

Jefferson County
Board of
Zoning Appeals

Thursday,
January 17, 2013

JEFFERSON COUNTY, WEST VIRGINA

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: January 11, 2013

SUBJECT: January 17, 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, January 17, 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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MEMORANDUM

TO: Board of Zoning Appeals Members

CC: Engineering & Building Permits Departments

FROM: Steve Barney, Zoning Administrator

DATE: January 11, 2013

SUBJECT: January Monthly Report of Department Activities

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

#ZC12-26 MARK ODELL– OWNER / APPLICANT

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



AGENDA
Jefferson County
Board of Zoning Appeals
Thursday, January 17, 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) Election of Officers.
- 2) Approval of the 2013 Board of Zoning Appeals Meeting Schedule.
- 3) Approval of the minutes from the December 20, 2012 meeting.
- 4) Swearing in of members of the public intending to provide 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) - Reduce required landscape buffer between commercial uses from 10' to 0';
 - ii. Section 5.6(D)2 - Reduce required 25'/50' building setback (depending on the resulting lot size) between commercial lots to a minimum of 18'; and,
 - iii. Section 5.6(D)5 - Reduce required setback for driveways, parking areas and internal access drives 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.

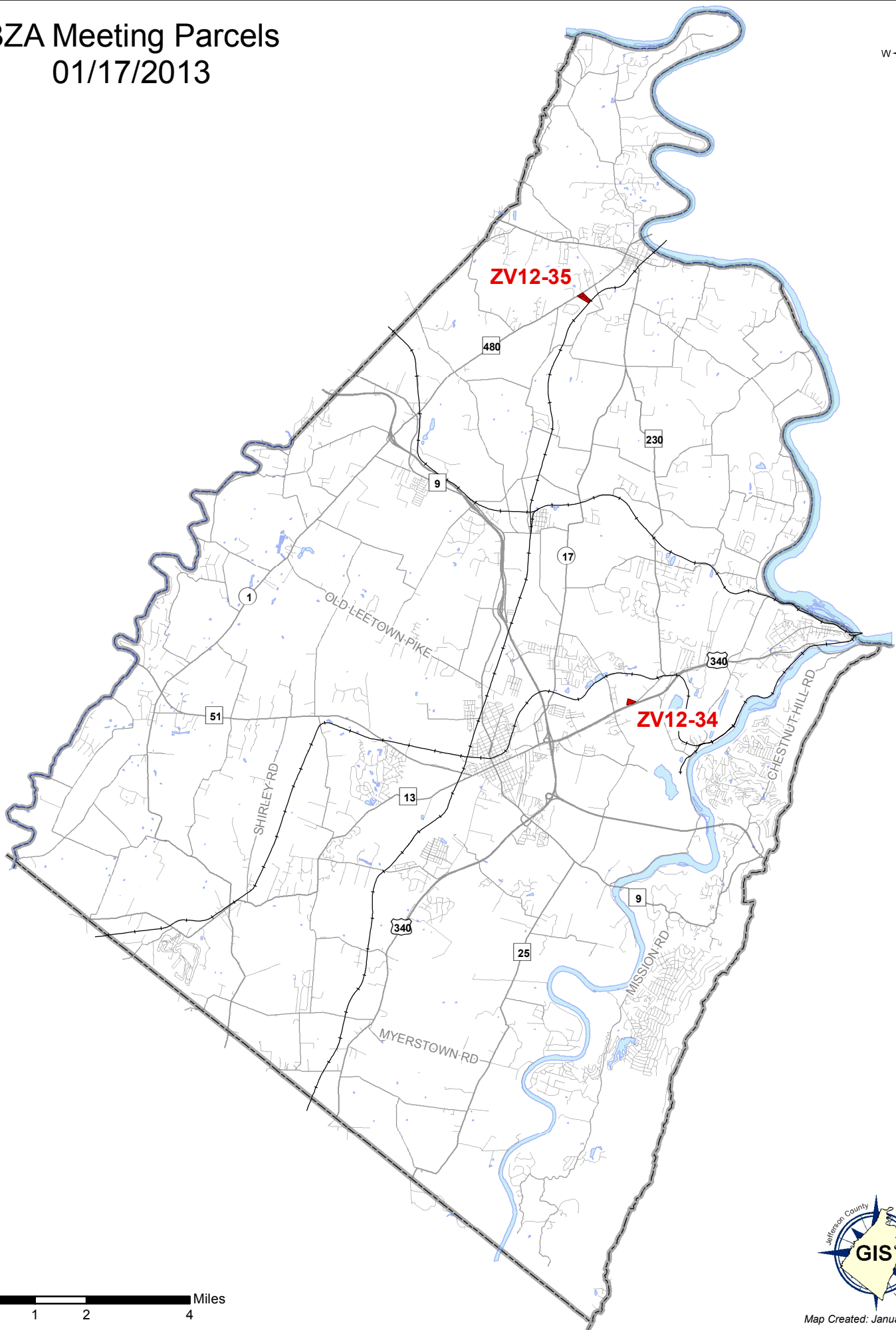
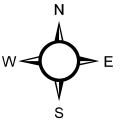
- 6) Variance request by Peter Corum, applicant, on behalf of Twin Oaks Subdivision, LLC and Ed Slonaker, property owners, regarding existing internal lot lines and the required setbacks for Morgan's Grove Market (S12-06) found in Section 4.11-1, with more specific references located in the following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

Property location: 3988 Kearneysville Pike (Rt. 480). District: Shepherdstown (09); Tax Map: 13; Tax Parcel: 26.1, 26.2, 26.3 and 26.4; Zoned: Rural; Size: 13.69 combined acres; File: #ZV12-35.

- 7) Director's Report.
- 8) Legal Update.
- 9) Signing of written decisions from prior Board of Zoning Appeals meetings.
- 10) Correspondence.

BZA Meeting Parcels

01/17/2013



0 1 2 4 Miles



Map Created: January 11, 2013



JEFFERSON COUNTY, WEST VIRGINIA

Department of Planning and Zoning

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APPROVED MEETING SCHEDULE JEFFERSON COUNTY BOARD OF ZONING APPEALS

Board of Zoning Appeals meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street at 3:00 p.m.

Scheduled Meetings

January 17, 2013

February 21, 2013

March 21, 2013

April 18, 2013

May 16, 2013

June 27, 2013**

July 18, 2013

August 15, 2013

September 19, 2013

October 17, 2013

November 21, 2013

December 19, 2013

Submission Deadline*

December 21, 2012

January 25, 2013

February 22, 2013

March 22, 2013

April 19, 2013

May 31, 2013

June 21, 2013

July 19, 2013

August 23, 2013

September 20, 2013

October 25, 2013

November 22, 2013

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

**This date is an alternative selection. The original date of the meeting was June 20th however the office is closed due to WV Day.

Changes in the time or location of the meeting shall be noticed on the County's website at www.jeffersoncountywv.org.

Note: If County offices have been closed due to inclement weather, or if weather conditions make travel unsafe for the public, the Board of Zoning Appeals meeting may be cancelled. Please check the County's website for possible meeting updates during inclement weather. Thank you.

Draft Minutes
Jefferson County Board of Zoning Appeals
Thursday, December 20, 2012

The Jefferson County Board of Zoning Appeals met on Thursday, December 20, 2012. The meeting was held in the Charles Town Library meeting room located at 200 East Washington Street, at the side entrance on 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 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 3:04 p.m.

1. Approval of the minutes from the November 15, 2012 meeting.

Ms. Huddle motioned to approve the minutes. Mr. Kelly seconded the motion. The following corrections were requested by Mr. Kelly and Ms. Huddle:

- a) Page 4, Item 7; include the vote. [Added: *Ms. Huddle seconded the motion, which carried unanimously.*]
- b) Page 1, Item #3, paragraph 2, the words in parenthesis, add a comma so as to read, (*i.e.*,
- c) Page 3, second line, add the word be before the word *issued*.
- d) Page 3, paragraph 3, clarify reference to “*neighbor’s car*”

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

Mr. Bresee swore in the individuals that indicated they would be giving testimony.

3. Variance request by applicant, Michael A. Lowrey on behalf of the property owner Rock Spring Church, from Section 4.10 for a waiver of the Site Plan requirements to allow for the installation of two modular units to be used as temporary classrooms during the construction of Phase II of the Site Plan (#S05-13). Said units measure 24’ x 40’ and 24’ x 60’ and are approximately 14’ in height respectively. Anticipated start date is Spring 2013. Property location: 114 Poor Farm Road, Kearneysville, West Virginia. District: Middleway (07); Map: 15; Parcel: 1.5; Zoned: Rural; Size: 15 acres; File: #ZV12-32.

Mr. Lowrey presented his request to the Board, stating that he anticipated beginning construction by late Spring of 2013 and to be complete within one year. The anticipated timeframe for placement of the mobile units would be approximately two years. Mr. Lowrey stated the Church was currently in the process of obtaining the funding for the construction of the second phase. Mr. Barney stated there was an approved site plan for the church. Mr. Barney addressed the fact that the units would be located on the existing gravel parking area as depicted on the application submitted, and not in the location shown in an exhibit in the staff report. Mr. Barney explained that by utilizing the existing gravel area that the units would not be creating any additional impervious area and that the stormwater management for the church’s maximum buildout is already in place.

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

4. Variance request by applicant, Charles D. Betoney, II, from Section 9.7 for a reduction of the side setback distance from 8’ to 7’ to allow for the construction of a 24’ x 18’ attached garage to be

positioned on an existing concrete slab. Property location: Patrick Henry Subdivision, 42 Fulton Avenue, Charles Town, West Virginia. District: Charles Town (02); Map: 8B; Parcel: 25; Zoned: Residential-Growth; Size: 0.233 acres; File #ZV12-33.

Mr. Betoney presented his request to the Board, stating that the recent weather event known as 'Super Storm Sandy' had severely damaged the carport that was attached to the side of the home and that it was his intent to rebuild using the existing concrete pad on which the carport had been located. Mr. Betoney stated that it was his intent to replace the carport with an enclosed garage; however, the garage would require an additional one foot of area extending towards the side yard and thus necessitating the setback variance. Mr. Barney pointed out that a number of structures in the neighborhood were relatively close to lot lines and that one property in the development had been granted a variance to construct a carport. Mr. Barney also mentioned that there is a small vegetative buffer located between the subject property and the adjacent property on the property line for which Mr. Betoney was requesting the variance.

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

Mr. Kelly motioned to go into deliberative session at 3:21 p.m. Ms. Huddle seconded the motion, which carried unanimously.

Ms. Huddle motioned to come out of deliberative session at 3:24 p.m. Mr. Quynn seconded the motion, which carried unanimously.

