



Jefferson County
Board of Zoning Appeals Agenda
Thursday, March 27, 2025 at 2:00 p.m.

Members
Tyler Quynn, Chair
Matthew McKinney, Vice Chair
Jacob Harris, Secretary
David Wiegand
Mikala Shremshock, Alternate

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 Link: <https://us02web.zoom.us/j/84987102963>
Phone Option (Dial by Location): 301-715-8592 / Meeting ID: 849 8710 2963

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.

Approval of Minutes: Approval of the February 27, 2025 Minutes

Public Hearing – Administer Oath

Item # 1 File #: 25-8-ZV

Request: Variance from Section 4.11 and Appendix B to eliminate the required landscaping along the southwestern property line for a proposed contractor with outdoor storage business (File #24-7-SP).

Parcel Info: Carpe Diem Omada, LLC
Vacant parcel located to southwest of 306 James Burr Blvd, Kearneysville, WV
Parcel ID: 02000101390000; Property Size: 1.53 ac; Zoning District: Industrial Commercial

Item # 2 File #: 25-9-ZV

Request: Variance from Section 5.7D.2.b.i (b) to allow the required 50% green space to be allocated on two lots within the Harvest Meadows cluster subdivision.

Parcel Owner: Billy Kaye Moores, Tr.

Parcel Info: William Fulk Lane, LLC
282 William Fulk Ln And 235 William Fulk Ln Kearneysville, WV
Parcel ID: 07000600150000 and 07000500050000; Property Size: 219.72 ac;
Zoning District: Rural

Item # 3 File #: 25-10-ZV

Request: Variance from Section 9.7 to reduce the rear setback from 50' to 30' for a proposed accessory structure.

Parcel Info: Christopher and Jamie Kerkstra
2410 Warm Springs Road, Shenandoah Junction, WV
Parcel ID: 09002100120000; Property Size: 6.85 ac; Zoning District: Rural

Item # 4 File #: 25-11-ZV

Request: Variance from Section 4.11 and Appendix B to eliminate the required street trees and landscaping buffer along the perimeter of the property for a proposed brewpub (File #24-5-SP).

Parcel Info: Nicholas Wilson, Karen Dowd Wilson, Katie Main, and Ryan Main
640 War Admiral Blvd., Kearneysville, WV
Parcel ID: 02000100270001; Property Size: 4.7 ac; Zoning District: Industrial Commercial

Item # 5 File #: 25-3-CUP

Request: Request for a Conditional Use Permit to establish a homebased federal firearms business from an existing dwelling unit. The proposed land use designation as listed in Appendix C is *Retail Sales and Service, General*. Applicant anticipates up to 10 customers per month. No employees other than the residents of the property. No signs are proposed.

Parcel Info: JR Arms, LLC / Attn: Richard Cluff
 161 Shannon Hill Lane, Charles Town, WV
 Parcel ID: 02002200020012; Property Size: 1 ac; Zoning District: Rural

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-19-2024-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: February 27, 2025

- 1. Request for a Special Exception for a Billboard Sign and Variance from Section 10.5B.1 to increase the sign face limitation from 300 square feet to 600 square feet; and, to allow two messages per sign face and Variance from Section 10.5B.3: to reduce the distance requirement from a public right-of-way from 300' to 50'. Property Owner: Chris Tyler and Donna Hoffman. File #25-1-SE & 25-6-ZV.
- 2. Variance from Section 4.16 and Section 5.6D of the Zoning Ordinance (as amended 11/30/89), to reduce the setback requirements from all property lines. Property Owner: Jefferson Rentals, LLC. File #25-7-ZV.

DRAFT Meeting Minutes
Jefferson County Board of Zoning Appeals

- 1 Meeting Date: February 27, 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: Matthew McKinney, Vice Chair; Jacob Harris, Secretary; David
6 Wiegand, and Mikala Shremshock, Alternate were in attendance in
7 person.
8 Board Members Absent: Tyler Quynn, Chair was absent with notice.
9 Staff Members Present: Mason Carter, Acting Zoning Administrator; Stephen Groh, County Attorney,
10 and Colin Uhry, Planning & Zoning Clerk

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

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

14 **Approval of Minutes: Approval of the January 23, 2025 Minutes**

15 Mr. Wiegand noted one typo in the minutes. Mr. Wiegand moved to approve the minutes as
16 amended, which carried unanimously.

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

18 **Agenda Item # 1 File #: 25-1-SE and 25-6-ZV**

19 Request #1: Request for a Special Exception for a Billboard Sign.

20 Request #2: a) Variance from Section 10.5B.1 to increase the sign face limitation from 300
21 square feet to 600 square feet; and, to allow two messages per sign face.

22 b) Variance from Section 10.5B.3: to reduce the distance requirement from a public
23 right-of-way from 300' to 50'.

24 Parcel Info: Chris Tyler and Donna Hoffman, property owners

25 Vacant parcel located to the east of 2162 Berryville Pike, Charles Town, WV

26 Parcel ID: 06010A00210000; Property Size: .52 ac; Zoning District: Rural

27 Chris Tyler and Donna Hoffman, property owners, were present to address the Board.

28 Mr. Carter provided an overview of his staff report to the Board.

29 Mr. Tyler explained his desire to advertise businesses along the new realignment of Route 340.

30 Mr. McKinney opened the public comment portion of the hearing. No members of the public
31 provided testimony. Mr. McKinney closed the public comment portion of the hearing.

32 Ms. Shremshock questioned whether the special exception would set precedence, Mr. Harris noted
33 this project would not set precedence with the zoning ordinance.

34 Mr. Harris moved to approve the request (25-1-SE), with the condition that the applicant is bound
35 by their testimony. Mr. McKinney called for a vote, which carried unanimously.

36 Mr. Harris moved to approve the request (25-6-ZV), with the condition that the applicant is bound
37 by their testimony. Mr. McKinney called for an amendment, with the stipulation that the applicant
38 reaches out to the applicable agencies to process construction of the billboard, which carried
39 unanimously.

1 **Agenda Item # 2 File #: 25-7-ZV**

2 Request: Variance from Section 4.16 and Section 5.6D of the Zoning Ordinance (as amended
3 11/30/89), to reduce the setback requirements from all property lines.

4 Parcel Info: Jefferson Rentals, LLC
5 Vacant lot on the SW corner of W Burr Blvd. & James Burr Blvd., Kearneysville, WV
6 Parcel ID: 02000100160017; Property Size: 3.44 ac; Zoning District: Industrial
7 Commercial

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

9 Mr. Carter provided an overview of his staff report to the Board.

10 Mr. Tobin explained due to the approvals and conditions for the surrounding properties, Jefferson
11 Rentals should follow the same setbacks as the remainder of Burr Industrial Park, as other parcels
12 were created in a different Zoning Ordinance than the lot proposed. Mr. Tobin noted that he is only
13 trying to receive the same setbacks as other properties.

14 Mr. McKinney opened the public comment portion of the hearing. No members of the public
15 provided testimony. Mr. McKinney closed the public comment portion of the hearing.

16 Ms. Shremshock moved to approve the request (25-7-ZV), with the condition that the applicant is
17 bound by their testimony. Mr. McKinney called for a vote, which carried unanimously.

18 **Zoning Administrator Report**

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

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

21 **Legal Update**

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

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

25 2. 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: January 23, 2025**

30 1. Variance from Section 9.7 to reduce the rear setback from 12' to 8' to replace an
31 existing 12' x 60' mobile home with a 16' x 60' mobile home. Property Owner:
32 Richard A Shiflett Et Al / Attn: William Shiflett, Jr. File #25-1-ZV.

33 2. Variance from Appendix B and Section 4.11 to eliminate the required landscape buffer
34 for a proposed 12,000 sf warehouse (Site Plan File #24-8-SP). Property Owner:
35 Jefferson Rentals, LLC. File #25-2-ZV.

36 3. Request for a Conditional Use Permit to establish the following land uses: a
37 Convenience Store (dba The Country Store); and, an Automobile Repair, Sales and
38 Service (dba RC Auto Service). Property Owner: Corey Ramey. File #25-1-CUP.

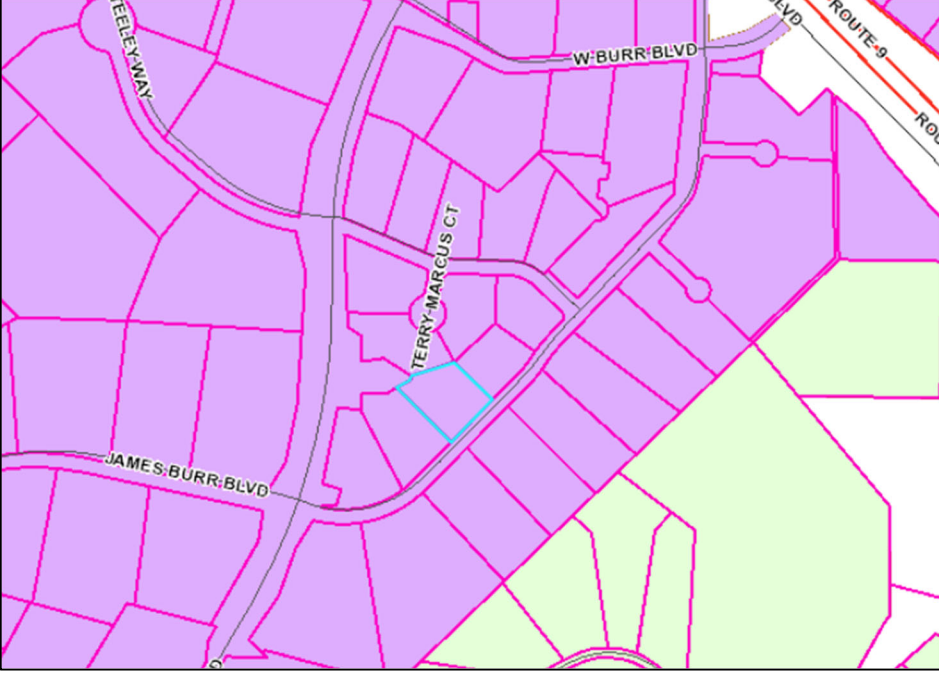
39 4. Request for a Conditional Use Permit to establish a federal firearms business to include
40 retail sales and gunsmithing in accordance with the Alcohol, Tobacco, Firearms and
41 Explosives (ATF) approvals. Property Owner: Nicholas Russo & Alice Davenport.
42 File #25-2-CUP.

- 1 5. Variance from Section 11.1 to reduce the required number of parking spaces from 25 to 10
2 for a proposed Nursing Home operating as an Assisted Living Facility for up to 16 residents.
3 Variance from Section 4.10 waive the requirement of a site plan for the installation of a
4 parking lot for a proposed Nursing Home operating as an Assisted Living Facility for up to
5 16 residents. Property Owner: Blue Iris, LLC / Attn: Sharon Hallinan. Files #25-3-ZV &
6 #25-5-ZV.
- 7 6. Variance from Section 9.7 to reduce the rear setback from 50' to 15' for a 16' x 32'
8 accessory structure. Property Owner: Elody & Chris Mackey. File #25-4-ZV.
- 9 Mr. Harris moved to adjourn the meeting at 2:27 pm. Mr. McKinney called for a vote, which carried
10 unanimously.

Staff Report
 Jefferson County Board of Zoning Appeals
 March 27, 2025

25-8-ZV Carpe Diem Omada, LLC Variance Request

Item #1 Variance from Section 4.11 and Appendix B to eliminate the required landscaping along the southwestern property line for a proposed contractor with outdoor storage business (File #24-7-SP).

Owner:	Carpe Diem Omada, LLC
Parcel Information & Zoning District:	<p style="text-align: center;">Burr Business Park Lot #39 Vacant parcel located to the southwest of 306 James Burr Blvd., Kearneysville Parcel ID: 02000101390000; Property Size: 1.53 ac Zoning District: Industrial Commercial</p> 
History:	<p>12/18/2007: Burr Business Park Subdivision (PB 24 / PG 73) 05/06/2008: Approved Minor Plat Change re: SWM & Floodplain (PB 25 / PG 28)</p>
Waivers/Variances:	<p>01/24/2006: PC approved a waiver request to eliminate the required road curbs, gutters, and sidewalks along the road frontage. 07/28/2016: BZA approved a variance to reduce building setback requirements for commercial and industrial development within the Burr Park to 25' for all vacant lots currently owned by the JCDA; to reduce the landscape buffer requirement for commercial and industrial sites adjacent to commercial or industrial uses; to allow a modified planting standard; and to reduce the parking and drive aisle setbacks for a proposed industrial use (ZV16-14).</p>
Site Visit Conducted:	No

Staff Report
Jefferson County Board of Zoning Appeals
March 27, 2025

25-8-ZV Carpe Diem Omada, LLC Variance Request

Staff Overview

The subject parcel is designated as Lot #39 of the Burr Business Park Subdivision, which was recorded on December 18, 2007 in Plat Book 24, at Page 73. The request is to eliminate the required landscaping buffer requirement along the southwestern property lot line that would be required as part of the site development proposal to establish a new contractor with outdoor storage business (File #24-7-SP).

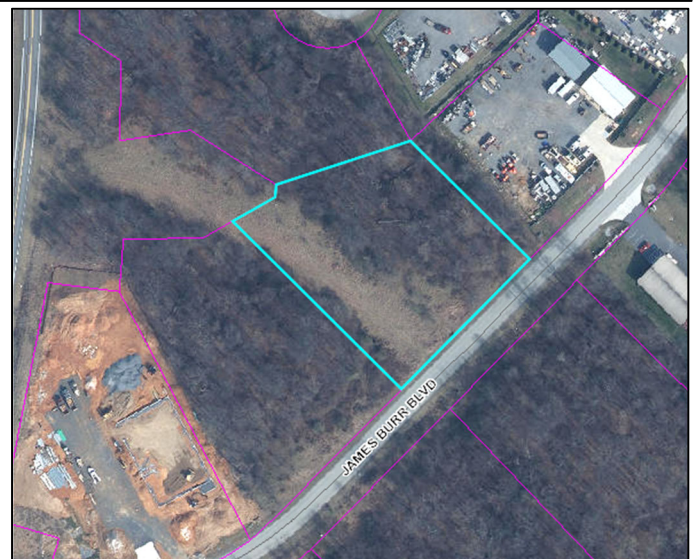
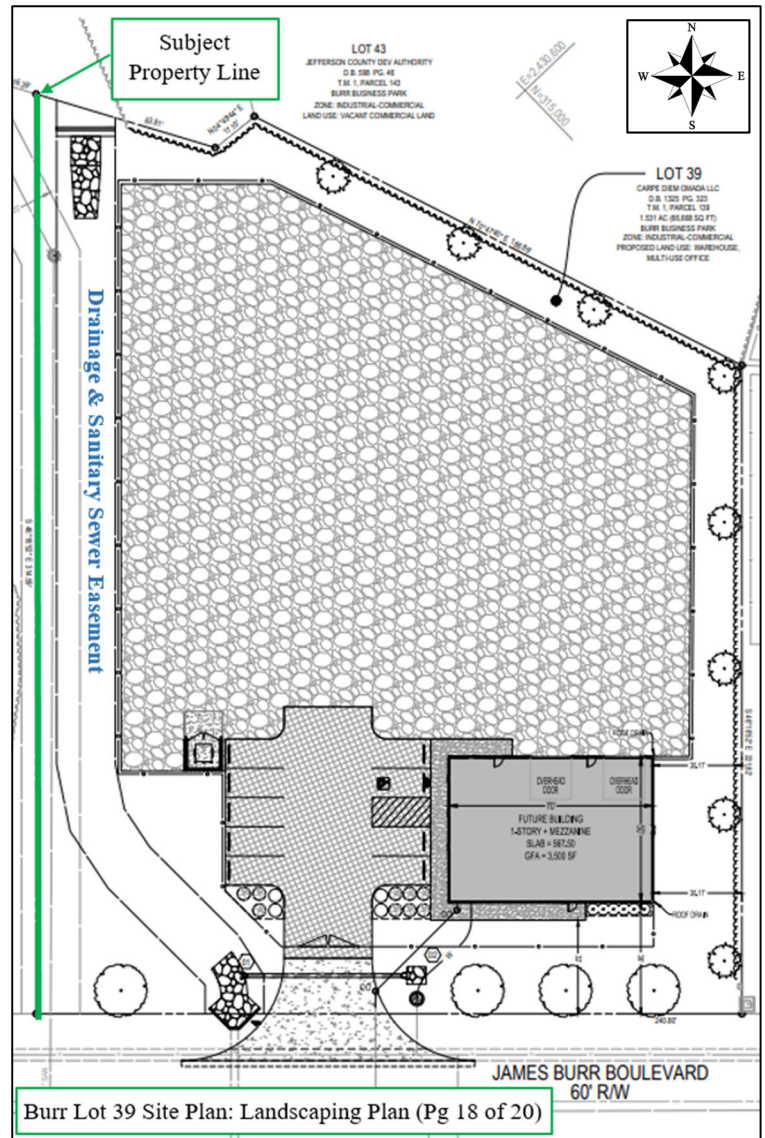
The purpose of the landscape buffer requirement is to reduce the impact that a land use might cause to an adjacent property by serving as a barrier to visibility, airborne particles, glare, or noise.

Landscaping/Buffer Requirement

With regard to the landscaping along the southwestern property line, the applicant would be required to install either a 6' tall opaque (board) fence or a planted buffer in accordance with Section 4.11 of the Zoning Ordinance. Section 4.11E would allow a modified planted buffer provided the proposed land use does not contain any outside storage (section attached).

The applicant has stated that they will adhere to the landscaping buffer requirements along the northeastern side and rear property lines as well as the street-front tree requirements in accordance with section 4.11(E) (1) and Appendix B, "Commercial sites greater than 1.5 acres".

It should be noted that the property adjacent to the southwest is also zoned Industrial-Commercial. Also, the southwestern property line of the subject property is encumbered by existing sanitary sewer and storm water easements thus negating the effectiveness of a landscaped buffer.



Staff Report
Jefferson County Board of Zoning Appeals
March 27, 2025

25-8-ZV Carpe Diem Omada, LLC 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 structures, equipment or parking shall be located within the delineated parking/drive aisle setbacks.
2. No structures, equipment or parking shall be located within the southwestern property line setback.

