



Jefferson County
Board of Zoning Appeals Agenda
Thursday, January 22, 2025 at 2:00 p.m.

Members
Tyler Quynn, Chair
Matthew McKinney, Vice Chair
Mikala Shremshock, Secretary
David Wiegand
Elliot Kletter, Alternate
Keith Semler, Alternate

Meeting Location: County Commission Meeting Room
Located in the main level of the Jefferson County Government Complex
(entrance on East side of the building)
393 N. Lawrence Street, Charles Town, WV 25414

Broadcast Information: ZOOM Meeting Link: <https://us02web.zoom.us/j/89663211154>
Phone Option (Dial by Location): 301-715-8592 / Meeting ID: 896 6321 1154

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.

Election of Officers

Approval of Minutes: December 11, 2025

Public Hearing – Administer Oath

Agenda Item #1 File #: 26-1-ZV

Request: Variance from Appendix B to eliminate the front drive aisle and parking setback to allow for the redevelopment of an existing commercial lot.

Project Info: Kingdom Ventures, LLC, Property Owner
Kolan Investments, LLC / Attn: Dr. Kolawale Oshiyoye, Applicant
7595 Martinsburg Pike, Shepherdstown, WV
Parcel ID: 09007B00010000; Size: 2.69 acres;
Zoning District: Residential Growth

Agenda Item #2 File #: 26-2-ZV – THIS ITEM HAS BEEN WITHDRAWN

Request: Variance from Appendix A to reduce the rear setback from 20’ to 15’ for a portion of a proposed deck with stairs.

Project Info: Pamela Potts, Property Owner
Beallair subdivision, Lot #272
511 Shenandoah Crossing Dr., Charles Town, WV
Parcel ID: 04010A02720000; Size: .24 acres;
Zoning District: Residential Growth

Agenda Item #3 File #: 26-3-ZV

Request: Variance from Appendix A to reduce the rear setback from 50’ to 35’ for a 30’ x 48’ accessory structure (detached garage).

Project Info: Lee and Dawn Mackey, Property Owner
Gary Donley Revocable Trust Minor Subdivision, Lot #1
3712 Engle Molers Rd, Harpers Ferry, WV
Parcel ID: 09001900050000; Size: .93 acres; Zoning District: Rural

Agenda Item #4 File #: 26-4-ZV – THIS ITEM HAS BEEN WITHDRAWN

Request: Variance from Section 9.5 to allow an existing in-ground areaway to encroach 14’ into the rear setback.

Project Info: Theresa Hoyt, Property Owner
 Beallair subdivision, Lot #273
 101 Claymont Hill St., Charles Town, WV
 Parcel ID: 04010A02730000; Size: .20 acre; Zoning District: Residential Growth

Agenda Item #5 File #: 26-5-ZV

Request: Variance from Section 9.7 to reduce the front setbacks from 20’ to 18’; and, to reduce the side setback from 8’ to 6’ for a proposed dwelling unit.

Project Info: Randy Rivera, Property Owner
 Harpers Ferry Campsites, Lots 59, 60 & 61
 Vacant parcel north of 109 Old Deer Run, Harpers Ferry, WV
 Parcel ID: 04013D00040000; Size: .4 acres; 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
 - 3. Jefferson County Circuit Court Case #CC-19-2025-P-174 (RE: Rippon Solar Energy Facility / File 25-30-ZC) Aitcheson v. JCBZA
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions.

Meeting: November 13, 2025

- 1. Variance from Section 4.16 and Section 4.11. Owner: B33 Jefferson Crossing LLC. File #25-33-ZV and 25-34-ZV.

DRAFT Meeting Minutes
Jefferson County Board of Zoning Appeals

1 Meeting Date: December 11, 2025
2 Meeting Location: County Commission Meeting Room
3 Located on the main level of the Jefferson County Government Complex
4 393 N. Lawrence Street, Charles Town, WV 25414
5 Board Members Present: Tyler Quynn, Chair; Matt McKinney, Vice Chair; Mikala Shremshock,
6 Member; and Keith Semler, Alternate, were present in person.
7 Elliott Kletter, Alternate, was present via ZOOM.
8 Board Members Absent: Dave Wiegand, Member, was absent with notification.
9 Staff Members Present: Andy Beall, Zoning Administrator; and, Jennilee Hartman, Zoning Clerk

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

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

13 **Approval of Minutes: November 13, 2025**

14 Mr. McKinney moved to approve the minutes. Mr. Quynn called for a vote, which carried
15 unanimously.

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

17 **Agenda Item #1 File #: 25-33-ZV and 25-34-ZV**

18 The applicant is requesting a variance from the following Sections in order to install a drive through
19 lane for a proposed Dunkin Donuts.

20 Request #1: Variance from Section 4.16 of the Zoning Ordinance (amended 07/25/1993) to
21 reduce the front drive aisle and parking setback from 15' to 1.29' (25-33-ZV).

22 Request #2: Variance from Section 4.11 of the Zoning Ordinance (amended 07/25/1993) to
23 eliminate the required landscaping along Flowing Springs Road (25-34-ZV).

24 Applicant: Capstone Realty III, LLC / attn.: Tilak Patel

25 Project Info: B33 Jefferson Crossing LLC / Attn: Alex Banchero, Owner
26 112 Flowing Springs Rd, Charles Town, WV
27 Parcel ID: 02000800240001; Size: .8 acres;
28 Zoning District: Residential-Light Industrial-Commercial

29 Mr. Trevor Frederick, Engineer with Frederick, Seibert & Associates, Inc., and Tilak Patel with
30 Capstone Realty, LLC, were present to represent the request.

31 Mr. Beall provided an overview of both staff reports to the Board.

32 Mr. Frederick explained the nature of both requests to the Board. Mr. Frederick presented an exhibit
33 to the Board showing the proposed vegetation that would be planted in lieu of the required
34 landscaping. A copy of the exhibit was provided for the file. The Board expressed concern regarding
35 the traffic flow in relation to the existing parking spaces and the proposed drive through lane.
36 Mr. Frederick stated they would be willing to provide a traffic safety measure to separate the
37 shopping center traffic from the drive through lane.

38 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided
39 testimony. Mr. Quynn closed the public comment portion of the hearing.

40 Mr. McKinney moved to approve variance request #25-33-ZV with the condition that the applicants
41 are bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

1 Mr. McKinney moved to approve variance request #25-34-ZV with the following conditions:

- 2 1. The applicant will provide the landscaping depicted on the exhibit.
- 3 2. The applicant will provide safeguards from the drive aisle to be approved by County staff.
- 4 3. The applicants are bound by their testimony.

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

6 **Zoning Administrator Report**

7 Mr. Beall provided the Board with the following information:

- 8 1. Monthly Zoning Certificate Activity Report. The Report was included in the Agenda packet.
- 9 2. Mr. Beall provided an update on the draft solar text amendment.

10 **Legal Update**

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

- 12 1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy
13 Facility / File 22-9-CUP) Rockwell v. JCBZA
- 14 2. Jefferson County Circuit Court Case # CC-19-2024-C-14 (RE: Jeremy Martin, Tiffany
15 Martin and Earthworx General Contracting Services, LLC v. Jefferson County Board of
16 Zoning Appeals

17 Legal counsel did not attend the meeting.

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

19 **Meeting: November 13, 2025**

20 1. Variance from Section 5.7B. Owners: Donald and Karen Nichols. File #25-31-ZV.

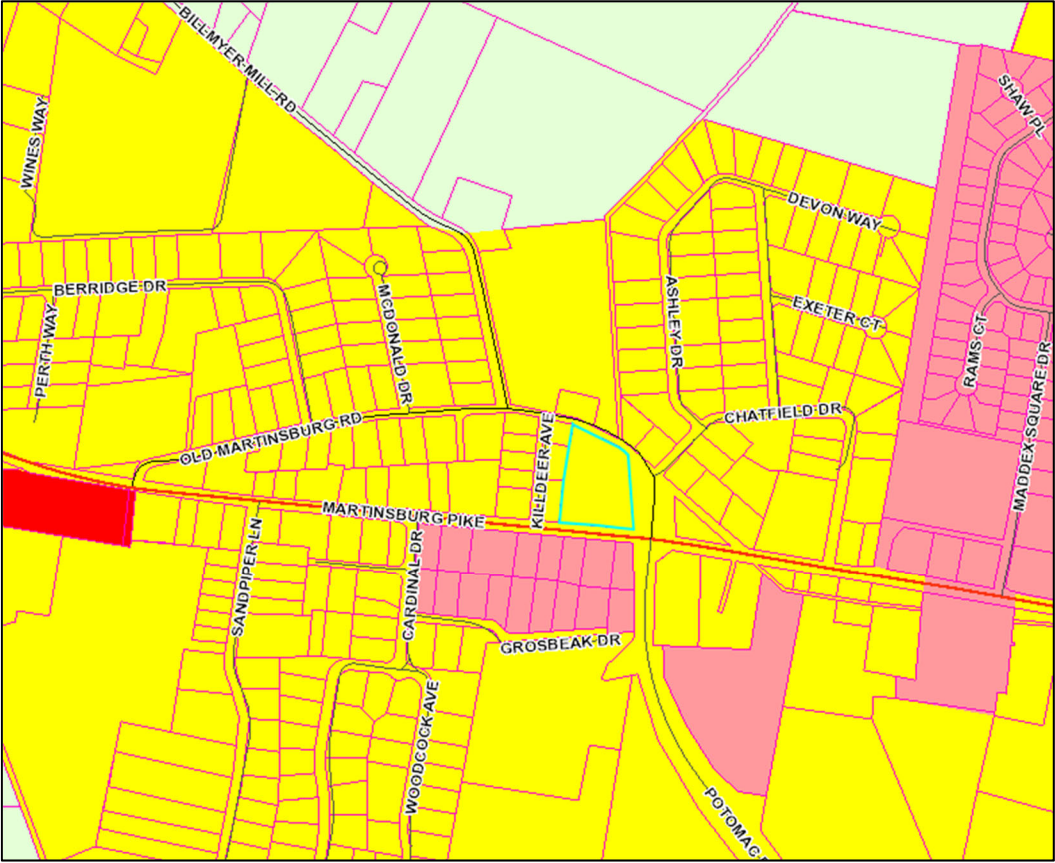
21 Mr. Quynn was provided the Findings for signature.

