

Jefferson County  
Board of  
Zoning Appeals

Thursday,  
April 21, 2011



**JEFFERSON COUNTY, WEST VIRGINIA  
DEPARTMENT OF ZONING  
P.O. Box 338  
116 East Washington Street; 2<sup>nd</sup> Floor  
Charles Town, West Virginia 25414  
Phone: 304-728-3228  
Fax: 304-728-8126**

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**MEMORANDUM**

**TO: JEFFERSON COUNTY BOARD OF ZONING APPEALS**

**FROM: JENNILEE HARTMAN, ZONING CLERK**

**DATE: APRIL 15, 2011**

**SUBJECT: APRIL 21, 2011 BOARD of ZONING APPEALS MEETING**

Please find enclosed a copy of the Advanced Agenda for the upcoming Board of Zoning Appeals meeting to be held on Thursday, April 21, 2011. 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 an upcoming meeting, please do not hesitate to contact me.

:jh

C:\MyDocuments \ Preparation for BZA \ MONTHLY NOTICE-BZA



**JEFFERSON COUNTY, WEST VIRGINIA**

**Department of Zoning**

116 East Washington Street  
P.O. Box 338  
Charles Town, West Virginia 25414

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

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MEMORANDUM

TO: Board of Zoning Appeals Members

CC: Engineering & Building Permits Departments  
Capital Planning & Management Department

FROM: Steve Barney, Zoning Administrator

DATE: April 15, 2011

SUBJECT: April Monthly Report of Department Activities

**Issued Zoning Certificates**

#ZC11-10 RECREATIONAL ADVENTURES CAMPGROUND, LLC

*Issue Date:* March 21, 2011  
*Proposed Use:* Change in Use from a Museum to Coffee Shop & Wine Store  
*Physical Location:* 343 Campground Road; Harpers Ferry, West Virginia  
Zone: Rural

**Pending Zoning Certificates**

#ZC11-09 JOY BRIDY

*Issue Date:* Denied  
*Proposed Use:* Cottage Industry – Pottery Business  
*Physical Location:* 2533 Warm Springs Road; Shenandoah Junction, West Virginia  
Zone: Rural

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#ZC11-11 ERIC and ANNA SOKEL

*Issue Date:* TBD  
*Proposed Use:* Food Stand – Seasonal Use: May-October  
*Physical Location:* 164 Alstadts Hill Road; Harpers Ferry, West Virginia  
Zone: Residential-Light Industrial-Commercial

## Pending Zoning Certificates

#ZC11-12 RICHARD BURACKER

*Issue Date:* TBD  
*Proposed Use:* Lawn & Garden Equipment Repair Business  
*Physical Location:* 967 Gardners Lane; Shepherdstown, West Virginia  
Zone: Rural

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#ZC11-13 KNR INVESTMENTS, LLC /  
KAY SMOKER, MANAGWER

*Issue Date:* TBD  
*Proposed Use:* Change in Non-Conforming Use of former Millville  
Post Office into a two-unit residence.  
*Physical Location:* 481 Millville, West Virginia  
Zone: Rural Industrial-Commercial  
BZA MEETING DATE: May 19, 2011

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#ZC11-14 DOVE, LLC  
CHRISTINA LANTZ

*Issue Date:* TBD  
*Proposed Use:* Transfer / Continued operation of established Business  
consisting of Restaurant/Bar, Game Room and  
Convenience Store. Patron capacity 45 count.  
*Physical Location:* 20605 Charles Town Road; Harpers Ferry, West Virginia.  
Zone: Rural Rural

## Submitted Information / Re: Conditional Use Permit

#Z11-01 RIPPON BREWING, LLC / RUSTY MORGAN

*Physical Location:* Rippon, West Virginia  
District: Kabletown; Map 104; Parcel: 24  
*Zone:* Village  
*Proposed Use:* Micro-Brewery w/ Tasting Room. Future Pub/Restaurant,  
Store, Country Inn and Office.  
BZA MEETING DATE: April 21, 2011

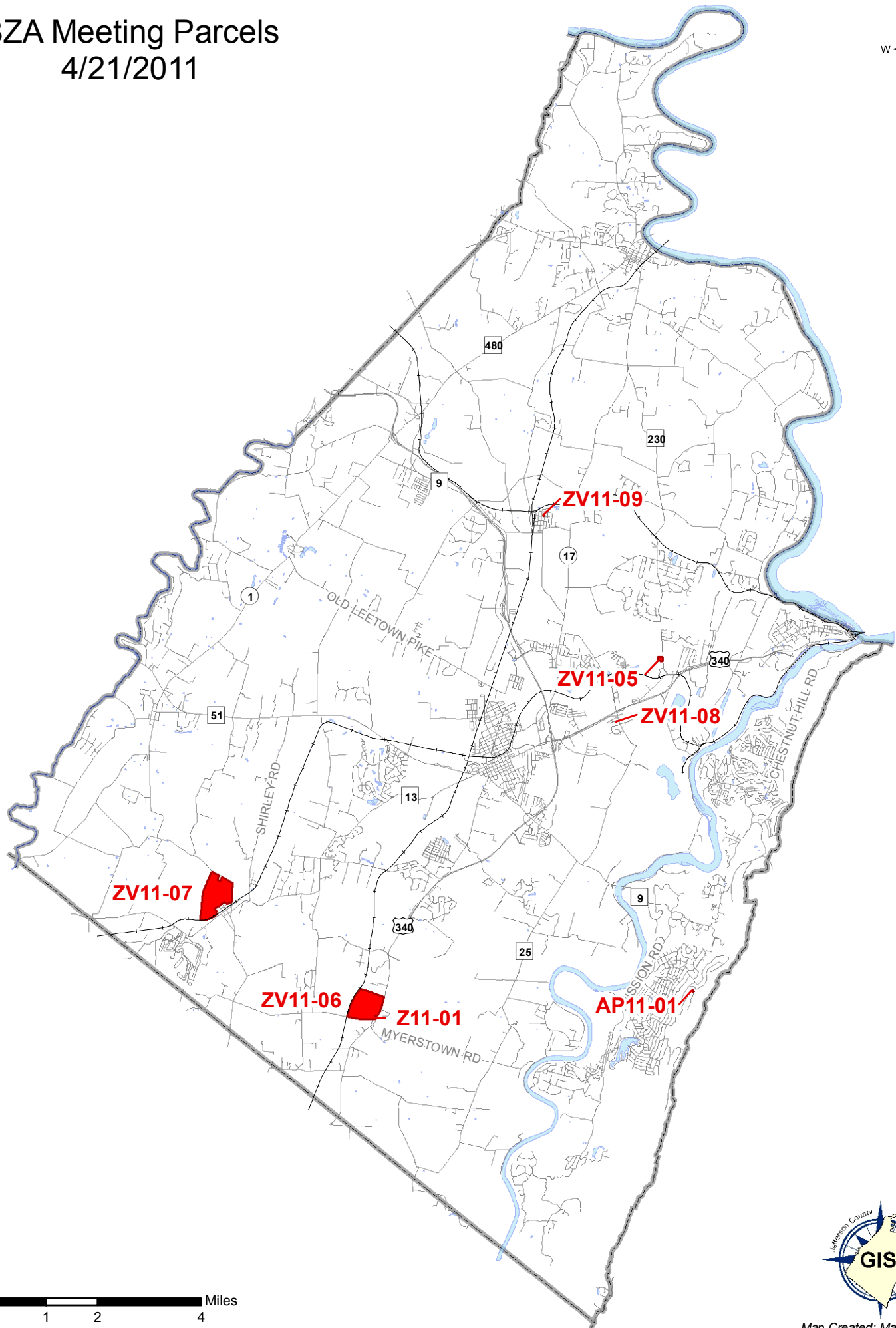
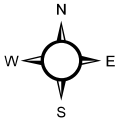
**Agenda**  
**Jefferson County Board of Zoning Appeals**  
**Thursday, April 21, 2011, 3:00 p.m.**

1. Approval of the Minutes from the March 17, 2011 meeting.
2. Public hearing and action on the Conditional Use Permit application submitted by A.M.S. Morgan III on behalf of Rippon Brewery, LLC as a result of the Compatibility Assessment meeting held on February 25, 2011. This project is to consist of a micro-brewery with a tasting room, a future pub/restaurant, a store, a country inn and an office to be situated on 2 acres. The property is located at the intersection of Route 340 and Withers Larue Road in Rippon, West Virginia. (District: Kabletown; Map: 10A; Parcel 24; Size: 2 acres; Zoned: Village; File: Z11-01)
3. Variance request by property owner, A.M.S. Morgan III on behalf of Rippon Brewery, LLC, from Sections 4.16, 5.6(d) and 5.7(b) to reduce the front setback to 8' for a proposed addition to an existing structure for a commercial use. The property is located at the intersection of Route 340 and Withers Larue Road in Rippon, West Virginia. (District: Kabletown; Map: 12; Parcel: 17; Size: 194.39; Zoned: Rural; File:ZV11-06)
4. Variance request by property owner, Victory Freewill Baptist Church, from Section 10.2(i) to allow for an animated sign. The property is located at 76 Amanda Court in Halltown, West Virginia, 25423. (District: Harpers Ferry; Map: 10; Parcel: 11.18; Size: 5 acres; Zoned: Residential-Light Industrial-Commercial; File: ZV11-05)
5. Appeal of an Administrative Decision of Zoning Certificate (ZC11-04) by Michelle Krassowski on behalf of Miss. Booger's Pet Services & Supplies. The Zoning Certificate, approved on February 16, 2011, restricts the pet sitting/doggie daycare to a total of 8 dogs. The appeal is to request that the applicant be permitted to increase the number of dogs. The property is located at 31 Black Bear Trail in Harpers Ferry, West Virginia. (District: Charles Town; Map: 23G; Parcel: 7; Size: 20,000<sup>+</sup> sq. ft.; Zoned: Rural; File: AP11-01)
6. Variance request by property owner, Hawthorn Associates, LLC, c/o Harry F. Byrd III, from Section 5.7(a)17 to increase number of the permitted receptions from 4 to 30 and to increase the permitted tents from 1 to 2 per reception. The property is located at 9 Hawthorn Avenue in Summit Point, West Virginia. (District: Kabletown; Map: 16; Parcel: 13; Size: 230.7 acres; Zoned: Rural; File: ZV11-07)
7. Variance request by property owner, Brian and Ashlee Muniz, from Section 5.4(b) to reduce the rear setback from 20' to 14' for a proposed deck and stairs. The property is located in the Windmill Crossing Subdivision at 53 Don Quixote Drive in Charles Town, West Virginia. (District: Charles Town; Map: 9C; Parcel: 139; Size: .0459 acres; Zoned: Residential-Light Industrial-Commercial; File: ZV11-08)

8. Variance request by property owner, Grace Baptist Church, from Section 4.16 to reduce the front parking setback from 15' to 0' from the alley Parrish Way. The property is located at 321 Potomac Street in Shenandoah Junction, West Virginia. (District: Charles Town; Map:1A; Parcel: 66; Size: .289 acres; Zoned: Village; File: ZV11-09)
9. Monthly Address by Director Jennifer M. Brockman.
10. Legal Update.
11. Vote on written decisions from prior Board of Zoning Appeals meetings.
12. Correspondence.

# BZA Meeting Parcels

4/21/2011





**Draft Minutes**  
Jefferson County Board of Zoning Appeals  
Thursday, March 17, 2011

The Jefferson County Board of Zoning Appeals met on Thursday, March 17, 2011 at 3:00 pm. The meeting was held in the upper level Conference Room of the Departments of Planning & Zoning. Board members Jeff Bresee, Chairman, Christy Huddle, Vice Chairman, Ed Kelly, Jon Brusco and Tyler Quynn, Alternate, were present. Staff members present were: Jennifer Brockman, Director; Steve Barney, Zoning Administrator; Stephen Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

Board member Tiffany Hine was absent with notification.

Ms. Huddle motioned to commence the meeting. Mr. Quynn seconded the motion, which carried unanimously. Mr. Bresee called the meeting to order at 3:02 p.m.

1. Approval of Minutes from the January 20, 2011 meeting.

Ms. Huddle motioned to approve the minutes. Mr. Brusco seconded the motion.

Mr. Quynn requested the following amendments:

- (a) Page 1, change minutes to reflect that Tyler Quynn was absent with notification.
- (b) Page 1, third paragraph, change minutes to reflect *Mr. Brusco* motioned to commence the meeting and *Ms. Huddle* seconded the motion.

Ms. Huddle requested the following amendments:

- (a) Page 2, Item #5, second paragraph; remove the word, "*are.*"
- (b) Page 3, Item #5, remove the period after the word Virginia.

Mr. Brusco motioned to approve the minutes as amended. Mr. Kelly seconded the motion, which carried unanimously.

Christine Chalmers, Office Assistant, swore in individuals who indicated they would be giving testimony.

2. Variance request by property owner, David Kidwell Jr. from Section 5.7(b) and 9.6(b) to allow for a lot line adjustment that would not meet minimum lot size requirements and to allow for a reduced rear setback from 21' to 14' for an existing shed. The property is located on at 953 Jefferson Orchard Road in Kearneysville, West Virginia. (District: Middleway; Map: 11; Parcel: 26.4; Size: 1 acre; Zoned: Rural; File: #ZV11-03)

Mr. Kidwell, applicant, was present to address the Board. Mr. Kidwell explained that as a result of the proposed lot line adjustment the septic area for the mobile home park would be located on the same parcel as the park. The remaining property would include the house, its existing septic system and a shed. Adjusting the lot line would create a setback issue for the shed that was built in the 1970s. The size of parcel 26.4 would be reduced from 43,547 square feet to approximately 31,087 square feet. The minimum lot size in the Rural district is 40,000 square feet. Mr. Bresee called for public comment. There was no public comment.

3. Variance request by property owners, Frank and Kathi Katzenberger from Section 5.4(b) to reduce the side setback from 12' to 4' for a proposed 10' x 16' shed. The property is located at 43 General Anderson Court in Harpers Ferry, West Virginia. (District: Harpers Ferry; Map: 5D; Parcel: 61; Size: 3/4 acres; Zoned: Residential Growth; File: #ZV11-04)

Ms. Katzenberger, applicant, was present to address the Board. Ms. Katzenberger explained that the septic reserve is located in the rear and there is a hillside on the opposite side of the property. Additionally, if the shed were to abide by the 12' setback, the owners would not be able to drive their truck behind the house for maintenance without crossing over the existing septic field. Mr. Bresee called for public comment. There was no public comment.

4. Item has been rescheduled for April 21, 2011. Board of Zoning Appeals action on the Conditional Use Permit application submitted by Rusty Morgan on behalf of Rippon Brewery, LLC as a result of the Compatibility Assessment meeting held on February 25, 2011. This project is to consist of a micro-brewery with a tasting room, a future pub/restaurant, a store, a country inn and an office to be situated on 2 acres. The property is located at the intersection of Route 340 and Withers Larue Road in the Kabletown District on Map 10A designated as Parcel 24.

Mr. Bresee announced this item was rescheduled until April 21, 2011.

Ms. Huddle motioned to go into deliberative session at 3:18 p.m. Mr. Brusco seconded the motion, which carried unanimously.