Sections of Ordinance to be considered:

- Section 4.11 Landscaping, Screening, and Buffer Yard Requirements (attached)
- Appendix B – Non Residential Site Development Standards Table (attached)

2. Uses permitted within the Protection Radius include Residential Uses as listed in Appendix C, barns, and residential accessory structures as defined by this Ordinance. Existing structures (which existed prior to the adoption of this text amendment) within the protection radius may be converted to a non-residential use in accordance with Appendices B & C and shall comply with applicable district regulations as required by Article 5.

Section 4.7 Essential Utility Equipment

Essential utility equipment, as defined in Section 2.2, shall be permitted in any district, as authorized and regulated by law and ordinances of Jefferson County, it being the intention hereof to exempt such essential utility equipment from the application of this Ordinance. Wireless telecommunication towers, however, shall conform to the requirements of Article 4B.^{7, 22}

Section 4.8 Buildable Lot

Any lot which was a buildable lot under the terms or regulations in effect at the time of the adoption of this ordinance and which was established or recorded at that time shall be deemed a buildable lot for the erection of a single-family dwelling, subject to the provisions of the appropriate district regulations of this Ordinance.

Section 4.9 Traffic Visibility Across Corner Lots

On any corner in all districts, there shall be no obstruction to traffic visibility within 35 feet of the intersection of the two street property lines of the corner lot. Site plan and subdivision applications must comply with the Intersection Design requirements of the Subdivision and Land Development Regulations.²³

Section 4.10 Site Plan Requirements³⁹

- A. Submittal and approval of a site plan is required for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.^{23, 26}
- B. Site plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- C. Site Plan submittal is not required for any Agricultural Use defined in Article 2. Agricultural Uses which are open to the public (Agricultural Special Event Facility, Farm Market, etc.) established on parcels of less than 20 acres shall process a Concept Plan in accordance with the Subdivision and Land Development Regulations.
- D. The site plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations, and this Ordinance.²³
- E. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.^{10, 17, 21, 23}

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

Buffer yard requirements are as shown in Appendix A and B of this Ordinance, and are summarized in this section.²⁷

- A. Commercial Development²⁷
 1. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a 50 foot or greater unscreened green space buffer or a 15 foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

2. All commercial development adjacent to all other uses must maintain ten foot side and rear yard landscape buffers.⁵

B. Industrial Development²⁷

1. All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall have an unscreened buffer yard of no less than 200 feet. No structures, stored materials, or vehicular parking shall be permitted within the buffer yard.
2. All industrial development adjacent to any use other than an industrial use shall have screened front yard buffers of no less than one-half ($\frac{1}{2}$) the front yard building setback, which may be included within the 200-foot buffer required in this subsection.^{5, 7}
3. All industrial development adjacent to any use shall have 20 foot screened side and rear landscape buffers.

C. Multi-family Development²⁷

1. All multi-family adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have, along common property lines, screened green space buffers as follows:
 - a. Front and rear: a minimum of 15 feet
 - b. Side: a minimum of 12 feet

- D. In all buffer yards, the exterior width beyond the vegetative screen shall be planted with grass, seed, sod, or ground cover.

- E. All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare or noise. Such screen planting shall meet the following requirements.

1. Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least six (6) feet in height.^{7, 23, 27, 28}

However, any development where a 10 foot side and/or rear yard vegetative landscaping buffer is required adjacent to proposed commercial uses and where no outdoor storage is being proposed or provided, the following standards shall be met:^{27, 28}

- a. One (1) deciduous or evergreen tree with a height of six (6) feet or more when planted, likely to reach a height of 20 feet or more at maturity, planted every 50 linear feet; at least every other tree shall be an evergreen;
- b. One (1) ornamental tree with a height of four (4) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every 50 linear feet; and
- c. Three (3) shrubs per each 25 feet along the property line, round upward.
- d. These requirements shall be required on both sides of a property line for adjoining properties.
- e. A 10 foot landscape area on the property unless shared parking is proposed. In the event shared parking is proposed, the required property line planting would be in addition to other plantings.^{7, 23, 26}

2. It will be the responsibility of the landowner to replace any trees that die and shall be so noted on the site plan.

3. Screen planting shall be a minimum of ten (10) feet wide but shall be placed so that it is no closer than four (4) feet at maturity from a property line or from any street.
4. No structure, fence, planting, or other obstruction shall be permitted which would interfere with traffic visibility.

- F. In any Commercial, Industrial, Institutional, or Residential development, all dumpsters shall be screened from any residences or from view of a public highway.²³
- G. All buffer yards shall be maintained by the property owner.
- H. All development adjacent to a Sensitive Natural Area shall have a buffer of natural vegetation. Environmental standards contained in Section 8.9A, 1 through 7, will apply. The buffer shall meet the current Federal standard except as required in Table 4.11 -1 below:²³

Table 4.11 -1 Wetland Size in Acres^{5, 8, 23}

Greater Than	Less Than	Buffer Width in Feet
0.05	0.10	30
0.10	0.16	35
0.15	0.21	40
0.20	0.26	50
0.25	0.31	55
0.30	0.36	60
0.35	0.41	65
0.40	0.46	70
0.45	0.51	75
0.50	0.66	80
0.65	0.81	85
0.80	0.96	90
0.95	1.21	95
1.20	--	100

- I. All required landscape plans shall contain the following elements:⁷
1. Deciduous street trees for shade and aesthetics, planted at the following average spacing:²³
 - a. Site with street frontage of up to 200 feet: 1 tree per 50 feet.
 - b. Site with street frontage exceeding 200 feet: The greater of 4 trees or 1 tree per 100 feet.
 2. Evergreen buffer planting, as required, for full screening.
 3. Parking lot and internal drive plantings (mix of evergreen and deciduous) for partial screening and limited shade.
 4. Structure plants for aesthetics and limited shade.
 5. Schedule of plants including common name, scientific name, minimum size (height, caliper, etc.) quantity and specific limitation notes.
- J. Required landscape buffers for a non-residential use are indicated in Appendix B.²⁷

Section 4.12 Design Standards for Multi-Family Developments²³

- A. Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational use shall be within the 100 year Floodplain.

APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE^{27, 32, 35}

Zoning District	Development Type [⊖]	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	
Front	Side	Rear	Front	Side	Rear	Distance Front Side Rear	Front	Side & Rear	Front	Side & Rear	Front	Side & Rear						
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 [‡]	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 [£]	10 [⊖]	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 [£]	10 [⊖]	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: 25-8-ZV
 Staff Initials: CAU
 Meeting Date: 03-27-25
 Fees Paid (\$100 or \$150): \$150

Email: 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: CARPE DIEM OMADA, LLC
 Mailing Address: P.O. BOX 250, PURCELLVILLE, VA 20134
 Phone Number: 703 856-2138 Email: KELLY@CARPEDIEMOMADALLC.COM

Applicant Contact Information

Name: SAME AS OWNED
 Mailing Address: _____
 Phone Number: _____ Email: _____

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

Name: INTEGRITY FEDERAL SERVICES
 Mailing Address: 148 S. QUEEN STREET, SUITE 201, MARTINSBURG, WV 25401
 Phone Number: 0-204 725 9456 0-204 676 1395 Email: RPERRY@IFS-AF.COM

Physical Property Details

Physical Address: JAMES DIDD BLVD
 City: KEARNEYSVILLE State: WV Zip Code: 25430
 Tax District: (2) CHARLES TOWN Map No: 1 Parcel No: 139
 Parcel Size: 1.53 AC Deed Book: 1325 Page No: 323

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)

Planned Neighborhood Development (PND)

Office/Commercial Mixed-Use (OC)

Highway Commercial (HC)

Light Industrial (LI)

Major Industrial (MI)

Received via email 01/31/25 (jth)

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 4.11 & Appendix B (jth)

Briefly describe the nature of the variance request:

SEE ATTACHED

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

Front Setback Side Setback Rear Setback Reduction From _____ to _____

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 ATTACHED

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?

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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] 1/28/2025
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).

03/27/25
Date of Public Hearing

03/06/25
Advertising Date

03/12/25
Placard Posting Date



INTEGRITY FEDERAL SERVICES

January 27, 2025

Jefferson County, West Virginia
Department of Engineering, Planning, and Zoning
Office of Planning and Zoning
116 E. Washington Street, 2nd Floor
Charles Town, West Virginia 25414

RE: Carpe Diem Omada, LLC; Burr Business Park Lot 39 – Landscape Variance Request

Board Members and Staff:

On behalf of the Property Owner, I am writing to you today requesting a Variance to the 1988 Zoning and Land Development Ordinance of Jefferson County, WV, Amended in 2022. The subject property is identified as District 2, Tax Map 1, Parcel 139; Deed Book 1325 Page 323. The parcel is approximately 1.53 acres in size. It is located in the Industrial/Commercial (IC) Zoning District and is part of the Burr Business Park (circ. 1988), identified as Lot 39. The parcel is accessed from James Burr Boulevard (private road) via War Admiral Boulevard (WV Rt. 115) to the northeast, and Clendening Drive (CR 8/3) via Wiltshire Road (CR 8) to the southwest. The subject property is located between the intersections of McGarry Road (CR 8/4) and Steely Way (private road) on James Burr Boulevard.

It was determined that a variance to the following sections of the 1988 Zoning and Land Development Ordinance would be required to attain compliance:

Section Section 4.11E.1(a-d), Section 4.11J & Appendix B, as follows.

“Section 4.11 Landscaping, Screening and Buffer Yard Requirements

Buffer yard requirements are as shown in Appendix A and B of this Ordinance, and are summarized in this section.

E. All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare or noise. Such screen planting shall meet the following requirements:

- 1. Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least six (6) feet in height.*



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Service-Disabled Veteran-Owned Small Business

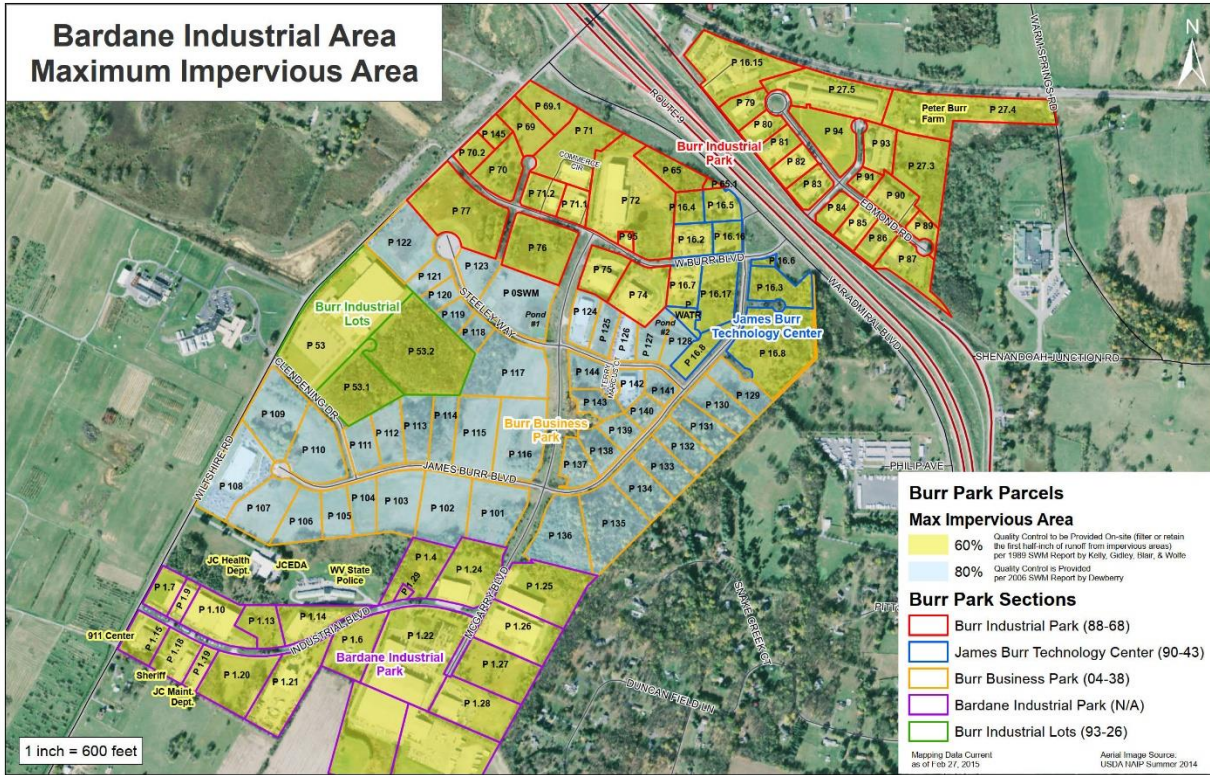
However, any development where a 10-foot side and/or rear yard vegetative landscaping buffer is required adjacent to proposed commercial uses and where no outdoor storage is being proposed or provided, the following standards shall be met:

- a. One (1) deciduous or evergreen tree with a height of six (6) feet or more when planted, likely to reach a height of twenty (20) feet or more at maturity, planted every fifty (50) linear feet; at least every other tree shall be an evergreen;*
- b. One (1) ornamental tree with a height of four (4) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every fifty (50) linear feet; and*
- c. Three (3) shrubs per each twenty five (25) feet along the property line, round upward.*
- d. These requirements shall be required on both sides of a property line for adjoining properties.*

J. Required landscape buffers for a non-residential use are indicated in Appendix B.”

Zoning District	Development Type ⁸	Min Lot Area (MLA)	Min Lot Width	Max Building Height ⁹	ImperVIOUS Surface Limit	Building Setbacks			Parking/Drive Aisle Setbacks ⁹			Distance if Sec. 4.6 applies	Buffers (Sec. 4.11) (Screened / Unscreened)									
						Front	Side	Rear	Front	Side	Rear		Front, Side, Rear	a Residential district, or any lot with a residence, school, church, or institution of human care			Commercial Use			Industrial Use		
														Front	Side	Rear	Front	Side	Rear	Front	Side	Rear
Industrial - Commercial**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25			15	4	4	75	Narrow Buffer Detail No. M-54			N/A	10(S)	10(S)	N/A	10(S)	10(S)	
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25	50 (or 25 if adjacent to industrial use)		15	10	10	75	Medium Buffer Detail No. M-53			N/A	10(S)	10(S)	N/A	10(S)	10(S)	
	Industrial	3 acres***	N/A	75	90%	50 (or 25 if adjacent to industrial use)			25 (or 20 if adjacent to industrial use)			200	Wide Buffer Detail No. M-52			25(S)	20(S)	20(S)	N/A	20(S)	20(S)	

It is requested that the subject property be granted a variance to the above noted Landscaping requirements of the 1988 Zoning and Land Development Ordinance of Jefferson County, WV. It is proposed that the subject property is permitted to be developed without a landscape buffer on the west side boundary in consideration of the exiting site conditions, and to retain continuity with the rest of the surrounding Business Park. The subject property is part of the larger Burr Park development, which includes Burr Industrial Park, James Burr Technology Center, Burr Business Park, Bardane Industrial Park, and the Burr Industrial Lots. For the purpose of this report, they will be referred to collectively as Burr Park. See image on the following page for identification of the sections that comprise Burr Park.



For your consideration, and to provide the Jefferson County Board of Zoning Appeals with the most thorough and comprehensive variance application possible, I have included the following information: Burr Business Lot 39 Variance Request - Dated January 2025 and prepared by Integrity Federal Services, and the Burr Business Lot 39 Variance Exhibit - Dated January 2025 and prepared by Integrity Federal Services.

On behalf of the property owner, I respectfully request your consideration of the documentation and justification presented as you consider this variance request. I will be glad to answer any questions you may have. I look forward to additional discussions at the Board of Zoning Appeals meeting.

Sincerely,

Brooke Perry
Planning Manager
Integrity Federal Services

Burr Business Park Lot 39

Parcel: 1-139

Carpe Diem Omada, LLC - Variance Request (**Landscape**)
January 27, 2025

Reference the section of the Zoning Ordinance pertaining to this request:

Section 4.11E.1(a-d), Section 4.11J & Appendix B

Briefly describe the nature of the variance request:

It is requested that the parcel is not required to provide a side landscape buffer along the western property line per the 1988 Zoning and Land Development Ordinance of Jefferson County, WV.



The site's development is impacted by existing sanitary sewer and stormwater easements that serve the greater Business Park. A landscape buffer along the western side boundary is not possible due to the easements and their associated maintenance requirements. Providing a landscape buffer will provide no benefit to the adjoining property owners, as is the intent of the ordinance, and will create additional maintenance costs for the property owner and Jefferson County.

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:

A variance to the landscape buffer requirement will have no adverse effect on public health, safety or welfare. The rights of the current or future adjacent property owners will be preserved as they currently exist. The property is located in the Burr Business Park, which is designated for commercial/industrial uses. Companies often choose to locate in Burr Park to be surrounded by similar uses and anticipate that future development will be of a complimentary use. The Jefferson County Development Authority (JCDA) reviews and approves all development proposed within Burr Business Park and therefore the current/future owners have been well informed of the existing adjacent uses.

The adjoining parcel to the subject property's western side boundary is also located in the Burr Business Park, and zoned Industrial/Commercial (IC). The property is noted as a Commercial Use per the WV State Tax Assessor. This designation has been in place since 2007. Providing a landscape buffer will provide no benefit to the adjoining property owners, as is the intent of the ordinance, and will create additional

maintenance costs for the property owner and Jefferson County Development Authority due to the need to relocate existing utilities to comply with the buffer requirement.

It is also important to note that the Burr Business Park was granted a blanket variance (ZV16-14) providing relief from the landscaping requirements as well as other requirements included in the non-residential site development standards required in Appendix B of the 1988 Zoning and Land Development Ordinance. There is historical precedent set, that this landscaping requirement is out of place in Burr Park.

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?