22 Mr. Wiegand moved to adjourn the meeting at 2:41 pm. Mr. Quynn called for a vote, which carried
23 unanimously.

Staff Report
 Jefferson County Board of Zoning Appeals
 January 22, 2026

26-1-ZV Kingdom Ventures-Shepherdstown Medical Office (Setbacks) Variance Request

Item #1: Variance from Appendix B to eliminate the parking and drive aisle setback to allow for the redevelopment of an existing commercial lot.

Owner:	Dr. Kolawale Oshiyoye
Consultant:	Eric H. Iser, Triad Engineering, Inc.
Parcel Information & Zoning District:	<p style="text-align: center;">7595 Martinsburg Pike, Shepherdstown, WV; Parcel ID: 09007B00010000; Size: ~2.69 acres Zoning District: Residential Growth</p> 
History:	<p>12/11/14: Waiver of Site Plan to allow the expansion of a gravel parking lot (File#ZV14-21).</p> <p>09/22/22: Conditional Use Permit to operate a Medical/Dental/Optical Office (File #22-7-CUP).</p> <p>05/27/25 Planning Commission approved waiver request to reduce the parking space depth from 20' to 18' (File #25-14-PCW).</p>
Approved Activity:	Medical Office
Site Visit Conducted:	No site visit conducted.

Staff Overview

The site was originally approved as a church and the current owners wish to transition to mixed use with medical offices and a small pharmacy with drive thru window. They are proposing to install a drive thru lane (for the proposed pharmacy) within the required 15' front drive aisle setback so as not to eliminate

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							
						Front	Side	Rear	Front	Side	Rear	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	
												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, 2nd Floor
 Charles Town, West Virginia 25414

File #: 26-1-ZV
 Mtg. Date: 01/22/26
 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: Dr. Kolawale Oshiyoye
 Business Name: Kolan Investments, LLC
 Mailing Address: 3015 Cheyennes Trail, Gerrardstown, WV25420
 Phone Number: 240-479-0791 Email: geminik4real@hotmail.com

Applicant Contact Information

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

Consultant Information

Consultant Name: Eric H. Iser, PE
 Business Name: Triad Engineering, Inc.
 Mailing Address: 1075D Sherman Ave., Hagerstown, MD 21740
 Phone Number: 301-797-6400 Email: eiser@triadeng.com

Physical Property Details

Vacant Lot:

Physical Address: 7595 Martinsburg Pike, Shepherdstown., WV 25443
 Parcel ID: (Tax District / Map No. / Parcel No.) 09/7B/0001
 Parcel Size: 2.69 Ac. Deed Book: 1292 Page No: 428

Zoning District (please check one)

- | | |
|---|---|
| <input checked="" 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 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



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: Jefferson County Zoning Ordinance Appendix B: Non-residential Site Development Standard table. Drive Aisle located in the 15' Front Setback

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.

Allowing the drive aisle in the 15' setback will still allow the project to leave a green space between the drive aisle and the existing DOH roadway that is not currently there. It also provides for ADA parking near the front main entrance

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 existing site consists of pavement from the existing building all the way to the DOH roadway separated with Concrete wheel stops. Currently there is not enough space to provide ADA parking spaces near the front doors with a drive aisle unless the drive aisle is within the front setback

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

If ADA parking can not be placed at the front main entrance then an elevator or extensive ramping will need to be placed to move the clients from the bottom floor that the rear parking accesses to the main floor. In order to build proper ramping, the rear parking will need to be adjusted, the already approved septic area will need adjusted and possible loss of parking spaces.


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

Allowing this drive aisle, teh County will allow ADA parking requirements to be fulfilled and better safety along WV 45 will be achieved by having 2 WVDOH approved points of ingress/egress while provided a green space between WV 45 and the parking/drive aisle that is not currently provided.

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.

 _____ 11/25/25 _____
Property Owner Signature Date Property Owner Signature Date

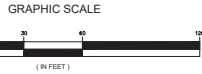
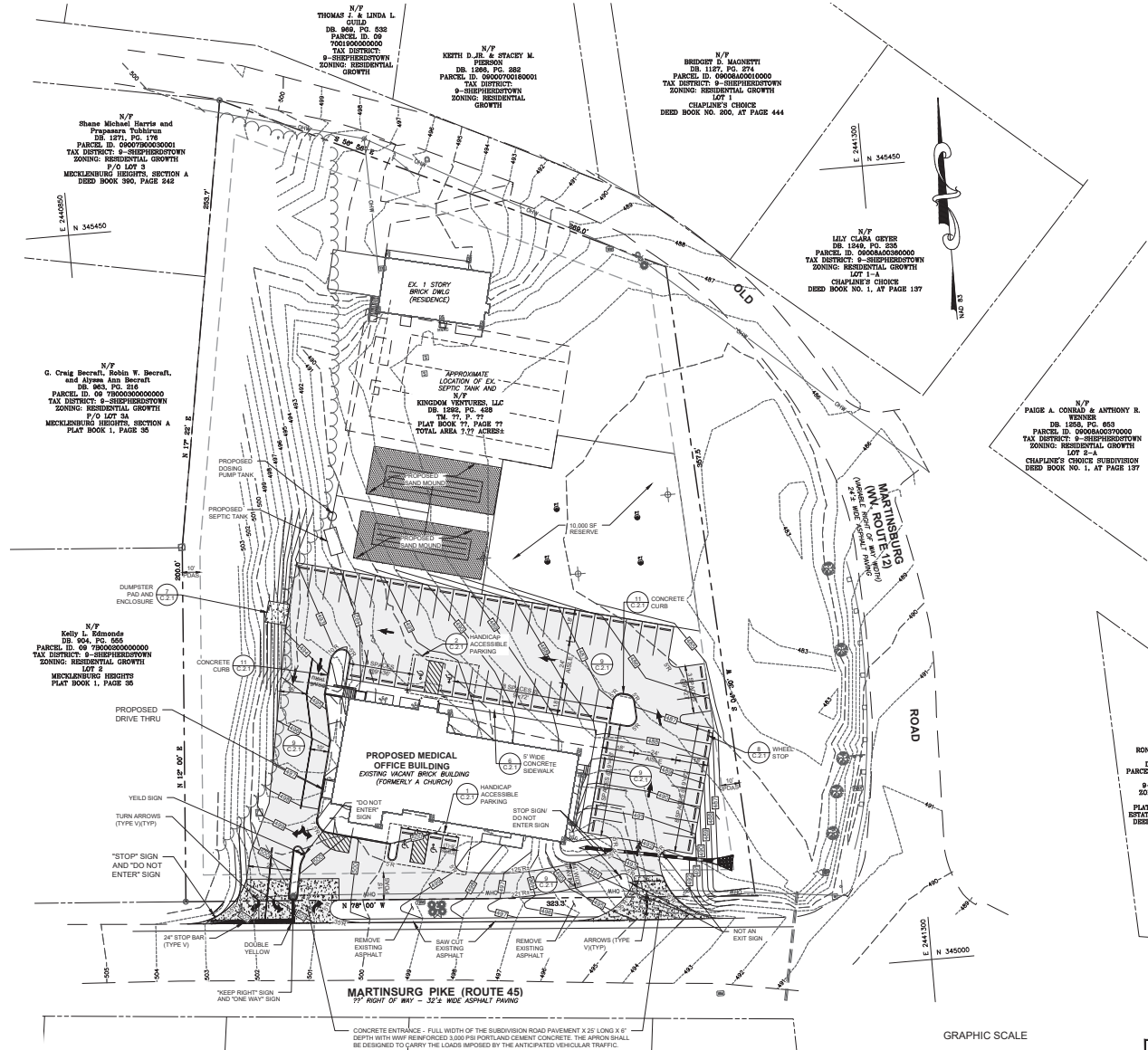
SITE INFORMATION

