

Jefferson County

Board of

Zoning Appeals

Thursday,

February 21, 2013

JEFFERSON COUNTY, WEST VIRGINIA

Department of Zoning

116 East Washington Street, 2nd Floor

P.O. Box 338

Charles Town, West Virginia 25414

Phone: 304-728-3228

Email: zoning@jeffersoncountywv.org

Fax: 304-728-8126

MEMORANDUM

TO: Jefferson County Board of Zoning Appeals Members

FROM: Jennilee Hartman, Zoning Clerk

DATE: February 15, 2013

SUBJECT: February 21, 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, February 21, 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.

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Department of Zoning

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MEMORANDUM

TO: Board of Zoning Appeals Members

CC: Engineering & Building Permits Departments

FROM: Steve Barney, Zoning Administrator

DATE: February 15, 2013

SUBJECT: February Monthly Report of Department Activities

ISSUED ZONING CERTIFICATES

#ZC12-26 MARK ODELL – OWNER / APPLICANT

Issuance Date: January 18, 2013
Proposed Use: Shooting Range
Physical Location: 459 Berryville Pike; Rippon, West Virginia 25441
Zone: Industrial-Commercial

#ZC13-04 JESSE F. MORGAN – OWNER / APPLICANT

Issuance Date: February 15, 2013
Proposed Use: Microbrewery with tasting room; pub-style restaurant serving no more than 200 seats; store; country inn, office and two-family dwelling. Hours of operation are limited to 8:00 a.m. to 12:00 p.m.
Physical Location: 2153 Berryville Pike; Charles Town, West Virginia 25414
Zone: Village

PENDING ZONING CERTIFICATES

#ZC12-15 THE MARTY MART GROUP, LLC (MARTHA WAREING) – OWNER /
LES BOWMAN & ALICE JAMES – APPLICANTS

Issuance Date: TBD
Proposed Use: Wants to lease parking spaces at Sunoco Gas Station for the
purpose of selling seafood on Friday, Saturday and Sundays.
Physical Location: 1422 Blair Road; Harpers Ferry, West Virginia 25425
Zone: Residential-Growth

#ZC13-01 NOEL HENDERSON – OWNER / APPLICANT

Issuance Date: TBD
Proposed Use: Home Occupation: Warehousing inventory and distribution/
wholesaling of veterinarian supplies and pharmaceutical products
from residential garage. No public retail sales at facility.
Physical Location: 309 Pellinor Lane; Charles Town, West Virginia 25414
Zone: Rural

#ZC13-02 ERIK R. JONES – OWNER / APPLICANT

Issuance Date: TBD
Proposed Use: Cottage Industry: Catering Business
Physical Location: 64 Rocky Ledge Lane; Shenandoah Junction, West Virginia 25442
Zone: Rural

#ZC13-03 WAYNE & RENEE MOORE – OWNER / APPLICANT

Issuance Date: TBD
Proposed Use: General Store and Deli
Physical Location: 2142 Mission Road; Harpers Ferry, West Virginia 25425
Zone: Rural



AGENDA
Jefferson County
Board of Zoning Appeals
Thursday, February 21, 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.

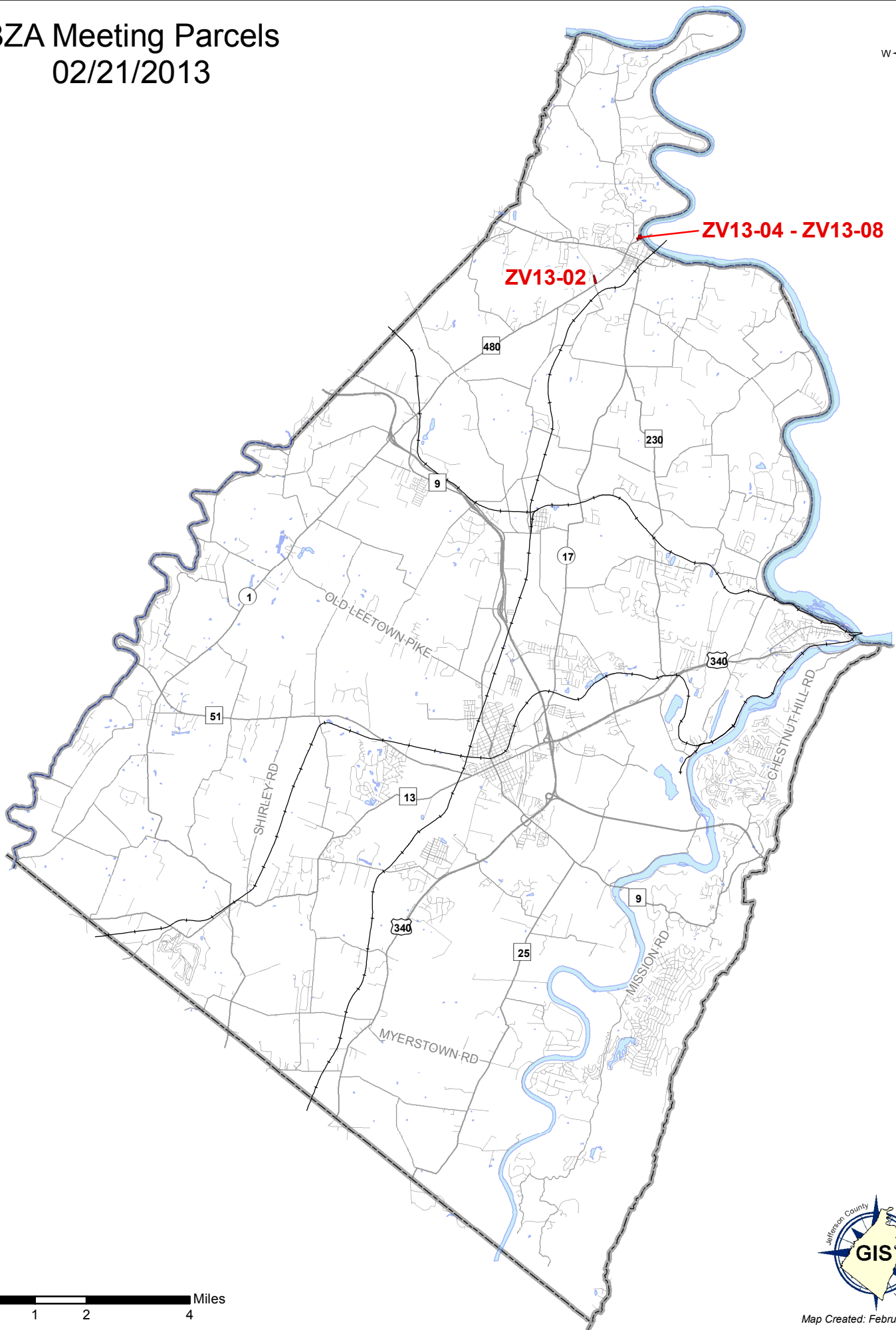
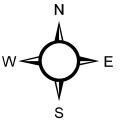
Unless otherwise noted, all requests are pursuant to the Zoning & Land Development Ordinance.

1. Approval of the minutes from the January 17, 2013 meeting.
2. Swearing in of members of the public intending to provide testimony.
3. Variance request by applicant, Christopher L. Rankin (Rankin Properties, LLC), from Section 3.2.G to allow for an additional 18-month extension of the Conditional Use Permit for the Shepherdstown Professional Center project (#Z07-03). The Conditional Use Permit expired on January 11, 2013. Property location: the intersection of Rt. 480 and the Rt. 45 Bypass in Shepherdstown, WV. District: Shepherdstown (09); Map: 8; Parcel: 8.1; Zoned: Residential-Growth; Size: 3.56 acres; File: #ZV13-02.
4. Variance requests by applicant, the Bavarian Inn, represented by Richard Klein, Alpha Associates, Inc. from the following sections:
 - i. Section 5.6.D.2: Reduce the side setback for a commercial site greater than 1.5 acres from 50' to 20' (File #ZV13-04)
 - ii. Section 5.6.D.3: Reduce the rear setback for a commercial site greater than 1.5 acres from 50' to 16' (File #ZV13-05)
 - iii. Section 4.6.B: Reduce the side distance requirement for a commercial use adjacent to a residential use from 75' to 20' (File #ZV13-06)
 - iv. Section 4.11.A: Eliminate the 10' screened buffer requirement for a commercial use adjacent to a commercial use (adjacent use is the Bavarian Inn Main Facility) (File #ZV13-07)
 - v. Section 4.6.B.1: Reduce the rear distance requirement for a commercial use adjacent to a commercial use in the Residential Growth Zone from 75' to 16' (adjacent use is the Bavarian Inn Main Facility) (File #ZV13-08)

Property Owner: Asam Enterprises, Inc. Property location: 164 Shepherd Grade Rd, Shepherdstown, WV. District: Shepherdstown Corp. (10); Map: 1; Parcel: 1.1; Zoned: Residential-Growth; Size: 3.891 ac.

5. Director's Report.
6. Legal Update.
7. Signing of written decisions from prior Board of Zoning Appeals meetings.
8. Correspondence.

BZA Meeting Parcels 02/21/2013



Map Created: February 15, 2013

Draft Minutes
Jefferson County Board of Zoning Appeals
Thursday, January 17, 2013

The Jefferson County Board of Zoning Appeals met on Thursday, January 17, 2013. The meeting was held in the Charles Town Library meeting room located at 200 East Washington Street, at the side entrance of Samuel Street in 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: Jennifer M. Brockman, Director of Planning and Zoning; Steve Barney, Zoning Administrator; Stephen Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

Ms. Huddle motioned to commence the meeting. Mr. Quynn seconded the motion, which carried unanimously. Mr. Bresee called the meeting to order at 3:11 p.m.

1) Election of Officers.

Ms. Huddle nominated Jeff Bresee as Chair. Mr. Kelly seconded the nomination. Mr. Bresee called for other nominations for Chair. There were none. Mr. Bresee called for a vote which carried 3 in support. Mr. Bresee abstained from voting because he was the recipient of the nomination.

Mr. Kelly nominated Christy Huddle for Vice Chair. Mr. Quynn seconded the nomination. Mr. Bresee called for a vote which carried unanimously.

- 2) Approval of the 2013 Board of Zoning Appeals Meeting Schedule. Ms. Huddle motioned to approve the schedule as proposed. Mr. Quynn seconded the motion, which carried unanimously.
- 3) Approval of the minutes from the December 20, 2012 meeting.

Ms. Huddle motioned to approve the minutes. Mr. Kelly seconded the minutes. Ms. Huddle suggested the following edits:

- a) Page 1, Item #2, line 2, change the word *that* to *who*.
- b) Page 1, Item #3, paragraph 2, line 2, change the word *complete* to *completed*.

Mr. Bresee called for a vote which carried unanimously.

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

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

5) Variance request by Grant Wetmore, applicant, on behalf of the Bank of Charles Town, property owner, regarding the creation of internal lot lines and their corresponding setbacks for 340 Business Center (04-34) found in Section 4.11-1, with more specific references located in the following Sections:

- i. Section 4.11(A): requires a 10' landscape buffer between commercial uses – requesting a reduction from 10' to 0'
- ii. Section 5.6(D)2: requires a 25'/50' building setback (depending on the resulting lot size) between commercial lots – requesting a reduction to a minimum of 18'

- iii. Section 5.6(D)5: requires a 10' setback for driveways, parking areas and internal access drives – requesting a reduction from 10' to 0'

Property location: 99 Cary Lu Circle, Harpers Ferry, WV. District: Harpers Ferry (04); Map: 11; Parcel: 7; Zoned: Residential-Light Industrial-Commercial; Size: 7.97 acres; File: #ZV12-34.

Michael Shepp from Appalachian Surveys presented a brief history of the project to the Board. Mr. Shepp explained that if the variances were granted that the Community Impact Statement that had been previously prepared for this project would be revised and that the proposed subdivision would be reviewed by the Planning Commission for final plat approval. Mr. Shepp addressed questions from Ms. Huddle by stating that U.S. Route 340 is a controlled access highway and that the applicant will not be seeking access to it; that he concurred with Staff's condition of interconnectivity between the subdivided lots; and that each lot owner will be responsible for the landscaping that is required on their own lot. Mr. Bresee clarified that these requests are for the internal setbacks only. Mr. Groh questioned how the existing bond would be affected by this subdivision. Mr. Shepp stated that this has yet to be determined. Mr. Groh and Mr. Quynn asked questions related to stormwater management. Mr. Shepp explained that the drainage calculations were not within his scope of work at this time and that the lots had individual access to the existing pond.

Mr. Barney described the existing characteristics of the property to the Board. Mr. Barney read possible conditions of approval from his staff report and offered a third, which was that the variances be limited to internal lot lines only. Mr. Barney advised that the Board should take action on each variance request individually.

Mr. Shepp addressed the Board stating that a physical constraint on the property that was not mentioned is an existing high voltage power line that, if the site were to be reconfigured, would be located above a drive aisle, which Mr. Shepp believed to be a poor design idea.

