



**Jefferson County**  
**Board of Zoning Appeals**  
**Thursday, November 13, 2014, 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 Conference Room located on the second floor of 116 East Washington 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 October 23, 2014 meeting.
2. Approval of the 2015 Board of Zoning Appeals Meeting Schedule
3. Swearing in of members of the public intending to provide testimony.
4. Variance request by owners, Frank and Donna Greenwalt, from Sections 9.6C and 9.7 to permit an accessory structure in the required front yard and to reduce the front setback from 25' to 19' for an existing 13' x 30' carport, which was erected without a building permit, to accommodate the mobility needs of his wife. Location: 182 Martin Payne Road, Kearneysville, WV. District: 07; Map 23; Parcel: 13; Size: 1.01 ac; Zone: Rural; File: ZV14-18.
5. Variance request by applicant, Mike Shepp with Allegheny Surveys, PLLC, from Sections 4.11A, 5.8C.2 and Appendix B to eliminate the parking/drive aisle and building setbacks and landscape buffer requirements for internal lot lines only for an All-Inclusive Family Adventure Resort. A Concept Plan for the proposed Resort was approved by the Planning Commission on February 25, 2014. Owners/Developers: Matt & Laura Knott, River Riders, Inc. & Harpers Ferry Holdings, LLC. Location: 408 Alstadts Rd., Harpers Ferry, WV. District: 04; Map 7; Parcels: 10 & 10.1; Map: 9; Parcels: 61, 62, 63, 63.1, 66.1, 69, 70, 72, 73, 71, 74, 75; Size: 45 ac (total); Zone: Residential-Light Industrial-Commercial; File: ZV14-19.
6. Director's Report.
  - a) Monthly Activity Report
7. Legal Update.
8. Signing of written decisions from prior Board of Zoning Appeals meetings.
  - a) Request postponed from July 24, 2014. Request for a Special Exception by Jacob and Tia Collis, owners, under Section 10.5B.3 for a Rural Reception/Event Facility to host farm weddings between March & October for Deerfield Farm Weddings. The applicant is seeking permission to operate the venue outdoors with rental tents during the event only; field parking would be provided for up to 75 cars, with an optional 10 handicap spaces in existing gravel lot; each event will cease by 11:00 p.m. Mtg date: 08/28/14.
  - b) Correspondence from Peter S. Corum, owner/applicant, on behalf of Morgan's Grove Market (#S12-06) requesting the Board to clarify the available uses for the existing residential rental property located at 3988 Kearneysville Pk., Shepherdstown, WV 25443, without changing the Conditional Use Permit (#CP12-01). The applicant is requesting to temporarily change the use of the residence to a nonresidential, private K-8 school (Morgan Academy) and seeks the Board's determination on the following issues: (a) Under the current CUP, can Morgan Academy use the house as a nonresidential use K-8 school? (b) If yes, can Morgan Academy use the existing well and septic for this use? Mtg date: 08/28/14.

- c) Request postponed from September 25, 2014. Appeal by Appellant William Neufeld of the Acting Zoning Administrator's decision that the Appellant's 15' access adjoining the Stonebrook Subdivision is not a road, which would require a front yard setback. Mtg date: 10/23/14.

Draft Minutes  
Jefferson County Board of Zoning Appeals  
Thursday, October 23, 2014

1 The Jefferson County Board of Zoning Appeals met on Thursday, October 23, 2014 at 2:00 p.m.  
2 The special called meeting was held in the Maintenance Department Conference Room located at  
3 128 Industrial Boulevard in Kearneysville, WV. Unless otherwise noted, all requests are pursuant to  
4 the Jefferson County Zoning and Land Development Ordinance.

5

6 Board members present: Tyler Quynn, Chair, Jeffrey Bannon, Vice Chair; Christy Huddle,  
7 Ted Schiltz, Matt Knott. Staff present: Jennifer M. Brockman, Acting Zoning Administrator/Director  
8 of Planning and Zoning, Steve Groh, Assistant Prosecuting Attorney, Jennilee Hartman, Zoning Clerk.

9

10 Ms. Huddle motioned to commence the meeting at 2:03 p.m. Mr. Bannon seconded the motion,  
11 which carried unanimously.

12

13 1. Approval of the minutes from the September 25, 2014 and October 2, 2014 meetings.

14 Mr. Bannon motioned to approve the September 25, 2014 minutes. Ms. Huddle seconded the  
15 motion. The following edits were suggested:

16

17 Page 5, line 34, change *Mr.* to *Ms.* Brockman.

18 Page 7, line 27, remove the name ~~Doug Rockwell~~; move it to the end of the same paragraph  
19 and add the sentence, "*Doug Rockwell also spoke in opposition to the request.*"

20

21 Mr. Quynn called for a vote to approve the minutes as corrected, which carried unanimously.

22

23 Ms. Huddle motioned to approve the October 2, 2014 minutes. Mr. Bannon seconded the  
24 motion, which carried unanimously.

25

26 Mr. Quynn listed the items that were on the agenda noting that he did not think it was  
27 appropriate for the Board to address Item #5 and that it was an inappropriate duty at this time.

28 Mr. Quynn stated the Board would hear Item #3.

29

30 2. Swearing in of members of the public intending to provide testimony. Ms. Hartman swore in  
31 the individuals who indicated they would be giving testimony.

32

33 3. Request postponed from September 25, 2014. Appeal by Appellant William Neufeld of the  
34 Acting Zoning Administrator's decision that the Appellant's 15' access adjoining the  
35 Stonebrook Subdivision is not a road, which would require a front yard setback.

36

37 Ms. Brockman directed the Board to an aerial photo within the staff report that displayed the  
38 entire Stonebrook Subdivision and the 15' access in question. Ms. Brockman stated that the  
39 access was shown for the exclusive use of the Appellant, as noted the Stonebrook Subdivision  
40 final plat (see PC file #87-23). Ms. Brockman explained that she was asked to make a  
41 determination regarding what building setback should apply along the rear of lots on the  
42 western edge of the Stonebrook Subdivision when a building permit is required. Ms. Brockman  
43 explained that she determined the private driveway inside of the 15' access easement along the  
44 rear of these lots did not meet the definition of a Road and therefore, that a rear yard setback  
45 would apply. Consequently, the Appellant appealed Ms. Brockman's determination that the  
46 15' access was not a Road, which is defined as, "A prepared surface within a right-of-way  
47 which is intended for vehicular use. Road does not include shoulders." Ms. Brockman argued

1 the 15' access easement, which contained a gravel single lane driveway, did not meet the  
2 definition of road because it was a driveway that served one home, it was one lane, it did not  
3 have a prepared surface in the traditional sense of the word, and it was not open to the general  
4 driving public. Therefore, this driveway would not trigger the need for a front yard setback.  
5 Ms. Brockman pointed out that the access was platted over the lots in the Stonebrook  
6 Subdivision. Ms. Brockman stated that setbacks are measured from the edge of access  
7 easements. Ms. Brockman answered questions from Mr. Groh and the Board.  
8

9 Mr. William Neufeld, appellant, and Mr. Michael Scales, attorney representing Mr. Neufeld,  
10 presented the request to the Board. Mr. Scales referred to the permit history of the lots that  
11 abut the 15' access by arguing that since 2000, a previous Zoning Administrator determined  
12 that a front setback applied. Mr. Scales explained that the definitions, the application, and the  
13 location had not changed since the previous determination had been made and therefore; the  
14 determination should remain consistent, as this is the same determination that Mr. Neufeld  
15 and the abutting lot owners had relied on since that time. Mr. Scales further argued that when  
16 a zoning variance for a setback reduction for a pool was heard by the Board in 2001, they  
17 concurred with the determination that it was a front by acting on the request and granting the  
18 reduction. Mr. Bannon asked why Mr. Neufeld was arguing this determination. Mr. Neufeld  
19 responded by stating he did not want his sole access to be diminished in some way by not  
20 being considered a road, that he wanted consistency in the determination being made, and that  
21 he had a concern for where the pool fence would be placed should it be permitted closer than  
22 the required front setback. Mr. Neufeld explained that a fence along the 15' access easement  
23 would create a hindrance when plowing his driveway. Mr. Groh clarified that a 6' privacy  
24 fence could be place along the property line without a building permit.  
25

26 Mr. Quynn opened the public hearing. Ms. Rachael Sharp and Mr. Matt Steele, owners of lot  
27 14, spoke in opposition to the request. Ms. Sharp provided a survey of her property, which  
28 depicted a portion of Mr. Neufeld's gravel driveway crossing over onto her property outside  
29 of the platted 15' access easement. Ms. Crystal Hahn spoke in opposition to the request  
30 explaining that reversal of the determination would present a hardship to the lot owners along  
31 the 15' access. It was stated that Mr. Neufeld allegedly pays homeowners association dues to  
32 the Stonebrook Subdivision because he is permitted to use a platted 40' access easement  
33 within the development; however, he continues to use the 15' access for his exclusive use.  
34

35 Ms. Brockman reiterated that the approval of a variance does not set precedence. Ms. Brockman  
36 also pointed out that the other permit applications in the packet provided by Mr. Scales indicate  
37 various setbacks greater than 40'; however, this does not prove that it was required.  
38

39 Mr. Neufeld addressed the comments regarding the shifted driveway. Mr. Neufeld reiterated  
40 his concern regarding 15' access being relabeled over time. Mr. Neufeld explained that he  
41 had exclusive rights to use the entire access; however, each lot owner could only traverse  
42 their own lot and not the entire access without first getting permission from all the lot owners  
43 along the access.  
44

1 4. Applicant has withdrawn the request. Request postponed from September 25, 2014. Request by  
2 Harold Barlow, owner, from Section 8.2 to reduce the 75' distance requirement to 20' for Barn #1  
3 and 33' for Barn #2 to accommodate a proposed minor subdivision. Location: 779 Persimmon Ln,  
4 Shepherdstown, WV. District: Shepherdstown (09); Map: 15; Parcels: 10; Size: 5 ac; Zoned: Rural;  
5 File: ZV14-17.

