



Jefferson County
Board of Zoning Appeals
Thursday, October 23, 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
Maintenance Department Conference Room located at 128 Industrial Boulevard, Kearneysville, WV.

Unless otherwise noted, all requests are pursuant to the Zoning & Land Development Ordinance.

1. Approval of the minutes from the September 25, 2014 and October 2, 2014 meetings.
2. Swearing in of members of the public intending to provide testimony.
3. ***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.
4. ***Applicant has withdrawn the request.*** Request postponed from September 25, 2014. Request by Harold Barlow, owner, from Section 8.2 to reduce the 75' distance requirement to 20' for Barn #1 and 33' for Barn #2 to accommodate a proposed minor subdivision. Location: 779 Persimmon Lane, Shepherdstown, WV. District: Shepherdstown (09); Map: 15; Parcels: 10; Size: 5 ac; Zoned: Rural; File: ZV14-17.
5. Request for clarification by Christopher P. Stroeck, Esq., Attorney with Arnold & Bailey, regarding the BZA approval of the seasonal use permit for the All Good Music Festival (ZV14-15). The applicant is seeking clarification on the following:
 - a) Is the event approved for a 72-hour time period or for three (3) distinct days of the week?
 - b) Does the event begin when the site gates open or when the music begins/main concert and vendor area opens to the public?
6. Discussion and possible action on the Draft Rules of Procedure, revised June 26, 2014.
7. Director's Report.
 - a) Monthly Activity Report
8. Legal Update.
9. 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. Location: 6732 Scrabble Rd, Shepherdstown, WV. Shepherdstown (09); Map 3; Parcel: 8; Size: 10 ac; Zone: Rural; File: SE14-01.

- 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?
- District: Shepherdstown (09); Map 13; Parcels: 26.1, 26.2, 26.3, 26.4; Size: 13.69 ac (combined); Zoned: Rural; File: ZC14-37.
- c) Request postponed from August 28, 2014. Variance request by Mark Dyck, Consultant, on behalf of Tim Walther and Junipa Contento, Developers, from Section 2.2 to extend the time permitted for a Seasonal Use, which limits an event to not more than three consecutive days in each of the four solar systems. The applicant is requesting to hold a 5-day music festival and camp out during the June/August 2015 summer season. Property Owner: Nancy & Douglas Stolipher and Mark Stolipher. Location: 261 Berry Hill Farm Ln., Summit Point, WV. District: Kabletown (06); Map: 19; Parcels: 7, 16, & 8.4; Size: 347.15 ac (total); Zoned: Rural; File: ZV14-14.
- d) Request postponed from August 28, 2014. Request by Mark Dyck, Consultant, on behalf of Tim Walther & Junipa Contento, Developers, to conduct a Seasonal Use event per Section 9.8 by hosting a 5 day musical festival and camp out, provided the previous variance request (ZV14-14) is approved, during the June/August 2015 summer season. Property Owner: Nancy & Douglas Stolipher and Mark Stolipher. Location: 261 Berry Hill Farm Ln., Summit Point, WV. District: Kabletown (06); Map: 19; Parcels: 7, 16, & 8.4; Size: 347.15 ac (total); Zoned: Rural; File: ZV14-15.

Draft Minutes
Jefferson County Board of Zoning Appeals
Thursday, September 25, 2014

1 The Jefferson County Board of Zoning Appeals met on Thursday, September 25, 2014 at 2:00 p.m..
2 The meeting was at 200 East Washington Street, Charles Town, West Virginia, in the Conference
3 Room of the Old Charles Town Library. Unless otherwise noted, all requests are pursuant to the
4 Jefferson County Zoning and Land Development Ordinance.

5

6 Board members present: Tyler Quynn, Chair, Jeffrey Bannon, Vice Chair; Christy Huddle, Ted
7 Schiltz. Matt Knott arrived at 2:11 p.m. Staff present: Jennifer M. Brockman, Acting Zoning
8 Administrator/Director of Planning and Zoning, Steve Groh, Assistant Prosecuting Attorney, Jennilee
9 Hartman, Zoning Clerk.

10

11 Ms. Huddle motioned to commence the meeting at 2:04 p.m. Mr. Schiltz seconded the motion,
12 which carried unanimously.

13

14 Mr. Quynn explained the proceedings of the meeting to those in attendance. Mr. Quynn outlined the
15 amount of time each speaker would receive during the public hearings.

16

17 1. Approval of the minutes from the August 28, 2014 meeting. The Board requested the
18 following edits.

19

20 a) Page 2, line 26, add a comma after *themes*.

21 b) Page 2, line 33, change “*how will the sound/music be controlled*” to “**how the sound/music**
22 **will be controlled**”.

23 c) Page 2, line 42, delete the word *of*.

24 d) Page 5, line 20, add the word **to** after motioned and a ***d*** after *referenced*.

25

26 Mr. Bannon motioned to approve the minutes. Ms. Huddle seconded the motion, corrected,
27 which carried unanimously.

28

29 2. Swearing in of the public intending to provide testimony. Due to the number of people in
30 attendance, a sound system was provided to accommodate the public standing in the library
31 hallway. Mr. Quynn confirmed that all members of the public could hear the proceedings.
32 Ms. Hartman swore in the individuals who indicated they would be giving testimony.

33

34 3. Request postponed from July 24, 2014. Variance request by Jose I. Osorio, owner, from
35 Section 4.10A to waive the requirement of a site plan to operate a monthly rodeo event with food
36 vendors and grass parking for 100 vehicles on an active farm. Location: 1196 Van Cleavesville
37 Rd, Kearneysville, WV. Shepherdstown (09); Map 15; Parcel: 1.7; Size: 80.15 ac; Zone: Rural;
38 File: ZV14-11.

39

40 Mr. Jose Osorio was present to address the Board. Mr. Alber Soriano was present as a
41 translator on behalf of Mr. Osorio. Ms. Brockman provided a synopsis of her staff report to the
42 Board. Ms. Brockman stated staff issued a Zoning Certificate to Mr. Osorio to operate the
43 proposed rodeo on a smaller scale. Ms. Brockman explained that while researching the property
44 staff discovered an issue with the property’s access. Ms. Brockman noted that the applicant had
45 an approved highway entrance permit for the farm and that should the Board chose to approve
46 the variance, staff will work with the applicant to resolve the access issue. Ms. Brockman
47 added that the land use was approved as Agricultural Tourism and had received an

1 Administrative Waiver of Permanent Off-Street Parking for grass parking for up to 30 spaces;
2 not including participants and vendors. Ms. Brockman explained that the applicant was seeking
3 approval for up to 100 spaces, not to include participants and vendors, without having to
4 process a site plan. Mr. Quynn questioned why a site plan would be required for an agricultural
5 use. Ms. Brockman answered by stating that due to public attendance, the land use would be
6 deemed commercial and parking would be necessary, and as such, a site plan would be required.
7 Mr. Osorio addressed the Board explaining that the rodeo is part of the overall farm activity.
8 Mr. Osorio explained that he believed the rodeo would be beneficial to the County by adding
9 another recreational use for its residents. Mr. Osorio stated that national rodeo standards require
10 a property to be 25 acres and that his property of 80 acres exceeded that standard. Mr. Osorio
11 agreed to conform to any conditions that the Board may impose on the activity stating that he
12 wanted to abide by the law. Mr. Quynn opened the public hearing. There was no public
13 comment. Mr. Quynn closed the public hearing.

14
15 Ms. Huddle stated she did not believe a deliberative session was necessary. The Board
16 concurred. Ms. Huddle motioned to approve the above referenced request with the following
17 conditions:

- 18 a) The variance from the required site plan for the provision of permanent off street
19 parking shall be limited to the proposed once monthly agriculture tourism (rodeo) event;
- 20 b) Grass customer/audience parking shall be limited to 100 vehicles per event;
- 21 c) Applicant shall work with staff to resolve the violation related to the access on
22 Van Cleavesville Road.

23
24 Mr. Shiltz seconded the motion. Mr. Quynn stated the land use being considered was an
25 agricultural use and that grass parking on rural farmland would have less impact than asphalt
26 parking and farm equipment. Mr. Quynn called for a vote, which carried unanimously.

- 27
28 4. Request postponed until September 25, 2014. Variance request by Mark Dyck, Consultant, on
29 behalf of Tim Walther and Junipa Contento, Developers, from Section 2.2 to extend the time
30 permitted for a Seasonal Use, which limits an event to not more than three consecutive days in
31 each of the four solar seasons. The applicant is requesting to hold a 5-day music festival and
32 camp out during the June/August 2015 summer season. Property Owner: Nancy & Douglas
33 Stolipher and Mark Stolipher. Location: 261 Berry Hill Farm Ln., Summit Point, WV.
34 District: Kabletown (06); Map: 19; Parcels: 7, 16, & 8.4; Size: 347.15 ac (total); Zoned:
35 Rural; File: ZV14-14.

36
37 See Item 7.

- 38
39 5. Request postponed until September 25, 2014. Request by Mark Dyck, Consultant, on behalf of
40 Tim Walther & Junipa Contento, Developers, to conduct a Seasonal Use event per Section 9.8
41 by hosting a 5 day musical festival and camp out, provided the previous variance request
42 (ZV14-14) is approved, during the June/August 2015 summer season. Property Owner:
43 Nancy & Douglas Stolipher and Mark Stolipher. Location: 261 Berry Hill Farm Ln., Summit
44 Point, WV. District: Kabletown (06); Map: 19; Parcels: 7, 16, & 8.4; Size: 347.15 ac (total);
45 Zoned: Rural; File: ZV14-15.

1 Tim Walther, Owner/Manager of All Good Music Festival, Mark Dyck, consultant with
2 Gordon Kenneth Wersted, traffic consultant with Creighton Manning, Bob Martin, Attorney,
3 and Christopher Stroeck, Attorney, were present to address the Board. Mr. Walther provided
4 the Board with a detailed summary of the proposal.

5
6 Mr. Walther noted the recent community objections and explained the following:

- 7 • Anticipated attendance would be 15-20,000 due to the change in venue from 2013 to
8 present and not holding the festival in 2014.
- 9 • Thursday arrivals lessen weekend traffic and a Monday morning departure reduces the
10 likelihood of DUIs compared to a Sunday afternoon/evening departure.
- 11 • A later curfew (3:00 a.m.) keeps the fans onsite as opposed to looking for alternative
12 forms of entertainment should the venue close early.
- 13 • Proposes an 8' fence with green windscreen erected 150' from Withers Larue Road;
14 should ticket sales be lower than anticipated the fence will be set further back.
- 15 • No fans will be allowed to leave the site on-foot. Anyone leaving the site will have his or
16 her wristbands removed.
- 17 • All patrons must display hangtags in their vehicles to access the site.
- 18 • Neighbors will be given a festival representative's cell phone number to contact in the
19 event of a disturbance or emergency.
- 20 • The festival does not condone or tolerate drug use. They confiscate any found during a
21 search.
- 22 • Addressing the high volume of arrests in 2012, Mr. Walther stated the police force had
23 been instructed to stop every car driving the direction of the festival. Of the arrests/
24 citations, not all were festival patrons. Mr. Walther referenced the 2013 festival in Ohio
25 and stated that only two arrests, relating to the festival, had been made that year.

26
27 Mark Dyck delivered a Powerpoint presentation the Board, which addressed the following issues:

- 28 • Concert performance schedule, Thursday 5:00 pm - 3:00 am; Friday - Saturday 10: 00 am
29 - 3:00 am; Sunday 10:00 am - 8:00 pm; Monday no performance.
- 30 • Guest arrival/departure [based on estimated traffic count of vehicles per hour (vph)]:
31 *Traffic patterns: Peak 400+ vph; High 200-400vph; Medium 100-200vph; Light >100vph*
32 Thursday: 6:00 - 7:00 am Light; 8:00 am Medium; 9:00 - 10:00 am High; 11:00 - 6:00 pm
33 Peak; 7:00 - 9:00 pm High; 10:00 Medium; 11:00 pm - 5:00 am Light
34 Friday: 6:00-7:00 am Light; 8:00 - 6:00 pm Medium; 7:00 pm - 5:00 am Light
35 Saturday: 6:00 am to 5:00 am Light
36 Sunday: 6:00-7:00 am Light; 8:00 am Medium; 9:00 - 10:00 am High; 11:00 am - 6:00 pm
37 Peak; 7:00 - 10:00 pm High; 11:00 Medium; 12:00 pm - 5:00 am Light
38 Monday: 6:00 am Light; 7:00 Medium; 8:00 am High; 9:00 am Peak; 10:00 am High;
39 11:00 am Medium; 12:00 pm - 5:00 am Light
- 40 • Mr. Dyck argued the applicant could have applied for two Seasonal Use applications,
41 thus extending the event up to 6 days by hosting the events during a seasonal transition
42 (ex. spring to summer).
- 43 • Coordination with law enforcement will include:
 - 44 ○ An agreement between the All Good Festival and the Jefferson & Clark County
45 Sheriffs regarding law enforcement activities associated with the proposed event.

- 1 ○ Support local law enforcement agency efforts.
- 2 ○ Full reimbursement of costs identified in the agreements between the Jefferson and
- 3 Clark County Sheriffs.
- 4 ○ Mr. Dyck quoted a positive review from a report drafted by the Licking County, Ohio
- 5 Sheriff's Office regarding their experience with the 2013 All Good Festival.
- 6 ● An Economic Impact Study by AC Entertainment Inc. was prepared in 2010 for Preston
- 7 County, WV, which determined the estimated business revenue for the All Good Music
- 8 Festival at 23,000 patron and 2,000 musicians, staff, volunteers and technicians was
- 9 approximately \$2,260,600.00.
- 10 ● Addressing potential County expenses, per the proposed agreement with the Sheriff's
- 11 Department, all potential expenses would be identified and paid in full. Additionally, a
- 12 \$60,000 surety would be posted to cover additional cost incurred by County from the
- 13 Festival.
- 14 ● The Festival would coordinate with the Jefferson and Clark County Sheriff's Department,
- 15 Jefferson County (JC) Health Department, JC Emergency Services Agency, JC Emergency
- 16 Communications, JC Fire/Rescue/Emergency Services. JC Visitors & Convention Bureau
- 17 and the West Virginia Department of Highways.
- 18 ● Site planning measures included establishing a neighborhood hotline as added security,
- 19 vehicular access to ensure direct access to Rt. 340 for adjacent residents, contracting an
- 20 offsite trash collection service, providing portable bathrooms & trash containers along the
- 21 access routes for those queued in traffic.
- 22 ● Using the site's natural topography to provide acoustical and visual separation.

23 During this portion of the presentation, Mr. Dyck reviewed a series of sketch plans which
24 depicted the proposed site layout including the proposed access points for patrons and
25 vendors, the stage locations, buffer areas from the property line and the stage areas, and the
26 location of the operations, campground and vendor areas.

- 27 ● Safety measures would be in effect for the site by providing onsite security, working with
- 28 the Sheriff's Department, enforcing the festival's rules, establishing a security perimeter
- 29 with fencing, site access is limited to those with wristbands and pedestrians who leave the
- 30 site will not be permitted to reenter, road access points will be restricted to patrons to
- 31 ensure the road safety of residents, 24-hour security will be provided, and a medical tent
- 32 and personnel will be located onsite and an emergency plan will be established.
- 33 ● Festival amenities will include vendors, family venues, showers and bathrooms, medical
- 34 facilities, and trash and recycling receptacles.
- 35 ● Voluntary conditions of approval as outlined in the Seasonal Use application.

36 Mr. Dyck concluded his Powerpoint presentation by addressing each of the four criteria outlined
37 in the variance request.

38
39 Mr. Wersted delivered a Powerpoint presentation the Board, which addressed the following issues:

- 40
- 41 ● Estimated ticket sales of 15-20,000 are equivalent to approximately 8,000 vehicles.
- 42 ● Arrival: 70% of patrons over 14 hours peaking in the afternoon; 5% overnight; remain
- 43 25% on Friday. Departure: (depending on musical line up) 80% Sunday; minimal
- 44 overnight; 20% Monday.

- 1 • Maps depicting the projected travel patterns, staffed traffic control locations, restricted
2 access roads, potential queuing locations, the exit plan, and planned local resident
3 access roads were highlighted.
- 4 • Traffic control measures, agency reviews and safety concerns due to narrow road widths
5 were discussed.
- 6 • Estimated queuing time was equivalent to 200 cars/mile with an average of 2 minutes/car
7 for processing through search/ticketing. Queuing begins on the property.
- 8 • Public outreach includes closing roads to patrons, issuing resident tags to expedite
9 resident access, and assisting in identifying easiest routes for residents to travel.

10
11 During the presentation, an open dialogue between the Board, Mr. Groh, Mr. Walther, Mr.
12 Dyck and Mr. Wersted ensued concerning traffic safety and the length of time local residents
13 not attending the festival would be delayed due to the anticipated queuing. Ms. Huddle had
14 specific concerns regarding the narrow width of the roads and how local residents with larger
15 farm vehicles would be accommodated. Addressing this concern, Mr. Wersted explained that
16 residents not attending the festival could not drive around traffic into the opposing lane to
17 avoid waiting in line; however, one lane of traffic would always be clear for travel and that
18 they would work with residents to identify these roads. Mr. Dyck explained the check in
19 process was lengthy for safety reasons; however, peak travel time was expected to be during
20 working hours. Mr. Walther stated that status updates would be provided to patrons via
21 Facebook and Twitter, which would assist in directing traffic to alternative access roads to
22 lessen traffic in more congested areas.

23
24 Mr. Dyck and Mr. Walther also address the Board's questions regarding the necessity of a 5-
25 day event, an emergency evacuation plan, and the type of activities that continue onsite after
26 the amplified music was turned off.

27
28 Ms. Huddle motioned to take a short break at 3:38 p.m. Mr. Schiltz seconded the motion,
29 which carried unanimously. Ms. Huddle motioned to reconvene at 3:49 p.m. Mr. Bannon
30 seconded the motion, which carried unanimously.

31
32 Ms. Brockman reviewed her staff report with the Board. Ms. Brockman read the definition of
33 a variance and stated the Board would have to determine if varying the definition of Seasonal
34 Use met the definition of variance. Mr. Brockman stated that while the presentation addressed
35 the four criteria required for approving a variance, the variance request application and
36 submitted materials did not. In addition, Ms. Brockman stated she believed the applicant's
37 response to the hardship criteria was not typical. Further, it is her opinion [as the Acting
38 Zoning Administrator] that two Seasonal Use applications for the same property by the same
39 applicant could not run consecutively. Ms. Brockman noted that staff would suggest that the
40 Board restrict performance activities on Monday, should the Board be inclined to approve the
41 variance request and Seasonal Use application. Ms. Brockman pointed out that, while not
42 referenced in her staff report, additional emergency services would be necessary during the
43 festival. Ms. Brockman reminded the applicant that an 8' fence, as opposed to a 6' fence,
44 would require a building permit. Ms. Brockman concluded by emphasizing the importance of
45 a joint meeting with all agencies to determine the overall costs associated with the festival.