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

- 6) Variance request by Peter Corum, applicant, on behalf of Twin Oaks Subdivision, LLC and Ed Slonaker, property owners, regarding existing internal lot lines and the required setbacks for Morgan's Grove Market (S12-06) found in Section 4.11-1, with more specific reference located in the following Sections:
 - i. Section 4.11(A) - Providing a landscape buffer along the side and rear yards from 10' to 0'
 - ii. Section 5.6(D) - The following are Yard Requirements for an approved commercial use:
 1. Front yard building setbacks from 25' to 0'
 2. Side yard building setbacks from 50' to 0'
 3. Rear yard building setbacks from 50' to 0'
 4. Parking, Driveway and Internal Access Drive Front Setbacks 15' to 0'
 5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks 10' to 0'

Fred Blackmer presented the request to the Board, stating that he believed that while the requests appear similar to the previous applicants' requests, the difference was that this project is not a subdivision. Mr. Blackmer provided a handout to the Board which contained various definitions. Mr. Blackmer first read the definition of *Site* from the Jefferson County Subdivision and Land

Development Regulations, Appendix B, Division 4.0, Stormwater Management and Erosion & Sediment Control and explained how he believed it applied to their project. Mr. Blackmer presented the definition of Setback from the Jefferson County Zoning and Land Development Ordinance. Mr. Groh made comments regarding the merging of existing property lines, recording easements, and business agreements in the event that one of the lots is foreclosed on so that the common theme of the project is maintained. Mr. Blackmer and Peter Corum addressed his concerns.

Ms. Huddle explained that, in other jurisdictions for which she had worked, the internal lot line did not apply to commercial developments like this project and that she understood the problems facing the applicant when it came to merging the property when having separate mortgages. Mr. Barney stated that other jurisdictions do have language that supports this type of development; however, the County's current ordinances do not take this into consideration.

Mr. Barney presented an email submitted by Mike Austin in which he expressed his desire to clarify that the requests were for internal lot lines only. Mr. Barney stated that he agreed with Mr. Groh in that parcel 26.4 would not benefit from the requested variances as development is restricted to the west of the power easement. Mr. Blackmer argued that parcel 26.4 was part of the approved Conditional Use Permit and therefore is part of the site plan; and so, for simplicity, the applicant is requesting a variance for all parcels related to the project.

Mr. Quynn asked questions related to the phasing of the project. Mr. Blackmer addressed his questions, stating that the project would be phased and that parking would cross over property lines.

Mr. Bresee called for public comment. Ann Spurgas and Joe Spurgas, neighbors, spoke in opposition to the request, expressing their concern that an individual lot could be purchased by another entity and then the development will not be completed.

Mr. Kelly asked what would prevent the project from disintegrating if an individual lot were to be sold. Mr. Groh suggested making a common interest agreement a condition of approval.

Ms. Huddle motioned to go into deliberative session at 4:09 p.m. Mr. Kelly seconded the motion, which carried unanimously.

Ms. Huddle motioned to come out of deliberative session at 4:24 p.m. Mr. Quynn seconded the motion, which carried unanimously.

- 5) Variance request by Grant Wetmore, applicant, on behalf of the Bank of Charles Town, property owner, regarding the creation of internal lot lines and their corresponding setbacks for 340 Business Center (04-34) found in Section 4.11-1, with more specific references located in the following Sections:

- i. Section 4.11(A): requires a 10' landscape buffer between commercial uses – requesting a reduction from 10' to 0'

Mr. Kelly motioned to approve the aforementioned variance request with the following conditions: (1) It applies only to the development shown on site plan file S05-09; (2) The subdivision plat shall include easements to allow access between the three lots; and,

(3) This variance is limited to the internal lot lines only. Mr. Quynn seconded the motion, which carried unanimously.

- ii. Section 5.6(D)2: requires a 25'/50' building setback (depending on the resulting lot size) between commercial lots – requesting a reduction to a minimum of 18'

Mr. Kelly motioned to approve the aforementioned variance request with the following conditions: (1) It applies only to the development shown on site plan file S05-09; (2) The subdivision plat shall include easements to allow access between the three lots; and, (3) This variance is limited to the internal lot lines only. Ms. Huddle seconded the motion, which carried unanimously.

- iii. Section 5.6(D)5: requires a 10' setback for driveways, parking areas and internal access drives – requesting a reduction from 10' to 0'

Mr. Kelly motioned to approve the aforementioned variance request with the following conditions: (1) It applies only to the development shown on site plan file S05-09; (2) The subdivision plat shall include easements to allow access between the three lots; and, (3) This variance is limited to the internal lot lines only. Ms. Huddle seconded the motion, which carried unanimously.

- 6) Variance request by Peter Corum, applicant, on behalf of Twin Oaks Subdivision, LLC and Ed Slonaker, property owners, regarding existing internal lot lines and the required setbacks for Morgan's Grove Market (S12-06) found in Section 4.11-1, with more specific reference located in the following Sections:

- i. Section 4.11(A) - Providing a landscape buffer along the side and rear yards from 10' to 0'

Ms. Huddle motioned to approve the aforementioned variance request with the following conditions: (a) The variance is limited to approved development application associated with the Morgan's Grove Market Conditional Use Permit (#CP12-01); (b) Site plan #S12-06 shall reflect recorded easements to allow access between the affected lots; (c) No buildings shall cross lot lines; and, (d) The variance applies to the internal lot lines only. Mr. Quynn seconded the motion, which carried unanimously.

- ii. Section 5.6(D) - The following are Yard Requirements for an approved commercial use:
 1. Front yard building setbacks from 25' to 0'
 2. Side yard building setbacks from 50' to 0'
 3. Rear yard building setbacks from 50' to 0'
 4. Parking, Driveway and Internal Access Drive Front Setbacks 15' to 0'
 5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks 10' to 0'

Ms. Huddle motioned to approve the aforementioned variance request with the following conditions: (a) The variance is limited to approved development application associated with the Morgan's Grove Market Conditional Use Permit (#CP12-01); (b) Site plan #S12-06 shall reflect recorded easements to allow access between the affected lots; (c) No buildings shall cross lot lines; and, (d) The variance applies to the internal lot lines only. Mr. Kelly seconded the motion, which carried unanimously.

Minutes

Board of Zoning Appeals

Thursday, January 17, 2013

Page 5 of 5

7) Director's Report

Ms. Brockman informed the Board of the following:

- The County Commission's decision to appoint two new members to the Steering Committee for the Envision Jefferson 2035 Comprehensive Plan;
- The series of informational meetings to be held each Wednesday from 12:00 – 1:00 p.m. (called "Lunch and Learn") on a variety of topics which will be broadcast through the County's webcast system and archived on the website;
- The upcoming Comprehensive Plan Public Workshops to be held at three locations;
- The status of rezoning petitions from Lowe Products Inc and Aitcheson;

Additionally, Mr. Barney informed the Board of the three additional waivers that the Morgan's Grove Market project sought from the Planning Commission at their January 8, 2013 meeting. Ms. Brockman also mentioned that the County Commission will be advertising for the BZA vacancies.

8) Legal Update. None.

9) Signing of written decisions from prior Board of Zoning Appeals meetings. None.

10) Correspondence. None.

Ms. Huddle motioned to adjourn the meeting at 4:45 p.m. Mr. Quynn 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. 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 Commissions²³

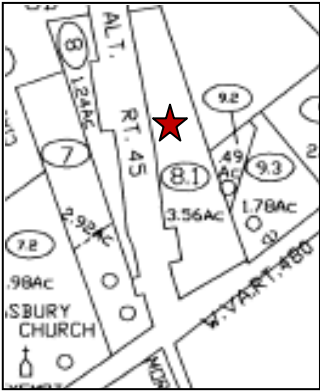

A. Board of Zoning Appeals

4. The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.²³
 - 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.^{17, 21}
 - 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
 February 21, 2013

Shepherdstown Professional Center Variance Request (#ZV13-02)

Item #3: Variance request by applicant, Christopher L. Rankin (Rankin Properties, LLC), from Section 3.2.G to allow for an additional 18-month extension of the Conditional Use Permit for the Shepherdstown Professional Center project (#Z07-03). The Conditional Use Permit expired on January 11, 2013.

APPLICANT:	Christopher L. Rankin
OWNER:	Same
DEVELOPER:	Same
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	The property lies at the intersection of Route 480 and Route 45 Bypass adjacent to two proposed residential subdivisions (Colonial Hills and Toll House Woods).
LEGAL DESCRIPTION:	District: Shepherdstown; Map: 8; Parcel: 8.1 
ZONING DISTRICT:	Zoning Map Designation: Residential-Growth 
SURROUNDING PROPERTIES:	Zoning Map Designation: North: R-G South: R East: R-G West: R-G
LOT AREA:	3.56 acres +/-
APPROVED ACTIVITY:	Two-story, 24,640 sq. ft. building for commercial uses (CUP)
CONDITIONAL USE PERMIT	#Z07-03 Approved by BZA 9/20/07 Issuance of CUP: 07/11/2008 Original Expiration Date: 01/11/2010 Extended to 07/11/2011

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 February 21, 2013

Shepherdstown Professional Center Variance Request (#ZV13-02)

	CUP One-Time 18-Month Extension Request Approved by BZA, 12/17/2009 Extended from 01/11/2010 to 07/11/2011
VARIANCES	#ZV10-02 03/18/10: BZA granted variance from Section 3.2.G to allow for an additional 18-month extension of a CUP from 07/11/2011 to 01/11/2013

RELEVANT INFORMATION:

1. Overview of Request

The applicant seeks an additional 18-month extension of the Conditional Use Permit for the Shepherdstown Professional Center project (#Z07-03). The Conditional Use Permit expired on January 11, 2013.

2. Existing Conditions

The property is currently undeveloped. No site plan has been submitted to the Planning, Zoning, and Engineering Departments for review.

3. Previous Case History

The original Conditional Use Permit (CUP) was approved by the Board of Zoning Appeals (BZA) and issued in July 2008. In December 2009, the applicant applied for and received the permitted one-time extension of the CUP until July 11, 2011. During testimony, Mr. Rankin explained to the Board that he sought a longer, 30-month extension period. Because Section 3.2(g) of the Zoning Ordinance, dated December 9, 2009, limited the Board's ability to grant an extension of time beyond 18 months, staff informed Mr. Rankin that the appropriate procedure for requesting time extensions longer than 18 months required submittal of a variance request. Subsequently, Mr. Rankin submitted a variance request for an additional 18-month extension, to January 11, 2013, which the Board approved on March 18, 2010.

4. Applicant's Justification of Request

The applicant has noted that the reason for the variance request is the same as for the previous request. In the application submitted for the variance request, the applicant has provided a copy of the application for variance request #ZV10-02, including responses to the four criteria for a variance. Text from the applicant's responses is summarized below:

a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*

The application states, "The health, safety & welfare will not be affected by this variance."

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, "The record economic downturn has created a climate in banking as well as real estate that does not allow development at this time."

Staff Report
Jefferson County Board of Zoning Appeals Meeting
February 21, 2013

Shepherdstown Professional Center Variance Request (#ZV13-02)

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

The application states, "The land use other than what has been granted in the CUP would result in a great loss which would in turn affect Christian Caine Jewelers and its 8 employees."

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

The application states, "This variance protects the C.U.P. & allows the future use, benefiting the community, Christian Caine & promoting future smart growth in Jefferson County."

5. Staff Evaluation of Request

As noted above, the Conditional Use Permit for Shepherdstown Professional Center expired on January 11, 2013. However, because an emailed extension request was submitted by the applicant before the expiration date, staff finds that the request is eligible to be scheduled for a BZA agenda.

6. Possible Conditions of Approval

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

- a. The Conditional Use Permit is valid until July 11, 2014 [*or other date determined by the Board*].

TEXT OF CODE SECTION TO BE CONSIDERED:

Section 3.2 Zoning Administrator

G. A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months. Pursuant to Chapter 8A of the West Virginia Code as amended, a Zoning Certificate or Conditional Use Permit associated with a subdivision or land development plan - whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010 - shall remain valid until July 1, 2012, provided that the land development plan or plat received at least preliminary approval by the Planning Commission or County Commission by March 1, 2010.^{17, 21, 23}

From: "Zoning Dept" <zoning@jeffersoncountywv.org>
To: "Christopher Rankin" <cc@christiancaine.com>
Subject: Re: Condition of Use Permit Extension
Date: 1/8/2013 11:36:34 AM

Mr. Rankin,

Because your email request was submitted before the expiration date of the Conditional Use Permit, I believe that your request is eligible to be scheduled for a BZA agenda.

Please submit a Zoning Variance application no later than Friday, January 25th in order to be on the February 22nd agenda. The application can be found on the department's "forms and calendars" page, at:

<http://www.jeffersoncountywv.org/government/departments/planning-and-zoning-department/forms-calendars.html>

The section of the Zoning Ordinance from which you are requesting a variance is the following:

Section 3.2G

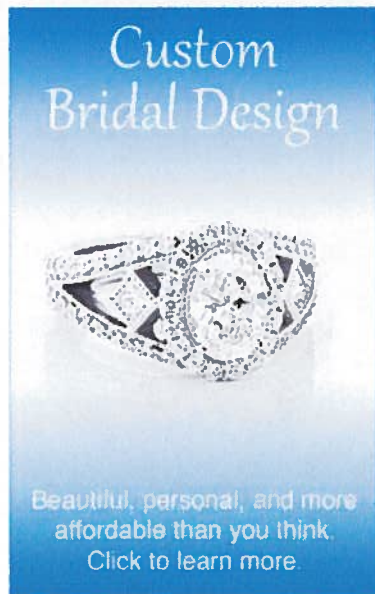
A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months.

Please let me know if you need additional information.

Sincerely,
Steve Barney
Zoning Administrator

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

From: "Christopher Rankin" <cc@christiancaine.com>
Sent: 12/28/2012 10:30:45 AM
To: zoning@jeffersoncountywv.org
Subject: Condition of Use Permit Extension



Dear Mr. Barney

I am requesting an extension of the Conditional Use Permit for Shepherdstown Professional Center/Rankin Properties, LLC. The permit expires January 11, 2013.