6

7 This item was withdrawn by the applicant.

8

9 5. Request for clarification by Christopher P. Stroeck, Esq., Attorney with Arnold & Bailey,  
10 regarding the BZA approval of the seasonal use permit for the All Good Music Festival (ZV14-15).  
11 The applicant is seeking clarification on the following:

12 a) Is the event approved for a 72-hour time period or for three (3) distinct days of the week?

13 b) Does the event begin when the site gates open or when the music begins/main  
14 concert and vendor area opens to the public?

15

16 Mr. Quynn stated that this was not an appropriate duty for the Board to address at this time.

17 Mr. Bannon disagreed with Mr. Quynn's statement and motioned to hear the applicant's request  
18 for clarification. Mr. Knott seconded the motion, which carried three in support and two in  
19 opposition (Mr. Quynn and Ms. Huddle). Mr. Quynn explained the purpose of his statement.

20 Mr. Groh stated there was no provision in the ordinance to hear the request. Ms. Huddle asked  
21 if the application would be subject to legal challenge if the Board heard the request. Mr. Groh  
22 suggested they discuss the issue in deliberative session. Mr. Bannon and Mr. Knott stated they  
23 had misunderstood Mr. Quynn's intent.

24

25 Ms. Huddle motioned to go into deliberative session to discuss all items on the agenda at 3:04 p.m.

26 Mr. Knott seconded the motion, which carried unanimously. Ms. Huddle motioned to come out of  
27 deliberative session at 4:14 p.m. Mr. Bannon seconded the motion, which carried unanimously.

28

### 29 **Board of Zoning Appeals Rulings**

30

31 3. Request postponed from September 25, 2014. Appeal by Appellant William Neufeld of the  
32 Acting Zoning Administrator's decision that the Appellant's 15' access adjoining the  
33 Stonebrook Subdivision is not a road, which would require a front yard setback.

34

35 Ms. Huddle motioned to deny the appeal and find that the Board agrees with the action of the  
36 Acting Zoning Administrator. Mr. Bannon seconded the motion, which carried unanimously.

37

38 4. Applicant has withdrawn the request. Request postponed from September 25, 2014. Request  
39 by Harold Barlow, owner, from Section 8.2 to reduce the 75' distance requirement to 20' for  
40 Barn #1 and 33' for Barn #2 to accommodate a proposed minor subdivision.

41

42 This item was withdrawn by the applicant.

- 1 5. Request for clarification by Christopher P. Stroeck, Esq., Attorney with Arnold & Bailey,  
2 regarding the BZA approval of the seasonal use permit for the All Good Music Festival (ZV14-15).  
3 The applicant is seeking clarification on the following:
  - 4 a) Is the event approved for a 72-hour time period or for three (3) distinct days of the week?
  - 5 b) Does the event begin when the site gates open or when the music begins/main  
6 concert and vendor area opens to the public?  
7
- 8 Mr. Quynn stated that the Board agreed that this item was not an appropriate duty for the  
9 Board to address.  
10
- 11 6. Discussion and possible action on the Draft Rules of Procedure, revised June 26, 2014.  
12 Mr. Knott requested Sections 5.5 and 6.3 be changed to include “as determined by the Zoning  
13 Administrator”. Ms. Huddle motioned to approve the Draft Rules of Procedure, revised  
14 June 26, 2014 as amended. Mr. Bannon seconded the motion, which carried unanimously.  
15
- 16 7. Director’s Report. Monthly Activity Report (in the packet). Ms. Brockman gave a status  
17 update on the Comprehensive Plan noting a joint workshop between the County Commission  
18 and the Planning Commission on October 30, 2014 and then a Public Hearing on November  
19 6, 2014; the Mass Events amendments were proceeding; reminder of the Ethics Training on  
20 November 5, 2014; and a reminder that the November and December meetings are held on  
21 different days due to the holiday season.  
22
- 23 8. Legal Update. None.  
24
- 25 9. Signing of written decisions from prior Board of Zoning Appeals meetings.
  - 26 a) Request postponed from July 24, 2014. Request for a Special Exception by Jacob and  
27 Tia Collis, owners, under Section 10.5B.3 for a Rural Reception/Event Facility to host  
28 farm weddings between March & October for Deerfield Farm Weddings. The applicant  
29 is seeking permission to operate the venue outdoors with rental tents during the event  
30 only; field parking would be provided for up to 75 cars, with an optional 10 handicap  
31 spaces in existing gravel lot; each event will cease by 11:00 p.m. Location: 6732  
32 Scrabble Rd, Shepherdstown, WV. Shepherdstown (09); Map 3; Parcel: 8; Size: 10 ac;  
33 Zone: Rural; File: SE14-01. *Findings were not available for signature.*
  - 34 b) Correspondence from Peter S. Corum, owner/applicant, on behalf of Morgan’s Grove  
35 Market (#S12-06) requesting the Board to clarify the available uses for the existing  
36 residential rental property located at 3988 Kearneysville Pk., Shepherdstown, WV  
37 25443, without changing the Conditional Use Permit (#CP12-01). The applicant is  
38 requesting to temporarily change the use of the residence to a nonresidential, private K-8  
39 school (Morgan Academy) and seeks the Board’s determination on the following issues:  
40 (a) Under the current CUP, can Morgan Academy use the house as a nonresidential use  
41 K-8 school? (b) If yes, can Morgan Academy use the existing well and septic for this  
42 use? District: Shepherdstown (09); Map 13; Parcels: 26.1, 26.2, 26.3, 26.4; Size: 13.69  
43 ac (combined); Zoned: Rural; File: ZC14-37. *Findings were not available for signature.*
  - 44 c) Request postponed from August 28, 2014. Variance request by Mark Dyck, Consultant,  
45 on behalf of Tim Walther and Junipa Contento, Developers, from Section 2.2 to extend

- 1 the time permitted for a Seasonal Use, which limits an event to not more than three  
2 consecutive days in each of the four solar systems. The applicant is requesting to hold a  
3 5-day music festival and camp out during the June/August 2015 summer season. Property  
4 Owner: Nancy & Douglas Stolipher and Mark Stolipher. Location: 261 Berry Hill Farm  
5 Ln., Summit Point, WV. District: Kabletown (06); Map: 19; Parcels: 7, 16, & 8.4; Size:  
6 347.15 ac (total); Zoned: Rural; File: ZV14-14. *Revisions to the Findings were*  
7 *necessary. Mr. Quynn will sign the final version when available.*
- 8 d) Request postponed from August 28, 2014. Request by Mark Dyck, Consultant, on behalf  
9 of Tim Walther & Junipa Contento, Developers, to conduct a Seasonal Use event per  
10 Section 9.8 by hosting a 5 day musical festival and camp out, provided the previous  
11 variance request (ZV14-14) is approved, during the June/August 2015 summer season.  
12 Property Owner: Nancy & Douglas Stolipher and Mark Stolipher. Location: 261 Berry  
13 Hill Farm Ln., Summit Point, WV. District: Kabletown (06); Map: 19; Parcels: 7, 16, &  
14 8.4; Size: 347.15 ac (total); Zoned: Rural; File: ZV14-15. *Revisions to the Findings were*  
15 *necessary. Mr. Quynn will sign the final version when available.*  
16
- 17 Ms. Huddle motioned to adjourn the meeting at 4:35 p.m. Mr. Schiltz seconded the motion,  
18 which carried unanimously.  
19
- 20 An audio transcript of this meeting can be found at the Department of Zoning and on the Department's  
21 website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org). These minutes were prepared by Jennilee Hartman,  
22 Zoning Clerk.





## 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

Phone: 304-728-3228

Fax: 304-728-8126

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

## **DRAFT 2015 MEETING SCHEDULE OF THE JEFFERSON COUNTY BOARD OF ZONING APPEALS**

Board of Zoning Appeals meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street at 2:00 p.m.

<b>Scheduled Meetings</b>	<b>Submission Deadlines*</b>
Thursday, January 22, 2015	Friday, December 24, 2014
Thursday, February 26, 2015	Friday, January 30, 2015
Thursday, March 26, 2015	Friday, February 27, 2015
Thursday, April 23, 2015	Friday, March 27, 2015
Thursday, May 28, 2015	Friday, April 24, 2015
Thursday, June 25, 2015	Friday, May 29, 2015
Thursday, July 23, 2015	Friday, June 26, 2015
Thursday, August 27, 2015	Friday, July 31, 2015
Thursday, September 24, 2015	Friday, August 28, 2015
Thursday, October 22, 2015	Friday, September 25, 2015
Thursday, November 12, 2015**	Friday, October 16, 2015
Thursday, December 10, 2015**	Friday, November 13, 2015

\*The required zoning variance request form signed by the legal property owner, supporting documentation and applicable fees must be submitted to the office by close of business on the Submission Deadline date in order for the request to be sufficiently reviewed and noticed in the Spirit of Jefferson. For all other applications please contact the office for the Submission Deadline date.