1 Mr. Quynn opened the public hearing.

2
3 Jeff Hunter, Kenny Liner, April Reardon, and Robert Dutrow spoke in support of the requests.
4 Each individual testified to the positive effects the festival would have on the local economy by
5 providing employment to local individuals and business; by introducing people to Jefferson
6 County, which encourages repeat tourism; by contributing to various local charitable outreach
7 programs; and by providing opportunities for artisans and musicians to reach a broader
8 audience. Due to their positive experiences with the festival, they explained that they have
9 continued supporting the festival by attending and/or working the event for a number of years.
10 They argued that the public had misrepresented owners of the music festival and the fan base
11 because they believe that the festival was a professional production that attracted premier
12 musicians and people with a strong sense of community. Doug Stolipher, property owner, also
13 spoke in support of the requests, stating he felt the proposal promoted tourism, that the
14 applicants were good people, and that the money earned from the event would sustain the farm.
15

16 Ward Zigler and Ed Hannon stated they were neutral with regard to the requests. Mr. Zigler
17 provided the Board with background knowledge from his former years as a Board member.
18 Mr. Zigler believed that should the Board approve the request and that logic dictated that the
19 event should be for 5 days. Mr. Hannon, Deputy Director of JC Emergency Services Agency,
20 stated that Jefferson County had limited resources to accommodate the festival. Mr. Hannon
21 said an incident action plan must be established in advance of the event. Mr. Hannon pointed
22 out that there must be enough resources to ensure the safety of the event-goers as well as the
23 residents. Mr. Hannon noted that a disaster plan would be required to know what resources
24 would be necessary in the event of a mass incident. Due to budget cuts, there is no funding
25 available to use outside resources in the event of an emergency; therefore, the JCESA must
26 enter into an agreement with the All Good Festival to ensure compensation.
27

28 Dale Manuel and Lyn Widmyer noted for the record that they would be speaking as members of
29 the public and not as County Commission members. Each spoke in opposition to the request.
30 Mr. Manuel questioned how the festival would be in conformance with the noise ordinance
31 should the applications be approved. Mr. Manuel stated the County Commission has the ability
32 to control the ABC license and would be suggesting the CC hold another public hearing related
33 to that license. Mr. Groh asked Mr. Manuel the current daily jail fee was and how much the
34 County paid in jail fees last year. Mr. Manuel stated the daily fee was \$48 and that the County
35 paid \$1.2 million for the year. Mr. Groh stated it was his understanding that Preston County's
36 jail fees for the festival weekend was equivalent to their entire year of fees. Ms. Huddle stated
37 she would not endorse using Preston County's figure because, as Mr. Walther testified, many
38 people were pulled over that year, even those not attending the festival. Ms. Widmyer
39 questioned the Board's authority to grant a variance from 3 days to 5 days and to permit the
40 music to extend past the 11:00 p.m. curfew in the Noise Ordinance. Ms. Widmyer further
41 argued that all conditions offered by the applicant could only be met after the festival has taken
42 place. In addition, no clear timelines are established. Ms. Brockman clarified that the
43 11:00 p.m. noise curfew is imposed by the Noise Ordinance and states that all noise shall be
44 restricted to 65 decibels detectible at the property line, which the applicant states they will
45 adhere to. Ms. Widmyer suggested that the Board require the applicant to provide sound
46 measuring devices at the property lines. Ms. Huddle was opposed to this suggestion.

1 Linda Gutsell, attorney, stated she would be representing a group of individuals. The following
2 is a list of client names that was provided by Ms. Gutsell: Jessica Forbes, Timothy Cunnien,
3 Wayne & Rose Ann Glover, Mathew & Amanda Glover, Henry Schlachter, III, Kathleen Fuller,
4 Kevin & Jane Paradis, David & Connie Adkins, Marc & Holly Waybright, and Richard &
5 Lisa Jenkins. Ms. Gutsell made the following arguments:
6

- 7 1. Questioned the Board's authority/jurisdiction by stating that in 2004 West Virginia
8 Code, Chapter 8A the definition of *Variance* was changed, thus prohibiting a Board
9 from varying a "use". Ms. Gutsell argued that by definition, a Seasonal Use was
10 3 days and by changing it to 5 days the Board would be varying the use.
- 11 2. Ms. Gutsell cited application deficiencies, which she noted were mostly addressed
12 during the applicant's presentation; however, this did not allow the public an
13 opportunity to prepare for the meeting.
- 14 3. Using the applicant's presentation, Ms. Gutsell stated the number of attendees arriving
15 on the first day would be approximately 12,000, which would create a traffic backup
16 from the property to Charles Town.
- 17 4. Stated the applicant did not identify the property's 'hardship'. Ms. Gutsell argued that
18 there are four other zoning districts within which campgrounds are permitted, other
19 than this district.
- 20 5. There are many other viable, reasonable uses for the land; therefore, the Board should
21 deny the request.
- 22 6. Ms. Gutsell argued that the applicant did not meet the substantial justice criteria.
- 23 7. Compensation of loss to the neighbors.
- 24 8. The application does not clearly represent who is responsible for the festival.
- 25 9. Ms. Gutsell stated she wished to make her standard due process objection noted for the record.
26

27 Gary Groves, Doug Rockwell, John Burnell, William O'Neal, James Lavine, Ken Hawthorn,
28 Jim Larue and Cheryl Lavine, spoke in opposition to the requests. The neighboring property
29 owners voiced their concerns regarding the extended commute to work and costs associated with
30 it; contended that the onus of monitoring the sound should not be on the residents; expressed
31 concern regarding the lack of restrictions on attendance and the duration of the daily amplified
32 performance; expressed concern regarding the close proximity of the site to the power substation
33 and railroad; questioned if the intensity of the use would cause further road deterioration;
34 questioned how service vehicles like ambulances and school buses would access residents during
35 queuing; noted that there are sinkholes on the property; expressed concern for the safety of the
36 attendees; and also noted that tractor trailers frequented the proposed access roads.
37

38 Mr. Schiltz motioned to take a short break at 6:07 p.m. Mr. Knott seconded the motion, which
39 carried unanimously. Mr. Knott motioned to reconvene at 6:18 p.m. Ms. Huddle seconded the
40 motion, which carried unanimously.

41
42 Bob Martin, representative, for All Good Music Festival, provided the Board with a brief
43 overview of the history of the festival and his affiliation with it. Mr. Martin gave a personal
44 experience of a large venue constructed near his hometown and its temporary effects on the
45 residents. Mr. Martin asserted that Mr. Walther hired a team of professional consultants in
46 an effort to ensure the festival is run safely and efficiently. Mr. Martin concluded by stating
47 the County would realize a significant profit by hosting the festival.

1 Mr. Dyck rebutted neighbor's comments by stating that the site would have onsite medical care;
2 noted that few properties could accommodate the needs of the festival as well as this site could
3 with its various access points; argued that the race track is a self-contained venue; however,
4 revenue from its operation is received by Jefferson County; stated that a variance from a
5 standard can be requested as it is temporary and not considered a principal permitted use; noted
6 that measures will be taken to protect the power substation and railroad; stated that a detailed
7 traffic plan will be created to address all traffic concerns and no one will have to take off work
8 as Route 340 will be accessible at all times. When asked, Mr. Dyck and Mr. Walther argued
9 they should not be required to pay the County's jail fee because they should not be responsible
10 for someone else's actions. However, Mr. Walther stated he will do what the Board requires.
11 Discussion regarding capping attendance or date/time stamping tickets occurred; however,
12 Mr. Walther stated that he did not wish to cap the attendance and explained that in his
13 experience stamping the tickets has proven unsuccessful.

14
15 Mr. Quynn closed the public hearing.

- 16
17 7. Request postponed until October 23, 2014. Appeal by Appellant William Neufeld of the
18 Acting Zoning Administrator's decision that the Appellant's 15' access adjoining the
19 Stonebrook Subdivision is not a road, which would require a front yard setback.

20
21 This item was postponed until October 23, 2014 at 2:00 p.m.

- 22
23 8. Request postponed until October 23, 2014. Variance request by Harold Barlow, owner,
24 from Section 8.2 to reduce the 75' distance requirement to 20' for Barn #1 and 33' for
25 Barn #2 to accommodate a proposed minor subdivision. Location: 779 Persimmon Lane,
26 Shepherdstown, WV. District: Shepherdstown (09); Map: 15; Parcels: 10; Size: 5 ac;
27 Zoned: Rural; File: ZV14-17.

28
29 This item was postponed until October 23, 2014 at 2:00 p.m.

30
31 Ms. Huddle motioned to go into deliberative session at 6:44 p.m. Mr. Bannon seconded the motion,
32 which carried unanimously. Ms. Huddle motioned to come out of deliberative session at 7:17 p.m.
33 Mr. Bannon seconded the motion, which carried unanimously.

34
35 **Board of Zoning Appeals Rulings**

- 36
37 3. Request postponed from July 24, 2014. Variance request by Jose I. Osorio, owner, from
38 Section 4.10A to waive the requirement of a site plan to operate a monthly rodeo event with food
39 vendors and grass parking for 100 vehicles on an active farm. Location: 1196 Van Cleavesville
40 Rd, Kearneysville, WV. Shepherdstown (09); Map 15; Parcel: 1.7; Size: 80.15 ac; Zone: Rural;
41 File: ZV14-11.

42
43 This item was considered and approved at the beginning of the meeting.

- 1 4. Request postponed until September 25, 2014. Variance request by Mark Dyck, Consultant, on
2 behalf of Tim Walther and Junipa Contento, Developers, from Section 2.2 to extend the time
3 permitted for a Seasonal Use, which limits an event to not more than three consecutive days in
4 each of the four solar systems. The applicant is requesting to hold a 5-day music festival and
5 camp out during the June/August 2015 summer season. Property Owner: Nancy & Douglas
6 Stolipher and Mark Stolipher. Location: 261 Berry Hill Farm Ln., Summit Point, WV.
7 District: Kabletown (06); Map: 19; Parcels: 7, 16, & 8.4; Size: 347.15 ac (total); Zoned:
8 Rural; File: ZV14-14.
9
- 10 See item #5.
11
- 12 5. Request postponed until September 25, 2014. Request by Mark Dyck, Consultant, on behalf of
13 Tim Walther & Junipa Contento, Developers, to conduct a Seasonal Use event per Section 9.8
14 by hosting a 5 day musical festival and camp out, provided the previous variance request
15 (ZV14-14) is approved, during the June/August 2015 summer season. Property Owner:
16 Nancy & Douglas Stolipher and Mark Stolipher. Location: 261 Berry Hill Farm Ln., Summit
17 Point, WV. District: Kabletown (06); Map: 19; Parcels: 7, 16, & 8.4; Size: 347.15 ac (total);
18 Zoned: Rural; File: ZV14-15.
19
- 20 Ms. Huddle motioned to continue Items #4 and #5 until Thursday, October 2, 2014 at
21 2:00 p.m. at which time the BZA would reconvene to review the items in deliberative session
22 and to take action at that time. The public hearing is closed; therefore, the Board will not hear
23 additional comments; location to be announced. Mr. Knott seconded the motion, which
24 carried unanimously.
25
- 26 6. Request postponed until October 23, 2014. Appeal by Appellant William Neufeld of the
27 Acting Zoning Administrator's decision that the Appellant's 15' access adjoining the
28 Stonebrook Subdivision is not a road, which would require a front yard setback.
29 This item was postponed until October 23, 2014 at 2:00 p.m.
30
- 31 7. Request postponed until October 23, 2014. Variance request by Harold Barlow, owner,
32 from Section 8.2 to reduce the 75' distance requirement to 20' for Barn #1 and 33' for
33 Barn #2 to accommodate a proposed minor subdivision. Location: 779 Persimmon Lane,
34 Shepherdstown, WV. District: Shepherdstown (09); Map: 15; Parcels: 10; Size: 5 ac;
35 Zoned: Rural; File: ZV14-17.
36
- 37 This item was postponed until October 23, 2014 at 2:00 p.m.
38
- 39 8. Director's Report. Ms. Brockman provided the Board with a copy of a draft version of the
40 Rules of Procedure, which revised the text regarding noticing/posting. Ms. Brockman stated
41 the document would be on their October 23, 2014 meeting for discussion and possible action.
42 Ms. Brockman informed the Board of the status of the Comprehensive Plan, the open Zoning
43 Administrator position, and the altered November and December BZA meeting dates.
44
- 45 9. Legal Update. None.

1 10. Signing of written decisions from prior Board of Zoning Appeals meetings. Not available.

2

3 a. Request postponed from July 24, 2014. Request for a Special Exception by Jacob and
4 Tia Collis, owners, under Section 10.5B.3 for a Rural Reception/Event Facility to host
5 farm weddings between March & October for Deerfield Farm Weddings. The applicant
6 is seeking permission to operate the venue outdoors with rental tents during the event
7 only; field parking would be provided for up to 75 cars, with an optional 10 handicap
8 spaces in existing gravel lot; each event will cease by 11:00 p.m. Location: 6732
9 Scrabble Rd, Shepherdstown, WV. Shepherdstown (09); Map 3; Parcel: 8; Size: 10 ac;
10 Zone: Rural; File: SE14-01.

11 b. Correspondence from Peter S. Corum, owner/applicant, on behalf of Morgan's Grove
12 Market (#S12-06) requesting the Board to clarify the available uses for the existing
13 residential rental property located at 3988 Kearneysville Pk., Shepherdstown, WV
14 25443, without changing the Conditional Use Permit (#CP12-01). The applicant is
15 requesting to temporarily change the use of the residence to a nonresidential, private K-8
16 school (Morgan Academy) and seeks the Board's determination on the following issues:

17 a) Under the current CUP, can Morgan Academy use the house as a nonresidential
18 use K-8 school?

19 b) If yes, can Morgan Academy use the existing well and septic for this use?

20 District: Shepherdstown (09); Map 13; Parcels: 26.1, 26.2, 26.3, 26.4; Size: 13.69 ac
21 (combined); Zoned: Rural; File: ZC14-37.

22

23 Ms. Huddle motioned to adjourn the meeting at 7:24 p.m. Mr. Knott seconded the motion,
24 which carried unanimously.

25

26 An audio transcript of this meeting can be found at the Department of Zoning and on the Department's
27 website at www.jeffersoncountywv.org. These minutes were prepared by Jennilee Hartman,
28 Zoning Clerk.

Minutes
Jefferson County Board of Zoning Appeals
Thursday, October 2, 2014

1 The Jefferson County Board of Zoning Appeals met on Thursday, October 2, 2014 at 2:00 p.m.
2 The special called meeting was held at 200 East Washington Street, Charles Town, West Virginia, in
3 the Conference Room of the Old Charles Town Library. Unless otherwise noted, all requests are
4 pursuant to 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 Alex Beaulieu, Project Manager/Office Manager.

10

11 Ms. Huddle motioned to commence the meeting at 2:04 p.m. Mr. Bannon seconded the motion,
12 which carried unanimously.

13

14 1. Request postponed from August 28, 2014. Continued from September 25, 2014. Variance
15 request by Mark Dyck, Consultant, on behalf of Tim Walther and Junipa Contento, Developers,
16 from Section 2.2 to extend the time permitted for a Seasonal Use, which limits an event to not
17 more than three consecutive days in each of the four solar seasons. The applicant is requesting
18 to hold a 5-day music festival and camp out during the June/August 2015 summer season.
19 Property Owner: Nancy & Douglas Stolipher and Mark Stolipher. Location: 261 Berry Hill
20 Farm Ln., Summit Point, WV. District: Kabletown (06); Map: 19; Parcels: 7, 16, & 8.4;
21 Size: 347.15 ac (total); Zoned: Rural; File: ZV14-14.

22

23 See Item 7.

24

25 2. Request postponed from August 28, 2014. Continued from September 25, 2014. Request by
26 Mark Dyck, Consultant, on behalf of Tim Walther & Junipa Contento, Developers, to conduct a
27 Seasonal Use event per Section 9.8 by hosting a 5 day musical festival and camp out, provided
28 the previous variance request (ZV14-14) is approved, during the June/August 2015 summer
29 season. Property Owner: Nancy & Douglas Stolipher and Mark Stolipher. Location: 261 Berry
30 Hill Farm Ln., Summit Point, WV. District: Kabletown (06); Map: 19; Parcels: 7, 16, & 8.4;
31 Size: 347.15 ac (total); Zoned: Rural; File: ZV14-15.

32

33 Ms. Huddle motioned to go into deliberative session at 2:05 p.m. Mr. Bannon seconded the
34 motion, which carried unanimously. The Board came out of deliberative session at 4:50 p.m.

35

36 **Board of Zoning Appeals Rulings**

37

38 1. Request postponed from August 28, 2014. Continued from September 25, 2014. Variance
39 request by Mark Dyck, Consultant, on behalf of Tim Walther and Junipa Contento, Developers,
40 from Section 2.2 to extend the time permitted for a Seasonal Use, which limits an event to not
41 more than three consecutive days in each of the four seasons. The applicant is requesting to
42 hold a 5-day music festival and camp out during the June/August 2015 summer season.
43 Property Owner: Nancy & Douglas Stolipher and Mark Stolipher. Location: 261 Berry Hill
44 Farm Ln., Summit Point, WV. District: Kabletown (06); Map: 19; Parcels: 7, 16, & 8.4;
45 Size: 347.15 ac (total); Zoned: Rural; File: ZV14-14.

