

Jefferson County  
Board of  
Zoning Appeals

Thursday,  
May 16, 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**

**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: May 10, 2013

SUBJECT: May 16, 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, May 16, 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.





**AGENDA**  
**Jefferson County**  
**Board of Zoning Appeals**  
**Thursday, May 16, 2013, 3:00 p.m.**

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

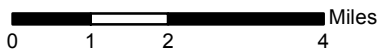
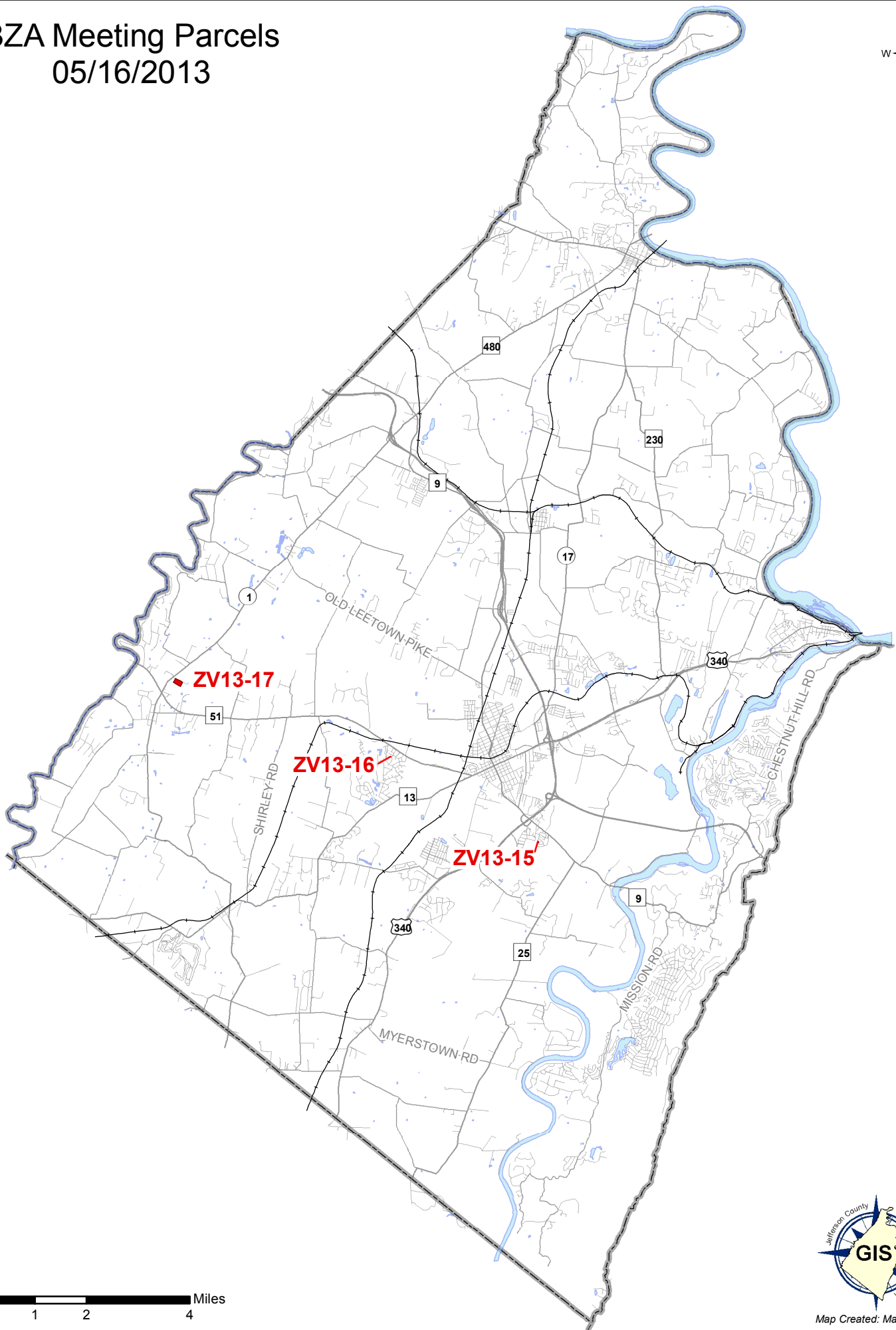
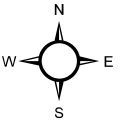
The Jefferson County Board of Zoning Appeals will meet in the Charles Town Library Conference Room located at 200 East Washington Street, at the side entrance on Samuel Street, in the City of Charles Town, WV.

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

1. Approval of the minutes from the April 18, 2013 meeting.
2. Swearing in of members of the public intending to provide testimony.
3. Variance request by applicant, Paul Rosner, from Section 5.4(B) for a reduction of the rear setback distance from 20' to 12' to allow for the construction of a 12' x 23' upper level deck with steps. Property location: Crosswinds Subdivision, 478 Crosswinds Drive; Charles Town, WV. District: Charles Town (02); Map: 18A; Parcel: 36; Zoned: Residential-Growth; Size: .66 ac; File: #ZV13-15.
4. Variance request by applicant, Stephanie F. Grove, from Section 9.6(A) for a reduction of the rear and side setback distances from 5' to 6" to allow for the construction of an 8' x 12' shed on a 40' x 90' lot. Property location: Tusawilla Subdivision, 28 Standish Court, Charles Town, WV. District: Charles Town (02); Map: 11B; Parcel: 136; Zoned: Residential-Growth; Size: 3,600 sq. ft.; File: #ZV13-16.
5. Variance request by applicant, Frank E. Hardy, Sr., from Section 4.3(B) to extend the period of abandonment of a nonconforming use, and to change a nonconforming use from a landscaping business to an Auto Body Repair Shop. Property owner: Wesley M. Smoot. Property location: 164 Tel Farm Lane; Kearneysville, WV. District: Middleway (07); Map: 19; Parcel: 26.10; Zoned: Rural; Size: 10 acres; File: #ZV13-17.
6. Director's Report.
7. Legal Update.
8. Signing of written decisions from prior Board of Zoning Appeals meetings.
9. Correspondence.

# BZA Meeting Parcels

05/16/2013



Draft Minutes  
Jefferson County Board of Zoning Appeals  
Thursday, April 18, 2013

The Jefferson County Board of Zoning Appeals met on Thursday, April 18, 2013. The meeting was held in the Charles Town Library Conference Room, located at 200 East Washington Street, in the City of Charles Town, West Virginia. Unless otherwise noted, all requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

Board members Jeff Bresee, Chairman; Christy Huddle, Vice Chair; Tyler Quynn and Ed Kelly were present. Staff members present were: Steve Barney, Zoning Administrator; Stephen Groh, Assistant Prosecuting Attorney; Jennilee Hartman, Zoning Clerk; and Alex Beaulieu, Planning Clerk.

Ms. Huddle motioned to commence the meeting. Mr. Quynn seconded the motion, which carried unanimously. Mr. Bresee called the meeting to order at 3:00 p.m.

1. Approval of the minutes from the March 21, 2013 meeting.

Ms. Huddle motioned to approve the minutes. Mr. Quynn seconded the motion. The following edits were requested:

- a) Page 3, item 7, line 5, change the word *on* to *in*

Mr. Bresee called for a vote which carried unanimously.

2. Swearing in of members of the public intending to provide testimony.

Ms. Hartman swore in the individuals who indicated they would be giving testimony.

Mr. Bresee explained to the public how the meeting would be conducted.

3. Variance request represented by applicants, Les Bowman and Alice James of Jumbo Seafood, LLC, from the following sections:

- 1) Section 5.6.D: to reduce the front and rear setback distances from 25' to 0' to allow a market truck to remain parked on the property for the purpose of selling seafood during daylight hours on Friday-Sunday, from April to December; and,
- 2) Section 10.4.C: to reduce the setback from a street right-of-way from 25' to 0' for a sign-supporting structure; and, to reduce the setback for a sign from 5' to 0'.

Alice James presented the request to the Board and explained the company's prior location and activities. Ms. James provided a handout of customer testimonials. Ms. Huddle concurred with Ms. James statement that the proposed location would be safer than the previous site. Ms. James answered Mr. Groh's questions regarding the sign stating that it would be constructed of plywood and could be up only during hours of operation. Mr. Barney added that while the applicant had been in violation that it had been unintentional and that they had been working towards compliance. Mr. Barney explained that while a vehicle is not identified as a structure the land use itself must abide by the setback regulations. Mr. Barney brought to the Boards' attention that the Department of Highways' right-of-way was particularly wide adjacent to the store and its exact location was unknown and therefore the applicant is seeking a 0' setback to accommodate the uncertainty. Mr. Kelly asked the applicant if they felt comfortable with the conditions suggested by Staff within the staff report should

the variance be granted. Lester Bowman, property owner, stated the conditions are fine. Mr. Barney stated the sign would need a building permit.

Mr. Bresee called for public comment. There was no public comment.

4. Variance request by applicant, Patrick Joseph Beirne, from Section 5.4(B) for a reduction of the rear setback distance from 25' to 13 ½' to allow for the construction of a deck with a corresponding concrete patio situated beneath. Property location: 33 Don Quixote Drive; Charles Town, WV. District: Charles Town (02); Map: 9C; Parcel: 143; Zoned: Residential-Light Industrial-Commercial; Size: 2000 sq. ft.; File: #ZV13-14.

Mr. Beirne presented his request to the Board stating he would like to expand his deck. Mr. Kelly asked if there was an easement behind the property. Mr. Barney confirmed that there was a 50' open space easement along the rear property line.