5. Variance request by applicant, Michael A. Lowrey on behalf of the property owner Rock Spring Church, from Section 4.10 for a waiver of the Site Plan requirements to allow for the installation of two modular units to be used as temporary classrooms during the construction of Phase II of the Site Plan (#S05-13). Said units measure 24' x 40' and 24' x 60' and are approximately 14' in height respectively.

Mr. Kelly motioned to approve the above referred request with the condition that the approval is valid for a period of 36 months from the date of issuance of the first building permit for a portable building or within two months from the date of completion of the construction (of Phase II), if construction is completed sooner than 36 months. Ms. Huddle seconded the motion, which carried unanimously.

6. Variance request by applicant, Charles D. Betoney, II, from Section 9.7 for a reduction of the side setback distance from 8' to 7' to allow for the construction of a 24' x 18' attached garage to be positioned on an existing concrete slab.

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

7. Director's Report. Ms. Brockman updated the Board on the following items:

- Comprehensive Plan Steering Committee.
- Brown Bag "Lunch and Learn" sessions to be hosted by the Planning and Zoning Department and featuring a variety of speakers.

- Public Workshops regarding the Envision Jefferson 2035 project on February 2, 4, 6 of 2013.
- The County Commission public hearing for the Bank of Charles Town rezoning request was postponed by the Applicant until the early part of 2013.
- County Commission Public Hearing on the Jefferson Asphalt and Lowe Products rezonings scheduled for 01/10/13 at 7:00 p.m.
- Planning Commission Rezoning Public Hearing conducted for the Aitcheson Adkinson property held on 12/11/12 (approved).
- The Concept Plan for Morgan's Grove Market was on the 12/11/12 Planning Commission agenda, and the applicant is seeking a series of waivers. The applicant will be submitting a variance request to be heard by the BZA for the January meeting.
- Amy Puetz and Dawn Childs have resigned and interviews are in process.
- Chris Whittaker, Comprehensive Plan Planner, started on Monday, December 17, 2012.

8. Legal Update. None.

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

- a) Signing of the Findings of Fact and Conclusions of Law for the Variance request by property owners, Steven D. & Rebecca A. McKinney, from Section 4A.1.E.4 to allow for short term storage of firearms (typically 8-72 hours), and Section 4A.3.C to allow sale of items not hand crafted on the premises. Property location: 149 Gray Squirrel Road, Harpers Ferry, West Virginia. District: Charles Town (02); Map: 23B; Parcel: 41; Zoned: Rural; Size: .5 acres; File: #ZV12-28. This case was heard on November 15, 2012. Mr. Bresee signed the Findings after corrections were made.
- b) Signing of the Findings of Fact and Conclusions of Law for the Variance request by property owner, Christopher Dimon, from Section 9.7 for a reduction of the front setback distance from 25' to 2' to allow an existing 16' x 23'9" storage shed to remain. Property location: 131 Gray Rock Road, Charles Town, West Virginia. District: Charles Town (02); Map: 8; Parcel 32.7; Zoned: Rural; Size: 1.5 acres; File #ZV12-31. This case was heard on November 15, 2012. Mr. Bresee signed the Findings after corrections were made.

10. Correspondence. None.

Ms. Huddle motioned to adjourn the meeting at 3:40 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.

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 January 17, 2013

Bank of Charles Town Variance Request (ZV12-34)

| | |
|---|---|
| SITE PLAN / PRELIMINARY PLAT <i>PC File # S05-09</i> | PC Approval: 06/27/06 |
| FINAL PLAT <i>PC File # 04-34</i> | Final Plat withdrawn at Planning Commission meeting once variance for the 3 commercial uses on one lot was approved (06/27/06) |
| LOT LINE ADJUSTMENT | Two existing lots merged 04/20/07 |
| VARIANCE HISTORY | <p><u>Approved BZA Variances</u></p> <p>12/16/04: Reduction in setbacks on west side property line from 75' to 50'</p> <p>12/16/04: Reduction in dedication area for future frontage road</p> <p><u>Approved Planning Commission Variances</u></p> <p>11/09/04: Separation standard for one-way traffic</p> <p>11/09/04: Reduction in space between buildings from 50' to 30' (for self-storage)</p> <p>03/08/05: Revised CIS – allowed additional self-storage units</p> <p>07/26/05: Partial variance for curb and gutter and sidewalks</p> <p>06/27/06: Variance from final plat process, to allow 3 commercial uses on one lot (Subdivision Ordinance Section 3.1, Definitions)</p> |

RELEVANT INFORMATION:

1. Overview of Request

The applicant is seeking a variance from the following sections of the Zoning Ordinance:

- Section 4.11.A – requirement for a 10' landscape buffer between commercial uses. Requested reduction from 10' to 0'.
- Section 5.6D.2 – requirement for 25' or 50' side yard setback (depending on lot size) between commercial lots. Requested reduction from 25'/50' to 18'.
- Section 5.6D.5 – requirement for a 10' setback for driveways, parking areas and internal access drives. Requested reduction to 0'.
- Table 4.11-1 – table summarizing the above setback requirements.

2. Existing Conditions

a. Location

The property is located adjacent to the Route 340 frontage road (Old Route 340/Halltown Rd.), between the intersections of Route 340 with Blair Rd. and Country Club/Marlow Rd.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
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Bank of Charles Town Variance Request (ZV12-34)

b. Zoning

The subject property lies within the Residential - Light Industrial - Commercial zoning district.

Adjacent properties located to the north, east, and west of the subject property are zoned Residential - Light Industrial – Commercial, as is the Rte. 340 right-of-way located directly to the south. An adjacent property located to the northwest of the subject property is zoned Residential Growth. The property located directly across Rte. 340 from the subject property is zoned Residential Growth.

c. Land Use

The property contains an existing partially developed commercial center, including a Sears retail store and a Benjamin Moore paint store. The development is pursuant to approved site plan S05-09, which includes the following proposed land uses:

- Commercial building – 14,000 square feet
- Office building – 10,500 square feet
- Mini-storage buildings – 21,100 square feet
- RV/boat storage area

Of these uses, only the 14,000 square foot commercial building and the RV/boat storage area have been constructed, including associated parking. Other improvements that would serve the entire development have been installed, including a stormwater management pond and access drives.

3. Previous Case History

This variance is for an existing, partially completed commercial development, built in accordance with approved site plan #S05-09 (340 Business Center).

This development proceeded under the 1979 Subdivision Ordinance. At the time when the development was built, the regulations required each principal use/building to be located on an individual lot. The ordinance also allowed for the option of a “condominium subdivision” consisting of two or more building sites (whether vertical or horizontal) on a single tract.

The previous owner secured approval of a Community Impact Statement to establish a condominium subdivision with no internal property lines, and submitted applications for a combined Preliminary Plat / Site Plan as well as for a Final Plat. Approval of the Final Plat would have required an additional variance. At the Planning Commission public hearing for the Final Plat, the owner instead chose to seek a variance from the Final Plat process – specifically, a Planning Commission variance from the subdivision ordinance definition stating that a single lot may only contain a single structure. Because this variance was approved, thereby allowing 3 commercial uses on a single lot, the property owner withdrew the Final Plat application. The Planning Commission subsequently approved the site plan for the development.

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Bank of Charles Town Variance Request (ZV12-34)

The applicant for the current BZA variance requests describes the present situation of the property in an attachment to the application:

“After the first building was constructed, the construction of the second building and the mini-storage facility was put on hold due to the economy. Last year, BCT [the Bank of Charles Town] had to take ownership of the property and take over the project. BCT has been seeking a buyer for the property. Because of the economy, BCT has not been able to find a buyer for the entire project. Instead, they have found buyers that are interested in one of the three separate phases of the Business Center. During BCT’s due diligence required to sell the development, they found out that the buildings need to be on separate lots to sell them to separate entities.”

Staff has determined that bonding is still current for the site improvements associated with the development and that the site plan is still valid. The property may be subdivided pursuant to the 1979 Subdivision Ordinance if the applicant obtains the requested variances. The subdivision would also require Planning Commission approval at a Final Plat public hearing. Additionally, staff has determined that Planning Commission approval of an amendment to the Community Impact Statement for this development would be required.

4. Applicant’s Justification of Request

In the application submitted for the variance request, the applicant has provided the following responses to the four criteria for a variance:

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

The application states, “The 340 Business Center processed through the entire Planning Commission approval process with the exception of the Final Plat. A Community Impact Statement for all three facilities was submitted and approved after Staff review and a Planning Commission Public Hearing. Likewise, a Preliminary Plat and Site Plan was processed and approved for all three facilities. The project is approved and bonded and will be built according to the approval. A Final Plat Public Hearing will ensure that the public will have an additional opportunity to comment on the project. None of the variances will affect the perimeter of the property. The project already has Highway and Health Department approvals for the project as designed. As such, the granting of the variances will have no effect on the public health, safety or welfare; or the adjacent property owners’ rights.”

- 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, “As explained in the description, the Bank of Charles Town was forced to take over the project from the original developer. BCT certainly didn’t anticipate that they would have to assume ownership of the project. However, now that they have the ownership, they are trying to make the situation better by selling the project to separate entities. BCT made an attempt at selling the project as a whole, but due to the economic market, the Bank has only received interest in the purchase of the individual phases. The fact that the project is already approved with the buildings, parking and access drives already located and partially constructed on the property makes this a unique situation. The new property lines won’t adjust anything on the property other than give the Bank the ability to sell the individual phases.”

Staff Report
Jefferson County Board of Zoning Appeals Meeting
January 17, 2013

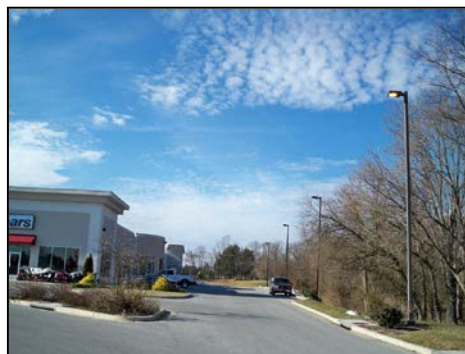
Bank of Charles Town Variance Request (ZV12-34)

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

The application states, “If the variances aren’t granted, the project will remain incomplete until such time that the Bank can find a purchaser of the property as a whole. The Bank already has a great deal of money in this property and needs to be able to sell the individual components in order to get out of the development business. The approval of this request will merely allow the Bank to sell the already approved project to separate entities. BCT currently has Letters of Intent and/or Contracts on the individual phases that are contingent on the BZA’s approval of this request. The Planning Commission has already determined that this project, as designed, is a reasonable use of the land. Since nothing will change on the property, the same uses will continue to be a good and reasonable use of the land. The granting of the variances, however, will allow the project to be completed in a more timely fashion.”