46

1 Ms. Huddle motioned to not approve the variance request to extend the time permitted
2 for a Seasonal Use because the applicant has not met the following two required findings:
3 1) the request arises from special conditions or attributes which pertain the property; and
4 2) would eliminate an unnecessary hardship and does not allow a reasonable use of the land.
5 Ms. Huddle added that the request is essentially a use variance, which is not allowed by state
6 law. Mr. Schiltz seconded the motion, which carried three (3) in support and two (2) opposed
7 (Mr. Knott and Mr. Bannon).
8

9 2. Request postponed from August 28, 2014. Continued from September 25, 2014. Request by
10 Mark Dyck, Consultant, on behalf of Tim Walther & Junipa Contento, Developers, to conduct
11 a Seasonal Use event per Section 9.8 by hosting a 5 day musical festival and camp out,
12 provided the previous variance request (ZV14-14) is approved, during the June/August 2015
13 summer season. Property Owner: Nancy & Douglas Stolipher and Mark Stolipher. Location:
14 261 Berry Hill Farm Ln., Summit Point, WV. District: Kabletown (06); Map: 19; Parcels: 7,
15 16, & 8.4; Size: 347.15 ac (total); Zoned: Rural; File: ZV14-15.
16

17 Mr. Bannon motioned to approve file #ZV14-15 subject to the following conditions:
18

- 19 a. Applicant shall use its best efforts to notify all homeowners within the 500 foot boundary
20 of all properties and every property on Scooter Lane with exact dates to include possible
21 'rain dates', if any, of the festival and anticipated set-up dates, no later than 3 months
22 before the festival, and provide the names and addresses of those notified to staff at the
23 same time.
24
- 25 b. Applicant shall run an advertisement in both the Spirit of Jefferson and Martinsburg
26 Journal noticing the exact dates to include possible 'rain dates', if any, no later than
27 60 days before the festival for two consecutive weeks.
28
- 29 c. The applicant shall comply with all requirements imposed for the purpose of this event
30 by the Jefferson County Board of Health, the West Virginia Division of Highways, and
31 the Jefferson County Sheriff's Department and submit written documentation with the
32 Concept Plan. Any costs, bonds, sureties and/or liability insurance shall be posted as
33 required by these entities prior to the issuance of a Zoning Certificate. In addition,
34 applicant shall consult with Jefferson County Emergency Services Agency on how to
35 provide EMS services at applicant's cost.
36
- 37 d. While acknowledging that all parking will occur on grass fields, a Concept Plan in
38 accordance with the Minor Site Plan process shall be submitted for staff review and
39 comments detailing, at a minimum, the layout and locations of parking lots; performance
40 and equipment areas (stages/sound systems); bathroom facilities; concessions and
41 vendors; camping areas; all entrances, including emergency entrances, entry gates, and
42 vehicle stacking areas; garbage collection locations and daily removal plans; fencing,
43 site security, and proposed buffers. The applicant will schedule a meeting with Staff to
44 determine a submission timeline.
45

- 1 e. A \$60,000 surety shall be posted to cover unexpected costs to the County at least
2 30 days prior to the event. Upon approval of the Concept Plan and posting of the
3 required surety, a Zoning Certificate may be issued.
4
- 5 f. The applicant shall be bound by their application [*see pages 2-4 of Supplemental*
6 *Information submitted by applicant on July 31, 2014*] and by their testimony
7 [*see September 25, 2014 Board of Zoning Appeals Meeting Minutes and #ZV14-15,*
8 *Findings of Fact and Conclusions of Law dated _____*].
9
- 10 g. Approval of this Seasonal Use is limited to one year in accordance with Section 9.8
11 of the Zoning Ordinance and does not establish this festival as a legally existing non-
12 conforming use should the Zoning Ordinance be amended to change the process for
13 approval of such events. Any future festival shall comply with the regulations in effect
14 at the time of application.
15
- 16 h. Applicant shall confer with the Sheriff on a plan to expedite access for affected residents
17 during the event.
18
- 19 i. Applicant shall notify staff 45 days prior to the event of number of attendees expected
20 (plus or minus 15%).
21

22 Mr. Knott seconded the motion.
23

24 Mr. Quynn offered the following amendment, "That the applicant agrees to execute further
25 assurances and agreements as may be required by the Board of Appeals to protect the health,
26 welfare and safety of the public associated with this event." Mr. Schiltz seconded the
27 amendment, which failed three opposed (Mr. Knott, Mr. Bannon and Ms. Huddle) and two
28 in support.
29

30 Mr. Schiltz offered an amendment to end the amplified music at 2:00 a.m. instead of the
31 requested 3:00 a.m. The amendment died for a lack of a second.
32

33 Mr. Quynn called for a vote of the original motion, which carried unanimously.
34

35 Mr. Groh received clarification from the Board that the approval of Seasonal Use Application
36 #ZV14-15 was for three days as required by the Ordinance.
37

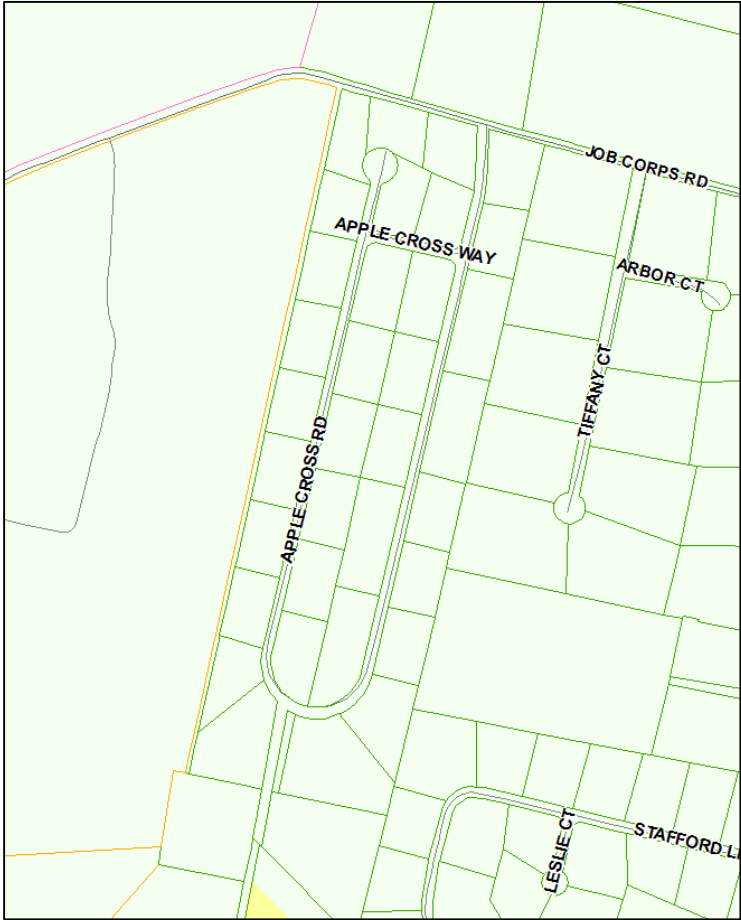
38 Ms. Huddle motioned to adjourn the meeting at 5:03 p.m. Mr. Knott seconded the motion, which
39 carried unanimously.
40

41 An audio transcript of this meeting can be found at the Department of Zoning and on the Department's
42 website at www.jeffersoncountywv.org. These minutes were prepared by Jennilee Hartman,
43 Zoning Clerk.

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 October 23, 2014

William Neufeld Request (#AP14-01)

Item #3: 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.

APPLICANT:	William Neufeld
OWNER :	Same
DEVELOPER:	N/A
SURVEYOR/ENGINEER:	N/A
PROPERTY LOCATION:	1684 Job Corps Road, Harpers Ferry, WV
LEGAL DESCRIPTION & ZONING DISTRICT:	<p style="text-align: center;">District: Harpers Ferry (04); Map: 5; Parcels: 1.2; Size: 2.5; Zoned: Rural; File: AP14-01</p> 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North: R South: R</i> <i>East: R West: R</i>
SUBDIVISION:	Lot created via deed 11/21/77 (deed book 432; page 633)
VARIANCE(S):	None
APPROVED ACTIVITY:	Residential

Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 23, 2014

William Neufeld Request (#AP14-01)

RELEVANT INFORMATION:

1. Overview of Appeal

The appellant disagrees with a decision of the Acting Zoning Administrator regarding whether the Appellant's 15' access adjoining the Stonebrook Subdivision is a road, which would require a front yard setback.

2. Case History

When the Stonebrook Subdivision was approved in 1990, the plat included 33 lots which access an internal road, Apple Cross Road, on the south side of Job Corps Road. The plat also reflected a previously recorded 15' right-of-way "to remain open unless renegotiated with owners; this R/W for exclusive use by Parcel 12" which provides access to an existing lot (Parcel 12; 1684 Job Corps Road) located at the southern edge of the subdivision. This existing lot consists of 2.55 acres and is occupied by a historic structure (Foley Orchard House). This access easement reflects a narrow driveway within a 15 foot right-of-way along the rear property lines of the western lots. The western lots abut Sam Michael's Park. There is also a 40' right-of-way for ingress and egress shown on the Stonebrook Plat that would appear to allow this lot (1684 Job Corps Road) access to Apple Cross Road, but this has not been used.

The case that is the subject of this Appeal started as a result of a decision made in June 2014 related to the rear setback requirement for the construction of a pool on Lot 14 of Stonebrook Subdivision; however, an appeal of this decision was not made in a timely manner. The appellant then requested clarification of the Acting Zoning Administrator's decision because he believed that it could impact the use of his 15' access easement that abuts the Stonebrook Subdivision.

The Acting Zoning Administrator then stated that any construction requiring a building permit on lots abutting the 15' access easement along the western edge of the Stonebrook Subdivision would be required to meet a 12' rear yard setback requirement instead of the 25' front yard setback because the easement did not meet the definition of "road" found in the Jefferson County Zoning and Land Development Ordinance (06/01/14). This is the decision being appealed.

3. Staff Response to Appeal

a. Source and purpose of ordinance requirements

The definition of "Lot Line, Front" in the Jefferson County Zoning and Land Development Ordinance provides guidance for the implementation of the various yard setbacks in each zoning district. Setbacks vary between front, side and rear yards and therefor need to be defined to better determine where each applies. This is particularly important for certain corner lots or through lots as the larger front setback in most zones may impact the usability of various lots.

b. Staff Interpretation of Ordinance Requirements

The decision made by the Acting Zoning Administrator that any construction requiring a building permit on lots abutting the 15' right-of-way containing a driveway accessing one house would be required to meet a 12' rear yard setback instead of the 25' front yard setback is based on the following definitions found in the Jefferson County Zoning and Land Development Ordinance (06/01/14):

Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 23, 2014

William Neufeld Request (#AP14-01)

Lot Line, Front: The side or sides of an interior or through lot which abut a street (*emphasis added*). Front lot lines shall be measured from the Road Improvement Easement where one exists. For a property with a rear yard adjacent to a right-of-way designated as an alley, a rear yard setback shall apply

Street: (See Road)

Road: A prepared surface within a right-of-way which is intended for vehicular use. Road does not include shoulders.

Right-of-Way: A right which grants passage across or through a property. A right-of-way is also the (usually dimensioned) path along which the right of passage is granted.



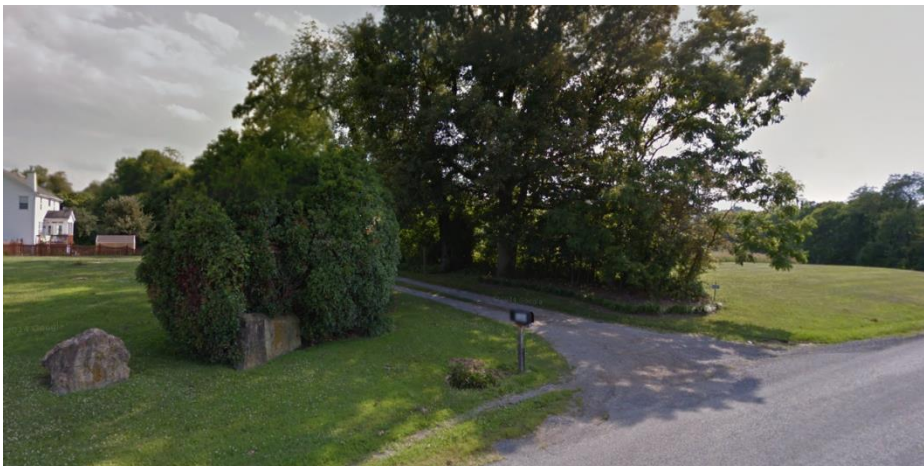
Essentially, the decision was that the 15' right-of-way which contains a gravel, single-lane driveway (see photos below) and which serves only one home, does not meet the definition of "Road". The driveway serves one home, is a single lane, does not have a prepared surface in the traditional sense of the word, and is not open to the general driving public. It was determined that it does not therefore constitute a "road" per the Zoning Ordinance and does not trigger the requirement that a front yard setback be required along the properties' rear property line.

It should be noted, however, that the 12' rear setback is measured from the "inside edge" of the 15' right-of way, causing any structures requiring a building permit to be located 27' from the rear property line.

I

Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 23, 2014

William Neufeld Request (#AP14-01)



Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 23, 2014

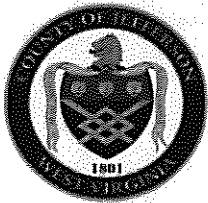
William Neufeld Request (#AP14-01)

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 3.4 Boards and Commissions

A. Board of Zoning Appeals

3. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.
 - a. Filing an Appeal
 - i. An appeal to the Board may be taken by any person, board, associate, corporation or official allegedly aggrieved by any administrative decision based or claimed to be based, in whole or in part, upon the provisions of this Ordinance. The property owner of the subject appeal shall sign the application or an affidavit allowing an agent for the property owner to file the application which shall be submitted.
 - ii. Such appeal shall be filed with the Board within thirty (30) days from the decision appealed.
 - b. Notification
 - i. 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.
 - ii. The subject property shall be posted conspicuously by a zoning notice no less than twenty-eight (28) inches by twenty-two (22) inches in size, at least 15 days before the hearing. The sign will be prepared by the Departments of Planning and Zoning but posting the sign is the responsibility of the applicant. The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.
 - c. Public Hearing
 - i. The Board shall hold a hearing within forty-five (45) days of the date the appeal is received in the Departments of Planning and Zoning. At the hearing, any party may appear and be heard in person or by agent or attorney.
 - ii. The Board shall render its determination on the application no more than thirty (30) days following the public hearing by registered mail.
 - d. Continuance of Hearing
 - i. The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session. Any hearing continued shall be held within thirty (30) days from the initial hearing.
6. In exercising its power and authority, the Board of Zoning Appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as the Board deems appropriate.^{17, 21}



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor, P.O. Box 338

Charles Town, WV 25414

Appeal Number: AP/14-01
Staff Initials: CLK
Fees Paid (\$100): \$ 100.00

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

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Appeal Form - Board of Zoning Appeals

Pursuant to Section 3.4 of the Jefferson County Zoning and Land Development Ordinance, the Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or any ordinance adopted thereto.

Name and/or File Number of Project

Name of Project: Swimming Pool File Number: 14-262

Appellant Information

Appellant Name: William Neufeld
Mailing Address: 1684 Job Corps Road
City: Harpers Ferry State: WV Zip Code: 25425
Phone Number: 304-725-5501 Email: wneufeld@frontiernet.net

Appellant Representative(s) Information

Company Name: MIKE SCALES PLLC
Representative Name(s): MICHAEL SCALES
Mailing Address: 314 W. JOHN STREET
City: MARTINSBURG State: WV Zip Code:
Phone Number: 304-263-0000 Email:

Appellant Physical Property Details

Physical Address: 1684 Job Corps Road
City: Harpers Ferry State: WV Zip Code: 25425
Tax District: Harpers Ferry Map No: 5 Parcel No: 0001-2-2-54
Size: 2 1/2 acres Deed Book: 631 Page No: 215

Zoning District (please check one)

RECEIVED AUG 28 2014 JEFFERSON COUNTY PLANNING, ZONING AND ENGINEERING
Rural (R-A) [checked] Residential Growth (R-G) [] Industrial Commerical (I-C) [] Residential-Light Industrial-Commercial (R-L-C) [] Village (V) []

Only if applicable to your request, 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 and submit with this form.

Decision Being Appealed

Setback determination for construction of a pool in Stonebrook subdivision, lot 14 which adjoins my 15 ft right of way along the back of lot 14, which is identified as the project name and file number.

Type of Appeal

Administrative Decision LESA Point Score Other

If other, please describe: _____

Please explain reasons/justifications for appeal and desired action by Board, in numerical order. Use a separate sheet of paper if necessary.

See attached

Original signature is required. The information given is correct to the best of my knowledge.

Will P. Apple 5/19/14

Signature of Appellant Date

Signature of Appellant 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 twenty-eight (28) inches by twenty-two (22) inches in size, at least 15 days before the hearing (pursuant to Zoning and Land Development Ordinance Section 3.4A(3)(b)).

THURSDAY SEPTEMBER 25, 2014
Date of Public Hearing

WEDNESDAY SEPTEMBER 10, 2014
Advertising Date

WEDNESDAY SEPTEMBER 10, 2014
Placard Posting Date

I appeal the determination of the Planning and Zoning Administrator, that a setback which abuts my 15' right-of-way adjacent the Stonebrook subdivision, when applied, should be a standard property line setback. I don't believe it is a correct interpretation of the standards outlined in the code for a road requiring a front setback and that it contradicts earlier determinations of the Board.

In review of a recent permit application, a determination was made by the Planning and Zoning Administrator that a rear setback or a standard property line interpretation applied to the construction identified in a permit filed with that office for construction along the right-of-way, measuring from the property line adjoining Sam Michaels Park, then fifteen feet to account for the right-of-way, then twelve and a half feet minimum to the edge of the pool.

This appeal comes as a result of the communication with the Planning and Zoning Office after the subject permit was issued. I was unable to appeal the original permit application because I was unaware that an application for construction had been filed or a permit issued, as the required sign placement was not visible by me as an affected party. I contacted the Planning and Zoning office with my concerns about the setback on the day construction began and permit 14-262 had been issued, on or about June 18, 2014. I subsequently requested an explanation of the determination of the setback in this case.

On August 2, 2014, Planning and Zoning Administrator Jennifer Brockman responded to my request for an explanation of her determination of the required setback in the case of the construction related to permit 14-262. Her response is attached as Exhibit A. In that communication she says her determination was based on the definition of "road" contained in the Lot Line, Front lot line definition in the Jefferson County Zoning and Land Development Ordinance specifically the portion that says "...through lot which *abut a street...*":

Lot Line, Front: The side or sides of an interior or through lot which abut a street. Front lot lines shall be measured from the Road Improvement Easement where one exists. For a property with a rear yard adjacent to a right-of-way designated as an alley, a rear yard setback shall apply.

Her e-mail refers to the definition of Street which refers the reader to the definition of Road:

Road: A prepared surface within a right-of-way which is intended for vehicular use. Road does not include shoulders.

It is apparent that the balance of that definition "For a property with a rear yard adjacent to a right-of-way designated as an alley, a rear yard setback shall apply..." does not apply in the that the road in question is NOT designated an alley.

It is her opinion that the right-of-way, which I use as a road to reach my property and which I maintain at my expense, did not meet the requirements of a road and therefore conditions for a front setback:

“Essentially, my decision was that your driveway, which serves only one home and is located within a 15’ right-of-way, does not meet the definition of “Road” and therefore does not trigger the requirement that a front yard setback be required along the property’s rear property line.”