Mr. Bresee called for public comment. There was no public comment.

Mr. Kelly motioned to go into deliberative session at 3:25 p.m. Ms. Huddle seconded the motion, which carried unanimously.

Ms. Huddle motioned to come out of deliberative session at 3:27 p.m. Mr. Kelly seconded the motion, which carried unanimously.

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

3. Variance request represented by applicants, Les Bowman and Alice James of Jumbo Seafood, LLC, from the following sections:
  - 1) Section 5.6.D: to reduce the front and rear setback distances from 25' to 0' to allow a market truck to remain parked on the property for the purpose of selling seafood during daylight hours on Friday-Sunday, from April to December; and,
  - 2) Section 10.4.C: to reduce the setback from a street right-of-way from 25' to 0' for a sign-supporting structure; and, to reduce the setback for a sign from 5' to 0'.

Mr. Kelly moved to approve the variance request with the condition that the variance is specifically limited to the usage stated in the application that temporary signage, including flags and similar devices associated with the freestanding sign is limited to Thursday through Sunday, that the sign of the sign is limited to 4 x 8 and the height including the supporting structure is limited to eight feet and a sign permit be obtained. Ms. Huddle seconded the motion, which carried unanimously.

4. Variance request by applicant, Patrick Joseph Beirne, from Section 5.4(B) for a reduction of the rear setback distance from 25' to 13 ½' to allow for the construction of a deck with a corresponding concrete patio situated beneath.

Mr. Quynn motioned to approve the above referenced request. Ms. Huddle seconded the motion, which carried unanimously.

5. Director's Report.

Mr. Barney spoke in Ms. Brockman's absence introducing Alex Beaulieu as the new Planning Clerk. Mr. Barney updated the Board on the Comprehensive Plan and the continuing Lunch and Learn educational sessions. Mr. Barney informed the Board that Ms. Brockman had attended the National APA Conference that week.

6. Legal Update. None.

7. Signing of written decisions from prior Board of Zoning Appeals meetings.

- a) Variance request by applicant, Peter Corum (Twin Oaks Subdivision, LLC), from Sections 4.10 and 11.1 to waive Site Plan and Parking Requirements for a 1,200 sq. ft. tent structure to be used for a Farm Market. Property location: 3988 Kearneysville Pike; Shepherdstown, West Virginia. District: Shepherdstown (09); Map: 13; Parcels: 26.1, 26.2, 26.3, 26.4; Zoned: Rural; Size: 13.69 acres; File: #ZV13-13. Signed by Mr. Breese after changes were made.

8. Correspondence. The Board briefly addressed the correspondence received by Fred Blackmer regarding the grading plan for Morgan's Grove Market.

Ms. Huddle motioned to adjourn the meeting at 3:43 p.m. Mr. Kelly seconded the motion, which carried unanimously.

An audio transcript of this meeting can be found at the Department of Zoning and on the Department's website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org). These minutes were prepared by Jennilee Hartman, Zoning Clerk.



## 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  
 May 16, 2013

**Paul Rosner Request (#ZV13-15)**

Item #3 Variance request by applicant, Paul Rosner, from Section 5.4(B) for a reduction of the rear setback distance from 20' to 12' to allow for the construction of a 12' x 23' upper level deck with steps.

APPLICANT:	Paul Rosner
OWNER :	Same
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	Crosswinds Subdivision 478 Crosswinds Drive, Charles Town, West Virginia
LEGAL DESCRIPTION:	<p style="text-align: center;">Charles Town (02); Map: 18A; Parcel: 36</p>
ZONING DISTRICT:	Zoning Map Designation: Residential-Growth (RG)
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North: RG                      South: RG</i> <i>East: RG                        West: RG</i>
LOT AREA:	.166 ac
PRIOR CASES:	97-31, Crosswinds Subdivision, approved 2/25/98
VARIANCE(S):	None
APPROVED ACTIVITY:	Residential

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
May 16, 2013

**Paul Rosner Request (#ZV13-15)**

RELEVANT INFORMATION:

1. Overview of Request

The applicant is seeking a variance from Section 5.4B, to allow for a reduction of the rear setback distance for a residence from 20' to 12' to allow for the construction of a 12' x 23' upper level deck with steps.

2. Previous Case History

The subject property is located in the Crosswinds Subdivision, which was approved in 1998.

3. Applicant's Justification of Request

In the application submitted for the variance request, the applicant has provided the following responses to the 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.*

The application states, "Our fence line has multiple large trees along it which obstruct our neighbor's view of the area we have proposed for our deck. In addition, the property line in question is shared by a neighbor who approves of our plan and is excited about the improvements we have made to date to the exterior of our house."

*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.*

The application states, "Our house is a split foyer design, with no convenient access to the back yard. The design of the house, in its current state, dictates use of a steep staircase to gain access to the area where our children play. We would like to be able to more fully utilize the features of our home, e.g. the rear exit and rear portion of the yard."

*c) Would eliminate an unnecessary hardship and permit a reasonable use of the land.*

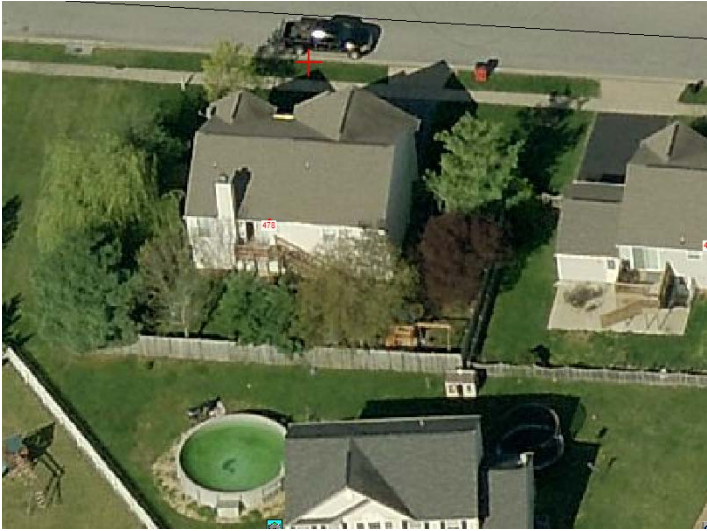
The application states, "Granting the variance would allow us to more fully utilize our property without offending any neighbors, encroaching on their homes or negatively changing their experience or view of our property."

*d) Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

The application states, "Not knowing the exact intent of the Zoning Ordinance, I believe substantial justice is for one to be able to use his property in ways that do not impede on the rights of his neighbors, as is the case in our proposed project."

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
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**Paul Rosner Request (#ZV13-15)**



4. Staff Evaluation of Request

An exhibit submitted with the application shows that the deck would be located at a distance of 12' from the rear property line. The subdivision plat for the development establishes a 20' setback requirement from side and rear property lines.

a. Source and purpose of ordinance requirements

Section 5.4B of the Zoning Ordinance establishes setbacks for single-family residential properties in the Residential Growth District.

The purpose of 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.

b. Unique characteristics of property

The subject property is approximately .166 acre (7230 square feet) in size. The size and shape of the lot are generally consistent with other properties in the subdivision. Lot depth (85') is typical for the neighborhood, but is somewhat shallow when the front (25') and rear (20') setbacks are taken into account. The lot depth does not appear to leave an area between the rear of the home and the rear setback line, sufficient for the construction of a substantial deck.

c. Character of area

The property is located in the Crosswinds subdivision, and is surrounded on all sides by residential uses. A utility easement of 28.65' in width is located to the south of the property. (Note: this is not the side of the property that is affected by the setback variance).

Staff Report  
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**Paul Rosner Request (#ZV13-15)**

d. Impact on adjacent properties

The sole property that would be impacted by the proposed variance is a single-family property located to the east. The visual impact of the proximity of the deck may be reduced by the substantial landscaping located in the rear of the subject property.

e. Feasibility of complying with the ordinance by other means

The depth of the proposed deck could be reduced to comply with the 20' setback requirements. However, because the rear of the home is located 24' from the property line, the maximum possible depth of the deck would be 4', which a typical resident might find to be too shallow to be of practical use.

Another option is to take advantage of the encroachment provision of Section 9.5. However, this option is limited to a 4' encroachment into a setback, for a deck (or similar projection) of no more than 10' in width. This would yield a deck area of only 80 square feet.

5. Conditions of Approval

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

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

SECTION OF ORDINANCE TO BE CONSIDERED:

A. Minimum Lot Area, Height, and Yard Requirements

- 1. Minimum Lot Area, Height, and Yard Requirements are as shown in Table 5.4 – 1 below. The minimum lot area requirements are based on the availability of central or public water and sewer facilities and West Virginia Board of Health regulations.<sup>23</sup>

	Development Type	Minimum Lot Area (MLA)	Required Yards (ft)				Maximum Building
		Area per Dwelling Unit (ADU)	Front	Side	Street Side	Rear	Height (ft)*
1	Single Family Dwelling	6,000 sq. ft. MLA**	25	12	15	20	40
	Public/Central water and sewer	10,000 sq. ft. ADU	“	“	“	“	“
	Public/Central water or sewer	20,000 sq. ft. MLA	“	“	“	“	“
	No Public/Central water or sewer	40,000. Sq. ft. MLA	“	“	“	“	“



# 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: ZV13-15

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

Staff Initials: AT

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

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

#### Property Owner Information

Property Owner Name: Paul Rosner

Mailing Address: 478 Crosswinds Dr.