I have just learned that the request needed to be in earlier to make the January meeting. Unfortunately I was unaware that the request required that much lead time. I am respectfully asking if there is a provision that can be made to accommodate my extension request. The amount of time, money and public (shepherdstown) involvement would produce a great deal of hardship if this C.U.P. would need to be presented again.

Thank you for time in this matter.

Sincerely,

Christopher L. Rankin

MINUTES
JEFFERSON COUNTY BOARD OF ZONING APPEALS
DECEMBER 17, 2009

Due to the County Commission's use of the Charles Town Library Conference Room, the Jefferson County Board of Zoning Appeals met on Thursday, December 17, 2009 at 3:00 p.m., in the upper level Conference Room of the Departments of Planning & Zoning. Members present were as follows: Chairman, Jeff Bresee; Vice Chairman, Christy Huddle, Ed Kelly, and Jon Brusco and Alternate, Tyler Quynn. Tiffany Hine was absent with notification. Staff members present were Director, Jennifer Brockman; Zoning Administrator, Jennifer Snyder; County Planner, Seth Rivard; Assistant Prosecuting Attorney, Stephen Groh, and Zoning Secretary, Christine Chalmers.

Chairman, Jeff Bresee, called the Meeting to order at 3:00 p.m.

1. Approval of Minutes from the November 19, 2009 Meeting.

Chairman Bresee requested a Motion for approval of the November Minutes. Christy Huddle motioned to approve the Minutes from the November 17, 2009 meeting, with the following revisions: Page 3, Item #2, Second Paragraph: "Ed Kelly motioned the above-referenced Variance Request" – change Variance Request to Extension. Additionally, Page 6, First paragraph, Line #13: "The site is designated to an Industrial-Commercial Zoning District." – delete the word to in that sentence. Also on Page 6, Second paragraph, Line #4: change commercial definition, to definition of "Commercial". Jon Brusco seconded the motion, as corrected, which carried with a vote of four (4) in favor. Due to his absence at the November Meeting, Alternate Tyler Quinn abstained from voting on all matters pertaining to said Meeting.

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

2. Request by Christopher L. Rankin, Rankin Properties, LLC for an eighteen-month extension of the Conditional Use Permit (issued on July 11, 2008) for a two-story commercial building with approximately 24,640 sq. ft. of space, designed to accommodate offices and retail space, and will be used for small commercial entities. Project Name: Shepherdstown Professional Center (#Z07-03)
(Shepherdstown District / Map #8 / Parcel #8.1 / 3.56 acres)

Owner, Christopher L. Rankin, Rankin Properties, LLC advised that he is requesting an eighteen-month Extension of a Conditional Use Permit that was issued to the above-referenced project on July 11, 2008. Due to the current downturn in the economy, it has been necessary to temporarily postpone the construction on said project. Although the present economic climate is still difficult, he is preparing to move forward with the Shepherdstown development and asks that the Board grant his Request. He further advised that his actual intent was to request thirty (30) months, as the stated requirements cannot be accomplished within an eighteen-month period. The consequences of denying an approval for this thirty-month extension would include forced project termination, and the resulting total loss of his personal financial investment, which is of great concern. As some of the "players" in this project are from Berkeley County, the effect would be extensive. Staff comment was offered by Zoning Administrator, Jennifer Snyder, who advised that, per Section 3.2(g) of the Zoning Ordinance, "A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after the evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months." Accordingly, pursuant to an approval of the extension, it was determined that the matter of requesting additional time could be readdressed by the Board at a future date, should Mr. Rankin submit application for a Variance from Section 3.2(g).

JEFFERSON COUNTY BOARD OF ZONING APPEALS

DECEMBER 17, 2009

PAGE TWO

Due to a limited meeting attendance, Mr. Bresee moved to approve Item #2 without necessity of a deliberative session. Accordingly, Jon Brusco moved to approve the Extension Request as referenced; Christy Huddle seconded the motion, which carried unanimously.

3. Monthly Address presented by Director, Jennifer Brockman, and Status Report by Zoning Administrator, Jennifer Snyder.

Director, Jennifer Brockman advised that she, County Planner, Seth Rivard; and Zoning Administrator, Jennifer Snyder had been diligently working on clarification of the Subdivision Regulations. Accordingly, her office plans to have proposals completed by early January, so that members of the Jefferson County Planning Commission will have an opportunity to discuss them during a special work session slated to take place on January 19th. Open attendance is available to the Community, though no public comment will be received, during this work session. Additionally, said proposed amendments will also have to undergo consideration by the Jefferson County Commission, for final approval.

Ms. Brockman further advised that there are no plans for immediate amendments to the Zoning Ordinance, but that all upcoming changes to said Ordinance are subject to referendum by petition.

Zoning Administrator, Jennifer Snyder, advised that she had nothing further to discuss.

4. Legal Update. None

5. Vote on written decisions from prior Board of Zoning Appeal Meetings.

5. Appeal by William H. Leedy, of the determination by the Zoning Administrator that the "340 Defense Shooting Range" is a Permitted Use in the Industrial-Commercial District. Property description: 263 Berryville Pike; Rippon, WV. Article 8, Section 8.1 (Kabletown District / Map #29 / Parcel #5 / 89.98 acres)

Jon Brusco motioned to approve the referenced Ruling, as amended, by authorized signature of Chairman, Jeff Bresee. Christy Huddle seconded the motion which carried with a unanimous vote.

Chairman Bresee, once again, expressed his appreciation for the manner in which the Appeal matter was conducted during the November Meeting, noting that it was a testament to professionalism. Member, Ed Kelly further advised that it was the best presentation he has witnessed during his five (5) years of service with the Board of Zoning Appeals.

6. Correspondence. None.

Holiday Greetings were exchanged.

Jon Brusco motioned to adjourn the meeting at 3:35 p.m. Christy Huddle seconded the motion, which carried with a unanimous vote.

Due to the County Commission's use of the Webcam it was unavailable for this meeting. However, an Audio Transcript of this meeting can be found on CD # _____. Zoning Secretary, Christine Chalmers, prepared these Minutes.

JEFFERSON COUNTY BOARD OF ZONING APPEALS

MARCH 18, 2010

PAGE THREE

- 3. Variance Request, by Christopher L. Rankin, Rankin Properties, LLC from Section 3.2 (g) to allow for an additional 18-month extension of a Conditional Use Permit that will expire on July 11, 2011. Property description: Intersection of Route 480 and Route 45 Bypass - Shepherdstown, WV. RE: Shepherdstown Professional Center (Shepherdstown District / Map 8 / Parcel 8.1 / 3.56 Acres) #ZV10-02**

Owner, Christopher L. Rankin, Rankin Properties, LLC advised that, per prior suggestion from the Board, he is requesting a second eighteen-month extension of a Conditional Use Permit that was recently approved for an initial eighteen-month extension, at the December 17, 2009 Board of Zoning Appeals Meeting. Said extension will expire on July 11, 2011. Mr. Rankin's actual intent was to request thirty (30) months at the December Meeting, as it has been necessary to temporarily postpone the construction on his project due to the current downturn in the economy. However, Staff comment, was offered by Zoning Administrator, Jennifer Snyder, who advised that, per Section 3.2(g) of the Zoning Ordinance, "A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after the evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months." Accordingly, the Board further determined that the matter of requesting additional time could be re-addressed, again, at a future date should Mr. Rankin submit application for a Variance from Section 3.2(g).

Although the present economic climate is still difficult, Mr. Rankin is preparing to move forward with the Shepherdstown development and asks that this additional Request also be granted by the Board, as the stated requirements cannot be accomplished within an eighteen-month period. Financing Institutions, especially, require established time-line verification before funding consideration of a multi-million dollar project. He further advised that the consequences of denying an approval for a second extension would include forced project termination, resulting in a total loss of both his personal finances and the monetary investment of other "players" in this endeavor, some of which are from Berkeley County. It is of great concern to Mr. Rankin. There was no public comment.

In an effort to validate Mr. Rankin's concern, Zoning Administrator, Jennifer Snyder, agreed that usual development processing, disregarding funding prerequisites, would necessitate the requested time-frame.

The following Agenda Items will be addressed upon return from Deliberations:

- 4. Monthly Address presented by Director, Jennifer Brockman, and Status Report by Zoning Administrator, Jennifer Snyder.**
- 5. Legal Update.**
- 6. Vote on written decisions from prior Board of Zoning Appeal Meetings.**
- 7. Correspondence.**

Christy Huddle motioned to go into Deliberative Session at 3:58 p.m. Ed Kelly seconded the motion, which carried with a unanimous vote. Christy Huddle motioned to return from Deliberative Session; Tiffany Hine seconded the motion. The meeting commenced again at 4:15 p.m.

- 2. Variance Request from Section 3.2 (g) to allow for an additional 24-month extension of a Conditional Use Permit that expired on February 1, 2010. Project Name: Stonecrest #ZV10-01**

Noting that all four (4) stated Variance criteria have been met, Ed Kelly motioned to approve the above-

JEFFERSON COUNTY BOARD OF ZONING APPEALS

MARCH 18, 2010

PAGE FOUR

referenced Variance Request without condition. Tiffany Hine seconded the motion, which carried with a unanimous vote.

**3. Variance Request, by Christopher L. Rankin, Rankin Properties, LLC, from Section 3.2 (g) to allow for an additional 18-month extension of a Conditional Use Permit that will expire on July 11, 2011.
Project Name: Shepherdstown Professional Center #ZV10-02**

Jon Brusco motioned to approve the above referenced Variance Request without condition. Christy Huddle motioned to amend said to include that the four (4) stated Variance criteria have been met. Tiffany Hine seconded the amended motion, which carried with a vote of unanimous vote.

4. Monthly Address presented by Director, Jennifer Brockman, and Status Report by Zoning Administrator, Jennifer Snyder.

Having included the first Staff Report in the monthly packets forwarded to Members, Director, Jennifer Brockman, asked for opinions and/or suggestions from the Board to better assist Staff in providing a more informative report. Responding consensus indicated that said Report was satisfactory as presented.

For the purpose of affording the Public an opportunity to offer input regarding Amendments to Subdivision Regulations, Ms. Brockman advised that four (4) Public Outreach Meetings have been scheduled. Said meetings (as follows), which will address current matters only, will not include the proposal of new ideas.

1. Friday, March 26, 2010 @ 10 am – noon (Location: Planning & Zoning Conference Room).
2. Monday, March 29, 2010 @ 6 pm – 9 pm (Location: Shepherdstown Men's Club).
3. Wednesday, March 31, 2010 @ 1:30 pm – 3:30 pm (Location: Planning & Zoning Conference Room).
4. Thursday, April 1, 2010 @ 6 pm – 9 pm (Location: Charles Town Library Conference Room)

Zoning Administrator, Jennifer Snyder presented Members with an Activity Report that updated the list of Zoning Certificates that have been issued during the past year. To accommodate a request from Members, future Reports will include a property location description.

RE:

Variance Request by the Board of Trustees of Asbury United Methodist Church, Pastor Kelly Green, to allow for the installation of a full-color, double-faced, LED electronic sign which will replace the current Church sign. Property description: 4257 Kearneysville Pike; Shepherdstown, West Virginia. Article 10, Section 10.2(i) (Shepherdstown District / Map #8 / Parcel: #7.2/ 4.98 acres) #ZV09-13

Due to several expressed complaints regarding the above-referenced Variance, which was approved by the Board of Zoning Appeals with conditions at their October 15, 2009 meeting, Ms. Snyder advised that Compliance Officer, Mason Carter, has spoken with Pastor Kelly Green who has agreed to make "appropriate adjustments". A follow-up site inspection, to ensure conformity to the conditions, will also be made.

8. Legal Update. None.

9. Vote on written decisions from prior Board of Zoning Appeal Meetings.

Assistant Prosecuting Attorney, Stephen Groh, presented Chairman Jeff Bresee for signature, a copy of the Approval of Change of Non-Conforming Use with Condition for the following matter from January 21, 2010:



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

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

File Number: # ZV13-02

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

Staff Initials: CC

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: CHRISTOPHER L. RANKIN

Mailing Address: 99 MADDEX SQUARE DRIVE

City: SHEPHERDSTOWN State: WV Zip Code: 25443

Phone Number: 304-283-9696 Email: CC@christiancaine.com

Applicant or Contact Information

Applicant / Contact Name: _____

Mailing Address: SAME AS ABOVE

City: _____ State: _____ Zip Code: _____

Phone Number: _____ Email: _____

Applicant Representatives

Company/Organization Name: N/A

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

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____ Email: _____

Physical Property Details

Physical Property Address: INTERSECTION OF RT. 490 & BYPASS IN SHEPHERDSTOWN

Tax District: Shepherdstown district Map No: _____ Parcel No: #8.1

Parcel Size: 3.56 acres Deed Book: #1015189 Deed Bk. Pg. No: 89

Zoning District:	Rural (R-A)	Residential Growth (R-G)	Industrial Commerical (I-C)	Residential-Light Industrial-Commercial (R-L-C)	Village (V)
	0	<input checked="" type="checkbox"/>	0	0	0

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JAN 15 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:

Please briefly describe the nature of the variance request: same as original request

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.

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?

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

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

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.

[Signature] 1/15/13
Signature of Property Owner 1 Date

Signature of Property Owner 2 Date

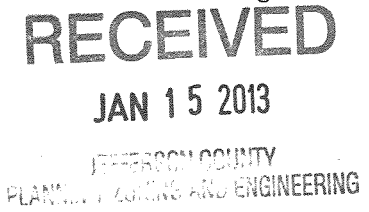
Notification Requirements (to be completed by staff)

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)).