1. PARCEL ID - 09 78000100000000 ELECTION DISTRICT: 6 ; COMMONLY KNOWN AS 7565 MARTINSBURG PIKE, SHEPHERDSTOWN, WV.
2. DEED REFERENCE: BEING THE LANDS CONVEYED UNTO KINGDOM VENTURES, LLC FROM DONNA ALLEN & BRIAN SHELDON (TRUSTEES OF CROSSROADS CHURCH) BY DEED DATED NOVEMBER 09, 2022, AND RECORDED AMONG THE LAND RECORDS OF JEFFERSON COUNTY, WEST VIRGINIA IN BOOK 1232, PAGE 428.
3. LOT BOUNDARY SHOWING BEARINGS AND DISTANCES WERE TAKEN FROM A PLAT DATED FEBRUARY 16, 1985, RECORDED IN THE OFFICE OF THE CLERK OF THE COUNTY COMMISSION OF JEFFERSON COUNTY, WV, IN DEED BOOK 272, PAGE 67.
4. THIS DRAWING SHOWS INFORMATION OBTAINED FROM THE BEST AVAILABLE RECORDS REGARDING PIPES, CONDUITS, TELEPHONE LINES, AND OTHER STRUCTURES AND CONDITIONS WHICH EXIST ALONG THE LINES OF THE WORK AT AND BELOW THE SURFACE OF THE GROUND. THE OWNER AND ENGINEER DISCLAIM ANY RESPONSIBILITY FOR THE ACCURACY OR COMPLETENESS OF SAID INFORMATION BEING SHOWN ONLY FOR THE CONVENIENCE OF THE CONTRACTOR WHO MUST VERIFY THE INFORMATION TO HIS OWN SATISFACTION. IF THE CONTRACTOR RELIES ON SAID INFORMATION ON THE CONTRACT DRAWINGS, HE DOES SO AT HIS OWN RISK. THE GIVING OF THE INFORMATION ON THE CONTRACT DRAWINGS WILL NOT RELIEVE THE CONTRACTOR OF HIS OBLIGATIONS TO SUPPORT AND PROTECT ALL PIPES, CONDUITS, TELEPHONE LINES AND OTHER STRUCTURES.
5. PROPERTY AREA = 2.89 +/- AC.
6. A TOPOGRAPHIC FIELD SURVEY WAS PERFORMED BY TRIAD ENGINEERING, INC. THE FIELD WORK WAS DONE MAY, 2024.
7. SITE ZONED: RESIDENTIAL GROWTH DISTRICT.
8. EXISTING USAGE IS A NON-PRACTICING CHURCH AND THE PROPOSED USAGE IS MEDICAL OFFICES WITH A SMALL PHARMACY.
9. THE PURPOSE OF THIS PLAN IS TO CONVERT THE EXISTING BUILDING INTO MEDICAL OFFICES AND A PHARMACY.
10. MINIMUM BUILDING SETBACKS:

COMMERCIAL SITE	MIN LOT AREA (SQA)	MIN LOT WIDTH (FT)	MAX BLDG HEIGHT (FT)	IMP. SURFACE (SQA)	BUILDING SETBACKS FRONT	REAR	PARKING/ DRIVE AISLE SETBACKS FRONT	REAR
> 1.5 ACRES	N/A	N/A	75	80%/24%	25	25	15	10

11. LANDSCAPE BUFFER SCREENING: 10' SIDE AND 10' REAR.
12. ON-SITE IMPERVIOUS AREA:
 - PRE-CONSTRUCTION:
 - BUILDINGS: 9,282 SQ. FT.
 - PARKING, DRIVE AREAS, ETC: 54,589 SQ. FT.
 - GRAVEL AREA ON WYDOH (VIOLATION TERR): 6,854 SQ. FT.
 - TOTAL: 70,725 SQ. FT.
 - POST-CONSTRUCTION:
 - BUILDINGS: 9,337 SQ. FT.
 - PARKING, DRIVE AREAS, ETC: 39,498 SQ. FT.
 - TOTAL: 39,823 SQ. FT.
 - DECREASE: 24,532 SQ. FT.
13. PARKING TABULATION:
 - LOWER LOBBY:
 - SUITE 1A = 2000 SF/ 1000 x 5 = 10 SPACES (MEDICAL OFFICE TBD)
 - SUITE 1B = 3600 SF/ 1000 x 5 = 18 SPACES (URGENT CARE)
 - UPPER LOBBY:
 - SUITE 2A = 869 SF/ 150 x 1 = 6 SPACES (PHARMACY, RETAIL)
 - 1200 SF/ 200' = 6 SPACES (PHARMACY, BUSINESS)
 - SUITE 2B = 2700 SF/ 1000 x 5 = 14 SPACES (MEDICAL OFFICE TBD)
 - SUITE 2C = 980 SF/ 1000 x 5 = 5 SPACES (MEDICAL OFFICE TBD)
 - TOTAL: 69 SPACES REQUIRED (59 PROVIDED)

- HANDICAP PARKING SPACES REQUIRED: 3 (1 OF WHICH MUST BE VAN ACCESSIBLE) PROVIDED: 4 (2 AT UPPER & LOWER LEVEL ENTRANCES)
- *MEDICAL OFFICES: 5 SPACES/ 1000 SQUARE FEET OF GROSS FLOOR SPACE
- *RETAIL SPACES UNDER 2000 SF: 1 SPACE/ 150 SQUARE FEET RETAIL AREA
14. A WAIVER REDUCING THE LENGTH OF PARKING SPACES FROM 20' FEET TO 18' WAS APPROVED AT THE ZONING APPEALS.
15. WEST VIRGINIA DEPT OF HIGHWAY APPROVAL: PERMIT NUMBER 2025-8312
16. JEFFERSON UTILITY, INC. PROVIDES WATER SERVICE TO EXISTING SITE
17. WEST VIRGINIA OFFICE OF ENVIRONMENTAL HEALTH SERVICES (OEHS) WAS APPROVED ON 01-29-2025, PERMIT NO. 21-429.
18. THE WEST VIRGINIA BUREAU OF HEALTH AND /OR JEFFERSON COUNTY HEALTH DEPARTMENT PERMIT NUMBER FOR WATER IS ?????? APPROVED ON 7-7-2025
19. THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) PERMIT NUMBER IS ?????????? APPROVED ON 7-7-2025.
20. NO SIGNIFICANT NATURAL AND TOPOGRAPHIC FEATURES SUCH AS WATER COURSES, FLOOD PLAIN, FLOODWAY, HILLSIDES, SINKHOLES AND QUARRIES WITHIN THE PROJECT SITE.
21. PER DEED BOOK 272, PAGE 67, THE FOLLOWING COVENANTS AND RESTRICTIONS APPLY FOR PROJECT SITE:
 - a. ALL HOUSES ERECTED ON THE PROPERTY CONVEYED BY THIS DEED SHALL BE USED FOR RESIDENTIAL OR CHURCH PURPOSES, AND SHALL HAVE A MINIMUM OF 1000 S.F. OF LIVING SPACE.
 - b. NO TRAILERS OR MOBILE HOMES SHALL BE PERMANENTLY PARKED, PLACED OR CONSTRUCTED ON THE PROPERTY.
 - 19. THE SITE PROJECT IS NOT WITHIN THE 100 YEAR FLOOD PLAN AS SHOWN ON F.E.M.A. COMMUNITY PANEL NO. 54037C0030E EFFECTIVE DATE 12/18/2009, THE PROJECT SITE IS IN ZONE X.
 - 20. TRAFFIC IMPACT DATA:
 - a. ADT FIGURES FOR THE ADJOINING OR ACCESSIBLE STATE ROAD: WV 45 - 19,017; WV RT 12 - 1,278
 - b. TRIP GENERATION FIGURES: MEDICAL OFFICE @ 280 SF = 42.97/9.28-108.01 = 291
 - c. THE NEAREST KEY INTERSECTION IS OLD MARTINSBURG ROAD AND MARTINSBURG PIKE.
 - d. NO KNOWN "HIGHWAY PROBLEM AREAS" WITHIN A ONE-MILE RADIUS OF THE PROJECT.
 - 17. SITE SOILS CONSIST OF URBAN LAND-HAGERSTOWN COMPLEX (ULC), 0 TO 15% SLOPES. ACCORDING TO THE USDA NRCS CUSTOM SOIL RESOURCE REPORT, THESE SOILS ARE CLASSIFIED AS HYDROLOGIC SOIL GROUP "B".
 - 18. THE PROPERTY IS SUBJECT TO THE FOLLOWING ZONING AND LAND DEVELOPMENT ORDINANCE, ADOPTED JULY 7, 1988, AMENDED JUNE 16, 2022 / SUBDIVISION AND LAND DEVELOPMENT REGULATIONS, ADOPTED OCTOBER 9, 2008, AMENDED JULY 11, 2024.



MARTINSBURG PIKE (ROUTE 45)
 77' RIGHT OF WAY - 32' WIDE ASPHALT PAVING

CONCRETE ENTRANCE - FULL WIDTH OF THE SUBDIVISION ROAD PAVEMENT X 5' LONG X 6" DEPTH WITH WAVE REINFORCED 3,000 PSI PORTLAND CEMENT CONCRETE. THE APPROX SHALL BE DESIGNED TO CARRY THE LOADS IMPOSED BY THE ANTICIPATED VEHICULAR TRAFFIC.

