

Jefferson County

Board of

Zoning Appeals

Thursday,

November 14, 2013



**JEFFERSON COUNTY, WEST VIRGINIA**

**Department of Zoning**

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

P.O. Box 338

Charles Town, West Virginia 25414

**Phone: 304-728-3228**

**Fax: 304-728-8126**

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

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MEMORANDUM

TO: Jefferson County Board of Zoning Appeals Members

FROM: Jennilee Hartman, Zoning Clerk

DATE: November 8, 2013

SUBJECT: November 14, 2013 Board of Zoning Appeals Meeting

Please find enclosed a copy of the Agenda for the upcoming Board of Zoning Appeals meeting to be held on Thursday, November 14, 2013. Also for your review, you will find corresponding information regarding said Meeting. When applicable, I will include copies submitted to this office that pertain to items of new business. If you have any questions, or will not be able to attend the upcoming meeting, please do not hesitate to contact me.

Please note, the draft minutes for the September 19 and October 10, 2013 meeting will be emailed to you next week.

Thank you.



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Zoning**  
116 East Washington Street  
P.O. Box 338  
Charles Town, West Virginia 25414

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

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

MEMORANDUM

TO: Board of Zoning Appeals Members

CC: Engineering & Building Permits Departments

FROM: Acting Zoning Administrator, Jennifer M. Brockman

DATE: November 8, 2013

SUBJECT: November Monthly Report of Department Activities

**ISSUED ZONING CERTIFICATES**

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#ZC13-39 THE MARTY MART GROUP, LLC – MARTHA WAREING / OWNER  
REBECCA SIMMONS-HOOD / APPLICANT

*Issuance Date:* October 23, 2013  
*Proposed Use:* Retail Concession Stand selling “Kansas City Smoked BBQ” from a 10’ x 10’ trailer, to occupy two parking spaces. Saturdays only.  
*Physical Location:* EZ Mart Gas Station – 1422 Blair Road; Harpers Ferry, WV 25425  
*Zone:* Industrial-Commercial

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#ZC13-37 MICHAEL HAMPSHIRE / OWNER  
MICHAEL HENSLEY - APPLICANT

*Issuance Date:* October 25, 2013  
*Proposed Use:* Two Business Units. Existing Body Shop, established in 1974, to continue operating in half of building. Addition of mechanical automotive repair / maintenance to include State Inspections, will utilize remaining half of current Body Shop space.  
*Physical Location:* 38 Tasker Lane; Kearneysville, West Virginia 25430  
*Zone:* Village

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## **PENDING ZONING CERTIFICATES**

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#ZC13-35 WEESE RENTALS, LLC / OWNER  
RICHARD WEESE - APPLICANT

*Issuance Date:* TBD

*Proposed Use:* Cottage Industry. Full service nail salon operated by full-time resident. Vehicle trips will not exceed 15 trips per day or 60 trips per week.

*Physical Location:* 68 Jefferson Avenue; Charles Town, West Virginia 25414

*Zone:* Residential-Light Industrial-Commercial

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#ZC13-40 SUMMIT POINT AUTOMOTIVE RESEARCH CENTER / OWNER  
CELLCO PARTNERSHIP dba VERIZON WIRELESS / APPLICANT  
(CONTACT: DIANE DeLAET)

*Issuance Date:* TBD

*Proposed Use:* Telecommunications Tower. Locate twelve (12) antennas on an existing 195' monopole at a height of 180' and 11'7" x 16' equipment shelter and emergency stand-by generator on grade.

*Physical Location:* 77 Hardesty Road; Summit Point, West Virginia 25446

*Zone:* Rural

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#ZC13-41 EPISCOPAL DIOCESE OF WEST VIRGINIA / OWNER  
THE REVEREND GEORGIA DuBOSE/ APPLICANT

*Issuance Date:* TBD

*Proposed Use:* Use of the Church for various Religious purposes, such as Worship, Charitable Enterprises, Shelter for the Homeless, Meetings of Charitable, Organizations and other Religious Activities approved and sponsored by the Episcopal Diocese of West Virginia.

*Physical Location:* 2518 Berryville Pike; Rippon, West Virginia 25441

*Zone:* Rural

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#ZC13-42 MADDEX SQUARE ASSOCIATES, LP / OWNER  
HAGERSTOWN GOODWILL INDUSTRIES, INC. / dba HORIZON GOODWILL / APPLICANT

*Issuance Date:* TBD

*Proposed Use:* Goodwill Store

*Physical Location:* Rte. 45 / Maddex Sq. Shopping Cntr – Shepherdstown, WV 25443

*Zone:* Residential-Light Industrial-Commercial

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**PENDING ZONING CERTIFICATES**

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#ZC13-43     MARK O'DELL / OWNER  
                  MARK PANTELONE / APPLICANT

*Issuance Date:*            TBD  
*Proposed Use:*            Gun Shop  
*Physical Location:*      459 Berryville Pike; Rippon, West Virginia 25441  
*Zone:*                      Industrial-Commercial

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#ZC13-44     WILLIAM MARLOW / OWNER  
                  RIZWAN KUSHWAHA / APPLICANT

*Issuance Date:*            TBD  
*Proposed Use:*            Retail Operation. Cell phone and PC repairs. Will also provide  
   pre-paid cell phone services and accessories.  
*Physical Location:*      832 East Washington Street; Charles Town, West Virginia 25414  
*Zone:*                      Residential-Light Industrial-Commercial

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#ZC13-45     RAMEY'S ENTERPRISE, LLC / OWNER  
                  CHRISTIAN RAMEY / APPLICANT

*Issuance Date:*            TBD  
*Proposed Use:*            Country Grocery Store to include alcohol sales.  
*Physical Location:*      4360 Sulphur Springs Road; Kearneysville, WV 25430  
*Zone:*                      Rural

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**Jefferson County**  
**Board of Zoning Appeals**  
**Thursday, November 14, 2013, 2:00 p.m.**

Members  
Jeff Bresee, Chair  
Christy Huddle, Vice Chair  
Edwin Kelly  
Tyler Quynn

The Jefferson County Board of Zoning Appeals will meet in the Charles Town Library Conference Room located at 200 East Washington Street, at the side entrance on Samuel Street, in the City of Charles Town, WV.

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

1. Approval of the minutes from the September 19, 2013 and October 10, 2013 meeting.
2. Swearing in of members of the public intending to provide testimony.
3. Variance request by property owner, Susan Powell, from Section 9.7 for a reduction of the rear setback distance from 12' to 6' to allow for the construction of an 8' x 12' deck to be used for wheelchair access. Location: Shannondale, Section 5F, Lot 40, 480 Rolling Lane, Harpers Ferry, WV. District: Kabletown (06); Map: 6B; Parcel: 67; Zoned: Rural; Size 0.25 acres; File: #ZV13-30.
4. Variance request by property owners, James M. and Bonnie K. Pretre, from Section 9.7 for a reduction of the rear and side setback distances from 6' to <1' to allow for an existing 12' x 18' shed to remain placed on current site. Location: 297 Euclid Ave, Charles Town, WV. District: Charles Town (02); Map: 10A; Parcels: 86 & 87; Zoned: Residential-Growth; Size 18,750 sq. ft.; File: #ZV13-31.
5. Variance request by applicant, John Fridley, from Section 9.6(C) & 9.7 for a reduction of the front setback distance from 20' to 8' to allow for the construction of a 20' x 25' detached garage. Property Owner: William C. Palmer, Sr. Location: Shannondale, Section 1L, 1623 Lakeside Drive, Harpers Ferry, WV. District: Kabletown (06); Map: 6C; Parcel: 292; Zoned: Rural; Size: 25,000 sq. ft.; File: #ZV13-32.
6. Variance request by Kristen Stolipher, Consultant, on behalf of, Junipa Contento, Developer, from Section 2.2 to extend the time permitted for a Seasonal Use, which limits an event to not more than 3 consecutive days. The applicant is requesting to hold a 5-day music festival and camp out during the July/August 2014 summer season. Property Owner: Stiles Partnership 3 and 4. Location: 118 Goshen Arrabon Lane, Charles Town, WV. District: Kabletown (06); Maps: 20 & 21; Parcels: 13 & 4.1; Zoned: Rural; Size: 271 (proposed use); File: ZV13-33.
7. Request by Kristen Stolipher, Consultant, on behalf of, Junipa Contento, Developer 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 (ZV13-22) is approved, during the 2014 summer season. Property Owner: Stiles Partnership 3 and 4. Location: 118 Goshen Arrabon Lane, Charles Town, WV. District: Kabletown (06); Maps: 20 & 21; Parcels: 13 & 4.1; Zoned: Rural; Size: 271 (proposed use); File: ZV13-34.
8. Director's Report.
9. Legal Update.
10. Signing of written decisions from prior Board of Zoning Appeals meetings.
11. Correspondence



## Jefferson County Board of Zoning Appeals Consideration of a Variance

Article 3, Section 3.4 of the Jefferson County Zoning and Land Development Ordinance amended by the County Commission on July 7, 2011, states the following:

### **Section 3.4 Boards and Commissions<sup>23</sup>**

#### A. Board of Zoning Appeals

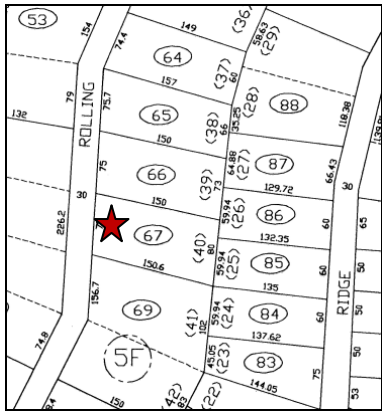
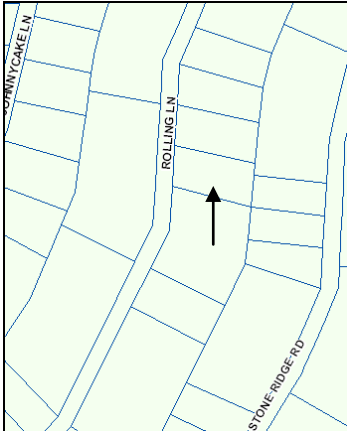
4. The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.<sup>23</sup>
  - a. The Board shall approve a variance request if the Board finds that a variance:
    - i. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
    - ii. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
    - iii. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
    - iv. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.<sup>17, 21</sup>
  - b. The owner or authorized representative of the owner of the property which is the subject of a variance request shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The variance request shall be filed with the Board at offices of the Departments of Planning and Zoning.
  - c. Notification for a variance must be conducted according to the requirements of Section 3.4A(3)(b).
  - d. A public hearing must be conducted according to the requirements of Section 3.4A(3)(c) and such hearing may be continued according to the requirements of Section 3.4A(3)(d).



