Craig
10 going forward.

11 Mr. Harris to approve the request (25-1-ZV), with the condition that the applicant is bound by their
12 testimony. Mr. Quynn called for a vote, which carried unanimously.

13 **Agenda Item #2: File #: 25-2-ZV**

14 Request: Variance from Appendix B and Section 4.11 to eliminate the required landscape
15 buffer for a proposed 12,000 sf warehouse (Site Plan File #24-8-SP).

16 Parcel Info: Jefferson Rentals, LLC

17 Vacant Lot on the SW corner W Burr Blvd and James Burr Blvd, Kearneysville, WV

18 Parcel ID: 02000100160017; Size: 3.44 acres; Zoning District: Industrial Commercial

19 Mr. Lane Tobin, applicant representative, was present to address the Board.

20 Mr. Carter provided an overview of his staff report to the Board stating the request was to waive the
21 landscape requirement for the property located in Burr Business Park. The variance would eliminate
22 both the required street trees along the northern and eastern property lines and the perimeter
23 landscaping along the southern and western property lines.

24 Mr. Tobin explained due to the approvals and conditions for the surrounding properties, Jefferson
25 Rentals should not be required to establish the landscaping requirements listed in the Zoning
26 Ordinance. Mr. Tobin noted that only a warehouse would be established in this location.

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

29 Mr. Wiegand made mention to the fact that most applicants seek a zoning variance due to the fact that
30 they do not have enough space for landscaping, while the applicant is seeking one due to not wanting
31 it.

32 Mr. Harris moved to approve the request (25-2-ZV), with the condition that the applicant is bound
33 by their testimony. Mr. Quynn called for a vote, which carried unanimously.

1 Agenda Item #3: File #: 25-1-CUP

2 Request: Request for a Conditional Use Permit to establish the following land uses: a
3 Convenience Store (dba The Country Store); and, an Automobile Repair, Sales and
4 Service (dba RC Auto Service). The proposal includes continuing the use of the
5 existing grocery store and establishing an auto repair business within an existing
6 metal-frame building. The applicant intends on consolidating the subject parcels to
7 expand the parking area for the proposed land uses. All new signage will comply
8 with Article 10.

9 Parcel Info: Corey Ramey, Property Owner
10 4360 Sulphur Springs Road and 4378 Sulphur Springs Road, Kearneysville, WV
11 Parcel IDs: 07001200020002 and 07001200020004; Project Size: 2.12 acres;
12 Zoning District: Rural

13 Mr. Corey Ramey, property owner, was present to address the board.

14 Mr. Carter provided an overview of his staff report to the Board explaining that the existing general
15 store pre-dates the adoption of the Zoning Ordinance and is a legal nonconforming use. Converting
16 the existing store from a legal nonconforming use to a conditional use will ensure the applicant's
17 property will not lose the nonconforming status.

18 Mr. Ramey explained that he has owned the general store since June 2022 and is aware of the
19 nonconforming use that is present. He also explained that he has been working with staff and is
20 interested in bringing this business into conformance.

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

25 Mr. Harris moved to approve the request (25-1-CUP) with the understanding that the applicant
26 would need to contact staff to begin the site plan process, with the condition that the applicant is
27 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

28 Agenda Item #5: File #: 25-3-ZV & 25-5-ZV

29 Request #1: Variance from Section 11.1 to reduce the required number of parking spaces from 25 to
30 10 for a proposed Nursing Home operating as an Assisted Living Facility for up to 16
31 residents (#25-3-ZV).

32 Request #2: Variance from Section 4.10 waive the requirement of a site plan for the installation of a
33 parking lot for a proposed Nursing Home operating as an Assisted Living Facility for up
34 to 16 residents (#25-5-ZV).

35 Parcel Info: Blue Iris, LLC
36 1163 Gardners Lane, Shepherdstown, WV
37 Parcel ID: 09001700090003; Size: 6.63 acres; Zoning District: Rural

38 Ms. Sharon Hallinan, applicant, was present to address the Board.

39 Mr. Carter provided an overview of his staff report to the Board stating the requests were to reduce
40 the number of parking spaces allowed and waive the requirement of a site plan for a Nursing Home
41 operating as an Assisted Living Facility.

1 Ms. Hallinan explained due to Section 11.1A requiring 1 space per 400 square feet floor space, she
2 would be required to install 25 parking spaces. Ms. Hallinan also explained that due to her proposed
3 project being a nonresidential land use, she is required to process a site plan through the Planning &
4 Zoning department. She also explained that she needs these approvals to obtain permits regarding
5 construction.

6 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided
7 testimony. Mr. Quynn closed the public comment portion of the hearing.

8 Mr. Wiegand questioned the applicant regarding the difference between “Assisted Living” and
9 “Nursing Home”. Ms. Hallinan explained the difference between West Virginia State Code and the
10 Zoning Ordinance

11 Mr. Harris moved to approve the request (25-3-ZV), with the condition that the applicant is bound
12 by their testimony. Mr. Quynn called for a vote, which carried unanimously.

13 Mr. Harris moved to approve the request (25-5-ZV), with the condition that the applicant is bound
14 by their testimony. Mr. Quynn called for a vote, which carried unanimously.