\*\*This is a rescheduled meeting date. County Offices are closed in observance of the Thanksgiving and Christmas Holidays, which coincides with the Board's original meeting dates of November 26 and December 24, 2014.

Changes in the time or location of the meeting shall be noticed on the County's website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org). Note: If the President of the County Commission or Chair of the Board of Zoning Appeals has determined weather conditions make travel unsafe for the public, County offices may close and/or the Board of Zoning Appeals meeting may be cancelled. Please check the County's website for possible meeting updates during inclement weather.

Agenda items that have been deferred due to a cancellation will be rescheduled. Per the Board's Rules of Procedure, no additional newspaper notice shall be given. Please keep signs posted on the respective properties until the reschedule meeting date. Please call the office or check the County's webpage for the rescheduled meeting date.





Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 13, 2014

**Greenwalt Variance Request (#ZV14-18)**

**2. Previous Case History**

The Opequon Ranch Club, Section I, was recorded with the Jefferson County Clerk in the County Courthouse on October 7, 1961.

**3. Applicant's Justification of Request**

In the attached application submitted for the variance request the applicant provided a response to the following four criteria for a variance:

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*
- b) *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.*
- c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*
- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

**4. Staff Evaluation of Request**

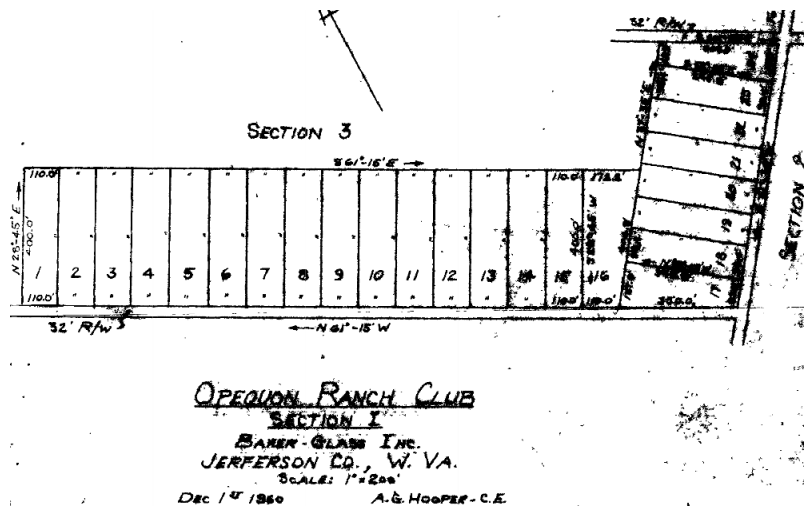
a. Source and purpose of ordinance requirements

Section 9.7 establishes the setback requirements for residential subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission. The setback for such residential lots in the Rural/Agricultural District and which contain lots between 40,000 sq. ft. and 2 acres is 25 feet.

The purpose of yard/setback requirements is to reduce the impact that a land use might have on adjacent properties, 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. Shorter setbacks are typically permitted for small accessory structures, particularly along side and rear property lines, because their reduced size equates to less of a visual impact on neighboring properties; however, such reductions are not typically permitted in required front yard setbacks.

b. Unique characteristics of property

The subject property is located in an established subdivision that predates both the zoning and subdivision ordinances and is therefore considered nonconforming. The lot is platted as approximately 110 feet wide and 400 feet in depth.



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 13, 2014

**Greenwalt Variance Request (#ZV14-18)**

c. Character of area

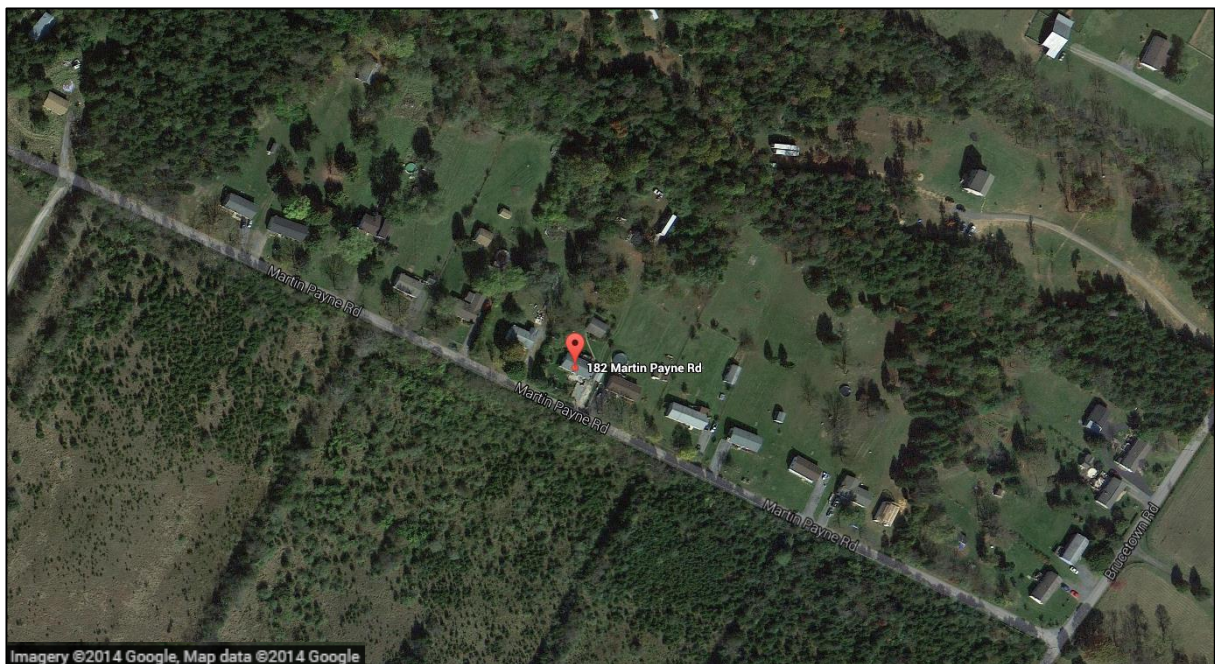
The Opequon Ranch Club is located in the rural southwestern corner of the County near the Opequon Creek. Martin Payne Road runs from Brucetown Road and dead ends at Opequon Creek. The development consists of approximately 16 one-acre lots all of which have direct access to Martin Payne Road and are located along the north side of Martin Payne Road. The south side is in agricultural use.



d. Impact on adjacent properties

Due to the rural nature of the road and the size of the lots, the impact of an accessory structure such as a carport with a reduced setback on neighboring properties would be minimal. As there are no residential structures across the street from this address, there would be no expected impact on the confronting property.

The nearest neighbor, whose driveway parallels the Greenwalt's driveway, have submitted a letter stating that they do not object to the requested variance.



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 13, 2014

**Greenwalt Variance Request (#ZV14-18)**

e. Feasibility of complying with the ordinance by other means

The property is currently occupied by a house, a carport and numerous outbuildings located behind the house. The additional carport is to provide a covered access between the driveway and the front door for a handicapped resident of the house. The options for locating such a covered walkway are also limited by the location of the well, septic system and overhead power lines. Due to the location of these existing structures and the location of the front door, there are limited alternatives to providing this covered access for the purpose required.



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 13, 2014

**Greenwalt Variance Request (#ZV14-18)**

**5. Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

- 1) Require the removal of this structure when the applicants move from this home.

SECTION OF ORDINANCE TO BE VARIED:

**Section 9.7 Other Exceptions**

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:

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/ rear setbacks for residential accessory structures shall be 6'.

**Section 9.6 Accessory Structures**

Accessory structures, defined by Section 2.2, shall be permitted in all districts where single-family and two-family dwelling units are permitted. The provisions for accessory structures are as follows.

- C. No accessory building shall be erected within the required front yard.





JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor, P.O. Box 338
Charles Town, WV 25414

File Number: # 2014-18
Staff Initials: CFC
Fees Paid (\$100 or \$150): \$ FREE/WAIVED
(LANDSPAPER AD COSTS ONLY)

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

Zoning Variance Request

Variences to 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: FRANKLIN & DONNA GREENWALT
Mailing Address: 182 MARTIN PAYNE RD.
City: KEARNEYSVILLE State: W.VA Zip Code: 25430
Phone Number: 304-725-2887 Email: 676-0768

Applicant Information

Name: FRANKLIN GREENWALT
Mailing Address: 182 MARTIN PAYNE RD
City: KEARNEYSVILLE State: W.VA Zip Code: 25430
Phone Number: 304-725-2887 Email: 676-0768

Engineer(s) or Surveyor(s) Information

Name:
Mailing Address:
City: State: Zip Code:
Phone Number: Email:

Physical Property Details (HOUSE BUILT 1978)

Physical Address: 182 MARTIN PAYNE ROAD (SECTION 1, #11 OPEQUON RANCH CLUB) c/c (10/13/14)
City: KEARNEYSVILLE State: WEST VIRGINIA Zip Code: 25430
Tax District: MIDDLEWAY (07) Map No: 23 Parcel No: 13
Parcel Size: 1.0101 ACRES Deed Book: 452 Page No: 566

Zoning District (please check one)

RECEIVED

OCT 21 2014

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Table with 6 columns: Residential (R-A), Residential Growth (R-G), Industrial Commerical (I-C), Residential-Light Industrial Commercial (R-L-C), Village (V). Includes checked box for R-A.