City: Charles Town State: WV Zip Code: 25414

Phone Number: 304-886-9042 Email: pvroshner@gmail.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: 478 Crosswinds Dr., Charles Town, WV 25414

Tax District: 02 Map No: 18A Parcel No: 30

Parcel Size: .166 ac. Deed Book: 1087 Deed Bk. Pg. No: 243  
<sub>4B</sub>

**RECEIVED**

APR 19 2013

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Zoning District:	Rural (R-A)	Residential Growth (R-G)	Industrial Commercial (I-C)	Residential-Light Industrial-Commercial (R-L-C)	Village (V)
	0	0	0	0	0

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:) 5.4-B sub

Please briefly describe the nature of the variance request:

We would like to build a deck behind our house, the end of which will be 12' from our property line.

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

Front Setback  Side Setback  Rear Setback Reduction From 20 to 12

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.

1 see attached page

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?

2

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

3

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

4

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.

PAUL ROSNER 4/18/13  
Print Name of Property Owner 1 Date

AMY ROSNER 4/18/13  
Print Name of Property Owner 2 Date

Paul Rosner 4/18/13  
Signature of Property Owner 1 Date

Amy Cronin 4/18/13  
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)).

Thursday May 16, 2013  
Date of Public Hearing

May 1, 2013  
Advertising Date

May 1, 2013  
Placard Posting Date

- i. Our fence line has multiple large trees along it which obstruct our neighbors view of the area we have proposed for our deck. In addition, the property line in question is shared by a neighbor who approves of our plan and is excited about the improvements we have made to date to the exterior of our house.
2. Our house is a split foyer design, with no convenient access to the back yard. The design of the house, in its current state, dictates use of a steep staircase to gain access ~~to~~ the area where our children play. We would like to be able to more fully utilize the features of our home, e.g. the rear exit and rear portion of the yard.
3. Granting the variance would allow us to more fully utilize our property without offending any neighbors, encroaching on their homes or <sup>negatively</sup> changing their experience or view of our property.
- f. Not knowing the exact intent of the zoning ordinance, I believe substantial justice is for one to be able to use his property in ways that do not impede on the rights of his neighbors, as is the case in our proposed project.

RECEIVED

APR 19 2013

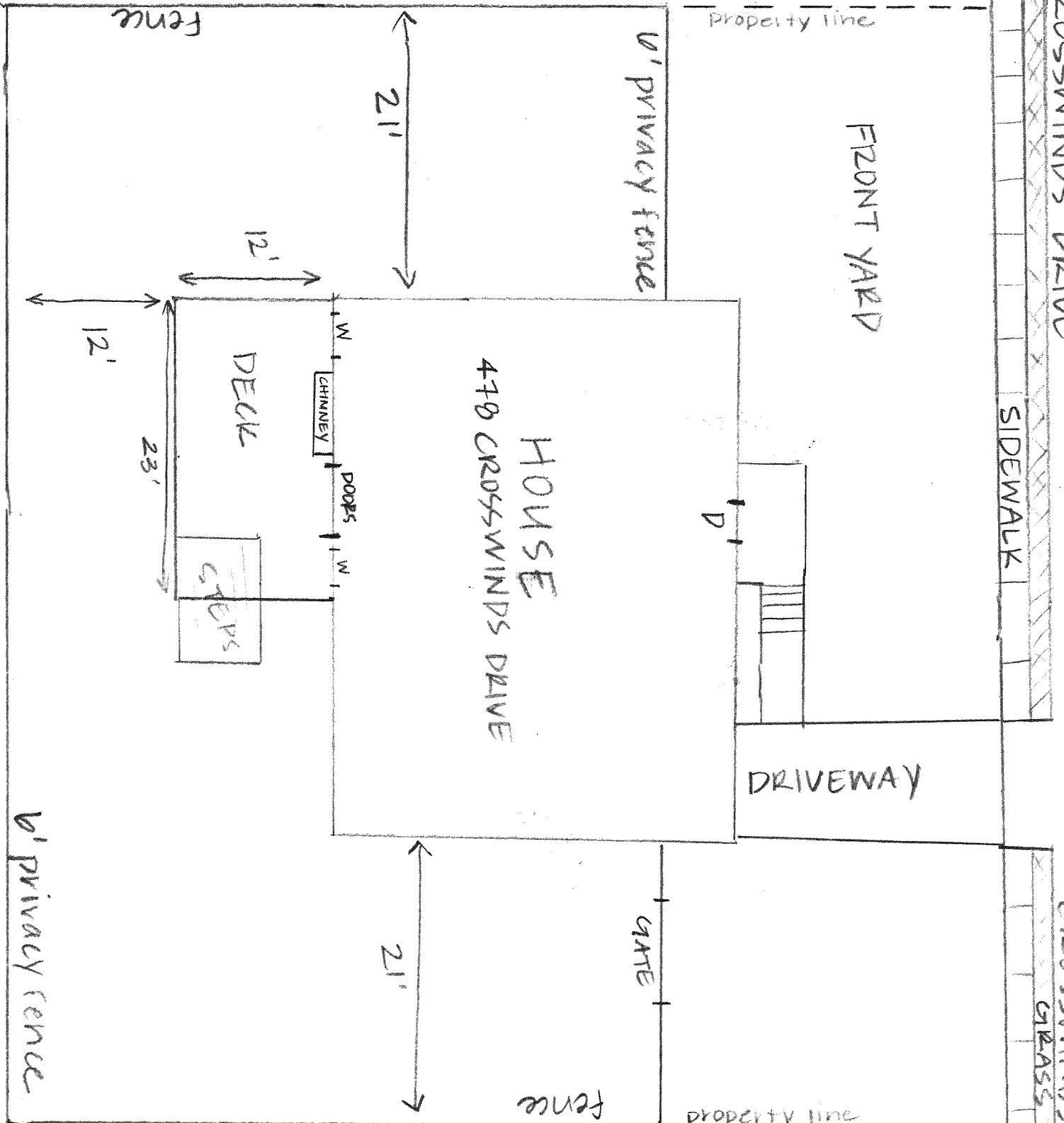
JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

# ZV13-15

# 2VI315

4/18/13 *Paul Fowler*  
4/18/13 *J. Brown*

# COMMON AREA



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APR 19 2013


JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

NEIGHBOR

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 May 16, 2013

**Stephanie F. Grove, Request (#ZV13-16)**

Item #4 Variance request by applicant, Stephanie F. Grove, from Section 9.6(A) for a reduction of the rear and side setback distances from 5' to 6" to allow for the construction of an 8' x 12' shed on a 40' x 90' lot.

APPLICANT:	Stephanie F. Grove
OWNER :	Same
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	Tuscawilla Hills Subdivision 28 Standish Court, Charles Town, West Virginia
LEGAL DESCRIPTION:	Charles Town (02); Map: 11B; Parcel: 136; 
ZONING DISTRICT:	Zoning Map Designation: Residential-Growth (RG)
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> RG <i>South:</i> RG <i>East:</i> RG <i>West:</i> RG
LOT AREA:	3,600 sq. ft.
PRIOR CASES:	81-04, Tuscawilla Hills, approved 8/25/81 83-22, Tuscawilla Hills Lots 285-292, approved 12/11/84
VARIANCE(S):	None
APPROVED ACTIVITY:	Residential

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
May 16, 2013

**Stephanie F. Grove, Request (#ZV13-16)**

RELEVANT INFORMATION:

1. Overview of Request

The applicant is seeking a variance from Section 9.6(A) for a reduction of the rear and side setback distances from 5' to 6" to allow for the construction of an 8' x 12' shed on a 40' x 90' lot.

2. Previous Case History

The subject property is located in the Tuscawilla Hills Subdivision, which was established prior to the adoption of zoning regulations.

3. Applicant's Justification of Request

In the application submitted for the variance request, the applicant has provided the following responses to the 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.*

The application states, "My back yard is adjacent to a common area strip of land that separates the adjacent property owner's back yard from mine, and I maintain the common area that is adjacent to my back yard. Reducing the rear setback and placing the shed on or near the property line will not infringe upon the rights of the adjacent property owners because of this common area that separates my backyard from the neighboring properties at the rear. Reducing the side set back will not adversely affect the adjacent property owners to the side because the shed will not be placed right on the property line and the neighboring property's fence will separate the shed from the neighboring property. Additionally, the property beside me is not owner occupied."

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.*

The application states, "I live in the 'duplex neighborhood' of Tuscawilla Hills. Every property that has a shed in the neighborhood has placed it either on or no more than 6" from the property lines. There are 9 sheds on Standish Court, an additional 3 across the common area in the back (those houses front on Berkeley Court), and another 2 on the end of our street (those houses front on Newton Court). Additionally, there was a 10<sup>th</sup> shed on Standish Court which was destroyed in a fire last summer, for total of 15 sheds in the neighborhood. All 15 sheds were in existence when I purchased the property 8 years ago and are situated on or very near the rear and side property lines. Where I plan to place my shed adjacent to the common area in the back, there are 7 sheds, all of which have been placed on the rear and side property lines. The placement of all the sheds on or near the property line more than likely resulted from a desire on the part of the property owners to maximize the size of the backyards, which are small. Placing a shed six feet from the property line on either side, would result in a shed that is basically in the middle of the yard and would eliminate most other common uses of the backyard. Furthermore, granting this variance will maintain the uniformity of the neighborhood, which was created by neighboring property owners, before I ever owned the property for which the variance is sought. Thus, the attributes of a small yard and uniform placement of the sheds creates the need for the variance. \*\*\*\*It should be noted that the applicant is not aware if other property owners in the neighborhood received variances to permit them to place the sheds in contravention of the setback requirements."