OWNER/ DEVELOPER:
 KOLAN INVESTMENTS, LLC
 c/o DR. KOLAWALE OSHROYE
 3015 CHEVENESE TRAIL
 GERRARDSTOWN, WV 25420
 PHONE: 304-476-0791

TRIAD ENGINEERING, INC.
 1075-D SHEPHERD AVENUE
 HAGERSTOWN, MD 21740
 PH: 301.797.8400 FAX: 301.797.2424
 OFFICE LOCATIONS:
 MARI LAND - OHIO - PENNSYLVANIA - VIRGINIA - WEST VIRGINIA

DATE	BY	DESCRIPTION
09-10-2025	10/0252	AGENCY COMMENTS
09-10-2025	10/0252	REVISION

SKETCHPLAN
SHEPHERDSTOWN CROSSROADS MEDICAL
 SHEPHERDSTOWN (WV) TOWN AND PARCEL 0001, DEED BOOK 1202 PAGE 428
 PLAT DATED BOOK 272 PAGE 67, PC FILE: 2025-27

SITE PLAN

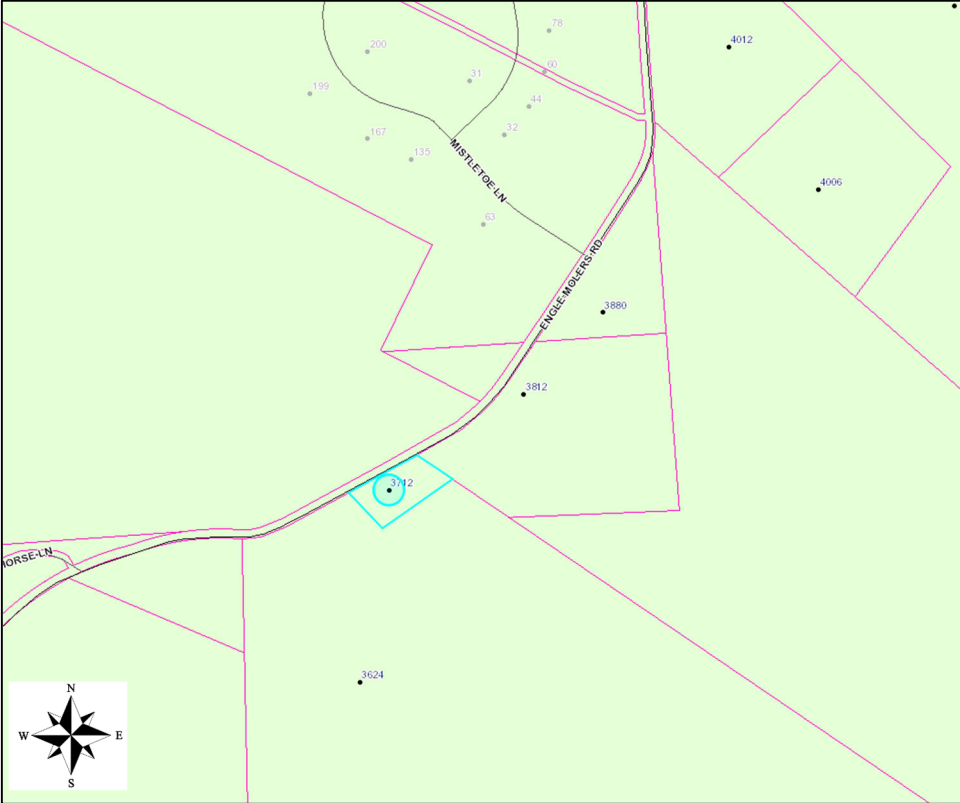
SCALE: 1"=30'
TRIAD ENGINEERING, INC.
 www.triadeng.com
 SHEET NUMBER:
 3 OF 4
C.2.0
 JOB NO: 05-24-0322

Y:\EAT - HG - 03/20/24 - 3_03-24-0322 SHEPHERDSTOWN CROSSROADS MEDICAL BUILDING CAD/03/24/2025/PRODUCTION DRAWINGS/0322 LIMITED SITE PLAN/03/24/2025/3-C-2.0.DWG

Item # 2 was Withdrawn

Staff Report
 Jefferson County Board of Zoning Appeals
 January 22, 2026
26-3-ZV Mackey Variance Request

Item #3 Variance from Appendix A to reduce the rear setback from 50' to 35' for a 30' x 48' accessory structure (detached garage).

Owner/Applicant:	Lee and Dawn Mackey
Parcel Information and Zoning District:	<p style="text-align: center;">Gary Donley Revocable Trust Minor Subdivision, Lot #1 3712 Engle Molers Rd, Harpers Ferry, WV Parcel ID: 09001900050000; Size: .93 acres; Zoning District: Rural</p> 
History:	01/29/25: Gary Donley Revocable Trust Minor Subdivision (PB27/PG273) File: 24-35-SD
Waivers/Variations:	None
Approved Activity:	Single Family Residence
Site Visit Conducted:	No.

Staff Overview

The subject parcel is designated as Lot 1 of the Gary Donley Revocable Trust Minor Subdivision, which was recorded in January 2025. In accordance with Note #13 of the final plat and Appendix A of the Zoning Ordinance, the required setbacks are 40' Front, 15' Side, and **50' Rear**.

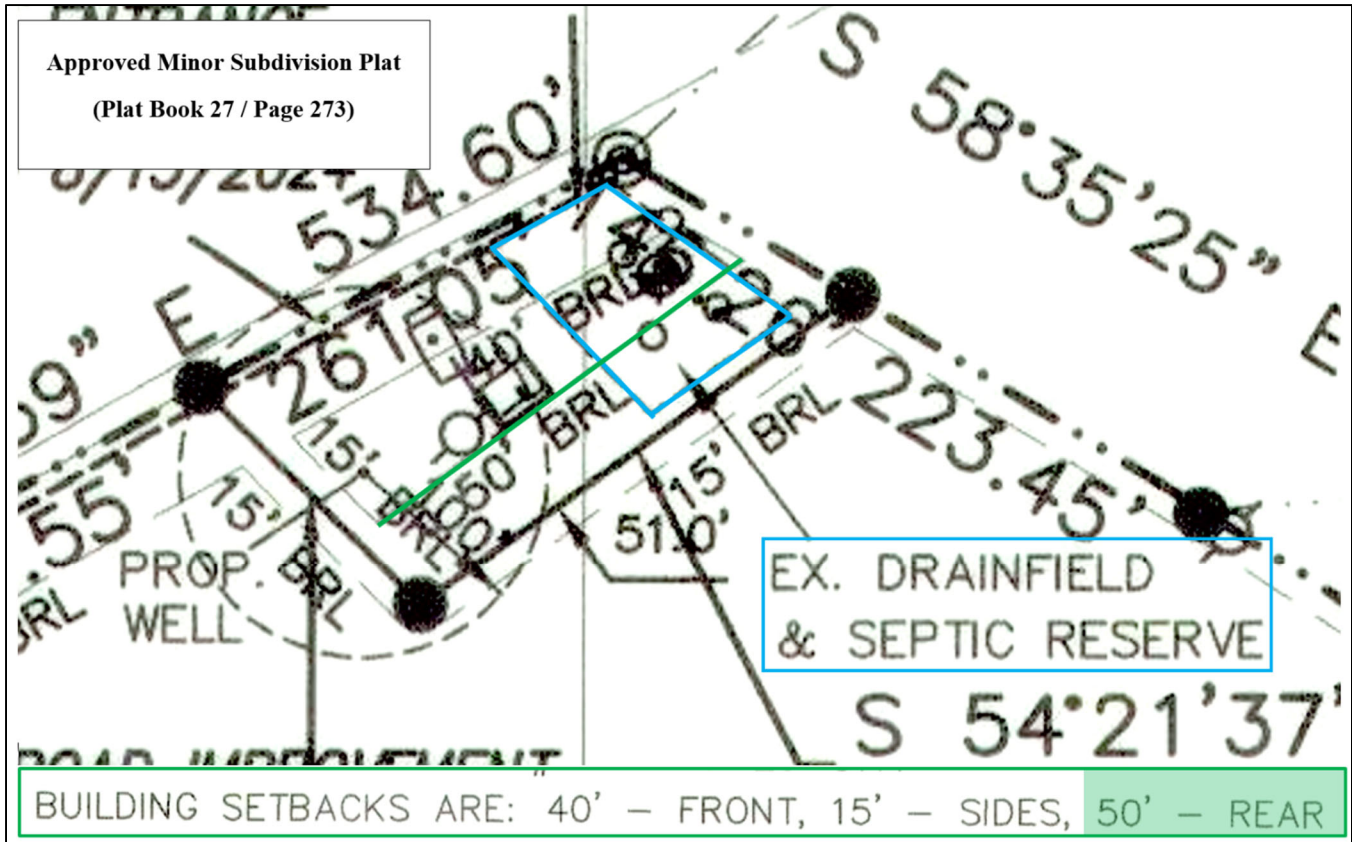
The applicant is requesting to construct a 30' x 48' pole building approximately 35' from the rear (SE) property line.

Staff Report
Jefferson County Board of Zoning Appeals
January 22, 2026
26-3-ZV Mackey Variance Request

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
January 22, 2026
26-3-ZV Mackey 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 change 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 conditions of approval have been identified.