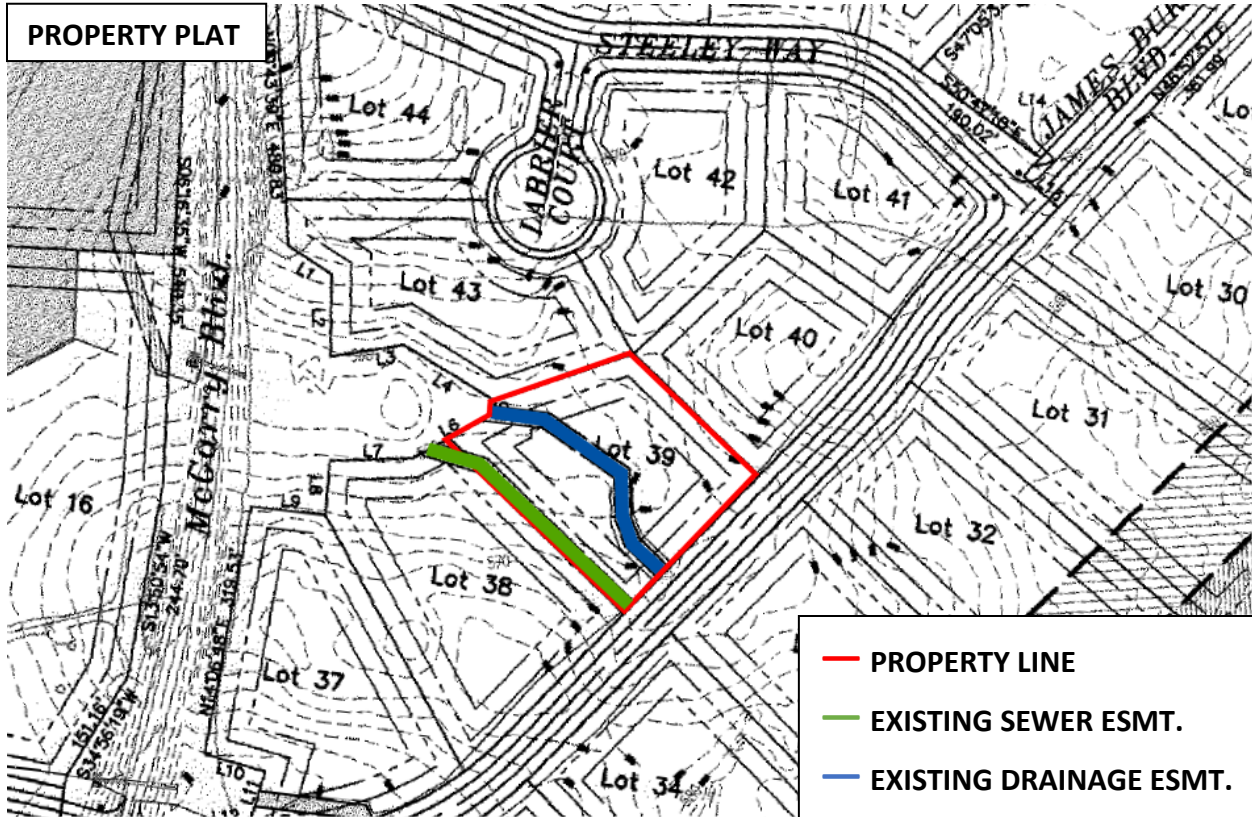
The property is located in a business park which was designed to attract light industrial and commercial businesses that need convenient access to local and regional transportation networks. Burr Park is different from other areas within Jefferson County, in that it is a master planned nonresidential subdivision owned and developed by the Jefferson County Development Authority (JCDA). The JCDA monitors and approves proposed development within Burr Park. Businesses locate to the park with the understanding that they are locating to a development with similar uses. Additional landscape buffers within the park do not appear to provide an added benefit to the property owners.

Additionally, an existing 20' sanitary sewer easement (PB 24, pg. 73-73G) is located in the buffer area. The parcel's development also requires the relocation of an existing onsite drainage easement (PB 24, pg. 73-73G) from the center of the site to the western property line. These special conditions make implementation of the landscape buffer along the western property line unattainable. These are existing site conditions that were not created by the applicant.

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

The intended use of land within Burr Park is for commercial and industrial use. It is reasonable to assume that any future use of adjacent lots will be of similar nature. An existing sanitary sewer line and associated 20' easement (PB 24, pg. 73-73G) spans most of the western property line. Additionally, the development of the subject parcel requires the relocation of an existing 20' onsite drainage easement (PB 24, pg. 73-73G) from the center of the site to the western property line. The combination of these factors creates unnecessary hardship for the property owner. See image on the following page for identification of easements in relation to the property's boundary.

If the landscape buffer were to be provided in this location per the requirements of the Zoning and Land Development Ordinance, the root systems of the planting would interfere with the utility and stormwater systems in place. These easements require that the easement area is maintained clear of vegetation. Granting of this variance request will permit a reasonable use of the land as intended by the Ordinance.



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

The intent of the Ordinance is to guide safe and logical development within Jefferson County. The installation of a landscape buffer between complimentary uses within the same Business/Industrial Park, which would require the relocation of existing utilities, is not logical or beneficial to the community. Burr Park is intended for commercial and industrial development. The need to distinguish complimentary uses from one another in this setting is an unintended consequence of the Zoning Ordinance regulations.

It should be noted that several of the developed lots within Burr Park have received variances between 2013-2016 pertaining to reduced building and parking setbacks, reduced landscape buffers and modified planting standards, and a blanket variance for the lots remaining vacant as of 2016. The Board of Zoning Appeals approved the following variances within Burr Park: (#ZV13-10), (#ZV13-25), (#ZV13-37), (#ZV13-38), (#ZV15-23), (#ZV16-02), (#ZV16-07), (#ZV16-14).

Thank you for your attention to this application.

LOT 43
 JEFFERSON COUNTY DEV AUTHORITY
 D.B. 598 PG. 46
 T.M. 1, PARCEL 143
 BURR BUSINESS PARK
 ZONE: INDUSTRIAL-COMMERCIAL
 LAND USE: VACANT COMMERCIAL LAND

LOT 42
 JJ CREWE & SON INC
 D.B. 1279 PG. 59
 T.M. 1, PARCEL 142
 BURR BUSINESS PARK
 ZONE: INDUSTRIAL-COMMERCIAL
 LAND USE: WAREHOUSE,
 MULTI-USE OFFICE

LOT 39
 CARPE DIEM OMADA LLC
 D.B. 1325 PG. 323
 T.M. 1, PARCEL 139
 1.531 AC (66,668 SQ FT)
 BURR BUSINESS PARK
 ZONE: INDUSTRIAL-COMMERCIAL
 PROPOSED LAND USE: WAREHOUSE,
 MULTI-USE OFFICE

LOT 38
 SHUBHA LLC
 D.B. 1313 PG. 748
 T.M. 1, PARCEL 138
 BURR BUSINESS PARK
 ZONE: INDUSTRIAL-COMMERCIAL
 LAND USE: VACANT COMMERCIAL LAND

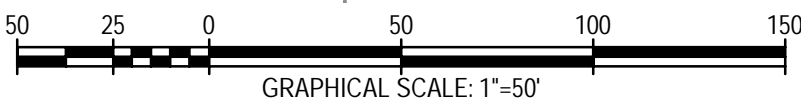
LOT 40
 CARPE DIEM OMADA LLC
 D.B. 1299 PG. 669
 T.M. 1, PARCEL 140
 BURR BUSINESS PARK
 ZONE:
 INDUSTRIAL-COMMERCIAL
 LAND USE: WAREHOUSE,
 MULTI-USE OFFICE

LOT 34
 JEFFERSON COUNTY DEV AUTHORITY
 D.B. 598 PG. 46
 T.M. 1, PARCEL 134
 BURR BUSINESS PARK
 ZONE: INDUSTRIAL-COMMERCIAL
 LAND USE: VACANT COMMERCIAL LAND

LOT 33
 SHENANDOAH VALLEY HOLDINGS LLC
 D.B. 1301 PG. 204
 T.M. 1, PARCEL 133
 BURR BUSINESS PARK
 ZONE: INDUSTRIAL-COMMERCIAL
 LAND USE: VACANT COMMERCIAL LAND

WV STATE GRID NORTH (NAD83)

JAMES BURR BOULEVARD
 60' R/W



LOT 39 FUTURE CONSTRUCTION

LANDSCAPE VARIANCE EXHIBIT



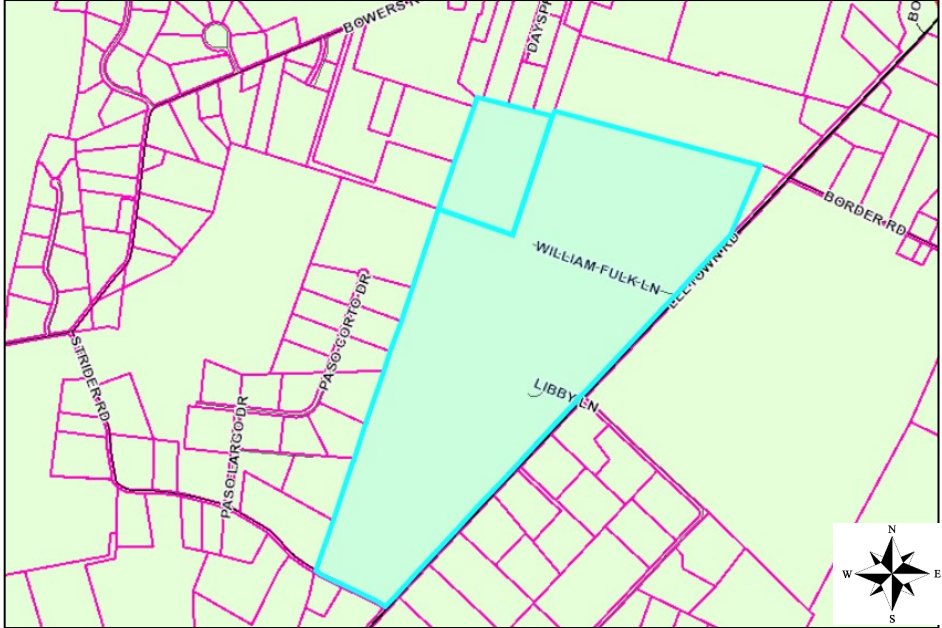
**INTEGRITY
 FEDERAL SERVICES**

CIVIL ENGINEERING • LANDSCAPE ARCHITECTURE • PLANNING
 148 S. Queen Street, Suite 201 • Phone: 304-725-8456
 Martinsburg, WV 25401 • www.ifs-ae.com

SCALE: 1"=50'
DATE: JANUARY 2025
JOB: 2813-0201
DRAWN: CSG
CADD: LOT 39 - LS VAR EXHIBIT.DWG
SHEET: 1 OF 1

Staff Report
 Jefferson County Board of Zoning Appeals
 March 27, 2025
25-9-ZV Harvest Meadows Variance Request

Item #2 Variance from Section 5.7D.2.b.i (b) to allow the required 50% green space to be allocated on two lots within the Harvest Meadows cluster subdivision (File #25-3-SD).

Owner:	Billy Kaye Moores, Tr
Applicant:	William Fulk Lane, LLC
Consultant	Civil & Environmental Consultants, Inc. / Attn: Chris Waddell
Parcel Information & Zoning District:	<p style="text-align: center;">282 William Fulk Ln And 235 William Fulk Ln Kearneysville, WV Parcel ID: 07000600150000 and Parcel ID: 07000500050000; Property Size: 219.72 ac; Zoning District: Rural</p> 
History:	<p>09/05/24: Boundary line adjustment and transfer of development right plat approved (recorded PB 27 / PG 161 & DB 1330 / PG 461)</p> <p>03/25/25: Harvest Meadows Subdivision Concept Plan Public Workshop</p>
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit Conducted:	No

Staff Overview

The applicant is requesting a variance from Section 5.7D.2.b.i (b) to allow the required 50% green space area to be allocated on two contiguous parcels within a proposed cluster subdivision.

The intent of the cluster provisions in Section 5.7D.2 is to provide for a well planned development while minimizing the use of prime agricultural land. The purpose for requiring a portion of the property to be retained as green space is to ensure that farmland and other natural features are preserved while balancing the development rights of landowners.

Density (development rights) is calculated based on the acreage on record in 1988. There is no minimum or maximum acreage requirement for the parent tract to utilize the cluster provisions, which means that since the subject 219.72 acre (two-parcel) tract was created in 1937 and has not been divided since then, it has the right to utilize the cluster provisions.

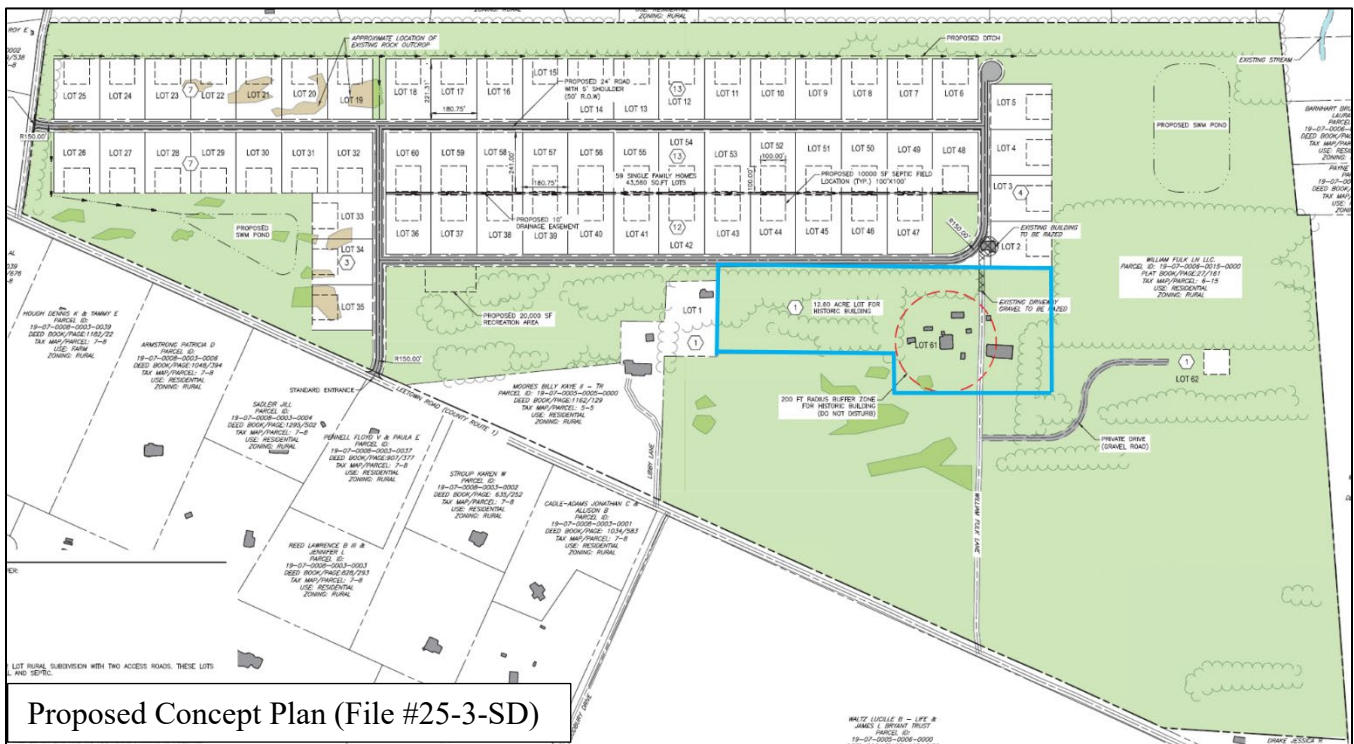
Staff Report
Jefferson County Board of Zoning Appeals
March 27, 2025
25-9-ZV Harvest Meadows Variance Request

Section 5.7D.2.b.i (b) states:

A minimum of 50% of the property shall be retained as green space and shall contain no further development rights unless the property is placed in another zone or further subdivision is allowed by ordinance. A note to this effect shall be placed on all cluster subdivision plats.³²

Parcels' 07000600150000 and 07000500050000 comprised of 20.72 acres and 199 acres respectively constitute the "property" or "parent tract" upon which the proposed cluster subdivision is situated. The applicant proposes 65% green space or 142.82 acres and 35% disturbed or 76.9 acres.

The area depicted in green below represents the total proposed green space area. The applicant is proposing to allocate approximately 12 of the 142-acre green space to be located on Lot 61 (outlined in blue below). Note, the area denoted in red depicts a 200' protection radius surrounding the existing historic structures.



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
March 27, 2025
25-9-ZV Harvest Meadows Variance Request

Conditions of Approval

N/A

Section of Ordinance to be Considered:

Section 2.2 Terms Defined

Green Space Land required to be set aside under Section 5.7 Cluster Provisions, for the purpose of retaining active or passive farmland, wooded or forested areas, significant natural or environmentally sensitive features, historic structures and/or core battlefields, and parks. Green space may include open space as defined herein.

Land indicated as green space in a cluster development shall be permitted to maintain one single family dwelling unit, and an accessory agricultural dwelling unit (if it meets the qualifications), and may be in private ownership or a homeowner's association.

Section 5.7 Rural (R) District^{23, 32}

The purpose of this district is to provide a location for low density single family residential development in conjunction with providing continued farming activities. This district is generally not served with public water or sewer facilities, although certain size developments processed under the cluster provision of Section 5.7D(2) may choose to do so. A primary function of the low density residential development permitted within this section is to preserve the rural character of the County and the agricultural community. All lots subdivided in the Rural District are subject to Section 5.7D. The Envision Jefferson 2035 Comprehensive Plan recommends that the cluster provision of the Zoning Ordinance be the preferred method of residential development in the Rural zoning district.^{8, 23, 32}

A. Principal Permitted and Conditional Uses^{23, 27, 32}

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.^{27, 32}
2. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.^{27, 32}

B. Minimum Lot Area, Lot Width and Yard Requirements²³

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance.²⁷
2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.²³
3. Any building or feeding pens in which farm animals are kept shall comply with distance requirements specified in Section 4.6 and the requirements for barns and feeding pens specified in Article 8. Also, any buildings used to store manure shall comply with distance requirements specified in Section 4.6A.²³

C. Height Regulations

No structure shall exceed 45 feet in height except as provided in Section 9.2.³²

D. Maximum Number of Lots Allowed

Staff Report
Jefferson County Board of Zoning Appeals
March 27, 2025
25-9-ZV Harvest Meadows Variance Request

All parcels of land that were on record as of October 5, 1988 are entitled to subdivide for single family detached residences based on Subsections 5.7D.1, 5.7D.2 or 5.7D.3 below.