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 November 14, 2013

**Susan Powell Variance Request (#ZV13-30)**

Item #3 Variance request by applicant, Susan Powell, from Section 9.7 for a reduction of the rear setback distance from 12' to 6' to allow for the construction of an 8' x 12' deck to be used for wheelchair access.

APPLICANT:	Susan Powell
OWNER :	Same as above
DEVELOPER:	N/A
SURVEYOR/ENGINEER:	N/A
PROPERTY LOCATION:	Shannondale, Section 5F, Lot 40 480 Rolling Lane, Harpers Ferry, West Virginia
LEGAL DESCRIPTION:	Kabletown (06); Map: 6B; Parcel: 67 
ZONING DISTRICT:	Zoning Map Designation: Rural (R) 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North: R                      South: R</i> <i>East: R                         West: R</i>
LOT AREA:	.25 acres
PRIOR CASES:	None
VARIANCE(S):	None
APPROVED ACTIVITY:	Residential

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013

**Susan Powell Variance Request (#ZV13-30)**

**RELEVANT INFORMATION:**

1. Overview of Request

The applicant is seeking a variance from Section 9.7 for a reduction of the rear setback distance from 12' to 6' to allow for the construction of an 8' x 12' deck to be used for wheelchair access.

2. Previous Case History

The subject property is located in Shannondale Subdivision which was approved and recorded prior to the adoption of subdivision and zoning regulations in Jefferson County.

3. Applicant's Justification of Request

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

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*
- b) *Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance.*
- c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*
- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

4. Staff Evaluation of Request

An exhibit submitted with the application shows that there is only 14' between the back of the house and the rear property line. The house sits fairly far back on the property due to the terrain, existing trees and the location of the septic system in the front yard. The rear yard setback for this parcel is 12'. The proposed deck is 8' in depth thus encroaching into the rear setback 6'.



**Front View of Property**

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013

**Susan Powell Variance Request (#ZV13-30)**

a. Source and purpose of ordinance requirements

The recordation of this section of the Shannondale Subdivision predates the establishment of the zoning ordinance therefore the applicant must comply with Section 9.7 of the Zoning Ordinance which regulates setbacks for properties created prior to 1988. Due to the property's location, size, zoning district and history, the setbacks would be 20' Front, 8' Side and 12' Rear.

b. Unique characteristics of property

The subject property is located in an established subdivision that predates both the zoning and subdivision ordinances. A lot of this size and in this zoning district would not be permitted under the current regulations and is therefore considered a nonconforming lot. While the existing home meets the current zoning setbacks for lots that are under 30,000 square feet in the rural district; a proposed deck of this size would not meet the required 12' rear setback.



**Rear of House**

c. Character of area

The property is located in the Shannondale Subdivision and is situated in a particularly heavily forested section, surrounded on three sides by residential uses.

d. Impact on adjacent properties

The property toward the rear of the subject parcel rises steeply applicant states that the abutting property is unbuildable due to the topography of the lot.



**Rear of Property**

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013

**Susan Powell Variance Request (#ZV13-30)**

e. Feasibility of complying with the ordinance by other means

Due to the existing location of the home and rear entry, the proposed deck appears to be situated a reasonable location. The proposed size of the deck also appears practical as the purpose of the deck is to accommodate the current handicapped tenants.



**View of Rear Entry**

5. Conditions of Approval

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

- a. The variance is limited to the dimensions described in the application.

SECTION OF ORDINANCE TO BE CONSIDERED:

**Section 9.7 Other Exceptions<sup>3</sup>**

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:<sup>23</sup>

Rural Agricultural and Industrial Commercial

Single family residences --

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
under 30,000 sq. ft. --	20' front,	8' side	and	12' rear



# JEFFERSON COUNTY, WEST VIRGINIA

## Departments of Planning and Zoning

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

Charles Town, WV 25414

[www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html](http://www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html)

File Number: ZV13-30

Fees Paid (\$100 or \$150): \$ 100.00

Staff Initials: AS

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

Phone: (304) 728-3228

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

Fax: (304) 728-8126

### Zoning Variance Request

Variances to the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

#### Property Owner Information

Property Owner Name: Susan Powell

Mailing Address: 152 N. Bolton Street

City: Romney State: WV Zip Code: 26757

Phone Number: 540-687-0845 Email: USAOURCOUNTRY@YAHOO.COM

#### Applicant or Contact Information

Applicant / Contact Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

#### Applicant Representatives

Company/Organization Name: \_\_\_\_\_

Attorney(s), Engineer(s), or Surveyor(s) Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

#### Physical Property Details

Physical Property Address: 480 Rolling Lane, Harpers Ferry, WV 25425

Tax District: Kabletown, (06) Map No: 6B Parcel No: 67

Parcel Size: ~.25 acre Deed Book: 1108 Deed Bk. Pg. No: 406

SECTION 5F #40 SURROUNDAGE

RECEIVED

SEP 26 2013

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

Zoning District:	Rural (R-A)	Residential Growth (R-G)	Industrial Commercial (I-C)	Residential-Light Industrial-Commercial (R-L-C)	Village (V)
<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of ways, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e., the distance of the structure from all property lines), size and height. Identify all existing buildings, structures or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

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

Reference the section of Ordinance pertaining to this request (Required:) Article 9.7

Please briefly describe the nature of the variance request:

Reduction in setback requirements from 12' to 6'  
would like to construct 8'x12' deck for wheelchair access. AB

If this request is for a setback variance, please complete the section below:

Front Setback  Side Setback  Rear Setback Reduction From 12' to 6'

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

Abutting property is "unbuildable" - hill lot. AB

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

Residents are disabled. AB

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

Wheelchair access for residents - otherwise, muddy backyard. AB

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

A deck will increase assessed value of the home. AB

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge. Note: Original signature is required. If additional signatures are necessary, please attach a separate sheet of paper.

Susan Powell  
Print Name of Property Owner 1 Date

Print Name of Property Owner 2 Date

[Signature] 9.26.13  
Signature of Property Owner 1 Date

Signature of Property Owner 2 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)).

November 14, 2013  
Date of Public Hearing

October 30, 2013  
Advertising Date

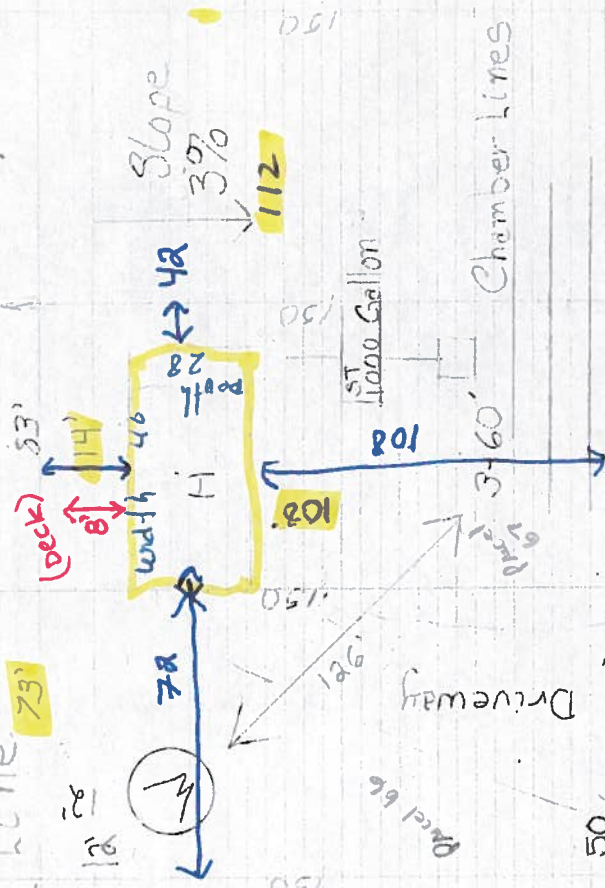
October 30, 2013  
Placard Posting Date

\*Application filled in by Alexandra Beaulieu per applicant's request due to being visually impaired.

#ZM1330

Sec 5F

Property Line 73'



37

38

39

40

47

42

New Well to Septic 126'

Ex Well to Septic 110'

Rolling lane

RECEIVED

SEP 26 2013

JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING

Susan Taylor  
304 359-2110  
Hse Width 40'  
Depth 28'  
1,120 sq ft  
Height 17 feet

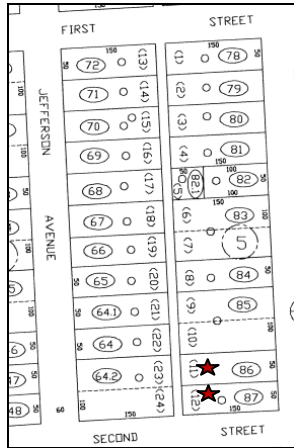
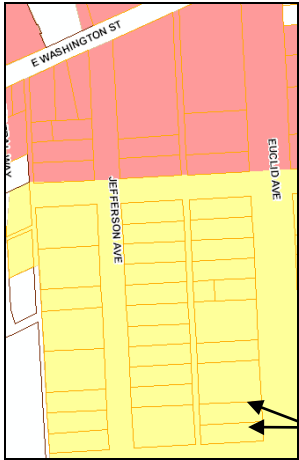
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Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 November 14, 2013

**James M. and Bonnie K. Pretre Variance Request (#ZV13-31)**

Item #4 Variance request by property owners, James M. and Bonnie K. Pretre, from Section 9.7 for a reduction of the rear and side setback distances from 6' to <1' to allow for an existing 12' x 18' shed to remain placed on current site.