02/21/13
Date of Public Hearing

02/06/13
Advertising Date

02/06/13
Placard Posting Date



ZV13-02

Jefferson County

Dept. of Planning and Zoning

Charles Town WV 25414

Re: Extension of Conditional Use Permit

Dear Board Members,

I am respectfully requesting an extension to the Shepherdstown Professional Center land project. The project is intended for use as a future home for Christian Caine Jewelers and other businesses.

I recognize that the project has been granted extensions before and the commencement of this project has been delayed for an unusual amount of time. Unfortunately, this endeavor, which was unanimously approved by the board when originally presented, has found itself mired in protracted economic downturn. In addition, the banking community is just beginning to consider such projects with reasonable risk assessments.

I remain in regular contact with the banking community and the local business community in an effort to move forward with this project as soon as the economic climate allows.

These are unprecedented times, and I am thankful for the board's understanding and vision in these matters.

Sincerely,

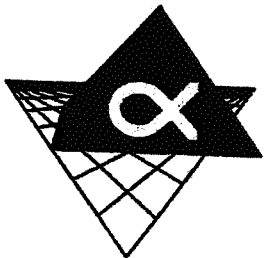
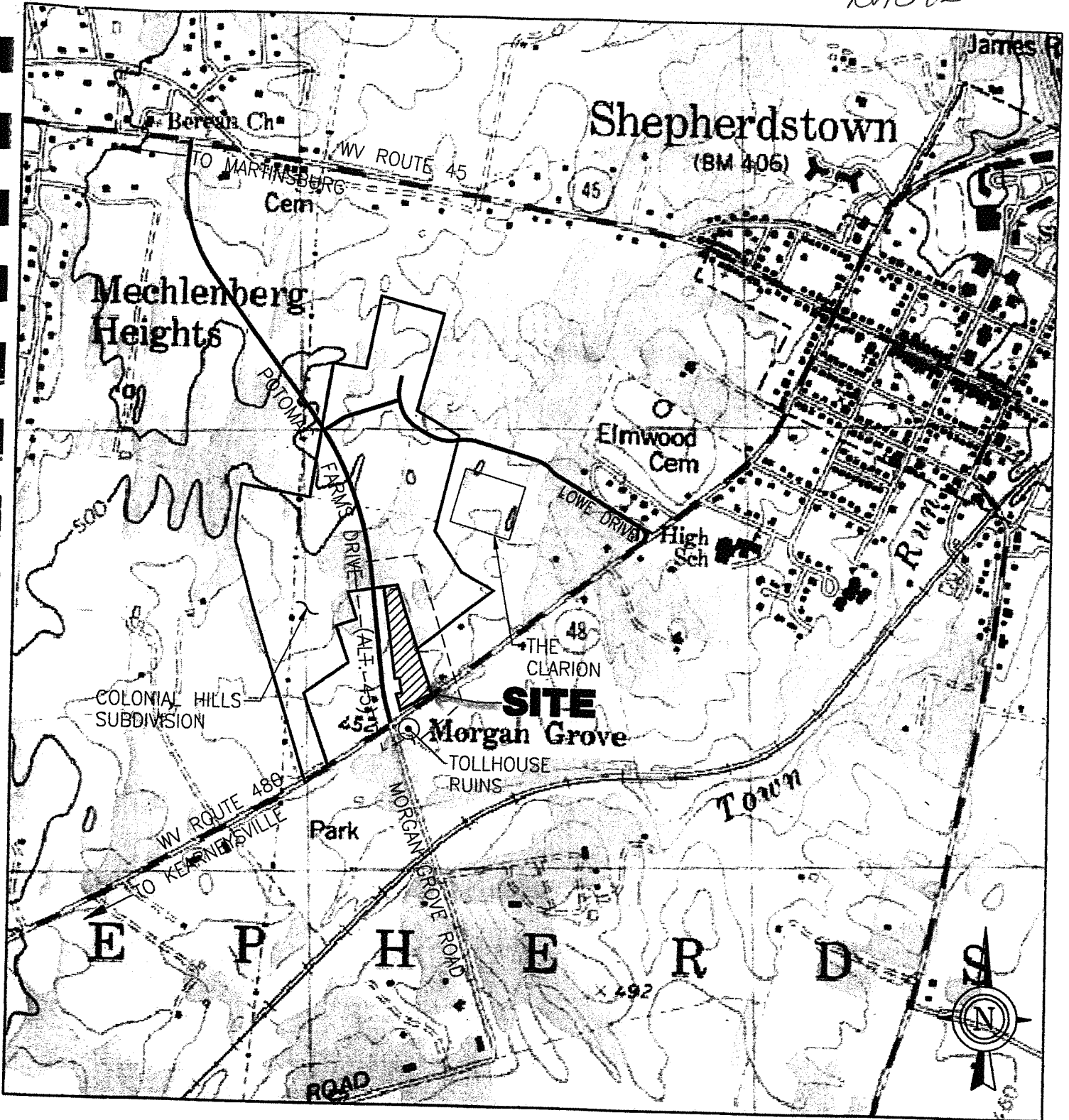


Christopher L. Rankin

Christian Caine Jewelers Inc.

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JAN 15 2013
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

#ZV1302



ALPHA
ASSOCIATES, INCORPORATED
ARCHITECTS • ENGINEERS • SURVEYORS

535 WEST KING ST.
MARTINSBURG, WV. 25401

PHONE: 304-264-0051
FAX: 304-264-0707

TOLL FREE: 877-264-0051

SHEPHERDSTOWN PROFESSIONAL CENTER
HISTORICAL PROPERTIES MAP

RECEIVED SOURCE: WEST VIRGINIA HISTORICAL DATABASE
WEST VIRGINIA DIVISION OF CULTURE AND HISTORY

JAN 15 2013 SCALE 1" = 1000'

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

JEFFERSON COUNTY
DEPARTMENT OF PLANNING AND ZONING

CONDITIONAL USE PERMIT
SHEPHERDSTOWN PROFESSIONAL CENTER / RANKIN PROPERTIES, LLC

This is to certify that effective January 11, 2010 the property described as:

Developer/Owner: Rankin Properties, LLC and/or Assigns Attention: Christopher Rankin
Address: 99 Maddex Square Drive, Shepherdstown, West Virginia 25443
Telephone Number: (304) 876-1313
Tax Map Reference: Shepherdstown District / Map #8 / Parcel #8.1 / 3.56 Acres
Deed Book Reference: Deed Book #1015, Page 89
Project Name: Shepherdstown Professional Center
Zoning District: Residential-Growth

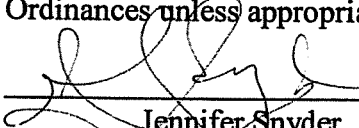
has been granted an eighteen-month extension of a Conditional Use Permit, originally approved on July 11, 2008, to use said property in the following way: **construction of a two-story commercial building with approximately 24,640 square foot of space. Said building will be designed to accommodate offices and retail space, and will be used for small commercial entities. Intended improvements will include the building, as shown on the Concept Drawing, access drives, parking lots, water and sewer systems, utilities (including power and telephone) and storm water management systems. The development is adjacent to the Colonial Hills and Toll House Woods Subdivisions, and is sited on the corner of two major roads in Shepherdstown. A sign will be located at each entrance and facing the intersection of Rt. 480.**

CONDITIONED UPON:

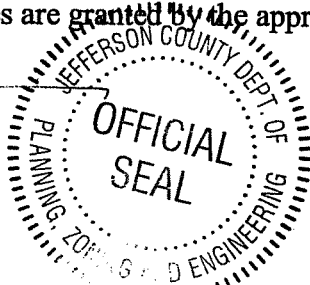
1. That the number of parking spaces be reduced to ninety-eight (98), which will require the removal of the parking area currently proposed in the Northern location of the lot.
2. That the Developer furnish adjacent property owners with a projected schedule one month prior to blasting, and that he also provide a two-day advance notice before the actual blasting date.
3. That the width of the proposed Landscape Buffer at the intersection of Rte. 480 and the Rte. 45 Bypass be increased by 15' along the Rte. 480 corridor, which will require the removal of six (6) pre-determined parking spaces.
4. Additionally, Director Tony Redman suggested that more amenities be included in the Project proposal, since the Owner will be afforded a substantial savings due to the decreased parking space requirement.

In the event that construction has not commenced by July 11, 2011, said extension will expire and your Conditional Use Permit will be void.

This certificate in no way relieves the Owner, Applicant or User from any requirements of the Jefferson County Ordinances unless appropriate Variances are granted by the appropriate County authority.


Jennifer Snyder
Zoning Administrator

January 11, 2010
Date



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JAN 15 2013
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Departments of Planning and Zoning Seal

#ZV13-02

ZV10-02

**JEFFERSON COUNTY BOARD OF ZONING APPEALS
VARIANCE REQUEST**

I/We request a variance from the provisions of the Jefferson County Zoning and Development Review Ordinance.

Property Owner(s): Christopher L. Rankin, Rankin Properties, LLC

Address: 99 Maddex Square Drive
Shepherdstown, West Virginia 25443

Phone Number: (304) 876-1313 (304) 283-9696

Location of Property: Shepherdstown Professional Center (#Z07-03)
Intersection of Rt. 480 and the Rt. 45 Bypass - Shepherdstown, WV

Lot Size: 3.56 acres

Deed Book Reference: Deed Book Number 1015 Page Number 89

Tax Map Reference: District 09/ Shepherdstown Map #8 Parcel #8.1

Zoning District: Residential-Growth

Section of Ordinance: 3.2(g)

Sketch on a separate 8 1/2" X 11" sheet of paper 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 (distance structure is from all boundary lines) size and height. Identify all existing buildings, structures or land uses on the property. Sign and date the sketch.

Briefly describe in your own words the nature of the variance request.

I AM requesting a variance as to the length of time of the condition of use permit. Due to the economy I am requesting an additional 18 months to my current 18 month extension.

Thank you for your consideration & understanding.

CHRISTOPHER L. RANKIN CHRISTIAN CAINE

Please note variances to the Zoning Ordinance must comply with Article §8A-7-11 of the WV State Code.

A variance is a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land.

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JAN 15 2013

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

JAN 14 2013

COPY

Please provide an answer for each of the numbered items below using separate sheets of paper if necessary.

The board of zoning appeals shall grant a variance to the zoning ordinance if it finds that the variance:

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

THE HEALTH, SAFETY & WELFARE WILL NOT BE AFFECTED BY THIS VARIANCE.

2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance:

THE RECORD ECONOMIC DOWNTURN HAS CREATED A CLIMATE IN BANKING AS WELL AS REAL ESTATE THAT DOES NOT ALLOW DEVELOPMENT AT THIS TIME.

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

THE LANDS USE OTHER THAN WHAT IS BEEN GRANTED IN THE CUP WOULD RESULT IN A GREAT LOSS WHICH WOULD IN TURN AFFECT CHRISTIAN CAINE JEWELRY & ITS

4. Will allow the intent of the zoning ordinance to be observed and substantial justice done (2004, c.153.):

THIS VARIANCE PROTECTS THE C.U.P. & ALLOWS THE FUTURE USE, BENEFITING THE COMMUNITY, CHRISTIAN CAINE & PROMOTING FUTURE SMART GROWTH IN JEFFERSON COUNTY.

[Signature]
Signature of Property Owner

CHRISTOPHER RAVICIN
Print Name

2 | 1 | 10
Date

FOR OFFICAL USE ONLY

Fees Paid: _____ Date Application / Fees Received: _____

Date of meeting / Public Hearing: Thursday, March 18, 2010 at 3:00 p.m.

Official Administrative Body: Jefferson County Board of Zoning Appeals

Posting Requirements: 30 Number of Days Prior to Scheduled Hearing

Advertising Dates: Thursday, Feb. 11, 2010 and Thursday, Feb. 18, 2010

Official Action of Board: _____

Official Signature and Seal: _____

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 February 21, 2013

Bavarian Inn Variance Requests (ZV13-04, -05, -06, -07, -08)

LOT AREA:	Total Site Area: 3.891 acres
SITE PLAN:	S98-11, approved 1/22/99 (note: this site plan is for the Bavarian Inn facilities located on the adjacent Parcel 1)
SUBDIVISION:	80-10, Bavarian Inn Planned Unit Development (addition of 3 buildings of 9 units each, and ancillary facilities) 84-03, Bavarian Inn Resort II Planned Unit Development (additional 12-unit building)

RELEVANT INFORMATION:

1. Overview of Request

The Bavarian Inn is seeking a variance from the following sections of the Zoning Ordinance, for the purpose of constructing a poolside building containing restrooms and a service bar, associated with the reconstruction of an existing swimming pool:

- i. Section 5.6.D.2: Reduce the side setback for a commercial site greater than 1.5 acres from 50' to 20' (File #ZV13-04)
- ii. Section 5.6.D.3: Reduce the rear setback for a commercial site greater than 1.5 acres from 50' to 16' (File #ZV13-05)
- iii. Section 4.6.B: Reduce the side distance requirement for a commercial use adjacent to a residential use from 75' to 20' (File #ZV13-06)
- iv. Section 4.11.A: Eliminate the 10' screened buffer requirement for a commercial use adjacent to a commercial use (File #ZV13-07)
- v. Section 4.6.B.1: Reduce the rear distance requirement for a commercial use adjacent to the Residential Growth Zone from 75' to 16' (File #ZV13-08)

The applicant submitted five separate variance requests for this property. This staff report addresses all five variance requests.