Staff Report
Jefferson County Board of Zoning Appeals
January 22, 2026
26-3-ZV Mackey Variance Request

SECTION OF ORDINANCE TO BE CONSIDERED:

APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE^{27, 32, 42}

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft.***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks			
							Front	Side	Street Side	Rear
Residential Growth (RG)	Single Family Detached Dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"
	Small Lot Single-Family Detached Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20
	Duplex Dwelling Unit	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"
	Townhouse Dwelling ⁴²	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20
	Multi-Family Dwelling (See Section 4.12)	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	±	12
		30,000 sq. ft. to 40,000 sq. ft.	N/A	N/A	N/A	40	20	10	±	12
Under 30,000 sq. ft.		N/A	N/A	N/A	40	20	8	±	12	
Rural (R) (See Sec. 5.7)	Dwellings		40,000	N/A	100	45	40	15	±	50
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 2 acres	N/A	N/A	N/A	45	40	15	±	50
		40,000 sq. ft. to 2 acres	N/A	N/A	N/A	45	25	12	±	12
		30,000 sq. ft. to 39,999 sq. ft.	N/A	N/A	N/A	45	20	10	±	12
		Under 30,000 sq. ft.	N/A	N/A	N/A	45	20	8	±	12
Cluster Subdivision	See RG District									



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 #: 26-3-ZV
 Mtg. Date: 1/22/26
 Fee Paid: \$ 150.00

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: Lee S Mackey #
 Business Name: _____
 Mailing Address: 3712 Engle Makers Rd Harpers Ferry WV 25425
 Phone Number: 304-620-2245 Email: SAMMYBOY7221@GMAIL.COM

Applicant Contact Information

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

Consultant Information

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

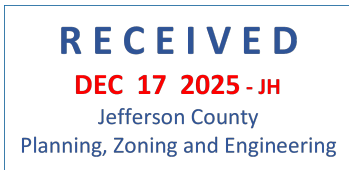
Physical Property Details

Physical Address: 3712 Engle Makers Rd Harpers Ferry WV 25425 Vacant Lot:
 Parcel ID: (Tax District / Map No. / Parcel No.) **Parcel: 09001900050000**
 Parcel Size: 0.9267 ACRES Deed Book: 1252 1340 Page No: 615- 490

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



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: Want to have a pole building erected and this is the only spot available. Building is 30' wide x 48' long x 10' H

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

Front Setback Side Setback Rear Setback Reduction from 50' to 35'

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.

All of the adjacent property is farmland. The land on all 4 sides is currently being used for agricultural purposes for hay, corn and soybeans. No residential dwellings adjoin the area affected by the variance.

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 variance is being requested so the building can be placed away from the current underground water line. This will allow for the use of the existing driveway and avoid the need to develop another entrance from Engle Motors Rd

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

The variance will allow for the construction of the building in a location that will eliminate a second entrance into the property. With house, existing building, drain field and back up drain field, trees and driveway, this is the only space to construct this building.

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

The variance request has the approval of the adjoining property owner on the sides that will be affected by the variance. As the property adjoins farmland, the variance will not affect any buildings or structures and not have a negative

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. Visual
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.

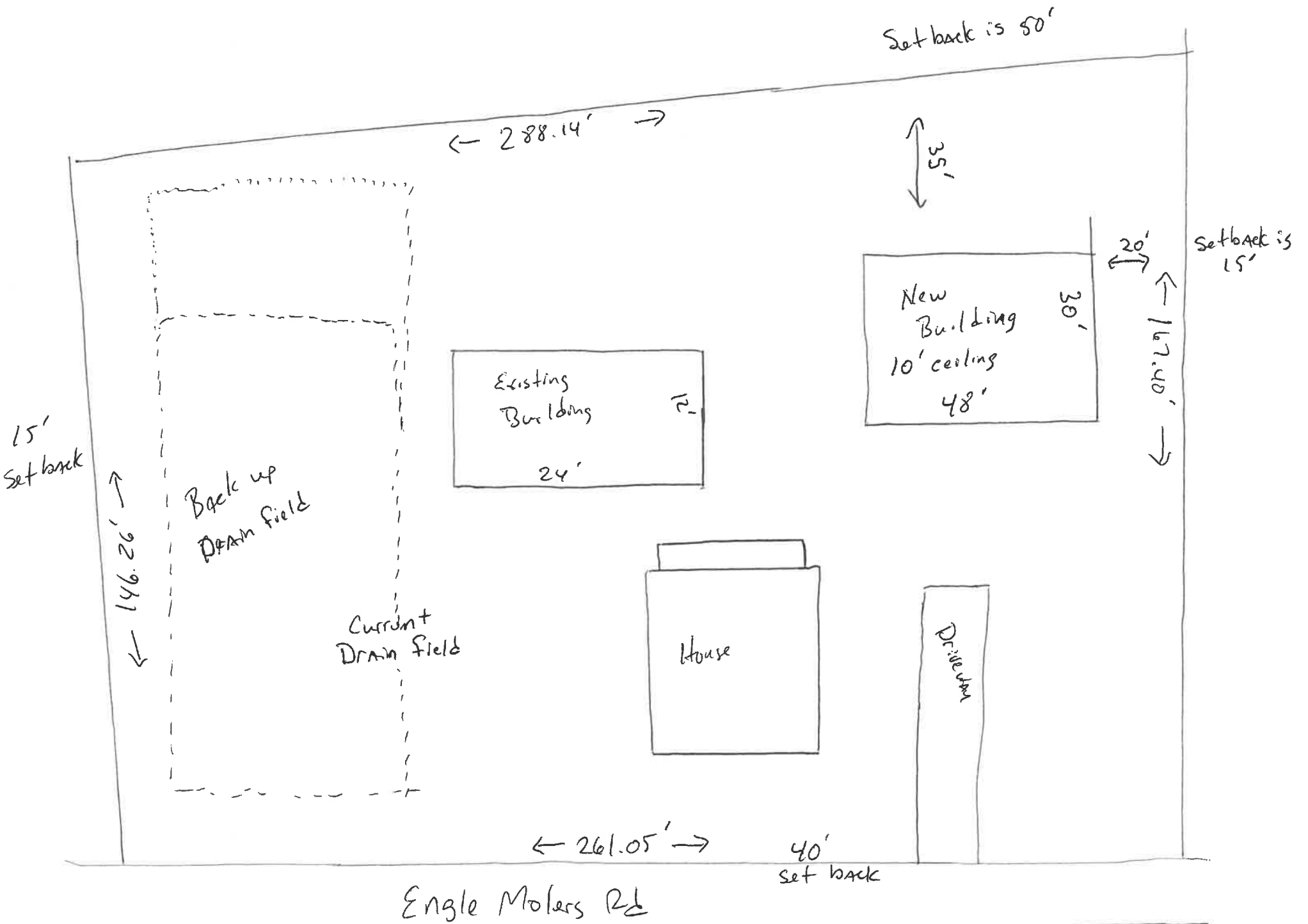

Property Owner Signature

Date

Property Owner Signature

Date

0.9267 ACRES

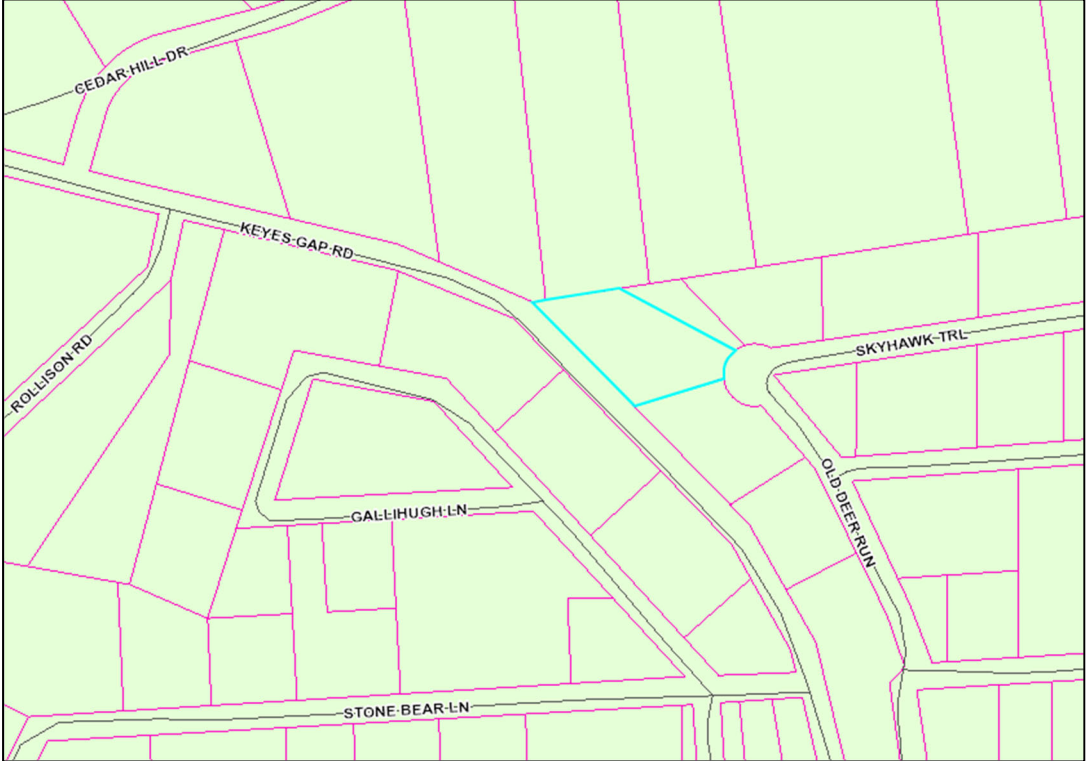


Engle Motors Rd

Item # 4 was Withdrawn

Staff Report
 Jefferson County Board of Zoning Appeals
 January 22, 2026
26-5-ZV Rivera Variance Request

Item #5 Variance from Section 9.7 to reduce the front setbacks from 20' to 18'; and, to reduce the side setback from 8' to 6' for a proposed dwelling unit.

