



**Jefferson County**  
**Board of Zoning Appeals**  
**Thursday, February 26, 2015, 2:00 p.m.**

Members  
Tyler Quynn, Chair  
Jeffrey Bannon, Vice Chair  
Christy Huddle  
Matt Knott  
Ted Schiltz

The Jefferson County Board of Zoning Appeals will meet in the Charles Town Library Conference Room located at 200 East Washington Street, at the side entrance on Samuel Street, in Charles Town, West Virginia. Unless otherwise noted, all requests are pursuant to the Zoning & Land Development Ordinance.

1. Approval of the minutes from the January 22, 2015 meeting.
2. Swearing in of members of the public intending to provide testimony.
3. Discussion regarding the proposed Zoning Policy Related to Conditional Use Permits and Principal Permitted Uses drafted by Jennifer M. Brockman, AICP, Acting Zoning Administrator.
4. Director's Report.
  - a) Monthly Activity Report
5. Legal Update.
  - a) All Good Music Festival Pending Litigation
  - b) William Neufeld Pending Litigation
6. Signing of written decisions from prior Board of Zoning Appeals meetings.
  - a) Discussion and action on the Dollar General Conditional Use Permit Application (CP14-02). The applicant is proposing a 9,100 square foot retail store, to include public restrooms, merchandise storage, storefront and pole signage and an asphalt parking lot that will accommodate the required 40 parking spaces, plus drive aisles. This item is not a public hearing. Property owners: Wilbur A. Alger Jr. and Middle of the Way Real Estate, LTD. Location: Intersection of Middleway Pike (Route 51) and Leetown Road (Route 1). District: 07; Map: 19; Parcels: 16.6 & 16.7.



Draft Minutes  
Jefferson County Zoning Board of Appeals

1 Meeting Date: January 22, 2015  
2 Meeting Location: Conference Room, Old Charles Town Library  
3 200 East Washington Street, Charles Town, West Virginia  
4

5 Board members present: Tyler Quynn, Chair; Jeffrey Bannon, Vice Chair;  
6 Christy Huddle, Ted Schiltz

7 Board member(s) absent: Matt Knott (without notification)  
8

9 Staff members present: Jennifer Brockman, Acting Zoning Administrator/Director of  
10 Planning and Zoning; Steve Groh, Assistant Prosecuting Attorney;  
11 Jennilee Hartman, Zoning Clerk  
12

13 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.  
14

15 1) Election of Officers.

16 Mr. Quynn postponed action on this item in anticipation of Mr. Knott's imminent arrival.  
17

18 2) Approval of the minutes from the December 11, 2014 meeting.

19 Mr. Quynn moved to approve the minutes with following correction:

20 a) Page 2, line 39, rewrite as follows, for which he obtained a permit ~~for~~.

21 Mr. Bannon seconded the motion, which carried unanimously.  
22

23 3) Swearing in of members of the public intending to provide testimony.

24 Ms. Hartman swore in members of the public who indicated they would be providing testimony.  
25

26 4) Acceptance of the Compatibility Assessment Meeting Staff Report for the Dollar General  
27 Conditional Use Permit (CP14-02). The meeting was held on January 9, 2015 at 2:00 pm, which  
28 resulted in the resolution of all issues raised. Therefore, pursuant to Section 7.6E, no additional  
29 public hearing is required. Details regarding the CUP application are listed in Item #5.  
30

31 Mr. Quynn requested a summary of the Conditional Use Permit (CUP) process. Ms. Brockman  
32 briefly outlined the process, while incorporating information about the Dollar General proposal.  
33 Ms. Brockman highlighted each of the issues discussed at the Compatibility Assessment Meeting  
34 (CAM) and any follow up that had subsequently taken place (see Staff Report for full description).  
35

36 Ms. Huddle moved to accept the Compatibility Assessment Meeting Staff Report for the Dollar  
37 General Conditional Use Permit.  
38

39 5) Discussion and action on the Dollar General Conditional Use Permit (CP14-02). The applicant  
40 is proposing a 9,100 sq. ft. retail store, to include public restrooms, merchandise storage, store-  
41 front and pole signage and an asphalt parking lot that will accommodate the required 40 parking  
42 space, plus drive aisles. This item is not a public hearing. Property owners: Wilbur A. Alger Jr.  
43 and Middle of the Way Real Estate, LTD. Location: Intersection of Middleway Pike (Route 51)  
44 and Leetown Road (Route 1). District (07); Map: 19; Parcels: 16.6 & 16.7.