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
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**Stephanie F. Grove, Request (#ZV13-16)**

c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*

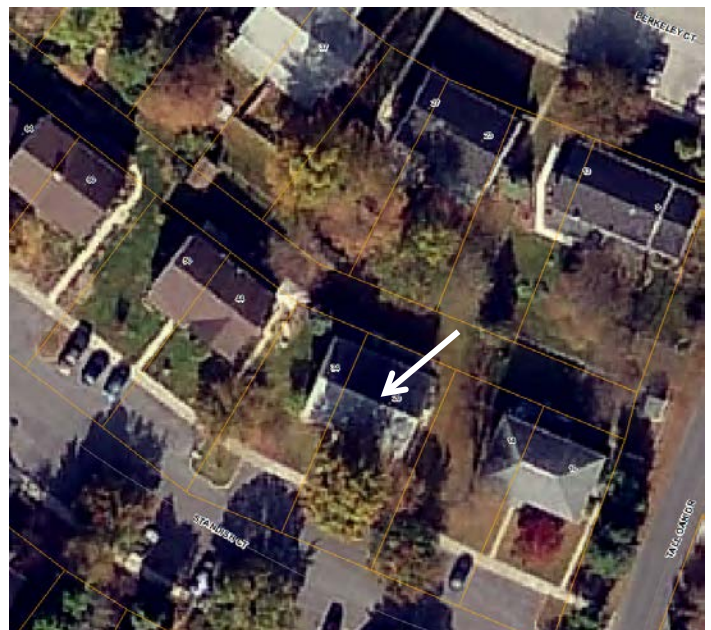
The application states, "I purchased the property in 2005 as a starter home, thinking that I would sell it when I got married and was ready to start a family. Because of the decline in the market, I have zero equity in a house on which I have been making payments since October of 2005, and in fact, have negative equity. I got married in February of this year, and my husband and I are trying to fit two households into my very small one. In order to do this, we need a shed to store some of our belongings as my house currently does not have enough storage to meet our needs. Granting the variance will eliminate a hardship by permitting us to clean up our back yard area and provide storage for a house I never intended on keeping this long, but because of circumstances beyond my control, am forced to remain in. Additionally, of the 30 lots in my neighborhood, half of the property owners have not placed the sheds in accordance with the setback requirements and instead have placed them on the property line, the location where I also seek to place my shed. The other 15 duplexes do not have sheds at all. Accordingly, any owner who has added a shed has placed it on or near the property line. It is reasonable to permit a usage of the land that is already occurring on half of the properties in the neighborhood."

d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

The application states, "As previously mentioned, my rear property line faces a common area, which I maintain. That common area extends the length of the street, creating an 'alley' which would allow for emergency access and would also allow me to maintain the shed without infringing on the adjoining properties. To the side, my property is separated from my neighbor's by a fence, preventing any infringement on that property. Additionally, one of the purposes of planning and zoning ordinances is to create uniformity in neighborhoods. Allowing my shed to be placed in a location similar to every other shed that exists in the neighborhood will create uniformity and as such, is consistent with the intent of the Zoning Ordinance."



*Sheds located on other properties in the vicinity of the subject property. Proximity to property lines is unknown.*



*Aerial view of subject property. Note: Lot lines shown are offset.*

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Jefferson County Board of Zoning Appeals Meeting  
May 16, 2013

**Stephanie F. Grove, Request (#ZV13-16)**

4. Staff Evaluation of Request

a. Source and purpose of ordinance requirements

Section 9.6 of the Zoning Ordinance establishes that, for properties in all districts where single-family and two-family dwelling units are permitted, any accessory structures under 150 square feet are permitted as close as 5 feet to the property line.

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.

Staff notes that a 6” setback is unusually short. However, it should also be noted that the variance request is for a shed with an area of less than 100 square feet, rather than a larger, more permanent structure or a building intended for occupancy.



b. Unique characteristics of property

The area of the subject property is approximately .166 acre or 7,230 square feet. The size and shape of the lot are typical for the neighborhood, and the lot size is not unusual for the Residential Growth district. There appears to be approximately 30’ of space between the home and the rear property line.

c. Character of area

The property is located in the Tusawilla Hills subdivision, and is surrounded on all sides by residential uses.

An aerial photo included in this staff report shows that various properties in the vicinity have sheds located somewhat close to property lines. It is not known whether any of the sheds are within 6” of a property line.

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**Stephanie F. Grove, Request (#ZV13-16)**

d. Impact on adjacent properties

A 20' utility easement is located to the rear of property. The adjoining property to the east side contains a two-family residence. A chain-link fence separates the subject property from the adjoining residential property.

e. Feasibility of complying with the ordinance by other means

A shed could be located on other parts of the property. The application submitted for this request explains why the applicant seeks to place the shed in this particular location: "Placing a shed six feet from the property line on either side, would result in a shed that is basically in the middle of the yard and would eliminate most other common uses of the backyard."

5. Conditions of Approval

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

- a. The variance is limited to placement of a shed.

SECTION OF ORDINANCE TO BE CONSIDERED:

**Section 9.6 Accessory Structures**

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

- A. The minimum distance to a lot line in any District from a single-story utility or storage shed, not exceeding one hundred fifty (150) square feet, shall be five (5) feet.





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: ZV13-16

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

Staff Initials: JH

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

Email planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email 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: Stephanie F. Grove
Mailing Address: 28 Standish Ct.
City: Charles Town State: WV Zip Code: 25414
Phone Number: (304) 676-5495 Email: stephiefay@hotmail.com

Applicant or Contact Information

Applicant / Contact Name: Same as above
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: 28 Standish Court, Charles Town, WV 25414, Lot 290
Tax District: Charles town Map No: 11B Parcel No: 136
Parcel Size: 40' X 90' Deed Book: 1016 Deed Bk. Pg. No: 102

Zoning District: Rural (R-A) Residential Growth (R-G) Industrial Commercial (I-C) Residential-Light Industrial-Commercial (R-L-C) Village (V)
[ ] [X] [ ] [ ] [ ]

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APR 19 2013

JEFFERSON COUNTY PLANNING, ZONING AND ENGINEERING

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:) 9.6A

**Please briefly describe the nature of the variance request:**

I would like to put an 8'X12' shed on my property about 6 inches from the rear and side of my property line. Most of my neighbors have sheds, and every shed in my neighborhood has been placed on or very near the side and rear property lines.

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

Front Setback  Side Setback  Rear Setback Reduction From 8'5" 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.**

See attached sheet

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

See attached sheet

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

See attached sheet

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

See attached sheet

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.

Stephanie F. Grove 4/19/13

Print Name of Property Owner 1 Date

Stephanie F. Grove 04/19/13  
Signature of Property Owner 1 Date

Print Name of Property Owner 2 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).

May 16, 2013  
Date of Public Hearing

May 1, 2013  
Advertising Date

May 1, 2013  
Placard Posting Date

#2V13-16

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APR 19 2013

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

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

My back yard is adjacent to a common area strip of land that separates the adjacent property owner's back yard from mine, and I maintain the common area that is adjacent to my back yard. Reducing the rear setback and placing the shed on or near the property line will not infringe upon the rights of the adjacent property owners because of this common area that separates my backyard from the neighboring properties at the rear. Reducing the side set back will not adversely affect the adjacent property owners to the side because the shed will not be placed right on the property line and the neighboring property's fence will separate the shed from the neighboring property. Additionally, the property beside me is not owner occupied.

2. ***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?***

I live in the "duplex neighborhood" of Tuscaawilla Hills. Every property that has a shed in the neighborhood has placed it either on or no more than 6" from the property lines. There are 9 sheds on Standish Court, an additional 3 across the common area in the back (those houses front on Berkeley Court), and another 2 on the end of our street (those houses front on Newington Court). Additionally, there was a 10<sup>th</sup> shed on Standish Court which was destroyed in a fire last summer, for total of 15 sheds in the neighborhood. All 15 sheds were in existence when I purchased the property 8 years ago and are situated on or very near the rear and side property lines. Where I plan to place my shed adjacent to the common area in the back, there are 7 sheds, all of which have been placed on the rear and side property lines. The placement of all the sheds on or near the property line more than likely resulted from a desire on the part of the property owners to maximize the size of the backyards, which are small. Placing a shed six feet from the property line on either side, would result in a shed that is basically in the middle of the yard and would eliminate most other common uses of the backyard. Furthermore, granting this variance will maintain the uniformity of the neighborhood, which was created by neighboring property owners, before I ever owned the property for which the variance is sought. Thus, the attributes of a small yard and uniform placement of the sheds creates the need for the variance. \*\*\*\*It should be noted that the applicant is not aware if other property owners in the neighborhood received variances to permit them to place the sheds in contravention of the setback requirements.

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

I purchased the property in 2005 as a starter home, thinking that I would sell it when I got married and was ready to start a family. Because of the decline in the market, I have zero

equity in a house on which I have been making payments since October of 2005, and in fact, have negative equity. I got married in February of this year, and my husband and I are trying to fit two households into my very small one. In order to do this, we need a shed to store some of our belongings as my house currently does not have enough storage to meet our needs. Granting the variance will eliminate a hardship by permitting us to clean up our back yard area and provide storage for a house I never intended on keeping this long, but because of circumstances beyond my control, am forced to remain in. Additionally, of the 30 lots in my neighborhood, half of the property owners have not placed the sheds in accordance with the setback requirements and instead have placed them on the property line, the location where I also seek to place my shed. The other 15 duplexes do not have sheds at all. Accordingly, any owner who has added a shed has placed it on or near the property line. It is reasonable to permit a usage of the land that is already occurring on half of the properties in the neighborhood.