APPLICANT:	James M. and Bonnie K. Pretre
OWNER :	Same as above
DEVELOPER:	N/A
SURVEYOR/ENGINEER:	N/A
PROPERTY LOCATION:	297 Euclid Ave, Charles Town, WV
LEGAL DESCRIPTION:	<p style="text-align: center;">Charles Town (02); Map: 10A; Parcel: 86 &amp; 87</p> 
ZONING DISTRICT:	<p style="text-align: center;">Zoning Map Designation: Residential-Growth (RG)</p> 
SURROUNDING PROPERTIES:	<p>Zoning Map Designation:</p> <p><i>North:</i> RG                      <i>South:</i> RG</p> <p><i>East:</i> RG                        <i>West:</i> RG</p>
LOT AREA:	18,750 sq. ft.
PRIOR CASES:	None
APPROVED ACTIVITY:	Residential: Single family

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013

**James M. and Bonnie K. Pretre Variance Request (#ZV13-31)**

RELEVANT INFORMATION:

1. Overview of Request

The applicant is seeking a variance from Section 9.7 for a reduction of the rear and side setback distances from 6' to <1' to allow for an existing 12' x 18' shed to remain placed on current site.

2. Previous Case History

The subject property is located on Lot 22 of Block 5, as depicted on the Charles Town and Washington City Improvement Company plat which was recorded prior to the adoption of subdivision and zoning regulations.

3. Applicant's Justification of Request

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

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*
- b) *Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance.*
- c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*
- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

4. Staff Evaluation of Request

a. Source and purpose of ordinance requirements

The purpose of side and rear yard setback requirements is to reduce the impact that a land use might cause to an adjacent property, to allow adequate space between a structure and a property line so that maintenance of the structure is feasible, to maintain adequate separation between structures for fire prevention purposes, and to allow room for utility easements.

Shorter setbacks are typically permitted for small accessory structures, because their reduced size equates to less of a visual impact on neighboring properties.

b. Unique characteristics of property

The subject property is located in an established part of the city that predates both the zoning and subdivision ordinances and is therefore considered nonconforming.

The subject parcel contains a significant number of pieces of outdoor equipment used for recreational activities that would hinder the placement of the shed at the eastern portion of the property. Staff did not have access to the rear of the property so any potential location constraints are unknown; however, aerial photographs show a number of other uses located in the applicant's backyard.

Regarding the present location of the shed, there is a large tree directly behind the existing shed. It does not appear likely that the shed could have been placed further back from Second Street without cutting branches or causing damage to the tree.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013

**James M. and Bonnie K. Pretre Variance Request (#ZV13-31)**

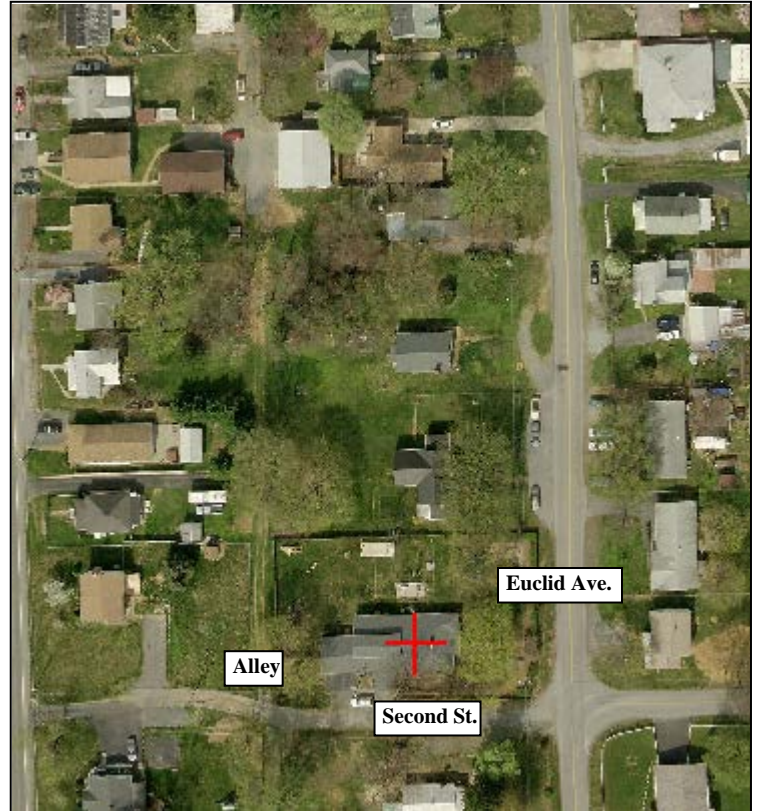
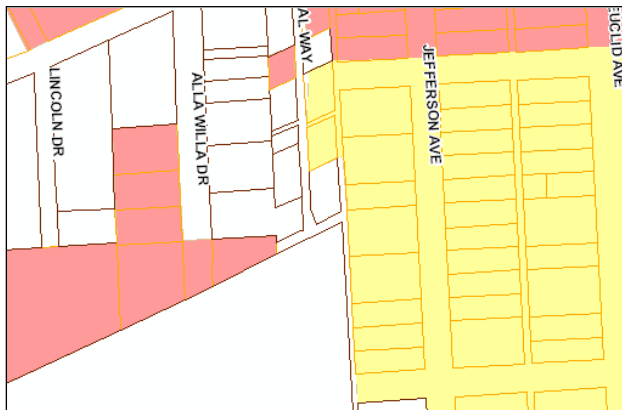


Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013

**James M. and Bonnie K. Pretre Variance Request (#ZV13-31)**

c. Character of area

This city block is comprised of many small lots which contain primarily single family homes; however, there are also multifamily dwellings (apartments) and limited commercial uses. The City of Charles Town's jurisdiction begins ½ a city block to the west.



d. Impact on adjacent properties

There is a 6' tall wooden privacy fence along the western side of the subject parcel and a 4' fence along the remaining perimeter of the lot. As the shed is adjacent to the 6' portion of the fence it may assist in screening most of the shed from the neighbors to the west. In addition, there is also a 15' grass alley that is used periodically by residents located within this city block along this same fence line.



\*Note: On September 19, 2013, the Board approved a variance for a side setback reduction to 2' for a parcel located on the western side of the alley (ZV13-28, Smallwood).

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 November 14, 2013

**James M. and Bonnie K. Pretre Variance Request (#ZV13-31)**

e. Feasibility of complying with the ordinance by other means

There appears to be an area within the fenced portion of the applicant’s property where the shed could have been located. Homes within the city blocks are generally not on well and septic therefore the property should not be hindered by these structures.



5. Conditions of Approval

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

- a. The variance is only applicable to the existing shed, as requested. The structure may not be relocated without prior approval from the Department of Planning and Zoning and the Building Permit Department.

SECTION OF ORDINANCE TO BE CONSIDERED:

**Section 9.7 Other Exceptions<sup>3</sup>**

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:<sup>23</sup>

Residential Growth District<sup>23</sup>

Single family residences --

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

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





# JEFFERSON COUNTY, WEST VIRGINIA

## Departments of Planning and Zoning

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

Charles Town, WV 25414

File Number: ZV13-31

Staff Initials: afc

Fees Paid (\$100 or \$150): \$ 15000

[www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html](http://www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html)

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

Phone: (304) 728-3228

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

Fax: (304) 728-8126

### Zoning Variance Request

Variances to the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

#### Property Owner Information

Name: James M. and Bonnie K. Pretre

Mailing Address: 297 Euclid Ave.

City: Charles Town State: WV Zip Code: 25414

Phone Number: 304-671-3292 Email: pretres@aol.com

#### Applicant Information

Name: James M. and Bonnie K. Pretre

Mailing Address: 297 Euclid Ave.

City: Charles Town State: WV Zip Code: 25414

Phone Number: 304-671-3292 Email: pretres@aol.com

#### Engineer(s) or Surveyor(s) Information

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

#### Physical Property Details

Physical Address: 297 Euclid Ave.

City: Charles Town State: WV Zip Code: 25414

Tax District: 02 - Charles Town Map No: 10A Parcel No: 87/86

Parcel Size: 18,750 Sq. ft Deed Book: 923 Page No: 228

#### Zoning District (please check one)

# RECEIVED

OCT 16 2013

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

	Residential	Industrial	Residential-	
	Growth	Commerical	Light Industrial-	
	(R-A)	(I-C)	Commercial	Village
	(R-G)		(R-L-C)	(V)
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of ways, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e., the distance of the structure from all property lines), size and height. Identify all existing buildings, structures or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

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

Reference the section of Ordinance pertaining to this request: \_\_\_\_\_

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

Requesting to place accessory structure ( a 12' x 18' storage building) at the corner of the lot.

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

Front Setback  Side Setback  Rear Setback Reduction From 6' to <1'

**Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.**

This request will not adversely affect anything because it sits at the corner of the lot backing to alley ways in the rear and side. The alleys are seldom used. The alley way straight through on the side is not passable because of ruts caused by rain runoff. Building does not impede passage through the alleys and does not impede view.

**In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?**

This request arises because the property location to the alley way which is on the back of the property and to the side of the property. Alley is not maintained, so passage through the side is not passable due to ruts caused by rain run off and narrow passage.

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

It will allow us to store yard and landscaping equipment like the snowblower since the alley way is not maintained by state or local authorities and since our attached garage access is via the alley it allows us access to the main roads. The school bus backs into the alley way to load our 3 special needs children.

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

The placement of this building does not interfere with the health, safety or general welfare of this county. It does not and will not impede any future growth or development of Jefferson County.

*By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge. Note: Original signature is required. If additional signatures are necessary, please attach a separate sheet of paper.*

James M. Prete 10/23/13  
Signature of Property Owner Date

Bonnie H. Prete 10/23/13  
Signature of Property Owner Date

**Notification Requirements (to be completed by staff)**

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to Zoning and Land Development Ordinance Section 3.4A(3)(b)).