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

The application states, “The entire intent of the Zoning Ordinance and Subdivision Ordinance remains intact if the Bank is permitted to sell the project into the three individual phases that were approved. All of the standards of the ordinance have been met in the Preliminary Plat and Site Plan. No variances are being requested on the standards of the Subdivision Ordinance. The public had an opportunity to comment on the Community Impact Statement and will have an additional opportunity to comment on the division if the Planning Commission allows a Final Plat to be submitted. Again, nothing from a design standpoint will change from what is already approved. The variances requested are for items that typically would protect one property owner from building something that would negatively affect a neighboring property. In this case, the development is a master planned business center that all potential owners will understand was designed to function together. All owners will also have to agree to a common interest agreement for maintenance and ownership before they purchase one of the properties. As such, they will have advance knowledge of how the development was approved. Substantial justice would be to approve the requested variances, so that BCT can separate the three approved phases of this project. This would allow the project to continue in an economically feasible manner and would create a viable business center for Jefferson County.”



Staff Report
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Bank of Charles Town Variance Request (ZV12-34)

5. Staff Evaluation of Request

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 landscape buffers between commercial uses.

The Zoning Ordinance does include a provision to allow a “structure [to] be located on a common side or rear lot line of contiguous property owned by the same entity” (Section 9.4 Setback Modifications). However, this provision is limited only to a single-family dwelling unit or accessory structure. As such, for all other land uses, it is apparent that the intent of the ordinance is to require building separation between contiguous lots, regardless of whether or not the lots are owned by the same entity.

Other than the exception noted above, the ordinance does not state that setbacks and buffers are only applicable to properties under different ownership; nor does it state that developments that cross lot lines are exempt from setbacks and buffers.

On July 21, 2011, the Board approved an internal setback variance for St. James Lutheran Church (#ZV11-18) to reduce a side setback to 5’ to allow for the construction of a 640 sq. ft. addition. (Prior approvals by the Board of Zoning Appeals do not necessarily indicate precedent because of the unique circumstances of each case.)

Also on the agenda for the January 17, 2013 meeting is a to waive building setbacks, parking and drive aisle setbacks, and landscape buffers for internal lot lines for the Twin Oaks Subdivision (#ZV12-35).

b. Purpose of ordinance requirements

- 1) Side 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) Parking lot and drive aisle setback requirements: The purpose of these standards is to reduce the impact that a land use might cause to an adjacent property, particularly with regard to the various impacts of parking areas such as noise of engines, car headlights, etc.
- 3) Landscaping buffers between commercial uses: The purpose of these requirements is to lessen the mutual impacts between two adjacent commercial uses, including the visual impact of parking areas, truck loading areas, etc.

While the applicability of setbacks to individual lots within a multi-lot development may at first glance appear redundant, this requirement serves to protect future lot owners in the event that an individual lot is sold or foreclosed upon in the future.

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Bank of Charles Town Variance Request (ZV12-34)

4) Unique characteristics of property

The property is 8 acres in size, which is adequate for commercial development in the Residential - Light Industrial - Commercial district. The property contains a 100'-wide Potomac Light and Power easement.

However, the existing development on the property has unique characteristics, in that it was designed and built as a single development, with a common access and stormwater management pond.

Access to the property is also limited due to the fact that only a portion of the 340 frontage road (labeled as "Old Route 340" on the approved site plan) exists in front of the property.



5) Character of area

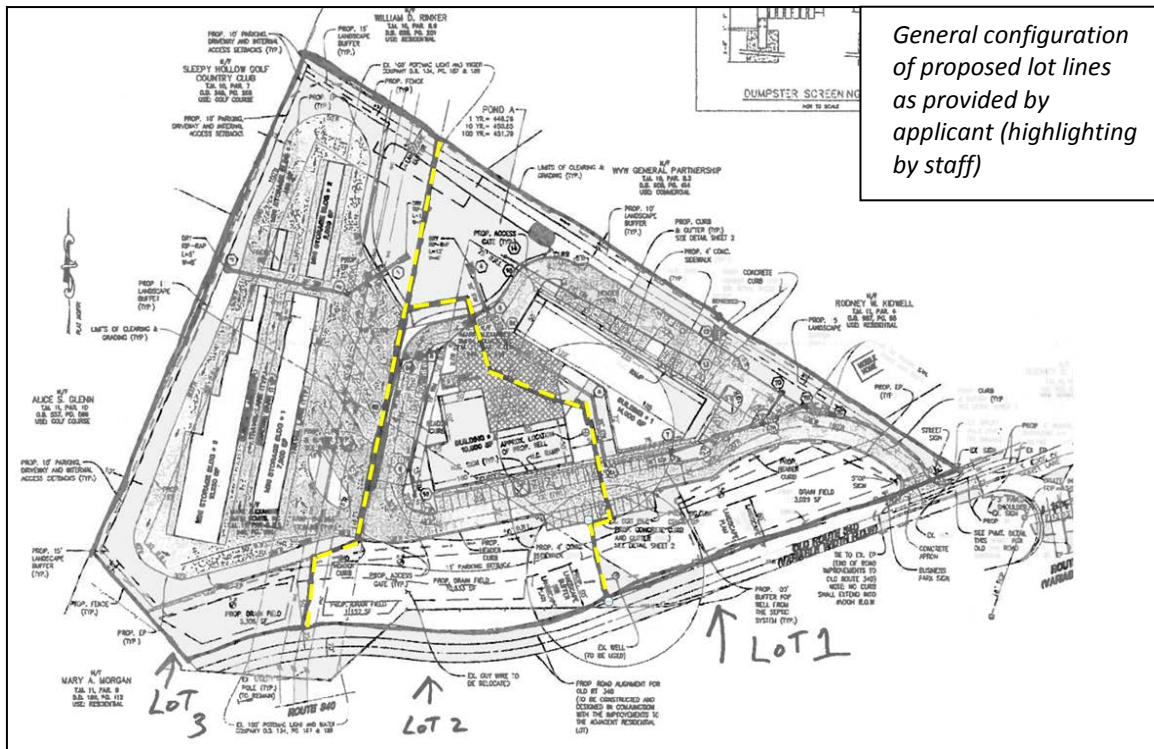
Adjacent properties located to the west and north include a golf course and vacant properties with commercial zoning. US 340 is located to the south of the property. A consignment store, a storage building, and several residential dwelling units are located to the east of the property.

Staff Report
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Bank of Charles Town Variance Request (ZV12-34)

6) Impact on adjacent properties

Staff finds that the variance, if granted, would have no greater impact on adjacent properties than would the proposed development if built without the internal lot line variances.



7) Feasibility of complying with the ordinance by other means

It appears possible for a commercial development to be built on the property without need of the requested variances. The site plan could be amended to provide for building setbacks and buffering of the three proposed lots. However, significant development improvements (buildings and paving) currently exist on the site and would need to be reconfigured in order to meet setback and buffering requirements. This would result in significant construction and engineering costs, and a likely reduction in the net development area.

Application of the drive aisle setback standards would preclude driveway connections between the lots. Rather, each lot would require individual access from the Route 340 frontage road. A section of this frontage road in front of the property is currently unbuilt and would need to be extended in order to provide entrances to the separate lots.

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 January 17, 2013

Bank of Charles Town Variance Request (ZV12-34)

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 development shown in site plan S05-09.
- b. The subdivision plat for the development shall include easements to allow access between the three lots.

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 finds that a variance from Table 4.11-1 is not necessary, because this table summarizes other standards found elsewhere in the ordinance.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

- A. ...All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.⁵

| ADJACENT USE | PROPOSED USE | BUILDING SETBACKS | | PARKING & ACCESS DRIVE SETBACKS | | BUFFERS UNSCREENED/SCREENED | | | | | DISTANCE REQUIREMENTS | | | | |
|--------------|----------------------|---------------------------|----------------|---------------------------------|------------|-----------------------------|----------------------------|--|------------|------------|-----------------------|----------------------------|--|------------|------------|
| | | Any Use Except Industrial | Industrial Use | Any Use Except Industrial | Industrial | Residential Zone | Lot with a Residential Use | Church/School/Institution for Human Care | Commercial | Industrial | Residential Zone | Lot with a Residential Use | Church/School/Institution for Human Care | Commercial | Industrial |
| FRONT | Comm'l Lot <=1.5 ac. | 25 | 25 | 15 | 15 | 50/15 | | N/A | N/A | | | 75 | N/A | | 75 |
| | Comm'l Lot > 1.5 ac. | 25 | 25 | 15 | 15 | 50/15 | | N/A | N/A | | | 75 | N/A | | 75 |
| | Industrial | 50 | 25 | 25 | 25 | 200 | | 25 | N/A | | | 200 | N/A | | 200 |
| | Church | 25 | 25 | 15 | 15 | 50/15 | | N/A | N/A | | | N/A | N/A | | N/A |
| | Multi-family | 25 | 25 | 15 | 15 | N/A | N/A/15 | N/A | N/A | | | N/A | N/A | | N/A |
| SIDE | Comm'l Lot <=1.5 | 25 | 25 | 4 | 4 | 50/15 | | 10 | 10 | | | 75 | N/A | | 75 |
| | Comm'l Lot > 1.5 ac. | 50 | 25 | 10 | 10 | 50/15 | | 10 | 10 | | | 75 | N/A | | 75 |
| | Industrial | 50 | 25 | 25 | 20 | 200 | | 20 | 20 | | | 200 | N/A | | 200 |
| | Church | 50 | 50 | 10 | 10 | 50/15 | | 10 | 10 | | | N/A | N/A | | N/A |
| | Multi-family | 12 | 12 | 12 | 12 | N/A | N/A/12 | N/A | N/A | | | N/A | N/A | | N/A |
| REAR | Comm'l Lot <=1.5 | 25 | 25 | 4 | 4 | 50/15 | | 10 | 10 | | | 75 | N/A | | 75 |
| | Comm'l Lot > 1.5 ac. | 50 | 25 | 10 | 10 | 50/15 | | 10 | 10 | | | 75 | N/A | | 75 |
| | Industrial | 50 | 25 | 25 | 20 | 200 | | 20 | 20 | | | 200 | N/A | | 200 |
| | Church | 50 | 50 | 10 | 10 | 50/15 | | 10 | 10 | | | N/A | N/A | | N/A |
| | Multi-family | 30 | 30 | 15 | 15 | N/A | N/A/15 | N/A | N/A | | | N/A | N/A | | N/A |

Table 4.11 – 1 Setbacks, Buffers and Distance Requirements for Non-Residential Uses²³

Staff Report
Jefferson County Board of Zoning Appeals Meeting
January 17, 2013

Bank of Charles Town Variance Request (ZV12-34)

Note: When Table 4.11-1 is in conflict with another section of the Zoning & Development Review Ordinance, this table shall prevail. See Article 8 of the Zoning and Land Development Ordinance for building setbacks for certain land uses.²³

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

ZV12-34

File Number: _____

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

Staff Initials: CJC

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.