I don’t see any exception in the code for defining a road based on the number of houses it serves, as mentioned in Ms. Brockmans explanation to me. Nor would I consider a nearly 400 yard long road a driveway.

Furthermore, this interpretation contradicts previous determinations of the Board.

Attached for your information are three applications for building permits that abut my right-of-way and involve construction of pools. They are identified as Exhibits B and C. They involve lots 11, 16 and 18 in the Stonebrook subdivision. In each case the setback is clearly identified as 25 feet from the inside edge of the road/right-of-way after measuring from the property line 40 feet allowing for 15 feet for the right-of-way.

In each of the cases, the location drawings refer to “..a 15” easement..” which is also referred to in the current county ordinance cited by Ms. Brockman, “Front lot lines shall be measured from the Road Improvement Easement where one exists.”

The interpretation of the ordinance in the current case inconsistently applies a determination of a front setback in cases involving the same right-of-way and construction of similar nature.

Therefore I request the Board:

1. Acknowledge that the set-back for the construction approved under permit number 14-262 should be consistent with others in the same location and that the setback should have been 25’ from the inside edge of the road or right-of-way rather than 12’.

Neufeld, William P.

From: Zoning <zoning@jeffersoncountywv.org>
Sent: Tuesday, August 05, 2014 5:10 PM
To: Neufeld, William P.
Cc: zoning@jeffersoncountywv.org; engineering@jeffersoncountywv.org
Subject: Information Request #I14-124

August 5, 2014

Mr. Neufeld

I apologize for the delay in my response to your question about the setback for the pool constructed on Lot 14 of Stonebrook Subdivision. My decision, as the Acting Zoning Administrator, that the pool was required to meet the 12' rear yard setback requirement instead of the 25' front yard setback is based on the following definitions found in the Jefferson County Zoning and Land Development Ordinance (06/01/14):

Lot Line, Front: The side or sides of an interior or through lot which abut a street. Front lot lines shall be measured from the Road Improvement Easement where one exists. For a property with a rear yard adjacent to a right-of-way designated as an alley, a rear yard setback shall apply

Street: (See Road)

Road: A prepared surface within a right-of-way which is intended for vehicular use. Road does not include shoulders.

Right-of-Way: A right which grants passage across or through a property. A right-of-way is also the (usually dimensioned) path along which the right of passage is granted.

Essentially, my decision was that your driveway, which serves only one home and is located within a 15' right-of-way, does not meet the definition of "Road" and therefore does not trigger the requirement that a front yard setback be required along the property's rear property line.

I hope that this information is helpful to you. As you know, you have the right to appeal this decision to the Board of Zoning Appeals within 30 days of the date on this response.

Jennifer M. Brockman, AICP,
Acting Zoning Administrator
Director, Planning and Zoning
116 E. Washington St. PO Box 338
Charles Town, WV 25414
304-728-3228

**IMPROVEMENT LOCATION PERMIT
APPLICATION/ZONING CERTIFICATE
Jefferson County, West Virginia**

PAID 75.00

Jefferson County Planning Commission, 104 East Washington Street
P. O. Box 338, Charles Town, WV 25414 TEL: (304)-728-3228

A. COVERED ACTIVITIES

This application must be completed and submitted to the Jefferson County Planning Commission if you intend to do one or more of the following activities in Jefferson County, outside of a municipality.

1. Erect, locate, or relocate a structure or mobile home.
2. Alter a building or structure in a way which enlarges the exterior or interior dimensions of the building or structure.
3. Engage in land-altering activities in a flood-prone area.

FOR OFFICIAL USE ONLY

Aerial Number

2-20

Flood-Prone

YES NO

Floodway

YES NO

B. IDENTIFICATION OF PROPERTY OWNER AND BUILDER

1. Property Owner(s)

Name: *Leon W. + Minnette A. Fristoe*

Maid 1/27/00

Address *1118 Apple Cross Rd
Harpers Ferry, WV 25425*

Telephone #: *304-725-1897*

2. Builder or Contractor

Name: *Tri-County Pools, Inc.*

Address: *13410 Maser Rd
Thurmont, MD 21788*

Telephone #: *301-898-3030*

Application Number

00-47

Completed Application Received

1-26-00

Application Approved Placard Issued

1-27-00

Permit and Placard Expire

7-27-00

C. IDENTIFICATION OF PROPERTY

1. Location: *Lot 18*

Apple Cross Rd

2. Tract Size: *.9771*

3. Deed Book Reference:

Book# *928* Page# *197*

4. Tax Map Reference:

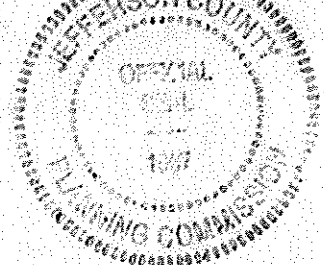
District *Harpers Ferry*

Tax Map# *SA* Parcel# *18*

5. What Existing Buildings or Uses are on the Property? *House, inground pool*

6. Subdivision Name: *Stone brook*

Signature of Land Development Coordinator



Janet Center Martin

6. The Planning Commission suggests all applicants call Toll Free, 1-800-245-4848, and advise local utility companies of your construction plans in order to avoid damage to underground utility lines.
7. All wells must be drilled and pressure grouted prior to submitting this application. A LETTER from the Well Driller stating this is required.
8. All water must be certified as Potable by a State Health Department approved Lab within 6 months of this application.
9. PLEASE BE ADVISED THAT ANY NEW STRUCTURE MUST BE LOCATED A CERTAIN DISTANCE FROM THE PROPERTY LINE. IF YOU HAVE ANY QUESTIONS OF WHAT THIS DISTANCE IS, PLEASE CALL THE PLANNING COMMISSION AT (304)-728-3228.

F. I (we), the I owner(s) of the property on which the intended improvement is to be constructed, hereby insure that this construction and intended use complies with all restrictive covenants applying to the subject real estate. And, I (we) agree, understand and acknowledge that I (we) assume full responsibility for compliance with any such private land use covenants and that a violation thereof may result in legal sanctions by court injunction and damages irrespective of the issuance of this permit by the Jefferson County Planning Commission.

Signed John Wayne Frazier
Property Owner

Signed Minnette A. Frazier
Property Owner

ANY CONSTRUCTION PRIOR TO THE ISSUANCE OF THIS PERMIT IS IN VIOLATION OF THE JEFFERSON COUNTY IMPROVEMENT LOCATION PERMIT ORDINANCE, AND IS SUBJECT TO PROSECUTION.

D. IDENTIFICATION OF INTENDED CONSTRUCTION OR LAND USE

1. Briefly describe the intended construction or land use: *inground pool*
2. Sketch on the blank side of sheet two (2) the shape and location of the lot. Show the location of the intended construction or land use indicating building setbacks, size and height. Identify existing buildings, structure or land uses on the property.
**Sign and date sketch.*
3. Estimated value of building or structure: *\$24,000.00*
4. Estimated completion date: *9/99*

FOR OFFICIAL USE ONLY

Subdivision Ordinance

Complies

Does Not Comply

Flood Plain Management Ordinance

Complies

Does Not Comply

E. NOTES:

1. The information on this application is true and accurate to the knowledge of the applicant.
2. The intended construction or land use identified on this application must be started no later than six (6) months from the date the application is approved.
3. In signing this application it is understood that the Land Development Coordinator or his representative may inspect the property and/or activities identified on this application.
4. If the intended construction or land use identified on this application requires Health Department, Highway Department, Public Service District or Town approval, evidence of such approval(s) from the county and/or State must be submitted to the Planning Commission in order to complete the application.

Septic Tank Permit No. _____
 Highway Entrance Permit No. *NA*
 Well Permit No. _____

5. Duplicates of this application will be transmitted to:

Jefferson County Assessor's Office
 Jefferson County Health Department

Zoning Ordinance

Complies

Does Not Comply

Certification of Potable Water

YES

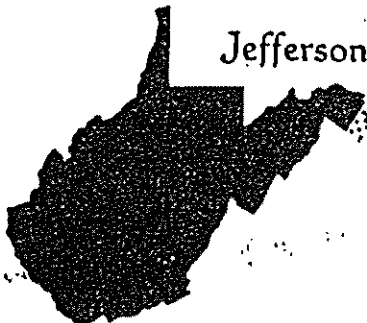
Deadline for Submittal

NA

Special Conditions of Approval

variance granted by zoning board of appeals 1-20-00 front setback from 25' to 11' for pool on western side of lot adjacent to the 15' right of way

ZONING ADMINISTRATOR



Jefferson County Planning Commission

Charles Town, West Virginia 25414

104 E. Washington Street
P.O. Box 338

TEL: (304) 728-3228

#18

November 4, 1999

**VIOLATION NOTICE - DIRECTIVE TO CEASE & DESIST
CERTIFIED MAIL - Z 402 006 829**

Mr. and Mrs. Leon Fristoe
1118 Applecross Road
Harpers Ferry, West Virginia 25425

Dear Mr. and Mrs. Fristoe:

Although we have had several conversations concerning the construction of the pool this office has not received either an Improvement Location Permit, or a variance request attempting to rectify the setback encroachment.

Pursuant to Article 4, Section 4.2 of the Jefferson County Improvement Location Permit Ordinance this cease and desist notice is being sent to you as the responsible party(s) for the construction of a pool in the encroachment of property on Parcel 18 on Tax Map 5A of the Harpers Ferry District. You are being cited as the responsible party(s) since you are the owner(s) of record as found in Deed Book 928 at Page 197.

Please be advised that failure to obtain an Improvement Location Permit prior to the November 23, 1999 meeting of the Jefferson County Planning and Zoning Commission shall be cause for them to declare you, as the responsible party, and the subject property, buildings and/or structures in violation of the Jefferson County Improvement Location Permit Ordinance. Upon such declaration the Planning Commission shall instruct the Land Development Coordinator to request the assistance of the County Prosecuting Attorney and:

(a) Seek an injunction in the Circuit Court of Jefferson County to restrain the responsible person from continuing the violation cited or seek an injunction requiring removal of structures or land uses from the property involved;

OR

(b) Obtain a warrant for the arrest of the person responsible for the violation and seek conviction in the Magistrate Court of Jefferson County; or both a) and b).



Jefferson County Planning Commission

Charles Town, West Virginia 25414

104 E. Washington Street
P.O. Box 338

TEL: (304) 728-3228

September 29, 1999

Mr. and Mrs. Leon Fristoe
1118 Applecross Road
Harpers Ferry, West Virginia 25425

Dear Mr. and Mrs. Fristoe:


During a recent inspection of the Stonebrook area of Jefferson County, I noticed an in ground pool has been built on Parcel 18 on Tax Map 5A of the Harpers Ferry District. This lot is recorded in your name(s) in Deed Book 928 at Page 197.

The pool appears to be within the 15' right-of-way which is shown on the approved plat of the Stonebrook Subdivision. The setback for any structures from the edge of the right-of-way is 25'.

Jefferson County has had an Improvement Location Permit Ordinance since 1976. An Improvement Location Permit is required prior to the construction of any structures. I can find no Improvement Location Permit on file for this pool.

Please contact this office within the next two (2) weeks to discuss this situation. The office is open Monday through Friday from 9:00 a.m. to 5:00 p.m.

Sincerely,


Paula Coomler Markstrom
Permit Officer/Assistant

PCM:sfu
Enclosure

IMPROVEMENT LOCATION PERMIT
APPLICATION/ZONING CERTIFICATE
Jefferson County, West Virginia

130.00

REC'D
#130.00
8/10/98

Jefferson County Planning Commission, 104 East Washington Street
P. O. Box 338, Charles Town, WV 25414 TEL: (304)-728-3228

A. COVERED ACTIVITIES

This application must be completed and submitted to the Jefferson County Planning Commission if you intend to do one or more of the following activities in Jefferson County, outside of a municipality.

1. Erect, locate, or relocate a structure or mobile home.
2. Alter a building or structure in a way which enlarges the exterior or interior dimensions of the building or structure.
3. Engage in land-altering activities in a flood-prone area.

FOR OFFICIAL USE ONLY

Aerial Number

Flood-Prone

YES NO

Floodway

YES NO

B. IDENTIFICATION OF PROPERTY OWNER AND BUILDER

1. Property Owner(s)

Name: ~~Hampton Enterprises~~
Deepinder Singh Grewal
et al.

Address P.O. Box 548
Charles Town, WV 25414

Telephone #: (304) 428-0944

Application Number

98-710

Completed Application Received

8/10/98 8-14-98

Application Approved Placard Issued

8-18-98

2. Builder or Contractor

Name: Hampton Enterprises

Address: P.O. Box 548
Charles Town, WV 25414

Telephone #: (304) 728-0977

Permit and Placard Expire

2-18-99

Signature of Land Development



C. IDENTIFICATION OF PROPERTY

1. Location: Lot 18

2. Tract Size: .9471

3. Deed Book Reference: 600^{2ar} 8/14 651^{2ar} 8/14
Book# 856 Page# 24

4. Tax Map Reference: District Harpers Ferry

Tax Map# 5A Parcel# 0018

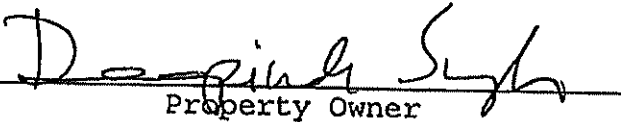
5. What Existing Buildings or Uses are on the Property? n/a

6. Subdivision Name: Stonebrook

Paula County Mark...

6. The Planning Commission suggests all applicants call Toll Free, 1-800-245-4848, and advise local utility companies of your construction plans in order to avoid damage to underground utility lines.
7. All wells must be drilled and pressure grouted prior to submitting this application. A LETTER from the Well Driller stating this is required.
8. All water must be certified as Potable by a State Health Department approved Lab within 6 months of this application.
9. PLEASE BE ADVISED THAT ANY NEW STRUCTURE MUST BE LOCATED A CERTAIN DISTANCE FROM THE PROPERTY LINE. IF YOU HAVE ANY QUESTIONS OF WHAT THIS DISTANCE IS, PLEASE CALL THE PLANNING COMMISSION AT (304)-728-3228.

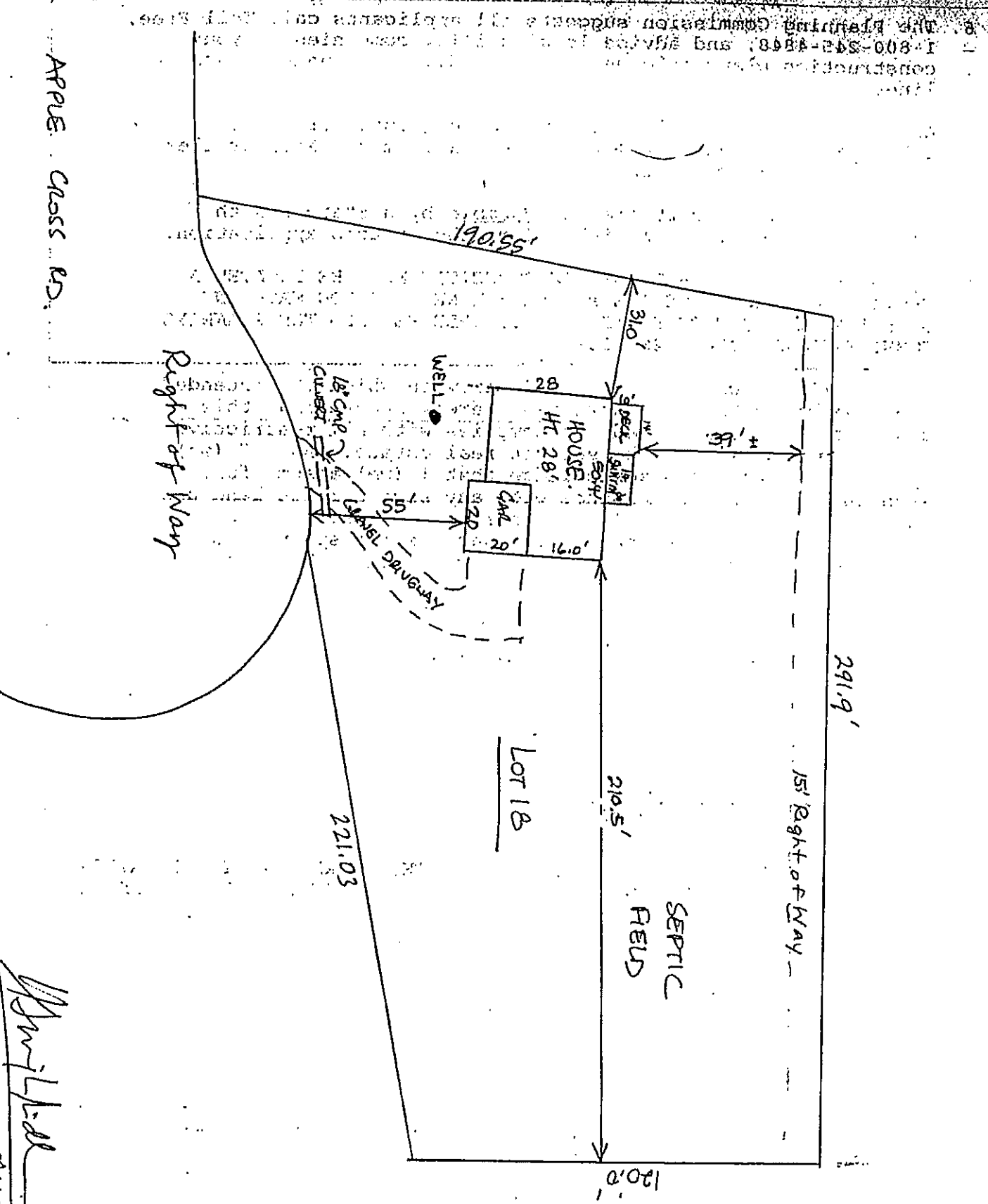
F. I (we), the I owner(s) of the property on which the intended improvement is to be constructed, hereby insure that this construction and intended use complies with all restrictive covenants applying to the subject real estate. And, I (we) agree, understand and acknowledge that I (we) assume full responsibility for compliance with any such private land use covenants and that a violation thereof may result in legal sanctions by court injunction and damages irrespective of the issuance of this permit by the Jefferson County Planning Commission.

Signed 
Property Owner

Signed _____
Property Owner

ANY CONSTRUCTION PRIOR TO THE ISSUANCE OF THIS PERMIT IS IN VIOLATION OF THE JEFFERSON COUNTY IMPROVEMENT LOCATION PERMIT ORDINANCE, AND IS SUBJECT TO PROSECUTION.