Mr. Kelly motioned to come out of deliberative session at 3:20 p.m. Mr. Brusco seconded the motion, which carried unanimously.

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

2. Variance request by property owner, David Kidwell Jr. from Section 5.7(b) and 9.6(b) to allow for a lot line adjustment that would not meet minimum lot size requirements and to allow for a reduced rear setback from 21' to 14' for an existing shed.

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

3. Variance request by property owner, Frank and Kathi Katzenberger from Section 5.4(b) to reduce the side setback from 12' to 4' for a proposed 10' x 16' shed. Mr. Kelly motioned to approve the above referenced request.

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

4. Item has been rescheduled for April 21, 2011. Board of Zoning Appeals action on the Conditional Use Permit application submitted by Rusty Morgan on behalf of Rippon Brewery, LLC as a result of the Compatibility Assessment meeting held on February 25, 2011.

This item was rescheduled for April 21, 2011.

5. Discussion on existing animated signs. Mr. Barney notified the Board that Victory Freewill Baptist Church had submitted a variance for their animated sign to be heard on April 21, 2011. Mr. Barney informed the Board that the Cliffside/Quality Inn electronic sign did not have any conditions of approval as part of the issuance of the building permit. This is due, in part, to the application being submitted during the brief period of time in which the now rescinded zoning ordinance was in effect.

The Board discussed the possibility of proposing an amendment that would limit the brightness of existing and new signs provided it would be at no cost to the business.

Mr. Brusco stated the Victory Church's sign is still on and sometimes appears to be broken. It was the Board's understanding that the sign was to cease operations until the violation was addressed.

The Board also discussed the brightness of the existing sign at Asbury United Methodist Church. Mr. Barney stated that he and Mr. Carter would go on a site visit to check the sign's settings.

6. Monthly Address by Director Jennifer M. Brockman. Ms. Brockman informed the Board of the following:
  - a. The status of the policy neutral text amendments to the zoning ordinance.
  - b. The Roundtable Discussion held on March 1, 2011, regarding Article 4A of the zoning ordinance.
  - c. The 340 Corridor Kick-Off meeting is to be held on March 26, 2011.
  - d. Applicants for the Paynes Ford Subdivision have submitted a concept plan which has been reviewed by the Planning Commission.
7. Legal Update. None.
8. Vote on written decisions from prior Board of Zoning Appeals meetings. None.
9. Correspondence. None.

Ms. Huddle motioned to adjourn the meeting at 4:10 p.m. Mr. Brusco seconded the motion, which carried unanimously.


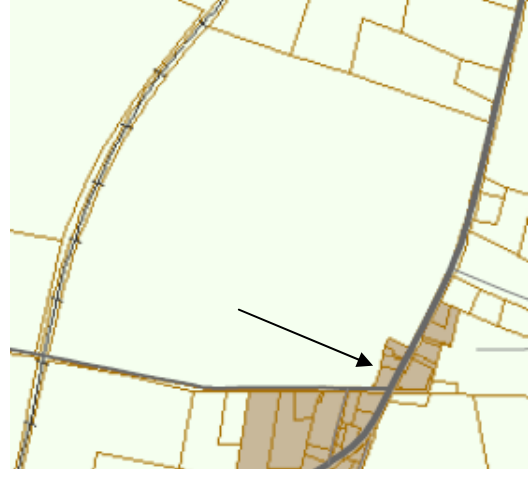
An audio transcript of this meeting can be found at the Department of Zoning and on our website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org). These minutes were prepared by Jennilee Hartman, Zoning Clerk.



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Rippon Brewery, LLC (#Z11-01)**

Item #2 Public hearing and action on the Conditional Use Permit application submitted by Rusty Morgan on behalf of Rippon Brewery, LLC as a result of the Compatibility Assessment meeting held on February 25, 2011. This project is to consist of a micro-brewery with a tasting room, a future pub/restaurant, a store, a country inn and an office.

APPLICANT:	Rusty Morgan
OWNER :	Same as above
DEVELOPER:	Rippon Brewery, LLC
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	Intersection of Route 340 & Withers Larue Rd, Rippon, WV
LEGAL DESCRIPTION:	District: Kabletown; Map: 10A; Parcel 24 
ZONING DISTRICT:	Zoning Map Designation: Village and Rural 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North: Rural/ Village South: Rural/Village</i> <i>East: Village West: Rural</i>
LOT AREA:	2 acres
PRIOR CASES:	None
VARIANCE(S):	ZV11-06: Request to reduce the front yard setback to 8' (pending)
APPROVED ACTIVITY:	Village and Agricultural uses

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Rippon Brewery, LLC (#Z11-01)**

RELEVANT INFORMATION:

1. Overview

The Applicant seeks to establish a micro-brewery with a tasting room, a future pub/restaurant, a store, a country inn and an office on approximately 2 acres of property located at the intersection of Withers Larue Road and US 340 in Rippon, WV. The Applicant's stated intention is to grow barley on adjacent agricultural land, convert the barley to malt in a barn, and to utilize the former mill building (with a proposed building addition of approximately 5,000 square feet) to brew beer.

The application provides the following details:

- Approximately 75% of beer produced would be sold for offsite consumption
- Beer production is proposed to begin at 2,000 barrels per year and to not exceed 7,500 barrel per year (31 gallons per barrel)
- Visitors would have the opportunity to tour the brewery, the malting facility, and the farm
- The brewery would operate six days per week and would be open to the public from 10:00 AM to 5:00 PM.
- The brewery would employ up to five persons.
- The facility would ship and receive goods by truck once or twice per week.
- The main house on the property, with 5,000 square feet of interior space, would serve as the location for the restaurant/pub, retail store, and country inn.
- The pub and retail store would employ up to five persons, and would utilize approximately 1/3 of the interior space in the house.
- The country inn land use would have up to 7 bedrooms for rent, and is anticipated to begin operation within the next 2 to 5 years.
- Visiting traffic to the brewery (including tourism/shipping/receiving) during the week is expected to be between 5-10 trips per day, increasing to a few dozen vehicles on weekends.



*View of main house from Withers Larue Road.*



*View of main house from US 340, at intersection with Withers Larue Road.*



*View of mill building from Withers Larue Road.*

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
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**Rippon Brewery, LLC (#Z11-01)**

2. Zoning

The subject property lies within two zoning district. The existing house and mill are located in the Village District, and the proposed addition to the mill would be located in the Rural District. Some of the proposed land uses are permitted in one of these districts, but not both. For example, the land use “Farm brewery and winery” is a principal permitted use in the Rural District by virtue of the inclusion of this use in the definition of Agricultural Use in Section 2.2; however, this use is not permitted in the Village District.

Because the proposed land uses are not permitted in both of these districts, a Conditional Use Permit is required to establish the uses, per Section 4.1 of the Zoning and Land Development Ordinance. As such, the Applicant is required to complete the Development Review System and to attain Board of Zoning Appeals approval of the land uses prior to obtaining a Zoning Certificate. This process is as described in Articles 6 and 7 of the Ordinance, and is outlined below.

3. Comprehensive Plan Compatibility

The Applicant has identified several sections of the Comprehensive Plan that the Applicant believes support the appropriateness of the proposed land use. These sections are outlined in the application submitted.

4. Development Review System Process

The Development Review System (DRS) process begins when an application is submitted. At this time, staff conducts an evaluation of the application in accordance with the standards of Article 6, including the Land Evaluation and Site Assessment (LESA) scoring process. A score of 60 points or fewer advances the application to the Neighborhood Compatibility Meeting (NCM) process. Following this meeting, the application is reviewed by the Board of Zoning Appeals (a public hearing is required if the NCM results in unresolved issues). The BZA may vote on the application during the meeting at which the case is heard, or at a subsequent meeting within 60 days.

The status of the Rippon Brewery CUP application in completing the DRS process is as follows:

Milestone	Date	Status
Application filing	1/14/2011	Application met all submittal requirements of Section 7.4
Staff Evaluation per the Development Review System	1/25/11	Amenities Ass't points = 27 Soils Ass't points = 23.5 Total points = 50.5 (60 or fewer total points advances application to next step)
Neighborhood Compatibility Meeting	2/25/11	Meeting resulted in unresolved issues, thus requiring the Board of Zoning Appeals meeting to be a public hearing
Board of Zoning Appeals Public Hearing	4/21/11	Outcome pending
Board of Zoning Appeals decision on CUP application	Pending. 4/21/11 or within 60 days thereafter.	Outcome pending

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Rippon Brewery, LLC (#Z11-01)**

5. Neighborhood Compatibility Meeting

The Neighborhood Compatibility Meeting for this application took place on February 25, 2011. The meeting followed the format specified in Section 7.6. Several speakers asked questions and expressed concerns regarding the proposed land use, and the Applicant addressed these concerns. Following the end of public testimony, staff summarized the issues raised by attendees, and identified which issues had been resolved at the meeting and which issues remained unresolved. There was consensus among those in attendance regarding the list of issues and the resolution status. The list of issues is as follows:

Issue	Description	Applicant Response	Issue Status
Parking	Parking located along Withers Larue Road would create a hazardous situation.	Applicant agreed that there will be no customer or employee parking on Withers Larue Road. Delivery parking will be permitted. Parking is planned to be located towards the center of the site.	Resolved
Access	Ingress / egress from Withers Larue Road to US 340 is dangerous due to limited visibility and high speeds, especially near the intersection. Customer traffic entering the site will exacerbate this situation.	<p><i>Short term:</i> Access to the brewery will be from Withers Larue. However, the entrance will be located west of the mill building, in order to avoid congestion at the intersection.</p> <p><i>Long term:</i> The applicant will seek to create an additional entrance from US 340, to the north of the property. (An addendum to the application, submitted on April 13, 2011, notes, “we will resist this expense until the need is clearly justified.”)</p>	Resolved
Future alignment of US 340	Would the proposed project impede future expansion of US 340, and would the widening of the road result in the demolition of buildings newly constructed or improved for the proposed land uses?	It is anticipated that US 340 will be realigned to bypass Rippon, although some improvements may be made to the intersection.	Resolved
Water usage	How much groundwater would the brewery consume?	Expected consumption is 3,000 gallons per brewing cycle, once or twice per week. Much of this water is for cleaning equipment, and will be treated and discharged on fields (as described below). As such, most of the water utilized would be returned to the ground. A water storage tank will be used, which can be filled slowly during times of low water demand.	Resolved

Staff Report  
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April 21, 2011

**Rippon Brewery, LLC (#Z11-01)**

Issue	Description	Applicant Response	Issue Status
Brewery wastewater discharge	Will treated wastewater be sufficiently safe for discharge?	Brewery wastewater (essentially water and lime) will be treated, and the resulting wastewater will be sufficiently clean for discharge on the property owner's adjacent farm fields. The Applicant has stated that this has been discussed with the Jefferson County Health Department and the West Virginia Department of Agriculture.	Resolved
Specific nature of restaurant land use	Concern that the proposed pub will take the form of a bar (with continuous drinking) rather than a restaurant.	The land use is intended to be more of a European-style pub and a family-oriented establishment rather than a bar. Locally grown food will be served. Hours of operation will not include late-night service.	Resolved
Future expansion of business	Concern that the business will be expanded to a much larger land use with a greater impact on the community.	At least 50 seats are required for a viable restaurant. While no more than 50 seats are anticipated at this time, the Applicant would prefer some leeway for the business to grow if successful. (In a subsequent addendum to the application, submitted April 13, 2011, the Applicant states that while the restaurant will initially be of a small size, "Experts tell us 200 seats is usually considered a good size to end up. So, it is possible that some day we will need to be that big. But, we will start smaller and grow as necessary.")	Unresolved
Noise, Trash, Odor	Concern that the land use would generate additional noise from patrons and traffic, and that windblown trash and odors would impact adjacent residents and result in reduced property values.	Treated wastewater is not expected to have any color or odor. Odors (if any) from brewery operation are expected to be similar to smells of a bread-making process, and are not anticipated to be noticeable. The owners believe that the new economic activity will enhance (rather than reduce) property values in Rippon, and are committed to being sensitive to the quality of life of nearby property owners.	Unresolved
Lights	Concern that the business' lights as well as car headlights will have an adverse impact on surrounding neighbors.	Parking will be located on the interior of the site. As such, car headlights from cars in the parking lot should not impact surrounding residences.	Unresolved

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**Rippon Brewery, LLC (#Z11-01)**

6. Related Cases

Cases related to this application include:

- ZV11-06: Request to reduce the front yard setback to 8' (pending; to be heard at April 21, 2011 Board of Zoning Appeals meeting)
- Lot line adjustment to increase the size of parcel 24 to approximately 2 acres, in order to encompass all proposed land uses, parking, and septic area. This application has not yet been submitted, and will be reviewed administratively.

7. Standard Industrial Classification Codes

As required by Section 7.5, staff has assigned SIC (Standard Industrial Classification) codes to the proposed land uses. In some cases, multiple SIC codes apply to a land use. These codes are as follows:

Proposed Land Use	SIC Code	Industry Code	Industry Name	Subgroup	Description
Farm brewery and winery	2082	208	Beverages	Malt Beverages	Establishments primarily engaged in manufacturing malt beverages. Establishments primarily engaged in bottling purchased malt beverages are classified in Industry 5181.
Farm brewery and winery	5181	518	Beer, Wine, And Distilled Alcoholic Beverages	Beer and Ale	Establishments primarily engaged in the wholesale distribution of beer, ale, porter, and other fermented malt beverages.
Restaurant	5813	581	Eating And Drinking Places	Drinking Places (alcoholic Beverages)	Establishments primarily engaged in the retail sale of alcoholic drinks, such as beer, ale, wine, and liquor, for consumption on the premises. The sale of food frequently accounts for a substantial portion of the receipts of these establishments.
Restaurant	5812	581	Eating And Drinking Places	Eating Places	Establishments primarily engaged in the retail sale of prepared food and drinks for on-premise or immediate consumption. Caterers and industrial and institutional food service establishments are also included in this industry.
Country Inn	7011	701	Hotels and Motels	Hotels and Motels	Commercial establishments, known to the public as hotels, motor hotels, motels, or tourist courts, primarily engaged in providing lodging, or lodging and meals, for the general public.
Retail	5399	539	Miscellaneous General Merchandise Stores	Miscellaneous General Merchandise Stores	Establishments primarily engaged in the retail sale of a general line of apparel, dry goods, hardware, housewares or home furnishings, groceries, and other lines in limited amounts. Stores selling commodities covered in the definition for department stores, but normally having less than 50 employees, and stores usually known as country general stores are included in this industry.

It should be noted that no separate SIC code has been assigned to the land use “office” requested by the Applicant; this land use is understood to be an accessory use to the intended principal commercial uses.

8. Board of Zoning Appeals Public Hearing and Action

Because some of the issues raised at the Neighborhood Compatibility Meeting were not resolved during the meeting, a Board of Zoning Appeals public hearing is required.

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**Rippon Brewery, LLC (#Z11-01)**

Per Section 7.6(e), “The purpose of the meeting is to hear the staff’s report of the issues and concerns raised at the Compatibility Meeting. Any comments relative to the validity of the staff’s report should be presented at this meeting. Concerns that have been addressed and agreed upon as accurate by the majority of those present at the Compatibility Assessment Meeting should not be addressed at this hearing.”