Owner:	Randy Rivera
Parcel Information & Zoning District:	Harpers Ferry Campsites, Lots 59, 60 & 61 Vacant parcel north of 109 Old Deer Run, Harpers Ferry, WV Parcel ID: 04013D00040000; Size: .4 acres; Zoning District: Rural
	
History:	10/25/1978: Harpers Ferry Campsites, Block B (recorded in DB 283 / PG 550)
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit:	Site visit not conducted

Staff Overview

The subject parcel is designated as Lots' 59, 60, and 61 of the Harpers Ferry Campsite, Block B, which were recorded on October 25, 1978, in [DB 283 / PG 550](#). 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: **20' Front, 8' Side**, and 12' Rear.

The applicant is requesting a variance from Section 9.7 to reduce the front setbacks from 20' to 18'; and, to reduce the side setback from 8' to 6' for a proposed structure.

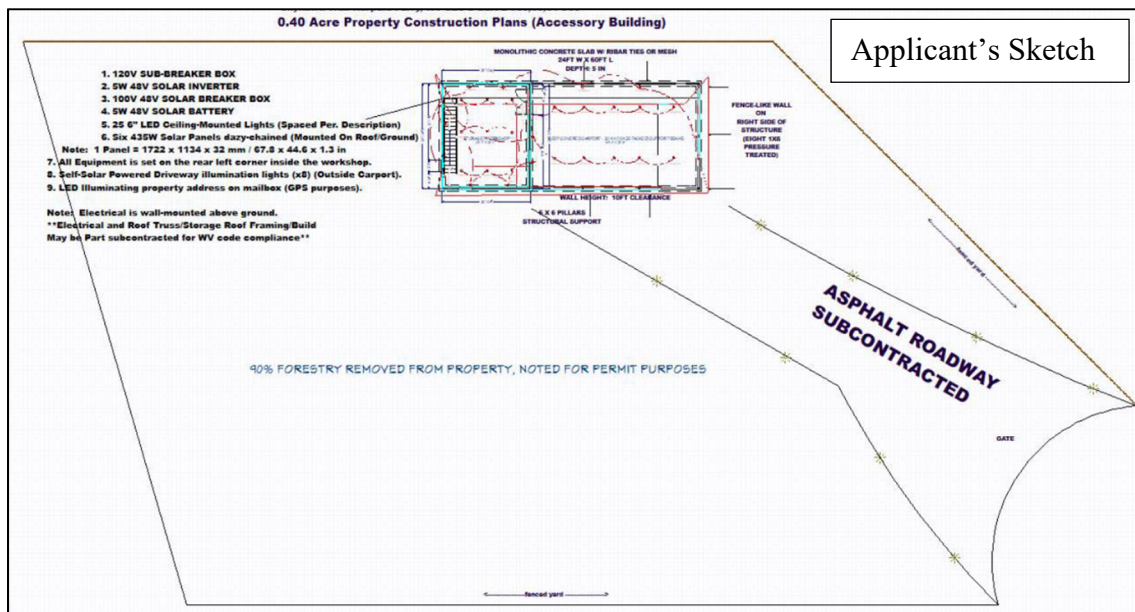
The initial construction is intended for personal storage. At some point in the future the applicant would like to convert the structure from an accessory structure into a dwelling unit. In accordance with Section 9.7 of the Zoning Ordinance, an accessory structure is permitted to have a 6' side and a 6' rear setback.

Staff Report
 Jefferson County Board of Zoning Appeals
 January 22, 2026
26-5-ZV Rivera Variance Request

As the applicant would like to eventually convert the structure into a dwelling unit, the required setback for a dwelling unit would be 8' from the side property line and 20' from the front property line.

A key purpose of the front yard setback requirement is to ensure that any future right-of-way expansion or future utility placement will not be obstructed by structures built too close to a road, as well as to ensure that traffic visibility is not impaired for drivers along the right-of-way.

The purpose of a side 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
January 22, 2026
26-5-ZV Rivera 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 business may be operated from this structure without further review from the Board.

Sections 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 #: 26-5-ZV
 Mtg. Date: 1-22-2026
 Fee Paid: \$ 150.00

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: RANDY RIVERA
 Business Name: _____
 Mailing Address: 58 RUGGLES STREET, DUNKIRK, NY 14048
 Phone Number: 716-952-7263 Email: RANDYRIVERA200@GMAIL.COM

Applicant Contact Information

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

Consultant Information

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

Physical Property Details

Physical Address: SEC. D, BLK. B, #59, 60, 61, SCJ, SKY HAWK TRAIL, HARPERS FERRY, WV 25425 Vacant Lot:
 Parcel ID: (Tax District / Map No. / Parcel No.) SEC. D, BLK. B, #59, 60, 61, SCJ Parcel: 04013D00040000
 Parcel Size: 0.40 Deed Book: 1363 (jth) Page No: 131 (jth)

Zoning District (please check one)

- | | |
|---|---|
| <input checked="" 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

Date Received: Received 12/19/2026 PR

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: Accessory Building Conversion to Dwelling Unit

for the future purpose of developing a single family home on the 0.40 acres property. Requesting Permission for Front Setback from 20 feet to 18 feet and Rear Setback from 8 feet to 6 feet.

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

20' to 18' (front)

Front Setback Side Setback Rear Setback Reduction from 8 to 6 (side)

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.

Building is low-impact accessory use with future conversion to a ~~camp~~^{detached} dwelling unit to build a future single-family home sometime in the future. This building will maintain safe access, sight lines, and is/will have a 2-car carport. Granting this minimum variance allows reasonable use of the property without changing neighborhood character or creating adverse impacts to the surrounding 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?

Unique physical conditions of the property, specifically the corner-lot configuration, duel-street frontage, and limited buildable envelope once required setbacks are applied. These conditions are inherent to the lot and not created by the applicant. When standard setbacks are enforced on both street frontages, they disproportionately restrict placement of future home/detach/dwell building(s).

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

Storage of the vehicles in a safe parking location within a buildable structure in the lot permits the owner to have better and stronger access from Sky Hawk Trail in lieu of Keyes Gap Road, a state maintained highway with much more vehicle traffic. Not permitting this configuration will force a rethink of property lines from two front's, limiting future single family home SQFT and storage space.

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

Granting this variance will not be in contrary to the public interest and will continue to observe the spirit and intent of the zoning ordinance. Allowing a US Army Disabled Veteran safe and strong spacing to park his vehicles, have more space in his future physical home, as a thank you for serving

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.

Randy [Signature] 2025/12/19
Property Owner Signature Date

Property Owner Signature Date

0.40 Acre Property Construction Plans (Accessory Building)

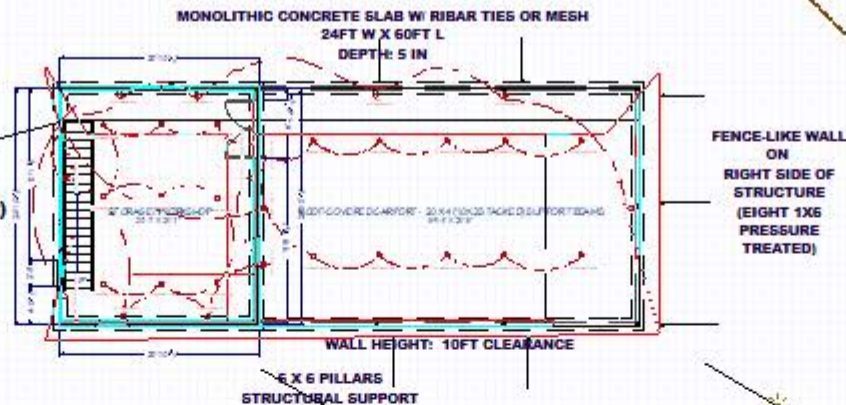
1. 120V SUB-BREAKER BOX
2. 5W 48V SOLAR INVERTER
3. 100V 48V SOLAR BREAKER BOX
4. 5W 48V SOLAR BATTERY
5. 25 6" LED Ceiling-Mounted Lights (Spaced Per. Description)
6. Six 435W Solar Panels dazy-chained (Mounted On Roof/Ground)

Note: 1 Panel = 1722 x 1134 x 32 mm / 67.8 x 44.6 x 1.3 in

7. All Equipment is set on the rear left corner inside the workshop.
8. Self-Solar Powered Driveway illumination lights (x8) (Outside Carport).
9. LED Illuminating property address on mailbox (GPS purposes).