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of ways, 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 Ordinance pertaining to this request: 9.7

**Briefly describe the nature of the variance request**

wife lost leg in car wreck - reduce front setback for 13'x20' carport (existing)

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

Front Setback  Side Setback  Rear Setback Reduction From 25' to 19'

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.

so when my wife gets home she will not get rain or snowed on getting wheelchair out of car and she has a concrete pad to get in house

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?

Loss of leg - wheelchair - Handy cap  
Have wall on right - Park wheels on left

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

so my wife does not get wet or snowed on getting wheelchair out of car to get in house

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

Loss of leg - Handy cap

By signing this application, I give permission for the Departments 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. Note: Original signature is required. If additional signatures are necessary, please attach a separate sheet of paper.

Frank E. Mcemmett 10-21-14  
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 Zoning and Land Development Ordinance Section 3.4A(3)(b)).

November 13, 2014 October 29, 2014 October 29, 2014  
Date of Public Hearing Advertising Date Placard Posting Date

460' long - 110' wide

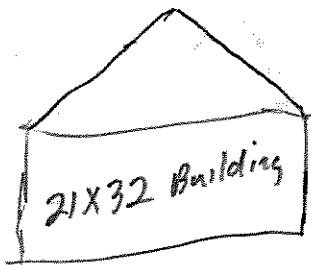
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OCT 21 2014

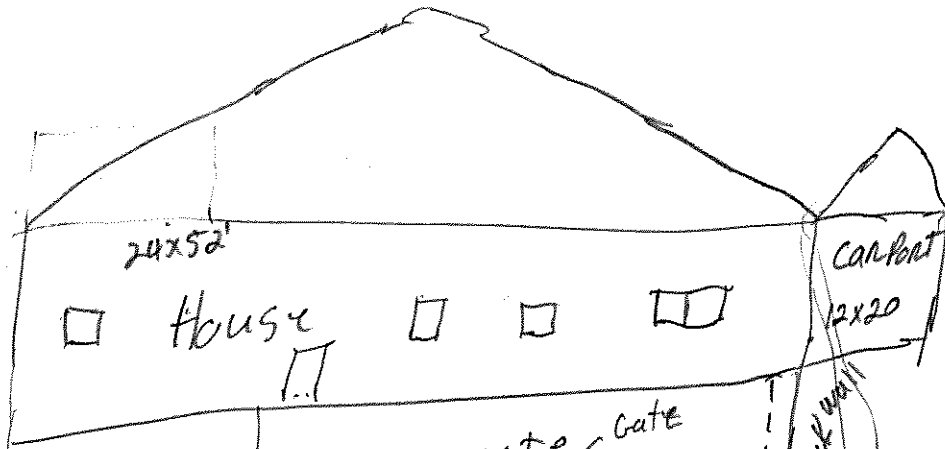
JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING



48' x 9' Storage Trailer



460' long



Carport 12x20

Concrete Gate  
Block wall

13' x 20' CARPORT

Concrete Pad  
FOR CARPORT

19' FROM ROAD TO CARPORT

Well

65' TO P

Block wall

Block wall

22' Property Line

Power Lines

110' wide

Road.

# ZV14-18

18 October 2014

To Whom it may Concern:

We, Ronald B. & Y. Gail St. Clair have been next door neighbors to Frank and Donna Greenwalt for more than twenty years. We have no problem with them having a carport in there driveway, in front of their house.

If you have any questions or concerns regarding this matter feel free to contact us at 304-279-8434.

Respectfully,

*Ronald B. St. Clair*  
*Y. Gail St. Clair*

Ronald B. & Y. Gail St. Clair

168 Martin Payne Rd.

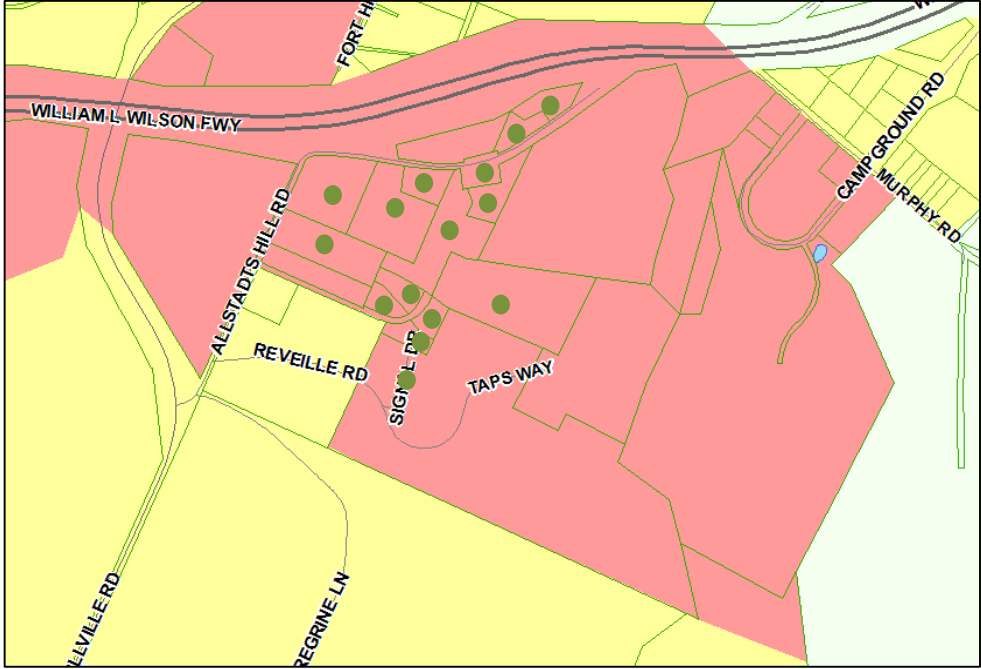
Middleway, WV 25430

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JEFFERSON COUNTY  
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Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 November 13, 2014

**Knott/River Riders, Inc/Harpers Ferry Holdings, LLC Variance Request (#ZV14-19)**

Item #5 Variance request from Sections 4.11A, 5.8C.2 and Appendix B to eliminate the parking/drive aisle and building setbacks and landscape buffer requirements for internal lot lines only for an All-Inclusive Family Adventure Resort. A Concept Plan for the proposed Resort was approved by the Planning Commission on February 25, 2014.

APPLICANT:	Matt Knott
OWNER:	Matt & Laura Knott, River Riders, Inc. & Harpers Ferry Holdings, LLC
DEVELOPER:	Same as owner
SURVEYOR/ENGINEER:	Mike Shepp, Allegheny Surveys, PLLC
PROPERTY LOCATION:	408 Alstadts Rd., Harpers Ferry, WV
LEGAL DESCRIPTION & ZONING DISTRICT:	<p style="text-align: center;">District: 04; Map 7; Parcels: 10 &amp; 10.1;          Map: 9; Parcels: 61, 62, 63, 63.1, 66.1, 69, 70, 72, 73, 71, 74, 75;          Size: 45 ac (total);          Zone: Residential-Light Industrial-Commercial</p> 
SURROUNDING PROPERTIES:	<p style="text-align: center;">Zoning Map Designation:  <i>North:</i> RLIC                      <i>South:</i> RLIC/RG  <i>East:</i> RLIC                        <i>West:</i> RLIC/RG</p>
PRIOR CASES:	S03-05 parking lot addition - porch covered out door storage S93-14 Harper Homestead (River Riders)
VARIANCE(S) & WAIVER(S):	ZV98-38: Variance from sign provisions (denied 01-21-99) PCW14-01: App B, Sec. 2.5, A, C, D, E, G, H, I, J, K, L, M, N, & O; App B, Sec. 9.4A & C; and App B, Sec. 9.5; To keep the seasonal parking area grass, with minimal earthwork and grading; To construct a County Grade access road that will divide the seasonal parking area (this access is the primary entrance and exit); and, To construct paved parking around the proposed Indoor Activity Building and existing Main Building. (04/08/14)
APPROVED ACTIVITY:	ZC12-02: Aerial Adventure Park as an Accessory Use

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 13, 2014

**Knott/River Riders, Inc/Harpers Ferry Holdings, LLC Variance Request (#ZV14-19)**

RELEVANT INFORMATION:

**1. Overview of Request**

The applicant is seeking a variance from Article 4, Section 4.11A for a reduction of the required landscape buffer between two commercial uses from 10' to 0' on the interior lot lines of the multiple lots that make up the River Riders All Inclusive Family Adventure Park **and** a variance from Article 5, Section 5.8.C.2 for a reduction of the required parking and access drive setbacks from 10' to 0' and building setbacks from 25' to 0' on the interior lot lines of the multiple lots that make up the River Riders All Inclusive Family Adventure Park. All Non Residential Site Development Standards referenced in these Sections are found in Appendix B of the Jefferson County Zoning and Land Development Ordinance.

**2. Previous Case History**

The applicant is working on a large project that involves a multi-step approval process. An approved Site Plan will be required prior to any site work occurring related to the All-Inclusive Family Adventure Park. The following summarizes the approvals already received as these should be taken into consideration when deliberating on the requested variances.

a. Planning Commission Approvals

i. *February 25, 2014*

On this date, River Riders, Inc. appeared before the Jefferson County Planning Commission for the purpose of presenting a proposed Concept Plan (PC File #S13-07) at a Public Workshop regarding their proposal to expand their existing facility. The Plan proposed the development of an all-inclusive family adventure resort with multiple uses which include, but are not limited to, outdoor commercial recreational uses such as: aquatic activities, ropes courses, zip lines, paint ball, pavilions, as well as some indoor recreational activities, a bathhouse, a maintenance facility for equipment repair and storage, amphitheater, observation tower, cabins, a two-story six-unit vacation rental, RV and tent camping, and associated parking for all uses. The entire project shall consist of a total square footage of 24,800 square feet and is located at their current location on Alstadts Hill Road.