NOVEMBER 14 2013 @ 2:00pm  
Date of Public Hearing

WEDNESDAY OCTOBER 30 2013  
Advertising Date

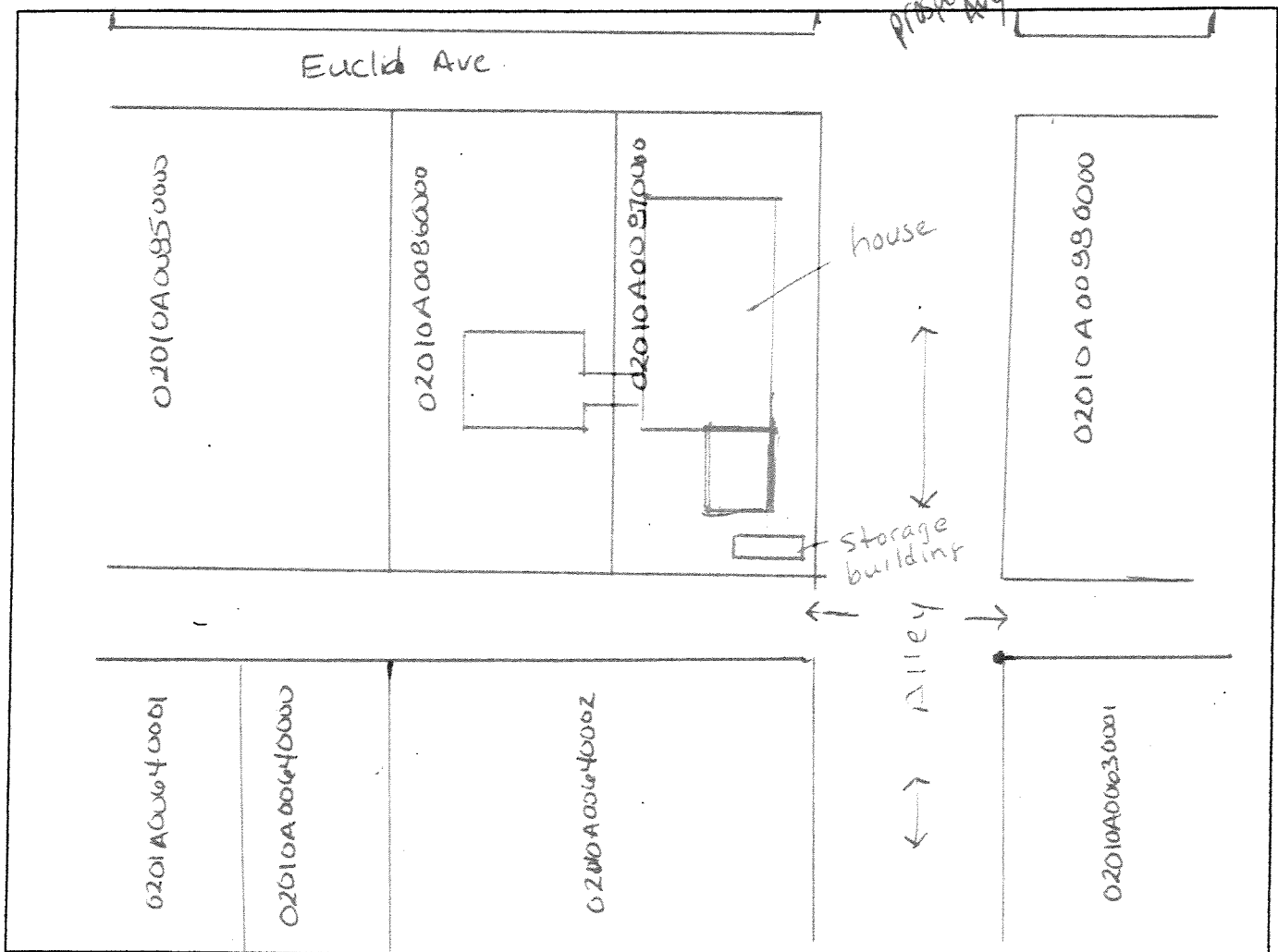
WEDNESDAY OCTOBER 30 2013  
Placard Posting Date

## PROPERTY 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 structure.
5. Show the size and height of the structure.
6. Show all existing buildings/structures on the parcel/property.
7. On Renovation's and Addition; Please indicate number of bedrooms and if adding a kitchen

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



Property Owner/Applicant's Signature

*James M. Pritre*

Date: 10 1 08 2013





JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

File Number: ZV13-32
Staff Initials: Jc
Fees Paid (\$100 or \$150): \$ 100.00

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

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

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

Zoning Variance Request

Variances to the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

Property Owner Information

Name: William C. Palmer, Sr.
Mailing Address: 1623 Lakeside Dr.
City: Harpers Ferry State: WV Zip Code: 25425
Phone Number: 443-717-1436 (cell) Email:

Applicant Information

Name: John Fridley
Mailing Address: P.O. Box 1261
City: Harpers Ferry State: WV Zip Code: 25425
Phone Number: 304-671-3175 Email: popspart2@yahoo.com

Engineer(s) or Surveyor(s) Information

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

Physical Property Details

Physical Address: 1623 Lakeside Dr. (Lot 48-49)
City: Harpers Ferry State: WV Zip Code: 25425
Tax District: Kabletown Map No: 6C Parcel No: 292
Parcel Size: 25,000 sq. ft. Deed Book: 551 Page No: 558

Zoning District (please check one)

Table with 5 columns: Rural (R-A), Residential Growth (R-G), Industrial Commerical (I-C), Residential-Light Industrial-Commercial (R-L-C), Village (V). Includes checkboxes, with R-G checked.

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JEFFERSON COUNTY PLANNING AND ZONING DEPARTMENT

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of ways, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e., the distance of the structure from all property lines), size and height. Identify all existing buildings, structures or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

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

Reference the section of Ordinance pertaining to this request: 9.7

**Briefly describe the nature of the variance request**  
reduction of the front <sup>setback</sup> variance from 20' to 8' from the right of way TO ALLOW FOR THE CONSTRUCTION OF A 25'(W) X 20'(D) GARAGE.

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

Front Setback  Side Setback  Rear Setback Reduction From 20' to 8'

**Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.**

There is still plenty of walking area from the road to the structure and visibility on the corner is not obstructed by the structure

**In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?**

There is no other areas on the property for a garage and the location and size are dictated by an existing well cap.

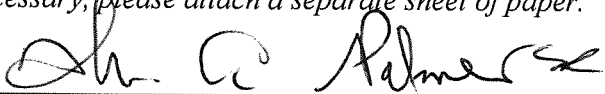
**How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?**

The homeowners will be able to park the vehicle in the garage during bad weather and provide extra storage area

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

The homeowners should have the same opportunity to have a garage as others do and not be restricted by the fact that the lot is small and the well is located where it is.

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge. Note: Original signature is required. If additional signatures are necessary, please attach a separate sheet of paper.

 10-25-13  
Signature of Property Owner Date Signature of Property Owner Date

**Notification Requirements (to be completed by staff)**

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to Zoning and Land Development Ordinance Section 3.4A(3)(b)).

NOVEMBER 14, 2013 @ 2:00 P.M. OCTOBER 30, 2013 OCTOBER 30, 2013  
Date of Public Hearing Advertising Date Placard Posting Date



SHORE LN

1623

(L2)

24'

21'

15'

8'

34'

13'

LAKESIDE DR

26


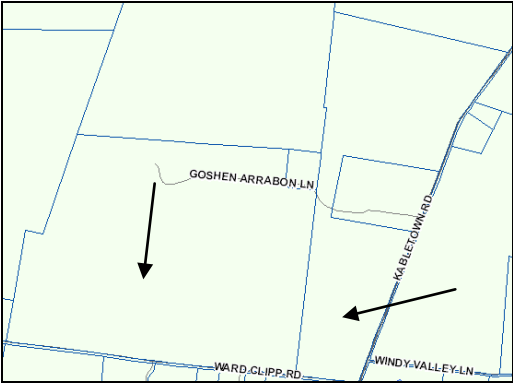
Data Source:  
Photo: Pictometry 2012

1 inch = 15 feet



**Staff Report**  
 Jefferson County Board of Zoning Appeals Meeting  
 November 14, 2013  
**Stiles Partnership 3 and 4 Variance Request (#ZV13-33)**

Item # 6 Variance request by Kristen Stolipher, Consultant, on behalf of, Junipa Contento, Developer, from Section 2.2 to extend the time permitted for a Seasonal Use, which limits an event to not more than 3 consecutive days in each of the four solar seasons. The applicant is requesting to hold a 5-day music festival and camp out during the July/August 2014 summer season. (Note: A separate hearing will be held on the Seasonal Use Permit; relevant photos are included in the Seasonal Use Staff Report)

APPLICANT:	Junipa Contento
OWNER :	Stiles Partnership 3 and 4
DEVELOPER:	Junipa Contento
SURVEYOR/ENGINEER:	Kristen Stolipher, Gordon
PROPERTY LOCATION:	118 Goshen Arrabon Lane
LEGAL DESCRIPTION:	<p style="text-align: center;">Kabletown (06); Map: 20 &amp; 21; Parcel: 13 &amp; 4.1</p> 
ZONING DISTRICT:	<p style="text-align: center;">Zoning Map Designation: Rural (R)</p> 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North: R                      South: R</i> <i>East: R                         West: R</i>
LOT AREA:	271 acres
PRIOR CASES:	Minor subdivisions were processed to create the 2 smaller family lots on the farms.
VARIANCE(S):	None
APPROVED ACTIVITY:	Agricultural and Residential

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013  
**Stiles Partnership 3 and 4 Variance Request (#ZV13-33)**

RELEVANT INFORMATION:

1. Overview of Request

The applicant is seeking a variance from Section 2.2, Definitions, to extend the time permitted for a Seasonal Use, which limits an event to not more than 3 consecutive days in each of the four solar seasons. The applicant is requesting to hold a 5-day music festival and camp out during the July/August 2014 summer season. A separate hearing will be held on the Seasonal Use Permit.

2. Previous Case History

Minor subdivisions were processed to create the 2 smaller family lots on the farms.

3. Applicant's Justification of Request

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

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*
- b) *Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance.*
- c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*
- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

4. Staff Evaluation of Request

a. Source and purpose of ordinance requirements

Section 2.2, the Definitions section of the Ordinance, restricts Seasonal Uses to a use that is carried on for not more than a single three day consecutive period in each of the four solar seasons. While there is no background on the development of this requirement, it would appear that the intent is to restrict the impact that an occasional proposed use would have on the neighboring properties and road system.

b. Unique characteristics of property

The 270 +/- acres upon which the music festival and camp out is proposed to be held is a portion of a larger farm owned by the same property owner, which allows the balance of the farm to act as a buffer to a portion of the proposed activities. The property owner owns multiple parcels which front on Ward Clipp Road, Kabletown Road, Myerstown Road and Goshen Arrabon Lane. The property has rolling hills and the applicant intends to fence the portion of the property dedicated to the proposed music festival and camp areas.