1 Josh Allen, representative with Cross Development LLC, presented the Dollar General CUP  
2 proposal to the Board. Mr. Allen stated that the proposal would be utilizing the setbacks outlined  
3 in the 1977 Middleway Village Final Plat; however, it would conform to all other design  
4 standards referenced in Appendix B of the Zoning Ordinance for commercial sites greater than  
5 1.5 acres. Mr. Allen addressed each of the six resolved items from the CAM, which dealt with  
6 the existing stormwater management problems along Middleway Pike; potential traffic safety  
7 and related signage; the proposed building security and parking lot lighting; the potential for  
8 future water and sewer availability; historic preservation efforts and the installation of a dry  
9 hydrant to service the surrounding community. Mr. Allen addressed questions from the Board.

10  
11 Ms. Brockman explained why the applicant was permitted to utilize the lesser setbacks that were  
12 delineated on the Middleway Village Final Plat as opposed to the ones referenced in the Zoning  
13 Ordinance.

14  
15 Chris Stroech, Attorney for the property owner with Arnold and Bailey, also answered questions  
16 from the Board. Discussion regarding the encroachment of the neighboring well (Images) onto  
17 the subject parcel, raised concerns regarding the overall design of the project. Mr. Allen  
18 explained that he would be working with the Images property owner, owner of parcels 16.6 &  
19 16.7, to relocate the well. Mr. Allen also stated that if the well cannot be relocated that the  
20 project design may be altered by shifting the building closer to the Images property and placing  
21 the septic reserve area adjacent to Leetown Road in order to accommodate Health Department  
22 regulations. Further discussion took place regarding how the Developer should address the  
23 neighbor's concerns regarding potential damage to his well (#4 from CAM staff report), to what  
24 extent the Developer would be obligated to perform an archeological survey, and the benefits of  
25 a second entrance on to Leetown Road.

26  
27 Mr. Bannon moved to go into deliberative session at 2:52 p.m. Mr. Quynn called for a vote,  
28 which carried unanimously. Ms. Huddle moved to come out of deliberative session at 3:14 p.m.  
29 Mr. Quynn called for a vote, which carried unanimously.

30  
31 **Board of Zoning Appeals Rulings**

32  
33 6) Discussion and action on the Dollar General Conditional Use Permit Application (CP14-02).  
34 Mr. Bannon moved to approve the Dollar General Conditional Use Permit with the following  
35 conditions:

- 36 a) The applicant is bound by his testimony.  
37 b) The applicant is bound by the resolved issues from the CAM.  
38 c) The applicant will consider the feasibility of a second entrance onto Leetown Road (Rt 1).  
39 d) The applicant will offer adjacent property owners a water quality well test to establish a  
40 baseline, and if the construction should negatively impact the adjoining wells the applicant  
41 will attempt to mitigate such problems.  
42 e) Mr. Quynn called for a vote, which carried unanimously.

43  
44 1) Election of Officers.

45 Mr. Schiltz moved to reappoint Mr. Quynn as Chair and Mr. Bannon as Vice Chair. Ms. Huddle  
46 seconded the motion, which carried unanimously.

Draft Minutes  
Jefferson County Zoning Board of Appeals  
January 22, 2015

1 7) Director's Report

2 a) Activity Report. No discussion.

3 Ms. Brockman updated the Board on the status of the Comprehensive Plan; the Zoning  
4 Administrator position; the status of the Mass Events text amendment; and that the  
5 representatives for the All Good Music Festival had contacted the office to schedule a Pre  
6 Proposal Conference.

7  
8 8) Legal Update.

9 a) All Good Music Festival Litigation

10 Mr. Groh informed the Board that Aitcheson/The All Good Music Festival's court date was  
11 scheduled for March 2, 2015 and the William Neufeld court date was scheduled until February  
12 2, 2015. Ms. Brockman requested that her name be removed from the Neufeld court case as  
13 she was not a party to the action once the Board made their determination.

14  
15 The Board requested all paperwork related to legal cases be emailed to them in advance.  
16 Mr. Quynn moved to go into deliberative session at 3:29 p.m. to discuss the pending lawsuits.  
17 Ms. Huddle seconded the motion, which carried unanimously. Ms. Huddle moved to come  
18 back into session at 3:49 p.m.

19  
20 9) Signing of written decision from prior Board of Zoning Appeals meetings.