8. The Planning Commission and Board of Supervisors are hereby authorized to approve the proposed subdivision of the above described property into two lots, to-wit: Lot 1A and Lot 1B, and to approve the proposed plat of the same, subject to the following conditions:



Smith Hill
Mills

D. IDENTIFICATION OF INTENDED CONSTRUCTION OR LAND USE

FOR OFFICIAL USE ONLY

- Briefly describe the intended construction or land use: *Single Family Homes*
- Sketch on the blank side of sheet two (2) the shape and location of the lot. Show the location of the intended construction or land use indicating building setbacks, size and height. Identify existing buildings, structure or land uses on the property.
**Sign and date sketch.*
- Estimated value of building or structure: *\$80,000*
- Estimated completion date: *12/15/98*

Subdivision Ordinance

Complies

Does Not Comply

Flood Plain Management Ordinance

Complies

Does Not Comply

E. NOTES:

- The information on this application is true and accurate to the knowledge of the applicant.
- The intended construction or land use identified on this application must be started no later than six (6) months from the date the application is approved.
- In signing this application it is understood that the Land Development Coordinator or his representative may inspect the property and/or activities identified on this application.
- If the intended construction or land use identified on this application requires Health Department, Highway Department, Public Service District or Town approval, evidence of such approval(s) from the county and/or State must be submitted to the Planning Commission in order to complete the application.

Zoning Ordinance

Complies

Does Not Comply

Certification of Potable Water

YES

Deadline for Submittal

2-17-99

Special Conditions of Approval.

NO CONSTRUCTION Allowed in 15' Right of Way

Septic Tank Permit No. ST-19-9899-15H

Highway Entrance Permit No. n/a

Well Permit No. DN-19-9899-12

Minimum Culvert size

= 15 " diameter *No Plastic* round pipe

or 13 " x 17 " square pipe

[Signature] 8/17/98

County Engineer Date

5. Duplicates of this application will be transmitted to:

Jefferson County Assessor's Office
Jefferson County Health Department

ZONING ADMINISTRATOR

RECEIVED

NOV 04 1999

FAX TRANSMISSION

JEFFERSON COUNTY
PLANNING COMMISSION

LAW OFFICE OF
JAMES RANDALL RHODES
301 W. MARTIN STREET P.O. BOX 500
MARTINSBURG, WV 25402
304-267-2977
FAX: 304-267-8984

To: Planning Commission
PAULA COOMLER MARKSTROM Date: 11/4/99
Fax #: 725-7916 Pages: 2, including this cover sheet.
From: James Randall Rhodes
Subject: _____

COMMENTS: (Please contact Shannon at the number above if you do not receive all of the pages.)

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service.

Thank you.



Jefferson County Planning Commission

Charles Town, West Virginia 25414

104 E. Washington Street
P.O. Box 338

TEL: (304) 728-3228

December 17, 1999

TO WHOM IT MAY CONCERN:

For the record, enclosed please find a section of the Minutes from the Planning and Zoning Commission meeting held on November 23, 1999. The part that pertains to your request is highlighted.

If you have any questions, please give me a call.

Sincerely,

Paul J. Raco
Director of Planning and Zoning

PJR:sfu
Enclosure

Sent to:

Mr. and Mrs. Leon Fristoe
1118 Applecross Road
Harpers Ferry, West Virginia 25425

~~Declaration of violation for Mr. and Mrs. Leon Fristoe~~ of the Jefferson County Improvement Location Permit Ordinance for the construction of a pool on property designated as Parcel 18 on Tax Map 5A of the Harpers Ferry District as found in Deed Book 928 at Page 197.

MINUTES - JEFFERSON COUNTY PLANNING & ZONING COMMISSION
NOVEMBER 23, 1999
PAGE FOUR

14. Declaration of violation for Mr. and Mrs. John Smoot of the Jefferson County Zoning and Development Review Ordinance for the operation of Smoot's Cut-N-Edge on property designated as Parcel 28 on Tax Map 9 of the Harpers Ferry District as found in Deed Book 272 at Page 74. Paula presented the violation stating that in addition to their existing car repair business they are allowing their son's lawn care business to be operated from this location. Peter Chakmakian stated the Smoots have operated a salvage yard, used car lot and repair business for over 35 years and that they simply allow their son's employees to park their cars on their property. Mr. Chakmakian asked what standard the Smoots are violating and that they had a letter from Shipley School supporting what they are doing as long as the vehicles are not parked in the right-of-way. Dean Hockensmith motioned that no action be taken by the Commission. Cam Tabb seconded the motion which carried unanimously.

15. Declaration of violation for Mr. Marshal Montgomery of the Jefferson County Zoning and Development Review Ordinance for the signs located on property designated as Parcel 110 on Tax Map 10A of the Charles Town District as found in Deed Book 843 at Page 194. Paula stated signs have been placed on the building and in the right-of-way for occupants of the building. No one indicated they were present on behalf of the request. Ernie Benner motioned to declare Mr. Montgomery in violation of the Zoning Ordinance for the placement of signs. Pete Smith seconded the motion which carried unanimously.

16. Declaration of violation for Mr. Matthew Knott of the Jefferson County Improvement Location Permit Ordinance for the construction of a parking lot on property designated as Parcel 69 on Tax Map 9 of the Harpers Ferry District as found in Deed Book 906 at Page 229. Paula stated it appears parking is being allowed in areas not shown on the approved site plan. Paul stated that when the property was owned by Mr. Grimes the bond was released and there was not a parking lot in the location currently being used as such by Mr. Knott. Pete Smith motioned to defer consideration of the violation until the January 11, 2000 meeting so that Mr. Knott can process a site plan addressing the parking situation and that the Staff notify Mr. Knott and Mr. Rockwell that the violation is being deferred for this reason only. Ernie Benner seconded the motion which carried unanimously.

17. Declaration of violation for Mr. and Mrs. Leon Fristoe of the Jefferson County Improvement Location Permit Ordinance for the construction of a pool on property designated as Parcel 18 on Tax Map 5A of the Harpers Ferry District as found in Deed Book 928 at Page 197. Paula stated Fristoes have applied for a variance from setbacks and that no action is needed at this time. No action was taken by the Commission.

18. Declaration of violation for Mr. Emmett Abbott of the Jefferson County Zoning and Development Review Ordinance for the operation of a business known as Heartbeat Tours on property designated as Parcel 9.2 on Tax Map 20 of the Middleway District as found in Deed Book 673 at Page 254. Paula stated Mr. Abbott has requested a change in nonconforming use to be considered by the Zoning Board of Appeals and that no action is necessary at this time. No action was taken by the Commission.

API4-01

JEFFERSON COUNTY
DEPARTMENT OF PLANNING, ZONING AND ENGINEERING
104 EAST WASHINGTON STREET
CHARLES TOWN, WEST VIRGINIA 25414
(304) 725-2998

SWIMMING POOL COVER SHEET

TO OBTAIN A PERMIT:

- 1. Application filled out completely
- 2. Installation Manual
- 3. Diagram showing Pool and fence.

- Refer to Section 421.0 regarding swimming pools. (Attached)
- Pool is not to be placed on or in septic and/or drain fields.
- A fence is required. (Above ground pool with minimum 4 foot walls above ground level need only have a self latching gate around access stairs)

INSPECTIONS REQUIRED:

ABOVE GROUND POOLS

- 1. Electrical Inspection
- 2. Final Inspection.

IN-GROUND POOLS

- 1. Footer
- 2. Two(2) Electrical
- 3. Final

TO SCHEDULE AN INSPECTION YOU MUST HAVE THE FOLLOWING INFORMATION

- 1. For Inspections call (304) 725-2998 from 9-5. Monday - Friday
 - 2. Permit Number
 - 3. Owner Name and/or lot number
 - 4. Type of Inspection required
- Call in Inspections by 3 p.m. for
Inspections within 48 hours
NO APPOINTMENTS WILL BE MADE.

ALL WORK SCHEDULED FOR INSPECTION SHALL BE COMPLETED BY 8:00 a.m. ON THE SCHEDULED DATE OF THE INSPECTION, OR A \$50.00 REINSPECTION FEE MAY BE CHARGED.

APPROVED ELECTRICAL INSPECTORS:

- Wes Clark, Middle Department Inspection Agency, Inc. 800-248-6342
- Doug Cloud, Commonwealth Electrical Inspection Services, Inc. (304) 263-7754
- Kenneth Coffelt, CPCA, Atlantic Inland, Inc. (540) 662-6770
- Cleveland Mason, Tri-State Safety Inspection Services (304) 261-0243 or (540) 722-4404
- Ron Mathias, Megco Inspections Inc. (304) 788-9101

*****NOTE***** If you will be building a deck - Please specify on the application so we can include it in with this permit. You will need Detailed drawings if a deck is to be included.

I HAVE READ AND UNDERSTAND THIS SHEET

(PROPERTY OWNER) KEVIN L. HATTN (DATE) 06-25-02

*Exhibit C emailed 09/05/14-gh

JEFFERSON COUNTY
DEPARTMENT OF PLANNING, ZONING AND ENGINEERING
104 EAST WASHINGTON STREET
CHARLES TOWN, WEST VIRGINIA 25414
(304) 728-3228

SWIMMING POOL APPLICATION

Fee \$ 59.72
Date 6/25/02
Rec'd By: K.S.
Please make checks payable to
Jefferson County Commission

First Name: KEVIN Last Name: HATHN

First Name: _____ Last Name: _____

Phone Number: 304-724-7128

Mailing Address: 1111 APPLE CROSS ROAD.
(Street Number and name or Route/Box Number)

HARPER'S FERRY W.V. 25425
(City) (State) (Zip)

Tax District: 4 Tax Map: SA Parcel #: 11 Deed Book: 946 Page: 337

Subdivision: Stone Brook Lot #: 11 Tract Size: 1.0896

List Other buildings on property: House

Pool Information:

Size of pool: 31'x14' Year of pool: 2002 Make and Model of pool: Viking

Estimated Value: \$25,000. Pool Installer's Name: KEVIN L. HATHN Homeowner

West Virginia Contractor License #: N/A Contractors Phone #: N/A

Deck Information: (if applicable)

Size of Deck: N/A Deck Contractor: N/A

West Virginia Contractor License # N/A Contractors Phone #: N/A

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE THE INFORMATION ON THIS APPLICATION IS TRUE AND CORRECT.

[Signature]
Property Owner's Signature

0628-02
Date

Property Owner's Signature(s)

Date

SKETCH SHEET

THE SHAPE AND LOCATION OF THE LOT, LABEL ALL EXISTING ROADS, RIGHTS-OF-WAY, RESERVES AND EASEMENTS. LOCATION OF INTENDED CONSTRUCTION OR LAND USE INDICATING BUILDING SETBACKS, SIZE AND HEIGHT. INDICATE EXISTING BUILDINGS, STRUCTURES AND LAND USES ON THE PROPERTY.

****NOTE**** SKETCH MUST BE SIGNED AND DATED.

see attached

OFFICIAL USE ONLY

Subdivision	<input checked="" type="checkbox"/> Yes or <input type="checkbox"/> No	Conditions of Approval:
Zoning	<input checked="" type="checkbox"/> Yes or <input type="checkbox"/> No	
Flood Plain	Yes or <input checked="" type="checkbox"/> No	
Other: _____		
Plans Reviewed By: <i>J. Beard</i>		
By: <i>Paul T. Racobito</i>		

Permit # 02-683

Expiration Date: 1-2-03

TO BE FILLED IN COMPLETELY BEFORE PERMIT WILL BE ISSUED
(IF APPLICABLE)

****INSPECTORS CANNOT INSPECT WHAT THEY CANNOT FIND****
PLEASE MAKE DIRECTIONS CLEAR

LAST NAME OF APPLICANT: HATTN

LOCATION OF PROJECT:(Subdivision) STONE BROOK 1111 APPLE CROSS RD.

Directions to Development: (Subdivision): 340 N to 230 N Right
on HOLLTOWN ROAD PAST PAPER MILL. 3 mile's to LEFT
on JOB CROPS ROAD. 2nd LEFT on APPLE CROSS.

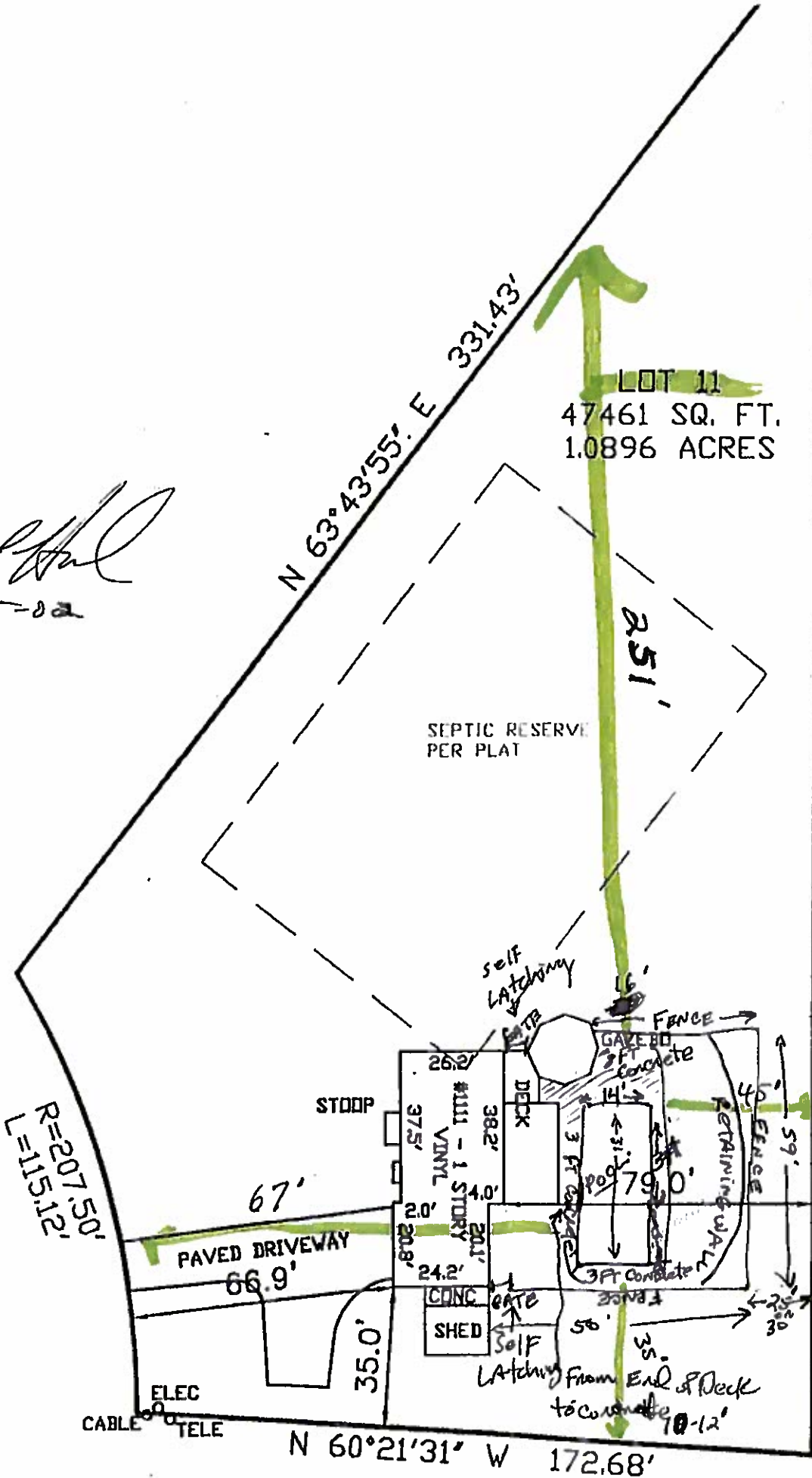
Directions to lot in Development: STRAIGHT BACK TO ROAD, DRIVE
OUT ON LEFT.

Directions to project (Non-Development): BACK OF HOUSE.

Additional Information: _____

Kevin Hahn
06-25-02

Kevin Hahn
1111
APPLE CROSS ROAD
D/W



S 25°59'47" W 382.56'
Row ↓



JEFFERSON COUNTY
DEPARTMENT OF PLANNING, ZONING AND ENGINEERING
104 EAST WASHINGTON STREET
CHARLES TOWN, WEST VIRGINIA 25414
(304) 725-2998

SWIMMING POOL COVER SHEET

TO OBTAIN A PERMIT:

1. Application filled out completely
2. Installation Manual
3. Setbacks on property (in-Ground pools setbacks must be from edge of concrete)

- Refer to section 421.0 regarding swimming pools. (attached)
- Pool is not to be placed on or in septic and/or drain fields.
- A fence is required. (above ground pool with minimum 4 foot walls above ground level need only have a self latching gate around access stairs)

INSPECTIONS REQUIRED:

ABOVE GROUND POOLS:

1. Electrical Inspection
2. Final Inspection

~~ABOVE~~ IN-GROUND POOLS:

1. Footer
2. Two(2) Electrical
3. Final

TO SCHEDULE AN INSPECTION YOU MUST HAVE THE FOLLOWING INFORMATION:

1. For Inspections call (304) 725-2998 from 9-5; Monday – Friday
 2. Permit Number
 3. Owner Name and/or Lot Number
 4. Type of Inspection required
- Call in Inspections by 3 p.m. for Inspections
Inspections within 48 hours
NO APPOINTMENTS WILL BE MADE

ALL WORK SCHEDULED FOR INSPECTION SHALL BE COMPLETED BY 8:00 A.M. ON THE SCHEDULED DATE OF THE INSPECTION, OR A \$50.00 REINSPECTION FEE MAY BE CHARGED.

APPROVED ELECTRICAL INSPECTORS:

Wes Clark, Middle Department Inspection Agency, Inc.	(800) 248-6342
Doug Cloud, Commonwealth Electrical Inspection Svc	(304) 263-7754
Kenneth Coffelt, CPCA, Atlantic Inland, Inc.	(540) 662-6770
Cleveland Mason, Tri-State Safety Inspection Services	(304) 261-0243 or (540) 722-4404

*****NOTE*****

If you will be building a deck – Please specify on the application so we can include it in with this permits. You will need Detailed drawings if a deck is to be included

This application only applies to property located in the unincorporated areas of Jefferson County and does not apply in the five incorporated jurisdictions; Charles Town, Ranson, Harpers Ferry, Bolivar and Shepherdstown.