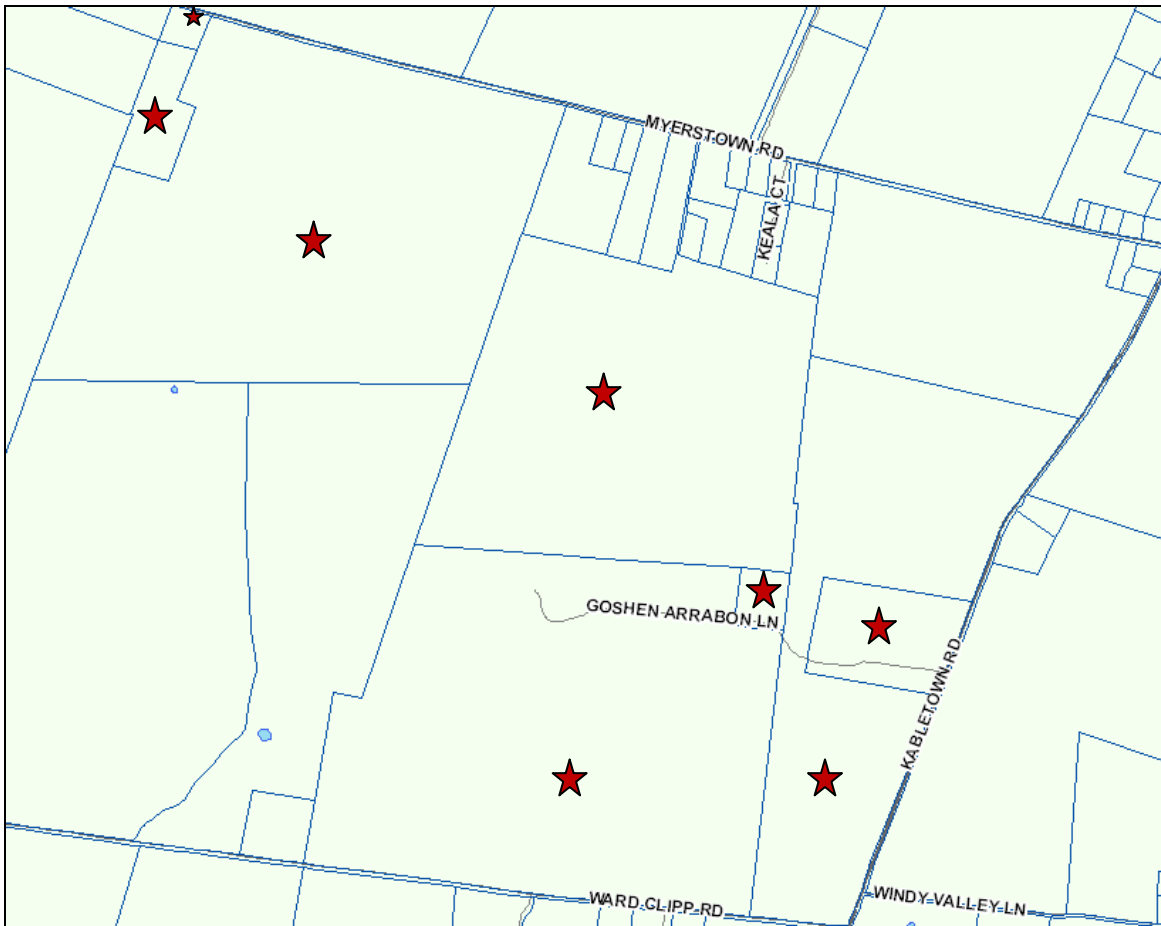
c. Character of area

The property is located in a rural area of the County. Ward Clipp and Kabletown Roads are narrow, two-lane roads with access to US 340 (via Smith Road), WV 115 (old 9) and VA 7. The properties in the area are primarily farms consisting of large acreages; however there are pockets of residential lots developed on 1-3 acres each fronting on Myerstown Road and Ward Clipp Road.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013  
**Stiles Partnership 3 and 4 Variance Request (#ZV13-33)**

d. Impact on adjacent properties

The proposed music festival and camp out will have a significant impact on the neighbors and local road system for the days that it occurs; however, this request is for the variance to allow the event to occur over 5 days rather than the 3 days provided for in the ordinance, not on the merits of the festival itself. The purpose of the variance is to aid in minimizing the impact on the road network by allowing attendees to arrive on Thursday evening as well as Friday and to depart on Sunday as well as Monday morning.



Red Stars indicate property owned by the Stiles Family.

e. Feasibility of complying with the ordinance by other means

The applicant explains the additional days are requested to allow for patrons to arrive the evening before the event starts (Thursday evening) and for them to leave a day after the music festival is over (Monday morning), which the applicant states would assist in traffic control and would allow for the clean-up of the site to begin. With regard to the type of Seasonal Use that is being presented to the Board, a 3-day limitation would not appear to suit the needs of the applicant.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013  
**Stiles Partnership 3 and 4 Variance Request (#ZV13-33)**

5. Conditions of Approval

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

- a. The variance is limited to the number of days requested in the application.
- b. No performances or related activities are permitted to occur on Thursday or Monday -- the variance permits set-up and take-down/arrival and departure activities only;
- c. The variance is void if the Seasonal Use Permit is not approved.

SECTION OF ORDINANCE TO BE CONSIDERED:

**ARTICLE 2: DEFINITIONS**

**Section 2.1 Definitions**

For the purpose of these regulations, the following terms, phrases, words and their derivations shall have the meaning given herein. Words used in the present tense include the future, the singular number includes the plural and the plural is the singular. The word “shall” is mandatory and the word “may” is permissive. The words “used for” shall include “arranged for”, “designed for”, “intended for”, “maintained for”, “constructed for”, or “occupied for”. The word “person” shall mean natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust or the manager, lease, agent, servant, officer or employee of any of them. The word “land” shall include water surface and land under water.

**Section 2.2 Terms Defined**

Seasonal Use<sup>5</sup>            A use that is carried on for not more than a single three day consecutive period in each of the four solar seasons.



# JEFFERSON COUNTY, WEST VIRGINIA

## Departments of Planning and Zoning

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

File Number: ZV13-33

Staff Initials: \_\_\_\_\_

Fees Paid (\$100 or \$150): \$ 100.00

[www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html](http://www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html)

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

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

### Zoning Variance Request

Variances to the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.

#### Property Owner Information

Name: Stiles Partnership 3 and 4  
Mailing Address: 118 Goshen Arrabon Lane  
City: Charles Town State: WV Zip Code: 25414  
Phone Number: (540) 327-9060 Email: \_\_\_\_\_

#### Applicant Information

Name: Ms. Junipa Contento  
Mailing Address: 2801 Chevy Chase Circle  
City: Jefferson State: MD Zip Code: 21755  
Phone Number: (202) 207-4744 Email: junipa@mac.com

#### Engineer(s) or Surveyor(s) Information

Name: Kristen Stolipher  
Mailing Address: 301 North Mildred Street  
City: Charles Town State: WV Zip Code: 25414  
Phone Number: (304) 725-8456 Email: kstolipher@gordon.us.com

#### Physical Property Details

Physical Address: 118 Goshen Arrabon Lane  
City: Charles Town State: WV Zip Code: 25414  
Tax District: 6 Map No: 18,20,21 Parcel No: 13, 4.1, 2.5, 81  
Parcel Size: Total property 271 acres Deed Book: 817 Page No: 338, 340

#### Zoning District (please check one)

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OCT 28 2013  
JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Rural (R-A)	Residential Growth (R-G)	Industrial Commerical (I-C)	Residential- Light Industrial- Commercial (R-L-C)	Village (V)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of ways, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e., the distance of the structure from all property lines), size and height. Identify all existing buildings, structures or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

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

Reference the section of Ordinance pertaining to this request: Section 2.2

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

This request is for a variance from the Zoning Ordinance Definition of a Seasonal Use which limits any seasonal use to not more than a single three day period. This request is for a music festival and camp out for 5 consecutive days

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

Front Setback  Side Setback  Rear Setback Reduction From \_\_\_\_\_ to \_\_\_\_\_

**Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.**

This request from the seasonal use three day period is to allow for a more gradual ingress and egress of event traffic to ensure the safety and welfare of the community.

**In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?**

This request is for the purpose of adding two (2) days to the definition of a seasonal use. Additional days will provide for a more optimal and gradual traffic flow for the event, the neighbors and the community.

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

The granting of this variance request will allow for a better transition of the event into the community. The approval of this request will allow for a successful event which ensures increased attendance, easier traffic flow and upholding the tradition of a four (4) day event.

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

The approval of this request to extend a seasonal use by two days meets the intent of the Ordinance, since seasonal uses are currently permitted and promoted in Jefferson County. An increase in days will naturally increase attendance and length of stay which will result in an increase in revenue to the County and surrounding businesses.

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge. Note: Original signature is required. If additional signatures are necessary, please attach a separate sheet of paper.

Andrew D. Ke 10/28/13  
Signature of Property Owner Date Signature of Property Owner Date

**Notification Requirements (to be completed by staff)**

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to Zoning and Land Development Ordinance Section 3.4A(3)(b)).

NOVEMBER 14, 2014 @ 2:00 PM OCTOBER 30, 2013 OCTOBER 30, 2013  
Date of Public Hearing Advertising Date Placard Posting Date

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 November 14, 2013

**Stiles Partnership 3 and 4 Request (#ZV13-34)**

Item #7 Request by Kristen Stolipher, Consultant, on behalf of, Junipa Contento, Developer 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 (ZV13-22) is approved, during the 2014 summer season.