The Planning Commission provided direction to the applicant regarding the proposal including the suggestion that a line of coniferous trees be planted in the 360 foot long linear area between the expanded vacation rental homes on Alstadts Hill Road and the proposed parking lot and noted that the Concept Plan lifted the single family restriction from Parcel 66.1, Tax Map 9 of the Harpers Ferry District.

ii. *April 8, 2014*

On this date, River Riders, Inc. presented a Subdivision Regulation Waiver Request (PC File #PCW14-01) to the Planning Commission, requesting that, as part of the site development, "Seasonal Parking" with minimal earthwork and grading be permitted on the existing grass surface for overflow weekends. In the request, the applicant stated that they will be constructing a County Grade access road that will divide the seasonal parking area and serves as the primary entrance and exit and will construct paved parking around the proposed Indoor Activity Building and existing Main Building.



Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 13, 2014

**Knott/River Riders, Inc/Harpers Ferry Holdings, LLC Variance Request (#ZV14-19)**

**3. Applicant's Justification of Request**

In the attached application submitted for the variance request the applicant provided a response to the following four criteria for a variance:

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*
- b) *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.*
- c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*
- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

**4. Staff Evaluation of Request**

a. Source and purpose of ordinance requirements

There are two variance requests included in this application and each needs to be examined separately.

- i) The purpose of the first request is to eliminate the 10 foot landscape buffer and the parking lot, driveway and access drive setbacks along the internal lot lines of the various parcels that are a part of this development.
- ii) The second request is to eliminate the 25 foot building setback along the interior lots lines of the multiple lots that make up the River Riders All Inclusive Family Adventure Park.

Section 5.8C.2 and Appendix B of the Zoning Ordinance establishes setbacks for parking areas and drive aisles associated with commercial developments in the Residential-Light Industrial-Commercial Zoning District. Section 4.11A establishes landscape buffers between commercial uses. The purpose of these requirements is to provide for a separation of different uses, their parking areas and drive aisles so that they do not have a negative effect of the adjoining structures or land uses. Typically, even in a business or industrial park, each lot is developed separately and independently of each other. In this case, the applicant is proposing a master planned unified development with multiple buildings and/or recreation structures on commonly owned lots with shared parking facilities. A Public Workshop was held by the Planning Commission regarding their Concept Plan for the overall development and a separate hearing was held regarding the proposed unpaved seasonal parking accessed by a common access drive. The Planning Commission supported the concept of the least possible less grading, pavement and ground disturbance possible while providing safe and efficient ingress, egress and parking on the site. If these variances are approved, additional waivers related to grading may be presented the Planning Commission for their consideration. While there is no provision for this type of development in the current regulations, the master planning of a unified development with internal interconnectivity of commercial developments is a good planning principle.

In similar cases, in 2013, the Board approved variance to waive items such as building setbacks, parking and drive aisle setbacks, and landscape buffers for internal lot lines for the Twin Oaks Subdivision (#ZV12-35); 340 Business Park (#ZV12-34); and between two commercial for Burr Industrial Park, Phase I: Lots 40 & 41 (#ZV13-37). (Prior approvals by the Board do not necessarily indicate precedent because of the unique circumstances of each case.)

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 13, 2014

**Knott/River Riders, Inc/Harpers Ferry Holdings, LLC Variance Request (#ZV14-19)**

b. Unique characteristics of property

While the size and shape of the properties are not unusual, the development of a multi-parcel development with a master planned development has not typically happened in Jefferson County. This type of development does occur in other areas and there are often provisions written in to the local ordinances to accomplish them. The only way to make such a development viable is to allow an overall grading and internal access plan that provides safe and efficient access and parking facilities. To accomplish this, variances to the landscaping buffers, parking and drive aisle setback and building setback requirements would be required.

c. Character of area



This properties are zoned Residential-Light Industrial-Commercial and are located between the flea market and Allstadt House and Ordinary and the Quality Inn and KOA campground. The area is developing as a tourism attraction and a recent traffic lot at the intersection with Millville/Bakerton Roads and US 340 have improved access to this area.

d. Impact on adjacent properties

Staff finds that the variance, if granted, would lessen the impact on adjacent properties along the external property lines and enable the master planned development to develop in a manner that lessens the impact on the existing grade and vegetation.

e. Feasibility of complying with the ordinance by other means

Complying with the setback requirements will require the design of the proposed All-Inclusive Family Adventure Park to be closer to the neighboring properties than could be accomplished with the requested variances.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 13, 2014

**Knott/River Riders, Inc/Harpers Ferry Holdings, LLC Variance Request (#ZV14-19)**

**5. Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

- a. The variances for the reduced parking and access drive setbacks, reduced landscape buffer between properties, and reduced building setbacks as described above and reflected in in the Concept Plan (PC File #S13-07) apply only to internal lot lines;
- b. A plat reflecting cross access easements and cross parking easements and reflecting the approved variances shall be recorded;
- c. No buildings shall cross lot lines

It should be noted that, because the request is for variances from multiple sections, the Board should address each requested variance as a separate motion.

SECTION OF ORDINANCE TO BE VARIED:

**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.<sup>27</sup>

A. Commercial Development<sup>27</sup>

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 fifty (50) foot or greater unscreened green space buffer or a fifteen (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 (10) foot side and rear yard landscape buffers.<sup>5</sup>

**Section 5.8 Residential-Light Industrial-Commercial (R-LI-C) District<sup>1</sup>**

The purpose of this district is to guide high intensity growth into the designated growth area. Light industrial uses are defined in Section 2.2. All other perceived light industrial uses shall be referred to the Jefferson County Development Authority for a recommendation on whether a use is a light industrial or heavy industrial use. The final decision on use classification shall be made by the Zoning Administrator.<sup>23</sup>

C. Site Development Standards<sup>23, 27</sup>

2. 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. All commercial or industrial uses must be in compliance the requirements for such use in Article 8. In addition, a site plan, if required, must demonstrate that traffic patterns created by Commercial or Light Industrial uses (1) will not use adjacent residential roads for through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions.<sup>5, 7, 23, 27</sup>



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning
116 East Washington Street, P.O. Box 338
Charles Town, WV 25414

File Number: ZV14-19
Staff Initials:
Fees Paid (\$100 or \$150):

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
Fax: (304) 728-8126

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: Matt and Laura Knott, River Riders Inc, and Harpers Ferry Holdings, LLC
Mailing Address: 408 Alstadts Hill Road, Harpers Ferry, WV, 25425
Phone Number: 304/535-2663 Email: matt@riverriders.com

Applicant Contact Information

Name: Matt Knott
Mailing Address: Same as above.
Phone Number: Above Email: Above

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

Name: Allegheny Surverys, PLLC Contact: Mike Shepp
Mailing Address: 401 South Fairfax Blvd, Suite 3, Ranson, WV 25438
Phone Number: 304/724-5008 Email: mshepp@alleghenysurveys.com

Physical Property Details

Physical Address: 408 Alstadts Hill Road
City: Harpers Ferry State: WV Zip Code: 25425
Tax District: Harpers Ferry Map No: See Attached Parcel No: See Attached
Parcel Size: Approx 45 acres Deed Book: See Attached Page No: See Attached

Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG), Industrial Commercial (IC), Rural (R), Residential-Light Industrial-Commercial (R-LI-C), Village (V), Neighborhood Commercial (NC), General Commercial (GC), Highway Commercial (HC), Light Industrial (LI), Major Industrial (MI), Planned Neighborhood Development (PND), Office/Commercial Mixed-Use (OC). R-LI-C is checked.

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OCT 27 2014

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Please 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: 4.11.A. & Appendix B; 5.8.C.2. & Appendix B.

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 Variable to 0

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 Departments 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 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 3.4A(3)(b)).

11/13/14 Date of Public Hearing 10/29/14 Advertising Date 10/29/14 Placard Posting Date

\*Revised application. Original submitted 10/24/14 w/ signatures. GH

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JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Matt and Laura Knott  
River Riders, Inc.  
Harpers Ferry Holdings, LLC  
Request for Variances

Article 4, Section 4.11.A (and Appendix B)  
Article 5, Section 5.8.C.2 (Setbacks Only) Which Refers to Appendix B  
Appendix B (Setbacks for Buildings, Access Drives and Parking Areas)  
Jefferson County Zoning Ordinance  
October 24, 2014

**Brief Description of Request:**

The Applicant is seeking variances from Article 4, Section 4.11.A (Buffers found in Appendix B), Article 5, Section 5.8.C.2 (Setbacks referenced in Appendix B). Section 4.11.A (and Appendix B) requires a 10 or 15 (depending on use) feet landscape buffer between lots. The request is to reduce this to 0 on all interior lot lines. The Planning Commission has already approved the Concept Plan and asked the Applicant to add buffers in specific areas. The Planning Commission also asked the Applicant to keep as much of site in the natural condition. Actually putting buffer plantings in would detract from the natural condition.