I HAVE READ AND UNDERSTAND THIS SHEET

(PROPERTY OWNER) Mary P. deMey (DATE) 6/23/03

JEFFERSON COUNTY
DEPARTMENT OF PLANNING, ZONING AND ENGINEERING
104 EAST WASHINGTON STREET
CHARLES TOWN, WEST VIRGINIA 25414
(304) 725-2998

Fee \$ 107.60
Date: 7/11/03
Rec'd By: KJ
Please make checks payable
to JEFFERSON COUNTY
COMMISSION
Revised 1/28/03

SWIMMING POOL APPLICATION

First Name: MARY PAT Last Name: deMey

First Name: JOHN Last Name: deMey

Phone Number: (304) 725-5852

Mailing Address: 1116 APPLE CROSS RD
(street number and name or route/box number)

HARPERS FERRY, WV 25435
(city) (state) (zip)

Tax District: HARPERS FERRY Tax Map: 5A Parcel # 16 Deed Book: 931 Page: 348

Subdivision: STONE BROOK Lot #: 16 Tract Size: 1.087 ACRES

List Other Building on Property: NONE 1 house

POOL INFORMATION

Size of Pool: 18'x40' Year of Pool: 2003 Make & Model of Pool: GRECIANI

Estimated Value (pool & fence): \$ 27,000 Pool Installer's Name: FLOIR POOLS, INC

West Virginia Contractor License #: WV 001547 Contractors Phone #: 304-263-0985
(A current West Virginia Contractors License must be submitted with application)

DECK INFORMATION: (If applicable) NA

Size of Deck: _____ Deck Contractor: _____

West Virginia Contractor License #: _____ Phone #: _____
(A current West Virginia Contractors License must be submitted with application)

Total Estimated Value of Pool, Deck and Fencing: \$ _____

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE THE INFORMATION ON THIS APPLICATION IS TRUE AND CORRECT.

Mary P. deMey
Property Owner's Signature

6/23/03
Date

John V. deMey
Property Owner's Signature(s)

6/23/03
Date

SKETCH SHEET

THE SHAPE AND LOCATION OF THE LOT; LABEL ALL EXISTING ROADS, RIGHTS-OF-WAY, RESERVES AND EASEMENTS; LOCATION OF INTENDED CONSTRUCTION OR LAND USE INDICATING BUILDING SETBACKS, SIZE AND HEIGHT; INDICATE EXISTING BUILDINGS, STRUCTURES AND LAND USES ON THE PROPERTY. ****NOTE** SKETCH MUST BE SIGNED AND DATED**

Above Ground Pools must indicate location of ladder and minimum 48" self latching gate

In-Ground Pools must indicate location of a minimum 48" fence around pool and a minimum 48" self latching gate

SEE ATTACHED

NOTES:

(1) THE EXISTING FENCE IS A 48-INCH HIGH COLONIAL GOTHIC PICKET FENCE. THE PICKETS ~~ARE~~ HAVE ~ 2 INCHES OF SPACE BETWEEN THEM.

(2) THE PROPOSED FENCE WILL MATCH THE EXISTING FENCE (I.E., 48 INCH HIGH, ~ 2 INCHES BETWEEN PICKETS.)

(3) THE PROPOSED GATES WILL BE SELF-CLOSING, HAVE A SELF-LATCHING DEVICE AND WILL ACCOMODATE A LOCKING DEVICE.

MPD 1/10/03

OFFICIAL USE ONLY

Subd vision	Yes or No	Conditions of Approval
Zoning	Yes or No	
Flood Plain	Yes or No	
Other:		
Plans Reviewed By:	<i>[Signature]</i> 7/17/03	
By:	<i>[Signature]</i>	

PERMIT # 03-835 7-17-03

EXPIRATION DATE: 11/2/04

TO BE FILLED IN COMPLETELY BEFORE PERMIT WILL BE ISSUED
(IF APPLICABLE)

****INSPECTORS CANNOT INSPECT WHAT THEY CANNOT FIND****
PLEASE MAKE DIRECTIONS CLEAR

Subdivision: STONE BROOK Lot No. 16

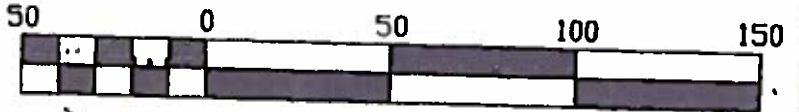
Street Address/Name: 1116 APPLE CROSS ROAD

Give clear directions using road names/route numbers, landmarks, when to turn left and right and other descriptors necessary to find the location. If there is more than one entrance to a subdivision, please note which entrance to use.

Directions:

- FROM FLOWING SPRINGS ROAD IN CHARLESTOWN
HEADING NORTH TOWARD SHEPHERDSTOWN
- MAKE RIGHT ONTO JOB CORPS RD
- AFTER ENTRANCES TO SAM MICHAEL'S PARK
MAKE RIGHT ONTO APPLE CROSS ROAD (STONE BROOK SUBDIV)
- MAKE QUICK RIGHT ONTO ~~APPLE CROSS ROAD~~ YORK AVE.
- MAKE QUICK LEFT BACK ONTO APPLE CROSS RD.
- HOUSE IS 2nd ON RIGHT (CREAM/WHITE STUCCO EXTERIOR)
- HOUSE NUMBER IS ON MAIL BOX POST -
1116 APPLE CROSS RD.

Additional Information:

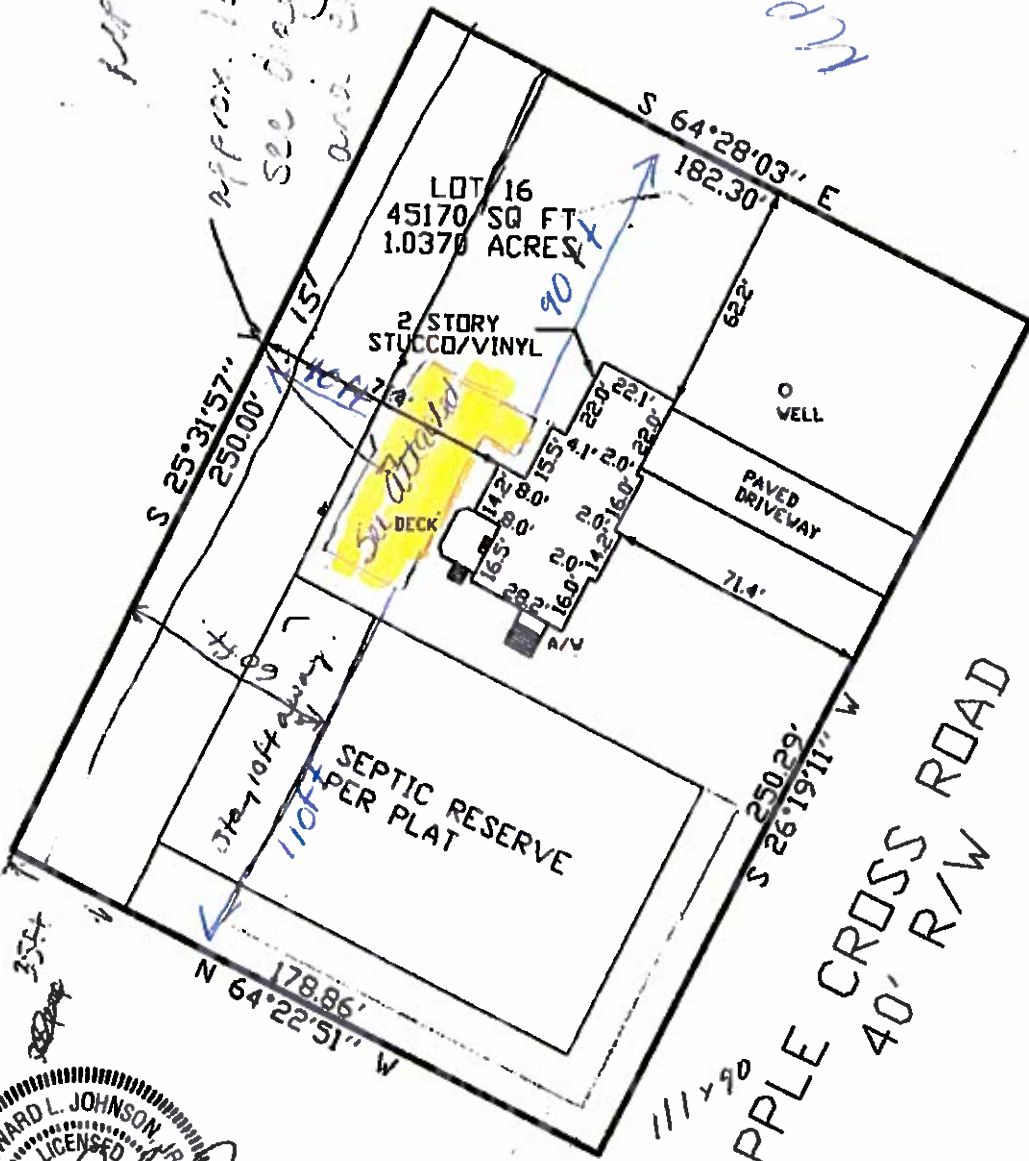


Scale 1" = 50'



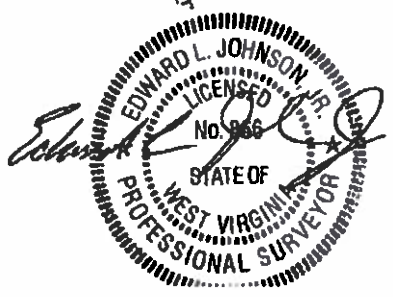
M.P.D. 7/12/03
approx. location of pool.
See diagram for details
and exact location.

W.P. Johnson



225

354



APPLE CROSS ROAD
 40' R/W

MICHAEL L. SCALES, P.L.L.C.
Attorney-at-Law
314 West John Street
Post Office Box 6097
Martinsburg, WV 25402

Telephone (304) 263-0000
Facsimile (304) 263-0739

Michael L. Scales*
*Also Admitted in Maryland

Not Associated With The Scales Law Office

October 6, 2014

RECEIVED

OCT 08 2014

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Ms. Jennifer M. Brockman, AICP,
Acting Zoning Administrator
Director, Planning and Zoning
116 E. Washington Street
P.O. Box 338
Charles Town, WV 25414

Re: My Client: William P. Neufeld
Appeal AP14-01, to be presented to the Jefferson
County Board of Zoning Appeals for the hearing
scheduled for October 23, 2014

Dear Ms. Brockman:

Please be advised that I represent Mr. William P. Neufeld.

Please include this correspondence and submit same to the Jefferson County Board of Zoning Appeals for my client's appeal hearing scheduled for October 23, 2014 in Charles Town.

This is an appeal from your decision, as acting Zoning Administrator, for the subject pool required to meet only the 12½ foot rear yard setback requirement instead of the 25 foot (40' less the road width of 15') front yard setback based upon what you interpret as the definition of "Road" as found in the Jefferson County Zoning and Land Development Ordinance.

Your decision was made that my client's road is allegedly located within a 15 foot wide area and does not meet the definition of "Road" and therefore does not meet the requirement that a front yard setback be required along the adjoining property's rear property line for the improvement of a swimming pool in one of the adjoining Stone Brook subdivision residential lots.

My client respectfully appeals your decision as acting Zoning Administrator and asserts that the subject building permit 14-262 and application from one Rachel Sharp dated May 19, 2014 (see copy attached), conflicts with prior administrative decisions of the Jefferson County Planning Commission, particularly the adjoining Lot 18 of Stone Brook subdivision, issued to Leon W. and Minnettea Fristoe, Application No. 00-47, which reveals that the front setback requirement was 25 feet, being 40 feet less the 15 foot wide road.

I cite to the Jefferson County Board of Zoning Appeals the decision of *Asaad v. Res-Care, Inc.*, 197 W.Va. 684, 478 S.E.2d 357 (1996), syl. pt. 3, which states as follows:

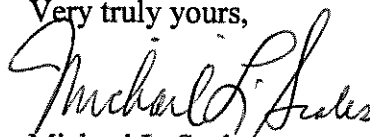
3. "For issue or claim preclusion to attach to quasi-judicial determinations of administrative agencies, at least where there is no statutory authority directing otherwise, the prior decision must be rendered pursuant to the agency's adjudicatory authority and the procedures employed by the agency must be substantially similar to those used in a court. In addition, the identity of the issues litigated is a key component to the application of administrative *res judicata* or collateral estoppel". Syl. pt. 2, *Vest v. Board of Educ. of the County of Nicholas*, 193 W.Va. 222, 455 S.E.2d 781 (1995).

Because a permanent application for another swimming pool to be located in the rear of the applicant's (Ms. Sharp's) house is the same issue as the *Fristoe* decision, the Zoning Administrator is bound to have known that the 25 foot setback ruling applies as it did in the *Fristoe* application.

To rule otherwise at this point would impair the vested rights of my client to use his road in a manner consistent with his ability to keep and maintain that road necessary for his proper ingress and egress to his personal residence. These are vested rights which cannot be infringed upon by subsequent decisions of the zoning administrator or Jefferson County Board of Zoning Appeals.

For this reason, on behalf of my client, Mr. Neufeld, I request that the Jefferson County Board of Zoning Appeals find that the 25 foot setback (40' setback less 15' for the road) applies just as it did in the *Fristoe* application decided in 2000 as it relates to another swimming pool improvement on the western side of the Stone Brook lot adjacent to my client's existing 15 foot road.

Very truly yours,


Michael L. Scales
Attorney at Law

MLS:aro
Enclosure
Cc: Mr. William P. Neufeld (w/o encl.)

JEFFERSON COUNTY, WEST VIRGINIA
ENGINEERING DEPARTMENT
OFFICE OF PERMITS & INSPECTIONS
116 EAST WASHINGTON STREET, Suite 100
P.O. Box 716
CHARLES TOWN, WEST VIRGINIA 25414
(304) 725-2998

SWIMMING POOL
Instructions for Building Permit Application & Inspections

TO OBTAIN A PERMIT:

1. Provide a Permit Application form with all the information completely filled-in.
2. Provide two (2) copies of the pool manufacturer's Installation manual (In-ground pools require a W.V. professional engineer's seal & signature). Otherwise, cost for copies made by the Engineering Department will be charged per County Commission fee schedule.
3. Provide a sketch showing the distance from the pool structure to the property/lot lines. (Distance for in-ground pools are measured to the outer edge of the concrete walkway)
4. If a deck structure is to be constructed as part of the pool project, please specify this on the application so it will be included as part of the pool building permit application. You will need to submit a detailed drawing/plan of the deck, along with the pool building permit application, detailing that the deck will be constructed in accordance with the applicable building code and building setback requirements.

Important Information:

- Appendix G, of the 2009 International Residential Code (IRC) contains the building code requirements for swimming pool construction and installation. The permit applicant is responsible for fully reviewing the code and ensuring that all the requirements are met.
- The swimming pool shall not be placed on or within the septic and/or drain field area.
- A fence/barrier/alarm is required for all pools in accordance with building code requirements. Note: An above ground pool, with a minimum 4 foot wall height above ground level, need only have a self latching gate and barrier around the access stairs/ladder, per the building code.

POSTING OF THE PERMIT PLACARD:

The building permit placard shall be posted such that it is visible and accessible by the inspector during the duration of the project and until the final inspection is complete and approved. The inspection will be automatically failed if the placard is not accessible so the inspector can place the "approved" or "failed" sticker on it; and is subject to a \$50.00 re-inspection fee. If the placard is lost or destroyed, a new placard is required at a fee of \$10.00 plus \$1.00 per inspection sticker.

INSPECTIONS REQUIRED:

Above Ground Pool	In-Ground Pool	Fiberglass Pool
*Electrical Rough-in (if applicable)	Electrical Rough-in	*Electrical Rough-in (if applicable)
	Pre-Concrete Pour	Inspection prior to backfill
Electrical Final	Electrical Final	Electrical Final
*Pool Deck Footing Insp.	*Pool Deck Footing Insp.	*Pool Deck Footing Insp.
Final Bldg. Inspection	Final Building Inspection	Final Inspection

*More than two electrical inspections may be required; check with electrical inspector. Pool deck footing inspection is required (prior to pouring footing concrete) only if a pool deck structure is constructed. The permit applicant is responsible for scheduling the required electrical inspections with a third-party electrical inspector approved by the State Fire Marshal's Office; and payment of the inspection fee to them. APPROVED ELECTRICAL INSPECTORS in this area:

Wes Clark	Middle Department Inspection Agency, Inc.	800-248-6342
Doug Cloud	Commonwealth Electrical Inspection Svc.	304-754-8305
Richard Hill	D & D Inspection Service	304-754-7146
	Megco Inspections	800-304-5942
Charles N. Smith, Jr.	Tri-State Safety Inspection Services	304-261-0243 or 304-263-3971
JP Mitchell		571-276-9439 or 304-725-4663

SCHEDULING AN INSPECTION:

Please have the following information listed below when calling to schedule an inspection:

1. To schedule an inspection call (304) 725-2998 from 9:00 AM -5:00 PM; Monday – Friday.
2. Permit Number (inspections will not be scheduled without permit number, no exceptions).
3. Owner Name and/or Subdivision & Lot Number.
4. Type of inspection (see above table of required inspections) requested.

Inspections scheduled by 3:00 p.m. of a county business day, will be performed within the next two business days (48 hours). NO APPOINTMENTS WILL BE MADE FOR INSPECTIONS.

ALL WORK SCHEDULED FOR INSPECTION SHALL BE COMPLETED BY 8:00 A.M. ON THE SCHEDULED DATE OF THE INSPECTION. INCOMPLETE WORK IS SUBJECT TO REJECTION AND PAYMENT OF A \$50.00 REINSPECTION FEE PRIOR TO RESCHEDULING OF THE INSPECTION.

Jefferson County building permit requirements are only applicable for property located within the unincorporated areas of Jefferson County and do not apply within the city limits of the five incorporated jurisdictions: Charles Town, Ranson, Harpers Ferry, Bolivar and Shepherdstown.

I HAVE READ AND UNDERSTAND THESE INSTRUCTIONS:

(Property Owner's (original/no copies) Signature _____

(Print Name) Rachel E Sharp

(Date) 05/19/2014

(Property Owner's (original/no copies) Signature _____

(Print Name) _____

(Date) ____/____/____

JEFFERSON COUNTY
ENGINEERING DEPARTMENT
OFFICE OF PERMITS & INSPECTIONS
116 EAST WASHINGTON STREET, Suite 100
CHARLES TOWN, WEST VIRGINIA 25414
(304) 725-2998

RACHEL
202
446
3333

Permit Fee: \$ 125.60
Please make checks payable to:
Jefferson County Commission
Date: 5/23/14
Rec'd by: NK
Permit No. 14-262

**SWIMMING POOL
Building Permit Application Form**

PROPERTY/OWNER INFORMATION:

Note: All individuals on the deed shall be listed on application.