APPLICANT:	Junipa Contento
OWNER :	Stiles Partnership 3 and 4
DEVELOPER:	Junipa Contento
SURVEYOR/ENGINEER:	Kristen Stolipher, Gordon
PROPERTY LOCATION:	118 Goshen Arrabon Lane
LEGAL DESCRIPTION:	<p style="text-align: center;">Kabletown (06); Map: 20 &amp; 21; Parcel: 13 &amp; 4.1</p>
ZONING DISTRICT:	<p style="text-align: center;">Zoning Map Designation: Rural (R)</p>
SURROUNDING PROPERTIES:	<p>Zoning Map Designation:</p> <p>North: R                      South: R</p> <p>East: R                        West: R</p>
LOT AREA:	271 acres
PRIOR CASES:	Minor subdivisions were processed to create the 2 smaller family lots on the farms.
VARIANCE(S):	None
APPROVED ACTIVITY:	Agricultural and Residential

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013

**Stiles Partnership 3 and 4 Request (#ZV13-34)**

RELEVANT INFORMATION:

1. Overview of Request

The applicant is seeking a variance from Section 2.2 to extend the time permitted for a Seasonal Use, which limits an event to not more than 3 consecutive days. The applicant is requesting to hold a 5-day music festival and camp out during the July/August 2014 summer season.

2. Previous Case History

Minor subdivisions were processed to create the 2 smaller family lots on the farms.

3. Applicant's Explanation of the Request

In the attached application submitted for the Seasonal Use Permit request, the applicant provided a narrative and graphic overview of the proposed Music Festival and camp out. The narrative includes discussion of coordination of the event with local emergency services ("community planning"), community benefit, traffic control plans, safety/security, trash and recycling, music, temporary site improvements, power and lighting.

4. Staff Evaluation of Request

a. Source and purpose of ordinance requirements

Section 9.8 of the Zoning Ordinance requires that all Seasonal Uses be approved by the Board of Zoning Appeals pursuant to a public hearing and limits the approval to one year at a time. This requirement allows for short term, occasional uses to be proposed and reviewed by the neighborhood in which it will be located. It also allows the Board of Zoning Appeals to outline conditions of approval based on the public input in order to reduce the impact on the area in which it is located; however the Ordinance does not provide much guidance to the Board of Zoning Appeals regarding criteria for approval.

b. Unique characteristics of property

The 270 +/- acres upon which the music festival and camp out is proposed to be held is a portion of a larger farm owned by the same property owner, which allows the balance of the farm to act as a buffer to a portion of the proposed activities. The property owner owns multiple parcels which front on Ward Clipp Road, Kabletown Road, Myerstown Road and Goshen Arrabon Lane. The property has rolling hills and the applicant intends to fence the portion of the property dedicated to the proposed music festival and camp areas. The applicant has not detailed whether access to the site will utilize the other parcels that are not a part of the proposed festival.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013

**Stiles Partnership 3 and 4 Request (#ZV13-34)**



**View from Farm to Ward Clipp Rd.**



**View from Ward Clipp Rd. to Farm**

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013

**Stiles Partnership 3 and 4 Request (#ZV13-34)**



**View of Goshen Arrabon Ln from Kabletown Rd.**



**View from Goshen Arrabon Ln to Kabletown Rd.**

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013

**Stiles Partnership 3 and 4 Request (#ZV13-34)**

c. Character of area

The property is located in a rural area of the County. Ward Clipp and Kabletown Roads are narrow, two-lane roads with access to US 340 (via Smith Road), WV 115 (old 9) and VA 7, allowing attendees to enter and exit the property from multiple directions. Attendees are expected to come from other counties and states to participate in the proposed music festival. Many attendees will be expected to camp on-site; however others are likely to stay locally overnight in hotels, motels, and bed and breakfast establishments and patronized local restaurants.

The properties in the area are primarily farms consisting of large acreages; however there are pockets of residential lots developed on 1-3 acres each fronting on Myerstown Road and Ward Clipp Road.



**View of Ward Clipp Rd & Kabletown Rd**

d. Impact on adjacent properties

The proposed music festival and camp out will have a significant impact on the neighbors and the local road system for the days that it occurs. The applicant has indicated that music stages will be designed in a manner to reduce impacts on adjacent properties. They also state that the entire area dedicated to the music festival and camp areas will be fenced, will have on-site security, and will be well regulated.

Most significant will be the impact on the road network. The applicant has indicated that they will work with WV DOH, the Sheriff's Department, and Jefferson County Planning, Zoning and Engineering Departments to develop a traffic control plan. Private security will be utilized to assist with a variety of on- and off-site issues.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
November 14, 2013

**Stiles Partnership 3 and 4 Request (#ZV13-34)**



**View of western tree line**

**5. Conditions of Approval**

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

- a. Certified adjoiner letters with exact weekend dates to include possible 'rain dates', if any, no later than 3 months before the festival, with copies provided to staff at the same time;
- b. Post a (size) sign along all road frontages of each property stating the exact weekend dates to include possible 'rain dates', if any, no later than 3 weeks before festival. Sign is to remain until visible site improvements related to the festival begin;
- c. An ad is run in both the Spirit of Jefferson and Martinsburg Journal noticing the exact weekend dates to include possible 'rain dates', if any, no later than 3 weeks before the festival for two consecutive weeks.
- d. Conditions could also include such issues as off-site noise, hours of operation, lighting, signage, access management.
- e. While acknowledging that all parking will occur on grass fields, a sketch plan shall be submitted for staff review and comments detailing, at a minimum, the locations of stages/sound systems, bathroom facilities, concessions, camp area, parking lots, fencing, access points. The applicant will schedule a meeting with Staff to determine a submission timeline.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Section 9.8 Seasonal Uses**

Seasonal uses must be approved by the Board of Zoning Appeals pursuant to a public hearing. Newspaper notification requirements of Section 3.4A(3)(b) apply. Seasonal uses cannot be approved for longer than one year at a time.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

File Number: ZV13-34

Staff Initials:

Fees Paid: \$ 100.00

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

Email: zoningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: planningdepartment@jeffersoncountywv.org

Fax: (304) 728-8126

Application for Seasonal Use/Special Exception

Seasonal uses and special exceptions must be approved by the Board of Zoning Appeals pursuant to a public hearing. Seasonal uses cannot be approved for longer than one year at a time, and are limited to a single three-day consecutive period in each of the four solar seasons. For outdoor advertising signs, include (1) a full-color rendering of each sign proposed, including all dimensions of the sign and total square footage, (2) a sketch plan of the property, indicating the location of the sign and setbacks.

Type of Request

Seasonal Use: [checked] Special Exception: [ ]

Property owner information

Name of Property Owner: Stiles Partnership 3 and 4
Mailing Address: 118 Goshen Arrabon Lane
City: Charles Town State: WV Zip Code: 25414
Phone Number: (540) 327-9060 Email:

Applicant contact information

Applicant Name: Ms. Junipa Contento
Mailing Address: 2801 Chevy Chase Circle
City: Jefferson State: MD Zip Code: 21755
Phone Number: (202) 207-4744 Email: junipa@mac.com

Applicant Representatives

Name of Registered Engineer(s) or Surveyor(s): Kristen Stolipher, Gordon
Mailing Address of Engineer(s) or Surveyor(s): 301 North Mildred Street
City: Charles Town State: WV Zip Code: 25414
Phone Number: (304) 725-8456 Email: kstolipher@gordon.us.com

Physical property details

Physical Property Address: 118 Goshen Arrabon Lane
City: Charles Town State: WV Zip Code: 25414
Tax District: 6 Map No.: 18, 20, 21 Parcel No.: 13, 4.1, 2.5
Parcel Size: 271 Deed Book: 817 Page No.: 338, 340

Zoning District:

Rural (R-A) Residential Growth (R-G) Industrial Commerical (I-C) Residential-Light Industrial-Commercial (R-L-C) Village (V)
[checked] [ ] [ ] [ ] [ ]

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JEFFERSON COUNTY PLANNING, ZONING AND ENGAGEMENT

**Name of Temporary Business or Event**

Music Festival and Camp-out

**Description of Seasonal Use**

4-day music festival and camp-out featuring a showcase of live touring bands consisting of Bluegrass, Jazz-Funk, Blues, Americana and Rock. The event will feature a wide variety of foods, arts and crafts, kids area, art installations and world class sound and lights.

**Name of Primary Contact/Responsible Party During Business Hours**

Ms. Junipa Contento

**Primary Contact Telephone Number**

(202) 207-4744

**Duration of Temporary Use/Window of Authorization**

Start Date: July 1, 2014 End Date: August 31, 2014

Total Number of Days: 5 days (not including set up or tear down)

**Hours of Operation of Seasonal Use**

24 hour camp-out event

**How is the property currently used?**

Agricultural use, currently being used as crop land for private use.

**What is the proposed use of the property?**

The proposed use is a music festival and camp-out event featuring an eclectic mix of bands, a wide variety of foods, arts and crafts, kids area, art installations and world class sound and lights.

*On a separate sheet of paper, sketch the shape and location of the lot, including property boundaries, with accurate dimensions. Show the location of the intended construction or land use indicating building setbacks, size and height. Identify existing buildings, structures or land uses on the property. Please specify the number and location of the existing/proposed parking spaces (if necessary).*

*Original signature is required of all property owners (attach additional signature page if needed). The information given is correct to the best of my knowledge.*

 10/28/13  
Signature of Property Owner 1      Date

\_\_\_\_\_  
Signature of Property Owner 2      Date

**Notification Requirements**

NOVEMBER 14 2013 @ 2:00pm

OCTOBER 30 2013

OCTOBER 30 2013

Date of Public Hearing

Advertising Date

Posting Requirements (number of days prior to scheduled hearing)

*Official Action of Board*

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*Official Signature and Seal*

---

*Signature*

*Date*

---

*Signature*

*Date*





*Victor Stophen*  
10/28/2013

**RECEIVED**

**OCT 28 2013**

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING



## **Jefferson County Music Festival**

Tourism is a critical industry in West Virginia and Jefferson County is the largest generator of tourism dollars in the whole state. When tourists visit our county they support local business, fill up hotel rooms and generate significant tax revenue. The proposed music festival will do just that and will take place between July 1<sup>st</sup> and August 31<sup>st</sup>; the dates will be finalized as the organization of the event moves forward. The organizing company for the event is experienced and has continually held this event for more than 15 years. The goal of the event is to bring music fans together to enjoy a tradition of live music and community amid the beautiful splendor of Jefferson County.

The four day event will take place from Thursday to Sunday and all aspects are professionally managed. Attendees generally arrive on Thursday to set up in the camping areas. The festival maintains a zero footprint policy and organizes onsite and offsite cleanups during and after the event.