Property Owner Information

Property Owner Name: Bank of Charles Town
Mailing Address: 111 E. Washington Street/ P.O. Box 906
City: Charles Town State: WV Zip Code: 25414
Phone Number: 304/728-2490 Email: _____

Applicant or Contact Information

Applicant / Contact Name: Grant Wetmore, Bank of Charles Town
Mailing Address: Same as above
City: _____ State: _____ Zip Code: _____
Phone Number: _____ Email: _____

Applicant Representatives

Company/Organization Name: Appalachian Surveys, PLLC
Attorney(s), Engineer(s), or Surveyor(s) Name: R. Michael Shepp
Mailing Address: 401 S. Fairfax Blvd.
City: Ranson State: WV Zip Code: 25438
Phone Number: 304/724-5008 Email: mshepp@appalachiansurveyspllc.com

Physical Property Details

Physical Property Address: 99 Cary Lu Circle -- NW Corner of Route 340/Halltown Road Intersection
Tax District: Harpers Ferry Map No: 11 Parcel No: 7
Parcel Size: 7.97 Deed Book: 1105 Deed Bk. Pg. No: 565

Table with 6 columns: Zoning District, Rural (R-A), Residential Growth (R-G), Industrial Commerical (I-C), Residential-Light Industrial-Commercial (R-L-C), Village (V). All cells contain a circle with a zero.

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JEFFERSON COUNTY PLANNING AND ZONING 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: 4.11-1, See Attached for Specific Sections

Please briefly describe the nature of the variance request:

See Attached

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

Front Setback Side Setback Rear Setback Reduction From 50 to 20 min

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

See Attached

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

See Attached

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

See Attached

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

See Attached

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]
[Signature] - aloren, ELP. 12/20/12
Signature of Property Owner 1 Date

Signature of Property Owner 2 Date

Notification Requirements (to be completed by staff)

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

THURSDAY JANUARY 17 2013
Date of Public Hearing 3:00pm

JANUARY 2 2013
Advertising Date

JANUARY 2 2013
Placard Posting Date

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JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

ZV12-34

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Bank of Charles Town
Request for Variances
Generally from Article 4, Section 4.11-1
Specifically from Article 4, Section 4.11(A) and Article 5, Sections 5.6(D)2 and 5.6(D)5
Jefferson County Zoning Ordinance
December 21, 2012

JEFFERSON COUNTY
PLANNING AND ENGINEERING

Brief Description of Request:

Due to the unique circumstances with the Route 340 Business Center, the Bank of Charles Town (BCT) is seeking variances from Article 4, Section 4.11-1. This is the table in the Zoning Ordinance that summarizes various setbacks for commercial uses. The specific sections that this request deals with are Section 4.11(A) that requires a 10 foot landscape buffer between commercial uses (reduced from 10 feet to 0 feet); Section 5.6(D)2 that requires either a 25 or a 50 foot building setback between commercial lots (reduced to a minimum of 18 feet); and, Section 5.6(D)5 that requires a 10 foot setback for driveways, parking areas and internal access drives (reduced from 10 feet to 0 feet).

The following is a description of the unique circumstances involving the 340 Business Center:

The Route 340 Business Center is located along Route 340 East of Charles Town at the Halltown Road intersection. This Center is approved to contain two commercial office/flex buildings and one mini-storage facility that will contain several multi-unit storage buildings. The Planning Commission approval process for these three facilities began in 2004. Currently, the first building of the campus contains the Sears Store and the Benjamin Moore Paint Store.

This project was processed under the old subdivision ordinance that defined a subdivision as more than one lot or more than one principal building on a single parcel of land. Since this development had multiple buildings, the owner was required to process the project through all three phases (Community Impact Statement, Preliminary Plat/Site Plan, and Final Plat) of the subdivision ordinance process that was in effect in 2004. Essentially, the process required everything that a three lot commercial subdivision and site plan would require, without actually platting and recording the three separate lots.

The project went through the entire process and a Public Hearing for the Final Plat was scheduled for June 27, 2006. Because of the referenced setback issues that would have delayed the Final Plat, the developer asked to withdraw the Final Plat at the June 27, 2006 meeting. Rather than process a Final Plat, the developer asked the Planning Commission to grant a variance that allowed the three separate facilities on one lot, so that the setback issues would not have to be immediately addressed. The Planning Commission granted that variance and the project was approved for all three of the facilities on the same parcel.

The improvements for all three facilities were bonded and the permit was issued for the first building (Sears). During the process, most of the improvements were made for the entire project, but the remainder of the improvements is still bonded with the County. The other two phases (the second commercial office/flex building and the mini-storage facilities) remain approved and bonded for completion.

After the first building was constructed, the construction of the second building and the mini-storage facility was put on hold due to the economy. Last year, BCT had to take ownership of the property and

take over the project. BCT has been seeking a buyer for the property. Because of the economy, BCT has not been able to find a buyer for the entire project. Instead, they have found buyers that are interested in one of the three separate phases of the Business Center. During BCT's due diligence required to sell the development, they found out that the buildings need to be on separate lots to sell them to separate entities.

After several meetings with the Planning and Zoning Department and the Engineering Department, the Staff has determined that since the project already completed all the necessary preliminary steps of the subdivision process (CIS and Preliminary Plat/Site Plan), they would allow BCT to proceed to the final plat stage to create the three separate lots. However, as according to the Staff, in order to submit the Final Plat, BCT needs the variance relief requested in this application.

These variances will change nothing on the property that hasn't already been approved. In fact, the SWM, the access, the parking, the external landscaping and all other approved elements of the plan will remain the same. There are two commercial office/flex buildings and a mini-storage facility that are approved and bonded now; and, the same three things will be built as approved. All BCT is requesting is a way to draw lines in between the buildings, so that they can be sold to separate entities for completion. The new lines, however, will create these setback issues that hopefully can be resolved by the BZA.

The three specific variances that are requested include the elimination of the 10 feet required buffer required between commercial lots in Section 4.11(A); the reduction of the building setback (25 or 50 feet) down to 18 feet (generally it will be at least 25 feet on all properties except around the well on Lot 2, since the well must have a 10 foot setback); and, the elimination of the parking lot, driveway and access drive setback. Typically, the setback for the parking and access drive is 10 feet. However, since this center is already designed to work together, the parking and access drive will be shared by all three users. In this case, the Staff has already stated that they will require a common interest maintenance and ownership agreement to be approved for the common use elements such as SWM, parking and access roads. BCT has no problem with this Staff request and will draft a document suitable to the Staff at the Final Plat stage. This agreement will eliminate the need for a parking and access drive setback.

The Board's approval of these variances would simply allow the Bank to sell what is already approved to three separate entities. These entities will know what they are buying in advance and will also enter into the common interest ownership and maintenance agreement. This approval will help prevent the Bank from spending more time and money on a project that it had to take over due to a bad economy. This would also allow the project to be finished in a timely fashion, so that the County could reap the benefits of a commercial business center. Finally, a new final plat public hearing will take place which will allow the public an opportunity to comment on the actual division.

BCT has several Letters of Intent and/or contingency contracts for the purchase of the individual parcels if the Board of Appeals grants the variances and the Planning Commission approves the Final Plat. BCT is anxious to move forward with the sale of these parcels in order to save the project and allow the completion of a viable business center in Jefferson County.

Thank you for your consideration of this matter.

#ZV12-34

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Bank of Charles Town
340 Business Center
Request for Variances
Jefferson County Zoning Ordinance
Generally Article 4, Section 4.11-1
Specifically Article 4, Section 4.11(A) and Article 5, Sections 5.6(D)2 and 5.6(D)5
Four Criteria
December 21, 2012

JEFFERSON COUNTY
PLANNING AND ENGINEERING

1. The variances will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.

The 340 Business Center processed through the entire Planning Commission approval process with the exception of the Final Plat. A Community Impact Statement for all three facilities was submitted and approved after Staff review and a Planning Commission Public Hearing. Likewise, a Preliminary Plat and Site Plan was processed and approved for all three facilities. The project is approved and bonded and will be built according to the approval. A Final Plat Public Hearing will ensure that the public will have an additional opportunity to comment on the project.

None of the variances will affect the perimeter of the property. The project already has Highway and Health Department approvals for the project as designed. As such, the granting of the variances will have no effect on the public health, safety or welfare; or the adjacent property owners' rights.'

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

As explained in the description, the Bank of Charles Town was forced to take over the project from the original developer. BCT certainly didn't anticipate that they would have to assume ownership of the project. However, now that they have the ownership, they are trying to make the situation better by selling the project to separate entities. BCT made an attempt at selling the project as a whole, but due to the economic market, the Bank has only received interest in the purchase of the individual phases.

The fact that the project is already approved with the buildings, parking and access drives already located and partially constructed on the property makes this a unique situation. The new property lines won't adjust anything on the property other than give the Bank the ability to sell the individual phases.

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

If the variances aren't granted, the project will remain incomplete until such time that the Bank can find a purchaser of the property as a whole. The Bank already has a great deal of money in this property and needs to be able to sale the individual components in order to get out of the development business. The approval of this request will merely allow the Bank to sell the

already approved project to separate entities. BCT currently has Letters of Intent and/or Contracts on the individual phases that are contingent on the BZA's approval of this request.