First Name: Rachel Sharp Last Name: Sharp

First Name: _____ Last Name: _____

Phone Number: (202) 446-3333

Mailing Address: 619 Apple Cross Rd
(street number and street name or route/box number)

Harpers Ferry (city) WV (state) 25425 (zip) 1141 (zip) 269 (zip)

Tax District: NF Tax Map: SA Parcel #: 14 Deed Book: 7 Page: 28

Subdivision: Stone Brook Sub Lot #: 14 Section: 2

Parcel/Lot Size: 1.0097 List buildings & land uses on the property: single family home w/ detached 2 car garage

945

SWIMMING POOL INFORMATION

1,458.59 ft²

In-Ground Pool Above Ground Pool Pool Size/Area Dimensions 42.0x22.5
(For in-ground pool, dimensions shall be measured from outer edge of concrete deck/walkway)

Year of Pool: 2014 Make & Model of Pool: Custom Build

Estimated Value (pool, fence, & deck (if deck is added)): \$ 22,000

Pool Installer's Name: Self

Pool Installer's Phone No. _____ W. V. Contractor License #: _____

Pool Installer's Street/Mailing Address: _____

City: _____ State: _____ Zip: _____

(A copy of the current West Virginia Contractor's License must be submitted with application)

Swimming Pool
Building Permit Application
Revised 07/17/10

Pool = 650 ft² water surface
Perimeter = 108'

75.6
50.1

POOL DECK INFORMATION: (If applicable)

Size of Deck: 700 sq ft Pool Deck Contractor: Sunrise

West Virginia Contractor's License #: _____ Phone #: _____

(A copy of the current West Virginia Contractor's License must be submitted with application)

DIRECTIONS TO THE PROPERTY:

**INSPECTORS CANNOT INSPECT WHAT THEY CANNOT FIND!
PLEASE MAKE DIRECTIONS CLEAR & LEGIBLE**

Subdivision: Stone Brook Lot No. 14

Street Address/Name:

619 Apple Cross Rd.

Give clear directions from Charles Town using road names/route numbers, landmarks, when to turn left and right and other descriptors necessary to find the location. If there is more than one entrance to a subdivision, please note which entrance to use.

Driving Directions:

340 East take left on hall town rd
take ~~Right~~^{Left} on 230 North to Left
on Job Corps Rd. to Left on
Apple Cross approx 3/4 mile to 619 on left.

Additional Information:

PROPERTY OWNER/PERMIT APPLICANT'S CERTIFICATION OF INTENT AND ACKNOWLEDGEMENT OF RESPONSIBILITY:

I, (We), the Owner of the property on which the intended improvement is to be constructed or placed, hereby certify and ensure that this intended improvement/construction and the intended use complies with all restrictive covenants of this property/real estate. And, I, (We), agree, understand and acknowledge that I, (We), assume full responsibility for compliance with any such private land use covenants and restrictions, and that a violation thereof may result in legal sanctions by court injunction, fines and civil damages, irrespective of the issuance of this permit by Jefferson County.

I, (We), further acknowledge and understand that:

1. Any construction prior to the issuance of this permit is in violation of the Jefferson County Ordinances, and is subject to prosecution to the fullest extent of the law. (This includes site work, utilities construction, building construction, etc.)
2. Any new structure/swimming pool shall be located at the required/prescribed setback distances from property lines.
3. By signing this application it is understood that employees, representatives and/or agents of the Jefferson County Departments of Planning, Zoning, and Engineering are authorized to enter in and/or upon the property for the purposes of performing site plan and building code compliance inspections and to check for code violations related to the property, site work and/or building activities identified on this application.
4. The Property Owner is responsible for providing employees, representatives, and/or agents of the Jefferson County Department of Planning, Zoning and Engineering, safe and open access to the site and all building components when conducting inspections.
5. All work will be performed in accordance with Jefferson County Ordinances and Building codes; and that the owner is responsible for ensuring that the person(s) and/or contractor performing the work is knowledgeable of the applicable ordinances and building codes; and that the contract should stipulate that all work be performed in accordance with the applicable building codes. For residential swimming pools, the IRC, Appendix G, "Swimming Pools, Spas, & Hot Tubs", shall apply; this includes but is not limited to the requirements for fences, gates, latches, barriers, alarms, etc.
6. All roadways and properties shall be protected from damage and the deposit of mud, dirt, silt, trash and debris, etc., resulting from the work covered by this permit application. The property owner shall be responsible for any resulting damage and clean up costs.
7. A copy of the International Residential Code (IRC) and/or the International Building Code (IBC) may be purchased from the International Code Council at <http://www.iccsafe.org>; or are available for review at the Jefferson County Engineering Department, Office of Permits & Inspections.
8. No swimming pool shall be used and/or occupied until a "Use & Occupancy Certificate" is issued by the Jefferson County Office of Permits and Inspections; and that using or occupying such swimming pool prior to issuance of the Use & Occupancy Certificate is a violation of the Jefferson County Building Code Enforcement Ordinance and is subject to prosecution under the law.

I, (We), state that this application is true and accurate to the best of my (our) knowledge.


Property Owner's (original/no copies) Signature(s)

Rachel E Sharp
Print Name

05 / 19 / 2014
Date

Property Owner's (original/no copies) Signature

 / /
Date

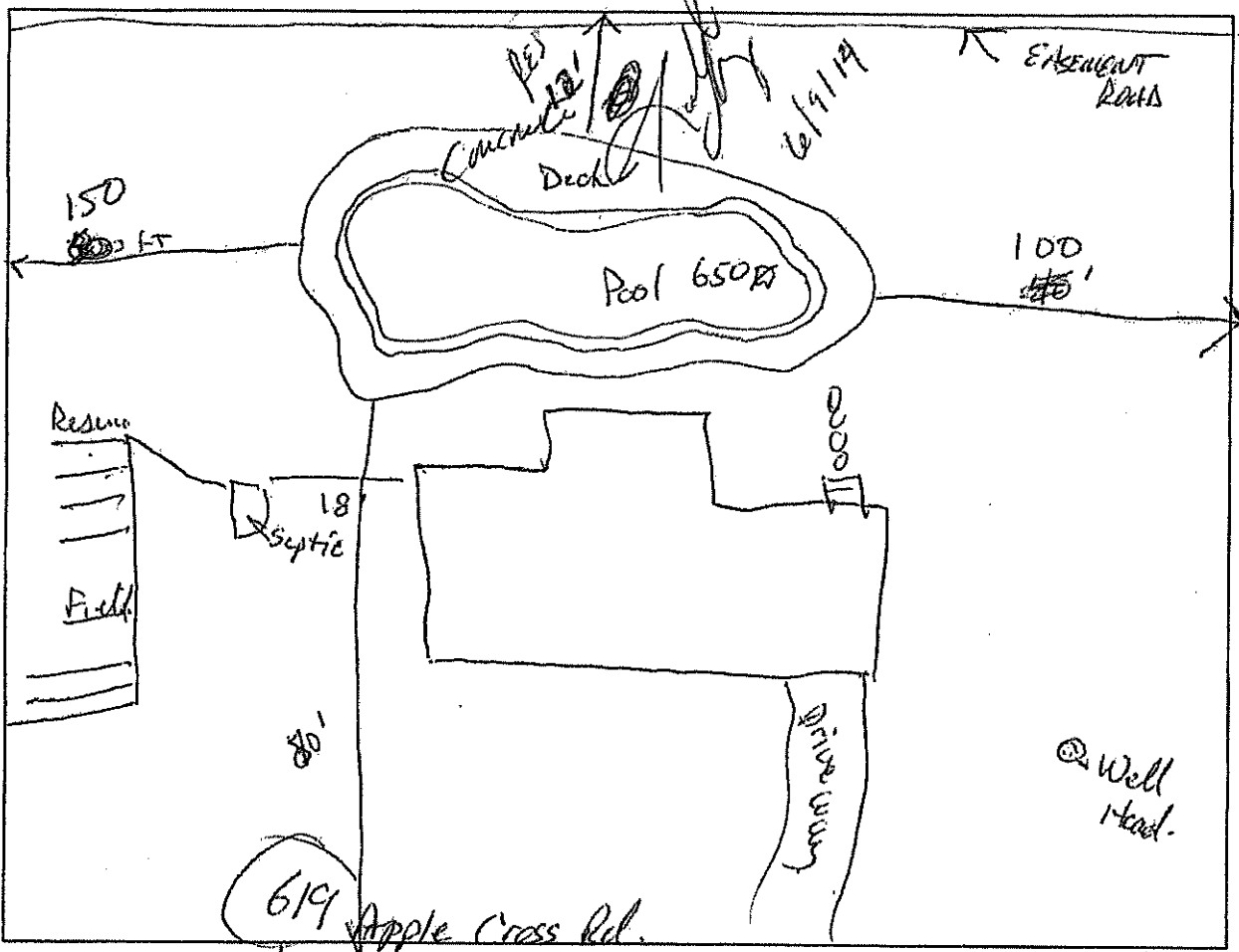
Print Name

Property & Swimming Pool SKETCH SHEET

Sketch the shape and location of the lot and show the following:

1. All existing roads with names and/or route numbers.
2. All rights-of-way and/or easements.
3. Septic reserve areas.
4. Location of the intended construction or land use; and show the building setback lines and the distances from the property line to the setback lines; and the distance from the property line to the pool/deck.
5. Show the size and height of the pool/deck.
6. Show all existing buildings/structures on the parcel/property.
7. Above ground pools shall indicate the location of the ladder and show a minimum 48" high self-latching gate meeting the applicable requirements of the building code.
8. In-ground pools shall show the location of the minimum 48" high fence/barrier around the pool with a minimum 48" high self-latching gate; all meeting the applicable requirements of the building code.

Note: The sketch may be on a separate sheet; however, it shall be signed and dated by the applicant.



Property Owner Name: Shoup, Rachil

Date: 5/19/14

DO NOT WRITE ON THIS PAGE
OFFICIAL USE ONLY

Plans Review Completed and sent to P & Z: 6/10/14 By: Bob

Date Permit Issued: 6/11/14 Permit Number: 14-262

Date Permit Expires: 12/11/14 Approved By: [Signature]

Compliance with Other Ordinances:

- Subdivision Zoning Flood Plain Management Salvage Yard ILP

In the Flood Plain? Y N In the Floodway? Y N Site Plan Required? Y N

Special Conditions of Approval: Must comply with all County
Ordinances.



Jefferson County, West Virginia

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor
Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

MEMORANDUM

TO: Board of Zoning Appeals
FROM: Jennifer M. Brockman, AICP, Director, Planning and Zoning/Acting Zoning Administrator
DATE: October 23, 2014
RE: Request for Clarification re: ZV14-15 All Good Music Festival

The Applicants for the All Good Music Festival have requested clarification of the items found in their letter dated 10-15-14 regarding how the time period for their proposed event is defined and measured. The question of whether this is appropriate to be heard and discussed by the BZA is a question for Legal Counsel and should be discussed at the BZA Meeting.

Note: The applicant's letter refers to PC File #ZV14-14, which pertains to the denied variance request. The approved Seasonal Use Application is #ZV14-15.

Background

On Friday, October 3, 2014, the Acting Zoning Administrator received a question from the Applicant's Consulting Engineering Firm requesting clarification of the provision in the Zoning Ordinance related to a three day event. They questioned whether it meant a 72 hour period or if a day started at midnight.

Among other duties, the Zoning Administrator is tasked with "interpreting the provisions of the Ordinance as required by law". As the term "Seasonal Use" is defined by the Jefferson County Zoning and Land Development Ordinance (June 1, 2014) as "A use that is carried on for not more than a single three day consecutive period in each of the four solar seasons", it was appropriate for the Zoning Administrator to be asked to make this interpretation.

As the Zoning Ordinance itself did not contain a definition of "day", the interpretation could logically be determined by what a reasonable person would think. To that end, the definition of day was researched and the following definitions were obtained. The Oxford Dictionary defines "day" as "a period of twenty-four hours as a unit of time, reckoned from one midnight to the next, corresponding to a rotation of the earth on its axis". The Merriam-Webster Dictionary defines "day" as "a period of 24 hours beginning at midnight: one of the seven time periods that make up a week".

Based on these findings, on Monday, October 6, 2014, the following e-mail was sent to the Applicant's Consulting Engineering Firm:

Mark

For the purpose of defining "day" to be used to calculate a three day event, I have determined that three days consists of "3 days of the week" (i.e.: Friday,

Saturday, Sunday) or “3 dates on a calendar” (i.e.: the 10th through the 12th), using the definition of a day as “a period of twenty-four hours as a unit of time, reckoned from one midnight to the next, corresponding to a rotation of the earth on its axis” or “a period of 24 hours beginning at midnight : one of the seven time periods that make up a week”.

Jennifer M. Brockman, AICP

Conclusion

The interpretation of a provision of the Zoning Ordinance found in the above referenced e-mail was made by the Acting Zoning Administrator; therefore, the appropriate method to have the interpretation reviewed by the BZA is for the applicant to appeal this decision.



ARNOLD & BAILEY

ATTORNEYS AT LAW

S. Andrew Arnold, Esq. PARTNER
Gregory A. Bailey, Esq. PARTNER
Christopher P. Stroech, Esq. ATTORNEY

208 N. George Street
Charles Town, WV 25414
t 304 725 2002 f 304 725 0282

8530 Shepherdstown Pike
The Hoxton Financial Building
Shepherdstown, WV 25443

VIA EMAIL AND HAND DELIVERY

October 15, 2014

Jefferson County Board of Zoning Appeals
116 E. Washington Street
Charles Town, WV 25414

Re: **REQUEST FOR CLARIFICATION**
FILE: ZV14-14
All Good Music Festival

To the Board of Zoning Appeals:

This letter is written as a request for clarification on the BZA approval of the seasonal use permit for the All Good Music Festival.

The applicant hereby seeks the following clarifications:

1. Is the event approved for a 72-hour time period or for three (3) distinct days of the week?
2. Does the event begin when the site gates open or when the music begins / main concert and vendor area opens to the public?

As neither the formal minutes nor the findings of fact and conclusions of law have yet been prepared and approved, this request is simply made to clarify the Board's verbal approval at the September meeting.

As the Ordinance and relevant WV statutes do not define "day," the legal definition is as follows: **"day. 1. Any 24-hour period; the time it takes the earth to revolve once on its axis..." Black's Law Dictionary, 7th Ed.** The practical import of this definition is staying one night in overnight lodging, ie. arriving at a hotel at 3:00pm and departing at Noon the following day. This is generally considered a one-day lodging.

When the request was made to have this need for clarification be placed on the October BZA meeting agenda, Ms. Brockman responded that a 'day' "consists of '3 days of the week' (i.e.: Friday, Saturday, Sunday) or '3 dates on a calendar' (i.e.: the 10th through the 12th), using the definition of a day as 'a period of twenty-four hours as a unit of time, reckoned from one midnight to the next, corresponding to a rotation of the earth on its axis' or 'a period of 24 hours beginning at midnight: one of the seven time periods that make up a week, "' without referencing specific authority.

She has further indicated that providing this definition was an official action, and any objection thereto must be appealed through proper BZA appellate procedure. I respectfully disagree as: 1) The Board has not yet finalized its minutes and findings of fact and conclusions of law from the September meeting and therefore has not made any determination that can be interpreted by Ms. Brockman, and 2) Ms. Brockman was not acting within her powers enumerated in Section 3.2.A. of the Ordinance, and therefore her action is not appealable.

The applicant respectfully requests that the BZA clarify its verbal approval of the event and include the requested clarifications in its findings of fact and conclusions of law. This is similar to a recent request made by Peter Corum to clarify the BZA's prior issuance of a conditional use permit, as referenced in the agenda for the August 28, 2014 meeting. The Board indeed took action and approved the request for clarification made by Mr. Corum. Accordingly, authority does exist for the Board to address this request for clarification.

The alternative option of requiring the applicant to proceed again through the appeal process, with further consideration and public hearing, will cause an undue hardship on the applicant, as successful planning for this event should begin immediately.

I appreciate your consideration.

Very truly yours,



Christopher P. Stroeck, Esq.

**RULES OF PROCEDURE OF THE
JEFFERSON COUNTY BOARD OF ZONING APPEALS**

WHEREAS, W.Va. Code § 8A-8-1, et seq., provides for the establishment and powers of a Board of Zoning Appeals, and

WHEREAS, the Jefferson County Board of Zoning Appeals is duly authorized, pursuant to W.Va. Code § 8A-8-9, to adopt rules of procedure to carry out its obligations pursuant to the Jefferson County Zoning and Development Review Ordinance and West Virginia law, and

WHEREAS, the Jefferson County Board of Zoning Appeals wishes to establish certain rules and regulations to effectuate its purpose and provide consistency for its proceedings,

NOW, THEREFORE, the Jefferson County Board of Zoning Appeals hereby adopts these Rules of Procedure which shall be applicable to all proceedings of the Board.

Article I – General

Section 1.1 – Definitions

As used throughout these Rules of Procedure, the following terms shall be defined as follows:

Administrative official – refers to any member of staff, including but not limited to the Zoning Administrator, who has made a decision or determination of an issue relating to the zoning ordinance.

Appellant – refers to any party which has filed a timely appeal with the Board.

Board – refers to the Jefferson County Board of Zoning Appeals.

County Commission – refers to the County Commission of Jefferson County.

Item – refers to any matter before the Board for consideration or discussion, and shall be construed broadly.

Member – refers to a member of the Board.

Ordinance – refers to the Jefferson County Zoning and Land Development Ordinance.

Respondent – the Zoning Administrator when a timely appeal is filed alleging error with respect to a formal zoning decision or zoning determination or the owner of the property subject to an appeal by a third party.

Staff – refers to the Department of Zoning and its employees.

Section 1.2 – Authority

These Rules of Procedure and its provisions are authorized by W.Va. Code § 8A-8-9, which empowers the Board, among other things, to adopt rules and regulations concerning the filing of appeals, applications for variances and conditional uses, the giving of notice, and the conduct of hearings.

Section 1.3 – Severability

The invalidation of any provision or section of these Rules of Procedure shall not invalidate any other provision or section of these Rules of Procedure.

Section 1.4 – Amendments

These Rules of Procedure may be amended at any regular meeting of the Board by a majority vote of the Board, and shall take effect immediately or at a date certain determined by the Board.

Article II – Organization

Section 2.1 – Membership

Pursuant to W.Va. Code § 8A-8-4, the Board shall be comprised of five (5) members appointed by the County Commission. Membership on the Board shall be in compliance with all the requirements of W.Va. Code § 8A-8-4.