### **1. Community Planning**

The organizers will coordinate the event with WVDOH, Jefferson County Sheriff, Jefferson County Health Department and Jefferson County Emergency services. The festival is planned to provide all county residents and patrons a safe weekend. The plans developed with these agencies will be shared with Jefferson County staff to ensure that a coordinated effort is undertaken and that plans are fully reviewed prior to the festival.

### **2. Community Benefit**

The organizers will be focused on being good neighbors to the community. They will do their best to hire locally, to purchase goods locally and to solicit local non-profit organizations for their participation in the event. Historically, the event raises \$10,000-\$15,000 for non-profit organizations and has collected 4,000-5,000 pounds of food annually for donation to local food banks.

### **3. Traffic Control**

- 3.1 Traffic Planning – a full traffic plan will be prepared and submitted to WVDOH and Jefferson County prior to the event. The plan will account for varying levels of traffic flow through the phases of the event and will include planning for emergency vehicle access at all times.
- 3.2 Pre Event Traffic – prior to the event traffic will be accessing the site for festival setup. This traffic will include vehicles associated with vendors, stage setup and site preparation.
- 3.3 Thursday Arrival – the majority of the concentrated traffic, approximately 60-70%, for the event will occur on Thursday. Traffic will be guided to the site by signage and personal as proscribed by the traffic plan. Offsite manned traffic control will likely start at Route 340 to ensure the management of this traffic. Thursday traffic may include a queuing of traffic along access roads.
- 3.4 Friday to Saturday – traffic is greatly reduced during this period. Traffic control will be maintained to ensure safe access to the site.
- 3.5 Post Event Traffic – departing traffic is less concentrated and spread over Sunday and Monday. Patrons can camp over on Sunday night but all patrons are required to leave on Monday.

#### **4. Safety/Security**

- 4.1 Rules and Regulations – the organizers of the event want all patrons to be comfortable and safe, they know they are visitors in our community and their conduct is important. There will be rules for the festival and the rules will be enforced. A plan will be in place for anyone who does not obey the rules. Basic rules include;
- No glass bottles
  - No fireworks
  - No personal camp fires
  - No dogs or pets
  - No illegal substances
  - No underage drinking
  - No ATV's or motorcycles
  - No violence or aggressive conduct
- 4.2 Safety/Security Plan – a plan will be prepared and reviewed with law enforcement and emergency services agencies to address potential concerns, including weather related issues. Action plans will be in place to address all potential problems, including problems that may require law enforcement assistance.
- 4.3 Entry – all entry to the site will be limited to ticketed patrons. Vehicles will be checked prior to entry for items that violate the festival rules.
- 4.4 Site Security – security for the event will be provided by multiple professional security firms, at any given time up to 250 security personal will be present. Security is divided into three primary areas;
- Perimeter security – perimeter security will be maintained 24 hours a day to prevent unauthorized entrance or exit to the property. The entire perimeter of the site will be secured with a 6' chain link fence to maintain access control. The fencing will prevent trespassing on adjacent lands and ensure that all patrons are checked prior to entering the site.
  - Camping areas - 24 hour security will be maintained in the camping areas to ensure the safety and enjoyment of all patrons. The security staff will operate per the approved plan and will be available to assist patrons throughout the event.
  - Production areas – the production areas will be secured to prevent accidental or intentional access by patrons.
- 4.5 Emergency Services – the organizers will prepare for all potential emergency events and coordinate with emergency service agencies. Planning includes basic preparation for concerns such as heat stroke and sunburn as well as more serious issues. At all times emergency service vehicles will be guaranteed safe access to the property.

#### **5. Trash & Recycling**

- 5.1 An experienced festival trash and recycling company will implement a comprehensive management plan for during and after the festival.
- 5.2 The company will strategically place upwards of 500 trash and recycling collection containers within and on the borders of the event.
- 5.3 As an environmentally conscious company, It is the organizers intent to leave both the site and access roads cleaner after the event than upon arrival.

#### **6. Music**

- 6.1 Sound production will be designed to reduce impacts on adjacent properties.

**7. Temporary Site Improvements**

7.1 All improvements for the festival will be temporary and removed upon completion.

7.2 No asphalt paving is proposed for the event.

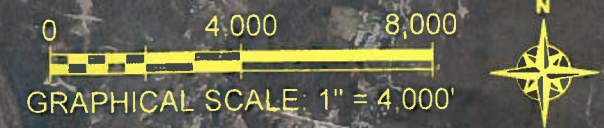
**8. Power**

8.1 The festival will provide independent power generation for the event. Local power may be used as a secondary source if readily available.

**9. Lighting**

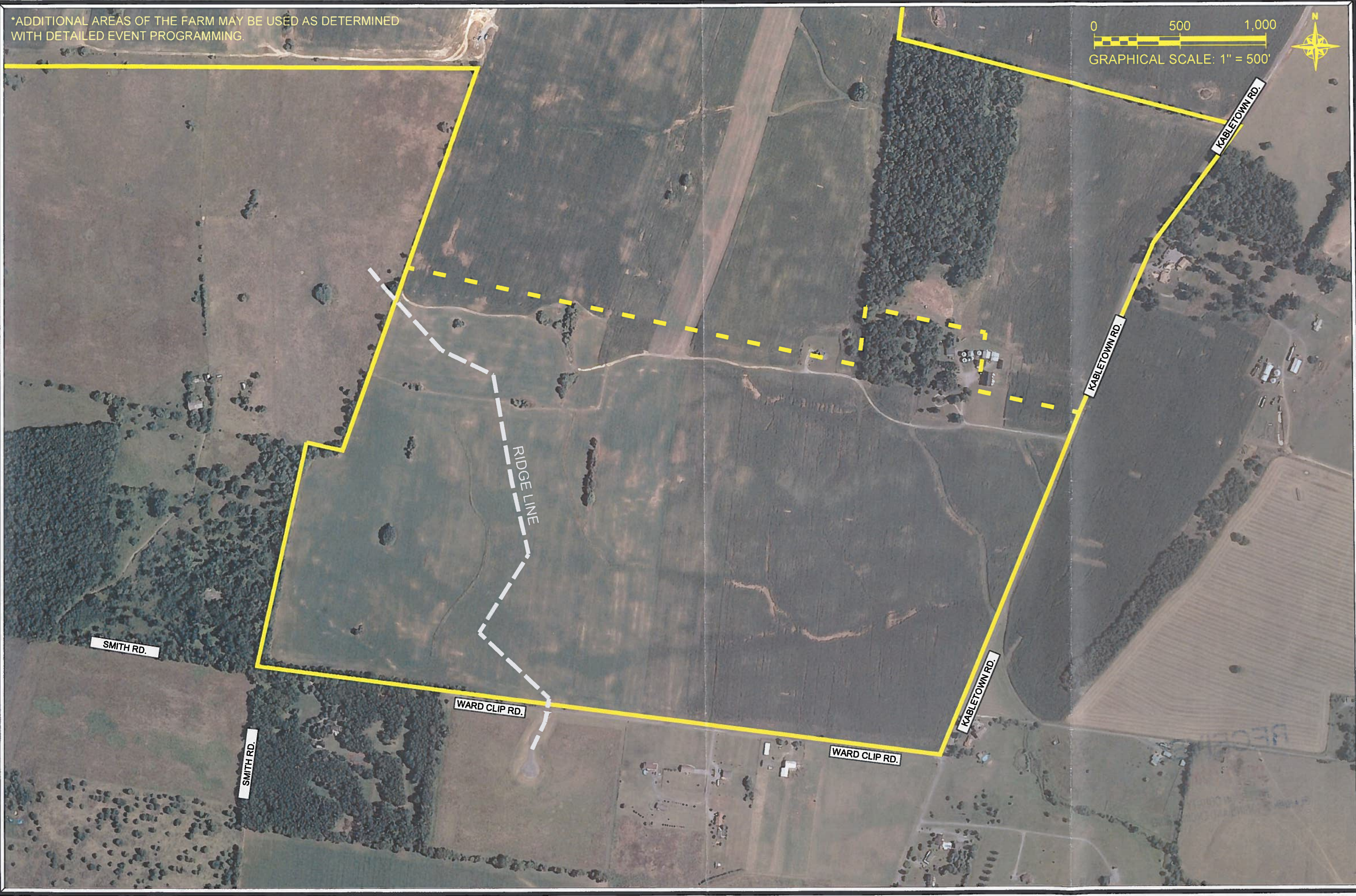
9.1 Lighting will be provided to provide safe and secure access around the festival site.