2. Existing Conditions

a. Location

The site of the proposed building is located on the premises of the Bavarian Inn, at the intersection of N. Duke St. (Rte 480 / Shepherdstown Pike) and Shepherd Grade Road.

b. Zoning

The subject property lies within the Residential Growth District.

Adjacent properties located to the north and west are zoned Residential Growth. Properties located to the south are within the jurisdiction of the Corporation of Shepherdstown, with the exception of a section of property in County jurisdiction zoned Residential Growth.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
February 21, 2013

Bavarian Inn Variance Requests (ZV13-04, -05, -06, -07, -08)

c. Land Use

The property contains the Bavarian Inn, a 72-unit hotel and restaurant. The Bavarian Inn was developed prior to enactment of the Zoning Ordinance and is considered a nonconforming use.



As described in the Pre-Proposal Conference application submitted to the Engineering Department by the property owners on 1/4/13:

“The proposed project would consist of the demolition of the existing pool and deck and the construction of a new vanishing edge pool. Also proposed is a poolside building consisting of two restrooms and a service bar. The pool will be handicapped accessible as required by the Americans with Disabilities Act as amended in 2008. (This is the primary driver behind this project.)”

The dimensions of the proposed poolside building are 27' x 24'. As discussed during a 1/16/13 meeting with the applicant, the building will include a roof deck for weddings and other events.

3. Previous Case History

Many of the buildings on the property were constructed prior to the enactment of the Jefferson County development regulations. Subsequently, in 1980, the property owners received County approval of the Bavarian Inn Planned Unit Development, for the addition of 3 buildings of 9 units each, and ancillary facilities. In 1984, the County approved the Bavarian Inn Resort II Planned Unit Development, for an additional 12-unit building. In 1999, a site plan was approved for improvements to the Bavarian Inn facilities located on the adjacent Parcel 1.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
February 21, 2013

Bavarian Inn Variance Requests (ZV13-04, -05, -06, -07, -08)

4. Applicant's Justification of Request

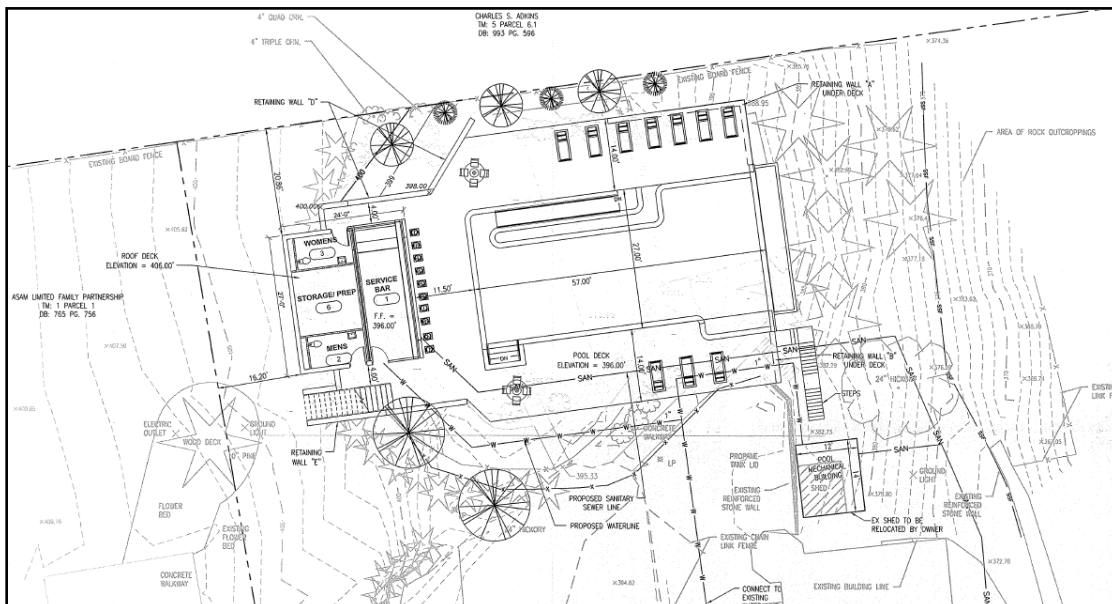
In the application submitted for the variance request, the applicant has provided responses to the four criteria for a variance. Text from the applicant's responses is summarized below:

a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*

The application states, "The addition of a restroom facility and service bar will enhance the public health and safety of the guests of the Bavarian Inn, which are the only members of the public which use the pool. Currently, the pool guests have to go back to their room to change clothes or go to the bathroom. Likewise, the guests have to go back to their room for refreshments, or change to go to the main facility for lunch or snacks. The addition of the restroom and service bar building will allow the guests to use facilities close to the pool. This will eliminate potential safety and security problems with guests, including children, going back and forth between the pool and their room or the main facility. Furthermore, since the existing pool and maintenance building have been in this location for over 24 years, there should be no impact on the rights of the adjacent property owners."

The applicant's narrative also provides more detail regarding the relevance of the following sections of the ordinance:

- Section 4.6.B (side distance requirement): "there is considerable natural screening and a fence between this area and the adjacent property."
- Section 4.11 (buffer requirement between two commercial properties): "As a matter of fact, the existing property is already completely landscaped. A buffer screening would look very out of place and cause security issues."
- Section 5.6D (side setback): "there is considerable natural screening and a fence between this area and the adjacent property."
- Section 5.6D (rear setback): "there is considerable landscaping between this area and the adjacent property."



Staff Report
Jefferson County Board of Zoning Appeals Meeting
February 21, 2013

Bavarian Inn Variance Requests (ZV13-04, -05, -06, -07, -08)

- 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, "The existing pool has been in this location for over 24 years, perched in the only location on the property that can overlook the Potomac River. The swimming pool has to be replaced due to the 2010 Americans with Disabilities Act (ADA) which requires that all hotel pools be handicap accessible. Therefore, this Act requires the Bavarian Inn to either eliminate the pool or build a new facility that complies with the ADA."

The applicant's narrative also provides more detail regarding the relevance of the following sections of the ordinance:

- Section 4.6.B (side distance requirement): "There is no location on the property which would accommodate the distance requirements in the Zoning Ordinance."
- Section 4.11 (buffer requirement between two commercial properties): "Construction of a buffer between the main building and this accessory building would be detrimental to the overall property use."
- Section 5.6D (side and rear setbacks): "There is no location on the property which would accommodate the setback requirements in the Zoning Ordinance."
- Section 4.6.B (rear distance requirement): "This variance request only affects the neighboring commercial property that is under the same ownership."

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

The application states, "Construction of the pool building with restrooms, along with the new pool, will provide complete handicap accessibility as required by the 2010 Americans with Disabilities Act (ADA). Since the site is already developed, this is the logical area to replace the pool and upgrade the facilities. If the variance is denied, the Bavarian Inn may have to remove the pool. The elimination of the swimming pool would negatively affect this well-loved Shepherdstown tourist attraction."

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

The application states, "The Zoning Ordinance was written primarily to govern new construction on undisturbed land. There are many sections of the ordinance that do not adequately allow for the reconstruction of or addition to existing facilities, as is this case... In order to maintain their status as one of the best inns in West Virginia and the Eastern United States, the Bavarian Inn needs to continually upgrade and improve their facilities. Granting this variance will help them to achieve this goal."

The applicant's narrative also provides more detail regarding the relevance of the following sections of the ordinance:

- Section 4.6.B (side and rear distance requirement): "The intent of 'distance requirements' is to allow for space between properties. In this case, this area of the site is already developed and should have no impact on the neighboring property which, again, is under the same ownership."

Staff Report
Jefferson County Board of Zoning Appeals Meeting
February 21, 2013

Bavarian Inn Variance Requests (ZV13-04, -05, -06, -07, -08)

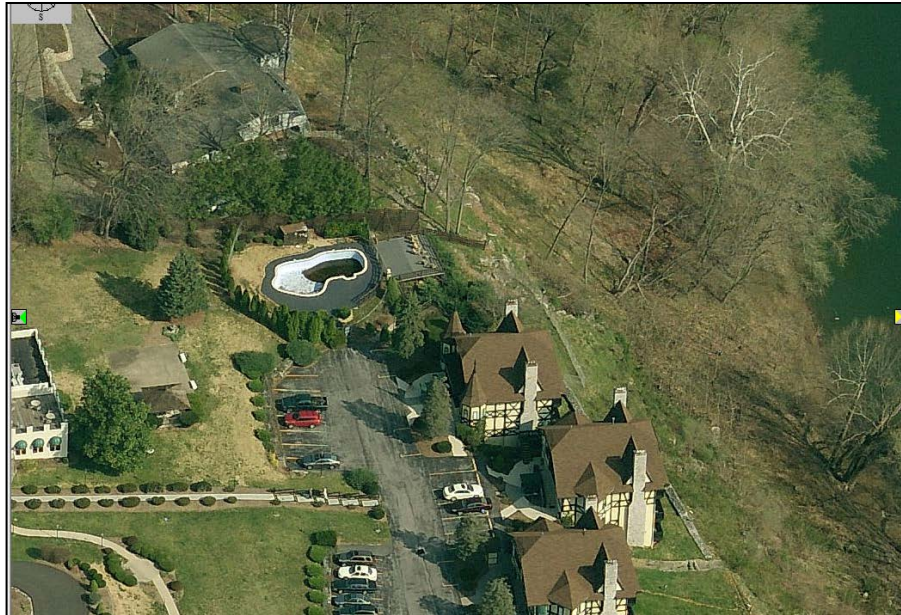
- Section 4.11 (buffer requirement between two commercial properties): “The intent of buffers is to allow for privacy between properties. In this case, this area of the site is already landscaped and the construction of a screened fence could cause security problems.”
- Section 5.6D (side and rear setbacks): “The intent of setbacks is to allow for space between properties. In this case, this area of the site is already developed and should have no impact on the neighboring property.”

5. Staff Evaluation of Request

The existing swimming pool does not meet the setback requirements of the Zoning Ordinance. However, staff finds the pool to be a legal, nonconforming feature. While the precise date that the pool was installed is unknown, a 1983 memorandum from the acting Jefferson County Planning Director recommends “favorable consideration of the request for a building permit” and an accompanying exhibit shows a sketch of the pool, with a shape similar to the pool currently installed.

Staff finds the replacement of the pool to be consistent with Section 4.3 of the Zoning Ordinance, which allows for nonconforming use to be upgraded, repaired, or replaced. The edge of the proposed swimming pool will be set back further from adjacent lot lines than the existing pool is currently.

A variance is required for the proposed poolside building, which is not an element that currently exists on the site and thus has no status as an existing, nonconforming feature.



a. Source of ordinance requirements

- Section 5.6 of the Zoning Ordinance establishes setbacks for buildings, parking areas, and drive aisles associated with commercial developments.
- Section 4.11A establishes buffer requirements between a commercial use and an adjacent property. This section also establishes a 10’ buffer requirement between two commercial uses.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
February 21, 2013

Bavarian Inn Variance Requests (ZV13-04, -05, -06, -07, -08)

- Section 4.6B establishes that a 75' distance requirement (i.e. setback) applies to a commercial use when the adjacent property is:
 - (1) located in the Residential Growth District;
 - (2) a property containing a dwelling, school, church, or institution for human care;
 - (3) a parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.

b. Purpose of ordinance requirements

- 1) Side and rear yard setback requirements: The purpose 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.
- 2) Distance requirements: The larger setback standards of distance requirements are intended for situations in which the proximity of a commercial use could have a negative impact on an adjacent property with a residential or institutional use, or with historic status.
- 3) Side and rear yard landscaping buffers: The purpose of these requirements is to lessen the visual impact of commercial parking areas, truck loading areas, etc. between a commercial use and an adjacent residential or institutional use, or a property with historic status. For an adjacent commercial property, the purpose is to reduce the mutual impacts between two adjacent commercial uses.

c. Unique characteristics of property

The Bavarian Inn is a nonconforming use, and most of the site improvements were developed prior to the enactment of the Zoning Ordinance.

The area located to the east of the proposed pool location slopes significantly toward the Potomac River.

d. Character of area

The site of the current pool (and the proposed location of the pool building) is located on the northern edge of an institutional / commercial area, bordered by a single-family neighborhood. A single-family home is located to the north of the property. Shepherd University facilities are located to the south, across Route 480. The Potomac River is located to the east. Bavarian Inn facilities are located to the west.

e. Impact on adjacent properties

The property located to the west is part of the Bavarian Inn facilities. As such, the proposed variances for setbacks, distance requirements, and buffers would have no impact on the current land use. While a landscaped buffer also separates the pool area from this adjacent lot, it should be noted that some of this buffer would be removed in accordance with the development of the building in the location shown on the concept plan submitted with the variance applications.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
February 21, 2013

Bavarian Inn Variance Requests (ZV13-04, -05, -06, -07, -08)

To the north, the adjacent property contains a single-family use. A fence and existing trees appear to screen the pool area from view of the residential property. It should be noted that the tallest of the trees appear to be located on the adjacent property rather than the Bavarian Inn property.



f. Feasibility of complying with the ordinance by other means

Regarding compliance with side and rear setbacks (50') and distance requirements (75'), it should be noted that placement options for a poolside building are limited by the necessity of being located close to the pool. In this case, possible building locations are further limited by steep topography to the east of the pool, and the parking area located to the south.

It appears feasible to relocate the pool and proposed poolside building to various other parts of the property. However, existing plumbing and electrical infrastructure is already in place at the site of the pool, and rebuilding the pool on another location on the property would require duplication of the existing infrastructure, as well as increasing disturbed site area.