As stated above, the Board of Zoning Appeals may vote on the application during the meeting at which the case is heard, or at a subsequent meeting within 60 days.

Per Section 7.6(g), “the Board of Zoning Appeals shall issue, issue with conditions or deny the conditional use permit. The standards governing the issuance of the Conditional Use Permits shall be: successful LESA Point application, Board of Zoning Appeal’s resolution of unresolved issues; and, evidence offered by testimony and findings by the Board of Zoning Appeals that the proposed development is compatible with the neighborhood where it is proposed.”

9. Possible Conditions of Approval

Should the Board choose to approve the Conditional Use Permit, possible conditions of approval include:

- a. All conditions for “resolved” issues agreed upon during the Neighborhood Compatibility Meeting:

<b>Agreed-Upon Condition</b>	<b>Issue</b>
(1) No customer or employee parking (excluding delivery vehicles) will be located adjacent to Withers Larue Road.	Parking
(2) Any entrances from Withers Larue Road will be located west of the brewery building. (3) At the time when seating capacity for the restaurant exceeds 50 seats, an additional entrance from US 340 (to be located to the north of the property for which the Conditional Use Permit application was submitted), will be constructed.	Access
N/A – no conditions identified.	Future alignment of US 340
N/A – no conditions identified.	Water usage
(4) Prior to site plan approval, the Applicant will submit documentation from the applicable state agency or agencies certifying that the proposed brewery wastewater discharge is permitted.	Brewery wastewater discharge
(5) The hours of operation are limited to 8:00 AM to 12:00 midnight.	Specific nature of restaurant land use

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**Rippon Brewery, LLC (#Z11-01)**

- b. Conditions to address “unresolved” issues discussed at the Neighborhood Compatibility Meeting:

<b>Possible Condition</b>	<b>Issue</b>
(1) The number of restaurant seats is limited to 200.	Future expansion of business
N/A – no conditions identified.	Noise, Trash, Odor
(2) All employee and customer parking for all land uses shall be located on the interior of the property.	Lights

- c. Condition to address consistency with application:
- i. The land uses shall be developed and operated in a manner consistent with the limitations described in the application submitted to the Board, as amended.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Rippon Brewery, LLC (#Z11-01)**

SECTIONS OF ORDINANCE TO BE CONSIDERED:

Section 7.6 Compatibility Assessment Meeting

- (e) The public hearing will be conducted by the Board of Zoning Appeals. The purpose of the meeting is to hear the staff's report of the issues and concerns raised at the Compatibility Meeting. Any comments relative to the validity of the staff's report should be presented at this meeting. Concerns that have been addressed and agreed upon as accurate by the majority of those present at the Compatibility Assessment Meeting should not be addressed at this hearing. The hearing will be subject to Section 7.7c; however, speakers shall be limited to resolution of issues which could not be resolved at the Compatibility Assessment Meeting and the compatibility of the project within the neighborhood. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON MAY 4, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- (f) If all issues raised at the Compatibility Assessment Meeting with the staff were resolved at that meeting, there will be no public hearing required. At the Board of Zoning Appeals meeting thereafter, the Board of Zoning Appeals shall issue, issue with conditions or deny the conditional use permit. The standards governing the issuance of the Conditional Use Permits shall be: successful LESA Point application, Board of Zoning Appeal's resolution of unresolved issues; and, evidence offered by testimony and findings by the Board of Zoning Appeals that the proposed development is compatible with the neighborhood where it is proposed. [AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 31, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Section 7.7 Public Hearings for Development Review System (Unless Otherwise Superseded by the Board of Zoning Appeal's Rules of Procedure)

- (a) The Board of Zoning Appeals Chairman or his appointed designee will preside over the public hearing. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- (b) All public hearings shall have time limits allotted to those who speak, as follows: the developer or his agent, or applicant shall have 30 minutes for his preservation, each group who speaks may have 15 minutes, each individual who speaks is allotted 5 minutes, the developer or his agent, or applicant are allowed 15 minutes for rebuttal. The time limit provision within this section may be modified by the Planning and Zoning Commission or Board of Appeals' Chairman in the event that there are a large number of persons to speak at a particular hearing. The Commission or Board shall announce any change to this section at the beginning of the hearing. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- (c) All public hearings shall be advertised in a newspaper having general circulation in the County at least 15 days prior to such hearing. (Conditional use permits are subject to Section 7.5b and Section 7.6d.) [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS R NSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Rippon Brewery, LLC (#Z11-01)**

- (d) The property subject to the hearing shall be posted at least 15 days before the date of the hearing. (Conditional use permits are subject to Section 7.5b.) [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
  
- (e) The Board of Appeals shall make a decision no more than 60 days after the public hearing. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Z11-01

APPLICATION FOR CONDITIONAL USE PERMIT

Name of Project: Rippon Brewing LLC

Have fees been paid? YES  NO

0024

Name of Applicant: Rusty Morgan

Address: PO Box 130, Rippon, WV. 25441

Telephone Number: 304 725 6670H 304 671 3610C

Name of Property Owner: Rusty Morgan

Address: PO Box 130, Rippon, WV. 25441

Telephone Number: Same as above

Tax Map Reference- District Kabletown Map# 104 Parcel# 0024

Deed Book# 1053 Page# 482

Tract Size .69ac

Discuss the proposed change in use with respect to compatibility in the plan?

Compatibility with the Comprehensive Plan is fully outlined in the support data, item number 24. References are quoted from both the Land Use and Agriculture sections. Briefly, the applicant desires to increase business activity in the rural area by producing high "value-added" farm products and marketing to the public.

What is the proposed use of the property?

Micro-Brewery with "Tasting Room" Future Pub/Restaurant, Store, Country Inn and office

Project will be phased development over several years

Sketch plat must be provided (refer to 7.4b).

Is the sketch plat pursuant to 7.4b YES NO

Signature of property owner: A.M.S. Morgan III

Print Name: A.M.S. Morgan III

Date: Jan 14, 2011



Support Data for: Rippon Brewing LLC

- 1) Name and address of owner/developer.  
Rippon Brewing LLC  
PO Box 130, Rippon, WV, 25441
- 2) Name and address of contact person.  
Rusty Morgan  
PO Box 130, Rippon, WV, 25441
- 3) Type of development proposed.  
Micro-Brewery, store, pub, restaurant, country inn
- 4) Acreage of original tract and property to be developed.  
Lot in Rippon Village district of .69 acres; adjacent to owners farm of 194 acres.
- 5) General description of surface conditions (topography).  
Lot is about 4 feet higher than highway 340; generally level throughout and, also level with our adjoining farmland.
- 6) Soil and drainage characteristics.  
There are no rock outcrops on the lot or on the farm in the vicinity of the project. The soil is excellent for agricultural production and there has never been any standing water or runoff issues on either property.
- 7) General location and description of existing structure.  
There are four structures on the lot being improved:

The main house which is situated on the corner of Route 340 and Withers Larue Road is a large pre Civil War frame house that has always contained a store and served as the Rippon Post Office for many years. The structure is about 5000 SF and is now partially rented as an apartment. Most of the house is in disrepair and in need of nearly complete renovation. The main house provides many opportunities for future expansion, and could be made into a country inn, with a store, pub/restaurant, and office space.

There are two garage sized storage sheds along the west side of the lot, on the property line with the farm. One of the sheds is in fairly deteriorated condition and would most likely be taken down or moved to an alternate location on the farm. The other shed would most likely be improved to house a retail shop or a maintenance garage.

A unique early 20<sup>th</sup> century grain mill building is situated on the south west corner of the lot and is also on the property line of the farm. Much of the interior of the building was demolished or damaged by the previous owners of the property. The building is currently in a condition which makes it obsolete. It is being used for storage.

We intend to restore this structure to working condition and to house the micro-brewery. This building will also be showcased to the public to highlight its importance to the former life in the village as a centerpiece to early 20<sup>th</sup> century agriculture in southern Jefferson County. The building will be modernized and likely expanded in the future to include additional space for brewing, cold storage, shipping and receiving docks, restaurant/pub, and retail space.

8) General location of existing easements or rights- of- way.

None

9) Existing covenants and restrictions on land.

None

10) Intended improvements and proposed building locations including locations of signs.

The mill building will be the focus of our first efforts to improve the property. It will be cleaned up and painted on the outside and refurbished on the interior to accommodate brewing equipment. A new septic system will be installed to handle a bathroom and processing water. An area both inside and outside of the mill may be developed for “tasting” our products and to welcome the public. We expect to outgrow the mill building fairly soon after startup and we plan to expand with new construction of about 5000SF attached to the mill on the farm side. Therefore the operation will be in both the Ag. Zone and the Village District. The new septic system will also be placed on the farm side, outside the lot. Additional parking area, if necessary, will also be located on the farm side.

We intend to sell a portion of our beer through on- premise retail sales. At first sales will all be take-out. As sales increase we will set up a pub/restaurant to market our beer as well as our other farm products like Angus beef. Eventually we would like to develop the house as a Country Inn. Our office space will probably be located in the house as well.

We would expect to hang a sign on the mill building on the west side, over the loading dock. Also, another sign on the old house above the store facing south would be ideal. All signs would comply with county regulations.

We also request that the Rural Site Plan Standards be applied to our development to help hold down costs and to maintain the rural character of the setting. In addition, we request alternative setbacks as part of the CUP process.

11) Intended land uses.

Micro-brewery, store, pub/restaurant, country inn, and office. Most will be located in existing buildings.

12) Earthwork that would alter topography.

None required

13) Tentative development schedule.

The mill and tasting area and store should be functioning within a year depending on State licensing and the availability of equipment. A pub/restaurant and a country inn is expected to follow. The development will have a long-term timeframe and phase-ins will take place as feasible.

14) Extent of the conversion of farm land to urban uses.

To accommodate the eventual expansion of the existing mill building, a new septic system and additional parking spaces as required, we plan to convert one to three acres of our existing farmland to the project.

15) Effected wildlife populations.

The site is not known for wildlife populations but any change on the landscape will have some minor effect.

16) Ground water and surface water and sewer lines within 1320 feet.

None

17) Distance to fire and emergency services that would serve the site.

Citizens fire department, 6 miles

18) Distance to the appropriate elementary, middle, and high school.

Not applicable

19) Traffic characteristics – type and frequency of traffic; adequacy of existing transportation routes.

The site is located at the intersection of Route 340 and Withers Larue Road. Route 340 is the main access route through the southern part of Jefferson County. Employee and visiting traffic would access the property from Withers Larue Road. The property would be improved to enhance safe access for employees and visitors from Withers Larue Road. Employee traffic to the brewery would likely generate up to five vehicles a day. Visiting traffic to the brewery (including tourism/shipping/receiving) during the week is anticipated to be minimal (b/w 5 to 10 trips per day). Tourism traffic would likely increase to a few dozen visiting vehicles on weekend days.

20) Demand for school services created by this development.

None

21) Proximity and relationship to historic structures or properties within two hundred (200) feet.

None

22) Proximity to recreational facilities.

Not applicable

23) Relationship of the project to the Comprehensive Plan.

There are several references in the Comprehensive Plan that support what the applicant would characterize as "affirmative action" for farms in the county. We struggle, as do many other farmers in the area, to keep our farming operations viable. Over the past few years, we have prepared to diversify our operation in order to remain in business. It is integral to our diversification plan to be able to offer a value added product off our farm. Value added farm products and on farm marketing to draw local public support, as well as regional tourism, will be the way our farm can survive in the future. Offering our products and bringing more public exposure to our farming operation would lend support to the overall effort in the county to preserving open space and agriculture as part of our environment and heritage.

Our plan is to grow our own barley, convert it into malt in our historic barn that has already been refurbished for this purpose. We will then transport the malt to the mill to be brewed into beer. We will also use other sources for our ingredients but our intention is to create a truly local product as much as possible. Brewing is a clean process using grain and water. The spent grain will be fed to our cattle.

The Comprehensive Plan contains several very clear references to support this type of development. Recommendation 3.12-C on page 55 reads:

"Support diversified rural land uses by exploring means by which to diversify farming operations. If farming is no longer viable, there will be no more farms. Examples of this could include (but not be limited to): "value added" processing, landscape contracting business, equestrian facilities, agricultural education uses, and bed and breakfast inns." Also on page 55: In order to further the agriculture industry, permitted farm-related uses in the rural district should be liberalized to permit a wide variety of agriculture and horticulture related activities...."

On page 62, under "Diversification of the Agriculture Industry" the following is stated:

"Therefore, new and innovative ways of generating farm income are necessary to maintain the viability of many farms in the County," Additional support follows:

"The single most significant step that the local farming industry can take to improve its market position is to explore "value added" opportunities.

Simply put, draw the processing of commodities into agricultural goods closer to or back onto the farms. In order to further the agriculture industry, permitted farm-related uses in the rural district should be liberalized to permit a wide variety of agriculture and horticulture related activities, short of industrial processing that creates hazardous wastes and excessive nuisances."

Recommendation 3.17 states:

In order to protect the long term viability of the agriculture industry in the County, the County should encourage the diversification of the industry in Jefferson County by: a. Reviewing the ordinance for ways of permitting value-added and non-traditional agriculture related activities on farm properties.”

The following is a brief description of the brewing process and our plans to develop our property.

For the past several years, we have been experimenting with growing special breeds of brewing barley at Ripon Lodge Farm. Brewing barley must be grown to meet standards which are much stricter than those for the animal feed barley typically grown in this region. To brew beer, the barley must be malted under controlled conditions and must meet particular brewing specifications. Malting is a three step process of soaking, germinating, and curing the barley grain to maximize the available sugars in the grain for the brewing process. At Ripon Lodge Farm, we have made significant investment restoring an 1850's era bank barn into a malting facility to process brewing malt from our grown barley. In order to maximize the value for our barley grown and processed on the farm, we would like to build a micro-brewery where we could use our malted barley to brew unique, craft styled beer for sale to the public. The micro-brewery would compliment our farm much the same way as the estate-styled wineries in the area and in places like Napa Valley, California.

Several years ago, we purchased a 0.69 acre lot with four structures on the corner of Route 340 South and Withers-Larue Road. The property is adjacent to our 194-acre farm and had been neglected for years. The property is highly visible from Route 340 and was a blight to our property and the small town of Rippon. On the property, and of particular interest to us, was the early 1900's grain mill building. This building is constructed and situated ideally to be used as our microbrewery. Although the previous owners removed much of the interior structure and working mechanisms of the mill, we would like to restore the building to a modern working condition and to be used as the brewery. It would probably be easier and cheaper to construct a new building for the brewery, but we feel that the use is suitable for the purpose. Restoring the building would add to the character of our product and to the experience of those who would visit the brewery or otherwise be interested in our brewery and farm operation. As part of the renovations, additional space may be added to the building, or built adjacent to the building, to support brewing activities. It is unlikely that the additional space would exceed 5,000 square feet.

A micro-brewery, according to the Brewer's Association, produces up to 15,000 barrels of beer per year which it distributes locally or regionally. A barrel of beer equals 31 US gallons. A traditional micro-brewery sells up to 75% of its beer for offsite consumption. The beer is sold to a wholesaler, to a retailer, or directly to the public through carry-outs and/or an onsite tap-room or restaurant. With our micro-brewery, we intend to produce up to 2,000 barrels a year over the next five years, with possible future

expansion at this site up to 7,500 barrels a year. We feel that the site would not accommodate a brewery operation larger than 10,000 barrels a year.