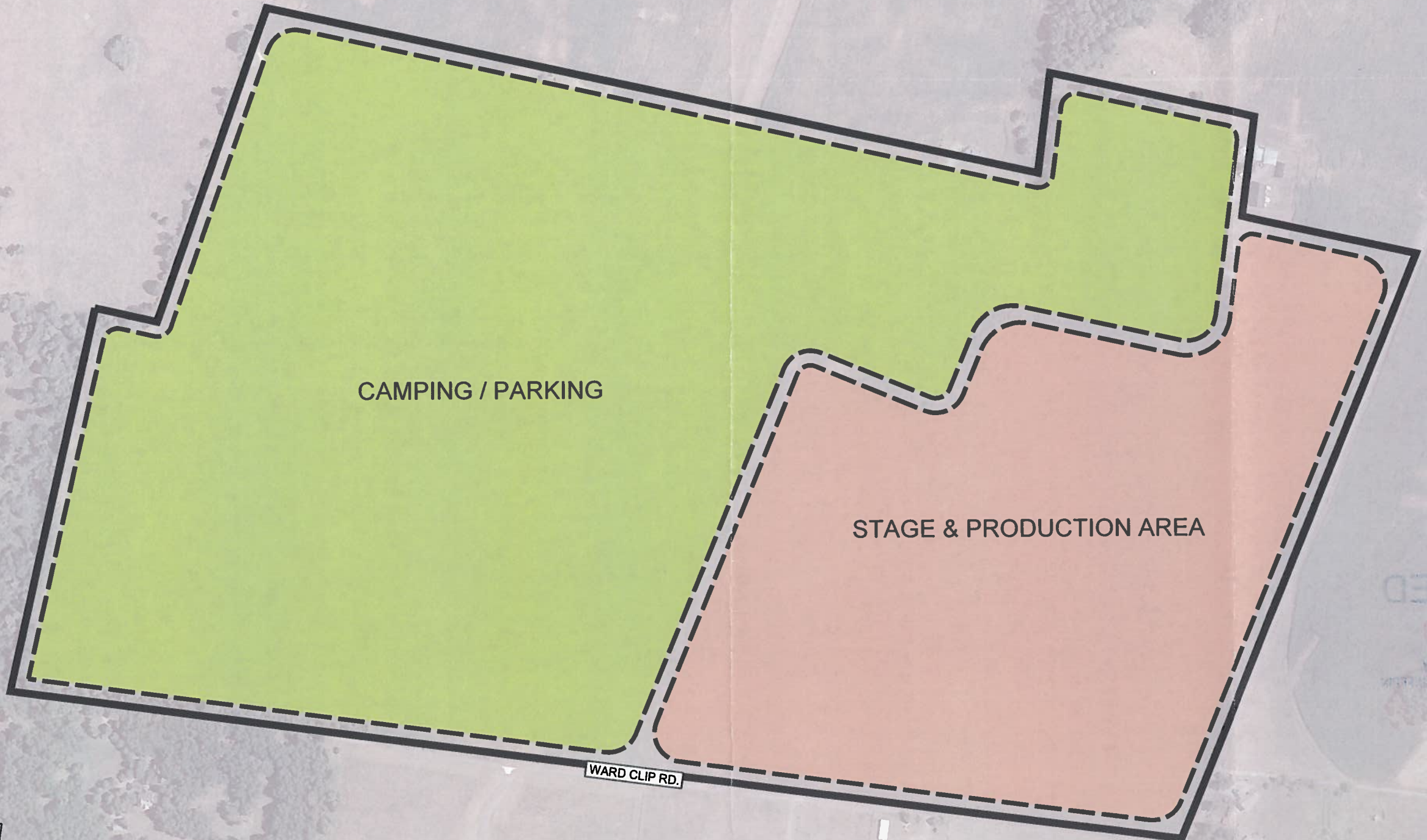
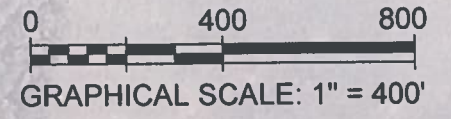


\*ADDITIONAL AREAS OF THE FARM MAY BE USED AS DETERMINED WITH DETAILED EVENT PROGRAMMING.





\*THIS PLAN FOR CONCEPTUAL PURPOSES ONLY AND IS SUBJECT TO CHANGE WITH FINAL EVENT PROGRAMMING REQUIREMENTS.  
\*ADDITIONAL AREAS OF THE FARM MAY BE USED AS DETERMINED WITH DETAILED EVENT PROGRAMMING.



SMITH RD.

SMITH RD.

WARD CLIP RD.

KABLETOWN RD.

KABLETOWN RD.



November 4, 2013

Mark A. Dyck, PLA  
Gordon & Associates  
301 N. Mildred St.  
Charles Town, WV 25414

Junipa Contento  
2801 Chevy Chase Circle  
Jefferson, MD 21755

Barbara and Stanley Stiles  
Stiles Partnerships 3 and 4  
118 Goshen Arrabon Lane  
Charles Town, WV 25414

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NOV 04 2013

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Re: Zoning Variance and Special Exception Requests, Jefferson County, WV  
Board of Zoning Appeals Nos. 2V13-33 & 2V13-34

Dear Mr. Dyck, Ms. Contento, and Mr. and Mrs. Stiles:

With reference to the above application for a 5-day rock concert in 2014, scheduled for hearing before the Board of Zoning Appeals on November 14, 2013 at 2:00 P.M., please promptly provide me true, complete and accurate copies of all documents and records, including electronic transmissions, in any way concerning or evidencing the following:

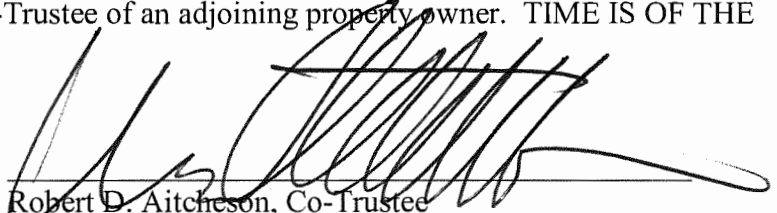
1. All applications within the last 15 years for the use of land for the same or similar purpose in any jurisdiction within the geographical boundaries of the United States, Mexico or Canada, by applicants herein or any entity in which they have or have had an interest;
2. All orders, rulings or minutes of all governmental agencies granting, denying or refusing to rule on all such applications;
3. The paid attendance count for each and every multi-day camp-in music festival conducted or promoted by any of these applicants within the last 15 years;

\* Copies mailed to BZA in 11/08/13 packet. - JH  
for 11/14/13 mtg

Rock concert application - page 2.

4. All citations for violations of local health regulations, statutes or ordinances by applicants at any multi-day music festival conducted by applicant in the last 15 years, including cease and desist orders;
5. All violations of criminal statutes or ordinances issued to any person, firm or corporation in any jurisdiction and alleged to have occurred on the premises of any multi-day music festival conducted by applicants in the last 15 years;
6. All applications to, and all other communications with the West Virginia Department of Transportation, the Jefferson County Health Department, Jefferson County Emergency Services and the Jefferson County Sheriff's Department for governmental support services for the proposed 2014 event;
7. All documents showing the status and rulings of the agencies referenced in #6 above with respect to such applications, formal or informal.

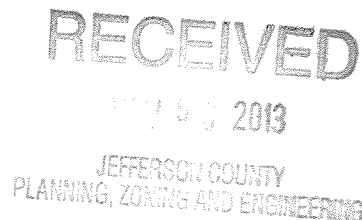
I make this request as the Co-Trustee of an adjoining property owner. TIME IS OF THE ESSENCE OF THIS REQUEST.



Robert D. Aitcheson, Co-Trustee  
Aitcheson Family Trust  
P.O. Box 188  
Rippon, WV 25441  
304-725-7639

cc: Jefferson County Board of Zoning Appeals  
For filing in the above file numbers

Z13-33  
Z13-34



November 5, 2013

Mark A. Dyck, PLA  
Gordon & Associates  
301 N. Mildred St.  
Charles Town, WV 25414

Re: Zoning Variance and Special Exception Requests,  
Jefferson County Board of Zoning Appeals #2V13-33  
and 2V13-34

Dear Mr. Dyck:

This will confirm my second conversation with you on November 4, 2013, and my discussion with Steven Stolipher on November 5, 2013, as follows:

1. I asked for the name of the production company and both you and Mr. Stolipher **REFUSED** to give me that information.
  - a. You said you were prohibited from giving me that information. When I asked why, you said it would lead directly to the festival and the client didn't want that information out.
  - b. Mr. Stolipher told me he was prohibited from giving me that information and he was made to sign an agreement that he would not disclose the name of the production company.
2. When I asked for the name of the music festival and its last location (venue), both you and Mr. Stolipher **REFUSED** to give me that information.
  - a. You said the company did not want it to get out that it was looking for another location...an interesting response, but not very credible.
  - b. Mr. Stolipher claimed he did not know the name of the 5-day rock concert and he would not disclose it if he did...equally as incredible.
3. This is also to confirm our discussion last week wherein, in response to my question

\*Copies mailed to BZA in 11/08/13 packet for 11/15/13 mtg. gjt

Mark Dyck letter - page 2 (November 5, 2013)

about attendance at the last one of these things, you told me the attendance was **11,000** people.

4. On November 4, 2013, when I asked you about WVDOT, Health Department, JCESA and Sheriff's Department approvals for this 5-day rock concert camp-in for **11,000** people, you told me none of that had been done since the company did not want to spend the two hundred thousand dollars (\$200,000.00) you claimed it would cost if it was not going to get approval for the rock concert from the Board of Zoning Appeals.

It is indeed interesting that this effort by your client is shrouded in such secrecy.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Robert D. Aitcheson', written over a horizontal line.

Robert D. Aitcheson

Co-Trustee

Aitcheson Family Trust

P.O. Box 188

Rippon, WV 25441

cc: Jefferson County  
Board of Zoning Appeals



# Jefferson County, West Virginia

## Departments of Planning and Zoning

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

Charles Town, WV 25414

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

Phone: (304) 728-3228

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

Fax: (304) 728-8126

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## Director's Report November 14, 2013 Board of Zoning Appeals Meeting

### 1) Envision Jefferson 2035 Update

- a) Recent Public Input Meetings -- Future Land Use Element (what and how):
  - Third Series of Public Meetings – Land Use Map – “what and how”:
    - Monday, October 21, 2013: Shepherdstown Middle School
    - Wednesday, October 23, 2013: South Jefferson Elementary School
  - Stakeholders Sessions – Friday, October 25, 2013 (four 1½ hour sessions)
- b) Upcoming Future Land Use Element Open Houses:
  - Monday, November 18, 2013, 5:00 to 7:00 PM, South Jefferson Public Library in Summit Point;
  - Tuesday, November 19, 2013, 4:00 to 6:00 PM Old Charles Town Library;
  - Wednesday, November 20, 2013, 5:00 to 7:00 PM Shepherdstown Public Library in downtown Shepherdstown;
  - Thursday, November 21, 2013, 5:00 to 7:00 PM Bolivar/Harpers Ferry Public Library in Bolivar; and
  - Saturday, November 23, 2013, 9:30-11:30 AM St. Andrews Mountain Community Center on Mission Road on the Mountain.

### 2) Recent/Upcoming CC Actions relevant to Planning:

- a) Minor Amendments to the Jefferson County Zoning and Land Development Ordinance Sections 2.2, 4.10, 4A.5, 5.7, 5.8, 8.5, 8.14(new), 8.15 (new), 9.5, 10.5, 11.1, 12.2 and Appendix C (Agricultural Use and Other Amendments) (*Public Hearing held 10/10/13; 2 weeks for written comments; follow up workshop 11/21/13*)
- b) Request by the Planning Commission that the County Commission Reconsider their Motion of 10/25/13 Regarding the Proposed Zoning Ordinance Text Amendment Related to New Commercial and Industrial Zoning Categories (*CC workshop scheduled for 11/14/13 9:30 am; Public Hearing scheduled for 11/21/13 7 pm*)