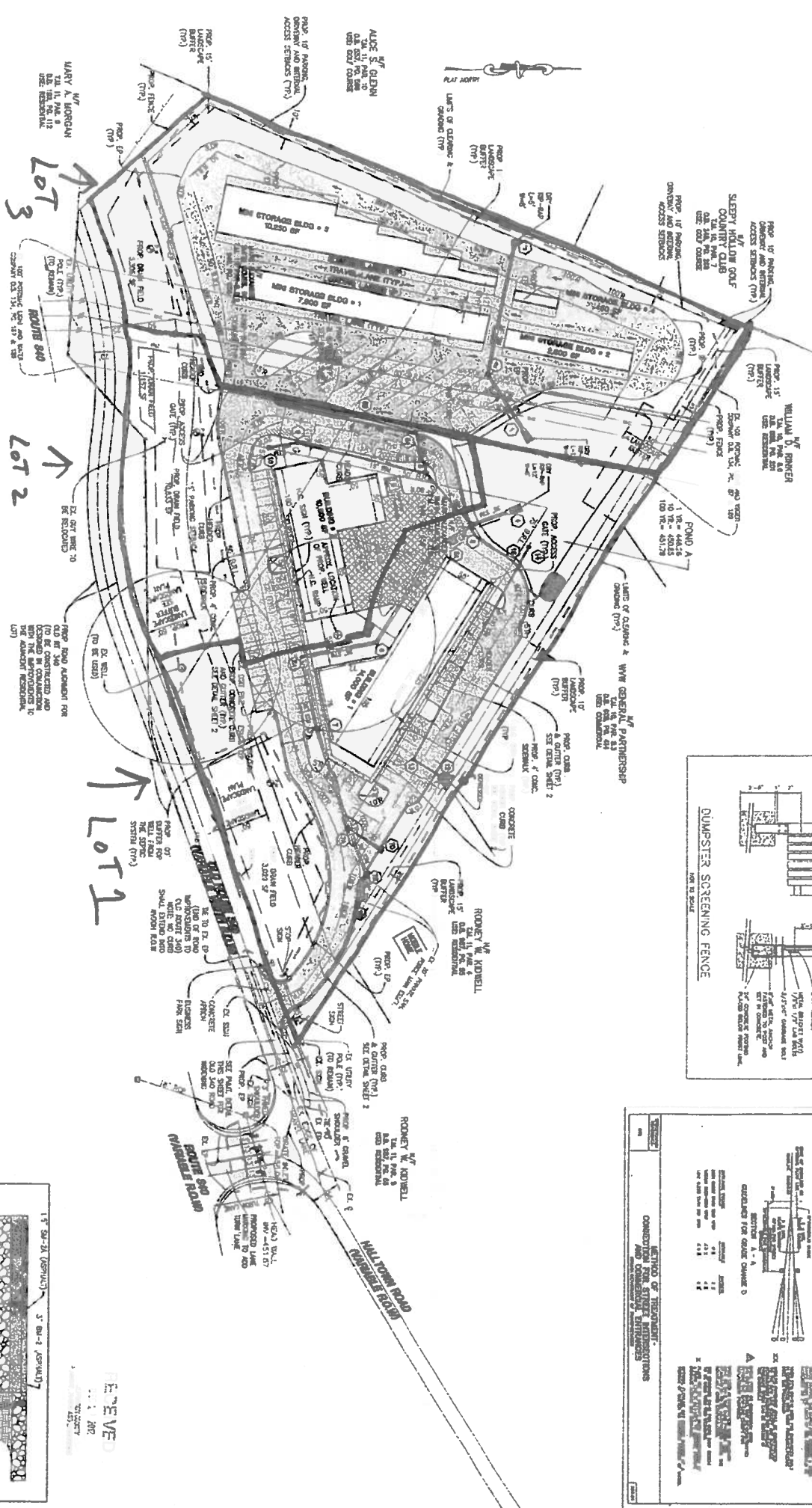
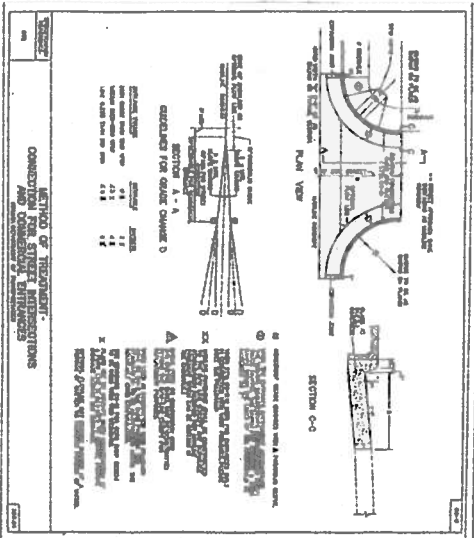
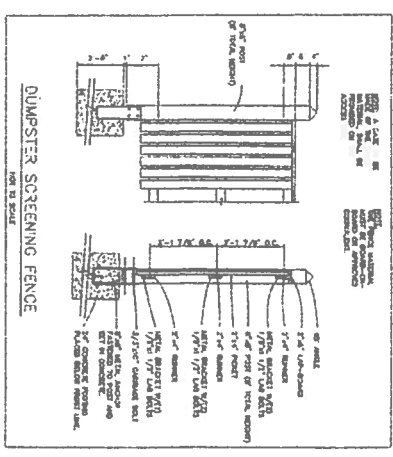
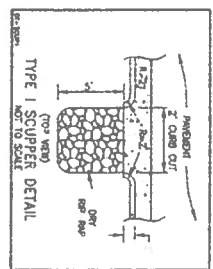
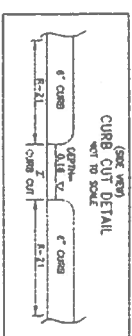
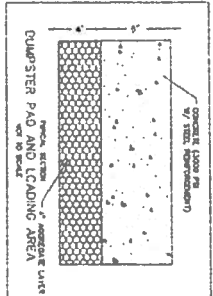
The Planning Commission has already determined that this project, as designed, is a reasonable use of the land. Since nothing will change on the property, the same uses will continue to be a good and reasonable use of the land. The granting of the variances, however, will allow the project to be completed in a more timely fashion.

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

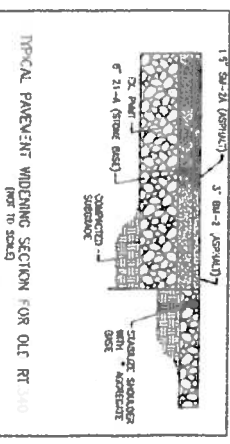
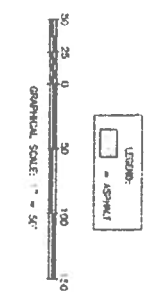
The entire intent of the Zoning Ordinance and Subdivision Ordinance remains intact if the Bank is permitted to sell the project into the three individual phases that were approved. All of the standards of the ordinance have been met in the Preliminary Plat and Site Plan. No variances are being requested on the standards of the Subdivision Ordinance. The public had an opportunity to comment on the Community Impact Statement and will have an additional opportunity to comment on the division if the Planning Commission allows a Final Plat to be submitted. Again, nothing from a design standpoint will change from what is already approved.

The variances requested are for items that typically would protect one property owner from building something that would negatively affect a neighboring property. In this case, the development is a master planned business center that all potential owners will understand was designed to function together. All owners will also have to agree to a common interest agreement for maintenance and ownership before they purchase one of the properties. As such, they will have advance knowledge of how the development was approved.

Substantial justice would be to approve the requested variances, so that BCT can separate the three approved phases of this project. This would allow the project to continue in an economically feasible manner and would create a viable business center for Jefferson County.



Change LOT lines added by Applicant, BCT.
 X Plan B. H. Gordon, E.P.D.



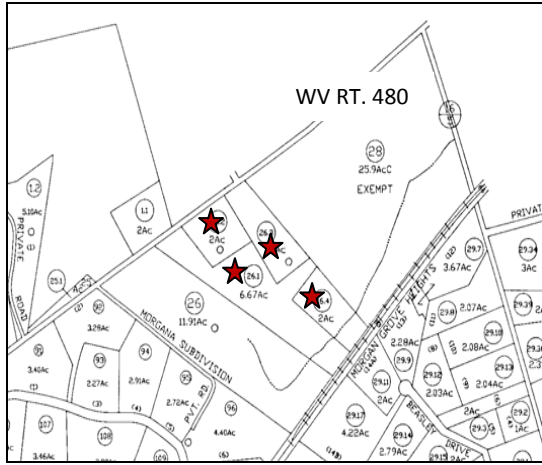
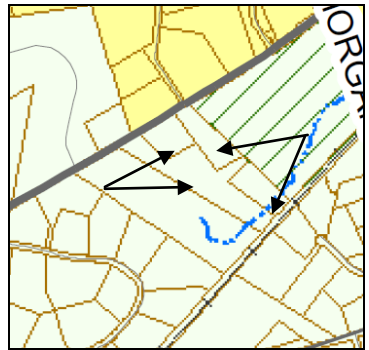
| | | | |
|--------------|-------------|-------------|--|
| DATE | 2/11/2010 | | WHA ENGINEERS SURVEYORS - LAND PLANNERS LANDSCAPE ARCHITECTS William H. Gordon Associates, Inc. 522 West Washington Street, Suite 4 Charles Town, West Virginia 25414 (304) 726-6462 FAX (304) 726-0117 |
| SCALE | AS SHOWN | | |
| PROJECT | SITE LAYOUT | DATE | APRIL 2005 |
| OWNER | PP | DESIGNER | PP |
| CONTRACT NO. | 31-00-04706 | PROJECT NO. | ESS |
| SHEET NO. | 3 OF 10 | REVISIONS | 04/11/05: STORM & BUILDING 08/22/05: REVISED PER COUNTY COMMENTS 11/30/05: REVISED PER COUNTY COMMENTS |

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 January 17, 2013

Twin Oaks Subdivision, LLC (ZV12-35)

Item #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 references located in the following sections:

- i. Section 4.11(A) - Reduce required landscape buffer along side and rear yards from 10’ to 0’
- ii. Section 5.6(D) - Reduce the following yard requirements for an approved commercial use:
 - 1. Front yard building setbacks: Reduce from 25’ to 0’
 - 2. Side yard building setbacks: Reduce from 50’ to 0’
 - 3. Rear yard building setbacks: Reduce from 50’ to 0’
 - 4. Parking, Driveway and Internal Access Drive Front Setbacks: Reduce from 15’ to 0’
 - 5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks: Reduce from 10’ to 0’

| | |
|--------------------|---|
| APPLICANT: | Peter Corum and Fred Blackmer with FB Solutions |
| OWNER: | Twin Oaks Subdivision, LLC |
| DEVELOPER: | Same as above |
| SURVEYOR/ENGINEER: | Dirk Stansbury |
| PROPERTY LOCATION: | 3988 Kearneysville Pike (Rt. 480), Shepherdstown, WV Adjacent to Morgan’s Grove Park |
| LEGAL DESCRIPTION: | District: Shepherdstown; Map: 13; Parcel(s): 26.1, 26.2, 26.3 and 26.4  |
| ZONING DISTRICT: | Zoning Map Designation: Rural (R)  |