Our micro-brewery would operate under the legal West Virginia business name Rippon Brewing, LLC. The marketing strategy for the brewery is to offer customers a high quality beer crafted with locally produced ingredients. The craft brewing industry is currently very popular; however, most craft breweries in the United States are disconnected with the sources of the ingredients they use to make their beer. At our brewery, we would be creating unique products from our own farm raised ingredients that would not be reproducible anywhere else. We would like to use the brewery to bring attention to our region's rich history of agriculture. We expect that our brewery could help draw tourists to the area. As with estate wineries, we anticipate that visitors to the brewery will have an interest in the process of making our beer. We intend on providing visitors with tours of the brewery, the malting facility, and the contributing farming activities. Due to current popularity of brewing, the brewery would likely see most visitors and onsite sales on weekend days.

The brewery would operate and be open to the public up to six days a week. We anticipate that the brewery would not be open on Mondays or Tuesdays. Normal business hours for the brewery during the week would be 10 am until 5 pm. The brewery would likely employ up to five people. The brewery would also ship and receive goods by truck once or twice a week.

Although brewing beer would be the main operation of the business, we intend to operate a small pub/restaurant and retail shop to compliment the brewery where visitors could taste and purchase our products. The main house located on the property would likely be renovated as space for the pub and retail shop. The main house consists of nearly 5,000 square feet of interior space. The spaces in the house have been divided by previous owners to accommodate residential accommodations, a store, and a post office. Until recently, the house had been the site of a store since the Civil War. It was also the site of the Rippon post office until the 1980's.

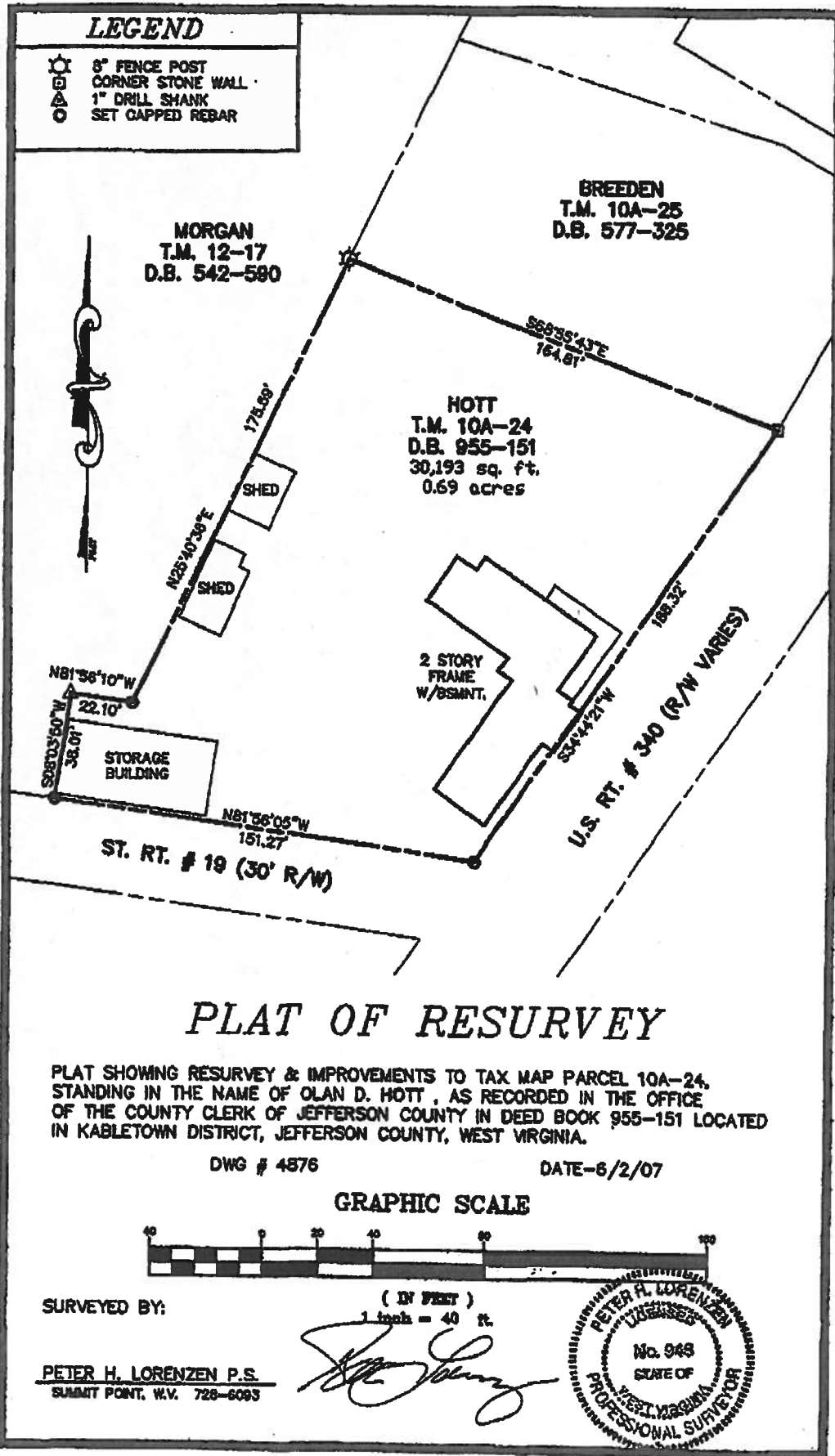
It is envisioned at the pub would consist of interior seating for up to 50 people with an exterior seating area for an additional 25 people that could be used during warmer months. The pub/restaurant would be family oriented and maintain a wholesome atmosphere. It will not be operated as a bar or nightclub that sells liquor or has a loud raucous atmosphere. The pub would serve food also prepared with locally produced ingredients. The retail shop would sell the brewery products, marketing items such as t-shirts and hats, and other locally produced items or farm products. Again, the pub and retail shop would likely see most visitors on weekend days. The pub and retail shop would likely employ up to an additional 5 people.

The renovation of the house for the pub and retail shop would likely only use about one third of the interior space of the house. Possibly within 2 to 5 years, we would like to renovate the remainder of the house as a country inn. The inn would provide lodging for people wishing to stay in the area over night. We anticipate the inn to have 5 to 7 bedrooms for rent. The rooms would be renovated to accent the historic nature of the house and the region, as well as provide for a luxurious overnight stay. The rooms would be finely appointed and would rent for an upscale price.

We feel that the addition of the brewery and supporting businesses would be a positive addition to the community of Rippon and Jefferson County. We are committed

to cleaning up and renovating the property and operating the businesses respectfully to our neighbors. We are proud of our local history and agriculture, and we look forward to offering the community, as well as visitors from outside the community, the opportunity to purchase our unique products and experience some of the agrarian culture that still exists in Jefferson County.

711-01



### PLAT OF RESURVEY

PLAT SHOWING RESURVEY & IMPROVEMENTS TO TAX MAP PARCEL 10A-24, STANDING IN THE NAME OF OLAN D. HOTT, AS RECORDED IN THE OFFICE OF THE COUNTY CLERK OF JEFFERSON COUNTY IN DEED BOOK 955-151 LOCATED IN KABLETOWN DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA.

DWG # 4876

DATE-6/2/07

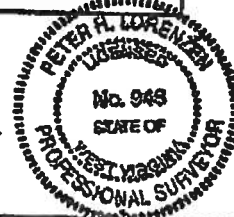
#### GRAPHIC SCALE



SURVEYED BY:

( IN FEET )  
1 inch = 40 ft.

PETER H. LORENZEN P.S.  
SUMMIT POINT, W.V. 728-6093



RECEIVED

JAN 14 2011

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

FJ-01

Rippon Brewery neighbors  
Rippon, WV 25441

06/10A/22  
23  
Adams, Franklin & June  
380 Myerstown Rd., PO Box 99  
Rippon WV 25441 - GAH

6/10A/20  
Anders, Randolph  
2138 Berryville Pike. PO Box 1  
Rippon WV 25441 - GAH

06/10A/25  
Breedon, Samuel  
PO Box 144  
Rippon WV 25441 - GAH

\*Correction 01/28/11

06/10A/19  
Chung Woo Jin & Annette  
1116 Utterback Store Rd.  
Great Falls, Va 22066

06/10A/17  
Corder, William S. Sr  
3864 Withers Larue Rd., PO Box 165  
Rippon WV 25441 - GAH

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JAN 14 2011

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

per to  
Rosette Thomas Hig. 395  
1/4A talgate

6-12

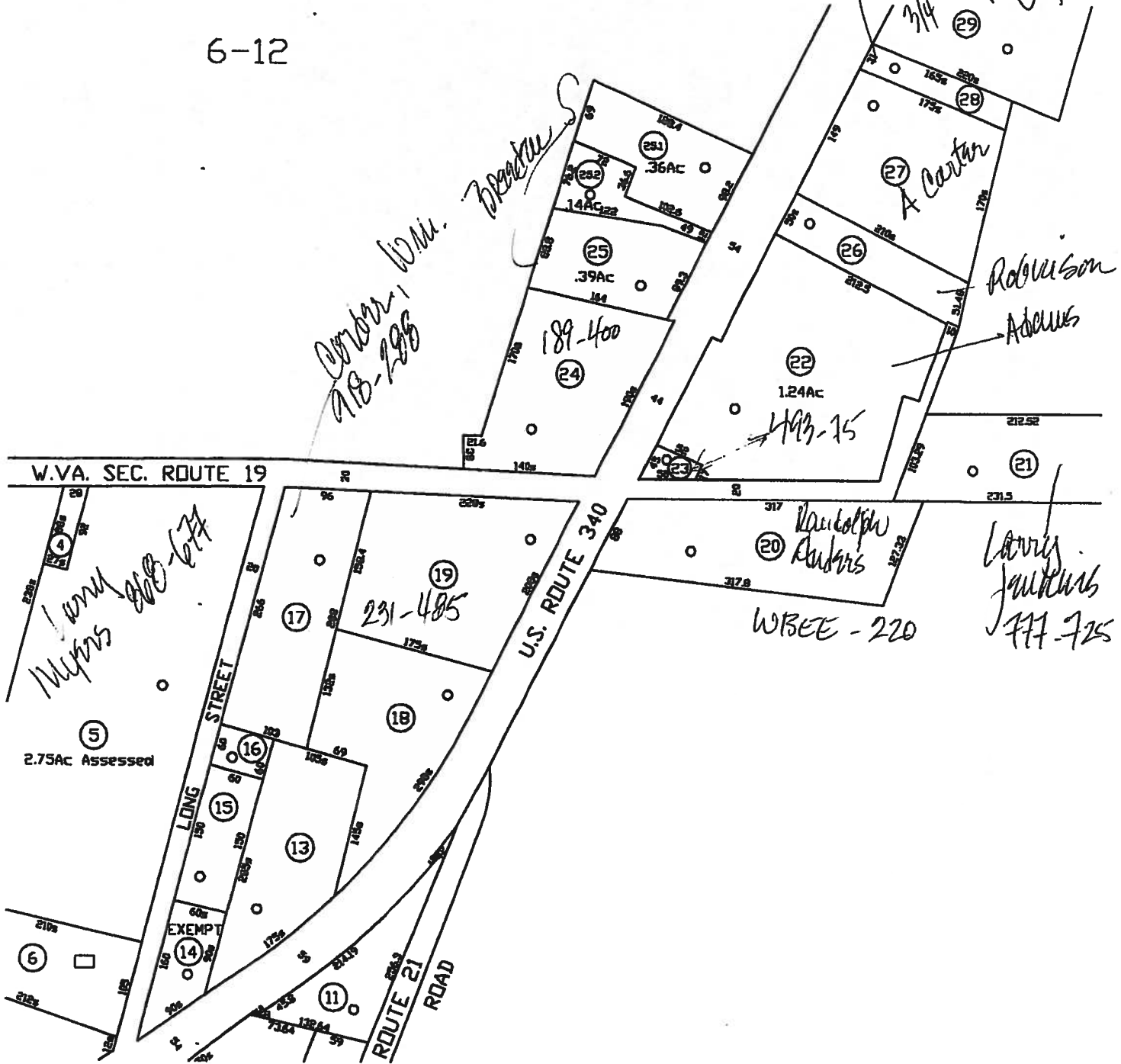
Jata Del-599

Robinson  
Coyne

Arbor, Wm. Thomas  
918-296

Robinson  
Adams

Larry  
Jenkins  
777-725



## Steve Barney

---

**From:** rusty2002@frontiernet.net  
**Sent:** Wednesday, April 13, 2011 6:33 PM  
**To:** sbarney@jeffersoncountywv.org  
**Cc:** adrienne & Jesse Morgan  
**Subject:** Fwd: Addendum to application for Rippon Brewery

----- Forwarded Message -----

**From:** [rusty2002@frontiernet.net](mailto:rusty2002@frontiernet.net)  
**To:** adrienne & Jesse Morgan <[amorgan@a-zoneenvironmental.com](mailto:amorgan@a-zoneenvironmental.com)>, adrienne & Jesse Morgan <[jmorgan@a-zoneenvironmental.com](mailto:jmorgan@a-zoneenvironmental.com)>  
**Sent:** Wed, 13 Apr 2011 18:58:02 -0000 (UTC)

**Subject:** Addendum to application for Rippon Brewery

Starting a new business is usually a somewhat blind commitment to an idea and ones primary vision must eventually confront the many hidden realities of the marketplace.

At the time we completed our application for a brewing facility in Rippon we were working with limited information about how the brewing business actually works. We have since worked with several consultants who have been successful in brewing and brewpub management. We have learned that wholesale production of craft beer can be profitable if it is done on a fairly substantial scale. If this format is developed, profits would depend upon developing markets in a large geographical area. The cost of deliveries and containers is a major consideration.

If the brewpub format is also used to market the beer chances of success improve greatly because sales by the glass are obviously more profitable than selling by the keg. We have also learned that good food is also a critical component of successful marketing.

So, the difficulty in starting up is determining what blend of marketing approaches are workable and financially sound. We will have to build up business fairly quickly without over investing in overhead. The scale of wholesale and retail sales will have to be worked out as the business develops. We must be flexible enough to expand to profitable levels of marketing. Most family restaurants start small. Small restaurants (under 100 seats) generally struggle to show adequate profits and must eventually expand to be profitable. The trick is to find the size that is right. At this time we believe smaller is better but we just cannot tell where we will end up. Experts tell us 200 seats is usually considered a good size to end up. So, it is possible that some day we will need to be that big. But, we will start smaller and grow as necessary.

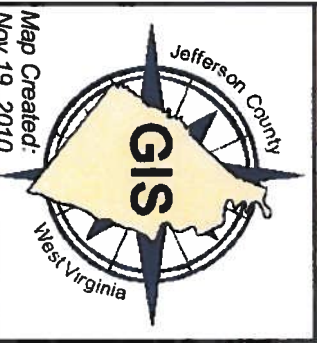
The issue of access to our facility in the future was discussed at the neighborhood compatibility hearing. We proposed that in the future we could provide additional access from Route #340 through our farm to the parking area. This is certainly a possibility, however we will resist this expense until the need is clearly justified.