It also appears feasible to install the required landscape buffer between the subject property and the adjacent commercial property. However, because both properties are part of the Bavarian Inn complex, the benefit of such a buffer is questionable.

6. Possible Conditions of Approval

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

- a. The variance applies only to the construction of a poolside building as shown in the exhibit submitted with the variance application.

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

Staff Report
Jefferson County Board of Zoning Appeals Meeting
February 21, 2013

Bavarian Inn Variance Requests (ZV13-04, -05, -06, -07, -08)

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.6 Distance Requirements

- B. Adjacent uses or buildings subject to compliance with this section shall be located at least 75 feet from:⁷
1. Any lot in the Residential Growth District;
 2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building;
 3. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.²³

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

- A. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a fifty (50) foot or greater unscreened green space buffer or a fifteen (15) foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers. All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.⁵

Section 5.6 Industrial - Commercial District²³

- D. Yard Requirements as follows: (These requirements are also for an approved commercial or industrial use proposed for any other zone.)^{5,23}

1. Front yard building setback	
Commercial sites	25 feet
Industrial sites	50 feet
2. Side yard building setback	
Commercial sites greater than 1.5 acres	50 feet
Commercial sites 1.5 acres and smaller	25 feet
Industrial sites	50 feet
3. Rear yard building setback	
Commercial sites greater than 1.5 acres	50 feet
Commercial sites 1.5 acres and smaller	25 feet
Industrial sites	50 feet
4. Parking, Driveway and Internal Access Drive Front Setbacks	
Commercial sites greater than 1.5 acres	15 feet
Commercial sites 1.5 acres and smaller	15 feet
Industrial sites	25 feet
5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks	
Commercial sites greater than 1.5 acres	10 feet
Commercial sites 1.5 acres and smaller	4 feet
Industrial sites*	25 feet

* Driveways and Internal Access Drives Only. Parking must abide by buffer requirements.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

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

File Number: ZV13-04

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

Staff Initials: CFC

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: Asam Enterprises, Inc.

Mailing Address: 164 Shepherd Grade Road

City: Shepherdstown State: WV Zip Code: 25443

Phone Number: 304-876-2551 Email: christianasam100@gmail.com

Applicant or Contact Information

Applicant / Contact Name: The Bavarian Inn

Mailing Address: same as Owner

City: _____ State: _____ Zip Code: _____

Phone Number: 304-876-2551 Email: christianasam100@gmail.com

Applicant Representatives

Company/Organization Name: Alpha Associates, Inc.

Attorney(s), Engineer(s), or Surveyor(s) Name: Richard W. Klein, PE

Mailing Address: 535 West King Street

City: Martinsburg State: WV Zip Code: 25401

Phone Number: 304-264-0051 Email: richard.klein@thinkalphafirst.com

Physical Property Details

Physical Property Address: 164 Shepherd Grade Road

Tax District: Shepherdstown Map No: 1 Parcel No: 1.1

Parcel Size: 3.891 Deed Book: 632 Deed Bk. Pg. No: 339

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

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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: _____

Please briefly describe the nature of the variance request: _____

Please see attached Variance Request #1

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

Front Setback Side Setback Rear Setback Reduction From _____ to _____

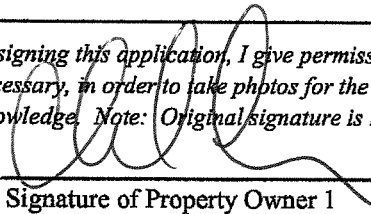
Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

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?

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

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

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.

 1/23/13
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)).

02/21/13
Date of Public Hearing

02/06/13
Advertising Date

02/06/13
Placard Posting Date

**Bavarian Inn Pool
Proposed Pool Restroom and Service Bar Building**

Variance Request #1
5.6.D
Side Setback

Briefly describe the nature of the variance request:

This variance request is to change the side setback for a commercial use adjacent to a residential use from 50' to 20'.

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

The addition of a restroom facility and service bar will enhance the public health and safety of the guests of the Bavarian Inn, which are the only members of the public which use the pool. Currently, the pool guests have to go back to their room to change clothes or go to the bathroom. Likewise, the guests have to go back to their room for refreshments, or change to go to the main facility for lunch or snacks. The addition of the restroom and service bar building will allow the guests to use facilities close to the pool. This will eliminate potential safety and security problems with guests, including children, going back and forth between the pool and their room or the main facility. Furthermore, since the existing pool and maintenance building have been in this location for over 24 years, there should be no impact on the rights of the adjacent property owners. Finally, there is considerable natural screening and a fence between this area and the adjacent property.

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?

The existing pool has been in this location for over 24 years, perched in the only location on the property that can overlook the Potomac River. The swimming pool has to be replaced due to the 2010 Americans with Disabilities Act (ADA) which requires that all hotel pools be handicap accessible. Therefore, this Act requires the Bavarian Inn to either eliminate the pool or build a new facility that complies with the ADA. There is no location on the property which would accommodate the setback requirements in the Zoning Ordinance.

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

Construction of the pool building with restrooms, along with the new pool, will provide complete handicap accessibility as required by the 2010 Americans with Disabilities Act (ADA). Since the site is already developed, this is the logical area to replace the pool and upgrade the facilities. If the variance is denied, the Bavarian Inn may have to remove the pool. The elimination of the swimming pool would negatively affect this well-loved Shepherdstown tourist attraction.

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

The Zoning Ordinance was written primarily to govern new construction on undisturbed land. There are many sections of the ordinance that do not adequately allow for the reconstruction of or addition to existing facilities, as is this case. The intent of setbacks is to allow for space between properties. In this case, this area of the site is already developed and should have no impact on the neighboring property. In order to maintain their status as one of the best inns in West Virginia and the Eastern United States, the Bavarian Inn needs to continually upgrade and improve their facilities. Granting this variance will help them to achieve this goal.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

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

File Number: ZV13-05

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

Staff Initials: CFC

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

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Mailing Address: 164 Shepherd Grade Road

City: Shepherdstown State: WV Zip Code: 25443

Phone Number: 304-876-2551 Email: christianasam100@gmail.com

Applicant or Contact Information

Applicant / Contact Name: The Bavarian Inn

Mailing Address: same as Owner

City: _____ State: _____ Zip Code: _____

Phone Number: 304-876-2551 Email: christianasam100@gmail.com

Applicant Representatives

Company/Organization Name: Alpha Associates, Inc.

Attorney(s), Engineer(s), or Surveyor(s) Name: Richard W. Klein, PE

Mailing Address: 535 West King Street

City: Martinsburg State: WV Zip Code: 25401

Phone Number: 304-264-0051 Email: richard.klein@thinkalphafirst.com

Physical Property Details

Physical Property Address: 164 Shepherd Grade Road

Tax District: Shepherdstown Map No: 1 Parcel No: 1.1

Parcel Size: 3.891 Deed Book: 632 Deed Bk. Pg. No: 339

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

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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: _____

Please briefly describe the nature of the variance request:

Please see attached Variance Request #2

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

Front Setback Side Setback Rear Setback Reduction From _____ to _____

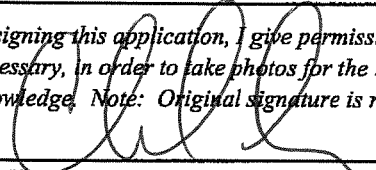
Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

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?

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

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

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.

 1/23/13
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)).

02/21/13
Date of Public Hearing

02/06/13
Advertising Date

02/06/13
Placard Posting Date

**Bavarian Inn Pool
Proposed Pool Restroom and Service Bar Building**

Variance Request #2

5.6.D

Rear Setback

Briefly describe the nature of the variance request:

This variance request is to change the rear setback for a commercial use adjacent to a commercial use from 50' to 16'. The adjacent property on this side is the Bavarian Inn Main Facility.

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

The addition of a restroom facility and service bar will enhance the public health and safety of the guests of the Bavarian Inn, which are the only members of the public which use the pool. Currently, the pool guests have to go back to their room to change clothes or go to the bathroom. Likewise, the guests have to go back to their room for refreshments, or change to go to the main facility for lunch or snacks. The addition of the restroom and service bar building will allow the guests to use facilities close to the pool. This will eliminate potential safety and security problems with guests, including children, going back and forth between the pool and their room or the main facility. Furthermore, since the existing pool and maintenance building have been in this location for over 24 years, there should be no impact on the rights of the adjacent property owners. Finally, there is considerable landscaping between this area and the adjacent property.

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?

The existing pool has been in this location for over 24 years, perched in the only location on the property that can overlook the Potomac River. The swimming pool has to be replaced due to the 2010 Americans with Disabilities Act (ADA) which requires that all hotel pools be handicap accessible. Therefore, this Act requires the Bavarian Inn to either eliminate the pool or build a new facility that complies with the ADA. The property line in question was created to separate the Inn's property for financing purposes. There is no location on the property which would accommodate the setback requirements in the Zoning Ordinance.

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

Construction of the pool building with restrooms, along with the new pool, will provide complete handicap accessibility as required by the 2010 Americans with Disabilities Act (ADA). Since the site is already developed, this is the logical area to replace the pool and upgrade the facilities. If the variance is denied, the Bavarian Inn may have to remove the pool. The elimination of the swimming pool would negatively affect this well-loved Shepherdstown tourist attraction.

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

The Zoning Ordinance was written primarily to govern new construction on undisturbed land. There are many sections of the ordinance that do not adequately allow for the reconstruction of, or addition to, existing facilities, as is this case. The intent of setbacks is to allow for space between properties. In this case, this area of the site is already developed and should have no impact on the neighboring property. In order to maintain their status as one of the best inns in West Virginia and the Eastern United States, the Bavarian Inn needs to continually upgrade and improve their facilities, and to meet the requirements of the ADA. Granting this variance will help them to achieve this goal.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

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

File Number: 2V13-06

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

Staff Initials: ckc

Email planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email 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.

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Phone Number: 304-876-2551 Email: christianasam100@gmail.com

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Applicant / Contact Name: The Bavarian Inn

Mailing Address: same as Owner

City: _____ State: _____ Zip Code: _____

Phone Number: 304-876-2551 Email: christianasam100@gmail.com

Applicant Representatives

Company/Organization Name: Alpha Associates, Inc.

Attorney(s), Engineer(s), or Surveyor(s) Name: Richard W. Klein, PE

Mailing Address: 535 West King Street

City: Martinsburg State: WV Zip Code: 25401

Phone Number: 304-264-0051 Email: richard.klein@thinkalphafirst.com

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Parcel Size: 3.891 Deed Book: 632 Deed Bk. Pg. No: 339

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

RECEIVED

JAN 24 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: _____

Please briefly describe the nature of the variance request:

Please see attached Variance Request #3

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

Front Setback Side Setback Rear Setback Reduction From _____ to _____

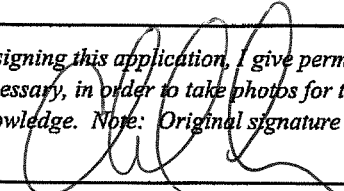
Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

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?

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

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

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.



Signature of Property Owner 1 1/23/13 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)).

02/21/13
Date of Public Hearing

02/06/13
Advertising Date

02/06/13
Placard Posting Date

**Bavarian Inn Pool
Proposed Pool Restroom and Service Bar Building**

Variance Request #3
4.6.B
Side Distance Requirement

Briefly describe the nature of the variance request:

This variance request is to change the side distance requirement for a commercial use adjacent to a residential use from 75' to 20'.

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

The addition of a restroom facility and service bar will enhance the public health and safety of the guests of the Bavarian Inn, which are the only members of the public which use the pool. Currently, the pool guests have to go back to their room to change clothes or go to the bathroom. Likewise, the guests have to go back to their room for refreshments, or change to go to the main facility for lunch or snacks. The addition of the restroom and service bar building will allow the guests to use facilities close to the pool. This will eliminate potential safety and security problems with guests, including children, going back and forth between the pool and their room or the main facility. Furthermore, since the existing pool and maintenance building have been in this location for over 24 years, there should be no impact on the rights of the adjacent property owners. Finally, there is considerable natural screening and a fence between this area and the adjacent property.

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?

The existing pool has been in this location for over 24 years, perched in the only location on the property that can overlook the Potomac River. The swimming pool has to be replaced due to the 2010 Americans with Disabilities Act (ADA) which requires that all hotel pools be handicap accessible. Therefore, this Act requires the Bavarian Inn to either eliminate the pool or build a new facility that complies with the ADA. There is no location on the property which would accommodate the distance requirements in the Zoning Ordinance.

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

Construction of the pool building with restrooms, along with the new pool, will provide complete handicap accessibility as required by the 2010 Americans with Disabilities Act (ADA). Since the site is already developed, this is the logical area to replace the pool and upgrade the facilities. If the variance is denied, the Bavarian Inn may have to remove the pool. The elimination of the swimming pool would negatively affect this well-loved Shepherdstown tourist attraction.

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

The Zoning Ordinance was written primarily to govern new construction on undisturbed land. There are many sections of the ordinance that do not adequately allow for the reconstruction of, or addition, to existing facilities, as is this case. The intent of 'distance requirements' is to allow for space between properties. In this case, this area of the site is already developed and should have no impact on the neighboring property. In order to maintain their status as one of the best inns in West Virginia and the Eastern United States, the Bavarian Inn needs to continually upgrade and improve their facilities. Granting this variance will help them to achieve this goal.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

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

File Number: # ZV13-07

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

Staff Initials: CLC

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: Asam Enterprises, Inc.