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 January 17, 2013

Twin Oaks Subdivision, LLC (ZV12-35)

| | |
|---|--|
| SURROUNDING PROPERTIES: | Zoning Map Designation: <i>North:</i> RG <i>South:</i> R <i>East:</i> R [Public/Quasi-Public] <i>West:</i> R |
| LOT AREA: | Total Site Area: 13.69 acres |
| SITE PLAN <i>PC FILE #S12-06</i> | Submitted: 12/12/12 (currently under review) |
| CONCEPT PLAN <i>PC FILE #S12-06</i> | PC Approved: 12-11-12 |
| CONDITIONAL USE PERMIT <i>BZA File #CP12-01</i> | Submitted: 1/27/12 Approved: 4/19/12 Signature date: 6/28/12 Expiration date: 12/28/13 |
| ZONING MAP AMENDMENT: <i>PC File # Z11-05</i> | Submitted: 9/22/11 Denied: 12/8/11 |
| FINAL PLAT | Submitted: 8/8/08 Public Hearing and Approval: 10/14/08 <i>Note: Plat was not bonded and recorded and is no longer valid</i> |
| PRELIMINARY PLAT | Submitted: 11/30/07 Staff Review Mtg.: 12/10/07 Approved: 08/06/08 |
| COMMUNITY IMPACT STATEMENT (CIS) <i>PC File #06-33</i> | Submitted: 10/29/06 Staff Review Mtg.: 11/3/06 County Engineer Approval: 03/22/07 County Planner Approval: 03/19/07 PC Approval: 04/24/07 Original expiration date: 11/03/08; Extended to: 02/17/2009; 12/09/09 |
| CONDITIONAL USE PERMIT <i>PC File #Z06-01</i> | Submitted: 02/22/06 Approved: 08/17/06 Expired: 2/17/09 |
| VARIANCE/WAIVER HISTORY | Town Run Commons 02/21/08: BZA approved a 12 month extension (until 02/17/09) for the expiration date of the CUP. 08/26/08: PC granted a 3 month variance for Final Plat approval from 11/03/08 to 02/17/09. 12/09/08: PC granted a 12 month variance from 12/09/08 to 12/09/09 to bond and record Town Run Commons S/D. 12/08/09: Variance requested for 1 year extension to bond and record Town Run Commons S/D. This request could not be heard due to a recusal leaving a lack of a quorum. 01/12/10: PC denied a request for a 1 year extension to bond and record Town Run Commons S/D. |

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 January 17, 2013

Twin Oaks Subdivision, LLC (ZV12-35)

| | |
|---|---|
| | <p>Morgan’s Grove Market 01/08/13: PC Approved a waiver from Section 20.102(B) to allow rough site grading in anticipation of subsequent procedural and document approvals (PCW12-08). 01/08/13: PC Approved a Section 22.208 requesting relief from the road frontage sidewalk conditioned upon a 10’ pedestrian/bike easement being recorded along Rt. 480 (PCW12-09). 01/08/13: PC Approved (with conditions) a waiver Section 24.116(B): relief from subdivision ordinance requesting traffic study (PCW12-10).</p> |
| <p>ZONING CERTIFICATE #ZC11-15</p> | <p>Zoning Certificate issued for: “Market for the sale of farm products and incidental products, including arts and crafts . . . Live music, events, and performances are permitted if secondary to the market. Events may not be a primary attraction or conducted on non-market days.”</p> |

RELEVANT INFORMATION:

1. Overview of Request

The applicant is seeking a variance from the following sections of the Zoning Ordinance:

- Section 4.11(A) – Request to reduce required landscape buffer along side and rear yards from 10’ to 0’
- Section 5.6(D) – Request to reduce the following yard requirements for an approved commercial use:
 1. Front yard building setbacks: Reduce from 25’ to 0’
 2. Side yard building setbacks: Reduce from 50’ to 0’
 3. Rear yard building setbacks: Reduce from 50’ to 0’
 4. Parking, Driveway and Internal Access Drive Front Setbacks: Reduce from 15’ to 0’
 5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks: Reduce from 10’ to 0’

2. Existing Conditions

a. Location

The property is located directly south of Morgan’s Grove Park on Kearneysville Pike (Rt. 480), approximately one mile from the corporate limits of Shepherdstown.

b. Zoning

The subject property lies within the Rural zoning district. Adjacent properties located to the south, west, and east of the subject property are zoned Rural. Adjacent properties located to the north are zoned Residential Growth.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
January 17, 2013

Twin Oaks Subdivision, LLC (ZV12-35)

c. Land Use

The property contains two existing single-family homes. Each house has a separate driveway connecting to Route 480.

The property also contains a concrete building pad and asphalt parking lot adjacent to Route 480. This portion of the property is currently used as the site for Morgan's Grove Market, an open-air farmers' market. The Planning and Zoning Department issued a Zoning Certificate for a "Market for the sale of farm products and incidental products, including arts and crafts... Live music, events, and performances are permitted if secondary to the market."

3. Previous Case History

The Board of Zoning Appeals approved a Conditional Use Permit for this property for "an agricultural based economic empowerment zone" with uses consisting of a food hub, general merchandise (retail), professional-business offices, and community amenities, as described in more detail in the approved Conditional Use Permit #CP12-01. Various other cases associated with this application are listed above.

4. Applicant's Justification of Request

In the application submitted for the variance request, the applicant has provided the following responses to the four criteria for a variance:

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

The application states, "All conditions and standards identified in our Concept Plan submission and final Site Plan approval will be met. This includes but is not limited to ALL public health, safety and welfare regulations identified in federal, state and local regulations. The rights of adjacent property owners or residents will not be affected as this is an internal lot line determination that in no way affects the setback and protective buffer features required by the currently approved Board of Zoning Appeals Conditional Use Permit."

- 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 commercial development property in question was purchased, evaluated and designed as a single commercial development site. (Site: means any tract, lot or parcel of land or combination of tracts, lots or parcels of land, which are in one ownership or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project) as defined in Jefferson County Subdivision Ordinance, pg 168. The current opinion of staff regarding internal lot line setbacks would extinguish a significant portion of the applicant development rights as reviewed and approved by the Board of Zoning Appeals."

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

The application states, "Current configurations of the internal lots that create this approved development plan are in multiple ownerships with a contiguous boundary. This condition is purely a result of the normal corporate and financial arrangements involved in this project. Merging of

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lots or the modification of interior lot lines for the sole purpose of meeting an on-site buffer-setback standard or parking requirement has proven inconsistent with the overall approved project concept and serves no interest intended by ordinance provisions. The current opinion of staff regarding internal lot line setbacks would extinguish a significant portion of the applicant development rights as reviewed and approved by the Board of Zoning Appeals.”

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

The application states, “The Jefferson County Board of Zoning Appeals has determined that this project is in the public interest by virtue of the approval of a Conditional Use Permit. Multiple public hearings have been conducted concerning this project. It is the applicant’s belief that granting of this variance will not have a negative impact on the adjoining property owners or the community. Granting of this variance will have no negative impact on public health, safety or welfare. Granting of this variance will allow the applicant to move forward with the quality project concept approved by the Board of Zoning Appeals. Granting of this variance will observe the intent of county ordinances and substantial justice will be accomplished for both the community and the applicant.”

5. Staff Evaluation of Request

- a. Source of ordinance requirements

Section 5.7B of the Zoning Ordinance establishes that setback and buffer requirements for a commercial use in the Rural District shall be the same as in the Industrial - Commercial District. For a lot with an area of greater than 1.5 acres, these setbacks are 25’ (front), 50’ (side), and 50’ (rear).

The Zoning Ordinance does include a provision to allow a “structure [to] be located on a common side or rear lot line of contiguous property owned by the same entity” (Section 9.4 Setback Modifications). However, this provision is limited only to a single-family dwelling unit or accessory structure. As such, for all other land uses, it is apparent that the intent of the ordinance is to require building separation between contiguous lots, regardless of whether or not the lots are owned by the same entity.

Other than the exception noted above, the ordinance does not state that setbacks and buffers are only applicable to properties under different ownership; nor does it state that developments that cross lot lines are exempt from setbacks and buffers.

On July 21, 2011, the Board approved an internal setback variance for St. James Lutheran Church (#ZV11-18) to reduce a side setback to 5’ to allow for the construction of a 640 sq. ft. addition. (Prior approvals by the Board of Zoning Appeals do not necessarily indicate precedent because of the unique circumstances of each case.)

Also on the agenda for the January 17, 2013 meeting is a request for a variance from requirements for building setbacks, parking and drive aisle setbacks, and landscape buffers for internal lot lines for the development known as the Route 340 Business Park, owned by the Bank of Charles Town.

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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) Parking lot and drive aisle setback requirements: The purpose of these standards is to reduce the impact that a land use might cause to an adjacent property, particularly with regard to the various impacts of parking areas such as noise of engines, car headlights, etc.
- 3) Landscape buffers between commercial uses: The purpose of these requirements is to lessen the mutual impacts between two adjacent commercial uses, including the visual impact of parking

While the applicability of setbacks to individual lots within a multi-lot development may at first glance appear redundant, this requirement serves to protect future lot owners in the event that an individual lot is sold or foreclosed upon in the future.

c. Unique characteristics of property

The subject property is approximately 13.69 acres in size, including the combined area of all lots. Lot 26.4 (approximately 2 acres) will not be developed as part of this project, and will remain in single-family use. A power line easement intersects the property, and the rear of the property includes area within the 100-year floodplain.

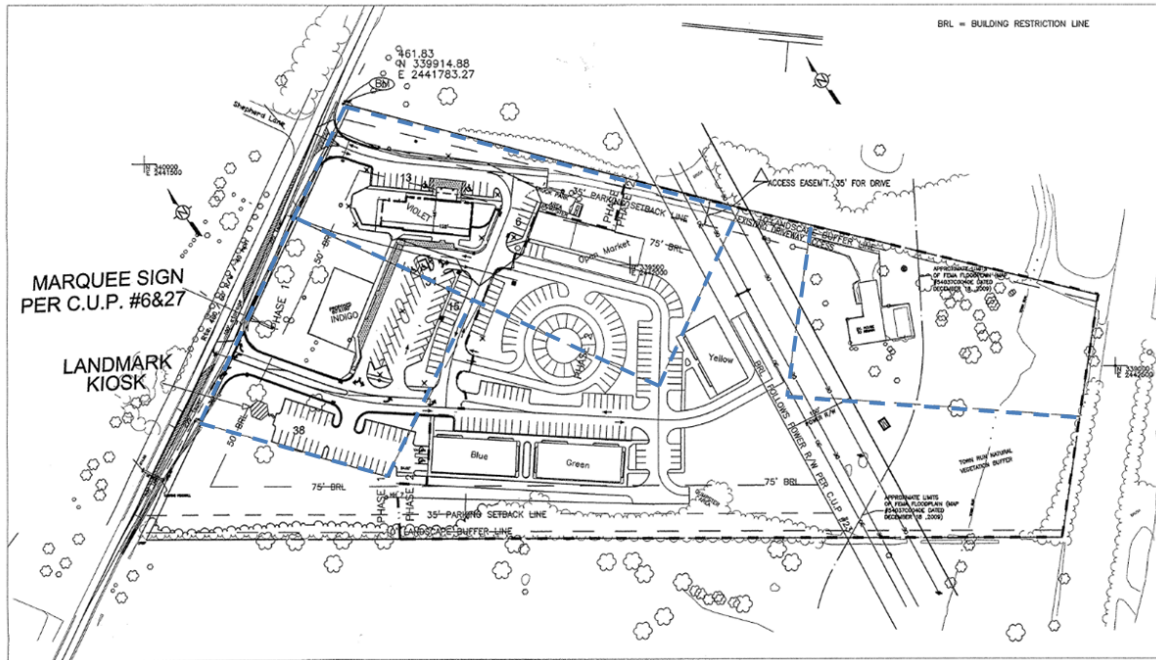
A condition of the approved Conditional Use Permit restricts the development of these lots to the area west of a power line that crosses the property. Staff estimates that the net developable area of the lots, exclusive of the floodplain area and electric utility easement, to be approximately 9 acres. This is not an unusual development area for a commercial lot.