All of these standards are found in Appendix B:

Side and rear building setbacks are 25 and 50 feet depending on the size of the individual lots. The request is to reduce these side and rear setbacks (ONLY Along interior lot lines where the adjacent properties are owned by the Applicant) to 0 feet.

Required Interior Access Drives and Parking Setbacks are 10 feet and the Applicant is requesting that this is reduced to 0 feet on interior lines so that each internal parcel can be served by the same access road and that the parking lots can be shared.

These are similar circumstances and the same variances that were discussed and granted by the BZA when BCT's 340 Business Center (Sears building), and RAI, Petti, and the Peter Kubic Buildings in the Industrial Park wanted to separate their buildings in the past year. These types of situations, where multiple uses buildings on commonly owned lots share common parking and access, are permitted in most jurisdictions that allow mixed use developments. These occurrences are frequently seen in Frederick County, MD and most other Counties from Frederick into D.C.

Two of the specific variances that are requested include the elimination of the 10 feet buffer required between the two commercial lots; and, the elimination of the parking lot, driveway and access drive setback. Typically, the setback for the parking and access drive is 10 feet. However, since these properties are all part of the same master planned project, these types of setbacks would actually require separate entrances and parking lots for each activity on each individual lot. That would require many more access points, as well as, separate parking lots for each activity even though they are part of the same company's activities. The unnatural buffer would actually require existing natural vegetation and trees to be removed. This would be contrary to the Planning Commission's approval of the master concept plan.

\*Revised/Rec'd 10/27/14 via email. -SH

These types of master planned projects are typical in other jurisdictions. Internal access drives and parking areas are approved for the entire project. As long as the proper assurances and easements are in place, this type of plan is typical. In this case, the principal is the owner of all of the properties, so it makes it easier. However, even if the properties are sold, they are sold with the same easements and assurances intact.

The other variance is for building setbacks. The proposal shows buildings and activities straddling lines and being located less than the required setbacks. Again, all of these parcels are owned by the same Applicant. Many of the parcels were acquired at different times and have different deeds and financing arrangements. The request, again, is ONLY for the interior lot lines owned by the Applicant. The banks have already approved their plan as designed, so they are satisfied with the buildings being located as situated. This building setback variance will not impact any external property line. It will only be for the internal lot lines. The Applicant will also agree to merge any impacted property if any of the individual properties are sold to another entity not controlled by the Applicant. However, the Applicant and lending institutions would prefer that the interior lot lines remain as is at this time for financing and business purposes.

The residential section of the County's ordinance already allows this with a note added to building permits that says the following:

*"A structure may be located on a common side or rear lot line of contiguous property owned by the same entity.... provided, however, that the contiguous lots shall be treated as one lot for all purposes by the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations.5, 23 "*

The Applicant is asking for the same consideration for this mixed use development and will agree to place a similar note on the site plan that acknowledges the same conditions until such time that the setbacks are in compliance.

The concept plan includes uses that complement the existing uses at River Riders, as well as, new recreational and commercial tourist activities that are permitted and approved for this area. The proposal also includes residential units, cabins and RV sites that will be utilized as vacation rentals so that visitors can remain on the property while vacationing. The concept plan with the interior and exterior lines is attached. As the Board can see, the properties on each side of the yellow lines are along interior property lines owned by the Applicant. Exact measurements are not provided; because these variances are needed prior to the final site plan design is completed. If the variances are denied, then it will require the shifting of many of the buildings, activities, parking and access roads that will require a great deal of grading and clear cutting of trees in areas that the Applicant, Staff, Public and Planning Commission would like to see preserved.

Thank you for your consideration of this request.

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JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERINGMatt and Laura Knott  
River Riders, Inc.  
Harpers Ferry Holdings, LLC  
Request for Variances  
Article 4, Section 4.11.AArticle 5, Section 5.8.C.2 (Setbacks Only) Which Refers to Appendix B  
Appendix B (Setbacks for Buildings, Access Drives and Parking Areas)  
Jefferson County Zoning Ordinance  
October 24, 2014**Four Criteria:**

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

Since the variances requested only have impact on the interior lot lines owned by the same Applicant, there is no effect on the rights of the adjacent property owners. However, if the variances were denied, then access roads, parking lots and buildings would need to be shifted which could then have an impact on the adjacent property owners. As proposed, these areas only affect the interior property owned by the Applicant. The Applicant has spent many months and a lot of money on making sure that the grading plan does not impact the neighboring properties.

As designed with one interior through road to serve all the individual properties and uses, less access points on the State Roads are needed thus eliminating conflicting turning points and access drives. Also, if the variances are granted, fewer parking lots need to be constructed thus reducing the need for additional grading and tree cutting which would allow the preservation of more area in its natural condition.

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:

The Applicant has acquired the various properties over many years. Some already had houses on them, while others already had access roads, parking and River Riders' buildings located on them. The Applicant now owns all of the properties and wanted to do a master planned project that has all of the properties working together with shared access drives and parking. To stop the parking lots and access drive at each interior property line would actually be poor planning. Simply put, these properties were owned by many different owners and they are now owned by the Applicant. These variances are needed so that the Applicant can use this property for these types of recreational functions without clear cutting and re-grading the land. If the variances were denied, then the property would have to be stripped of its natural condition and graded to allow many more parking lots and access drives.

Most of the uses already exist on the various properties; the Applicant is merely putting together a master plan that would allow for the proper planning of the property. As discussed in other recent variances of this nature, these setbacks and buffers for commercial projects were more designed for properties not owned by the same entity. As in the recent cases, these lots are also owned by the same party.

Since the properties have been acquired over the years, there is different financing terms associated with the land. These variances are needed to least affect the banks position. As a matter of fact, these uses and the approved concept plan were used by the bank for the lending terms.

3. Would eliminate an unnecessary hardship and permit a reasonable use of the land:

Approving these variances would have no effect on the surrounding properties. If the setbacks and interior access and drives can't overlap the internal property lines, then the project would literally have to be redesigned to move into other areas of the property. The other areas of the property include the land that the Applicant, the public and the Planning Commission would like to see preserved in its natural condition.

The grading design alone took several attempts and months to develop in order to preserve the property in a natural state since the purpose of the project is for recreational tourism. The Applicant has even reduced the number of original activities proposed in order to keep the land intact. If the variances are denied, then the Applicant would have to use other portions of the property that are now designed for open space and woods.

4. Will allow the intent of the zoning ordinance to be observed and substantial justice done:

The intent of buffers and setbacks in the ordinance is to protect neighboring property owners from being impacted by construction close to the property line. In this case, there are no neighbors that would be impacted by the reduction of the setbacks since the adjacent properties are owned by the Applicant. The intent of the Zoning Ordinance Setbacks and Access Drive/Parking lots' setbacks is completely upheld with no adverse impact on a neighbor. Shared parking and access points should be standard for all projects; but, especially for lands owned by the same Applicant.

The intent of a buffer is to screen potentially offensive uses from surrounding uses. Sometimes, unnatural screened buffers work against the naturally provided landscaping that already exists on site. The Planning Commission also had a public hearing on the Concept Plan and asked to Applicant to strategically place some trees in areas that they thought would enhance the project. The Applicant agreed to those conditions.

Substantial justice would be to grant the variances to allow the least amount of disturbance to the area. These variances will help in that regard. The Applicant has changed the grading plan and the layout many times at great expense in order to keep from grading and cutting trees in the area. It is also in the Applicant's best interest to keep visitors coming to this site, so a good integrated design is essential for all parties.

Knott; River Riders, Inc.; and, Harpers Ferry Holdings, LLC  
Zoning Variances  
Deed Book and Tax Information  
October 24, 2014

1. Proposal Property Information and Description:

Total Acreage: Approximately 45 acres

Acreage; Tax District, Map and Parcel Information; and, Deed Book and Page:

Harpers Ferry District:

Map 7:

Parcel 10	Deed Book 1140, Page 287	.7 acre
Parcel 10.1	Deed Book 1072, Page 233	.55 acre

Map 9:

Parcels 61	Book 1099, Page 732	2.5 acres
62	Book 1081, Page 423	2.4 acres
63	Book 1081, Page 423	.75 acre
63.1	Book 1081, Page 423	2.7 acres
66.1	Book 1105, Page 213	25.3 acres
69	Book 980, Page 239	1 acre
70	Book 965, Page 544	2.5 acres
72	Book 1146, Page 226	.33 acres
73	Book 1146, Page 226	.55 acres
71	Book 1105, Page 209	4.9 acres
74	Book 1099, Page 729	.43 acre
75	Book 1099, Page 734	.54 acre

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PLANNING, ZONING AND ENGINEERING