Mailing Address: 164 Shepherd Grade Road

City: Shepherdstown State: WV Zip Code: 25443

Phone Number: 304-876-2551 Email: christianasam100@gmail.com

Applicant or Contact Information

Applicant / Contact Name: The Bavarian Inn

Mailing Address: same as Owner

City: _____ State: _____ Zip Code: _____

Phone Number: 304-876-2551 Email: christianasam100@gmail.com

Applicant Representatives

Company/Organization Name: Alpha Associates, Inc.

Attorney(s), Engineer(s), or Surveyor(s) Name: Richard W. Klein, PE

Mailing Address: 535 West King Street

City: Martinsburg State: WV Zip Code: 25401

Phone Number: 304-264-0051 Email: richard.klein@thinkalphafirst.com

Physical Property Details

Physical Property Address: 164 Shepherd Grade Road

Tax District: Shepherdstown Map No: 1 Parcel No: 1.1

Parcel Size: 3.891 Deed Book: 632 Deed Bk. Pg. No: 339

RECEIVED

JAN 24 2013

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Zoning District:	Rural (R-A)	Residential Growth (R-G)	Industrial Commerical (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: _____

Please briefly describe the nature of the variance request:

Please see attached Variance Request #4

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

Front Setback Side Setback Rear Setback Reduction From _____ to _____

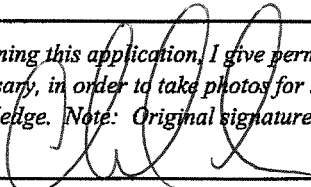
Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

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?

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

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

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.


Signature of Property Owner 1 1/23/13 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)).

02/21/13
Date of Public Hearing

02/06/13
Advertising Date

02/06/13
Placard Posting Date

**Bavarian Inn Pool
Proposed Pool Restroom and Service Bar Building**

Variance Request #4

4.11

Buffer Requirement Between Two Commercial Properties

Briefly describe the nature of the variance request:

This variance request is to eliminate the screened buffer requirement of 10' for a commercial use adjacent to a commercial use. This is the side adjacent to the existing Bavarian Inn Main Facility.

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

The addition of a restroom facility and service bar will enhance the public health and safety of the guests of the Bavarian Inn, which are the only members of the public which use the pool. Currently, the pool guests have to go back to their room to change clothes or go to the bathroom. Likewise, the guests have to go back to their room for refreshments, or change to go to the main facility for lunch or snacks. The addition of the restroom and service bar building will allow the guests to use facilities close to the pool. This will eliminate potential safety and security problems with guests, including children, going back and forth between the pool and their room or the main facility. Furthermore, since the existing pool and maintenance building have been in this location for over 24 years, there should be no impact on the rights of the adjacent property owners. As a matter of fact, the existing property is already completely landscaped. A buffer screening would look very out of place and cause security issues.

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?

The existing pool has been in this location for over 24 years, perched in the only location on the property that can overlook the Potomac River. The swimming pool has to be replaced due to the 2010 Americans with Disabilities Act (ADA) which requires that all hotel pools be handicap accessible. Therefore, this Act requires the Bavarian Inn to either eliminate the pool or build a new facility that complies with the ADA. The property line in question was created to separate the Inn's property for financing purposes. Construction of a buffer between the main building and this accessory building would be detrimental to the overall property use.

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

Construction of the pool building with restrooms, along with the new pool, will provide complete handicap accessibility as required by the 2010 Americans with Disabilities Act (ADA). The pool at this location continues to be a reasonable use of the land. Since the site is already developed, this is the logical area to replace the pool and upgrade the facilities. If the variance is denied, the Bavarian Inn may have to remove the pool. The elimination of the swimming pool would negatively affect this well-loved Shepherdstown tourist attraction.

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

The Zoning Ordinance was written primarily to govern new construction on undisturbed land. There are many sections of the ordinance that do not adequately allow for the reconstruction of, or addition to, existing facilities, as is this case. . The intent of buffers is to allow for privacy between properties. In this case, this area of the site is already landscaped and the construction of a screened fence could cause security problems. In order to maintain their status as one of the best inns in West Virginia and the Eastern United States, the Bavarian Inn needs to continually upgrade and improve their facilities, and to meet the requirements of the ADA. Granting this variance will help them to achieve this goal.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

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

File Number: ZV13-08

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

Staff Initials: CFC

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: Asam Enterprises, Inc.

Mailing Address: 164 Shepherd Grade Road

City: Shepherdstown State: WV Zip Code: 25443

Phone Number: 304-876-2551 Email: christianasam100@gmail.com

Applicant or Contact Information

Applicant / Contact Name: The Bavarian Inn

Mailing Address: same as Owner

City: _____ State: _____ Zip Code: _____

Phone Number: 304-876-2551 Email: christianasam100@gmail.com

Applicant Representatives

Company/Organization Name: Alpha Associates, Inc.

Attorney(s), Engineer(s), or Surveyor(s) Name: Richard W. Klein, PE

Mailing Address: 535 West King Street

City: Martinsburg State: WV Zip Code: 25401

Phone Number: 304-264-0051 Email: richard.klein@thinkalphafirst.com

Physical Property Details

Physical Property Address: 164 Shepherd Grade Road

Tax District: Shepherdstown Map No: 1 Parcel No: 1.1

Parcel Size: 3.891 Deed Book: 632 Deed Bk. Pg. No: 339

RECEIVED

JAN 24 2013

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Zoning District:

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

Please briefly describe the nature of the variance request:

Please see attached Variance Request #5

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

Front Setback Side Setback Rear Setback Reduction From ____ to ____

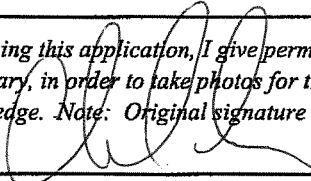
Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

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?

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

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

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.


Signature of Property Owner 1 1/23/13 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)).

02/21/13
Date of Public Hearing

02/06/13
Advertising Date

02/06/13
Placard Posting Date

**Bavarian Inn Pool
Proposed Pool Restroom and Service Bar Building**

Variance Request #5
4.6.B.1
Rear Distance Requirement

Briefly describe the nature of the variance request:

This variance request is to change the rear distance requirement for a commercial use adjacent to a commercial use in the Residential Growth Zone, from 75' to 16'. This is the side adjacent to the existing Bavarian Inn Main Facility.

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

The addition of a restroom facility and service bar will enhance the public health and safety of the guests of the Bavarian Inn, which are the only members of the public which use the pool. Currently, the pool guests have to go back to their room to change clothes or go to the bathroom. Likewise, the guests have to go back to their room for refreshments, or change to go to the main facility for lunch or snacks. The addition of the restroom and service bar building will allow the guests to use facilities close to the pool. This will eliminate potential safety and security problems with guests, including children, going back and forth between the pool and their room or the main facility. Furthermore, since the existing pool and maintenance building have been in this location for over 24 years, there should be no impact on the rights of the adjacent property owners.

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?

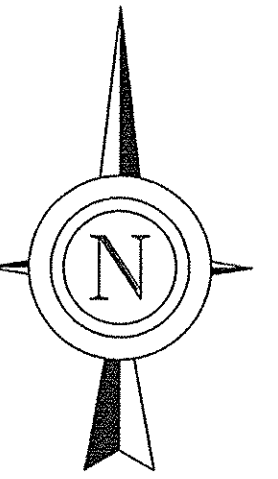
The existing pool has been in this location for over 24 years, perched in the only location on the property that can overlook the Potomac River. The swimming pool has to be replaced due to the 2010 Americans with Disabilities Act (ADA) which requires that all hotel pools be handicap accessible. Therefore, this Act requires the Bavarian Inn to either eliminate the pool or build a new facility that complies with the ADA. The property line in question was created to separate the Inn's property for financing purposes. There is no location on the property which would accommodate the distance requirements in the Zoning Ordinance. This variance request only affects the neighboring commercial property that is under the same ownership.

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

Construction of the pool building with restrooms, along with the new pool, will provide complete handicap accessibility as required by the 2010 Americans with Disabilities Act (ADA). Since the site is already developed, this is the logical area to replace the pool and upgrade the facilities. If the variance is denied, the Bavarian Inn may have to remove the pool. The elimination of the swimming pool would negatively affect this well-loved Shepherdstown tourist attraction.


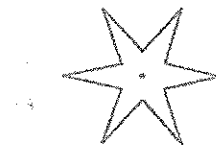
How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

The Zoning Ordinance was written primarily to govern new construction on undisturbed land. There are many sections of the ordinance that do not adequately allow for the reconstruction of, or addition to, existing facilities, as is this case. The intent of 'distance requirements' is to allow for space between properties. In this case, this area of the site is already developed and should have no impact on the neighboring property which, again, is under the same ownership. In order to maintain their status as one of the best inns in West Virginia and the Eastern United States, the Bavarian Inn needs to continually upgrade and improve their facilities, and to meet the requirements of the ADA. Granting this variance will help them to achieve this goal.

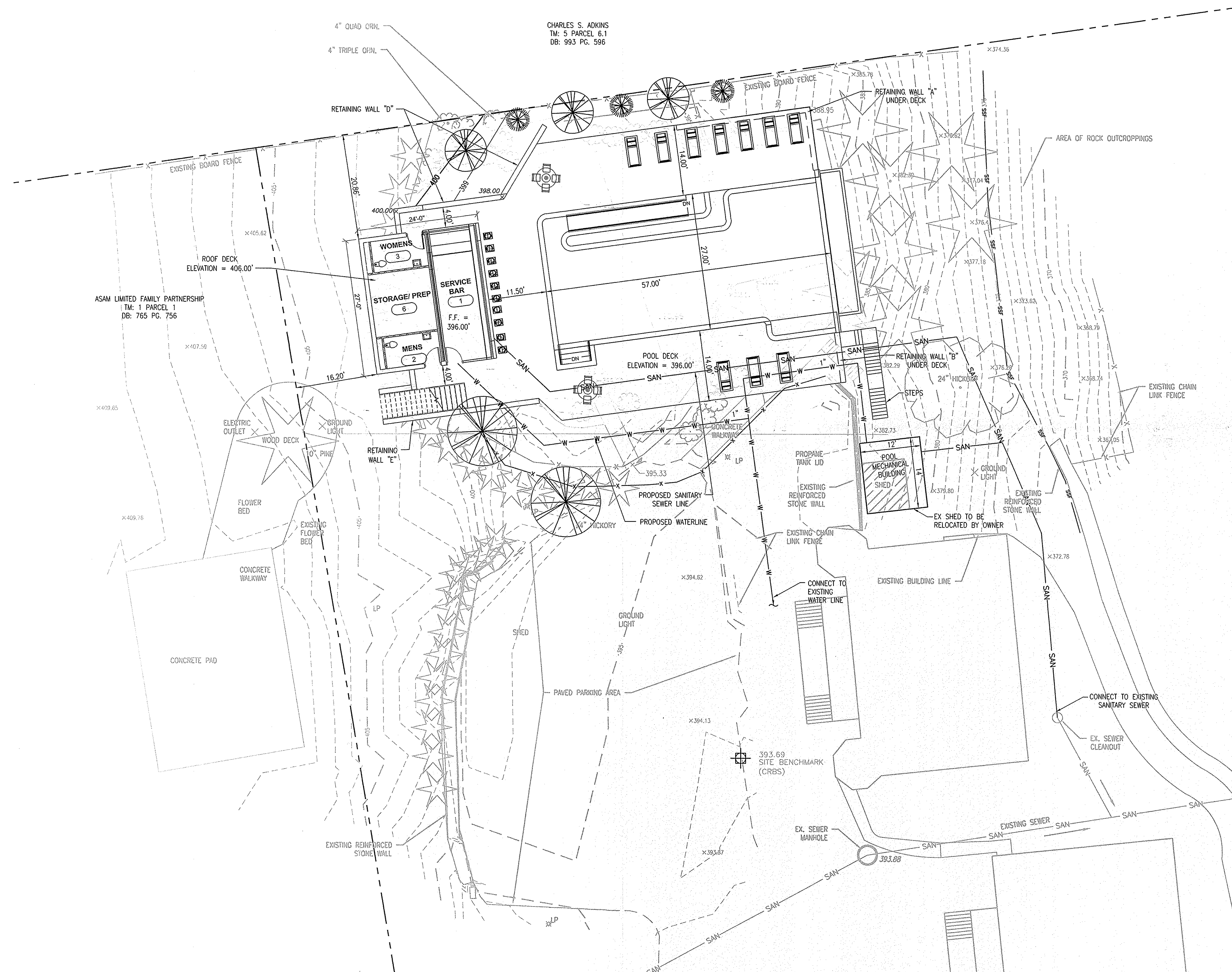


WV STATE GRID NORTH
NAD 1983 NAVD 1988

LEGEND

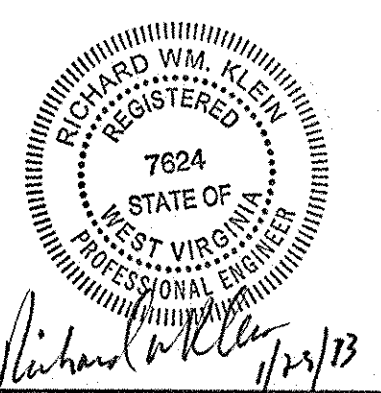
-  ORNAMENTAL TREE UNLESS NOTED AND BUSHES
-  EVERGREEN TREES

NOTES:
1. THE DECK OF THE EXISTING POOL IS HALF CONCRETE AND HALF WOOD DECK.