It could be contended that a unique characteristic of the property is that it is composed of four separate lots, three of which would be the site of the proposed Morgan's Grove Market development.



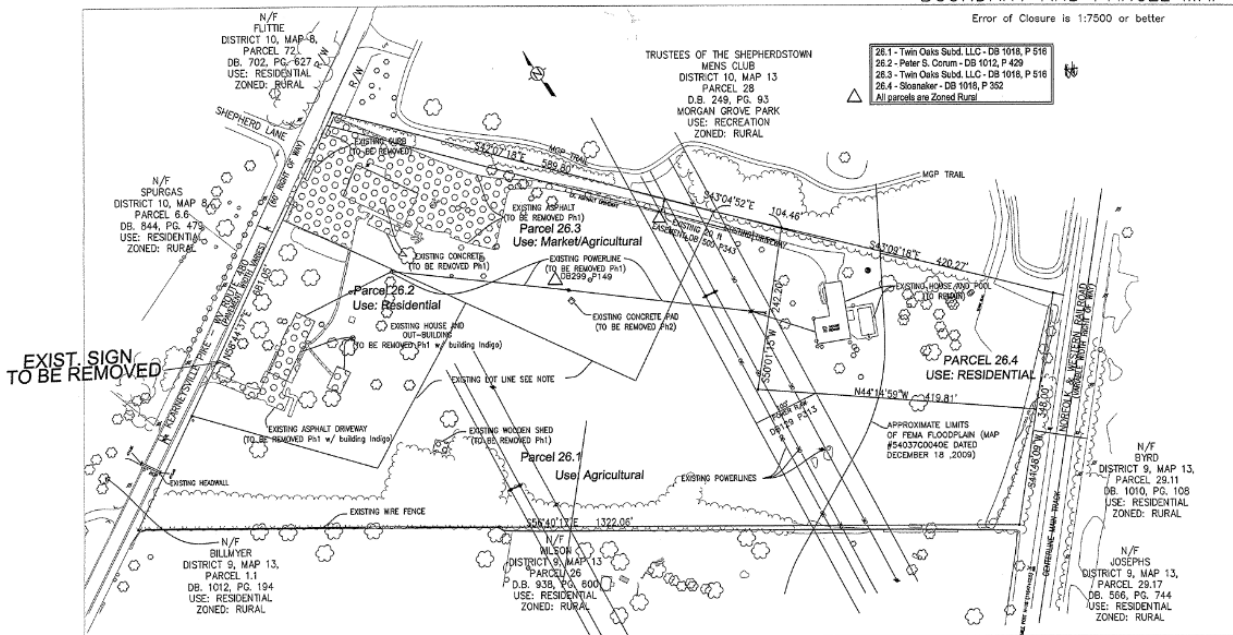
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 Jefferson County Board of Zoning Appeals Meeting
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Twin Oaks Subdivision, LLC (ZV12-35)



Above: General configuration of proposed lot lines.
 Below: Lot lines with existing improvements.

Source: Morgan's Grove Market site plan 2nd review print (highlighting by staff)



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d. Character of area

The property is surrounded on the west, north, and south by single-family residential uses on parcels of varying size, between 2 acres and 13 acres. Morgan's Grove Park, which is listed on the National Register of Historic Places, is located to the east of the subject property.

e. Impact on adjacent properties

Staff finds that the variance, if granted, would have no greater impact on adjacent properties than would the proposed development if built without the internal lot line variances.

f. Feasibility of complying with the ordinance by other means

The variance request would not be necessary were the applicant to merge lots 26.1, 26.2, and 26.3 into a single lot, thereby eliminating the existing interior lot lines. Merging lots is a typical step in a development project involving multiple lots. However, the applicant's preference is to not merge the lots. The application states:

“Current configurations of the internal lots that create this approved development plan are in multiple ownerships with a contiguous boundary. This condition is purely a result of the normal corporate and financial arrangements involved in this project. Merging of lots or the modification of interior lot lines for the sole purpose of meeting an on-site buffer-setback standard or parking requirement has proven inconsistent with the overall approved project concept and serves no interest intended by ordinance provisions.”

It appears possible for the site plan to be amended to meet setback and buffer requirements. However, such a reconfiguration could pose site layout challenges and make inefficient use of the lot area. Implementation of the setback requirements could lead to a site configuration that is less than ideal from a design standpoint, with awkward separation between parking areas and buildings resulting in a less coherent development.

Application of the drive aisle setback standards would preclude driveway connections between the lots. Rather, each lot would require individual access from Route 480.

It should also be noted that the approved Conditional Use Permit application reflects shows a single, integrated development. Were the development to instead be composed of multiple, disconnected commercial lots, each with an individual road access, it could be found to be inconsistent with the sketch plan submitted with the Conditional Use Permit application.

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6. Possible Conditions of Approval

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

- a. The variance is limited to approved development applications 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.

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

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

- A. ...All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.⁵

Table 4.11 – 1 Setbacks, Buffers and Distance Requirements for Non-Residential Uses²³

| ADJACENT USE \ PROPOSED USE | BUILDING SETBACKS | | PARKING & ACCESS DRIVE SETBACKS | | BUFFERS UNSCREENED/SCREENED | | | | DISTANCE REQUIREMENTS | | | | |
|-----------------------------|---------------------------|----------------|---------------------------------|------------|-----------------------------|--|------------|------------|-----------------------|--|------------|------------|---------------------------------------|
| | Any Use Except Industrial | Industrial Use | Any Use Except Industrial | Industrial | Residential Zone | Lot with a Residential Use Church/School/ Institution for Human Care | Commercial | Industrial | Residential Zone | Lot with a Residential Use Church/School/ Institution for Human Care | Commercial | Industrial | Structure of Lot on Historic Registry |
| FRONT | Comm'l Lot <=1.5 ac. | 25 | 25 | 15 | 15 | 50/15 | | N/A | N/A | 75 | | N/A | 75 |
| | Comm'l Lot > 1.5 ac. | 25 | 25 | 15 | 15 | 50/15 | | N/A | N/A | 75 | | N/A | 75 |
| | Industrial | 50 | 25 | 25 | 25 | 200 | | 25 | N/A | 200 | | N/A | 200 |
| | Church | 25 | 25 | 15 | 15 | 50/15 | | N/A | N/A | N/A | | N/A | N/A |
| | Multi-family | 25 | 25 | 15 | 15 | N/A | N/A/15 | N/A | N/A | N/A | | N/A | N/A |
| SIDE | Comm'l Lot <=1.5 | 25 | 25 | 4 | 4 | 50/15 | | 10 | 10 | 75 | | N/A | 75 |
| | Comm'l Lot > 1.5 ac. | 50 | 25 | 10 | 10 | 50/15 | | 10 | 10 | 75 | | N/A | 75 |
| | Industrial | 50 | 25 | 25 | 20 | 200 | | 20 | 20 | 200 | | N/A | 200 |
| | Church | 50 | 50 | 10 | 10 | 50/15 | | 10 | 10 | N/A | | N/A | N/A |
| | Multi-family | 12 | 12 | 12 | 12 | N/A | N/A/12 | N/A | N/A | N/A | | N/A | N/A |
| REAR | Comm'l Lot <=1.5 | 25 | 25 | 4 | 4 | 50/15 | | 10 | 10 | 75 | | N/A | 75 |
| | Comm'l Lot > 1.5 ac. | 50 | 25 | 10 | 10 | 50/15 | | 10 | 10 | 75 | | N/A | 75 |
| | Industrial | 50 | 25 | 25 | 20 | 200 | | 20 | 20 | 200 | | N/A | 200 |
| | Church | 50 | 50 | 10 | 10 | 50/15 | | 10 | 10 | N/A | | N/A | N/A |
| | Multi-family | 30 | 30 | 15 | 15 | N/A | N/A/15 | N/A | N/A | N/A | | N/A | N/A |

Note: When Table 4.11-1 is in conflict with another section of the Zoning & Development Review Ordinance, this table shall prevail. See Article 8 of the Zoning and Land Development Ordinance for building setbacks for certain land uses.²³

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January 17, 2013

Twin Oaks Subdivision, LLC (ZV12-35)

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

File Number: ZV12-35
CHECK # 2120
Fees Paid (\$100 or \$150): \$ 100.00
Staff Initials: CLC

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

Email planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Zoning Variance Request

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

Property Owner Information

Property Owner Name: Twin Oaks Subdivision, LLC
Mailing Address: PO Box 536
City: Shepherdstown State: WV Zip Code: 25443
Phone Number: 304 283 2467 Email: petercorum@gmail.com

Applicant or Contact Information

Applicant / Contact Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Phone Number: _____ Email: _____

Applicant Representatives

Company/Organization Name: FB Solutions
Attorney(s), Engineer(s), or Surveyor(s) Name: Fred Blackmer
Mailing Address: 9628 Moncove Lake Road
City: Gap Mills State: WV Zip Code: 24941
Phone Number: 304 536 3743 Email: fred@fredblackmer.com

Physical Property Details

Physical Property Address: 3988 Kearneysville Pike
Tax District: Shepherdstown Map No: 13 Parcel No: 26.1,2,3,4
Parcel Size: 13.69 acres Deed Book: attached Deed Bk. Pg. No: attached

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

RECEIVED
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: Sections 5.6.D and 4.11

Please briefly describe the nature of the variance request:
Internal lot lines and their setbacks,

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

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

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

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

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] 12/21/12
Signature of Property Owner 1 Date

Signature of Property Owner 2 Date

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

THURSDAY
January 17, 2013
Date of Public Hearing
3:00 pm

January 2, 2013
Advertising Date

January 2, 2013
Placard Posting Date

FB solutions residential construction management and design

9628 Moncove Lake Road Gap Mills, WV 24941 304.536.3743 fred@fredblackmer.com

Addendum to interior lot line variance request: December 26, 2012

This submission is in response to the applicant's meeting with staff on December 21, 2012.

The meeting was held at the applicant's request to address several staff interpretations of the Jefferson County Zoning Ordinance and Subdivision Ordinance. Items of discussion included issues regarding specific actions being required on the Morgan's Grove Market site plan submission involving standards, review and the approval process.

The result was agreement on some issues and a genuine difference of opinion between the applicant and staff on others.

Variance Request: Discussion with staff about their current interpretation of lot lines and internal setbacks resulted in the submission of a Variance Request and payment of fees. It was determined that even though this item might be more appropriately identified as an appeal, the applicant agreed with the staff recommendation to submit the item as a "variance".