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

As previously mentioned, my rear property line faces a common area, which I maintain. That common area extends the length of the street, creating an “alley” which would allow for emergency access and would also allow me to maintain the shed without infringing on the adjoining properties. To the side, my property is separated from my neighbor’s by a fence, preventing any infringement on that property. Additionally, one of the purposes of planning and zoning ordinances is to create uniformity in neighborhoods. Allowing my shed to be placed in a location similar to every other shed that exists in the neighborhood will create uniformity and as such, is consistent with the intent of the Zoning Ordinance.

#ZVB-16

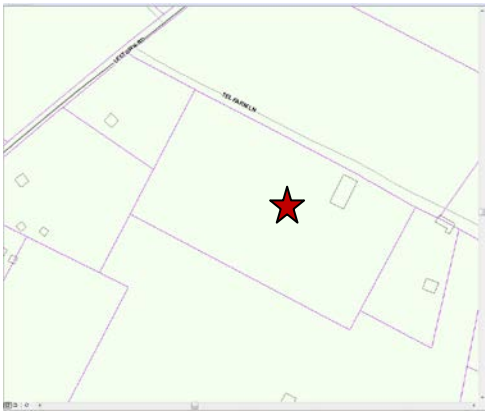




Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 May 16, 2013

**Frank Hardy and Wesley Smoot Request (#ZV13-17)**

Item #5 Variance request by applicant, Frank Hardy, and Wesley Smoot, property owner, from Section 4.3B to extend the period of abandonment of a nonconforming use and to change a nonconforming use from a landscaping business to an auto body repair shop.

APPLICANT:	Frank Hardy
OWNER :	Wesley Smoot
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	164 Tel Farm Lane Kearneysville, West Virginia
LEGAL DESCRIPTION:	Middleway (07); Map: 19; Parcel: 26.10 
ZONING DISTRICT:	Zoning Map Designation: Rural
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Rural <i>East:</i> Rural <i>West:</i> Rural
LOT AREA:	10 acres
PRIOR CASES:	None
VARIANCE(S):	1/23/90 – Planning Commission variance request “for the continuation of the present zoning of the property” for a one-year period (staff interprets this to have been a request to extend the abandonment period for a nonconforming use). (Approved)  4/18/91 – BZA variance request from Sections 3.2(e) and 4.3(b) for one year extension of nonconforming use status. (Denied)
APPROVED ACTIVITY:	Landscaping company

**Staff Report**  
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**Frank Hardy and Wesley Smoot Request (#ZV13-17)**

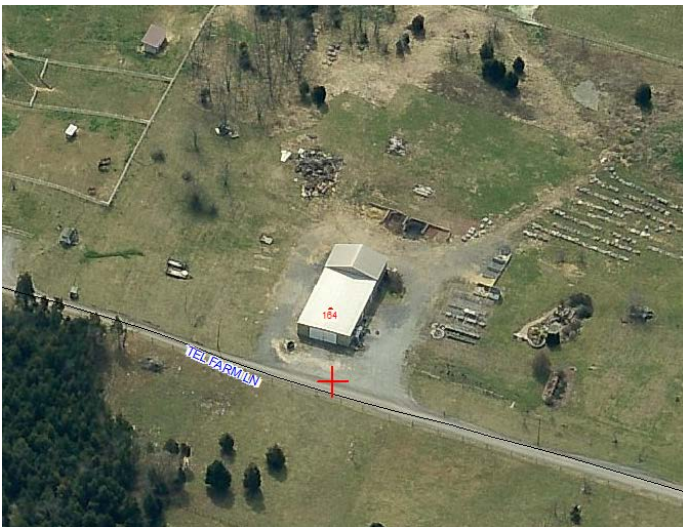
**RELEVANT INFORMATION:**

**1. Overview of Request**

The applicant is seeking a variance from Section 4.3B to extend the period of abandonment of a nonconforming use and to change a nonconforming use from a landscaping business (a conforming use) to an auto body repair shop.

**2. Background and Previous Case History**

The subject property is located on Tel Farm Lane at the northeast of the intersection of Leetown Rd. and Middleway Pike. The site contains a 50' x 110' building. Both ends of the building have oversized doors that appear to be intended to move machinery or vehicles into the building.



The 10-acre lot was subdivided from a larger tract in 1985. The property was the former site of the Panhandle Machine Company. A 1985 deed for the property refers to this company, indicating that it was apparently in existence at this site prior to the 1988 adoption of the Zoning Ordinance.

According to letters from Robert and Elise Stiles submitted with variance requests, the Stiles purchased the property at an auction in 1989, although the sale was not finalized until Feb. 1, 1990. On January 23, 1990, the Stiles sought a variance from the Planning and Zoning Commission “for the continuation of the present zoning of the property” for a one-year period (staff interprets this to

Staff Report  
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have been a request to extend the abandonment period for a nonconforming use). The new owners stated that their use of the property was delayed as a result of bankruptcy court proceedings, and that they had not yet found new tenants for the property. The Commission granted the variance request, with an expiration date of January 23, 1991.

In February, 1991, the owners sought a similar variance from the Planning Commission, and were instructed to instead make the request to the Board of Zoning Appeals. On April 18, 1991, the owners applied to the BZA for an additional one year extension of their nonconforming use status, in the form of a variance from Sections 3.2(e) and 4.3(b). In a letter submitted to the Board, the Stiles cited a change in the economic conditions as a result of the outbreak of the Persian Gulf War. The Board denied the request. At this point, it appears that the nonconforming status of the property became invalid.

An affidavit submitted by the current property owner states that, to the best of the owner's knowledge, the property:

“... has been used as a bus garage, a welding shop, vehicle repair shop, and most recent; Smoot's LLC which conducted the following from this location: Nursery with a sales office and retail center, a maintenance shop for all our trucks, trailers, equipment and clientele equipment (if needed), planning and design for our construction teams...”

However, despite the commercial history of the property, it is not clear that the property's commercial use after 1991 was legally established. Staff has not located any permits, correspondence, or documentation of a board/commission action that would indicate that there was a legal, permitted commercial use of the property after the Board's denial of the variance in 1991.

The use of the site as a landscaping business is permitted as an agricultural use per Section 5.7A, which lists “Landscaping business outside of Planning Commission approved subdivisions” as a permitted use in the Rural District. As such, it appears that the most recent use of the property was a legal, conforming use.

3. Applicant's Justification of Request

In the application submitted for the variance request, the applicant has provided the following responses to the 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.*

The application states, “Currently, there is a junk yard (auto salvage), a horse farm, and other auto care place across the road, so the nature of this business will not affect the public health, safety & welfare. We will adhere to all governmental regulations and restrictions.”

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.*

The application states, “There are no variances that owner is aware of. This request is for us to be able to use this property as an Auto Body repair, not agriculture. There has been a history of commercial use prior to 1988.”

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c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*

The application states, "I am in the military (US Army) and away from this property to manage. Mr. Hardy is a longtime friend and I trust that he will take care of the property in my absence."

d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

The application states, "The business agrees to abide by all County, City, State & Federal regulations and deliver supreme service to its customers."

4. Staff Evaluation of Request

While a particular type of BZA approval is not precedent-setting, there are past examples of the Board approving the re-establishment of a nonconforming use. These prior cases include requests by Carol M. Landry, 10/17/96, and John T. and Patricia A. Staubs, 5/18/95. In both cases, the time period for which the nonconforming use was expired was significantly shorter than the current request.

a. Source and purpose of ordinance requirements

Section 4.3B of the Zoning Ordinance establishes that, whenever a nonconforming use has been abandoned for a period of twelve months, the use shall not be reestablished and any future use shall comply with the Zoning Ordinance.

The Zoning Ordinance defines "Abandonment or Abandoned" as:

"The relinquishment of property or cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or resuming the nonconforming use of the property for a period of one year."

The purpose of nonconforming use provisions is to allow reasonable use of a property which contains a land use, feature, or building which does not comply with currently regulations, while also establishing limits for the continuation or expansion of the nonconformity.

Section 4.3C of the ordinance allows for some changes in nonconforming use to be approved administratively, if the change in use is of a similar type.

b. Unique characteristics of property

The subject property is 10 acres in size. A recent deed (Book 1050, Page 436) for the property includes the following language regarding access:

"Together with that certain non-exclusive easement for ingress and egress to and from the property herein conveyed, over, across and upon a 20' wide private road.." [extending from the property to West Virginia Route 1]

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**Frank Hardy and Wesley Smoot Request (#ZV13-17)**

c. Character of area

The surrounding area includes a mix of residential, agricultural, and commercial/industrial uses. Adjacent land uses include:

- South (adjacent): Beau Ridge Horse Farm, including barns, training track, and other facilities
- Northeast (across Tel Farm Lane): Agricultural – grazing land
- Northeast (across Tel Farm Lane, behind grazing land): Auto salvage yard
- East (adjacent): Single-family home
- East (end of easement): Farm and wireless telecommunication tower
- West (adjacent): Single-family home (8150 Leetown Rd.)
- West (adjacent): Single-family home (8062 Leetown Rd.)



*View looking west.*



*View looking east.*



*View looking north.*



*View looking south.*

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d. Impact on adjacent properties

The proposed land use could have an impact on other users of the access easement if the land use were to result in additional vehicular trips on easement, including tow trucks to be used for transporting damaged vehicles. The 20' easement has a relatively solid, compacted gravel surface measuring approximately 15' in width.