A property owner may use a combination of these Subsections, provided that the number of lots are prorated by density. The density rights for any rural development shall be based on the parcel of record as of October 5, 1988 utilizing the following alternatives:^{8, 32}

1. A property owner may create one (1) lot for every 15 acres with a minimum lot size of three (3) acres.^{17, 21}
 - a. Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.³²
 - b. A property owner may transfer rights to adjacent parcels which are owned by the same entity.^{17, 21}

2. Clustering

a. Purpose and Intent

- i. To encourage the conservation of farmland in the Rural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract while retaining a portion of the property as green space³².
- ii. To provide for a well planned development while minimizing the use of prime agricultural land.

b. Requirements

- i. One (1) lot may be subdivided for every five (5) acres.^{17, 21, 23, 32}
 - (a) Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.³²
 - (b) A minimum of 50% of the property shall be retained as green space and shall contain no further development rights unless the property is placed in another zone or further subdivision is allowed by ordinance. A note to this effect shall be placed on all cluster subdivision plats.³²
 - (c) For every additional 5% green space preservation, the following sliding scale may be utilized:³²

55% green space	1 lot per 4.5 acres
60% green space	1 lot per 4 acres
65% green space	1 lot per 3.5 acres
70% green space	1 lot per 3 acres
75% green space	1 lot per 2.5 acres

- ii. The residue of a lot divided utilizing either 5.7D.1 or 5.7D.2 prior to the date of adoption of this amendment on March 16, 2017, shall have additional rights based on the provisions of this Subsection, provided that the total lots developed shall not

Staff Report
Jefferson County Board of Zoning Appeals
March 27, 2025
25-9-ZV Harvest Meadows Variance Request

exceed one lot per five acres based on the parent parcel on October 5, 1988 and all other provisions of this Subsection are complied with.³²

- iii. Minimum lot size shall be 40,000 square feet for lots that will be served by individual wells and septic systems; 20,000 square feet for lots that will be served by a central water OR central sewerage system; and 10,000 square feet for lots that will be served by both a central water AND central sewerage system.^{17, 21, 32}
 - (a) Setbacks shall be 25' front, 12' sides, and 20' rear.
 - (b) All clusters of three (3) or more lots shall be served by an internal road; provided that all clusters utilizing the sliding scale in 5.7D.2.b shall have an internal road with direct access to a public road identified as a Major Collector or a Minor or Principal Arterial on the Envision Jefferson 2035 Comprehensive Plan Roadway Classification Map.²³
 - (c) Clusters of three (3) or more lots shall not be along an existing public road.
 - (d) A property owner may transfer rights to adjacent parcels which are owned by the same entity.^{17, 21}



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: _____
 Staff Initials: _____
 Meeting Date: _____
 Fees Paid (\$100 or \$150): _____

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: _____
 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"/>	
			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"/>

Received via email 02/06/25 (jth)

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: _____

Briefly describe the nature of the variance request: Section 5.7D2.b.i.(b)

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

Front Setback Side Setback Rear Setback Reduction From _____ to _____

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:

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?

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

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

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 Date 2/4/2025

Signature of Property Owner Date

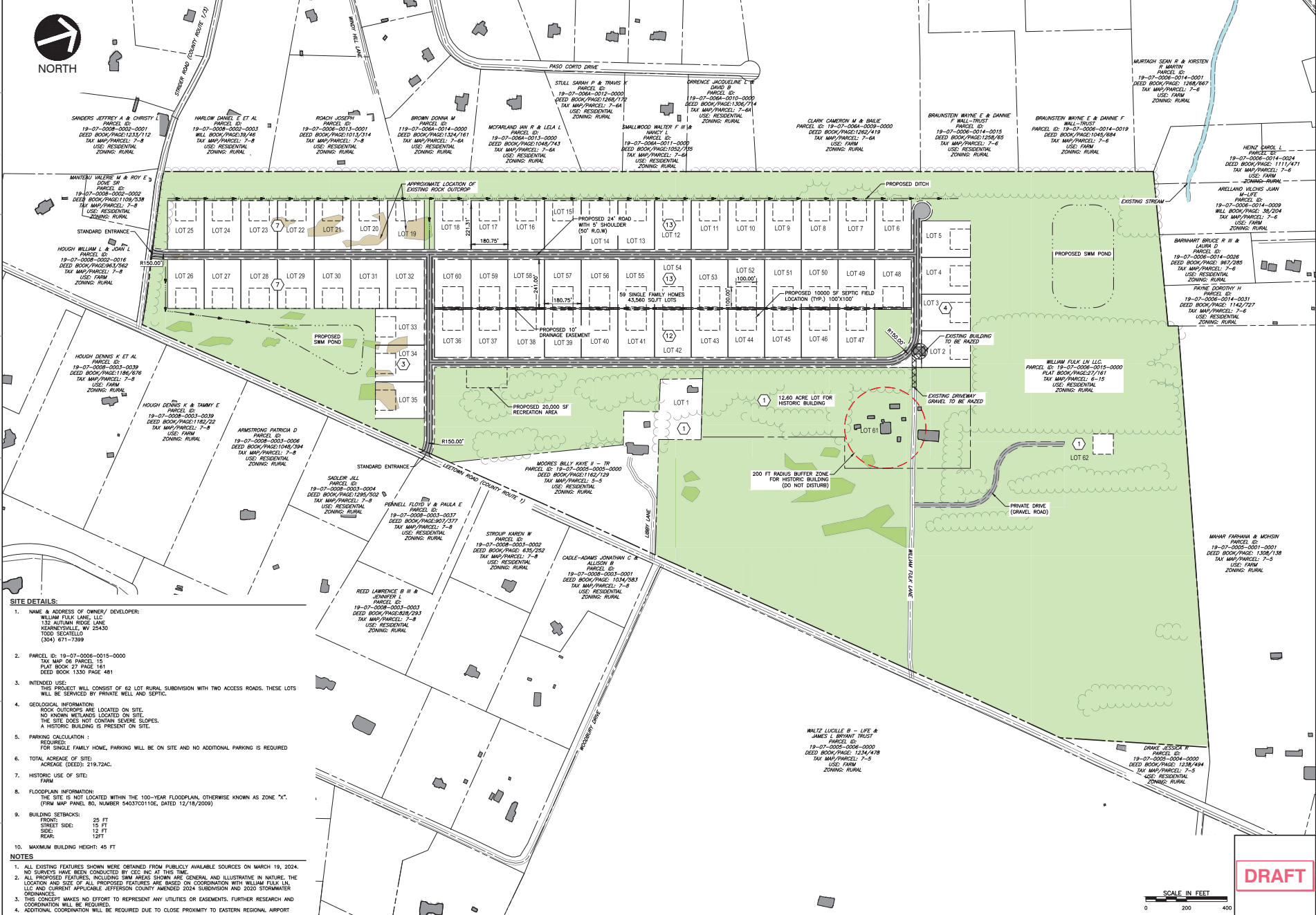
Notification Requirements (to be completed by staff)

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).

03/27/25
Date of Public Hearing

03/06/25
Advertising Date

03/12/25
Placard Posting Date



SITE DETAILS:

- NAME & ADDRESS OF OWNER/ DEVELOPER:
WILLIAM FULK LANE LLC
132 AUBURN RIDGE LANE
KEARNEYVILLE, WV 25430
TODD SEATELLO
(304) 671-7399
- PARCEL ID: 19-07-0006-0015-0000
TAX MAP OF PARCEL 15
PLAT BOOK 27 PAGE 161
DEED BOOK 1330 PAGE 481
- INTENDED USE:
THIS PROJECT WILL CONSIST OF 62 LOT RURAL SUBDIVISION WITH TWO ACCESS ROADS. THESE LOTS WILL BE SERVICED BY PRIVATE WELL AND SEPTIC.
- GEOLOGICAL INFORMATION:
ROCK OUTCROPS ARE LOCATED ON SITE.
NO KNOWN WETLANDS LOCATED ON SITE.
THE SITE DOES NOT CONTAIN SEVERE SLOPES.
A HISTORIC BUILDING IS PRESENT ON SITE.
- PARKING CALCULATION:
REQUIRED:
FOR SINGLE FAMILY HOME, PARKING WILL BE ON SITE AND NO ADDITIONAL PARKING IS REQUIRED
- TOTAL ACRES OF SITE:
ACRES (DEED): 219.72AC.
- HISTORIC USE OF SITE:
FARM
- FLOODPLAIN INFORMATION:
THE SITE IS NOT LOCATED WITHIN THE 100-YEAR FLOODPLAIN, OTHERWISE KNOWN AS ZONE "X".
(FIRM MAP PANEL 80, NUMBER 5403700110E, DATED 12/18/2009)
- BUILDING SETBACKS:
FRONT: 25 FT
STREET SIDE: 15 FT
SIDE: 15 FT
REAR: 12 FT
- MAXIMUM BUILDING HEIGHT: 45 FT

NOTES

- ALL EXISTING FEATURES SHOWN WERE OBTAINED FROM PUBLICLY AVAILABLE SOURCES ON MARCH 19, 2024. NO SURVEYS HAVE BEEN CONDUCTED BY CEC INC AT THIS TIME.
- ALL PROPOSED FEATURES INCLUDING SWM AREAS SHOWN ARE GENERAL AND ILLUSTRATIVE IN NATURE. THE LOCATION AND SIZE OF ALL PROPOSED FEATURES ARE BASED ON COORDINATION WITH WILLIAM FULK LN, LLC AND CURRENT APPLICABLE KEFFERSON COUNTY ANNEDED ZONING SUBDIVISION AND 2020 STORMWATER ORDINANCES.
- THIS CONCEPT MAKES NO EFFORT TO REPRESENT ANY UTILITIES OR EASEMENTS. FURTHER RESEARCH AND COORDINATION WILL BE REQUIRED.
- ADDITIONAL COORDINATION WILL BE REQUIRED DUE TO CLOSE PROXIMITY TO EASTERN REGIONAL AIRPORT

SCALE IN FEET
0 200 400

DRAFT

REVISION RECORD

NO.	DATE	DESCRIPTION
1		

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



HARVEST MEADOWS RURAL SUBDIVISION
235 WILLIAM FULK LANE
KEARNEYVILLE, WV 25430
TAX MAP 6 PARCEL 15
PLAT BOOK 27 PAGE NUMBER 161

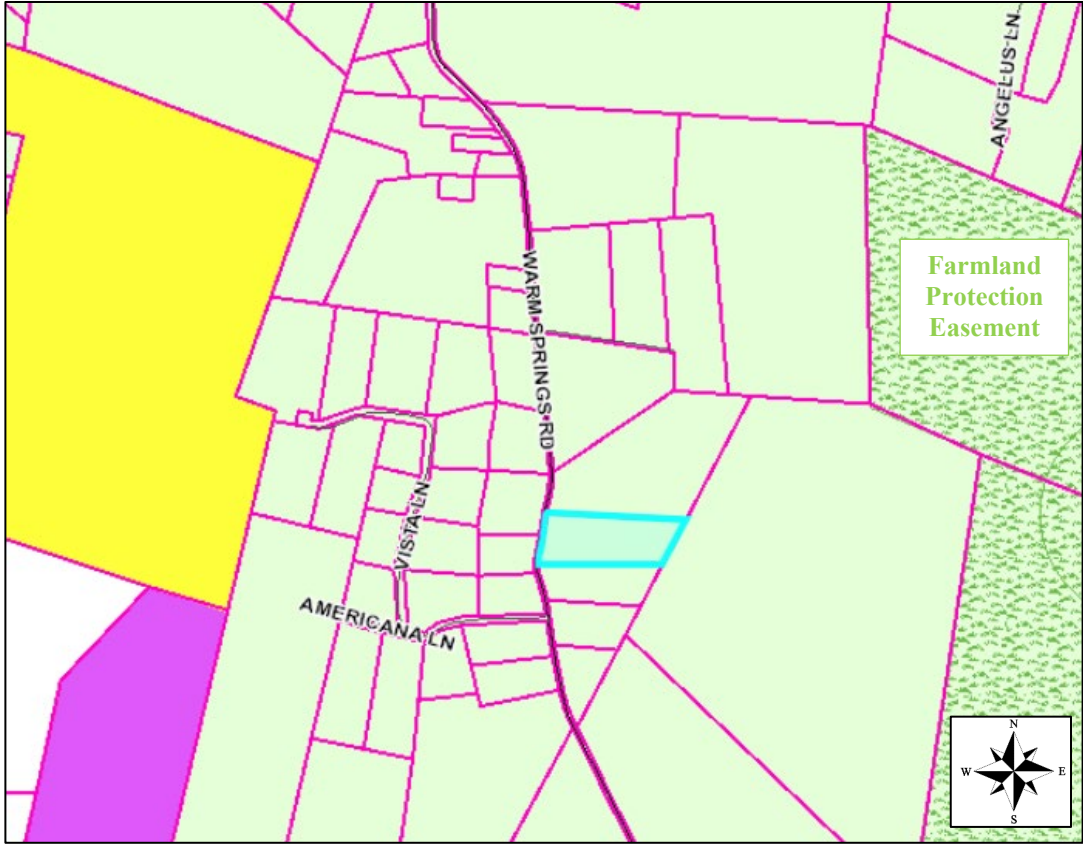
OVERALL SITE PLAN

DATE	BY	CHKD BY	DRFTD BY
FEBRUARY 2025	SHAWN BY	CLM	
DWG SCALE	AS SHOWN	3/8"=1'-0"	
PROJECT NO.		24-007	
PROJECTOR			

DRAWING NO. **EX-2**
SHEET 2 OF 2

Staff Report
 Jefferson County Board of Zoning Appeals
 March 27, 2025
25-10-ZV Kerkstra Variance Request

Item #3: Variance from Section 9.7 to reduce the rear setback from 50' to 30' for a proposed accessory structure.

Owner:	Christopher and Jamie Kerkstra
Parcel Information & Zoning District:	2410 Warm Springs Road, Shenandoah Junction, WV Parcel ID: 09002100120000; Property Size: 6.85 ac; Zoning District: Rural
	
History:	05/14/1974: Shenandoah Farms Subdivision (recorded Plat Book 3, Page 39)
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit Conducted:	No

Staff Overview

The subject parcel is designated as Lot 3 of the Shenandoah Farms Subdivision, which was recorded on May 14, 1974, in Plat Book 3, Page 39. These lots were created prior to the adoption of Zoning (10/05/1988). As such, Section 9.7 of the Zoning Ordinance would apply. The required setbacks for the subject lot are: 40' Front, 15' Side, and **50' Rear**.

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.

Staff Report
Jefferson County Board of Zoning Appeals
March 27, 2025
25-10-ZV Kerkstra Variance Request

The applicant is requesting a variance from Section 9.7 to reduce the rear setback from 50' to 30' for the construction of a 36' x 48' one-story accessory structure (pole building). The applicant has represented that the proposed location is reasonable due to its' level and clear nature as opposed to the densely wooded area 50' from the property line. It is the applicant's desire to maintain the mature trees currently located on the lot. The applicant also represents that the area to the north and east of the proposed accessory structure location is heavily wooded and well buffered from the adjacent properties.



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 the accessory structure without further evaluation from the Office of Planning and Zoning.

Staff Report
Jefferson County Board of Zoning Appeals
March 27, 2025
25-10-ZV Kerkstra Variance Request

Section of Ordinance to be Considered:

Section 9.7 Other Exceptions³

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:²³

Residential Growth District²³

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

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

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.



JEFFERSON COUNTY, WEST VIRGINIA
 Department of Engineering, Planning and Zoning
Office of Planning and Zoning
 116 East Washington Street, 2nd Floor
 Charles Town, West Virginia 25414

File #: 25-10-2V
 Mtg. Date: 3-27-25
 Fee Paid: \$ 150

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Variance Application

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 parcel's zoning classification.

Property Owner Information

Owner Name: Christopher J Kerkstra / *Jamie C Kerkstra*
 Business Name: _____
 Mailing Address: 2410 Warm Springs Rd, Shenandoah Junction, WV 25442
 Phone Number: 703-401-6871 Email: cjk911@hotmail.com

Applicant Contact Information

Applicant Name: Christopher J Kerkstra Same as owner:
 Business Name: _____
 Mailing Address: 2410 Warm Springs Rd, Shenandoah Junction, WV 25442
 Phone Number: 703-401-6871 Email: cjk911@hotmail.com

Consultant Information

Consultant Name: _____
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 2410 Warm Springs Rd, Shenandoah Junction, WV 25442 Vacant Lot:
 Parcel ID: (Tax District / Map No. / Parcel No.) Sheperdstown District
 Parcel Size: 6.85 Deed Book: 361 Page No: 328

Zoning District (please check one)

- | | |
|---|---|
| <input type="checkbox"/> Residential Growth (RG) | <input type="checkbox"/> General Commercial (GC) |
| <input type="checkbox"/> Industrial Commercial (I-C) | <input type="checkbox"/> Highway Commercial (HC) |
| <input checked="" type="checkbox"/> Rural (R)* | <input type="checkbox"/> Light Industrial (LI) |
| <input type="checkbox"/> Residential-Light Industrial-Commercial (R-LI-C) | <input type="checkbox"/> Major Industrial (MI) |
| <input type="checkbox"/> Village (V) | <input type="checkbox"/> Planned Neighborhood Development (PND) |
| <input type="checkbox"/> Neighborhood Commercial (NC) | <input type="checkbox"/> Office/Commercial Mixed-Use (OC) |

Is there a Code Enforcement action pending in relation to this property? Yes No

RECEIVED

Date Received:

FEB 14 2025

JEFFERSON COUNTY PLANNING
 & ENGINEERING

Briefly describe the nature of the request (include the dimensions of the proposed structure, if applicable):

Section of the Zoning Ordinance pertaining to this request: Section 9.7 (jth)
50" setback for rear of property

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

Front Setback Side Setback Rear Setback Reduction from 50 to 30

Required Sketch: 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.

Required Responses: Each of the following questions must be answered in detail. The Board will evaluate your request based on the answers provided (attach a separate sheet of paper if necessary).

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 change in rear setback is to accomodate the construction of a 1-story pole building in the corner of my property. There is only one relatively flat, clear area on my property due to the density of the surrounding mature trees. Moving the building out to 50' from the property line would result in taking down more mature trees such as a large white oak and a large cherry tree.

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 density of the woods in my lot facilitate either utilizing existing clearings, or taking down several mature hardwood trees. While it is in my capacity to accomplish this, my goal with the purchase and construction on our property has been to leave as many existing trees as possible. They are homes to many owls, woodpeckers, and other birds including cardinals. (State bird)

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

See previous answers. Many of my trees have already succumbed to the Ash Bore Beetle. I don't want to take down any healthy, live trees.

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

Moving the building 15' closer to the rear property line will not even be noticed. It will snug the building in between several mature hardwoods, and will not be noticed by either of my two neighbors. The building will not be in direct site of any household but mine.

I authorize the Planning and Zoning staff to revise the application/sketch on my behalf. I understand that said revisions will be discussed with me prior to revising the application/sketch.