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JAN 14 2011

JEFFERSON COUNTY  
PLANNING, ZONING & TRAFFIC ENGINEERING

# Rusty Morgan - Conditional Use Permit - Property Contours (2ft)



0600170000

06010A00190000

NOTE: For General Review of Conditional Use Permit Only

Data Source: 1m DEM from USDA-NRCS 2005 LIDAR

Photo Source: 2009 USDA-NAIP

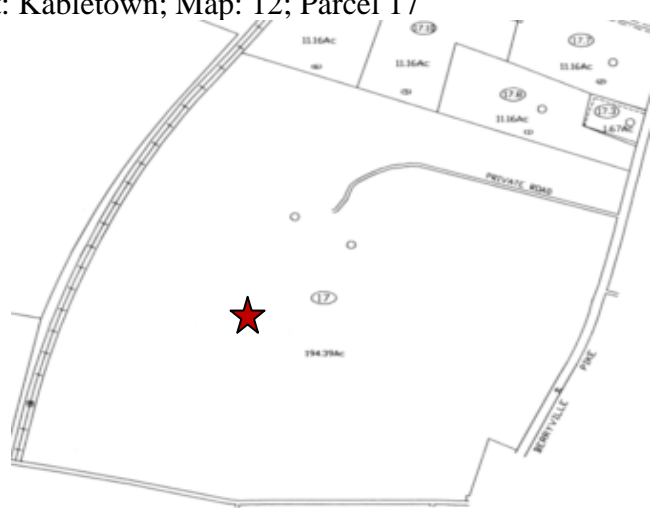
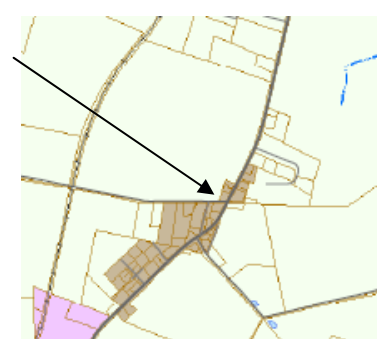


Contour Lines (2ft)

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Rippon Brewery, LLC (#ZV11-06)**

Item #2 Variance request by property owner, A.M.S. Morgan III on behalf of Rippon Brewery, LLC, from Sections 4.16, 5.6(d) and 5.7(b) to reduce the front setback to 8' for a proposed addition to an existing structure for a commercial use.

APPLICANT:	Rusty Morgan
OWNER :	Same as above
DEVELOPER:	Rippon Brewery, LLC
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	Intersection of Route 340 & Withers Larue Rd, Rippon, WV
LEGAL DESCRIPTION:	District: Kabletown; Map: 12; Parcel 17 
ZONING DISTRICT:	Zoning Map Designation: Rural 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Village <i>East:</i> Rural/Village <i>West:</i> Rural
LOT AREA:	194.39 acres
PRIOR CASES:	Z11-01: Conditional Use Permit pending
VARIANCE(S):	None
APPROVED ACTIVITY:	Agricultural

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Rippon Brewery, LLC (#ZV11-06)**

RELEVANT INFORMATION:

1. Overview of Request

The Applicant intends to construct an addition to a mill building proposed for use as a micro-brewery, and seeks to extend this building parallel to the existing building, located approximately 8' from the road. The proposed extension would be approximately 50' in length. Because the mill building is located within the front setback, a variance would be required to align the proposed addition with the existing structure.

The building addition will be located in the Rural District. As a corner lot, a front setback applies to the side of the property facing Withers Larue Road. The front setback for a principal permitted use in the Rural District is 40'.

This request is associated with an application for a Conditional Use Permit, Z11-01.



2. Applicant's Justification of Request

The application provides the following reasons for the variance request:

- “In order to join the new construction efficiently with the older buildings, we would need to follow the same parallels as the original construction.”
- “Will result in a better, more functional addition and will save farmland.”
- “Will optimize viewshed from the public areas of our brewing operation.”

3. Staff Evaluation of Request

It should be noted that a front setback variance would have an impact on future right-of-way expansion, should the West Virginia Division of Highways seek to expand Withers Larue Road. However, right-of-way expansion is already limited by the location of the existing building, and the proposed building addition would not significant exacerbate this situation.

One potential issue is the possibility of the Applicant creating additional vehicular access from Withers Larue Road to the building addition, which is a concern due to the proposed proximity to the road. However, the application states that “no access to addition will be from the road.”

Staff Report  
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April 21, 2011

**Rippon Brewery, LLC (#ZV11-06)**

The consistency of the proposed addition with the character of existing development is also a potential area of concern. However, the sketch accompanying the application notes that, "Height and other dimensions to conform with existing mill." While the proposed 8' setback is not consistent with the 40' front setback required in the Rural District, it should be noted that the property is located adjacent to the Village District, which does allow for shorter setbacks, especially for existing buildings. Several buildings in the vicinity of the subject property are located close to roadways; as such, the 8' setback may be viewed as consistent with the existing character of Rippon.



4. Possible Conditions of Approval

Should the Board choose to approve these variance requests, possible conditions of approval include the following restrictions offered by the Applicant:

- a. There will be no access to the building addition from Withers Larue Road
- b. Building height shall conform to the height of the existing mill

SECTION OF ORDINANCE TO BE CONSIDERED:

The Zoning and Land Development Ordinance provides two methods of establishing the setback for a commercial use in the Rural District:

- Section 4.16 establishes that the front yard setback for a commercial use in any district is 25' (as also required by Section 5.6(d)); and
- Section 5.7 states that the front yard setback for "other permitted uses" in the Rural District is 40'.

Accordingly, staff has advised the applicant to seek a variance from all three applicable sections of the Ordinance.

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Rippon Brewery, LLC (#ZV11-06)**

Section 4.16:

<b>ADJACENT USE</b>	<b>BUILDING SETBACKS</b>	
	Any Use Except Industrial	Industrial Use
<b>PROPOSED USE</b>		
<b>FRONT</b> Barn/Feeding Pen	See District Requirements	
Comm'l Lot <=1.5 ac.	25	25
Comm'l Lot > 1.5 ac.	25	25

Section 5.6 Industrial - Commercial District

(d) Yard Requirements as follows: (These yard requirements are also for an approved commercial or industrial use proposed fo [sic] any other zone.)

[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

1. Front yard building setback
 

Commercial sites -	25 feet
Industrial sites -	50 feet

Section 5.7 Rural District

(b) Minimum Lot Area, Lot Width and Yard Requirements

Minimum lot sizes, lot width, and yard requirements are as follows for principal permitted uses. For any residential use that complies with the Development Review System, the setbacks and lot shall be as outlined in Article 5.4(b).

[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

	<u>Lot Area</u>	<u>Lot Width</u>	<u>Front Yard Depth</u>	<u>Side Yard Depth</u>	<u>Rear Yard Depth</u>
Dwellings	40,000 sq. ft.	100	40	15	50
Churches	2 acres	200	50	50	50
Schools, Grades K-4	10 acres +	500	100	100	100
Schools, Grades 5-8	20 acres +	500	100	100	100
Schools, Grades 9-12	30 acres +	500	100	100	100
Hospitals	10 acres	500	100	100	100
Other permitted uses	40,000 sq. ft.	100	40	50	50

ZVII-06

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): A.M.S. MORGAN III

Address: PO Box 130  
Rippon WV. 25441

Phone Number: 304-671-3610

Location of Property: Corner of Rt #340S and Withers-harve Rd.

Lot Size: Corner lot .6 AC adjacent to 100+ acre Farm

(FARM)

Deed Book Reference: Deed Book Number 542 Page Number 590

Tax Map Reference: District Kabletown Map 12 Parcel 17

Zoning District: A9-

Section of Ordinance: SECTIONS 4.16 and 5.6D

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. Set-back Variance:

Existing Mill Building is close to Withers-harve Road, approximately 6-8 ft. from edge of paving. Our request is to extend the building up to 50' along the same parallel beside the road. We do not feel that safety is an issue. Our purpose is to preserve the view from the existing mill toward our farmland.

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.

RECEIVED  
MAR 19 2011  
JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

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:

*We do not feel that public health, safety or welfare would be affected by our request. No access to addition will be from the road.*

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:

*In order to join the new construction efficiently with the older building we would need to follow the same parallels as the original construction.*

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

*Will result in a better, more functional addition and will save farmland.*

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

*Will save some cropland and will optimize views shed from the public areas of our Blewiny operation.*

*A.M.S. Morgan III*  
Signature of Property Owner

A.M.S. Morgan III  
Print Name

March 10, 2011  
Date

**FOR OFFICIAL USE ONLY**

Fees Paid: \_\_\_\_\_ Date Application / Fees Received: \_\_\_\_\_

Date of meeting / Public Hearing: \_\_\_\_\_

Official Administrative Body: Jefferson County Board of Zoning Appeals

Posting Requirements: \_\_\_\_\_ Number of Days Prior to Scheduled Hearing

Advertising Dates: \_\_\_\_\_

Official Action of Board: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

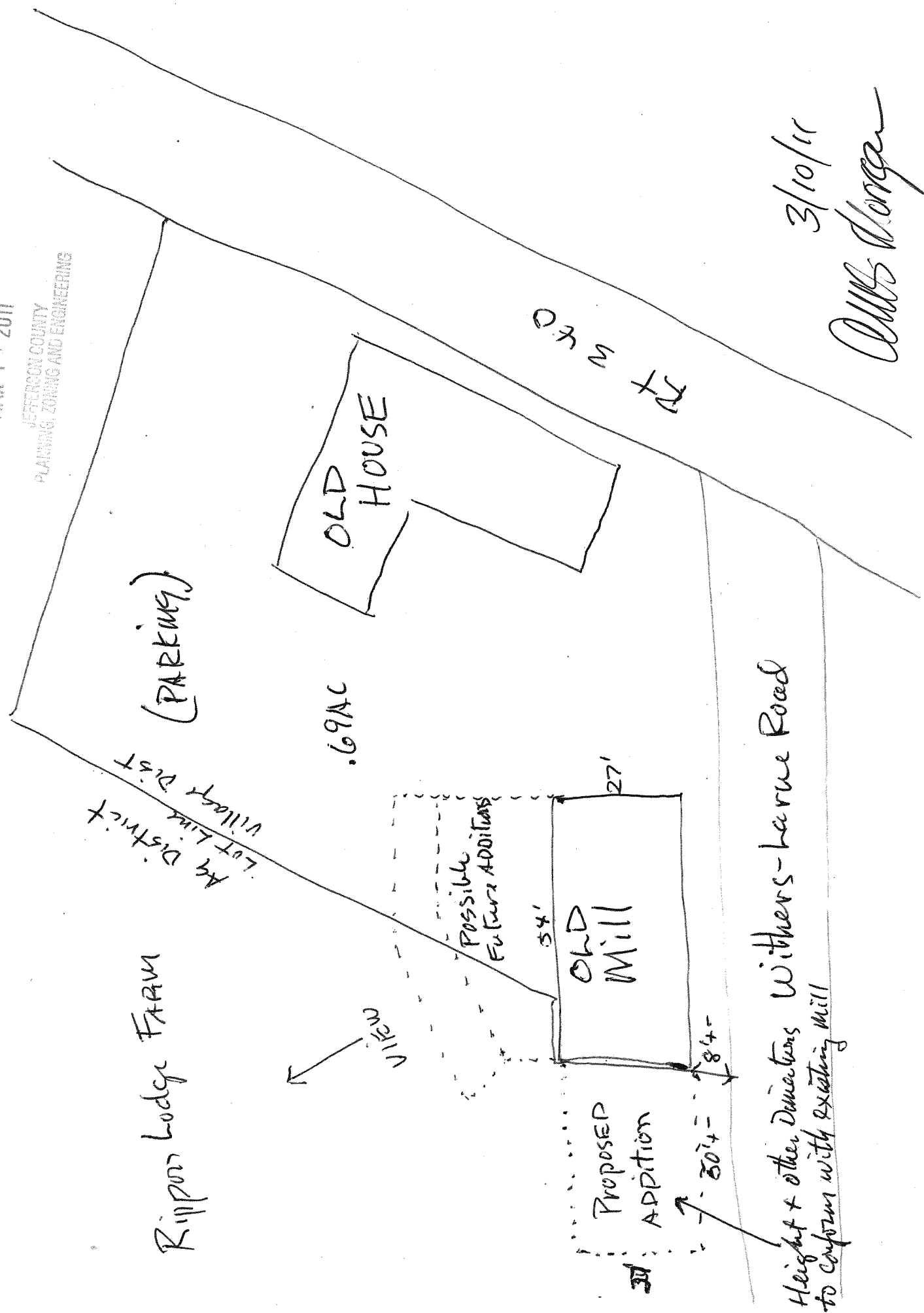
Official Signature and Seal: \_\_\_\_\_

EX11-06

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MAR 10 2011

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING



Rippon Lodge Farm


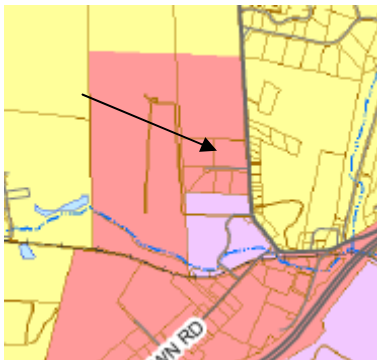
3/10/11  
Ollie Wanger

Height + other dimensions Withers-harve Road  
to conform with existing mill

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Victory Freewill Baptist Church Request (#ZV11-05)**

Item #4 Variance Request by property owner, Victory Freewill Baptist Church, from Section 10.2(i) to allow for an animated sign.

APPLICANT:	Victory Freewill Baptist Church
OWNER :	Same as above
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	76 Amanda Court in Halltown, WV 25423
LEGAL DESCRIPTION:	District: Harpers Ferry; Map: 10; Parcel 11.18  
ZONING DISTRICT:	Zoning Map Designation: Residential-Light Industrial-Commercial (R-LI-C)  
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> R-LI-C <i>South:</i> R-LI-C <i>East:</i> R-LI-C <i>West:</i> R-LI-C
LOT AREA:	5 acres
PRIOR CASES:	01-06: Subdivision approved 09/06/01 S02-10: Site plan approved 3/25/03
VARIANCE(S):	None
APPROVED ACTIVITY:	Church

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Victory Freewill Baptist Church Request (#ZV11-05)**

RELEVANT INFORMATION:

1. Overview of Request

The Applicant seeks to install an animated sign to advertise the church and related events, such as worship service, Sunday school, church activities, and teen activities. The application also states, “We also offer community help for various organizations.”

An animated sign was installed at this address in advance of submittal of a building permit. Following receipt of a letter from Mason Carter, Jefferson County Ordinance Compliance Officer, representatives of the church have applied for a variance Section 10.2(i) to allow for an animated sign.

2. Applicant’s Justification of Request

The application states that the sign is necessary due to the size of the church congregation and the growth of the ministries/events, which require flexibility of advertisement to the community.

The application also notes that the location and area of the sign will be consistent with the existing sign. A sketch attached to the sign shows the dimensions of the sign to be 6’ wide by 8’ high.