On the application that was submitted, the four questions on backside of the application need a clear response. Staff agreed to allow the submission of this addendum in addressing those items. The Board of Zoning Appeals uses responses to those questions to make a decision and/or motion. It is to all parties benefit for the Board of Zoning Appeals to understand reasoning that generated asking for this variance.

Twin Oaks Subdivision, LLC response:

Supplemental information Page 2 of MGM internal lot line Zoning Variance request.

Reference the section of Ordinance pertaining to this request: Section 5.6D, 4.11
(Staff provided the section references on which they rely for their interpretation)

Please briefly describe the nature of the variance request:

Relief from the staff determination that internal lot lines of this approved development site must comply with the sited reference sections.

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:

All conditions and standards identified in our Concept Plan submission and final Site Plan approval will be met. This includes but is not limited to ALL public health, safety and welfare regulations identified in federal, state and local regulations. The rights of adjacent property owners or residents will not be affected as this is an internal lot line

determination that in no way affects the setback and protective buffer features required by the currently approved Board of Zoning Appeals Conditional Use Permit.

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 commercial development property in question was purchased, evaluated and designed as a single commercial development site. (**Site:** means any tract, lot or parcel of land or combination of tracts, lots or parcels of land, which are in one ownership or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project) *as defined in Jefferson County Subdivision Ordinance, pg 168.* The current opinion of staff regarding internal lot line setbacks would extinguish a significant portion of the applicant development rights as reviewed and approved by the Board of Zoning Appeals.

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

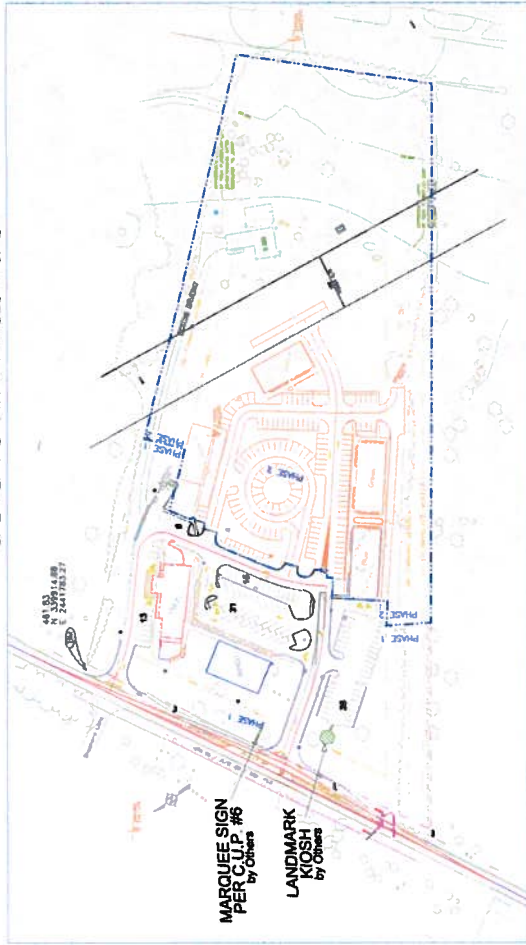
Current configurations of the internal lots that create this approved development plan are in multiple ownerships with a contiguous boundary. This condition is purely a result of the normal corporate and financial arrangements involved in this project. Merging of lots or the modification of interior lot lines for the sole purpose of meeting an on-site buffer-setback standard or parking requirement has proven inconsistent with the overall approved project concept and serves no interest intended by ordinance provisions. The current opinion of staff regarding internal lot line setbacks would extinguish a significant portion of the applicant development rights as reviewed and approved by the Board of Zoning Appeals.

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

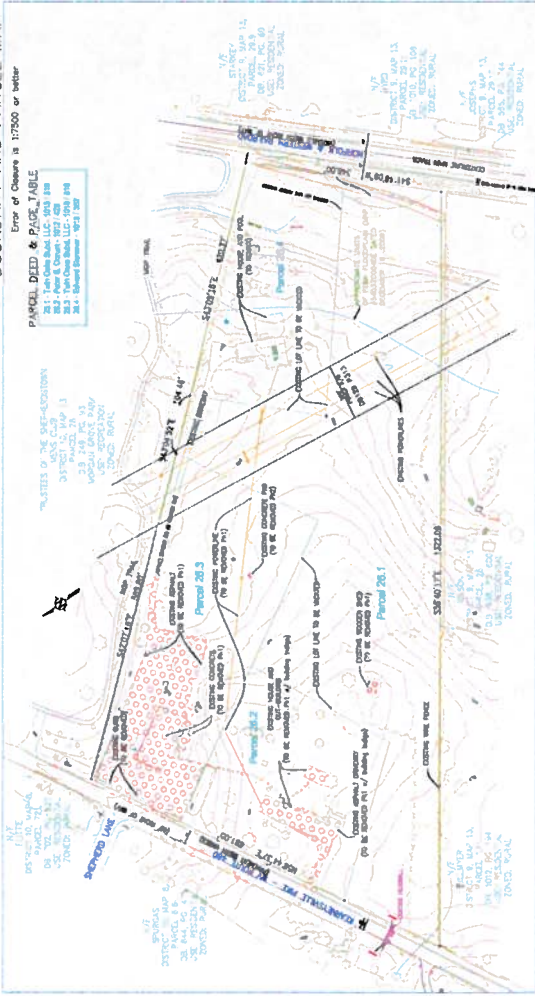
The Jefferson County Board of Zoning Appeals has determined that this project is in the public interest by virtue of the approval of a Conditional Use Permit. Multiple public hearings have been conducted concerning this project. It is the applicant's belief that granting of this variance will not have a negative impact on the adjoining property owners or the community. Granting of this variance will have no negative impact on public health, safety or welfare. Granting of this variance will allow the applicant to move forward with the quality project concept approved by the Board of Zoning Appeals. Granting of this variance will observe the intent of county ordinances and substantial justice will be accomplished for both the community and the applicant.

Fred Blackmer
MGM Clerk of the Works
304.536.3743

SITE PLAN SHOWING PHASES 1 & 2



BOUNDARY AND PARCEL MAP



OWNER / DEVELOPER
TWIN OAKS SUBDIVISION, LLC
 PO Box 638
 Shepherdstown, WV 25443
 304-283-3448

DESIGNER
DASTANBURY-ENGINEERING
 3 SUE COURT SUITE B
 HARRISBURG, WV 25405
 304-671-4788

Map 13, Parcels 26.1, 26.2, 26.3, 26.4
 Shepherdstown Dist., Jefferson County, West Virginia
CONCEPT PLAN
Morgan's Grove Market

VICINITY MAP
 1" = 1 MILE

Owner / Developer
TWIN OAKS SUBDIVISION, LLC
 PO Box 638
 Shepherdstown, WV 25443
 304-283-3448

SITE TABULATIONS

- TOTAL PARCEL LAND AREA = 13.89 ACRES
 TOTAL PHASE 1 AREA = 4.84 ACRES
- AREA OF PHASE 1 PH: 0.24 ACRES OF FORMER BUTTER
- EXISTING IMPROVED AREA = 279 ACRES
 (A) PARKING LOT AND DRIVE = 2.31 ACRES
 (B) NON-IMPROVED AREA = 2.06 ACRES
 (C) NEW BUILD AREA = 0.55 ACRES
 (D) LAWN AND BUFFER SPACE = 1.51 ACRES

TRIP GENERATION & PARKING PH

FOR NORTH ENTRANCE AND BUILDING VIOLET ONLY

SPEDALITY - STRIP COMMERCIAL 407/1000' @ 8000 ft = 210 1/2
 PEAK HOUR AMB 315 = 13 TRIPS, PMB 315 = 28 TRIPS

OFFICE SPACE - 30/1000' @ 3000 ft = 17 1/2
 PEAK HOUR AMB 315 = 7 TRIPS, PMB 315 = 14 TRIPS

SCHOOL SPACE - 25 STUDENTS/2000' @ 287/270 = 23 1/2
 PEAK HOUR AMB 315 = 23 TRIPS, PMB 315 = 14 TRIPS

NORTH DISTANCE TOTALS = 510 ADJ. / AM 315 & PH 70 1
 FOR BUILD-OUT** & BOTH ENTRANCES (MAX MAX 1,000 SPACES)

SPEDALITY - STRIP COMMERCIAL 407/1000' @ 20,000 ft = 20,000
 PEAK HOUR AMB 315 = 13 TRIPS, PMB 315 = 28 TRIPS

OFFICE SPACE - 30/1000' @ 3000 ft = 17 1/2
 PEAK HOUR AMB 315 = 7 TRIPS, PMB 315 = 14 TRIPS

SCHOOL SPACE - 25 STUDENTS/2000' @ 287/270 = 23 1/2
 PEAK HOUR AMB 315 = 23 TRIPS, PMB 315 = 14 TRIPS

TOTAL TRIP GENERATION = 210 1/2 + 20,000 + 17 1/2 + 23 1/2 = 211 1/2
 PEAK HOUR AMB 315 = 30 TRIPS, PMB 315 = 28 TRIPS

REGULATORY TOTALS = 202 ADJ. / ALLIETY & PAL 20 1/2
 ** = 100' = 0.754 LAK(1)185
 ** = 200' = 0.754 LAK(1)185
 ** = 300' = 0.754 LAK(1)185
 ** = 400' = 0.754 LAK(1)185
 ** = 500' = 0.754 LAK(1)185
 ** = 600' = 0.754 LAK(1)185
 ** = 700' = 0.754 LAK(1)185
 ** = 800' = 0.754 LAK(1)185
 ** = 900' = 0.754 LAK(1)185
 ** = 1000' = 0.754 LAK(1)185

PARKING:

- 1) THE VIOLET & BUILT ONLY
 OFFICE - 15/200 FT ASBME 8000 SF = 20 SPACES
 RETAIL SPACE - 8.55/1000 SF ASBME 8000 SF = 49 SPACES
 SCHOOL SPACE - 15/200 FT ASBME 3000 SF = 15 SPACES
 SCHOOL SPACE - 15/200 FT ASBME 3000 SF = 15 SPACES
 TOTAL NEEDED = 101 SPACES
 TOTAL PROVIDED = 103 SPACES
 2) LARGE TRUCKS ARE NOT IN THE EXPECTED TRAFFIC AT THIS SITE.
 3) PARKING DRIVE GREEN SPACE: PROVIDED 9600 SF
 4) DRIVE - 10800 SF
 5) GREEN - 1200 SF

WATER AND WASTE ESTIMATE:

- 1) WATER USED: 70 G/1000' X 8000 SF = 5600 GPD.
- 2) WASTEWATER PRODUCED: 15 G/1000' X 18000 SF = 2700 GPD.

CP-1