--- Exterior Property Line

Five Red and Yellow - Interior Property Lines

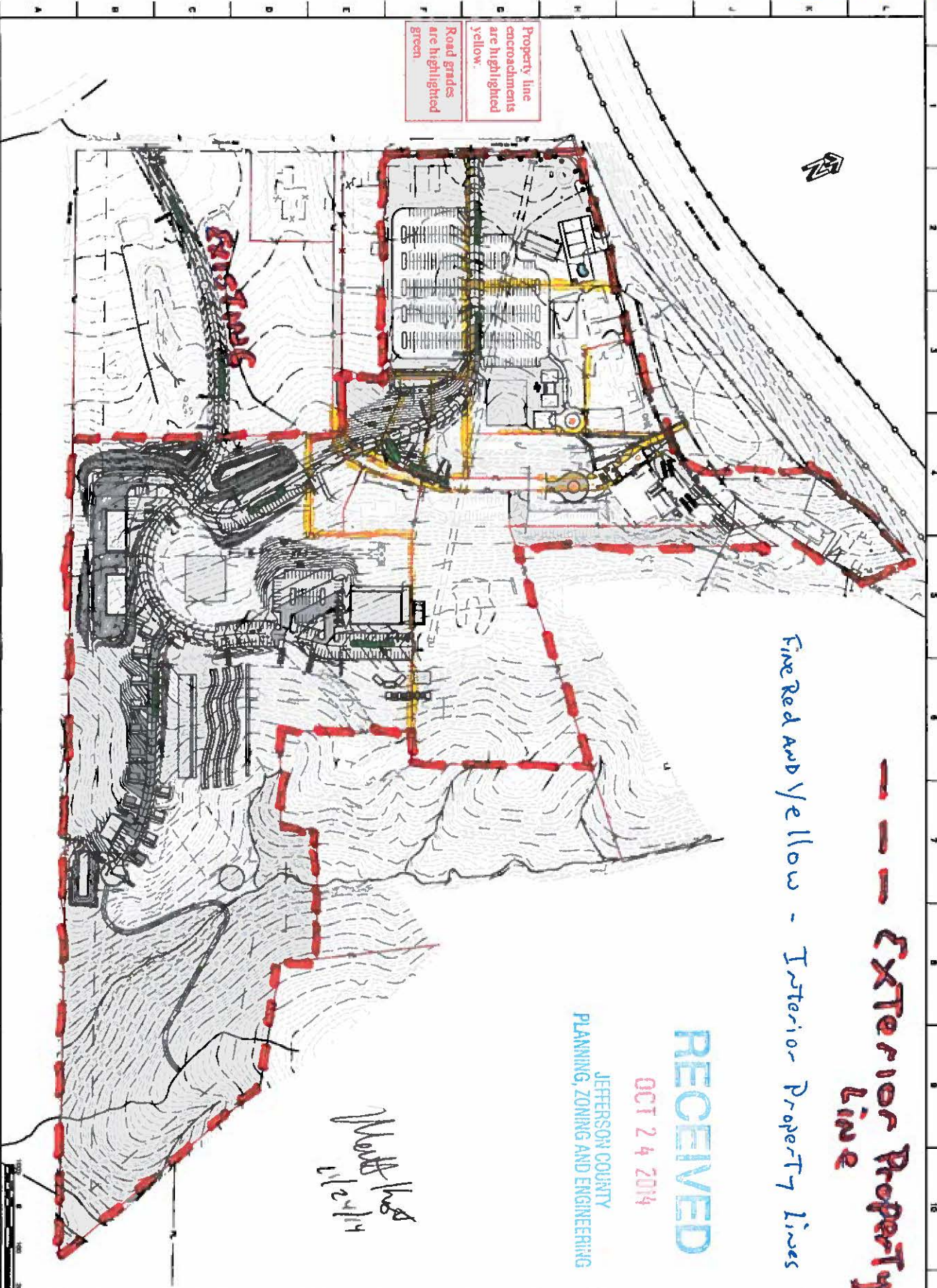
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JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Mark Hys  
11/2/14

Property line encroachments are highlighted yellow.  
Road grades are highlighted green



RIVER RIDERS <small>JEFFERSON COUNTY</small>	<b>VALLEY ENGINEERING</b> <small>10440 BARK REAL</small> <small>2801 PEARSON DRIVE</small> <small>HARRISONBURG, VIRGINIA 22801</small> <small>TEL: (540) 548-2800 FAX: (540) 548-2801</small> <small>WWW.VALLEYENGINEERING.COM</small> <small>5050-00-00-000</small>	PRELIMINARY ISSUE NOT FOR CONSTRUCTION <small>Revisions:</small>	DATE: 10/28/14 PROJECT NO.: 10434 DRAWING NO.: 10434-1 SCALE: 1" = 100'	VARIANCES	SHEET NO.
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RECEIVED

OCT 24 2014

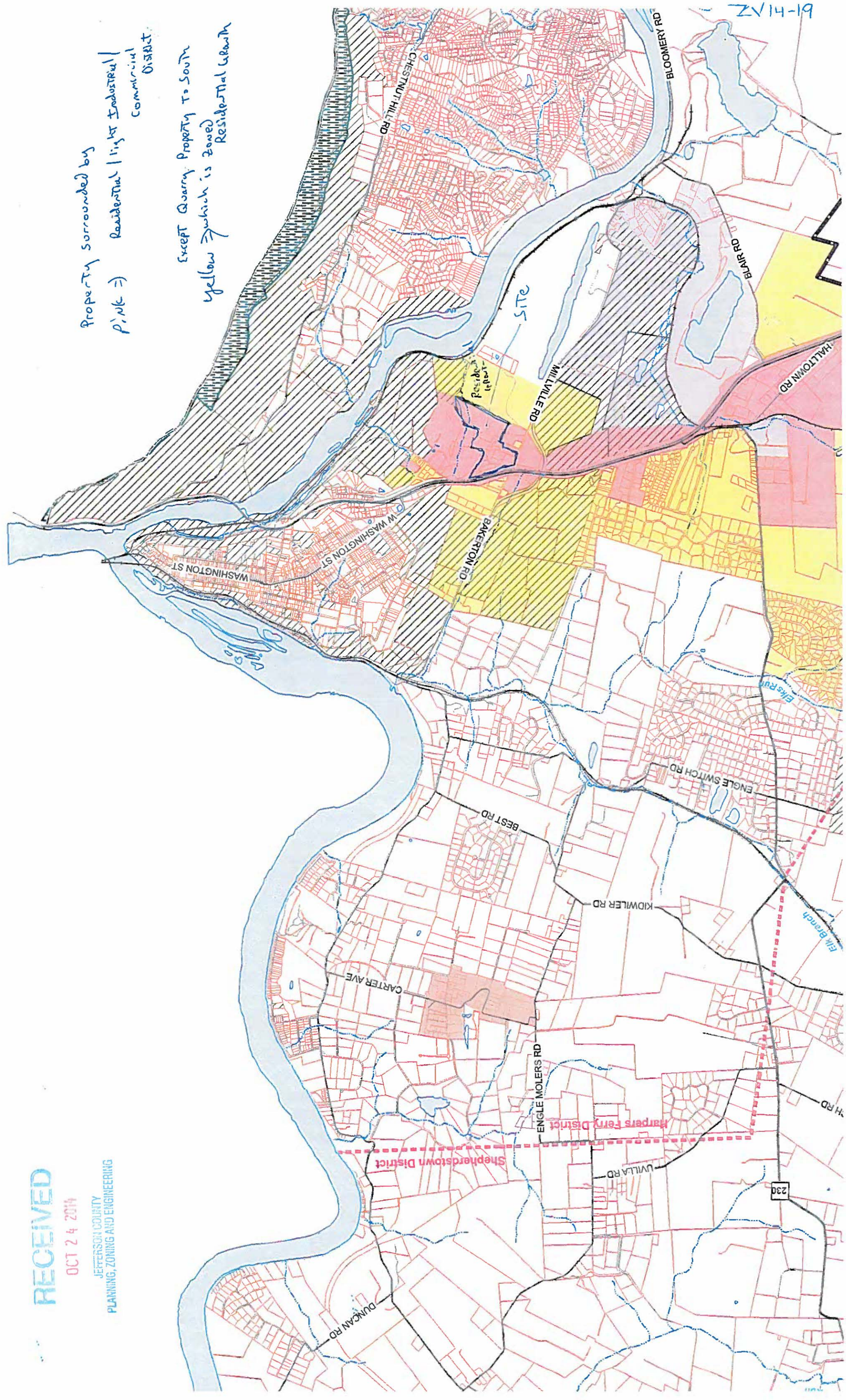
JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Zoning