3. Possible Conditions of Approval

Should the Board of Zoning Appeals choose to approve the variance request, possible conditions of approval include:

- a. No more than eight (8) messages per day.
- b. Each message to be contained on one screen only—no overlapping into next frame.
- c. Each message to be held a minimum of five (5) seconds between intervals.
- d. Messages to be comprised of text content only—no animated figures, flashing actions, color changes, etc.
- e. Standard signage color will be restricted to a dark background with contrasting light lettering and color change application limited to seasonal background imagery only.
- f. No motion during message change.
- g. Hours of animated signage display to be designated between the hours of 6:00 a.m. and 10:00 p.m.
- h. Signage Light Level to be adjusted to the lowest visibility, legible from the street. (Applicant to provide said Level Intensity Number to the Planning and Zoning Departments).
- i. Applicant to provide contact information for operator of sign to the Planning and Zoning Departments.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Victory Freewill Baptist Church Request (#ZV11-05)**

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 10.2 General Provisions

- (i) No animated signs, as defined by Section 2.2 are allowed.

Section 2.2 Definitions

Sign, Animated            A sign with action or motion, flashing lights, or color change requiring electrical energy, electronic, or manufactured sources of supply, but not including wind actuated elements such as flags, banners, or pennants.

#ZV11-05

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): VICTORY FREEWILL BAPTIST CHURCH

Address: 76 AMANDA CT  
HALLTOWN, WV. 25423

Phone Number: 304 279 1880 or 304 725-0123

Location of Property: RT 230 HALLTOWN, WV. 25423

Lot Size: 5 acres

Deed Book Reference: Deed Book Number 955 Page Number 251

Tax Map Reference: District HARRIS FERRY Map 10 Parcel 11.18.

Zoning District: HARRIS FERRY R-LI-C - GA / Sam Collins 4/8/11

Section of Ordinance: 10.2 i

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.

request to install ANIMATED sign - which would  
ADVERTISE the church and various ministries and events  
designed for the betterment of the community. The new sign  
will replace the existing sign and enable us to change  
messages through the use of a computer.

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.

RECEIVED  
FEB 18 2011  
JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

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 sign location will not adversely affect the public health, safety or welfare of the rights of adjacent property owners or residents.

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 size of the congregation and growth of the ministries/events makes the necessity of flexibility of advertisement to the community more crucial.

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

The signs location and the way it is to be installed will take up the same amount of area as our current sign.

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

We will advertise our church ministries such as worship service, Sunday school, church activities and teen activities we also offer community help for various organizations.

Richard Nethercutt  
Signature of Property Owner

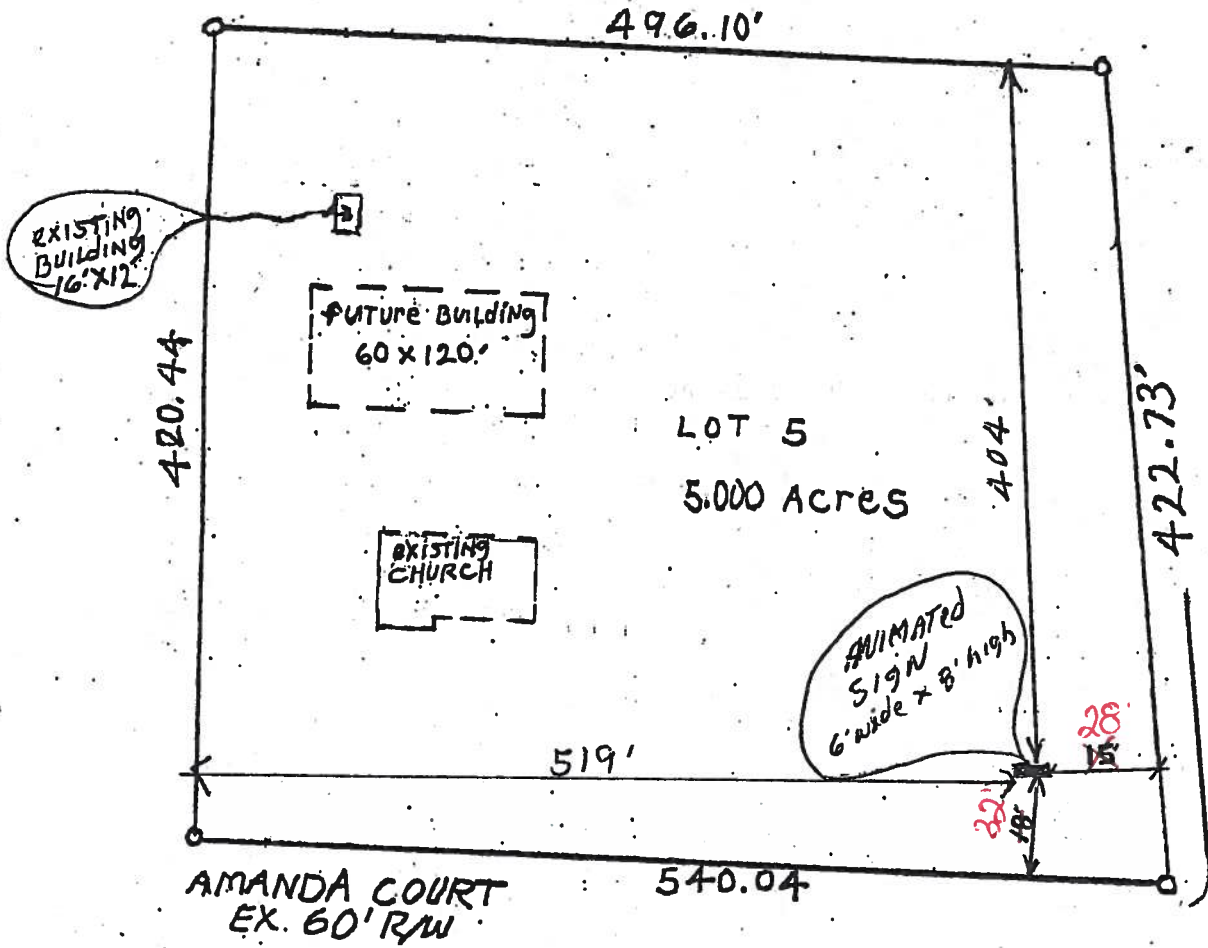
Richard Nethercutt  
Print Name

2-18-11  
Date

<b>FOR OFFICIAL USE ONLY</b>	
Fees Paid: _____	Date Application / Fees Received: _____
Date of meeting / Public Hearing: _____	
Official Administrative Body: <u>Jefferson County Board of Zoning Appeals</u>	
Posting Requirements: _____ Number of Days Prior to Scheduled Hearing	
Advertising Dates: _____	
Official Action of Board: _____	
Official Signature and Seal: _____	

# ZVII-05  
BZA: 4-21-11

RECEIVED  
FEB 18 2011  
JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING



\* Per  
Sam Collir  
3/11/11

R. M. Pastor 2-18-11

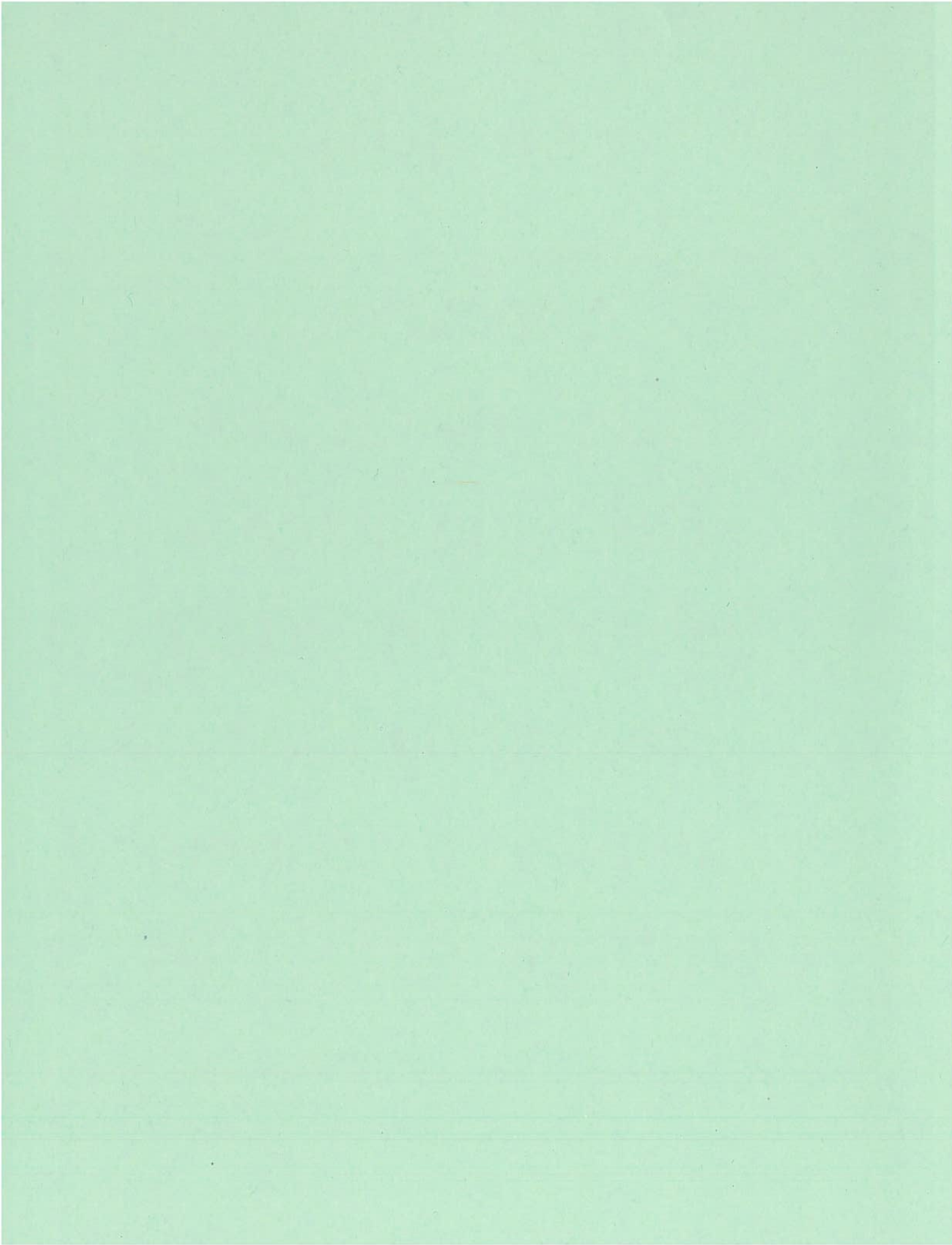
VICTORY FREEWILL  
BAPTIST CHURCH

Scale 1"=100'

WV ROUTE 230

#AP11-01

Appeal of  
Administrative  
Decision dated  
February 16, 2011  
regarding the  
conditions of Zoning  
Certificate #ZC11-04



## List of Exhibits

Exhibit A - Appeal Application #AP11-01

Exhibit B – Supplemental information submitted by appellant

Exhibit C - Staff Report

Exhibit D - Zoning Certificate #ZC11-04, dated February 16, 2011

Exhibit E – Zoning Certificate application, dated February 7, 2011

Exhibit F - Zoning Certificate #ZC10-08, dated May 7, 2010

Exhibit G – Zoning Certificate application, dated April 29, 2010

Exhibit H – Map and aerial photo showing property location

Exhibit I – Photos of interior and existing of property

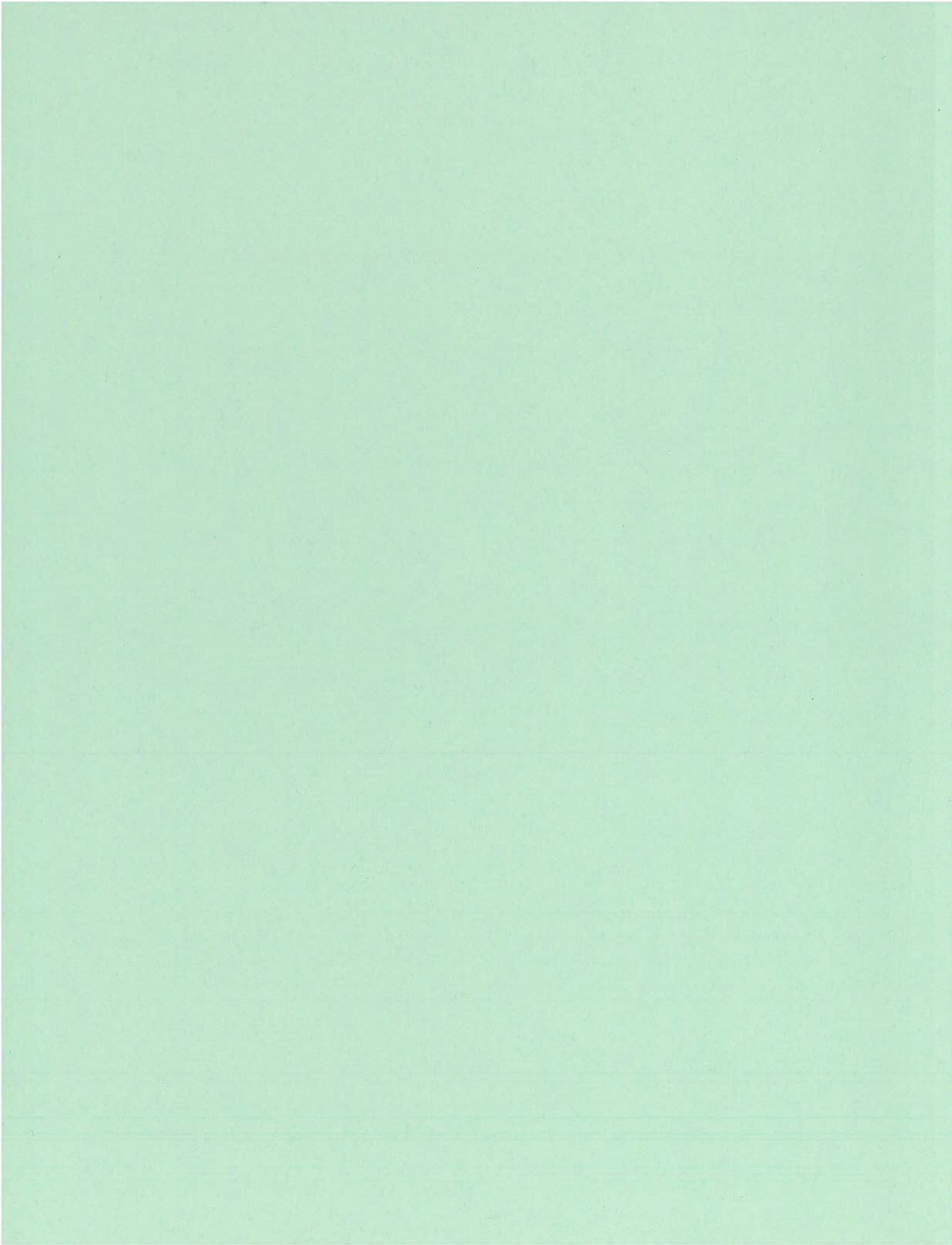
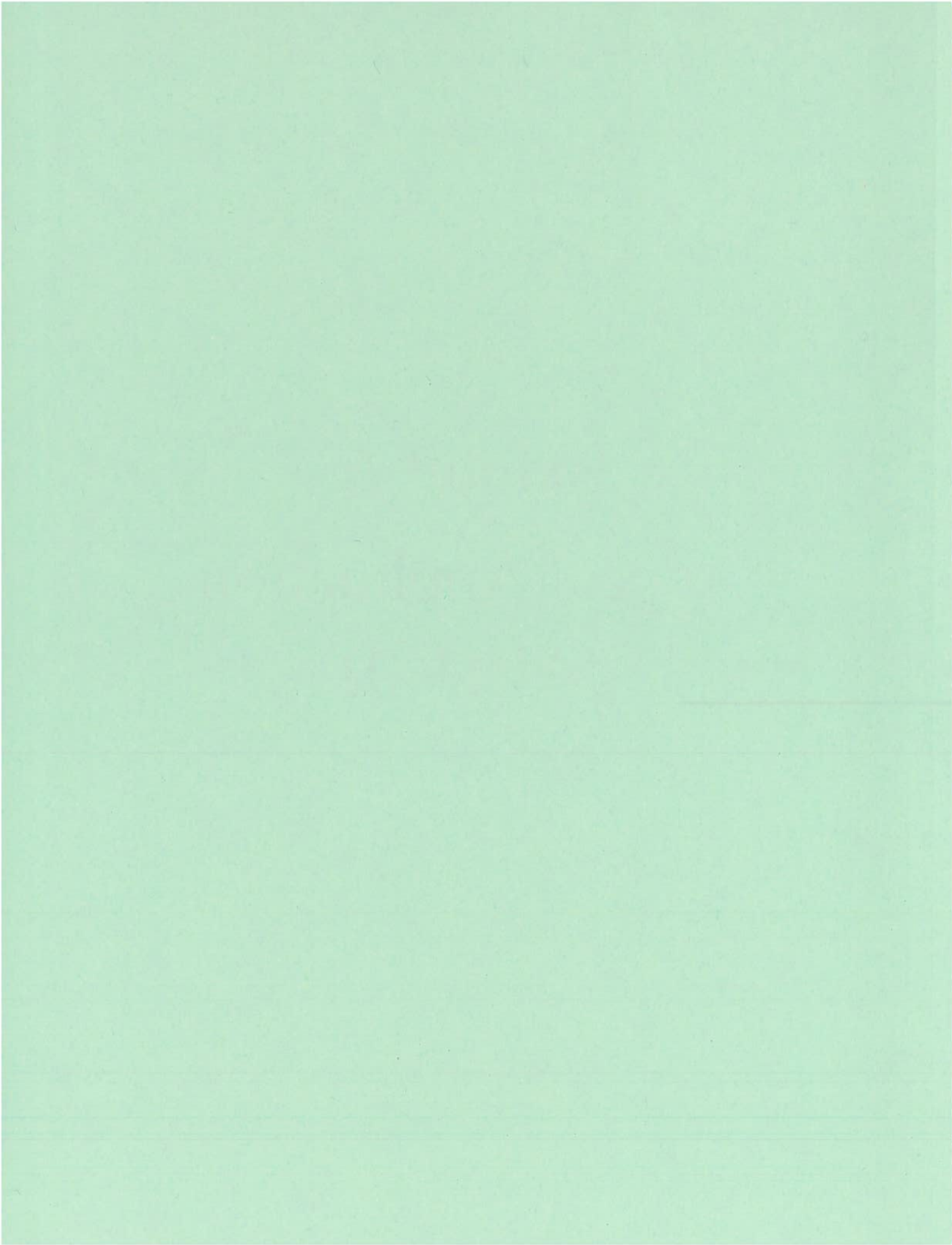