Any outdoor storage of vehicles could have a visual impact on adjacent properties, including the horse farm located to the south (partially screened) and a single-family home located to the east (unscreened, and within about 300 feet of the principal building on the subject property).

The proposed land use does not appear likely to have a visual impact the single-family properties located to the west (8150 and 8062 Leetown Rd) because of the distance between these properties and the principal building on the subject property (approximately 775 feet). These properties are also partially screened by trees near the property line.

e. Feasibility of complying with the ordinance by other means

The land use could be established by Conditional Use Permit, if approved by the Board of Zoning Appeals following a public hearing and a Compatibility Assessment Meeting.

The proposed land use could also comply with the ordinance if it were to be established on a property with a zoning classification that permitted the land use.

5. Conditions of Approval

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

a. Outdoor vehicular storage...

i. ... is not permitted.

OR

ii. ... is limited to the existing gravel area behind the principal building, must be screened from all property lines by opaque fencing or evergreen landscaping of at least 6' in height, and must comply with the Jefferson County Salvage Yard Ordinance.

b. Any required state approvals for automotive repair and painting must be obtained prior to issuance of a Zoning Certificate.

c. A handicapped accessible parking space meeting ADA standards is required.

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**Frank Hardy and Wesley Smoot Request (#ZV13-17)**

SECTION OF ORDINANCE TO BE CONSIDERED:

**Section 2.2 Definitions**

Abandonment or  
Abandoned<sup>17, 21</sup>

“The relinquishment of property or cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or resuming the nonconforming use of the property for a period of one year.”

**Section 4.3 Nonconforming Uses**

Any building, structure or premises lawfully existing at the time of the adoption of this ordinance, or lawfully existing at the time that this ordinance is subsequently amended, may continue to be used even though such building, structure, or premises does not conform to use, setbacks or dimensional regulations of the zoning district in which it is located or the regulations of the Development Review System; subject, however to the following provisions:<sup>7</sup>

- B. Whenever a nonconforming use has been abandoned for a period of twelve (12) months, such use shall not be reestablished and any future use shall be in conformance with the provisions of this Ordinance.<sup>5, 17, 21</sup>
- C. A nonconforming use may not be substituted for any other nonconforming use without the Board of Zoning Appeals review and public hearing, provided, however, to the following: upon notice to the Zoning Administrator with an application for and approval of a Zoning Certificate a nonconforming retail, service, or wholesale operation may be substituted with another retail, service or wholesale operation without such public hearing; provided again, however, the intended use does not include an adult use.<sup>7, 17, 21</sup>



## Zoning

---

**From:** Marty Smoot <self\_employed15@yahoo.com>  
**Sent:** Wednesday, April 17, 2013 7:30 AM  
**To:** Zoning Dept  
**Subject:** Re: 164 Tel Farm Lane - nonconforming use documentation

Sir, I have no documentation that would indicate that the County's Departments of Planning, Zoning, or Engineering have ever issued any type of approval for the property, to include my own. I started my business there in March of 2001. Other than me occupying the building and what is stated in my initial letter is all I know. I do not know other business' exact dates of occupying the building. Sorry! I would greatly appreciate what ever could be done to get the approval of "the nonconforming use". Thanks!

Sincerely,

Marty Smoot

**From:** Zoning Dept <[zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)>

**To:** [self\\_employed15@yahoo.com](mailto:self_employed15@yahoo.com)

**Sent:** Tuesday, April 16, 2013 12:25 PM

**Subject:** Re: 164 Tel Farm Lane - nonconforming use documentation

Marty,

After researching the property and discussing it with the director, I have determined that the Board of Zoning Appeals will need to approve the change of use. There are two issues:

First, despite the commercial history of the property, it is not clear that the property's commercial use after 1991 was legally established. In April of 1991, Robert and Elise Stiles sought a variance to extend the nonconforming commercial status of the property. The variance was denied (see attached minutes). After this date, I have not located any permits, correspondence, or documentation of a board/commission action that would indicate that there was a legal, permitted commercial use of the property after 1991.

Second, the proposed change of use of the property is significant enough (from a landscaping business to an auto body shop) that the change should not be approved administratively.

So, in order for the Zoning Certificate to be approved, the Board of Zoning Appeals would need to approve a change of nonconforming use. While the outcome cannot be predicted, I believe that the Board would look favorably on the request because of the longstanding commercial history of the site.

It would also be helpful if you have any other documentation that would indicate that the County's Departments of Planning, Zoning, or Engineering have ever issued any type of approval for the property. If you are still in touch with the previous owner of the property, it might be worth asking them what took place after 1991.

Please let me know if you have any questions.

Sincerely,

Steve Barney

Zoning Administrator

----- Original Message -----

From: "Marty Smoot" <[self\\_employed15@yahoo.com](mailto:self_employed15@yahoo.com)>  
Sent: 4/10/2013 5:04:47 PM  
To: "Zoning Dept" <[zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)>  
Subject: Re: 164 Tel Farm Lane - nonconforming use documentation

Sir please confirm that you received my last email. Thanks

**From:** Zoning Dept <[zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)>  
**To:** [self\\_employed15@yahoo.com](mailto:self_employed15@yahoo.com)  
**Sent:** Wednesday, April 3, 2013 4:37 PM  
**Subject:** 164 Tel Farm Lane - nonconforming use documentation

Mr. Smoot,

I am writing to follow up on our conversation today. As we discussed, while your property at 164 Tel Farm Lane is zoned Rural (which does not permit commercial land uses), the commercial use of your property began before the adoption of the Zoning Ordinance.

As you mentioned, you are currently seeking to lease the property to another business. Because the commercial use of the site does not conform with the property's zoning, the Planning and Zoning Department will need some basic documentation about the history of commercial use of the property, in order to approve a zoning certificate for the proposed business.

The department can recognize the commercial use of the site as a lawful, nonconforming use (a "grandfathered" use) if it can be documented that the commercial use has not been abandoned, i.e. has not ceased for a 12-month period. In order to document this, please submit to our office a notarized letter or affidavit stating:

- That the property has been in commercial use prior to 1988;
- List the previous commercial uses of the property;
- State when your business began to operate;
- Briefly explain the changes in ownership after 2008;
- State when the most recent business tenant ceased operation.

For reference, I have attached an example of an affidavit.

Please let me know if you have any questions. I can be reached via email or at 304-728-3228.

Sincerely,

Steve Barney  
Zoning Administrator  
Jefferson County Planning and Zoning

**AFFIDAVIT OF PROPERTY USE**

TO: Jefferson County Engineering Department

Attn: Steve Barney, Zoning Administrator

Let it be known that the property located at 164 Tel Farm Lane, Kearneysville WV has been in commercial use prior to, and, since the adoption of the zoning ordinance in 1988, and to the best of my knowledge, has been used as a bus garage, a welding shop, vehicle repair shop and the most recent; Smoot's LLC which conducted the following from this location: Nursery with a sales office and retail center, a maintenance shop for all our trucks, trailers, equipment and clientele equipment (if needed), planning and design for our construction teams that installed patios, retaining walls, water-gardens, decks, remodeling of homes, lawn renovation and a training area for our employees and home owners.

Smoot's LLC began operations at this location in March of 2001, which also went by the names of Smoot's Water Gardens, Smoot's Cut-N-Edge and Smoot's. I, Wesley M. Smoot sold my business to Michael Bois on May 8<sup>th</sup>, 2008. I did an owner finance of the business and had to foreclose on Michael Bois for failure to make payment. The foreclosure took place in September of 2012. His business ceased to operate when he showed up at the court house for the foreclosure settlement. Since the foreclosure, I have spent numerous weekends at the above mentioned property, I have obtained a new business license under the name of dba "MTTP Services" and have been conducting minor business preparations, to get my business up and running again. The property is being marketed as commercial property since there has not been a 12 month period elapsed between business operations.

I declare that, to the best of my knowledge and belief, the information is true, correct and complete.

Signed Wesley M. Smoot Wesley M. Smoot, Date 6<sup>th</sup> April 13

*State of North Carolina  
County of Cumberland*

*On this 6<sup>th</sup> Day of April 2013, personally appeared before me, the said name Wesley M. Smoot, to me known and known to me to be the person described in and who executed the foregoing instrument and he/she acknowledge that he/she executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.*

*Witness my hand and official seal, this the 6<sup>th</sup> day of April 2013*  
Jeanne L. Vurgun *Jeanne L. Vurgun* *Notary Public* North Carolina  
*Official Signature of Notary* *Notary's Printed Name* *My Commission expires 3-31-2014*

Minutes  
Jefferson County Zoning Board of Appeals  
April 18, 1991

The Jefferson County Zoning Board of Appeals met on Thursday, April 18, 1991, at 3:00 p.m. in the Jefferson County Meeting Room. Members present were Leon Nawrocki, Ward Zigler and Mike Meyers. Also present were John Laughland, County Engineer, and Becky Burns.

Betty Byrer and John Schley were absent with notification.

The meeting was called to order by Leon Nawrocki. Ward Zigler motioned that the Minutes of the meeting held on March 21, 1991, be approved as circulated. Mike Meyers seconded the motion which carried unanimously.

OLD BUSINESS

1. Adra Thomas came before the Board regarding her setback variance request which had been denied at the March 21, 1991, meeting. There was much discussion about Ms. Thomas' appeal. Ward stated that in so far that action was taken at the last meeting that it should be brought up for reconsideration at the next meeting on May 16, 1991, with the presence of the full Board.