The information given is correct to the best of my knowledge. Property Owner Signature Required.

By signing this application, I grant permission to County staff to walk onto the subject property to take photos for the Board of Zoning Appeals staff reports.



Property Owner Signature 2/11/2025
Date



Property Owner Signature 2/11/2025
Date



Permit 25-31



Basemaps

esri

YAM SPRINGS RD

Approx. 25' setback

Approx. 30 setback

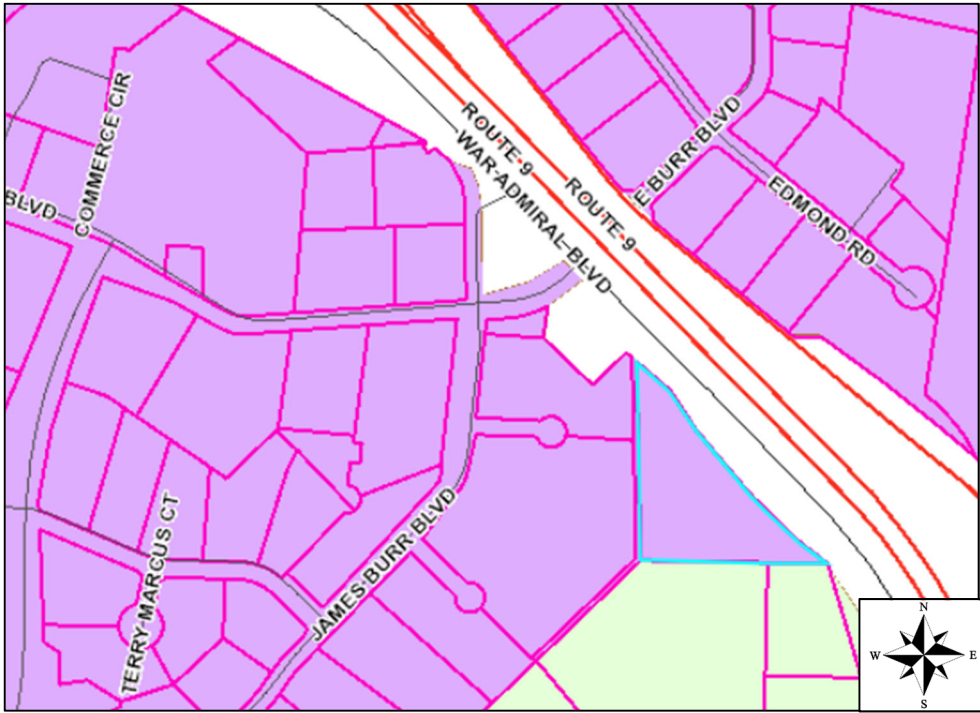
Approx. treeless, flat area

1-story pole building

Staff Report
 Jefferson County Board of Zoning Appeals
 March 27, 2025

25-11-ZV BCL Properties, LLC Variance Request

Item #4 Variance from Section 4.11 and Appendix B to eliminate the required street trees and landscaping buffer along the perimeter of the property for a proposed brewpub (File #24-5-SP).

Owner:	Nicholas Wilson, Karen Dowd Wilson, Katie Main, and Ryan Main
Applicant	BCL Properties, LLC
Consultant:	Todd Heck, Morris & Ritchie Associates, Inc.
Parcel Information & Zoning District:	<p style="text-align: center;">640 War Admiral Blvd., Kearneysville, WV Parcel ID: 02000100270001; Property Size: 4.7 ac Zoning District: Industrial Commercial</p> 
History:	<p>02/06/23: Staff Approval of Retail Sales (23-08-ZC) 04/01/22: Staff Approval of Retail Sales (22-09-ZC) 02/22/21: Staff Approval of phased Minor Site Plan (20-3-SP) 09/18/20: Staff Approval of Retail Sales (20-23-ZC) 07/09/24: PC approved a Concept Plan for a proposed brewpub (File #24-5-SP)</p>
Waivers/Variances:	<p>05/17/22: PC approved a waiver of site plan for a temporary use until 05/17/24 (see File #20-3-SP). 07/09/24: PC approved a waiver from Section 10.5 to allow a gravel parking lot for public use for a proposed brewpub (24-22-PCW).</p>
Site Visit Conducted:	No

Staff Report
Jefferson County Board of Zoning Appeals
March 27, 2025

25-11-ZV BCL Properties, LLC Variance Request

Staff Overview

The subject parcel is designated as 4.70 AC MCGARRY and is contiguous to but outside of the James Burr Technology Center. The request is to eliminate the required street tree and landscaping buffer requirements that would be required as part of the site development proposal to establish a new brewpub.

The purpose of the landscape buffer requirement is to reduce 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 applicant is requesting to eliminate both the required street trees along the northeastern property line and the perimeter landscaping along the southern and western property lines.

Street Tree Requirement

In accordance with Section 4.11I.1.b of the Zoning Ordinance, the property line along War Admiral Blvd. is considered a “front” and as such, street trees would be required. This section states the following: “Site with street frontage exceeding 200 feet: The greater of 4 trees or 1 tree per 100 feet”. The total street frontage equals 947 linear feet. As such, nine (9) street trees would be required. While it appears feasible to comply with this provision, the applicant is requesting to eliminate the street trees to allow for greater visibility to the subject parcel and proposed brewpub

Landscaping/Buffer Requirement

With regard to the landscaping along the western property line (blue), the applicant would be required to install either a 6’ tall opaque (board) fence or a planted buffer in accordance with Section 4.11 of the Zoning Ordinance. Section 4.11E would allow a modified planted buffer provided the proposed land use does not contain any outside storage (section attached).

As the southern property line (green) is adjacent to a residential land use, the applicant would be required to plant a 20-40’ wide buffer in accordance with the County’s Standard Detail M-53 (attached).

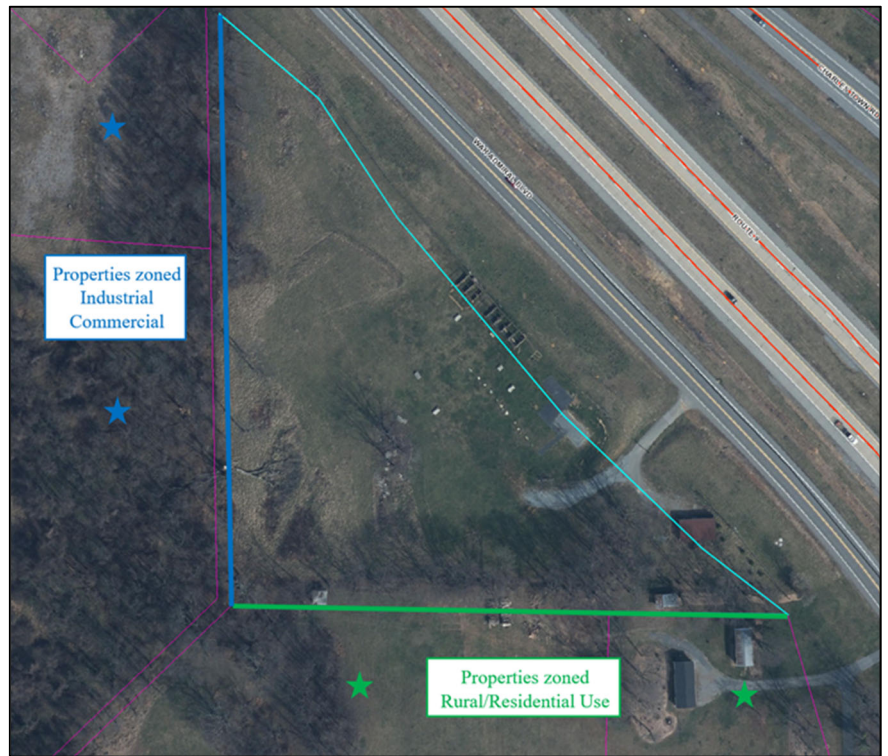


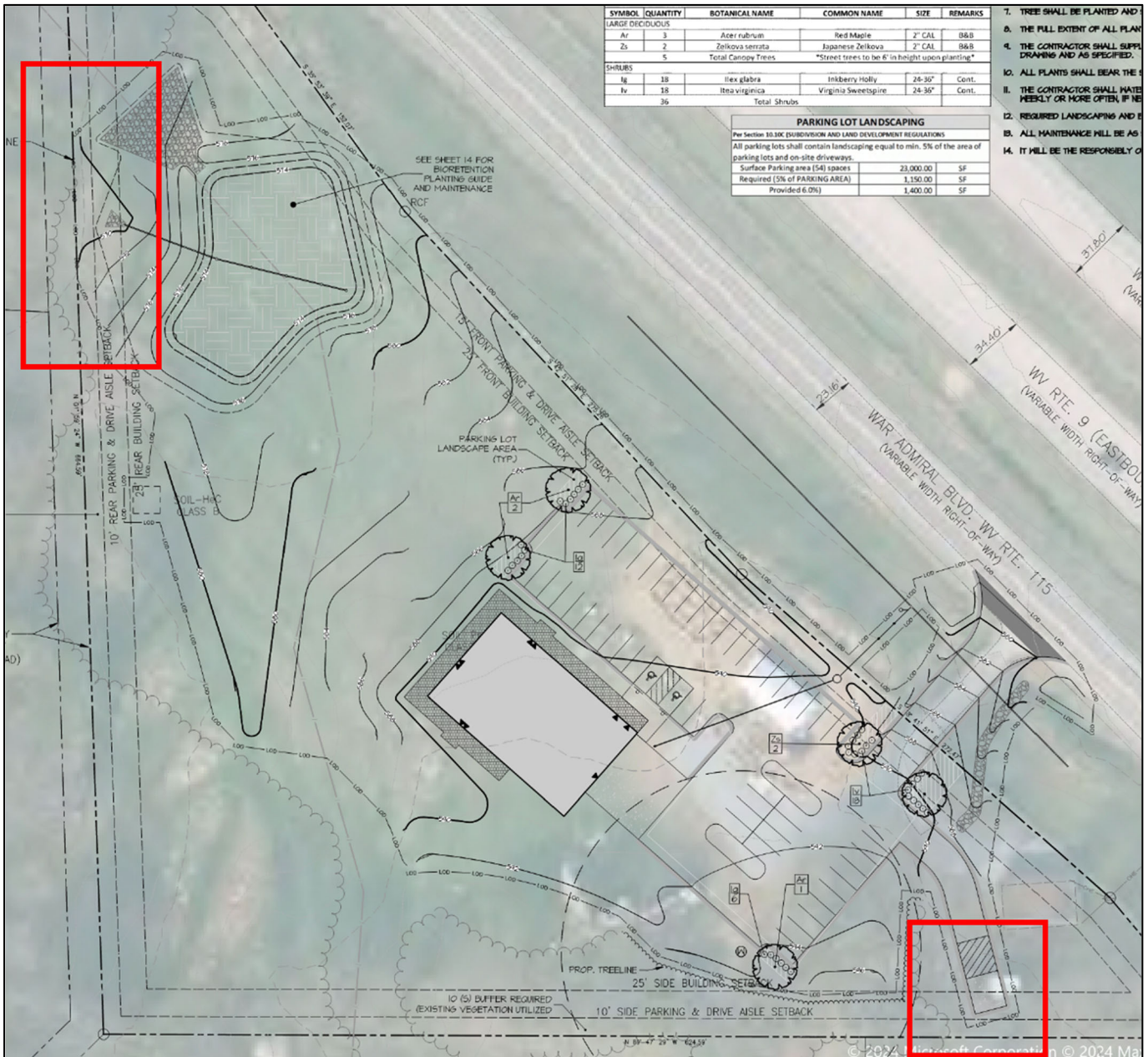
Figure 1 Properties lines are not precise.

Staff Report
 Jefferson County Board of Zoning Appeals
 March 27, 2025

25-11-ZV BCL Properties, LLC Variance Request

The applicant has stated that the existing natural vegetation along the western and southern property lines adequately serves the intent of Section 4.11 and Appendix B of the Jefferson County Zoning and Land Development Ordinance.

It should be noted that the parcels adjacent to the west are zoned Industrial Commercial while the two parcels adjacent to the south are zoned Rural. As depicted in the applicant's sketch, there will be site disturbance/clearing in the areas shown below. The area to the west consists of a stormwater management area. Generally, the installation of landscaping in this area should be avoided. The area to the south shows the location of the proposed dumpster area. This location is approximately 70 – 80' from an existing residence.



Staff Report
Jefferson County Board of Zoning Appeals
March 27, 2025

25-11-ZV BCL Properties, LLC 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. The applicant shall retain a 10’ wide buffer along the western and southern property lines.
2. No structures, equipment or parking shall be located within the 10’ wide buffer..
3. Existing trees within the 10’ wide buffer shall be retained.

Sections of Ordinance to be Considered:

- Section 4.11 Landscaping, Screening, and Buffer Yard Requirements (attached)
- Appendix B – Non Residential Site Development Standards Table (attached)

2. Uses permitted within the Protection Radius include Residential Uses as listed in Appendix C, barns, and residential accessory structures as defined by this Ordinance. Existing structures (which existed prior to the adoption of this text amendment) within the protection radius may be converted to a non-residential use in accordance with Appendices B & C and shall comply with applicable district regulations as required by Article 5.

Section 4.7 Essential Utility Equipment

Essential utility equipment, as defined in Section 2.2, shall be permitted in any district, as authorized and regulated by law and ordinances of Jefferson County, it being the intention hereof to exempt such essential utility equipment from the application of this Ordinance. Wireless telecommunication towers, however, shall conform to the requirements of Article 4B.^{7, 22}

Section 4.8 Buildable Lot

Any lot which was a buildable lot under the terms or regulations in effect at the time of the adoption of this ordinance and which was established or recorded at that time shall be deemed a buildable lot for the erection of a single-family dwelling, subject to the provisions of the appropriate district regulations of this Ordinance.

Section 4.9 Traffic Visibility Across Corner Lots

On any corner in all districts, there shall be no obstruction to traffic visibility within 35 feet of the intersection of the two street property lines of the corner lot. Site plan and subdivision applications must comply with the Intersection Design requirements of the Subdivision and Land Development Regulations.²³

Section 4.10 Site Plan Requirements³⁹

- A. Submittal and approval of a site plan is required for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.^{23, 26}
- B. Site plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- C. Site Plan submittal is not required for any Agricultural Use defined in Article 2. Agricultural Uses which are open to the public (Agricultural Special Event Facility, Farm Market, etc.) established on parcels of less than 20 acres shall process a Concept Plan in accordance with the Subdivision and Land Development Regulations.
- D. The site plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations, and this Ordinance.²³
- E. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.^{10, 17, 21, 23}

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

Buffer yard requirements are as shown in Appendix A and B of this Ordinance, and are summarized in this section.²⁷

- A. Commercial Development²⁷
 1. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a 50 foot or greater unscreened green space buffer or a 15 foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

2. All commercial development adjacent to all other uses must maintain ten foot side and rear yard landscape buffers.⁵

B. Industrial Development²⁷

1. All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall have an unscreened buffer yard of no less than 200 feet. No structures, stored materials, or vehicular parking shall be permitted within the buffer yard.
2. All industrial development adjacent to any use other than an industrial use shall have screened front yard buffers of no less than one-half ($\frac{1}{2}$) the front yard building setback, which may be included within the 200-foot buffer required in this subsection.^{5, 7}
3. All industrial development adjacent to any use shall have 20 foot screened side and rear landscape buffers.

C. Multi-family Development²⁷

1. All multi-family adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have, along common property lines, screened green space buffers as follows:
 - a. Front and rear: a minimum of 15 feet
 - b. Side: a minimum of 12 feet

- D. In all buffer yards, the exterior width beyond the vegetative screen shall be planted with grass, seed, sod, or ground cover.

- E. All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare or noise. Such screen planting shall meet the following requirements.

1. Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least six (6) feet in height.^{7, 23, 27, 28}

However, any development where a 10 foot side and/or rear yard vegetative landscaping buffer is required adjacent to proposed commercial uses and where no outdoor storage is being proposed or provided, the following standards shall be met:^{27, 28}

- a. One (1) deciduous or evergreen tree with a height of six (6) feet or more when planted, likely to reach a height of 20 feet or more at maturity, planted every 50 linear feet; at least every other tree shall be an evergreen;
- b. One (1) ornamental tree with a height of four (4) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every 50 linear feet; and
- c. Three (3) shrubs per each 25 feet along the property line, round upward.
- d. These requirements shall be required on both sides of a property line for adjoining properties.
- e. A 10 foot landscape area on the property unless shared parking is proposed. In the event shared parking is proposed, the required property line planting would be in addition to other plantings.^{7, 23, 26}

2. It will be the responsibility of the landowner to replace any trees that die and shall be so noted on the site plan.

3. Screen planting shall be a minimum of ten (10) feet wide but shall be placed so that it is no closer than four (4) feet at maturity from a property line or from any street.
4. No structure, fence, planting, or other obstruction shall be permitted which would interfere with traffic visibility.

- F. In any Commercial, Industrial, Institutional, or Residential development, all dumpsters shall be screened from any residences or from view of a public highway.²³
- G. All buffer yards shall be maintained by the property owner.
- H. All development adjacent to a Sensitive Natural Area shall have a buffer of natural vegetation. Environmental standards contained in Section 8.9A, 1 through 7, will apply. The buffer shall meet the current Federal standard except as required in Table 4.11 -1 below:²³

Table 4.11 -1 Wetland Size in Acres^{5, 8, 23}

Greater Than	Less Than	Buffer Width in Feet
0.05	0.10	30
0.10	0.16	35
0.15	0.21	40
0.20	0.26	50
0.25	0.31	55
0.30	0.36	60
0.35	0.41	65
0.40	0.46	70
0.45	0.51	75
0.50	0.66	80
0.65	0.81	85
0.80	0.96	90
0.95	1.21	95
1.20	--	100

- I. All required landscape plans shall contain the following elements:⁷
1. Deciduous street trees for shade and aesthetics, planted at the following average spacing:²³
 - a. Site with street frontage of up to 200 feet: 1 tree per 50 feet.
 - b. Site with street frontage exceeding 200 feet: The greater of 4 trees or 1 tree per 100 feet.
 2. Evergreen buffer planting, as required, for full screening.
 3. Parking lot and internal drive plantings (mix of evergreen and deciduous) for partial screening and limited shade.
 4. Structure plants for aesthetics and limited shade.
 5. Schedule of plants including common name, scientific name, minimum size (height, caliper, etc.) quantity and specific limitation notes.
- J. Required landscape buffers for a non-residential use are indicated in Appendix B.²⁷

Section 4.12 Design Standards for Multi-Family Developments²³

- A. Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational use shall be within the 100 year Floodplain.

APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE^{27, 32, 35}

Zoning District	Development Type [⊖]	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imperious 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	Side & Rear
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		
	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 [¥]	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 [£]	10 [⊖]	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 [£]	10 [⊖]	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, 2nd Floor
 Charles Town, West Virginia 25414

File #: 25-11-2V
 Mtg. Date: 03.27.25
 Fee Paid: \$ 150

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Variance Application

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 parcel's zoning classification.

Property Owner Information

Owner Name: Nicholas Wilson
 Business Name: BCL Properties, LLC
 Mailing Address: 74 Thatcher Ct. Shepherdstown, WV 25443
 Phone Number: 301-788-4635 Email: wilsons81@gmail.com

Applicant Contact Information

Applicant Name: _____ Same as owner:
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Consultant Information

Consultant Name: Todd Heck
 Business Name: Morris & Ritchie Associates, Inc.
 Mailing Address: 205 E. Hirst Road, Suite 106 Purcellville, VA 20132
 Phone Number: 703-994-4047 Email: theck@mragta.com

Physical Property Details

Physical Address: 640 War Admiral Blvd. Charles Town, WV 25414
 Parcel ID: (Tax District / Map No. / Parcel No.) Charles Town / 1 / 27.1
 Parcel Size: 4.7 acres Deed Book: 1318 Page No: 255

Vacant Lot:

Zoning District (please check one)

- | | |
|---|---|
| <input type="checkbox"/> Residential Growth (RG) | <input type="checkbox"/> General Commercial (GC) |
| <input checked="" type="checkbox"/> Industrial Commercial (I-C) | <input type="checkbox"/> Highway Commercial (HC) |
| <input type="checkbox"/> Rural (R)* | <input type="checkbox"/> Light Industrial (LI) |
| <input type="checkbox"/> Residential-Light Industrial-Commercial (R-LI-C) | <input type="checkbox"/> Major Industrial (MI) |
| <input type="checkbox"/> Village (V) | <input type="checkbox"/> Planned Neighborhood Development (PND) |
| <input type="checkbox"/> Neighborhood Commercial (NC) | <input type="checkbox"/> Office/Commercial Mixed-Use (OC) |

Is there a Code Enforcement action pending in relation to this property? Yes No

RECEIVED

FEB 20 2025

JEFFERSON COUNTY PLANNING
 ZONING & ENGINEERING

Date Received:

Briefly describe the nature of the request (include the dimensions of the proposed structure, if applicable):

Section of the Zoning Ordinance pertaining to this request:

Section 4.11, Appendix B & Standard Detail 'Medium Buffer Detail No M-53'

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

Front Setback Side Setback Rear Setback Reduction from _____ to _____

Required Sketch: 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.

Required Responses: Each of the following questions must be answered in detail. The Board will evaluate your request based on the answers provided (attach a separate sheet of paper if necessary).

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 NOTE 1 ATTACHED.

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?

SEE NOTE 2 ATTACHED.

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

SEE NOTE 3 ATTACHED.

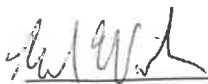
How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice done?

SEE NOTE 4 ATTACHED.

I authorize the Planning and Zoning staff to revise the application/sketch on my behalf. I understand that said revisions will be discussed with me prior to revising the application/sketch.

The information given is correct to the best of my knowledge. Property Owner Signature Required.

By signing this application, I grant permission to County staff to walk onto the subject property to take photos for the Board of Zoning Appeals staff reports.



Property Owner Signature

3/20/2025

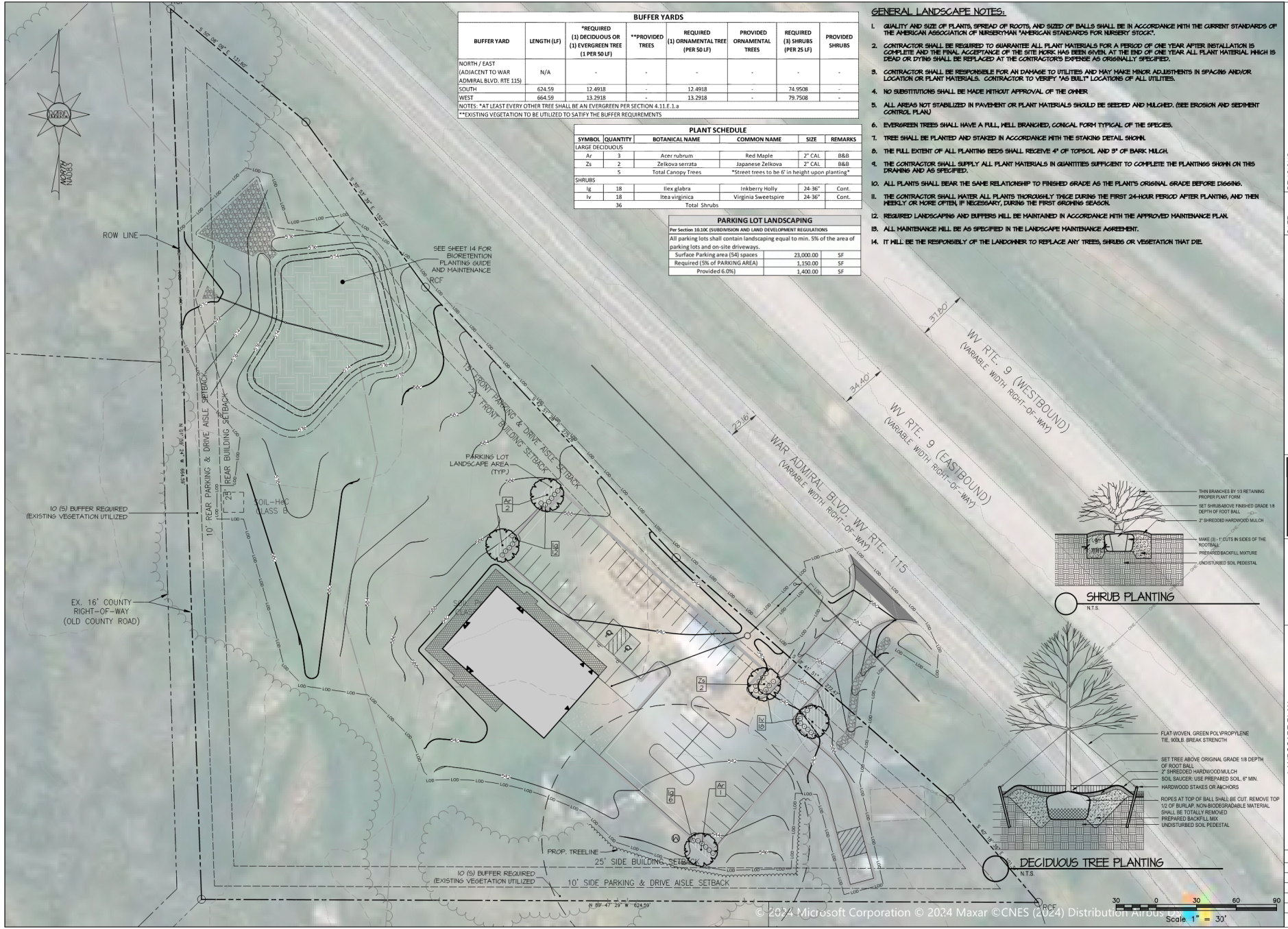
Date

Property Owner Signature

Date

NOTES TO JEFFERSON COUNTY VARIANCE APPLICATION

- 1. The existing vegetation provides a sufficient landscape buffer between our property, zoned Industrial Commercial, and the other adjacent property zoned Industrial Commercial to limit sightline and noise enough to have no impact on the public's health safety or welfare, or the rights of the property owner. The residential property owner adjacent to the property agreed that their rights are not being adversely affected if we are provided with the variance. They stated it would be ok if the vegetation is left as is.**
- 2. If a landscape buffer is planted per the detail, the sightline from Route 9 to the building will be completely obstructed which will negatively impact marketing strategy and business revenue severely. The installation of the buffer throughout the rest of the property will take away from the open green space planned for community gatherings, events, and markets.**
- 3. Based on the detail for the landscape buffer, and by taking the perimeter of the property in linear feet, it was calculated that 114 large trees, 229 medium trees, and 449 small shrubs would need to be planted. A cost estimate for this installation is approximately \$236,385. This presents an unnecessary hardship because we would need to spend an unnecessary amount of funding towards vegetation to be planted when there is already existing vegetation that serves the same purpose. This money could be allocated towards philanthropic expenditures, such as infrastructure for community events, markets, meetings, etc that would be hosted on the property. This money could go towards the cost of the building itself, not unnecessary buffering that takes away from green space.**
- 4. Justice will be done, and the intent of the Zoning Ordinance will be observed because the approval of it will not adversely affect public health, safety, or welfare, or the rights of the adjacent property owners or residents. If such is true, then the intent of the code also still holds true, and there will be no unnecessary hardship to permit the reasonable use of the land, which is planned for the benefit of the community.**



BUFFER YARDS							
BUFFER YARD	LENGTH (LF)	**REQUIRED (1) DECIDUOUS OR (1) EVERGREEN TREE (1 PER 50 LF)	**PROVIDED TREES	REQUIRED (1) ORNAMENTAL TREE (PER 50 LF)	PROVIDED ORNAMENTAL TREES	REQUIRED (3) SHRUBS (PER 25 LF)	PROVIDED SHRUBS
NORTH/EAST (ADJACENT TO WAR ADMIRAL BLVD. RTE 115)	N/A	-	-	-	-	-	-
SOUTH	624.59	12.4918	-	12.4918	-	74.9508	-
WEST	664.59	13.2918	-	13.2918	-	79.7508	-

NOTES: *AT LEAST EVERY OTHER TREE SHALL BE AN EVERGREEN PER SECTION 4.11.E.1.a
 **EXISTING VEGETATION TO BE UTILIZED TO SATISFY THE BUFFER REQUIREMENTS

PLANT SCHEDULE				
SYMBOL	QUANTITY	BOTANICAL NAME	COMMON NAME	REMARKS
LARGE DECIDUOUS				
A1	3	Acer rubrum	Red Maple	2" CAL. B&B
Z1	2	Zelkova serrata	Japanese Zelkova	2" CAL. B&B
	5	Total Canopy Trees		*Street trees to be 6' in height upon planting*
SHRUBS				
Ig	18	Ilex glabra	Inkberry Holly	24-36" Cont.
Iv	18	Itea virginica	Virginia Sweetpire	24-36" Cont.
	36	Total Shrubs		

PARKING LOT LANDSCAPING		
Per Section 10.3.K SUBDIVISION AND LAND DEVELOPMENT REGULATIONS		
All parking lots shall contain landscaping equal to min. 5% of the area of parking lots and on-site driveways.		
Surface Parking area (641 spaces)	23,000.00	SF
Required (5% of PARKING AREA)	1,150.00	SF
Provided (6.0%)	1,400.00	SF

- GENERAL LANDSCAPE NOTES:**
- QUALITY AND SIZE OF PLANTS, SPREAD OF ROOTS, AND SEED OF BALLS SHALL BE IN ACCORDANCE WITH THE CURRENT STANDARDS OF THE AMERICAN ASSOCIATION OF NURSERYMAN (AMERICAN STANDARDS FOR NURSERY STOCK).
 - CONTRACTOR SHALL BE REQUIRED TO GUARANTEE ALL PLANT MATERIALS FOR A PERIOD OF ONE YEAR AFTER INSTALLATION IS COMPLETE AND THE FINAL ACCEPTANCE OF THE SITE WORK HAS BEEN GIVEN AT THE END OF ONE YEAR ALL PLANT MATERIAL WHICH IS DEAD OR DYING SHALL BE REPLACED AT THE CONTRACTORS EXPENSE AS ORIGINALLY SPECIFIED.
 - CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES AND MAY MAKE MINOR ADJUSTMENTS IN SPACING AND/OR LOCATION OF PLANT MATERIALS. CONTRACTOR TO VERIFY "AS BUILT" LOCATIONS OF ALL UTILITIES.
 - NO SUBSTITUTIONS SHALL BE MADE WITHOUT APPROVAL OF THE OWNER.
 - ALL AREAS NOT STABILIZED IN PAVEMENT OR PLANT MATERIALS SHOULD BE SEEDED AND MULCHED. (SEE EROSION AND SEDIMENT CONTROL PLAN)
 - EVERGREEN TREES SHALL HAVE A FULL, WELL BRANCHED, CONICAL FORM TYPICAL OF THE SPECIES.
 - TREE SHALL BE PLANTED AND STAKED IN ACCORDANCE WITH THE STAKING DETAIL SHOWN.
 - THE FULL EXTENT OF ALL PLANTING BEDS SHALL RECEIVE 4" OF TOPSOIL AND 3" OF BARK MULCH.
 - THE CONTRACTOR SHALL SUPPLY ALL PLANT MATERIALS IN QUANTITIES SUFFICIENT TO COMPLETE THE PLANTINGS SHOWN ON THIS DRAWING AND AS SPECIFIED.
 - ALL PLANTS SHALL BEAR THE SAME RELATIONSHIP TO FINISHED GRADE AS THE PLANTS ORIGINAL GRADE BEFORE DIGGING.
 - THE CONTRACTOR SHALL WATER ALL PLANTS THOROUGHLY THREE DURING THE FIRST 24-HOUR PERIOD AFTER PLANTING, AND THEN WEEKLY OR MORE OFTEN, IF NECESSARY, DURING THE FIRST GROWING SEASON.
 - REQUIRED LANDSCAPING AND BUFFERS WILL BE MAINTAINED IN ACCORDANCE WITH THE APPROVED MAINTENANCE PLAN.
 - ALL MAINTENANCE WILL BE AS SPECIFIED IN THE LANDSCAPE MAINTENANCE AGREEMENT.
 - IT WILL BE THE RESPONSIBILITY OF THE LANDOWNER TO REPLACE ANY TREES, SHRUBS OR VEGETATION THAT DIE.

MORRIS & RITCHIE ASSOCIATES, INC.
 ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
 2000 PARCEL VALLE VA 20132
 PHONE (703) 994-4047
 MRORITA.COM

DATE: 02/14/25
 REVISIONS: 1ST SUBMISSION 12/11/24
 2ND SUBMISSION 02/14/25

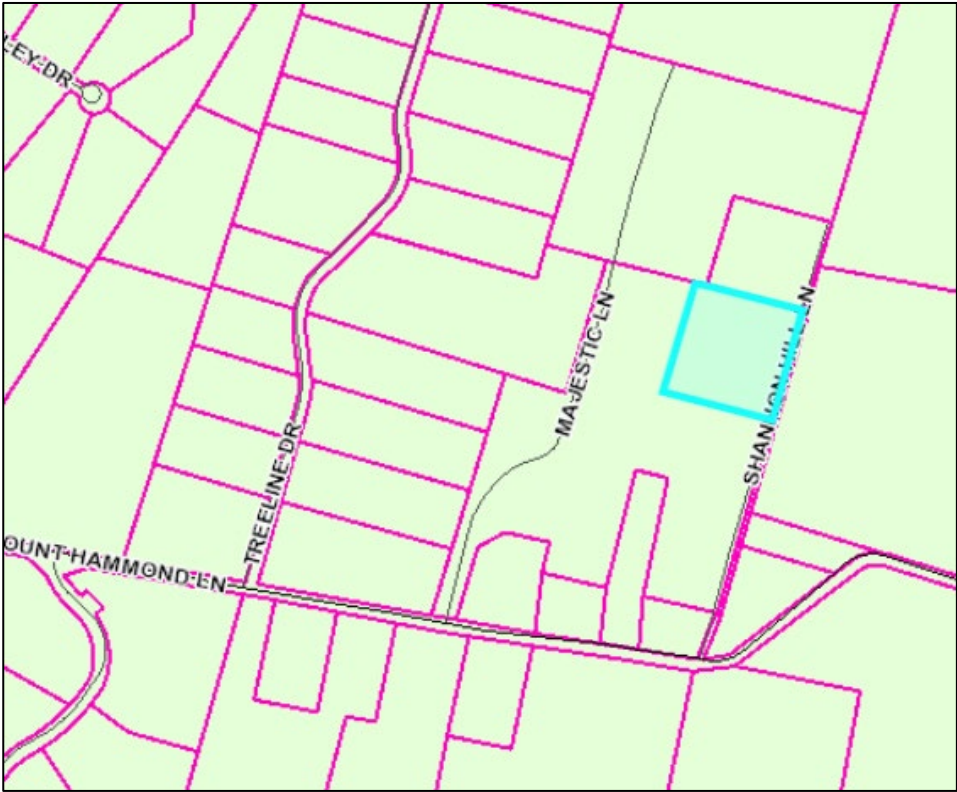
MIRA
 LANDSCAPE PLAN
 BCL PROPERTIES - CONSTRUCTION PLAN
 JEFFERSON COUNTY, WEST VIRGINIA
 TAX DISTRICT, CHARLES TOWN DISTRICT
 TAX MAP 1, PARCEL 27.1, D.B. 0318 PG. 255

JOB NO.:
 SCALE: N.T.S.
 DATE: 11/07/2024
 DRAWN BY: BZ
 DESIGN BY: TH
 REVIEW BY: TH
 SHEET: 18 OF 18

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 March 27, 2025

25-3-CUP JR Arms LLC Conditional Use Permit Request

Item #5 Request for a Conditional Use Permit to establish a homebased federal firearms business from an existing dwelling unit. The proposed land use designation as listed in Appendix C is *Retail Sales and Service, General*. Applicant anticipates up to 10 customers per month. No employees other than the residents of the property. No signs are proposed.

Owner:	Richard Cluff
Applicant:	JR Arms, LLC
Parcel Information & Zoning District:	<p style="text-align: center;">161 Shannon Hill Lane, Charles Town, WV Parcel ID: 02002200020012; Project Size: 1 ac; Zoning District: Rural</p> 
History:	09/20/1995: Family Transfer Lot created via DB 814 / PG 668
Waivers/Variances:	None
Approved Activity:	Single family dwelling
Site Visit Conducted:	No

Summary of Request and Purpose of Ordinance Requirements

The subject request is to operate a homebased federal firearms business from an existing dwelling. The applicant represented that the hours of operation will be by appointment only. The applicant/homeowner is the only employee and it is anticipated that there would be 6 to 10 customer transactions per month. The proposed business will include small-scale firearm and ammunition sales and firearm transfer services. The applicant has also represented that all firearm sales and transfers will follow ATF regulations including background checks and record-keeping requirements and all firearms and ammunition will be stored per state and federal guidelines.