21 a) Appeal of an Administrative Decision to deny Zoning Certificate #ZC14-39. The  
22 Appellant argues the Acting Zoning Administrator is "not allowing dual use [of]  
23 equipment on my land". Location: 3 Sunstead Ln, Charles Town, WV. District: 07;  
24 Map: 16; Parcel: 2.12; Size: 10.05 ac; Zone: Rural; File: AP14-02. Mr. Quynn stated  
25 he would review the Findings and bring them back to staff at a later time.

26  
27 Ms. Huddle moved to adjourn the meeting at 3:50 p.m. Mr. Quynn called for a vote, which  
28 carried unanimously.





# JEFFERSON COUNTY, WEST VIRGINIA

## Department of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor

P.O. Box 338

Charles Town, West Virginia 25414

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

Fax: (304) 728-8126

### MEMORANDUM

**TO: Board of Zoning Appeals**  
**FROM: Jennifer M. Brockman, AICP,**  
**Acting Zoning Administrator**  
**DATE: February 26, 2015**  
**RE: Policy Related to Conditional Use Permits and Principal Permitted Uses**

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#### **Background**

As you are aware, the Jefferson County Zoning and Land Development Ordinance allows an applicant to request land uses not listed in the Principal Permitted Uses Chart of any zone, to process a Conditional Use Permit Application under the provisions found in Articles 6 and 7. These Articles will be the subject of certain text amendments that are included in the Recommendations of the Envision Jefferson 2035 Comprehensive Plan.

In recent years, some of the approved Conditional Use Permits (CUP) that are still valid yet have not commenced have proposed interim uses that were not a part of the CUP, but are a Principal Permitted Use in the Zoning District in which the property is located. To appropriately address this issue, staff has developed the attached proposed policy statement for use until a zoning text amendment can be drafted and approved. Staff is requesting that the Board of Zoning Appeals review, provide input, and endorse this policy (attached).

Note that this policy does not speak to agricultural uses as Section 4.5 of the Ordinance states that "Except for compliance with distance requirements for a building set forth in Section 4.6, nothing in this Ordinance shall prohibit the use of land for agricultural purposes or the construction or use of building or structures incidental to the use for agricultural purposes".

#### **Relevant sections of the Jefferson County Zoning and Land Development Ordinance**

##### **Section 6.1 Development Review System (DRS)**

All commercial uses and those uses which are not permitted in zoning districts shall be governed by the procedures set forth in Article 7 and all sections that reference requirements to obtain a conditional use permit. It shall be unlawful to commence construction of any commercial uses or uses which are not permitted uses in a zoning district without obtaining conditional use permit approval.

##### **Section 6.2 Issuance of a Conditional Use Permit**

Application for a conditional use permit shall be made before construction of any uses not listed as permitted uses within the appropriate zoning district.

##### **Section 7.2 Zoning District Principal Permitted Uses**

All uses listed as principal permitted uses within a zoning district shall be developed subject to the Jefferson County Subdivision and Land Development Regulations.



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### **DRAFT**

## **POLICY RELATED TO APPROVED CONDITIONAL USE PERMITS AND PRINCIPAL PERMITTED USES IN A ZONING DISTRICT**

On any property for which a Conditional Use Permit (CUP) has been approved in accordance with the relevant sections of the Jefferson County Zoning and Land Development Ordinance, a land use not listed on the CUP may be approved, with the following conditions:

- a) The proposed land use is a Principal Permitted Use in the Zoning District of the subject property;
- b) Such use shall only occur in a structure existing on the subject property at the time the Conditional Use Permit is approved;
- c) Such use shall not be permitted if it requires the approval of a site plan;
- d) Such use may not conflict with the approved Conditional Use or in any way impact the ability of the Conditional Use to commence;
- e) Continuation of the Principal Permitted Use after the commencement of the Conditional Use Permit shall be at the discretion of the Board of Zoning Appeals.

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Jennifer M. Brockman, AICP  
Acting Zoning Administrator/  
Director of Planning and Zoning

Effective: TBD

**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Zoning**

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MEMORANDUM

TO: Board of Zoning Appeals Members  
CC: Engineering & Building Permits Departments  
FROM: Acting Zoning Administrator, Jennifer M. Brockman  
DATE: February 20, 2015  
SUBJECT: February Monthly Report of Department Activities

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**ISSUED ZONING CERTIFICATES**

#ZC15-02 CHARLES F. PRINTZ, JR. (ASPEN POOL FARM, INC.) – OWNER/APPLICANT

*Issuance Date:* February 02, 2015

*Proposed Use:* Replacement of an existing two-story accessory dwelling unit, constructed prior to adoption of Zoning Ordinance, with a new dwelling unit, to be located above a detached garage/storage area (consisting of less than 1700 sq. ft.). Said new unit will be used by a person or family who will perform agricultural work on the property or act as the property caretaker.