15 **Agenda Item #6: File #: 25-4-ZV**

16 Request: Variance from Section 9.7 to reduce the rear setback from 50’ to 15’ for a 16’ x 32’
17 accessory structure.

18 Parcel Info: Elody & Chris Mackey

19 Oak Tree East Subdivision, Lot 11, 335 Acorn Circle, Harpers Ferry, WV

20 Parcel ID: 04000100240008; Size: 2.19 acres; Zoning District: Rural

21 Ms. Elody Mackey & Mr. Chris Mackey, property owners, were present to address the Board.

22 Mr. Carter provided an overview of his staff report to the Board stating the request was to establish a
23 standalone accessory structure (shed) closer to the rear setback near an adjoining parcel that is under
24 a Farmland Protection Easement.

25 Mr. Mackey explained the nature of his request and put emphasis on the fact that no one lives on the
26 Farmland Protection Easement, allowing for the ability to place objects closer to the setbacks without
27 impacting anyone. Mr. Harris noted there would be no public impact and if any electric to the shed
28 would need to be up to code.

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. Harris moved to approve the request (25-3-ZV), with the condition that the applicant is bound
32 by their testimony. Mr. Quynn called for a vote, which carried unanimously.

1 Agenda Item #4: File #: 25-2-CUP

2 Request: Request for a Conditional Use Permit to establish a federal firearms business to
3 include retail sales and gunsmithing in accordance with the Alcohol, Tobacco,
4 Firearms and Explosives (ATF) approvals. The proposal consists of utilizing a 1 acre
5 portion of the 10 acre tract. The land use will be conducted from the existing
6 dwelling unit and the accessory structure. The land use will operate by appointment
7 only. No new structures or signage are proposed as part of this application. The
8 proposed land use designations as listed in Appendix C are Retail Sales and Service,
9 General and Custom Manufacturing, as defined in Article 2.

10 Parcel Info: QRF Solutions K9, LLC / Attn: Nick Russo and Alice Davenport
11 1899 Trough Road, Shepherdstown, WV
12 Parcel IDs: 09000900070006; Project Size: 1 acre; Zoning District: Rural

13 Mr. Nick Russo and Ms. Alice Davenport, property owners, were present to address the board.

14 Mr. Carter provided an overview of his staff report to the Board explaining that the proposed
15 gunsmithing and distribution business is a nonconforming use in the Rural zoning district. He
16 explained that with the accessory operation of training dogs, this type of specific use would be
17 required in order to expand the land use to include the sale or assembly of firearms.

18 Mr. Wiegand made special note that in a number of the public comments received for the Conditional
19 Use Permit made mention to a shooting range established on the property and noted that the shooting
20 range was no longer in effect.

21 Mr. Russo explained the nature of his request and elaborated that he is interested in being able to sell
22 firearms at a not bulk rate, allowing for firearms to be sold individually to people interested. He also
23 explained his past connection to the US Marines and noting he knows more information about
24 firearms than most. Mr. Russo also makes note of the quality of business he conducts, with former
25 clients being successful in the real world.

26 Mr. Quynn opened the public comment portion of the hearing. The following members of the public
27 provided testimony: Patricia Dowell, Sandy Fleri, Piero Fleri, Mary Vann, Jan Cull, Giovanni Fleri,
28 Mike Nickerson, Greg Mason, Christine Marshall, John Doyle, Stephen Alemar, Diane Blust, Paul
29 Pennington, Terry Lindsay, Darlene Donaldson, Christine Wimer, Peggy Bowers, Rosemary
30 Nickerson, and Scarlet Fannin. Mr. Quynn closed the public comment portion of the hearing.

31 Mr. Wiegand motioned to pause the meeting at 4:49 pm. Mr. Quynn called for a vote, which carried
32 unanimously.

33 Mr. Wiegand motioned to resume the meeting at 4:54 pm. Mr. Quynn called for a vote, which carried
34 unanimously

35 Mr. Russo was given the chance to respond to the public comments made, specifically making
36 mention to the fact that he is only testing firearms on his property and his property is not historic and
37 privately owned, unlike the property to the North. Mr. Harris questioned what proffers Mr. Russo
38 would be willing to give. Mr. Russo noted that he wishes to support local law enforcement, is not
39 shooting 24 hours a day on his property, has his property fenced in to reduce casualties, and is
40 willing to comply with barrel testing for commercial shooting.

41 Mr. Wiegand questioned staff on whether or not the public was properly notified. Mr. Uhry
42 confirmed the Placard and Placard confirmation were sent in before the public notice deadline.

1 Mr. Wiegand questioned Mr. Russo on how often he shoots on his property recreationally,
2 specifically noting that in West Virginia he is allowed to shoot on his property as that is his right. Mr.
3 Wiegand also questioned potential proffers the applicant could make. Mr. Russo noted he is open to
4 barrel testing for his commercial firearms and is willing to install vegetation as a noise buffer. Mr.
5 Harris also questions if Mr. Russo would be willing to use suppressors on commercial firearms.

6 Mr. Quynn motioned to bring the meeting into deliberative session at 5:11 pm, which carried
7 unanimously.

8 Mr. Quynn motioned to bring the meeting back into public session at 5:20 pm, which carried
9 unanimously.

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

12 Mr. Harris moved to approve the request (25-2-CUP) with the condition that testing for commercial
13 firearms will be conducted offsite or barrel tested to suppress the noise and the barrel testing is
14 restricted to the 1 acre property, with the condition that the applicant is bound by their testimony.

15 Mr. Quynn called for a vote, which carried 2 in favor and 1 against.

16 **Zoning Administrator Report**

17 Mr. Carter provided the Board with the following information:

18 1. Monthly Zoning Certificate Activity Report. The Report was included in the Agenda packet.

19 **Legal Update**

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

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

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

26

27 Mr. Harris moved to adjourn the meeting at 5:41 pm. Mr. Quynn called for a vote, which carried
28 unanimously.