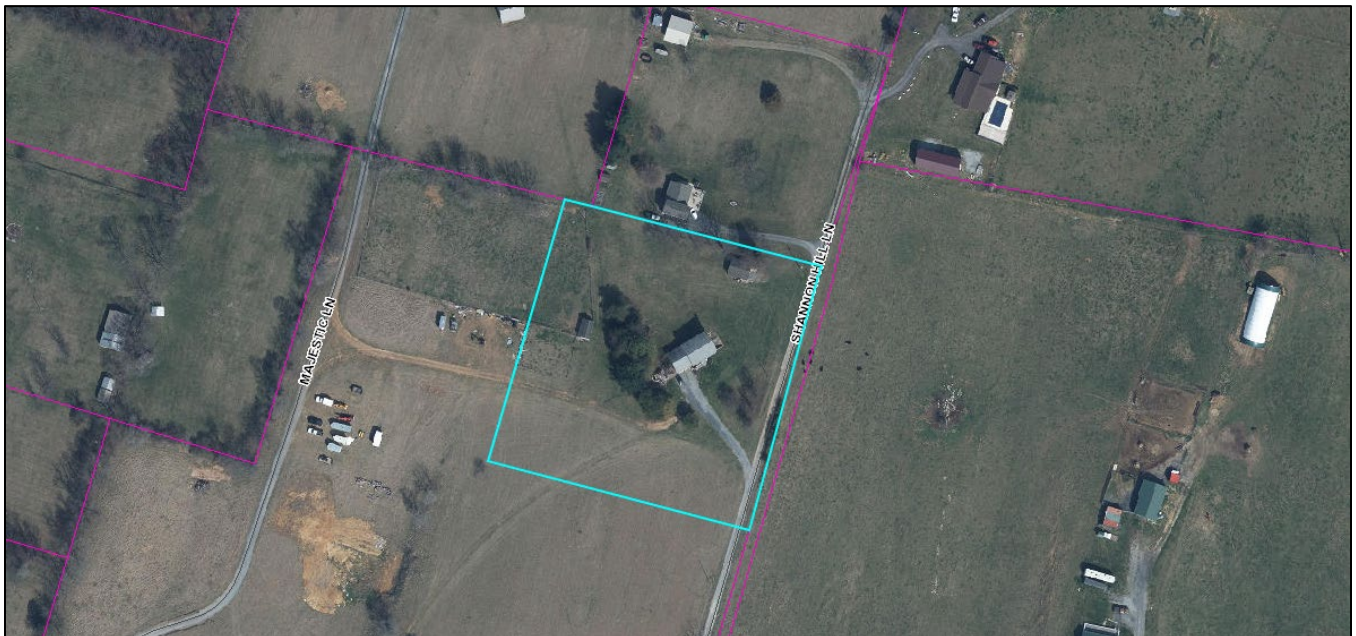
Staff Report
Jefferson County Board of Zoning Appeals Meeting
March 27, 2025

25-3-CUP JR Arms LLC Conditional Use Permit Request

The proposed land use designation as listed in Appendix C is Retail Sales and Service, General. Article 2 defines *Retail Sales and Service, General* as,

“A commercial facility engaged in the indoor sale or rental, with incidental service, of goods or merchandise to the general public for personal or household consumption, or providing retail services or entertainment to the general public. Typical retail sales uses include department stores, apparel stores, discount retail stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products; food, pharmaceutical products, cards, books, tobacco products, cosmetics, and specialty items; flowers, plants, pets and pet supplies, hobby materials, toys, and handcrafted items; apparel, jewelry, fabrics and similar items; cameras, photography services, household electronic equipment, video and music products, sporting equipment, home furnishings and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation). Typical service-related uses include eating and drinking establishments; finance, real estate and insurance; amusement and recreational services or establishments such as bowling alleys and miniature golf courses; health, educational and social services. This use does not include Retail Store, Large, and does not include any other use specifically classified in another definition herein.”

The Home Occupation and Cottage Industry Standards in Section 4A of the Zoning Ordinance states, “Any business which involves the storage of weapons such as firearms (other than residents’ hunting, protection, and leisure weapons)” cannot be established as a Home Occupation or Cottage Industry (Section 4A.1.E.4). A previous determination, which was upheld by the Board of Zoning Appeals, stated that storage of firearms constitutes any length of time that a firearm is on premises (PC File AP12-02). Staff has been advising that in order to operate a home based federal firearms transfer and retail business, a Conditional Use Permit is required due to the fact that firearms will be stored on premises for one or more days until the transfer or sale is completed and the customer picks up the firearm(s).



25-3-CUP JR Arms LLC Conditional Use Permit Request

Conditional Use Permit Process

Section 6.3 of the Zoning Ordinance states:

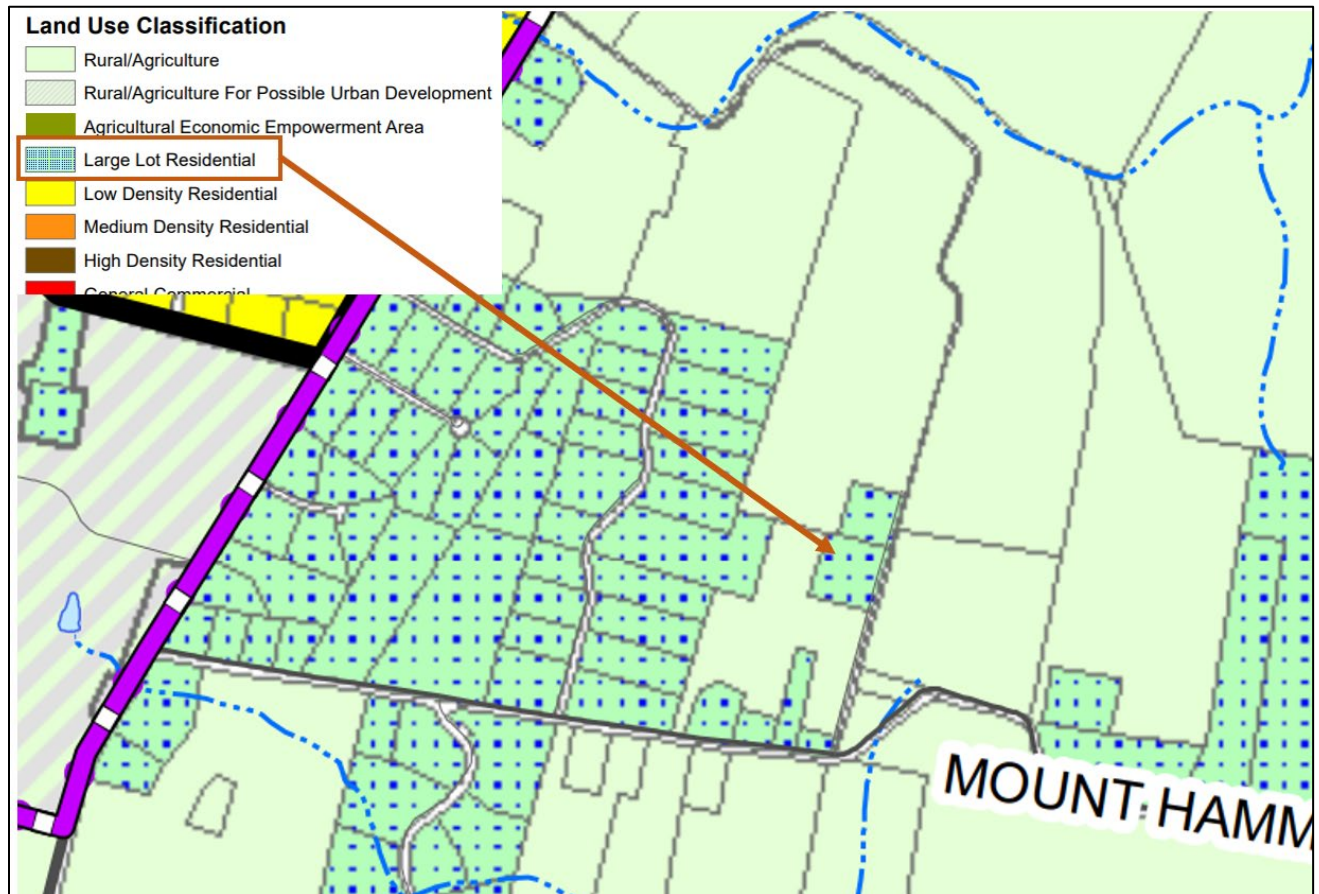
“The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as “Conditional Uses (CU)” in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit:”

The following General Standards shall be considered in approving or denying the CUP:

1. The proposed use is compatible with the goals of the adopted Comprehensive Plan. (Sec. 6.3A.1)

The applicant addressed this criteria on Page 4 of their application.

The subject parcel is shown as “Large Lot Residential” on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide and is located outside of the County’s urban growth boundary and preferred growth area.



25-3-CUP JR Arms LLC Conditional Use Permit Request

The Zoning Ordinance has historically included provisions to allow for a land use that is not listed as a Principal Permitted Use (i.e. by-right) in a zoning district to process as a Conditional Use using the Development Review System. In March 2017, in accordance with the goals and recommendations of the Comprehensive Plan, the County Commission amended the Conditional Use Permit requirements, which eliminated the Development Review System and the Land Evaluation Site Assessment (LESA) process and incorporated what was considered to be a more traditional process for evaluating a Conditional Use. As part of the text amendment, Appendix C was also amended to specifically identify which non-residential land uses could process under the Conditional Use Permit requirements (*as opposed to a blanket provision to allow any use that was not listed in Appendix C or any use that was listed as not permitted to process under the LESA system – the new provisions state that only uses identified as a “Conditional Use” can process under the Conditional Use Permit provisions in Section 6.3*).

Below are a few excerpts from the Comprehensive Plan for the Board to consider when evaluating the subject request for compatibility with the goals of the adopted Comprehensive Plan:

Economic Development and Employment Recommendations (Goals 6 & 7) – Page 70:

Recommendation #5 – Create a business friendly environment in Jefferson County.

Recommendation #6 – Develop methods to promote local business growth which include providing research, support, and marketing resources that would assist business start-ups in Jefferson County.

Goal #1, Objective #5: “Allow areas outside of the UGBs or PGAs to develop as rural cluster subdivisions in accordance with existing land use rights; and/or as compatible non-residential development utilizing the Conditional Use Permit (CUP) process.” (Page 190)

Goal #6: Encourage the growth of Jefferson County’s economy and enable the creation of high quality jobs within the County. (Page 194)

Goal # 6, Objective #1: In coordination with the Jefferson County Development Authority (JCDA) and other agencies, work to build and expand existing local businesses and to enable the start-up of new businesses within Jefferson County. (Page 194)

2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare. (Sec. 6.3A.2)

The applicant addressed this criteria on page 5 of their application.

The applicant is not proposing to construct any new buildings and will conduct the business from within the existing residential dwelling. No signs are proposed. The primary use of the property will remain residential. The business proposal includes operating on an appointment-only basis with low customer volume (6-10 customers per month*). The proposed business will include a small readily available inventory of firearms and ammunition, stored in a secured storage area and monitored by an industry standard surveillance system. The business will not include gunsmithing or custom build/modifications, nor will it include a shooting range or testing component.

* *While the proposed land use does not comply with the home occupation or cottage industry provisions as noted on Page 2 of this report, it is worth noting that the Cottage Industry provisions allow up to 60 trips per week, with a maximum of 15 business related visits per day. A Cottage Industry land use would process administratively via a Zoning Certificate Application.*

25-3-CUP JR Arms LLC Conditional Use Permit Request

3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. (Sec. 6.3A.3)

The applicant addressed this criteria on page 5 of their application. The business will be conducted entirely within the existing residential dwelling.



4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of the Zoning Ordinance. (Sec. 6.3A.4)

The applicant stated that they will implement any required buffers, setbacks, and landscaping measures necessary to preserve the integrity of adjacent properties.

Based on the information presented, the proposed business will be contained within the existing residential structure with the primary use being residential. Since no new structures are proposed and additional parking does not appear to be required at this time, the applicant will not be required to process a site plan. As such, the Ordinance will not require additional buffers, setbacks, and landscaping to be installed at this time.

As with other applications, should the Board grant the request, the Board has the authority to impose conditions of approval, including the requirement to install landscaping or fencing.

5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of the Zoning Ordinance. (Sec. 6.3A.5)

As part of the Conditional Use Permit application, the applicant was informed of this criteria and shall comply with this standard. Section 8.9 of the Zoning Ordinance is attached to the staff report for reference.

Section 8.9 regulates noise, odor, smoke, ambient air quality, vibration, glare and heat, toxic matter, and fire hazards related to commercial and industrial land uses.

25-3-CUP JR Arms LLC Conditional Use Permit Request

6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan's Highway Road Classification Map. (Sec. 6.3A.6)

The subject property is zoned Rural; therefore, this criteria is applicable.

Shannon Hill Lane is neither a Principal Arterial, Minor Arterial, nor Major Collector Road thus facilitating the need for trip generation data from the applicant.

The applicant has represented that the proposed business will average 6-10 customer transaction per month ensuring customer visits are infrequent and no significant increase in traffic as a result.

7. Historic Landmarks Commission's Findings related to the proposed land use. (Sec. 6.3A.7)

The subject property does not contain any Category I or II historic sites as defined by the Zoning Ordinance; therefore, this criteria is not applicable.

8. Any signs associated with the proposed Conditional Use shall be reviewed by the Board in accordance with Section 10.6. (Sec. 6.3A.8)

No additional signs are proposed as part of the request; therefore, this criteria is not applicable.

Staff Report Attachments:

- Section 8.9 of the Zoning Ordinance

B. Standards for Hunting, Shooting and Fishing Clubs²⁰

1. 75 foot setback for all structures and parking.
2. 150 yard setback for all shooting facilities.
3. Height
 - a. As is for conversion or reconstruction that does not exceed 135 percent of the original footprint of existing structures
 - b. 35 feet for new structures
4. Landscaping requirements of this Ordinance apply, with the following exception:
 - a. Perimeter landscaping shall be as approved by staff in order to preserve existing vegetation.
5. Minimum of 150 acres under common ownership.

C. Special Exceptions for Hunting, Shooting and Fishing Clubs²⁰

1. Limits exceeding requirements outlined above can be increased with Board of Zoning Appeals approval provided that the Board of Zoning Appeals find that the increase is compatible with the neighborhood after taking into consideration neighborhood character, traffic, and buffering. Such decision shall be rendered after a public hearing as outlined in the Board of Zoning Appeals Rules of Procedure.

Section 8.9 Industrial and Commercial Uses²³

A. Industrial and commercial uses in all districts shall comply with the following standards:

1. Noise

All noise shall be muffled so as not to be objectionable due to intermitting, beat frequency, or shrillness. Noise levels shall not exceed the following sound levels dB(A). The sound-pressure level shall be measured at the property line with a sound level meter.

<u>Sound Measured In</u>	<u>DAY</u>	<u>NIGHT</u>
	<u>7 AM - 6 PM</u>	<u>6 PM - 7 AM</u>
Adjoining Agricultural or Residential Growth District	60 dB(A)	50 dB(A)
Residential Uses in R-LI-C District	65 dB(A)	55 dB(A)
Commercial Uses	70 dB(A)	60 dB(A)
Light Industrial Uses adjacent to noise source	85 dB(A)	80 dB(A)

The following sources of noise are exempt:

- a. Transportation vehicles not under the control of the industrial use.
 - b. Occasionally used safety signals, warning devices and emergency pressure relief valves.
 - c. Temporary construction activity between 7:00 a.m. and 7:00 p.m.
2. Odor

No operation shall result in the creation of odors of such intensity and character as to be detrimental to the health and welfare or the public or which interferes with the comfort of the public. Odor thresholds shall be in accordance with ASTM d139-57 “Standard Method for Measurement of Odor in Atmospheres (Dilution Method)” or its equivalent.

Odorous material released from any operation or activity shall not exceed the odor threshold concentration beyond the state line, measured either at ground level or habitable elevation.

3. Smoke

No smoke, dust, fumes, or particulate matter shall be perceptible at any lot line. Further, the regulations and standards governing the control of air pollution shall be the same as those adopted by the State of West Virginia.

For the purpose of grading the density or equivalent capacity of smoke, the Ringelmann Chart as published by the United States Bureau of Mines shall be used.

The emission of smoke darker than Ringelmann No. 1 from any chimney, stack, vent, opening, or combustion process is prohibited.

The total emission rate of dust and particulate matter from all vents, stacks, chimneys, flues or other opening or any process, operation, or activity except solid waste incinerators within the boundaries of any lot, will not exceed the levels set forth below.

Particulate matter emission from materials or products subject to becoming wind borne will be kept to a minimum by paving, sodding, oiling, wetting, covering or other means, such as to render the surface wind resistant. Such sources include vacant lots, unpaved roads, yards and storage piles or bulk material such as coal, sand, cinders, slag, sulfur, etc.

4. Ambient Air Quality Standard

Particulate Matter

Suspended

Annual Arithmetic Mean ug/m	65
24-hour Maximum b, ug/m	140

Settleable

Annual Arithmetic Average, mg/cm/	/month 0.35
Monthly Maximum	0.7

5. Vibration

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at any point beyond the lot line nor shall any vibration produced exceed 0.002g peak measured at or beyond the lot line using either seismic or electronic vibration-measuring equipment.

6. Glare and Heat

No direct or sky-reflected glare, whether from floodlights or from high temperature processes, such as combustion or welding or otherwise, so as to be visible at the lot line, shall be permitted. There shall be no emission or transmission of heat or heated air so as to be discernable at the lot line.

7. Toxic Matter

The ambient air quality standards for the State of West Virginia shall be the guide to the release of airborne toxic materials across lot lines. Where toxic materials are not listed in the ambient air quality standards of the State, the release of such materials shall be in accordance with the fractional quantities permitted below, of those toxic materials currently listed in the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists.

Unless otherwise stated, the measurement of toxic matter shall be at ground level or habitable elevation, and shall be the average of any twenty-four (24) hours sampling period.

The release of airborne toxic matter will not exceed one-thirteenth of the threshold limit value across lot lines.