Exhibit A  
Appeal Application  
#AP11-01



**APPEAL FORM**  
**JEFFERSON COUNTY BOARD OF ZONING APPEALS**

Type of Appeal (please specify) ADMINISTRATIVE DECISION LESA POINT SCORE  
OTHER \_\_\_\_\_

Name of Project: Miss Bogger's Pet Services & Supplies

Project File Number: ZC11-04

Appeal Number: # AP11-01

Date Received: 3/8/11 By: Michelle Krassowski Fees Paid: \$100.<sup>00</sup> Date: 3/8/11

Hearing / Meeting Date: April 21, 2011

Advertising Dates: 3/16/11 + 3/23/11

Posting Requirements: 15 Number of Days Prior to Scheduled Hearing / Meeting

Name of Appellant(s): Michelle Krassowski

Address: 31 Black Bear Trail  
Harpers Ferry, WV 25425

Telephone: 1-304-551-7315 Cell: 1-540-686-6808

If there is more than one Appellant please provide the names, addresses and telephone numbers of each Appellant on a separate sheet of paper.

Name of Property Owner(s): Michelle Krassowski

Address: 31 Black Bear Trail  
Harpers Ferry, WV 25425

Telephone: 1-304-551-7315 Cell: 1-540-686-6808

Name of Developer(s): N/A

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

Telephone: \_\_\_\_\_ Cell: \_\_\_\_\_

APR 8 2011

Property Description: District CT (2) Tax Map# 236 Parcel 7  
 Deed Book# 1030 Page# 106

Physical Location of Property: The corner of Black Bear Trail & Skyline Trail in Shannondale, Jefferson Co., WV.

**Please complete the following if appealing LESA :**

If you are appealing check Yes or if you are not appealing check No. Also complete the Score assessed by Zoning Administrator and the Score claimed by Appellant, regardless if you have checked Yes or No.

N/A

	YES	NO	Score assessed by Zoning Administrator	Score claimed by Appellant
1. Size of Site	_____	_____	_____	_____
2. Adjacent Development	_____	_____	_____	_____
3. Distance to Growth Corridor	_____	_____	_____	_____
4. Comprehensive Plan Compatibility	_____	_____	_____	_____
5. Proximity to Schools	_____	_____	_____	_____
6. Public Water Availability	_____	_____	_____	_____
7. Public Sewer Availability	_____	_____	_____	_____
8. Roadway Adequacy	_____	_____	_____	_____
9. Emergency Service Availability	_____	_____	_____	_____

For items checked No above please explain by separate attachment(s) reasons/justifications for appeal and desired action by Board. Be sure to keep your reasons/justifications in numerical order.

Please note: If the two scores in each column above are different please provide a separate sheet for each differentiation with the reasons justifying the differences. Also, when applicable, provide the justification for each difference by citing the Comprehensive Plan of Jefferson County.

**Support Data:**

If you are appealing check Yes, and if you are not appealing check No. For any of the support data that has been checked Yes, provide a separate sheet for each differentiation with the reasons justifying the differences. Be sure to keep your reasons of justification in numerical order. Also, when applicable, provide the justification for each difference.

	YES	NO	
1. Name and address of owner/developer.	_____	<input checked="" type="checkbox"/>	N/A
2. Name and address of contact person.	_____	<input checked="" type="checkbox"/>	
3. Type of development proposed.	_____	<input checked="" type="checkbox"/>	
4. Acreage of original tract and property to be developed.	_____	<input checked="" type="checkbox"/>	
5. General description of surface conditions (topography).	_____	<input checked="" type="checkbox"/>	
6. Soil and drainage characteristics.	_____	<input checked="" type="checkbox"/>	
7. General location and description of existing structure.	_____	<input checked="" type="checkbox"/>	
8. General location and description of existing easements or rights-of-way.	_____	<input checked="" type="checkbox"/>	
9. Existing covenants and restrictions on the land.	_____	<input checked="" type="checkbox"/>	
10. Intended improvements and proposed building locations including locations of signs.	_____	<input checked="" type="checkbox"/>	
11. Intended land uses.	_____	<input checked="" type="checkbox"/>	
12. Earthwork that would alter topography.	_____	<input checked="" type="checkbox"/>	
13. Tentative development schedule.	_____	<input checked="" type="checkbox"/>	
14. Extent of the conversion of farmland to urban uses.	_____	<input checked="" type="checkbox"/>	
15. Effected wildlife populations.	_____	<input checked="" type="checkbox"/>	
16. Ground water and surface water and sewer lines within 1320 feet.	_____	<input checked="" type="checkbox"/>	
17. Distance to fire and emergency services that would serve the site.	_____	<input checked="" type="checkbox"/>	
18. Distance to the appropriate elementary, middle, and high school.	_____	<input checked="" type="checkbox"/>	
19. Traffic characteristics – type and frequency of traffic; adequacy of existing transportation routes.	_____	<input checked="" type="checkbox"/>	
20. Demand for school services created by this development.	_____	<input checked="" type="checkbox"/>	
21. Proximity and relationship to historic structure or properties within two hundred (200) feet.	_____	<input checked="" type="checkbox"/>	
22. Proximity to recreational facilities.	_____	<input checked="" type="checkbox"/>	
23. Relationship of the project to the Comprehensive Plan.	_____	<input checked="" type="checkbox"/>	

**Any and all information should be provided in accordance with the Rules of Procedure of the Jefferson County Board of Zoning Appeals.**

Please provide description / grounds for the appeal sought:

Please see attached letter

\_\_\_\_\_

\_\_\_\_\_

**FOR OFFICIAL USE ONLY**

Fees Paid: \_\_\_\_\_ Date Application / Fees Received: \_\_\_\_\_

Date of meeting / Public Hearing: \_\_\_\_\_

Official Administrative Body: Jefferson County Board of Zoning Appeals

Posting Requirements: \_\_\_\_\_ Number of Days Prior to Scheduled Hearing

Advertising Dates: \_\_\_\_\_

Official Action of Board: \_\_\_\_\_

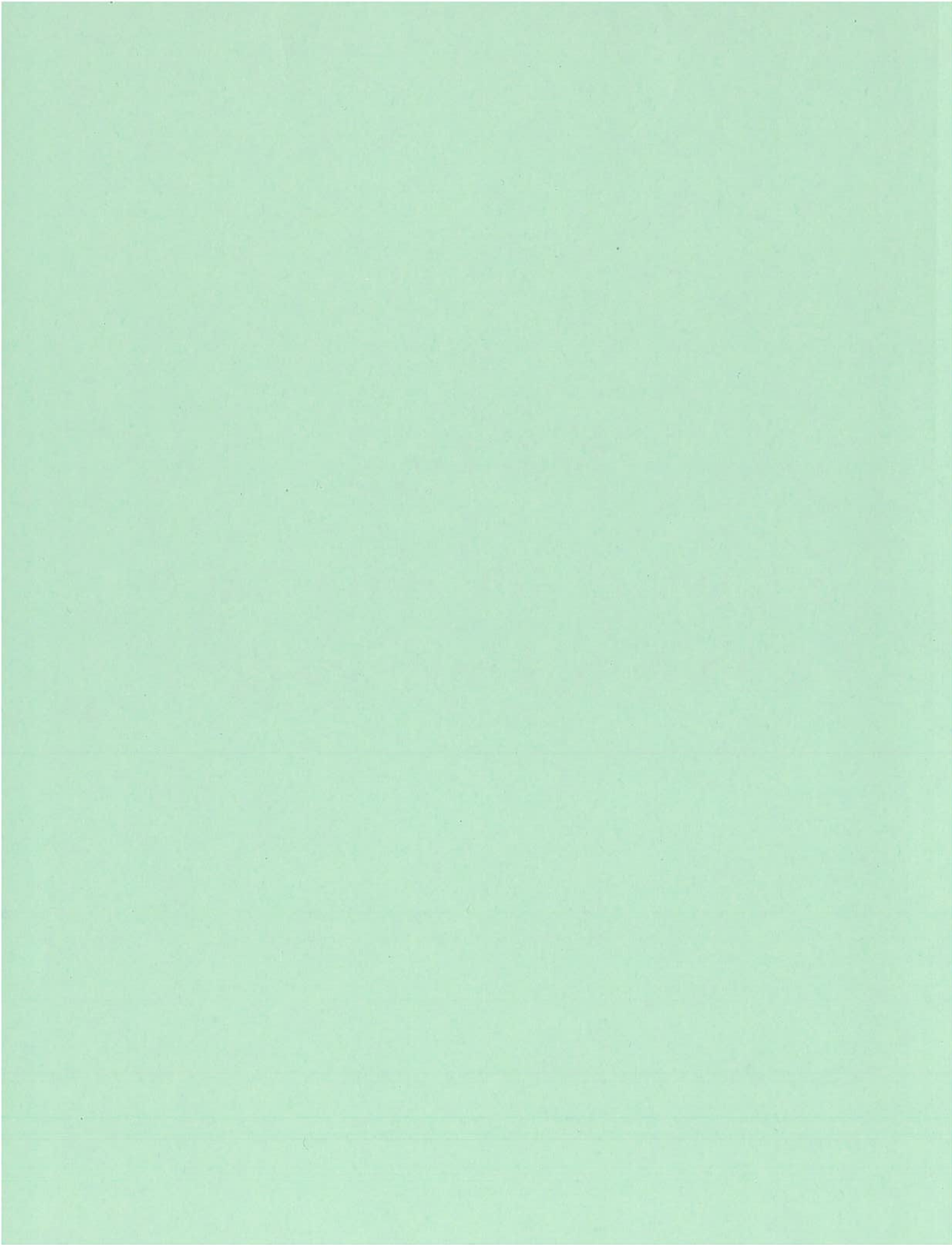
\_\_\_\_\_

\_\_\_\_\_

Official Signature and Seal: \_\_\_\_\_

# Exhibit B

Supplemental information  
submitted by appellant



APPEAL FORM  
JEFFERSON COUNTY BOARD OF ZONING APPEALS

Type of Appeal (please specify): ADMINISTRATIVE DECISION  
OTHER \_\_\_\_\_

LESA POINT SCORE \_\_\_\_\_

Name of Project: Miss Bowyer's Pet Services & Supplies

RECEIVED

Project File Number: ZC11-04

APR 15 2011

Appeal Number: \_\_\_\_\_

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

Date Received: 3/8/11 By: Michelle Krassowski Fees Paid: \_\_\_\_\_ Date: 3/8/11

Hearing / Meeting Date: April 21, 2011

Advertising Dates: \_\_\_\_\_

Posting Requirements: \_\_\_\_\_ Number of Days Prior to Scheduled Hearing / Meeting

Name of Appellant(s): Michelle Krassowski

Address: 31 Black Bear Trail  
Harpers Ferry, WV 25425

Telephone: 1-304-551-7315 Cell: 1-540-686-6808

If there is more than one Appellant please provide the names, addresses and telephone numbers of each Appellant on a separate sheet of paper.

Name of Property Owner(s): Michelle Krassowski

Address: 31 Black Bear Trail  
Harpers Ferry, WV 25425

Telephone: 1-304-551-7315 Cell: 1-540-686-6808

Name of Developer(s): N/A

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

Telephone: \_\_\_\_\_ Cell: \_\_\_\_\_

\* Originals submitted on 4.7.10  
Revised copies submitted by applicant on 4.15.11



Property Description: District CT (R) Tax Map# 225 Parcel 7  
Deed Book# 1020 Page# 106

Physical Location of Property: The corner of Blackberry Trail & Skyline Trail in Shannondale, Jefferson Co, WV.