CONCEPT PLAN
FOR
BAVARIAN INN POOL
CORPORATION OF SHEPHERDSTOWN
JEFFERSON COUNTY, WEST VIRGINIA
TM 1 PARCEL 1.1 DB 632 PG 339

OWNER/DEVELOPER:
ASAM ENTERPRISES, INC.
164 SHEPHERD GRADE ROAD
SHEPHERDSTOWN, WV 25443
ATTN: CHRISTIAN ASAM
(304)-876-2551



REVISIONS

ITEM	DATE

PROJ. NO.: 1206064.00
DATE: 1/21/2013
SHEET NO.:

Alpha
ARCHITECTS ENGINEERS

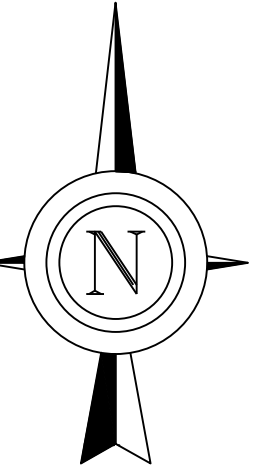
ALPHA ASSOCIATES, INC.
535 WEST KING STREET
MARTINSBURG, WV 26401
PHONE: 304-264-0051
FAX: 304-264-0707
TOLL FREE: 877-264-0051
www.thinkALPHAfirst.com

SCALE:
CONTOURS 1' AND 5'

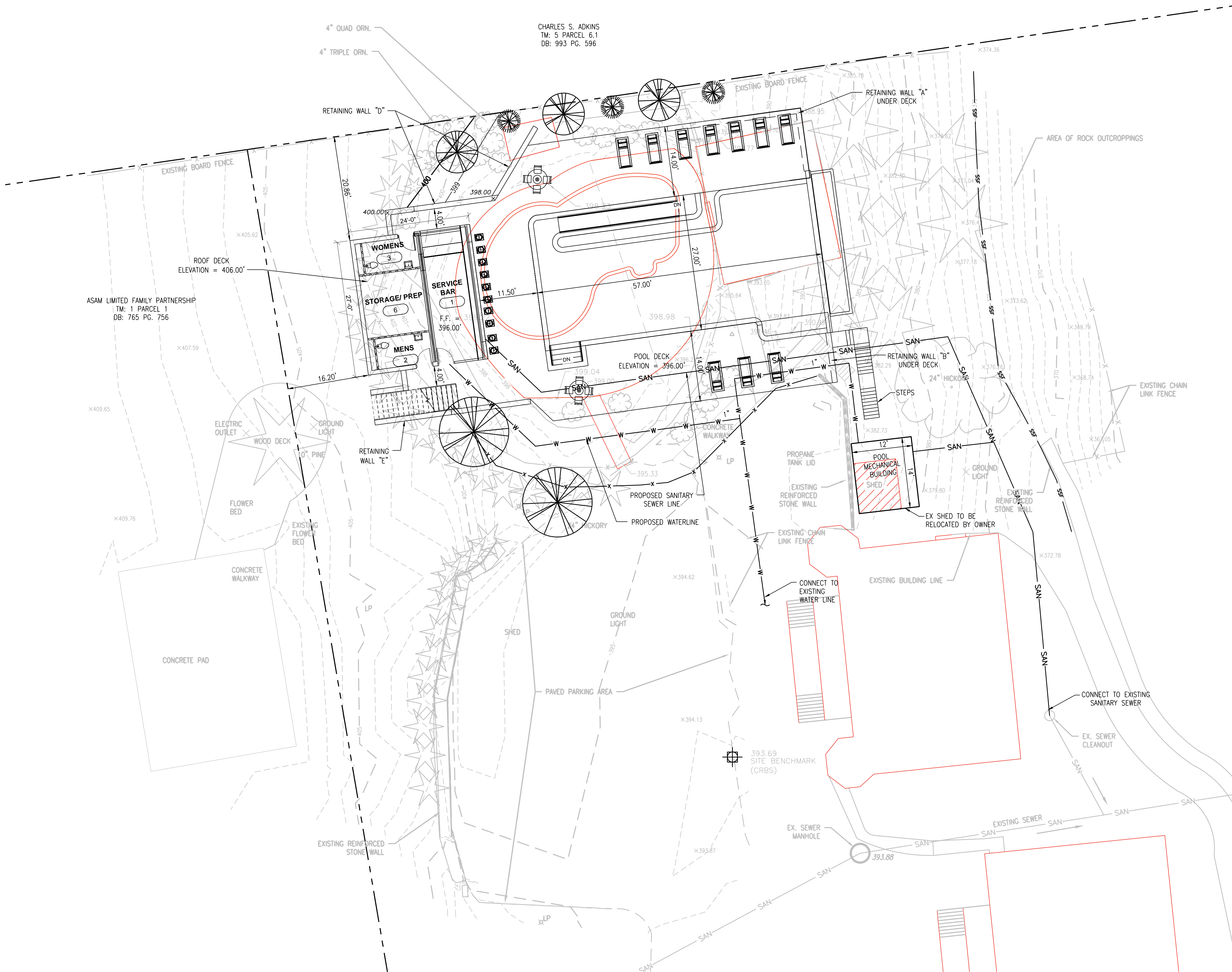
CONCEPT PLAN

C100

AGENCY REVIEW



WV STATE GRID NORTH
NAD 1983 NAVD 1988



CONCEPT PLAN
FOR
BAVARIAN INN POOL
CORPORATION OF SHEPHERDSTOWN
JEFFERSON COUNTY, WEST VIRGINIA
TM 1 PARCEL 1.1 DB 632 PG 339

OWNER/DEVELOPER:
ASAM ENTERPRISES INC.
164 SHEPHERD GRADE ROAD
SHEPHERDSTOWN, WV 25443
ATTN: CHRISTIAN ASAM
(304)-876-2551

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REVISIONS	
ITEM	DATE

PROJ. NO.: 1206064.00
DATE: 1/21/2013
SHEET NO.:

AGENCY REVIEW

Alpha
ARCHITECTS ENGINEERS
ALPHA ASSOCIATES, INC.
535 WEST KING STREET
MARTINSBURG, WV 25401
PHONE: 304-264-0051
FAX: 304-264-0707
TOLL FREE: 877-264-0051
www.thinkALPHAfirst.com

SCALE: 0 10'
CONTOURS 1' AND 5'

ILLUSTRATIVE PLAN

1 OF 1

From: [Steve Barney](#)
To: [Jennilee Hartman](#)
Subject: FW: Bavarian Inn Pool - Color Plan
Date: Friday, February 15, 2013 1:10:23 PM
Attachments: [130214-Bavarian Inn Pool Color Plan.pdf](#)

From: Ryan Perks [mailto:Ryan.Perks@thinkalphafirst.com]
Sent: Thursday, February 14, 2013 11:14 AM
To: sbarney@jeffersoncountywv.org
Cc: Richard Klein
Subject: Bavarian Inn Pool - Color Plan

Steve,

Per the request of Dick Klein, attached please find a PDF plan showing the existing Bavarian Inn pool area highlighted in red with the proposed linework overlaid. Let me know if you have any problems with the file.

Thanks,

Ryan Perks, PE
Associate and Civil Engineer

[Alpha Associates, Incorporated](#)
535 West King Street
Martinsburg, WV 25401
Office: 304-264-0051
Mobile: 304-582-3285
ryan.perks@thinkalphafirst.com



Scan to add me to your contacts database



CONFIDENTIALITY NOTICE

The documents and materials transmitted herewith contain confidential and proprietary information belonging to the sender and are legally privileged. They are solely for the use of their intended recipient. If you are not the intended recipient or the person responsible for delivering e-mail to the intended recipient, you have received this e-mail in error. Inform the sender of the error and remove this e-mail from your system. If this transmission includes design data and recommendations, they are provided only as a matter of convenience and should not be used for final design and/or construction.



JEFFERSON COUNTY, West Virginia

Departments of Planning and Zoning

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

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

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

Director's Report February 21, 2013 Board of Zoning Appeals Meeting

- 1) **Ethics Training and Roberts Rules of Order** – for all Boards and Commissions
Please save the date: April 11, 2013 7:00 PM, Old Charles Town Library basement
- 2) **Envision Jefferson 2035 (2014 Comprehensive Plan) Update**
 - a) Steering Committee (15 members):
 - Monthly meetings held 1/22/13 and 2/19/13
 - b) Upcoming Brown Bag Lunch and Learns Scheduled:
Wednesdays, 12 – 1 pm, Old Charles Town Library Community Meeting Room:
 - 2/20/13 Transportation (West Virginia DOH, District 5; HEPMPO, and PanTran)
 - 2/27/13 Housing (EPOHOA, Partnership for Affordable Housing, Eastern Panhandle Board of Realtors, Eastern Panhandle Homebuilders Association)
 - 3/06/13 Public Safety (Sheriff, JCESA, Jefferson County Homeland Security and Emergency Management, representative from the one of the volunteer fire companies)
 - 3/13/13 Federal Installations (Harpers Ferry NPS, Customs and Border Protection, State Department, NCTC, USDA, USGS)
 - 3/20/13 Social Service Agencies (Jefferson County Office on Aging, Jefferson Center, United Way, Community Ministries)
 - 3/27/13 Municipal Planners Roundtable (Charles Town, Shepherdstown, Ranson, Harpers Ferry, Bolivar)
 - c) Report back on first series of public meetings for Envision Jefferson 2035 (02/2013)
- 3) **Recent PC/CC Actions of Interest:**
 - a) Landowner-initiated petition to amend the County Zoning Map for a 34.27 acre property owned by **Jefferson Asphalt Products, Inc.** located on the south side of Route 51 (Public Hearing 1/10/13; approved 2/7/13)

- b) Landowner-initiated petition to amend the County Zoning Map for a 8.07 acre property owned by **John D. Lowe, III** located on the south side of Route 45 and the east side of Potomac Farms Road (Public Hearing 1/10/13; approved 2/7/13)
- c) Landowner-initiated petition to amend the County Zoning Map for a 3.94 acre property owned by the **Aitcheson Family Trust**, designated as Tax District: Harpers Ferry, Map: 7, Parcel: 18, located on the south side of US Route 340 on Campground Road approximately a half mile east of its intersection with Old Taylor Lane (Public Hearing 1/31/13; open to written comment through 2/14/13)

February 12, 2013

Dear Authority, Board, Commission, Committee, Council Member, Department Head, Elected Official or Mayor:

The Jefferson County Commission recognizes the importance of knowing Ethics and Robert's Rules of Order in regards to public/open meetings and general knowledge of such rules. With that thought in mind, the County Commission would like to extend an invitation to you to share in a work session on Ethics and Robert's Rules of Order to be held on Thursday, April 11th, 2013 beginning at 7:00 p.m.

The session will be held at the County Commission meeting room located in the lower level of the Old Charles Town Library on the corner of East Washington and N. Samuel Street, Charles Town, WV 25414. The teachers will be Theresa Kirk, Executive Director of the West Virginia Ethics Commission and John Sorrenti from the West Virginia State Auditor's Office.

We ask that you please RSVP no later than March 15, 2013 in order to assure that we have the proper seating and handouts. If you have any questions, please feel free to call our office Monday – Friday between the hours of 9 -5 p.m. at 304-728-3284.

Respectfully Submitted,

Nichelle Adams Hosby
Executive Assistant, Jefferson County Commission

RSVP

I _____, member of the _____

Will

Will Not

Attend the above referenced work session on April 11, 2013 at 7:00 p.m.



JEFFERSON COUNTY, WEST VIRGINIA
Departments of Planning & Zoning
116 East Washington Street, 2nd Floor
P.O. Box 338
Charles Town, West Virginia 25414

CONTACT: JENNIFER BROCKMAN
Telephone: (304) 728-3228
Email: planningdepartment@jeffersoncountywv.org

FOR IMMEDIATE RELEASE

PRESS RELEASE

Jefferson County Board of Zoning Appeals Vacancies Need to be Filled

The County Commission of Jefferson County is accepting applications for one vacant Board of Zoning Appeals Board Member position and two vacant alternate positions. Each of these appointments will be for a 3-year term. A letter of interest and resume must be received by the County Commission by March 7, 2013.

Submit letter of interest and resume via e-mail, mail, or office.

Jefferson County Commission
c/o Jennifer Brockman
P.O. Box 338
116 East Washington Street, Ste. 200
Charles Town, WV 25414
304-728-3228
E-mail: zoning@jeffersoncountywv.org

Highlights of the Board of Zoning Appeals - refer to WV Code Chapter 8A-8-9 for a comprehensive list of powers and duties:

- Hear, review and determine appeals from an order, requirement, decision or determination made by an administrative official or board charged with the enforcement of a zoning ordinance or rule and regulation adopted
- Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in the zoning ordinance
- Hear and decide conditional uses of the zoning ordinance upon which the board is required to act under the zoning ordinance
- Authorize, upon appeal in specific cases, a variance to the zoning ordinance
- Members must be residents of Jefferson County for at least three years preceding the appointment
- Cannot be a member of the County Planning Commission
- Cannot hold any other elective or appointive office in the Jefferson County government
- An alternate member shall serve on the board when one of the regular members is unable to serve. The alternative member shall serve until a final determination is made in the matter to which the alternate member was initially called on to serve
- The Board Members and alternate members shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties
- Reverse, affirm or modify the order, requirement, decision or determination appeals from and have all the powers and authority of the official or board from which the appeal was taken
- Supervise fiscal affairs and responsibilities of the board.

Meeting Schedule:

The BZA meets on the 3RD Thursday of each month at 3:00 p.m. in the Old Charles Town Library Meeting Room (entrance on Samuel Street) located at 200 East Washington Street, Charles Town.