NEW BUSINESS

2. Request by Robert and Elise Stiles for a variance from Section 3.2(e) and 4.3(b) of the Zoning and Development Ordinance. Mr. Stiles stated that he owned a 10 acre parcel with a large metal building on it known as the "Panhandle Machine Property." Mr. Stiles further stated that he had come before the Planning Commission in February of 1990 requesting a one year extension of time on the existing nonconforming use (which was granted by the Planning Commission). There was much discussion about the request by the Stiles, Board and members of the public. Leon informed the Stiles that the Board could not rezone the property if that is what they were thinking. Leon further stated that a blanket variance for an unspecified use on the property could not be granted by the Board. Ward stated that since it was a nonconforming use which had been idle for over one year, an extension had been granted which expired in February 1991, that he could not see a blanket extension in an agricultural use for some undetermined future use, therefore, he motioned for denial of the request. Mike Meyers seconded the motion which carried unanimously.

3. Request by Loggia Development Corporation for a variance from the side setbacks from 50 feet to 30 feet for a canopy. Ward Zigler motioned to table the request until the May 16, 1991, meeting. Mike Meyers seconded the motion which carried unanimously.

4. Request for a change in nonconforming use for the Village House Restaurant. John Shockey presented the request noting that the existing structure would be used for a commercial kitchen for an

MAR 08 1991

\$20.00

JEFFERSON COUNTY  
PLANNING COMMISSION

VARIANCE REQUEST FORM

Name of Applicant ROBERT S. & ELISE M. STILES

Mailing Address RT 1 Box 231

KEARNERSVILLE, WEST VA 25430

Telephone # (304) 725-4867

Location of property MADOLEN DISTRICT - DISTRICT #11 MAP #19 PARCEL 26.10

Name of Subdivision "Old Panhandle Machine Property"

Zoning District Rural Agricultural

Tax Map Reference TAX MAP #19 - PARCEL 26.10

Zoning and Development Review Ordinance 3.2E & 4.3B

Subdivision Ordinance

Improvement Location Permit Ordinance

Flood Plain Management Ordinance

Section of Ordinance 3.2E & 4.3B

If applicable, sketch on a separate 8-1/2" x 11" sheet of paper 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, structures or land uses on the property. Sign and date the sketch.

In order to justify your variance request, please address the following items:

- The request is not contrary to the public interest.  
NO - PANHANDLE MACHINE CO OPERATED A BUSINESS ON THIS SITE FOR SEVERAL YEARS PRIOR TO OUR PURCHASE - WE CAN NOT SEE WHERE CONTINUED USE AS COMMERCIAL SITE WOULD BE HAZARDOUS.
- A literal enforcement of this Ordinance will result in unnecessary hardship.  
YES - VALUE OF PROPERTY WILL DRAMATICALLY BE AFFECTED - - - I WILL CAUSE FINANCIAL HARDSHIP TO US. - - PROPERTY WAS REPRESENTED AS "10 ACRE INDUSTRIAL SITE" AT TIME OF BANKRUPTCY AUCTIONS 11-29-89.

3. The request is not the result of a self-imposed hardship.

No IT IS NOT - WE HAVE HAD PROPERTY ON THE MARKET FOR SALE FOR MANY MONTHS - HAVE NOT BEEN ABLE TO FIND A BUYER DURING THIS DEPRESSED MARKET

4. The spirit of this Ordinance will be observed and substantial justice done.

YES - MR. STILES WOULD LIKE THE OPPORTUNITY TO ELABORATE AT THE TIME OF THE REVIEW BOARD HEARING

Please note: variances to the Zoning Ordinance must comply with Article 8 of that Ordinance. Variances to the Subdivision Ordinance must comply with Section 17.1 of that Ordinance. Variances to the Improvement Location Permit Ordinance must comply with Article 5 of that Ordinance. Variances to the Flood Plain Management Ordinance must comply with Article 7 of that Ordinance.

Signature of Property Owner Robert S. Stiles  
Elise M. Stiles

For official use only:	Amount of fees paid	<u>\$20.00</u>
	Date of meeting/public hearing	<u>April 18, 1991</u>
	Official/Administrative body	<u>Zoning Board of Appeals</u>
	Posting requirements	<u>15 days prior to meeting</u>
	Application #	_____
	Advertising dates	<u>March 14, 1991 to March 21, 1991</u>
	Official Signature and Seal	<u>Paul J. Racor</u>

Request was denied  
(See attached minutes)

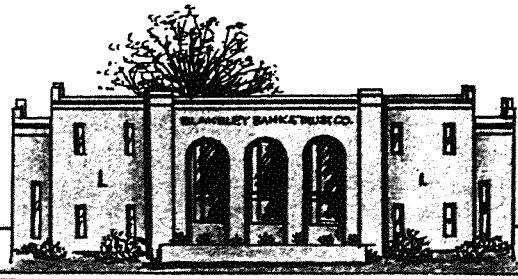


JEFFERSON COUNTY  
PLANNING COMMISSION

APR 18 1991

**BLAKELEY**

BANK AND TRUST COMPANY



P. O. Box 40 Ranson, WV 25438

April 3, 1991

(304) 725-7014

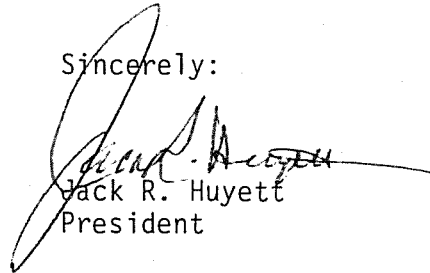
Board of Zoning Appeals  
Charles Town, W. Va.

Dear Board:

Robert and Elise Stiles purchased, at a Trustee sale, Panhandle Machine Company, Inc. property near Middleway. At the time of the sale it was zoned industrial and therefore brought the price that it did because it was an industrial site.

I hope you will see it within your powers to keep it zoned as an industrial site since this is what it was used for a number of years. If it is zoned to agriculture it will devalue the price and cause Mr. & Mrs. Stiles undue hardship.

Sincerely:



Jack R. Huyett  
President

JRH/faw

17 April 1991

To: Jefferson County Zoning Appeal Board

From: Robert S. Stiles & Elise M. Stiles

Subj: Zoning Classification - Panhandle Machine Shop Property

We purchased at public sale the above mentioned property on Nov. 29, 1989 at the site. The sale was not finalized until Feb 1, 1990 since it had to be approved by the Federal Bankruptcy Court. Immediately thereafter we appeared before the Planning Commission and received an extension of its zoning for one year. In the few months following, the property was listed with and advertised by real estate agencies. Several interested prospects were developed but before any sale was finalized, the Persian Gulf situation started on August 2, 1990 in Kuwait. The unsettled international situation put all such projects on hold and interest in the property dropped to zero.

In February 1991, we contacted the Planning

Commission for a continuation of the zoning, only to learn that the rules had changed and our next step was to you. That brings us here, this 18<sup>th</sup> day of ~~June~~ April 1991. We are now getting inquiries and have shown the property but cannot "work" the prospects without the proper zoning. If the property reverts to agriculture, its value and use ~~are~~ much reduced. Our sales effort has been dormant in the interim.

We hereby appeal to you that this property be classified light industrial - commercial. Pending our appeal to you, we have continued to make our payments of \$1979<sup>89</sup> per month to Blakeley Bank and Trust Company.

To leave the land in an agricultural classification would work an extreme hardship on us. At 74 years of age, we are not farmers. The building and 10 acres of level land lend themselves extremely well to ~~light~~ industrial.

When we purchased this property, our aim was to secure a fine employer who could offer steady work to a group of good Jefferson County citizens. We at one time rejected more than 1 offer because of failure to meet this qualification. Of course, we also aimed for a profit.

The building is 50' x 80' metal with an addition of 30' x 50'. The floor is reinforced concrete. The 10 acres is in the form of a rectangle. This property is adaptable to so many uses of an industrial nature. We feel that we can find the right employer who will employ our good people in Jefferson County and right now that is what we need.

Sincerely yours,  
Robert S. Stiles

Elise M. Stiles  
Rt 1, Box 231  
Hearnsville, West Va

1172 9/8 /

# BANKRUPTCY AUCTION — BY ORDER OF COURT

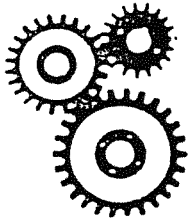
## PANHANDLE MACHINE CO., INC. MIDDLEWAY, WEST VIRGINIA

# AUCTION

## BUYERS GUIDE

### WEDNESDAY, NOVEMBER 29, 1989 — 10:00 A.M.

#### PRIME REAL ESTATE — MACHINE TOOLS/EQUIPMENT



#### 10 ACRE INDUSTRIAL SITE WITH METAL BUILDING

**DEPOSIT: 15%, of Which \$10,000  
Shall Be By Certified Funds**

**TERMS: The Real Estate Sales Subject to  
Confirmation. NOTE: A 6% Buyers  
Premium Will Be Added To The Winning  
Bid To Determine The Final Sales Price.**

**CONDITIONS** — ALL PERSONAL PROPERTY SELLS TO HIGH BIDDERS AT ABSOLUTE AUCTION. NO CONFIRMATION NEEDED.

**AUCTION TERMS** — Complete payment sale day. Settlement in cash/certified funds. Company checks must be accompanied by a letter from Payor's Bank guaranteeing unqualified payment to RITTENHOUSE AUCTION COMPANY. \$100.00 Refundable Registration Fee. No items to be moved until complete payment is made.

Everything sells "As is/where is" with all faults.