Section 2.2 – Term of Office

Upon appointment to the Board, a member shall serve a term of three (3) years pursuant to W.Va. Code § 8A-8-4(d). If a vacancy occurs, the County Commission shall appoint a member for the unexpired term.

Section 2.3 – Powers and Duties

In addition to the powers and duties provided in these Rules of Procedure, the Board and its members shall have such other powers and duties as provided by ordinance and/or law, including but not limited to W.Va. Code § 8A-8-9.

Article III – Officers

Section 3.1 – Elections

At its first regular meeting each year, the Board shall elect from its members a Chairperson and Vice Chairperson.

Section 3.2 – Chairperson

The Chairperson shall serve a term of one (1) year, and shall preside at all public hearings held by the Board. The Chairperson may call special meetings of the Board as necessary, and is empowered to certify by signature or otherwise any official and valid action of the Board. The Chairperson shall also perform such duties and functions as may from time to time be required by the Board.

Section 3.3 – Vice Chairperson

During any absence of the Chairperson, the Vice Chairperson shall assume the duties and functions of Chairperson. The Vice Chairperson shall also perform such duties and functions as may from time to time be required by the Board.

Section 3.4 – Absence of Chairperson and Vice Chairperson

In the absence of both the Chairperson and Vice Chairperson, any present member may call to order a regular or special meeting of the Board, which shall thereupon immediately empower one or more of its present members to fulfill the duties and functions of Chairperson and/or Vice Chairperson during said absence.

Section 3.5 – Replacing Officers

In the event of the death, resignation, or removal of an officer of the Board, the Board shall thereupon elect one of its members to complete the unexpired term. A four-fifths majority of the total membership of the Board may, at any regular meeting, remove the Chairperson and/or the Vice Chairperson from office, provided that a new election to fill the remaining term(s) of office is immediately held.

Section 3.6 – Alternate Members

Pursuant to W.Va. § Code 8A-8-4(e), the County Commission may appoint up to three (3) additional members to serve as alternate members of the Board. The term for an alternate member is three (3) years. An alternate member shall serve on the Board when one of its regular members is unable to serve, and in such instance shall have all powers and duties of a regular member. The alternate member shall serve until a final determination is made in the matter to which the alternate member was initially called on to serve. Alternate members shall be entitled to be present at all Board meetings and deliberations.

Article IV – Meetings

Section 4.1 – Regular Meetings

The Board shall hold regular meetings on the fourth (4th) Thursday of each month at 2:00 p.m. in the ground floor meeting room of the Old Charles Town Library, at 200 East Washington Street, Charles Town, West Virginia. Prior notice shall be provided in the event that any regular meeting is held at a different location or at a different time. A regular meeting may be postponed, cancelled or rescheduled for appropriate reasons such as inclement weather or conflict with a holiday, and in such case prior notice of said postponement or cancellation shall be provided if possible.

Section 4.2 – Special Meetings

A special meeting may be called by the Chairperson or by two or more members of the Board, with said meeting to be held on a different day and/or a different time than regular meetings. Pursuant to W.Va. Code § 8A-8-5, notice for all special meetings shall be in writing, include the date, time and place of the special meeting, and be sent to all members at least two days before the special meeting. Written notice of a special meeting is not required if the date, time and place of the special meeting were set in a regular meeting. A special meeting may be postponed or cancelled for appropriate reasons, and in such case prior notice of said postponement or cancellation shall be provided to the public and members if possible.

Section 4.3 – Recording of Meetings

All meetings of the Board shall be recorded, and such recordings shall be maintained and made available, upon request and in accordance with the procedures of the Board and/or its staff, to the public. Recordings shall be maintained by staff for a minimum of five years.

Section 4.4 – Quorum and Majority Vote

In order to conduct a regular or special meeting, a quorum of members must be present. A majority of members of the Board shall constitute a quorum. Once the requirement for a quorum has been met, no action of the Board shall be official or valid unless authorized by a majority of members making up said quorum at a regular or special meeting.

Section 4.5 – Agendas

An agenda shall be made available prior to the start of all regular and special meetings. Items shall be listed on the agenda in such a manner as to sufficiently identify the substance of the item and allow for a vote on the item by the Board if necessary. The Board may deviate from the order of an agenda if necessary.

Section 4.6 – Executive Sessions

The Board may hold an executive session, closed to the public, during any meeting to consider matters permissible in executive sessions pursuant to W.Va. Code § 6-9A-4, including, but not limited to, deliberations toward a decision on an appeal or other item, privileged discussions with legal counsel, and personnel matters.

Section 4.7 – Procedures for Conducting Meetings

In the absence of state law or of other procedures of the Board, Roberts Rules of Order, current edition, shall be the parliamentary authority of meetings of the Board.

Section 4.8 – Open Governmental Proceedings

All meetings and actions of the Board shall comply with the requirements of West Virginia's open meetings laws, codified at W.Va. Code § 6-9A-1, et seq.

Article V – Consideration of Items

Section 5.1 – Voting

A member must be physically present at a meeting to vote on any item considered at said meeting. Voting via telephone or proxy is not permitted. Abstention and recusal shall be permitted only for reasons set forth in these Rules. Any member who abstains, recuses himself/herself, or otherwise chooses not to participate in a vote shall thereupon publicly state the reason.

Section 5.2 – Recusal

A member may recuse himself/herself in relation to an item for the reasons set forth herein, in which case such member shall not participate in discussion, consideration or vote on said item. Valid reasons for recusal include (1) having a personal interest in an item, (2) having a contractual, employment, or other relationship with a party involved with an item, (3) being unable to impartially consider an item, or (4) having been absent from part or all of the discussion or consideration of an item. A member recusing himself or herself shall thereupon state the reason for such recusal and leave the meeting, remaining absent for the duration of consideration and/or discussion of the item.

At all times, a member shall recuse himself or herself when his or her participation in the consideration, discussion, or vote regarding an item would give rise to the appearance of impropriety.

At all times, a member shall make full public disclosure of any and all issues which may tend toward an appearance of impropriety, and such disclosure shall be made prior the Board's consideration of the relevant item.

Section 5.3 – Ex Parte Communications

For purposes of these Rules of Procedure, ex parte communications consist of communications regarding the substance of an item that is or will be before the Board for consideration and/or discussion, when such communications are between one or more members of the Board and one or more individuals involved with the item. No member of the Board shall voluntarily and knowingly engage in ex parte communications without the authority of the Board. In the event that a member of the Board has engaged in or receives any ex parte communication, said member shall bring the same to the attention of the Board and shall publicly disclose the same. Communications with third parties regarding procedural aspects of items do not constitute ex parte communications.

Section 5.4 – Continuance

The Board may continue, reschedule, or re-open proceedings on an item for any good cause.

Section 5.5 – Notice

All items shall be noticed in accordance with the Ordinance, these Rules of Procedure, and staff procedures. In accordance with Section 3.4A(3)(b)(ii) of the Jefferson County Zoning and Land Development Ordinance (6/1/14), “the subject property shall be posted conspicuously” shall mean that a notice shall be posted on every road, right-of-way, and/or easement on which the public may travel adjoining or abutting the property. If an item is continued, rescheduled, or postponed, and the new time and date are announced at the same meeting, then no additional notice is required for that item. If an item is continued, rescheduled, or postponed, and the new time and date are not announced at the same meeting, all parties of record shall be provided not less than seven (7) calendar days notice of the new time and date.

Section 5.6 – Submissions to the Board

Submissions regarding all items for Board consideration shall be made in accordance with the Ordinance, these Rules, and relevant staff procedures. Staff may establish deadlines for submittal of applications and supplemental material. Late submissions, including submissions made the day before or the day of any meeting of this Board, may not receive full consideration by the Board due to the lack of time for proper Board and staff review.

Section 5.7 – Procedure for Hearings

Prior to hearings on all items, the Board will require all persons present who wish to give comments on any item to place their name on a written list of anticipated speakers.

Hearings on items shall be conducted in the following manner:

- (1) Chairperson opens public hearing;
- (2) Staff presents summary of application and staff report;
- (3) Applicant/Appellant testimony;
- (4) Respondent(s) testimony;

- (5) Public comment;
- (6) Rebuttals of staff, applicant/appellant and respondent(s);
- (7) Chairperson calls for a vote for closed deliberation and recesses public hearing if motion carries;
- (8) After consideration, Board reopens public hearing and renders a decision.

The Chairperson shall preside at the hearing and shall make such rulings as may be necessary to conduct a hearing in an efficient and orderly manner including, but not limited to, the imposition of time limitations and the exclusion of irrelevant, repetitive, or cumulative evidence or testimony. A member may question the rulings of the Chairperson, and such questions may be decided by a motion and subsequent majority vote of the Board.

Section 5.8 – Reopening Hearing

At any time prior to the rendering and/or filing of a decision, the Board may, upon the request of a party or upon its own motion, reopen proceedings on an item for the receipt of further evidence or information. All parties of record shall be given proper notice of the reopening and granted an opportunity to review additional evidence and information and file any rebuttal or additional comments.

Article VI – Appeals

Section 6.1 – Scope of Appeals to the Board

Pursuant to W.Va. Code § 8A-8-9, the Board shall hear, review and determine appeals from an order, requirement, decision or determination made by an administrative official or party charged with the enforcement of a zoning ordinance or rule and regulation adopted pursuant thereto.

Section 6.2 – Time

All appeals to the Board shall be filed within thirty (30) days of the entry of the order, requirement, decision or determination which is the subject of the appeal. Within ten (10) days of receipt of a complete appeal form and associated fee(s), the Board, through its Staff, shall set a date for a public hearing of the appeal.

Section 6.3 – Posting of Property

If an appeal hearing involves the use of land, including requests for exceptions, variances, and conditional use permits, the property owner shall post signs on the property showing the date, time, and place of the hearing on every road, right-of-way, and/or easement on which the public may travel adjoining or abutting the property. The signs shall be posted at least fifteen (15) days in advance of the hearing. All signs shall be prepared by the Board's staff and the Appellant shall bear reasonable costs associated therewith.

The property owner is responsible for compliance with the posting requirements set out herein, and said property owner shall bear the burden of proof of compliance in the event that a

question regarding compliance arises. In the event that the application is for an appeal of a decision made by the Zoning Administrator that involves a property not owned or leased by the appellant, staff shall contact the property owner and inform them of the need to post a sign on their property. If they are unwilling to allow the appellant to post the sign, staff shall post the sign.~~In the event that a property owner is unable to properly post signs as required herein, it shall be sufficient that a property owner has made a good faith effort to comply with the requirements of this section.~~

Section 6.4 – Publication of Notice

At least fifteen (15) days prior to an appeal hearing, the Board, through its staff, shall publish a notice of public hearing in a local newspaper. The notice shall include the date, time, and place of the hearing and shall be a class I legal advertisement in compliance with W.Va. Code § 59-3-1, *et seq.* The Board may require the Appellant to pay for the cost of the advertisement.

Section 6.5 – Supplementation of Record for an Appeal Hearing

Appellant(s) may provide two copies of supplemental materials to the Board in advance of a hearing on an appeal of an administrative decision and the same must be submitted no later than 15 days prior to the hearing date. The Appellant(s) shall also deliver complete copies of the supplemental materials to any applicable Respondent(s) at the same time and shall certify to staff that such materials were delivered as required.

No later than one (1) week prior to an appeal hearing, any Respondent(s) may file documentation with the Board for consideration and shall deliver complete copies of any material submitted to all other parties and shall certify to staff that such materials were delivered as required. The Board may consider the written decision being appealed together with all materials in the official file maintained by staff at the time of the hearing without necessity of mailing or delivery to any party. The parties may review the administrative file prior to the hearing.

All submissions shall be made in accordance with the Board of Zoning Appeals Rules of Procedure. Failure to follow submission guidelines by an Appellant shall be considered failure to file a complete appeal and the Board in its discretion may postpone the hearing until the Appellant complies or ignore the supplemental materials and base its decision upon other materials provided.

Section 6.6 – Appeals of Board Decisions

Pursuant to W.Va. Code § 8A-9-1, every decision of the Board is subject to review by petition for writ of certiorari in circuit court.

These rules become effective on the 26 day of June, 2014.

JEFFERSON COUNTY
BOARD OF ZONING APPEALS,

By: _____
Chairperson



Jefferson County, West Virginia

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Director's Report Board of Zoning Appeals Meeting October 23, 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 (discussed at 10/2/14 CC Meeting):
 - Required Joint PC/CC Workshop regarding for the Envision Jefferson 2035 Comprehensive Plan -- **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 (tentatively recommended to the County Commission on October 14, 2014) -- **November 6, 2014, 7:00 pm** (Note that this hearing requires 15 days' notice)
 - b) County Commission Public Hearing on proposed Zoning Ordinance text amendment regarding Mass Events (#ZTA 14-02) was held on Wednesday, October 1, 2014 – left open for written comments through October 15, 2014.
- 3) Upcoming BZA meetings
 - a) REMINDER: Open Governmental Proceedings and Robert's Rules of Order and Ethics Train Session scheduled by County Commission on **November 5, 2014** at 1:30pm or 6:30 pm. **All BZA members are encouraged to attend.**
 - b) Next Regular Meetings:
 - **November 13, 2014** (revised due to holidays)
 - **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

Email: zoning@jeffersoncountywv.org

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

MEMORANDUM

TO: Board of Zoning Appeals Members
CC: Engineering & Building Permits Departments
FROM: Acting Zoning Administrator, Jennifer M. Brockman
DATE: October 16, 2014
SUBJECT: October Monthly Report of Department Activities

ISSUED ZONING CERTIFICATES

AMENDED RICHARD E. GRANT, JR. – OWNER / APPLICANT
#ZC14-38

Issuance Date: September 24, 2014
Proposed Use: Home Occupation Level 2. Full Service Canine and Feline Grooming Business.
Physical Location: 3146 Bowers Road; Kearneysville, West Virginia 25430
Zone: Rural

#ZC14-40 GEORGE W. RUSHIZKY - OWNER
HARDY CELLULAR TELEPHONE CO. / CONTACT: TOM HODGES - APPLICANT

Issuance Date: September 26, 2014
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: 8422 Shepherdstown Pike; Shepherdstown, West Virginia 25443
Zone: Rural

ISSUED ZONING CERTIFICATES

#ZC14-41 McLUCKY, LLC / PHILIP N. McDONALD, MEMBER – OWNER
KEVIN C. DROST and DINA CIRIELLO - APPLICANT

Issuance Date: September 30, 2014
Proposed Use: Antique Shop. Applicant to use existing 8’x12’ lighted sign and established parking area for customers. Approximately 2/3 of existing retail structure will be used for storage purposes.
Physical Location: 154 Wolfcraft Way; Charles Town West Virginia 25414
Zone: Residential-Light Industrial-Commercial

#ZC14-37 PETER CORUM – OWNER / APPLICANT

Issuance Date: October 3, 2014
Proposed Use: Temporary Use 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

PENDING ZONING CERTIFICATES

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

#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

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

#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 1st – December 15th.
Physical Location: 4922 Charles Town Road; Kearneysville, West Virginia 25430
Zone: Rural

#ZC14-39 BENJAMIN THOMPSON – OWNER / APPLICANT

Issuance Date: TBD
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

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

Issuance Date: TBD
Proposed Use: Installation of a double-sided electric sign.
Physical Location: 4843 Middleway Pike; Kearneysville, West Virginia 25438
Zone: Rural

PENDING ZONING CERTIFICATES

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

Issuance Date: TBD
Proposed Use: Property contains existing self-support tower. T-Mobile to install three (3) proposed antennas, at 165 feet, and two (2) ode cabinets to an existing Wireless Telecommunications Facility.
Physical Location: 8422 Shepherdstown Pike; Shepherdstown, West Virginia 25443
Zone: Rural

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

Issuance Date: TBD
Proposed Use: Property contains existing self-support tower. T-Mobile to install three (3) proposed antennas, at 130 feet, and two (2) ode cabinets to an existing Wireless Telecommunications Facility.
Physical Location: 307 West Burr Boulevard; Kearneysville, West Virginia 25430

#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



JEFFERSON COUNTY COMMISSION

124 East Washington Street, P.O. Box 250, Charles Town, WV 25414

Phone: (304) 728-3284 - Fax: (304) 725-7916

Web: www.jeffersoncountywv.org

PRESIDENT

Walt Pellish

VICE PRESIDENT

Jane Tabb

COMMISSIONER

Dale Manuel

COMMISSIONER

Patsy Noland

COMMISSIONER

Lyn Widmyer

September 24, 2014

Dear Authority, Board, Commission, Committee, Council Member or Mayor:

The Jefferson County Commission recognizes the importance of the knowledge and understanding of the Open Governmental Proceedings Act and Robert's Rules of Order in relation to public meetings. As such, the County Commission would like to extend an invitation to you to share in a training session on Ethics and Robert's Rules of Order to be held on Wednesday, November 5th, 2014 with an afternoon session beginning at 1:30 p.m. and an evening session beginning at 6:30 p.m. Both sessions will cover the same material, and we anticipate each session will be approximately 90 minutes.

The session will be held at the County Commission meeting room located in the lower level of the Old Charles Town Library of the corner of East Washington and North Samuel Street, Charles Town, WV 25414. John Sorrenti from the West Virginia State Auditor's Office will lead the session on Robert's Rules of Order, and a training video from the West Virginia Ethics Commission will be shown to cover standard ethics and open meetings guidelines. Mr. Sorrenti will also be on hand to answer any questions you may have about the topics discussed.

Please be advised this training is only offered through the County once a year. If you happen to be the President of a County-appointed board, commission, or committee, we specifically urge you to attend one of these sessions (or encourage your entire group to attend).

We kindly ask that you RSVP no later than Friday, October 24, 2014 in order to assure we have the proper seating and literature available. If you have any questions, please feel free to call our office at 304-728-3284 or you may e-mail me at jcarroll@jeffersoncountywv.org.

Sincerely,

Jessica Carroll

Executive Administrative Assistant

County Administrator
Debbie Keyser

Deputy County Administrator
Sandy Slusher McDonald

Jefferson County, West Virginia
Department of Planning & Zoning
116 East Washington Street, 2nd Floor
P.O. Box 338
Charles Town, West Virginia 25414

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

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

Memorandum

TO: The Jefferson County Commission of Jefferson County, West Virginia

FROM: Jennifer Brockman, Director of the Department of Planning and Zoning

DATE:

SUBJECT: 2014 Ethics Training Session RSVP

Please note that I, _____, Member of the Board of Zoning Appeals:

Will

Will Not

Be attending the Open Governmental Proceedings Act and Robert's Rules of Order training session to be held on Wednesday, November 5, 2014 at _____ p.m. in the Conference Room of the Old Charles Town Library.