Such materials shall include but are not limited to: all primary explosives such as lead azide, lead styphnate, fulminates and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof, such as dry derivatives; pyrotechnics and fireworks such as acetylates, tetrazoles, and ozonides; unstable oxidizing agents such as perchloric acid, perchlorates, and hydrogen peroxide in concentration greater than thirty-five (35) per cent; and nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.

The storage, utilization or manufacture of materials or products which decompose by detonation is prohibited.

8. Fire Hazards

The storage, utilization or manufacture of solid materials which are active to intense burning shall be conducted within spaces having fire resistive construction of no less than two (2) hours and protected with an automatic fire extinguishing system.

The total capacity of flammable liquids and gasses shall not exceed those quantities permitted in the following Table for each of the industrial districts:

<u>CAPACITY</u>	<u>STORAGE</u>
Liquids	60,000 gallons
Gasses	
- Above ground	150,000 SCF
- Below ground	300,000 SCF

SCF - Standard Cubic Feet at sixty (60) degrees Fahrenheit and 29.92 inches Mercury.¹

The following setback requirements will apply to the location of any container which holds flammable liquids or gasses:

Container Setback from Lot Lines

Water Capacity per Container (Gallons)	Containers		Between Above Ground Containers (Feet)
	Underground (Feet)	Above Ground Containers (Feet)	
0 to 2,000	25	25	3
2,000 to 30,000	50	50	5
30,000 to 60,000	50	75	
In excess of 60,000	75	100	¼ the sum of diameters of adjacent containers

9. Frontage Road

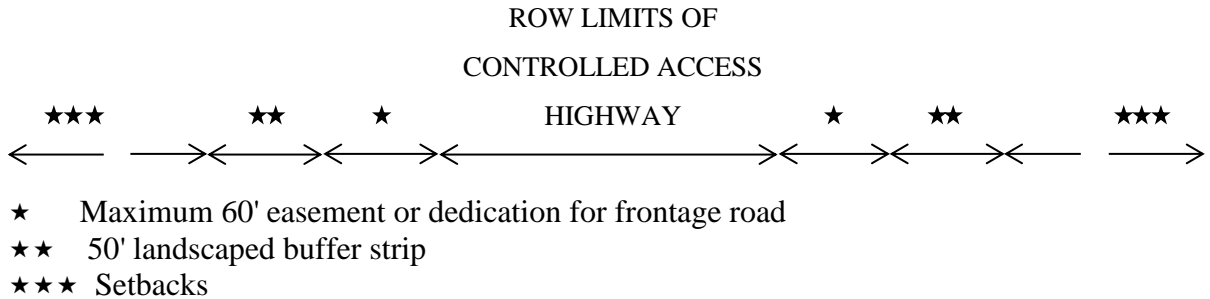
Easements or fee simple dedications will be provided along all limited access highways at the site plan or subdivision phases. Said easement/dedication shall not exceed 60 feet in width. The width may vary but must be adequate for extension, continuation or establishment of a minimum 20' wide paved frontage road.

10. Landscape Buffer

All commercial and industrial developments shall comply with Section 4.11 unless otherwise specified in this Ordinance.²⁷

A fifty (50) foot wide landscape buffer strip will be provided along all limited access highways. Said buffer shall be adjacent to the frontage road. In the case where existing roads not adjacent to controlled access highway serve as frontage road the landscape buffer may be placed against the highway right-of-way.

All front setbacks (building and parking lot) are to be measured from the landscape buffer. (See diagram)



This provision shall also apply to any ramps or access roads connecting to a controlled access highway within ½ mile of a controlled access highway.⁵

Section 8.10 Model Homes/Sales Offices²³

Model homes with a staffed sales office for sales exclusively within the residential subdivision in which they are located are permitted provided that they are contained on the first lot on either or both sides of any road/right-of-way that enters the subdivision; provided also that they are so designated on the preliminary and final plats during the subdivision process.

Model homes with a staffed sales office in any other location within the subdivision must be approved or denied by the Board of Zoning Appeals after a public hearing advertised for 15 days.^{17, 21}

Model homes without staffed sales offices are permitted internally within the subdivision.¹²

Section 8.11 Petroleum Products Refining or Storage²³

Petroleum refining or storage (above ground in tanks) requires adherence to all state and federal laws, as well as National Fire Underwriters Codes.

Section 8.12 West Virginia Legal Fireworks²³

Sales of fireworks are permitted in the Industrial-Commercial, Residential-Light Industrial-Commercial, General Commercial, Highway Commercial, Highway Commercial, Light Industrial, and Major Industrial zoning districts provided all other restrictions such as setbacks and the requirements of the Jefferson County Subdivision and Land Development Regulations are met.^{8, 27}

Section 8.13 Dormitory²³

A dormitory shall be located on the same property or campus as the use it is intended to serve. A dormitory shall not offer accommodations to the general public or to persons who are visiting the property or campus primarily for the purpose of being a spectator at a sporting event or other gathering held at the facility. A dormitory may include one common kitchen or dining facility and common gathering rooms for social purposes for use only by its temporary occupants.

Section 8.14 Special Event Facilities³⁹

The purpose of this sections is to create a process by which a property owner in the Rural, Residential Growth, and Village zoning districts may establish a Special Event Facility. A Special Event Facility in any other zoning district may process in accordance with Appendix C.



JEFFERSON COUNTY, WEST VIRGINIA
 Department of Engineering, Planning and Zoning
Office of Planning and Zoning
 116 East Washington Street, 2nd Floor
 Charles Town, West Virginia 25414

File #: 25-3-CUP
 Mtg. Date: 3/27/25 3/27/25
 Fee Paid: \$ 375

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Application for a Conditional Use Permit

Project Name

JR Arms, LLC

Property Owner Information

Name: Richard A Cluff II

Business Name: _____

Mailing Address: 161 Shannon Hill Lane Charles Town, WV 25414

Phone Number: (207) 229-8548 Email: rich@jrarms.us

Applicant Information

Name: Richard A Cluff II

Business Name: JR Arms, LLC

Mailing Address: 161 Shannon Hill Lane Charles Town, WV 25414

Phone Number: (207) 229-8548 Email: rich@jrarms.us

Consultant Information

Name: N/A

Business Name: _____

Mailing Address: _____

Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 161 Shannon Hill Lane Charles Town, WV 25414

Parcel ID: (Tax District / Map No. / Parcel No.) 0002 0012 0000 Parcel: 02002200020012 (jth)

Parcel Size: 3 Acres Project Size 1 acre Deed Book: 8141339 (jth) Page No: 668- 378 (jth)

Zoning District (please check one)

- | | |
|---|---|
| <input type="checkbox"/> Residential Growth (RG) | <input type="checkbox"/> General Commercial (GC) |
| <input type="checkbox"/> Industrial Commercial (I-C) | <input type="checkbox"/> Highway Commercial (HC) |
| <input checked="" type="checkbox"/> Rural (R)* | <input type="checkbox"/> Light Industrial (LI) |
| <input type="checkbox"/> Residential-Light Industrial-Commercial (R-LI-C) | <input type="checkbox"/> Major Industrial (MI) |
| <input type="checkbox"/> Village (V) | <input type="checkbox"/> Planned Neighborhood Development (PND) |
| <input type="checkbox"/> Neighborhood Commercial (NC) | <input type="checkbox"/> Office/Commercial Mixed-Use (OC) |

Provide the Land Use Designation (see Appendix C of the Zoning Ordinance).

Retail Sales and Service, General (jth)

For properties in the Rural Zoning District:

Is property located on a primary or secondary road?

Yes No

Name of Road/Route Number: Shannon Hill Lane

Provide a detailed description of the proposed business (include information such as hours of operation, anticipated employee and/or customer visits, etc. A site sketch is required to be included with the application, delineating existing and proposed structures and parking areas, proposed signs, proposed landscaping, etc.

Since October 2023, I have been running this business from my home in Ranson, which involves selling ammunition and firearms and facilitating firearm transfers for customers. My operations are modest, averaging less than 70 firearms transactions annually, which equates to approximately six transactions per month with my hours being by appointment. Given this level of activity, I anticipate minimal traffic at the new location.

Provide a detailed response to the following questions to show how the proposed business complies with the criteria in Section 6.3 of the Zoning Ordinance. Feel free to attach a separate sheet with responses.

1. How is the proposed use compatible with the goals of the adopted Comprehensive Plan (Section 6.3A.1)?

Please see attached

2. How is the proposed use compatible in intensity and scale with the existing and potential land uses on surrounding properties? How will the proposed project mitigate potential threat to public health, safety, and welfare (Section 6.3A.2)?

Please see attached

3. Describe how the proposed site development will be designed such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings (Section 6.3A.3).

Please see attached

4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance (Section 6.3A.4).

I am aware of the landscaping buffer requirements and will adhere to them.

I am aware of the landscaping buffer requirements; however, I may seek a variance to modify them.

5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of the Zoning Ordinance.

I am aware of the standards outlined in Section 8.9 of the Zoning Ordinance and will be in compliance.

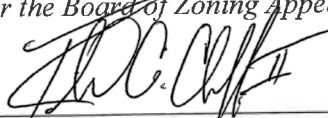
6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan's Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a primary or secondary road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the Board of Zoning Appeals to review in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use (Section 6.3A.6).

Trip Generation Data Attached

Not Applicable

The information given is correct to the best of my knowledge. Property Owner Signature Required.

By signing this application, I grant permission for County staff to walk onto the subject property to take photos for the Board of Zoning Appeals staff reports.



2/18/2025

Property Owner Signature

Date

Property Owner Signature

Date



PARKING

BUSINESS
LOCATION

ACCESS

ACCESS

SHANNON HILL LN

Mt. Hammond Ln

Mt. Hammond Ln

Treeline Dr

How is the proposed use compatible with the goals of the adopted Comprehensive Plan (Section 6.3A.1)?

The proposed use of the property as a small retail firearms business aligns with the Envision Jefferson 2035 Comprehensive Plan in the following ways:

- **Support for Small-Scale Rural Business Development**

The Comprehensive Plan encourages economic diversification in rural areas by promoting small, low-impact businesses that serve local needs. This business provides firearms sales, ammunition, and transfer services to the community while maintaining a low customer volume (approximately six-ten transactions per month, by appointment only). This ensures minimal disruption to surrounding properties and aligns with the county's vision for sustainable rural economic growth.

- **Minimal Impact on Infrastructure and Traffic**

The business operates on an appointment-only basis, significantly reducing vehicle traffic and eliminating the need for additional infrastructure investments. There will be no large-scale retail operations, no frequent deliveries, and no need for high-capacity parking, ensuring that the property maintains its rural character while supporting a viable business use.

- **Public Safety and Regulatory Compliance**

The secure handling and sale of firearms directly align with the Comprehensive Plan's public safety goals. The business operates in full compliance with federal and state firearm regulations.

- **Preservation of Rural Character**

The business does not require structural modifications, increased signage, or commercial-scale development, ensuring that the existing rural landscape remains intact. Additionally, as an appointment-based business, noise and activity levels will remain negligible, preventing any negative impact on neighboring properties.

How is the proposed use compatible in intensity and scale with the existing and potential land uses on surrounding properties? How will the proposed project mitigate potential threat to public health, safety, and welfare (Section 6.3A.2)?

The proposed use of the property as a small-scale retail firearms business is compatible in intensity and scale with the surrounding rural land uses due to the following factors:

1. Low Traffic and Operational Intensity
 - a. The business operates on an appointment-only basis, averaging six transactions per month, which is significantly lower in intensity than a traditional retail establishment.
 - b. There is no increase in heavy traffic, large customer gatherings, or frequent deliveries that could disrupt neighboring properties.
2. Minimal Structural or Land Use Changes
 - a. The business will be conducted within an existing structure without significant modifications, preserving the rural character of the area.
 - b. There will be no need for large signage, excessive lighting, or outdoor displays, ensuring that the property retains its residential or agricultural appearance.
3. Consistency with Nearby Uses
 - a. Surrounding properties are primarily residential or agricultural, and the business model does not introduce any incompatible industrial or high-traffic commercial activities.
 - b. The business primarily serves local firearm owners, hunters, and sportsmen, making it consistent with rural community needs.

To ensure public safety and compliance, the business will implement the following safeguards:

1. Strict Compliance with Federal and State Firearm Regulations
 - a. All firearm sales and transfers will follow ATF (Bureau of Alcohol, Tobacco, Firearms, and Explosives) regulations, including background checks and record-keeping requirements.
 - b. Secure firearm storage will be maintained per state and federal guidelines, preventing unauthorized access or theft.
2. Security Measures to Prevent Unauthorized Access
 - a. The premises will be equipped with a locked, secured storage area for firearms and ammunition, ensuring that no products are accessible to the public outside of appointments.
 - b. The property will have industry standard surveillance systems in place to deter theft or unauthorized entry.
3. Traffic and Noise Control
 - a. Customer visits are by appointment only, ensuring that vehicle traffic remains well below levels that could impact neighboring properties.
 - b. No outdoor firearm use, testing, or demonstrations will occur on-site, maintaining a quiet, low-impact environment.
4. Community and Law Enforcement Coordination
 - a. The business will maintain open communication with local law enforcement to ensure compliance with all safety and zoning requirements.

Describe how the proposed site development will be designed such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings (Section 6.3A.3).

The proposed site development for the small retail firearms business will not hinder or discourage the appropriate development and use of adjacent land and buildings. The following measures will be taken:

1. Minimal Physical Changes to the Property

- The business will operate within an existing structure, with no major external modifications that could alter the rural character of the area.
- There will be no large-scale commercial signage, parking lots, or excessive lighting that could impact nearby properties.

2. Low-Traffic, Business Model

- The business averages six-ten transactions per month, ensuring customer visits are infrequent.
- There will be no significant increase in traffic that could interfere with future development or neighboring residential and agricultural uses.

3. Preservation of Rural Character and Privacy

- No outdoor activities, shooting ranges, or product displays will take place, maintaining a quiet and unobtrusive presence.
- The existing natural landscaping and tree cover will be unaltered for business purposes
- Any necessary security enhancements (e.g., cameras, alarms) will be designed to be discreet and non-intrusive.

4. Protection of Future Development Opportunities

- The business does not involve large-scale construction or rezoning, ensuring that surrounding properties retain their development potential for residential or agricultural use.
- Since the business does not require new public infrastructure, it will not place a burden on county resources or hinder future land use planning efforts.

5. Compliance with All Local and State Regulations

- The business will adhere to all zoning and permitting requirements to ensure compliance with rural development guidelines.
- Any required buffer zones, setbacks, or screening measures will be implemented as needed to preserve the integrity of adjacent properties.

List of adjoining property owners:

MILTON RONALD R & SANDRA K
227 SHANNON HILL LN
CHARLES TOWN, WV 25414

RINER AIRAKA R & JACOB A
857 MOUNT HAMMOND LN
CHARLES TOWN, WV 25414

GABBERT JOSEPH C & DIANE L
266 SHANNON HILL LN
CHARLES TOWN, WV 25414

MILTON PENNY S
745 MOUNT HAMMOND LN
CHARLES TOWN, WV 25414

For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan's Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a primary or secondary road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the Board of Zoning Appeals to review in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use (Section 6.3A.6).

1. Highway Road Classification and Location Context

- The proposed business is located in the Rural Zoning District, and the closest Average Annual Daily Traffic (AADT) reporting point (Kabletown Rd just off of Charles Town Rd) is approximately 2.5 miles away, with an AADT of 1,747 vehicles per day.
- The property does not front on a primary or secondary road as identified in the Comprehensive Plan's Highway Road Classification Map.
- As required by Section 6.3A.6, trip generation data is provided below to assess roadway adequacy.

2. Estimated Trip Generation Data

The business operates by appointment only, averaging six to ten transactions per month. Based on this model:

- Average Daily Trips (ADT):
 - Assuming a maximum of two customer trips per transaction (arrival and departure), this results in an estimated 12-20 vehicle trips per month.
 - This equates to an average of less than 1 trip per day, which is negligible in comparison to the 1,747 AADT reported 2.5 miles away.
- Peak Hour Trips (PHT):
 - Given the low customer volume and controlled scheduling, peak hour traffic is expected to be no more than one vehicle at a time.
 - The business does not create rush-hour congestion or increase roadway strain.

3. Impact on Roadway Adequacy

- The estimated traffic impact is minimal and does not contribute significantly to congestion or roadway degradation.
- No modifications to existing road infrastructure, driveways, or access points are required.
- The property's rural setting and appointment-based operations ensure that traffic remains well below thresholds that would require additional roadway improvements or mitigation measures.



Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Administrator's Report
February 27, 2025 Board of Zoning Appeals Meeting

Date of Memo: March 21, 2025

1) Next regular meeting scheduled for April 24, 2025

- Deadline for submission is Friday, March 21, 2025.

2) BZA Appointments

On March 20, 2025 the County Commission held a meeting and appointed the following members to the BZA:

- Mikayla Shremshock regular member position term ending on January 1, 2028
- Elliot Kletter – alternate member position term ending on January 1, 2028
- Keith Semler – alternate member position term ending on January 1, 2027

3) Zoning Certificate Activity Report - attached



Jefferson County, West Virginia
Department of Engineering, Planning and Zoning
Office of Planning and Zoning
116 E. Washington Street, 2nd Floor
Charles Town, West Virginia 25414
www.jeffersoncountywv.org

March 2025
Zoning Certificate Activity Report

File # 25-2-ZC
Request: Commercial Use: Bungee Jumping Facility
Property Owner: Standard Land Company, LLC, Attn: Noah Mehrkam
Applicant: The Great Bungee Company, LLC, Attn: Nicholas Steers
Parcel Information: Northeast intersection of Peregrine Ln & Millville Rd, Harpers Ferry, WV
Parcel ID: 04001100240001; Size: ~404 acres
Zoning District: Residential-Light Industrial-Commercial
Date of Issuance: 03-07-2025

File # 25-5-ZC
Request: Change in Tenant: CIE Defense (Retail Sales and Service, General)
Property Owner: Summit Point Raceway Association, Inc, Attn: John Wells
Applicant: CIE Defense, Attn: Zachary Amato
Parcel Information: 155 Gasoline Alley, Units 34 & 35, Summit Point, WV
Parcel ID: 06001700020000; Size: ~358.98 acres*
Zoning District: General Commercial
*Boundary Line Adjustment (22-33-M) approved 4/15/24 – Plat Book 27 / Page 18
Date of Issuance: 03-04-2025