While descriptions are believed to be accurate, the auctioneers and the owners make no warranties or guarantees, expressed or implied, as to the genuineness, authenticity of, or defect in any lot and will not be held responsible for any advertising discrepancies or inaccuracies.

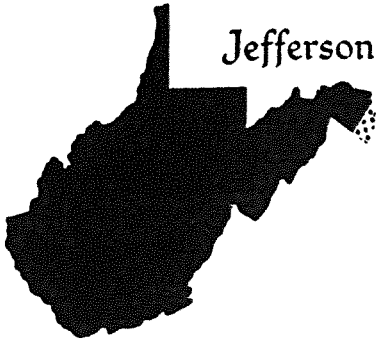
SALE  
CONDUCTED BY:

*Rittenhouse Auction Company*

AUCTIONEERS  
FOR INDUSTRY  
34 YEARS SERVICE

*Wylie S. Rittenhouse* CAI, AUCTIONEER

BOX 1172, UNIONTOWN, PA 15401 — (412) 438-0581



# Jefferson County Planning Commission

Charles Town, West Virginia 25414

COURT HOUSE ANNEX  
104 E. Washington Street

TEL: (304) 725-9761

March 5, 1990

Mr. & Mrs. Robert S. Stiles  
Route 1, Box 231  
Kearneysville, West Virginia 25430

Dear Mr. & Mrs. Stiles:

For the record this is to confirm the action of the Jefferson County Planning and Zoning Commission, at its regular meeting on January 23, 1990, regarding your letter dated January 22, 1990, requesting an extension of the present zoning of the Panhandle Machine property.

The Planning Commission approved your request for a continuation of the present zoning of the subject property for a period of one year. The expiration date of that zoning is January 23, 1991.

If you have any questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Paul J. Raco". The signature is written in a cursive style with a large initial "P".

Paul J. Raco  
Director of Planning & Zoning

PJR:rfb



# 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: ZV13-17

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

Staff Initials: CLC

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: Wesley M. Smoot

Mailing Address: 41 Cavalier View Ct

City: Shepherdstown State: WV Zip Code: 25443

Phone Number: 304-671-1264 Email: self\_employed15@yahoo.com

#### Applicant or Contact Information

Applicant / Contact Name: Frank E. Hardy Sr.

Mailing Address: 77 American Pride Lane

City: Keowneyville State: WV Zip Code: 25430

Phone Number: \* 304-676-4740 Email: \_\_\_\_\_

#### Applicant Representatives

Company/Organization Name: Frank's Auto Body

Attorney(s), Engineer(s), or Surveyor(s) Name: NA

Mailing Address: 46 Bell Rd

City: Harper Ferry State: WV Zip Code: 25425

Phone Number: 704-725-0661 Email: \_\_\_\_\_

#### Physical Property Details

Physical Property Address: 164 Tel Farm Ln Keowneyville WV 25430

Tax District: MIDDLEWAY-07 Map No: 19 Parcel No: 26.10

Parcel Size: 10 ACRES Deed Book: 1114 Deed Bk. Pg. No: 642

Zoning District:	Rural (R-A)	Residential Growth (R-G)	Industrial Commercial (I-C)	Residential-Light Industrial-Commercial (R-L-C)	Village (V)
	0	0	0	0	0

RECEIVED

APR 22 2013

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

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:) Sec. 4.3B

Please briefly describe the nature of the variance request: Auto Body Repair Shop

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

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. Currently there is a junk yard (Auto Salvage), a horse farm, and other Auto Care place across the road, so the nature of this business will not affect the public Health, Safety & Welfare. We will adhere to all government regulations and requirements.

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 are no variances that owner is aware of. This request is for us to be able to use this property as a Auto Body repair, not Agriculture. There has been a history of commercial use prior to 1980.

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

I am in the military (US Army) and away from this property to manage. ~~was~~ Mr. Hardy is a long time friend and I trust that he will take care of the property in my absence.

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

The business agrees to abide by all County, City, State & Federal regulations and ~~other~~ <sup>uns</sup> deliver supreme service to it's Customers.

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.

Wesley M. Smoot 22 April 13  
Print Name of Property Owner 1 Date

\_\_\_\_\_  
Print Name of Property Owner 2 Date

Wesley M. Smoot  
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)).

Thursday May 16, 2013  
Date of Public Hearing

Wednesday 5-01-13  
Advertising Date

Wed. May 1, 2013  
Placard Posting Date

CEVEL  
4 PR 22 2013



# 2113-17





# 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 May 16, 2013 Board of Zoning Appeals Meeting

- 1) **Reminder: Ethics and Fraud Prevention and Detection**– for all Boards and Commissions  
  
Please save the date: **June 25, 2013 7:00 PM**, Old Charles Town Library basement; presentation by West Virginia Ethics Commission and the West Virginia State Auditor's Office
- 2) **Department of Planning and Zoning Goals for FY 2013-14**  
See Attached Memo
- 3) **Draft 3rd Quarterly Report FY 2013**  
To be distributed at meeting
- 4) **Envision Jefferson 2035 Update**  
See Attached Memo
- 5) **Recent CC Meetings relevant to Planning:**
  - a) Public Hearing on the Petition to Incorporate Meanings, held at Blue Ridge Elementary School (5/2/13; action to occur at future meeting)
  - b) Appointment of new Planning Commission members to fill expired terms (approved 4/4/13):
    - Darlene Truman
    - Wade Louthan
    - Gary Phalen
  - c) Approval of new summer intern (Clay Raines) starting 4/29/13 (approved 4/4/13)
- 6) **Upcoming CC Actions**
  - a) David Mills presentation to County Commission on Ranson Renewed Plan and Form Based Code Rezoning (5/23/13)





# 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

### MEMORANDUM

**TO: Board of Zoning Appeals**  
**FROM: Jennifer M. Brockman**  
**Director, Planning and Zoning**  
**DATE: May 16, 2013**  
**RE: Planning and Zoning Department Goals**

\*\*\*\*\*

On February 20, 2013, the County Commission requested a memo summarizing each Department's budget proposal for FY 2014 and the top 3-5 Goals for each Department for the upcoming fiscal year. In the recent past, the Commission had requested a Work Plan that provided specified information and staff worked with the Planning Commission to develop this document. Due to the short notice this budget cycle, staff developed the following goals based on the FY 13 Work Plan and current projects underway, which were presented to the County Commission with the budget. Staff would be glad to discuss this with the Board if there is interest.

#### Department Goals

- 1) The top priority goal for both Departments is to provide excellent customer service and timely review of all development applications, allowing for required public input and thorough technical review to balance the needs of the developer and the needs of the community; as well as thorough and responsive support of Planning Commission, Board of Zoning Appeals and County Commission.
- 2) An equally important goal relates to progress on the Envision Jefferson 2035 Plan (2014 Comprehensive Plan). A complete final draft is due to the Planning Commission before the end of the Fiscal Year with a 6 month period into FY15 for review by the Planning Commission and County Commission and formal public hearings.
- 3) Completion of a land use and access management planning effort related to US 340 South is another priority for FY14. Staff is in conversations with HEPMPO and the WV DOH in order to determine how the local efforts can best be integrated into the states alignment efforts.
- 4) While Zoning Ordinance and Subdivision Regulations amendments will be minimized over the next Fiscal Year, it is anticipated the small amendments will be identified and pursued that enable more timely and effective processing of development applications such as Site Plans, Subdivision Plats and Zoning Map Amendments.
- 5) If the multi-Department Content Management System is approved by the County Commission, incorporating planning and zoning documents and processes into this system will be a priority.





# JEFFERSON COUNTY, West Virginia

## Departments of Planning and Zoning

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Fax: (304) 728-8126

### MEMORANDUM

**TO: Board of Zoning Appeals**  
**FROM: Jennifer M. Brockman**  
**Director, Planning and Zoning**  
**DATE: May 16, 2013**  
**RE: Envision Jefferson 2035 (2014 Comprehensive Plan) Update**

\*\*\*\*\*

#### 1) Steering Committee (15 members):

- a) Monthly Meetings -- 3/19/13; 4/16/13; 5/7/13
- b) Upcoming Meetings -- 5/21/13; 6/4/13; 6/18/13
- c) Next Joint Meeting with County Commission - 7/18/13

#### 2) Final Brown Bag Lunch and Learns Held:

Video links of all 15 Lunch and Learns available on <http://envisionjefferson2035.com/> :

- a) 4/3/13 West Virginia Division of Highways (DOH) (4 speakers)
- b) 4/17/13 Public Safety (Sheriff, JCESA, Jefferson County Homeland Security and Emergency Management, volunteer fire companies )

#### 3) Public Input Meetings **\*\*Members encouraged to attend\*\***

- a) Second series of public meetings scheduled (Goals and Objectives and Future Land Use Exercise):
  - Saturday July 27, 2013 9:30 am – noon (Sam Michaels)
  - Tuesday July 30, 2013 7 – 9 pm (War Memorial Building)
- b) County Fair booth (Future Land Use Exercise)
  - Monday, August 19 – Friday, August 23, 2013 3 pm – 7pm

#### 4) Next Steps

- a) Working on Goals and Objectives in preparation for Joint Meeting with CC (7/18/13) and July 27<sup>th</sup> and 30<sup>th</sup> Public Meetings -- topic areas:
  - Economic Development
  - Land Use/Growth Management
  - Natural Resources
  - Historic Resources, Preservation and Viewsheds
  - Housing
  - Infrastructure, Public Services, and Safety
  - Recreation
  - Transportation
  - Financing