*Physical Location:* 1378 Trough Road; Shepherdstown, West Virginia 25443

*Zone:* Rural

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**PENDING ZONING CERTIFICATES**

#ZC14-34 GINA BILLER – OWNER / APPLICANT

*Issuance Date:* TBD

*Proposed Use:* Cottage Industry. Repair of stained glass items to also include sale of onsite stained glass creations and related class instruction. Said occupation will be conducted in an existing 24' x 32' studio located on premises.

*Physical Location:* 4922 Charles Town Road; Kearneysville, West Virginia 25430

*Zone:* Rural

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## PENDING ZONING CERTIFICATES

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#ZC14-49 WESLEY SMOOT – OWNER / APPLICANT

*Issuance Date:* TBD  
*Proposed Use:* Office area for designing and storage of material for projects; storage and retail sales of nursery products (mulch, gravel, plants, etc.).  
*Physical Location:* 164 Tel Farm Lane; Kearneysville, West Virginia 25430  
*Zone:* Rural

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#ZC15-01 GEORGE W. & MARY L. RUSHIZKY – OWNER  
SHENANDOAH PERSONAL COMMUNICATIONS (SHENTEL) – APPLICANT  
CONTACT: JUSTIN D. BLANSET

*Issuance Date:* TBD  
*Proposed Use:* Wireless Telecommunications Facility Co-location. Property contains existing 200' self-support telecommunications tower. Shenandoah Personal Communications (Shentel) to remove and replace existing antennas, install new RRH (remote radio head) equipment on the structure and install an equipment cabinet.  
*Physical Location:* 8422 Shepherdstown Pike; Shepherdstown, West Virginia 25443  
*Zone:* Rural

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#ZC15-03 MICHAEL KANEHL – OWNER/APPLICANT

*Issuance Date:* TBD  
*Proposed Use:* Display of portable sign in front of home-based business. Sign “structure” is situated on a movable base with adjustable heights to approximately 15' or less. Sign area measures approximately 15 sq. ft. in size. Proposed set back distances are 25' from road and adjacent property lines.  
*Physical Location:* 1850 S. Childs Road; Kearneysville, West Virginia 25430  
*Zone:* Rural

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#ZC15-04 TODD & BRENDA PEAL – OWNER/APPLICANT

*Issuance Date:* TBD  
*Proposed Use:* Use of second home as a short-term rental property during times that Owners are not staying onsite.  
*Physical Location:* 443 Riverside Drive; Harpers Ferry, West Virginia 25425  
*Zone:* Rural

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## PENDING ZONING CERTIFICATES

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#ZC15-05 PETER CORUM – OWNER/APPLICANT

*Issuance Date:* TBD

*Proposed Use:* Temporary Use, until Violet Building is ready for occupancy, of existing residential structure on well and septic, as a private school for grades K-8, for up to forty (40) students.

*Physical Location:* 3988 Kearneysville Pike; Shepherdstown, West Virginia 25443

*Zone:* Rural

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#ZC15-06 TWIN OAKS SUBDIVISION, LLC - OWNER/APPLICANT  
PETER CORUM – MANAGING PARTNER

*Issuance Date:* TBD

*Proposed Use:* Market for sale of farm products and incidental products, including arts and crafts. Operation will be maintained under the cover of a 30' x 40' tent. Live music, events, and performances are permitted if accessory to the market. Events may not be a primary attraction or conducted on non-market days. Seasonal Opening Dates:

April 1st - November 1st, 2015. Hours of operation:

Saturdays and Tuesday (pick-ups), from 9:00 a.m. to 1:00 p.m.

*Physical Location:* 3988 Kearneysville Pike; Shepherdstown, West Virginia 25443

*Zone:* Rural

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#ZC15-07 CHARLES J. BROWN - OWNER  
SHERYL GRAY - APPLICANT

*Issuance Date:* TBD

*Proposed Use:* Change in Tenant. Current owner turning over operation of existing business to daughter. Said business, established in 1988, consists of general retail sale of clothing, groceries, sporting goods, tobacco/tobacco products, smoking accessories, guns/ammunition and beer.

*Physical Location:* 15949 Charles Town Road; Charles Town, West Virginia 25414

*Zone:* Rural

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