Property surrounded by

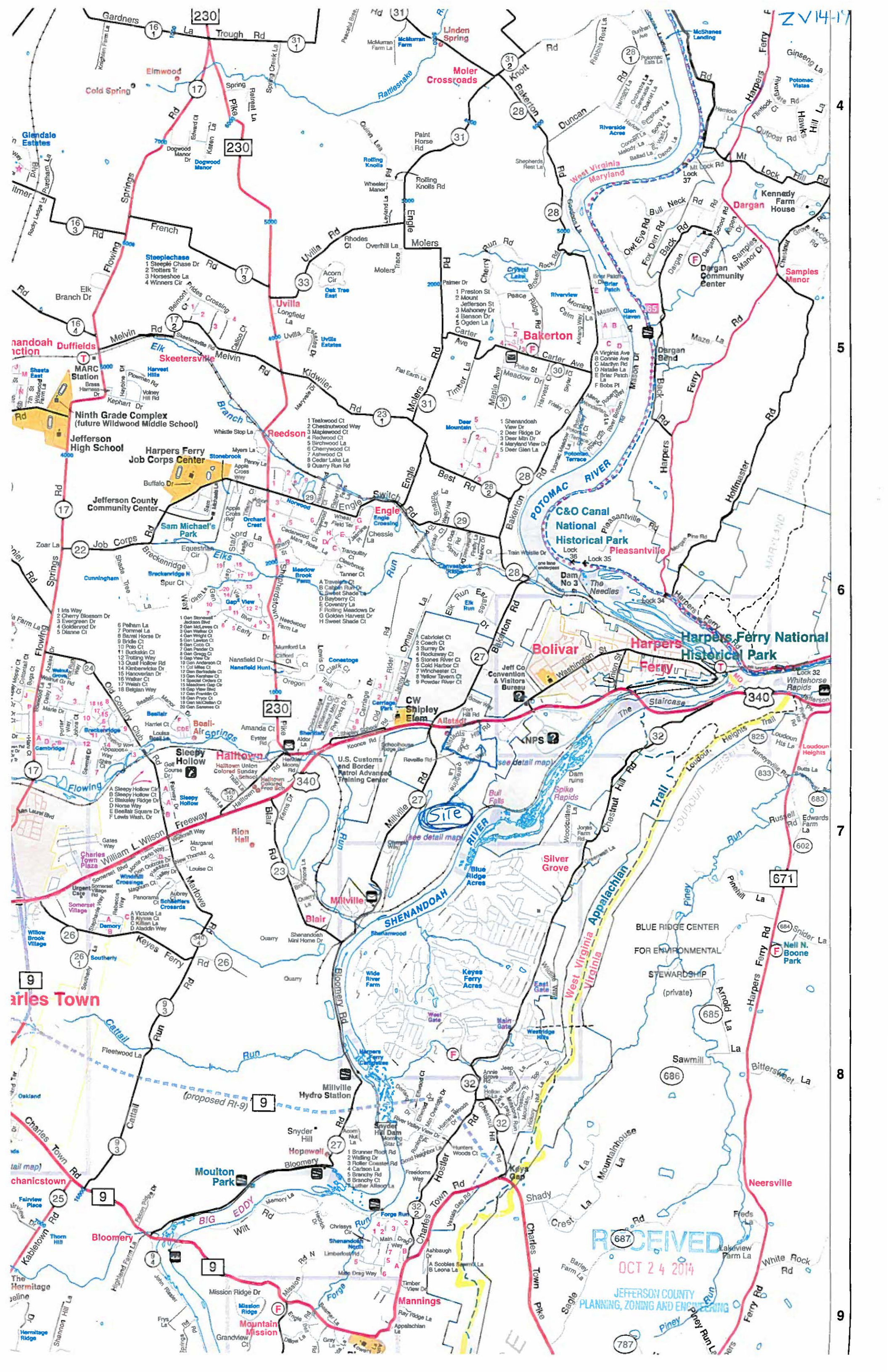
pink => Residential Light Industrial / Commercial District

Except Quarry Property to South yellow => which is zoned Residential Growth



2/14/19

ZV14-17



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PLANNING, ZONING AND ENGINEERING



# Jefferson County, West Virginia

## Departments of Planning and Zoning

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

Charles Town, WV 25414

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

Phone: (304) 728-3228

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

Fax: (304) 728-8126

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## Director's Report Board of Zoning Appeals Meeting November 13, 2014

- 1) Status of Zoning Administrator Search
- 2) Recent/Upcoming CC Actions relevant to Planning and Zoning:
  - a) Envision Jefferson 2035 Comprehensive Plan – status update of 2014 Comp Plan effort and discussion of next steps:
    - Required Joint PC/CC Workshop regarding for the Envision Jefferson 2035 Comprehensive Plan was held on October 30, 2014, 7:00 pm
    - Public Hearing on the Planning Commission's Redlined Version of the Draft 2014 Comprehensive Plan, entitled Envision Jefferson 2035 was held on November 6, 2014, 7:00 pm and the first County Commission Discussion/Workshop was held on November 13, 2014
  - b) County Commission Public Hearing on proposed Zoning Ordinance text amendment regarding Mass Events (#ZTA 14-02) was held on Wednesday, October 1, 2014 (*County Commission workshop TBD in January 2015*)
- 3) Upcoming BZA meetings
  - a) Next Regular Meetings:
    - **December 11, 2014** (revised due to holidays)



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

116 East Washington Street  
P.O. Box 338  
Charles Town, West Virginia 25414

Phone: (304) 728-3228  
Fax: (304) 728-8126

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

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MEMORANDUM

TO: Board of Zoning Appeals Members  
CC: Engineering & Building Permits Departments  
FROM: Acting Zoning Administrator, Jennifer M. Brockman  
DATE: November 7, 2014  
SUBJECT: November Monthly Report of Department Activities

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**ISSUED ZONING CERTIFICATES**

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#ZC14-43 GEORGE W. RUSHIZKY - OWNER  
T-MOBILE / CONTACT: BUTCH SALAMONE - APPLICANT

*Issuance Date:* October 30, 2014  
*Proposed Use:* Wireless Telecommunications Facility Co-location. Property contains existing self-support tower. T-Mobile to install three (3) proposed antennas (one per section) at 165 feet, and two (2) odc cabinets to an existing wireless telecommunications facility.  
*Physical Location:* 8422 Shepherdstown Pike; Shepherdstown, West Virginia 25443  
*Zone:* Rural

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#ZC14-44 JEFFERSON UTILITIES, INC. - OWNER  
T-MOBILE / CONTACT: BUTCH SALAMONE - APPLICANT

*Issuance Date:* October 31, 2014  
*Proposed Use:* Wireless Telecommunications Facility Co-location. Property contains existing self-support tower. T-Mobile to install three (3) proposed antennas (one per section) at 130 feet, and two (2) odc cabinets on an existing concrete pad within the existing leased compound fenced area. No work will be done outside the fenced area and no ground will be disturbed.  
*Physical Location:* 307 West Burr Boulevard; Kearneysville, West Virginia 25430

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## ISSUED ZONING CERTIFICATES

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#ZC14-46 B. JEANNE KOZAK & L. DANIEL PECK - OWNERS  
TRICIA SIMPSON / URBAN EASEL LLC - APPLICANT

*Issuance Date:* October 31, 2014  
*Proposed Use:* Fine Art Studio to include daily art related classes for children and adults. Classes limited to twelve (12) students per class. Daytime and after school hours of operation.  
*Physical Location:* 8354 Martinsburg Pike; Shepherdstown, West Virginia 25443  
*Zone:* Residential-Light Industrial-Commercial

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## PENDING ZONING CERTIFICATES

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ZC14-13 OBF PROPERTIES / CONTACT: CHRIS HANSEN – OWNERS  
ABS ENTERPRISES / CONTACT: SAAD SHADKAMI - APPLICANT

*Issuance Date:* TBD – Currently on Hold per Applicant  
*Proposed Use:* Commercial warehouse for pre-packaged and refrigerated food items  
*Physical Location:* Box Factory Road; Summit Point, West Virginia 25446  
*Zone:* Rural

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#ZC14-15 OBF PROPERTIES / CONTACT: CHRIS HANSEN – OWNERS  
ABS ENTERPRISES / CONTACT: SAAD SHADKAMI - APPLICANT

*Issuance Date:* TBD – Currently on Hold per Applicant  
*Proposed Use:* Commercial warehousing, agri-business, storage, document shredding and general business.  
*Physical Location:* Box Factory Road; Summit Point, West Virginia 25446  
*Zone:* Rural

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#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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#ZC14-35 GINA BILLER – OWNER / APPLICANT

*Issuance Date:* TBD  
*Proposed Use:* Farmers Market consisting of sale of fresh honey and eggs; hand-crafted wreaths from homegrown flowers and plants/produce from onsite garden. Size of existing Farmers Market structure: 10' x 20'. Daily hours of operation: Thursday – Sunday, 10:00 a.m. to 7:00 p.m. Seasonal opening dates: April 1<sup>st</sup> – December 15<sup>th</sup>.  
*Physical Location:* 4922 Charles Town Road; Kearneysville, West Virginia 25430  
*Zone:* Rural

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#ZC14-45 ALVIN BROWN- OWNER  
HARDY CELLULAR TELEPHONE CO. / CONTACT: TOM HODGES - APPLICANT

*Issuance Date:* TBD  
*Proposed Use:* Property contains existing self-support tower. Hardy Cellular Telephone Company to add three (3) additional antennas at 197 feet; six (6) coax cables and three (3) RRU's small radio's in existing shelter. No ground disturbance or electrical work is required.  
*Physical Location:* 18 Hite Road; Kearneysville, West Virginia 25430  
*Zone:* Rural

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**DENIED ZONING CERTIFICATES**

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#ZC14-39 BENJAMIN THOMPSON – OWNER / APPLICANT

*DENIED:* October 30, 2014  
Zoning Certificate Denied as the proposed use is found to be a “Contractor with outdoor storage” which is not a permitted use in the Rural Zoning District. Zoning Certificate DENIED as the proposed use is found to be a "Contractor With Outdoor Storage" which is not a Permitted Use in the Rural Zoning District.  
*Proposed Use:* Outside storage of non-resident’s construction equipment (dump trucks, roller, salt spreader, etc.) which serve dual purpose use for resident’s agricultural operation and non-resident’s landscape/road maintenance.  
*Physical Location:* 3 Sunstead Lane; Charles Town, West Virginia 25414  
*Zone:* Rural

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**WITHDRAWN ZONING CERTIFICATES**

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#ZC14-42 JEFFERSON REALITY, LLC – OWNER  
ANTONIO COLANDREA - APPLICANT

*Issuance Date:* Application Withdrawn / November 5, 2014  
*Proposed Use:* Installation of a double-sided electric sign.  
*Physical Location:* 4843 Middleway Pike; Kearneysville, West Virginia 25438  
*Zone:* Rural

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