Notes: Electrical is wall-mounted above ground.

**Electrical and Roof Truss/Storage Roof Framing/Build
May be Part subcontracted for WV code compliance**



90% FORESTRY REMOVED FROM PROPERTY, NOTED FOR PERMIT PURPOSES

ASPHALT ROADWAY
SUBCONTRACTED

GATE

fenced yard



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 Thursday, January 22, 2026 Board of Zoning Appeals Meeting

Date of Memo: January 16, 2026

- 1) Next regular meeting scheduled for **Thursday, February 26, 2026**
 - Deadline for submission is Friday, January 23, 2026.
- 2) Zoning Certificate Activity Report – attached
- 3) Solar Text Amendment - Engineering is currently reviewing potential changes to the Subdivision & Land Development Regulations. Planning Commission review TBD.



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

January 2026

Zoning Certificate Activity Report

File # 25-53-ZC

Request: Solar Energy Facility - Rippon Energy Facility

Applicant: Rippon Energy Facility, LLC / Attn: Brian Kusiak

Parcel Information: Multiple Property Owners

1. Clarence E Hough Et Al, Property Owner
Vacant parcel located west of the property addressed as 957 Myerstown Rd, Charles Town, WV; Parcel ID: 06001000030001; Lot Size: 108.66 ac / Project Size: 99.84 ac; Zoning District: Rural
2. View Mountain Farm LLC, Property Owner
28 Dutch Hill Rd, Charles Town, WV; Parcel ID: 06002100060000; Lot Size: 101.6 ac / Project Size: 97.01 ac; Zoning District: Rural
3. TCE Rippon Land Company LLC, Property Owner
2646 Kabletown Rd, Charles Town, WV; Parcel ID: 06002100050000; Lot Size: 174.6 ac / Project Size: 165.52 ac; Zoning District: Rural
4. TCE Rippon Land Company LLC, Property Owner
Vacant parcel located east of the property addressed as 28 Dutch Hill Rd, Charles Town, WV; Parcel ID: 06002100070000; Lot Size: 89.39 ac / Project Size: 86.07 ac; Zoning District: Rural
5. TCE Rippon Land Company LLC, Property Owner
Vacant parcel located east of the property addressed as 2646 Kabletown Rd, Charles Town, WV; Parcel ID: 06002200050001; Lot Size: 232 ac / Project Size: 169.15 ac; Zoning District: Rural
6. Stiles Family Partnership LLC
Vacant parcel located north of the property addressed as 1337 Roper North Fork Rd, Charles Town, WV; Parcel ID 06001100060001; Lot Size: 25.14 ac; Zoning District: Rural
7. Stiles Family Partnership LLC
Vacant parcel located north of the property addressed as 1337 Roper North Fork Rd, Charles Town, WV; Parcel ID 06001100060000; Lot Size: 115.8 ac; Zoning District: Rural

Date of Issuance: 12/11/2025

Zoning Certificate Activity Report

January 2026

Page 2 of 2

File # **25-54-ZC**
Request: Modifications to an existing Telecommunications Tower
Property Owner: Richard Childs
Tower Owner: American Tower
Applicant: Network Building + Consulting / Attn: Regina Chang
Parcel Information: 41 S. Childs Rd., Kearneysville, WV 25430
 Parcel ID: 07002500110002; Current Size: ~17 ac
 Zoning District: Rural; Deed Book: 459; Page: 146; Site Plan: 20-4-SP
Date of Issuance: 12/11/2025

File # **25-55-ZC**
Request: Change in Tenant – Shopping Center / UPS Store #8267
Property Owner: B33 Jefferson Crossing, LLC
Parcel Information: 71 Jefferson Crossing Way, Suite D, Charles Town, WV 25414
 Parcel ID: 02000800240009 Size: 1.17 acres;
 Zoning District: Residential-Light Industrial-Commercial;
 Deed Book: 1317; Page: 500; Site Plan File: 04-06
Date of Issuance: 12/30/2025



West Virginia E-Filing Notice

CC-19-2024-C-14

Judge: David Hammer

To: Jefferson County Prosecuting Attorney
jeffersonprosecutor.efile@jcpawv.org

NOTICE OF FILING

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA
Jeremy Martin v. The Board of Zoning Appeals for Jefferson County, West Virginia
CC-19-2024-C-14

The following order - motion - final was FILED on 1/6/2026 11:05:42 AM

Notice Date: 1/6/2026 11:05:42 AM

Tina Renner
CLERK OF THE CIRCUIT COURT
Jefferson County
PO Box 1234
CHARLES TOWN, WV 25414

(304) 728-3231
circuitclerk@jeffersoncountywv.org

In the Circuit Court of Jefferson County, West Virginia

**Jeremy Martin,
Tiffany Martin,
Earthworx General Contracting
Services, LLC,
Plaintiffs,**

v.

Case No. CC-19-2024-C-14
Judge David Hammer

**The Board of Zoning Appeals for
Jefferson County, West Virginia,
Defendant**

ORDER DENYING ISSUANCE OF WRIT

This matter came before the Court his 6th day of January, 2026, on the Petition for Writ of Certiorari filed by Petitioners, Jeremy Martin, Tiffany Martin and Earthworx General Contracting. The Court has considered the Petitioner for Writ of Certiorari, the Respondent's Opposition to Issuance of a Writ of Certiorari pursuant to West Virginia Code §8A-9-3(a), the memoranda of law and exhibits submitted, the record and pertinent legal authority, and the whole record. As a result, the Court concludes that the Petitioners' Writ of Certiorari should be DENIED.

FINDINGS OF FACT

1. On November 9th, 2023 the Respondent, Jefferson County Board of Zoning Appeals (hereinafter "BZA"), conducted a long hearing and approved Petitioners request for a Conditional Use Permit for a proposed outdoor storage yard for construction equipment on a parcel zoned Rural and located adjacent to several residences.

2. The Petitioners filed the instant action because the approved "Conditional Use Permit" actually placed conditions on the use they requested.

3. The applicants (the Petitioners herein) operated "Earthworx," an excavation,

landscaping and snow removal business with various pieces of heavy equipment from their 16.5 acre rural parcel **without** the required Conditional Use Permit (hereinafter “CUP”) for over one year.

4. The Petitioners’ actual application states: “we also park the equipment for our small excavating business [on the parcel] and have done so since October 2022.” The applicant conceded the same in their testimony.

5. The petitioners filed the CUP application in 2023 when they “became aware of the requirement” to obtain a CUP. The BZA hearing was then conducted in November, 2023.

6. As required by Section 6.3 of the Zoning Ordinance, prior to the hearing below, the land was posted and staff mailed written notice to all adjacent and confronting property owners by registered mail. Numerous property owners responded to the notice, with all but one adjacent property owner opposing the CUP. Primarily, the residents objected to the noise and disruption which the petitioners’ construction business had inflicted upon the quiet enjoyment of their homes in the adjacent residential subdivision.

7. While some of the residents’ objections were speculative (such as the impact on property values), the residents had a one-year preview of the level of noise the construction business imposed upon their neighborhood due to the fact that the petitioners had operated the business for about a year, without consulting the Planning and Zoning officials and without the required CUP at issue herein.

8. The impact of the noise was increased because the petitioners constructed the access route and storage area along the common border with the residential subdivision, instead of on a portion of the 16.5 acres farther away from the existing neighborhood.

9. The BZA considered all the testimony and written submissions and determined the noise adjacent to the existing residential community was of such scale and intensity to justify moving the construction business activity to the far side of the subject parcel to mitigate the

impact of the noise, especially the pre-dawn loud loading of the heavy equipment. Furthermore, the conditions imposed also protect and support the appropriate use of existing residential structures.

10. All of the concerns were properly weighed and balanced by the BZA. The law requires the Court give the decision of the BZA a presumption of correctness and may only set aside factual findings which are plain error. Listening to testimony, making factual determinations of reasonable conditions on use based on the testimony and generally interpreting the Zoning Ordinance is the purview of the BZA. The BZA factual determination that the construction operation made noise which burdened the existing neighbors and required relocation to mitigate the impact on existing resident is within the sound discretion of the BZA.

11. Reviewing the evidence presented at the hearing, the BZA properly applied the criteria and weighed the evidence. The BZA did not deny the CUP but merely required it be located on the portion of the property away from the existing residential neighborhood based upon the testimony of the residents who experienced the noise and disruption firsthand. The CUP was granted to permit the construction equipment business on the rural zoned parcel, but upon conditions (as determined by the BZA) that appropriately mitigated the impact on the neighbors. The conditions imposed – creating a new gravel parking area and entrance away from the existing residential neighborhood is a small and entirely self-imposed burden.

12. The petitioner is a licensed contractor of a construction business located in in Jefferson County. The petitioners' assertions they were unaware the County has zoning and unaware construction requires permitting or any form of prior approval strains credulity. Furthermore, the petitioners purchased a rural parcel upon which operating their business was not a permitted use. Had the petitioner purchased an appropriately zoned parcel of land, the construction business could have been conducted as of right. If the petitioners would have followed the Zoning Ordinance and obtained the required CUP prior to construction as the law

requires, they would not have constructed the construction business in an inappropriate location.

CONCLUSIONS OF LAW

1. A decision of a Board of Zoning Appeals comes with a “presumption of correctness” *Wolfe v. Forbes*, 159 W.Va. 34, 217 S.E.2d 899 (“While on appeal there is a presumption that a board of zoning appeals acted correctly, a reviewing court should reverse the administrative decision where the board has applied an erroneous principle of law, was plainly wrong in its factual findings, or has acted beyond its jurisdiction.” Syl. Pt. 5) (1975). Furthermore, “Interpretations of statutes by bodies charged with their administration are given great weight unless clearly erroneous.” Syl. Pt. 4, *Security Nat’l Bank & Trust Co. v. First W. Va. Bancorp.*, 166 W.Va. 775, 277 S.E.2d 613 (1981).” Syllabus Point 3, *Corliss v. Jefferson County Bd. of Zoning Appeals*, 214 W.Va. 535, 591 S.E.2d 93 (2003) When applying this standard “the court or judge may consider and determine the sufficiency of the allegations of illegality contained in the petition without further pleadings and may make a determination and render a judgment with reference to the legality of the decision [of the] board of zoning appeals on the facts set out in the petition.” West Virginia Code §8A-9-6(a).

2. The Petition does not allege the BZA acted beyond its jurisdiction but concedes the BZA is charged to review CUP applications and may impose “reasonable conditions or special requirements which allows for the proper integration of the proposed uses into the community and are directly related to and incidental to the proposed conditional use” [*see* Section 6.3. Paragraphs 32, 37, 40 recites Section 6.3] as the applicable portion of the Zoning Ordinance which allows the BZA to consider CUP applications and apply conditions to the same.

3. The Petitioners’ claim that the BZA failed to follow certain selected portions of the Comprehensive Plan. Contrary to Petitioners’ claim, this does not amount to legal error. The specific requirements of Section 6.3 of the Zoning Ordinance trump the aspirational

generalizations of the Comprehensive Plan [*see, Singer v Davenport*, 164 W.Va. 665, 668 (1980) (“Court agrees with the lower court's interpretation of the statutory scheme, namely that the comprehensive plan is to be used by the Planning Commission to aid them in drawing up their subdivision ordinances.”) The **comprehensive plan was never intended to replace definite, specific guidelines; instead, it was to lay the groundwork for the future enactment of zoning laws.**” Emphasis added)].

4. Contrary to Petitioners’ claims, Section 6.3 (the controlling portion of the actual Zoning Ordinance), is appropriately titled “Conditional Use Permit” and clearly authorizes “conditions” on “use.” Section 6.3 of the Zoning Ordinance specifically authorizes the BZA “to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed CUP.” Further, 6.3 requires the BZA find that the proposed use is compatible in scale and intensity with the existing and potential land uses on the adjoining and confronting properties” [*see* 6.2(A)(2)]. Finally, 6.3(A)(3) requires that the BZA determine the proposed use “will not hinder nor discourage the appropriate . . . use of adjacent land and buildings.” Even if a proposed uses face no public opposition, the BZA is authorized to “require reasonable conditions” [*see* 6.3(E)].

5. Even if the Petitioners claim that the BZA acted “contrary to the Comprehensive Plan” had legal merit, the claim would still fail on another practical basis: the BZA **approved** the CUP they requested. Even if the Comprehensive Plan trumped the Zoning Ordinance (which it does not *supra*) no portion of the Comprehensive Plan cited by the Petitioners in any way limits conditions being placed on a proposed use.

6. While the Petitioners’ claim the BZA failed to “follow the Comprehensive Plan” all of the allegations against the BZA are alleged factual errors. Factual errors are subject to a “plain error” review by this Court. The BZA is a quasi-judicial body. *Far Away Farms, LLC. V. Jefferson County Bd. of Zoning Appeals*, 222 W.Va. 252, 258 (2008)(“a zoning appeals board is

simply ‘an administrative agency, acting in a quasi-judicial capacity.’”) As a quasi-judicial body it must make its decisions based a weighing of the evidence presented and exercising its discretion in the application of the standards of the Ordinance. *See Jefferson Utilities v. Jefferson Bd of Zoning Appeals*, 218 W.VA 436, 445 (2005)(“In making quasi-judicial decisions, the decision makers must . . . ascertain the existence of fact, hold hearings, weigh evidence and draw conclusion from them as a basis for their official decisions.”) Section 6.3 of the Zoning Ordinance authorizes the BZA to exercise its judgment as a quasi-judicial body to impose the conditions after considering the evidence presented which include substantial noise concerns voiced by the residents of the pre-existing subdivision.

7. The Petition alleges the BZA imposed conditions without sufficient findings of fact to “explain the conditions” [*see* Paragraph 31]. The written findings of fact and conclusions of law stated “the portion of the record of the BZA meeting pertaining to this application, the application itself and the official minutes thereof are incorporated herein by reference as if set forth in full herein” [*see* Order Page 3]. The incorporated record demonstrates the BZA took an extraordinary and unusual amount of time to take testimony and to debate potential conditions of the proposed use. The portion of the BZA meeting addressing just this CUP took over two hours [audio begins at 41:30 and ends at 2:48:37]. The recording of the meeting clearly demonstrates the BZA discussed at length the testimony of the petitioners and the opposition of numerous neighbors of the residential subdivision immediately adjacent to the proposed construction equipment storage area. The incorporated audio recording of the meeting shows the BZA spent 17 minutes in deliberative session and followed that session over 21 minutes of debate and consideration of evidence before voting to approve the CUP with conditions [*see* 2:27:38 to 2:48:37 for entire discussion, motions and voting].

8. Petitioners (who are licensed contractors) operated their construction business for over a year without proper zoning approval. Thus, the neighbors’ concerns with noise and

disruption of their quiet enjoyment were not speculative but based their actual experience during the time the petitioners operated the business without complying with of the Zoning Ordinance. The record clearly demonstrates factors considered and the findings made to justify conditions directly related to the noise of the construction equipment. Immediately adjacent residents in a pre-existing residential subdivision objected to the noise that the construction equipment imposed upon their quiet enjoyment. After due consideration, the BZA responded by **approving the use with conditions** which moved the noisy construction equipment away from the neighbors impacted by noise. This consideration of evidence and approval with conditions is precisely what the Zoning Ordinance requires and committed to the sound discretion of the Board.

9. Even assuming the petitioners presented sufficient evidence to match the neighbors' concerns, the Court must affirm the BZA because when the evidence presented could support either decision, a factual determination by the BZA is not plain error, *DeCoals, Inc. v. Bd. of Zoning Appeals of the City of Westover*, 168 W.Va. 339 (1981) (“here disputed acts justified this board to decide either way and we cannot say its [BZA] factual findings were plainly wrong”).

10. Finally, the Petitioners lack clean hands and any equitable basis to complain about the burden of moving their business because they operated the business without the required zoning certificate or permits of any kind [*see* Staff report page 5, “The applicant stated they began parking their business equipment on the property in October 2022” and hearing audio at 2:16:35]. Thus, because Petitioners operated their construction business without complying with the Zoning Ordinance, they lack the “clean hands” required to complain of the minor conditions placed upon the CUP and to invoke the equitable authority of the Court. *See*, generally, Syl.Pt. 2 of *Bailey v. Banther*, 173 W.Va. 220, 314 S.E.2d 176 (1983) (“A court could find the “lack of clean hands” bars equitable relief even independently of the statute’). The lack

of clean hands applies most particularly when the bad act is tied directly to the relief requested as here where if the petitioners would have applied to receive the required CUP prior to construction, they would have been subject to the same conditions and could have located the heavy equipment storage area in the location currently required and would have face the burden of having to relocate on their property. *See, Heck v. Moran*, 88 W.Va 102 (1921)(“The maxim ‘He who comes into equity must come with **clean hands**, . . . [applies when] the wrongful conduct pertain to the particular matter or transaction in respect to which judicial protection or redress is sought.”).

11. The BZA is a quasi-judicial body which must decide on matters based on the evidence presented to it. The BZA conducted a lengthy hearing, engaged in substantial debate and discussion as to what, if any, conditions to impose upon the proposed use exactly as Zoning Ordinance Section 6.3 “Conditional Use Permits” requires. This Court must review the decision of the BZA with a presumption of correctness.

12. Based upon the evidence presented to the BZA at the CUP hearing, the BZA followed the law, acted within its jurisdiction and committed no plain error. At its heart the Petition demands a “Conditional Use Permit” without any conditions. The BZA acted properly within the Zoning Ordinance and imposed conditions to mitigate the impact on the adjoining pre-existing residential subdivision. Furthermore, the Petitioners lack the “clean hands” required to invoke this Court’s authority when the burden of moving their operations on the parcel is self-imposed because they operated their business without the required Conditional Use Permit.

13. As a result, the granting of a writ of certiorari is not appropriate in this matter.

It is accordingly, ORDERED that:

- A. A writ of certiorari is hereby denied in this matter; and
- B. This matter is dismissed in its entirety, with prejudice.

/s/ David M. Hammer
Circuit Court Judge

28th Judicial Circuit

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit www.courtsww.gov/e-file/ for more details.