**Please complete the following if appealing LESA :**

If you are appealing check Yes or if you are not appealing check No. Also complete the Score assessed by Zoning Administrator and the Score claimed by Appellant, regardless if you have checked Yes or No.

N/A

	YES	NO	Score assessed by Zoning Administrator	Score claimed by Appellant
1. Size of Site	_____	_____	_____	_____
2. Adjacent Development	_____	_____	_____	_____
3. Distance to Growth Corridor	_____	_____	_____	_____
4. Comprehensive Plan Compatibility	_____	_____	_____	_____
5. Proximity to Schools	_____	_____	_____	_____
6. Public Water Availability	_____	_____	_____	_____
7. Public Sewer Availability	_____	_____	_____	_____
8. Roadway Adequacy	_____	_____	_____	_____
9. Emergency Service Availability	_____	_____	_____	_____

For items checked No above please explain by separate attachment(s) reasons/justifications for appeal and desired action by Board. Be sure to keep your reasons/justifications in numerical order.

Please note: If the two scores in each column above are different please provide a separate sheet for each differentiation with the reasons justifying the differences. Also, when applicable, provide the justification for each difference by citing the Comprehensive Plan of Jefferson County.



**Support Data:**

If you are appealing check Yes, and if you are not appealing check No. For any of the support data that has been checked Yes, provide a separate sheet for each differentiation with the reasons justifying the differences. Be sure to keep your reasons of justification in numerical order. Also, when applicable, provide the justification for each difference.

	YES	NO
1. Name and address of owner/developer.	_____	<input checked="" type="checkbox"/>
2. Name and address of contact person.	_____	<input checked="" type="checkbox"/>
3. Type of development proposed.	_____	<input type="checkbox"/> ?
4. Acreage of original tract and property to be developed.	_____	<input checked="" type="checkbox"/>
5. General description of surface conditions (topography).	_____	<input checked="" type="checkbox"/>
6. Soil and drainage characteristics.	_____	<input checked="" type="checkbox"/>
7. General location and description of existing structure.	_____	<input checked="" type="checkbox"/>
8. General location and description of existing easements or rights-of-way.	_____	<input checked="" type="checkbox"/>
9. Existing covenants and restrictions on the land.	_____	<input checked="" type="checkbox"/> ?
10. Intended improvements and proposed building locations including locations of signs.	_____	<input checked="" type="checkbox"/>
11. Intended land uses.	_____	<input type="checkbox"/> ?
12. Earthwork that would alter topography.	_____	<input checked="" type="checkbox"/>
13. Tentative development schedule.	_____	<input checked="" type="checkbox"/>
14. Extent of the conversion of farmland to urban uses.	_____	<input checked="" type="checkbox"/>
15. Effected wildlife populations.	_____	<input checked="" type="checkbox"/>
16. Ground water and surface water and sewer lines within 1320 feet.	_____	<input checked="" type="checkbox"/>
17. Distance to fire and emergency services that would serve the site.	_____	<input checked="" type="checkbox"/>
18. Distance to the appropriate elementary, middle, and high school.	_____	<input checked="" type="checkbox"/>
19. Traffic characteristics – type and frequency of traffic; adequacy of existing transportation routes.	_____	<input checked="" type="checkbox"/>
20. Demand for school services created by this development.	_____	<input checked="" type="checkbox"/>
21. Proximity and relationship to historic structure or properties within two hundred (200) feet.	_____	<input checked="" type="checkbox"/>
22. Proximity to recreational facilities.	_____	<input checked="" type="checkbox"/>
23. Relationship of the project to the Comprehensive Plan.	_____	<input checked="" type="checkbox"/>

N/A

**Any and all information should be provided in accordance with the Rules of Procedure of the Jefferson County Board of Zoning Appeals.**

Please provide description / grounds for the appeal sought:

Please see attached letter



Description of appeal sought for Project File #ZC11-04:

To whom it may concern;


My name is Michelle Krassowski and I own Miss Booger's Pet Services and Supplies. I would like to file this appeal in response to the Zoning Administrations decision to only increase the number of dogs permitted at my home/business to eight (8), including my own two dogs, which is only two (2) more than previously allowed. While I am grateful for Mr. Barney's patience and assistance on this matter, I implore you to allow me just a few more dogs (clients) at my home at any given time. The eight dog limit only covers my regular daycare clients and doesn't allow any room for or overlap of my many occasional boarding clients.

My business and the services that I provide are unique. I have not heard of any other business that offers similar services anywhere even remotely close to our area. In fact, I have regular clients from both Virginia and Maryland, and I have had clients who were traveling with their dogs to Jefferson County on vacation who have used my daycare and boarding services while they visited Harpers Ferry or went on a river ride, etc. The new limit severely hinders the services I offer, which means that my ability to provide my clients with first class care AND my income are severely limited as well.

The low limit on the number of clients that I can accept barely allows for me to cover my living expenses. As a result, I will never have the capability for such things as planning for retirement, health expenses, emergency planning and home repairs or maybe even a vacation. It also means that I cannot afford to make improvements to my home/business, which may one day include moving to a larger property in Jefferson County. When I started my business, I never dreamed that it would be so popular in my community, but I also never poured this much of my heart into anything either.

I am aware of the heated debate that the mere subject of dogs can instill and I have made and continue to make every effort to be respectful of my neighbors and anyone who may be adversely affected by my business. I employ an arsenal of anti-bark tools and ensure that every dog that stays at my home adjusts to 'the rules' as quickly and comfortably as possible. I have agreed to certain restrictions which are stated on my zoning certificate and would be willing to submit to others, within reason, if it would allow me the freedom to be able to prosper and offer a valuable service to my community.

In closing, I would again like to explicitly implore you to allow me to accept just a few more clients so that I may continue to prosper and to provide such a unique service befitting of Jefferson County. Thank you for your time and consideration.

  
Michelle Krassowski  
Miss Boogers, LLC  
31 Black Bear Trail  
Harpers Ferry, WV 25425

RECEIVED

APR 15 2011

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING



Michelle Krassowski  
31 Black Bear Trail  
Harpers Ferry, WV 25425  
April 14, 2011

Board of Zoning Appeals  
Jefferson County, WV

Dear Sir or Madame;

I would like to submit the following documents to each of you in preparation of my Appeal Hearing which is scheduled for Thursday, April 21, 2011 at 3:00 p.m. I realize that this is a lot of information so I will try to be brief in explaining what is contained within. As you know already from my appeal application letter, I am requesting that my permit be expanded to allow me to accept just a few more clients at my home as the need arises.

In addition to my application for appeal, you will find enclosed:

- 1) Letters of support from my neighbors and customers.
- 2) A copy of my original application with its corresponding zoning permit and the most recent zoning permit which was issued to me on February 7, 2011. I have included these so that you will have a clear picture of the history of my business available if you need it.
- 3) A copy of a rebuttal letter that I submitted to the Department of Planning and Zoning. To date, I have had issues with one neighbor regarding my business. While I have met every one of his complaints with a good-faith attempt to satisfy him, I understand that he still has issues with my business and plans to be at my hearing. Should he show up and raise any objections or levy any accusations, I would ask for time to respond on the record. I would also like the board to consider the numerous letters of support from other members of the community and weigh them against any such complaints.

If you need any further information I would be happy to provide it. I would like to thank you for your time and I look forward to our meeting on April 21<sup>st</sup>.

Sincerely,

  
Michelle Krassowski  
Miss Booger's, LLC

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APR 15 2011

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING



AP11-01

March 31, 2011  
115 Neenah Ct.  
Harpers Ferry, WV 25425

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APR 15 2011

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

To Whom it May Concern:

I am writing this in reference to Ms Michelle Krassowski. She has been my only dog sitter for over two years. I had looked for someone who could care for my special needs dogs in her home. One of my dogs has a heart condition and the other was abused as a pup and can be high strung. Neither would do well in a regular kennel. Michelle has proven to be the very best dog sitter one could wish for. She is remarkably able to care for and handle multiple dogs in her home in harmony. My pups do not tremble or become anxious when they are left in her care. She has a wonderful balance of love and discipline.

Ms Krassowski is also a wonderful communicator and businesswoman. She is always straight forward about how many animals she is caring for and also her schedule. I know if she will be away from the house for any length of time while my dogs are there. She also lets me know if she needs to crate them for a period of time. I appreciate knowing what my animals will experience,

In addition to Ms Krassowski's pet sitting abilities, she is also very skilled in dog or owner training. She has worked with me and my anxious pup to give me techniques to manage his behavior and anxiety. She has made all the difference to our family.

Ms Krassowski has always been at her home to meet me when I drop off the dogs at her home. When I pull in to the drive I rarely hear dogs barking and when I do they are immediately dealt with by her. She has always insisted on honoring the hours which we can drop off or pick up in the neighborhood.

I have only seen Ms Krassowski as a responsible citizen and neighbor who has taken a talent and energy and created a viable business for herself. I do hope she is able to acquire a permit which allows her to earn a living. I am unable to appear in person at her hearing in April so I am sending this letter. If further information is needed from me I can be reached at home 304-724-1430 or by cell 703-772-0804.

Respectfully,

Barbara S. Corey



Amy Franzen  
157 Aerie Lane  
Harpers Ferry WV 25425

April 1, 2011

To Whom It May Concern:

I am writing this letter in support of Michelle Krassowwski and her business Miss Boogers L.L.C. Over the past years Michelle has provided my pets with superb care. I believe that she goes above and beyond her duties because she has a genuine care for animals. She conducts herself and her business professionally. She provides a much needed service to this area considering that many residents own at least one pet.

Michelle came highly recommended to me for dog care and I have since recommended her to others. As for the facility I find it to be a very safe and caring environment for dogs. She welcomes these animals into her home and her yard is well fenced and kept looking clean and manicured. It is unlike the other kennels that I have used in that it does not smell bad and the animals are under her supervision all the time. They are not locked in a small area for hours. Michelle is always out throwing a Frisbee and I often pass her walking the dogs ensuring exercise and leash training.

I hope that Michelle is able to continue her good work and feel that it would be in the best interest of this mountain community that she be allowed to do so. In a time of economic crisis and unemployment it seems as though we should be supporting entrepreneurship and self-employment, especially if that person is providing such a great service to neighbors.

Regards,  
Amy Franzen

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JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING



**TO WHOM IT MAY CONCERN:**

I have been a neighbor of Ms. Krassowski for about 4 years. I feel that she offers an extremely valuable service to the pet owners in our community. I do not use her doggie daycare since I don't have dogs but she has been a huge help to me with one of my cats who was diagnosed with cancer in December. She has given him his prescribed shots on a regular basis thus avoiding the long stressful trip to the Vet he would otherwise have to make. She has also provided me with some beneficial information regarding holistic treatment for him to supplement the traditional treatment he is currently receiving.

In terms of Ms. Krassowski's doggie daycare, I can honestly say that I have never once heard any barking from her dogs or the dogs that she is sitting. I live directly down the hill from her and am in close proximity to her house. I work in my yard a lot and have never heard any noise whatsoever come from her doggie day care business. I wish I could say the same about the rest of my neighbors whose dogs bark often. In my opinion, the fact that she has a business taking care of dogs makes her far more responsible curtailing their barking than a typical individual dog owner would be.

Once again, Ms. Krassowski offers a very important service to our community and it is a service that is not the least bit disruptive to our neighborhood. I can be reached at 304-728-5091 if there are further questions.

  
Camille Campbell

393 Moonridge Lane

Harpers Ferry, WV 25425

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**APR 15 2011**

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING



Charles and Penny Keon  
448 Sylvan Lane  
Harpers Ferry, WV 25425  
April 7, 2011

Board of Zoning Appeals  
Jefferson County, WV

To whom it may concern,

I am writing in support of Michelle Krassowski's Miss Boogers Doggy Day Care and her request for an increase to the number of dogs which she is currently allowed to have on her property. We moved to the area three years ago and have been customers of Michelle Krassowski's for the last two. Our two dogs have consistently returned in excellent mental and physical condition after being in Michelle's care. They are better behaved upon return to our home.

We have been to the residence at 31 Black Bear Trail to drop off and pick up our dogs. I have consistently found all of the animals to be well behaved and in good physical shape. The residence has always been clean and safe.

Michelle's business provides a needed service to the community. Before using her services, our dogs frequently returned in poorer condition after staying with another care provider. Her business is a value to the community and creates income and supports the tax base in a poor economy. The current limit on her permit essentially caps her income ability and could result in her not being able to meet her financial obligations, which, in turn, could result in the loss of another business in Jefferson County.

Please feel free to contact us regarding this matter at anytime at 304-551-7030.

Sincerely,  
Charles and Penny Keon

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APR 15 2011

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING



Jeff &Maureen Paccione  
314 Black Bear Trail  
Harpers Ferry, West Virginia  
304-728-4603

To Whom It May Concern,

We live on Black Bear Trail and are neighbors of Michelle Krassowski. We are aware of her exceptional daycare boarding as we frequently pass her home, while out on errands or on daily excursions walking through the neighborhood. The daycare that Michelle provides is quiet, well run and under control. We frequently see Michelle in the yard with her daycare charges, playing, training and supervising the dogs. My husband and I have used Michelle's services on several occasions to board our two dogs, but this happens infrequently, perhaps, twice a year. It is a valuable service she provides and to have a trusted professional in the area is very comforting. Just recently I had major surgery at Johns Hopkins, in Baltimore and Michelle was our choice to provide for our furry family.

Living on a quiet country road, it is important for my husband and I to be able to enjoy our little piece of heaven. We would not be able to do that if we had to hear barking dogs all day long. This never happens unless it is our own dogs vying for our attention. We are outside often and in the warm weather our windows are open; we have never heard Michelle's charges disrupting our peace on the mountain. We live on a dead end street and often see Michelle walking her animals, because the street is quiet, and there is seldom traffic.

Please feel free to contact my husband or myself anytime, we would be very happy to speak to you about Michelle and her valuable services.

Jeff & Maureen Paccione

*JK Paccione*  
*Maureen Paccione*

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APR 15 2011

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING



John and Danielle Sigmon  
3528C Cemetery Circle  
Knoxville, MD 21758  
March 2, 2011

Jefferson County, WV Department of Planning and Zoning  
116 East Washington Street; 2<sup>nd</sup> Floor  
P.O.Box 338  
Charles Town, WV 25414

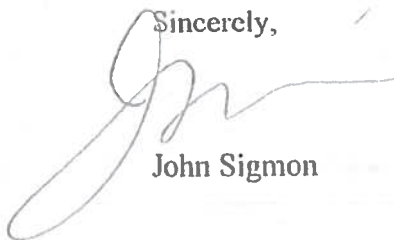
To Whom It May Concern:

We are writing to send our support for Ms. Michelle Krassowski and her business of Miss Booger's, LLC, Harpers Ferry, WV 25425. We are customers of Ms. Krassowski and she takes care of our two dogs during the day at her home. We are extremely satisfied with her business and have found her to be a caring and dedicated professional. When we were new to the area and needed a dog sitter we contacted Ms. Krassowski. We visited her home and she was explicit in her description of how the dogs would be cared for and took the time necessary to ensure everyone was comfortable with the arrangements. She visited our home to review the necessary paperwork. She requested all our shot records and papers for our dogs, had us fill out a complete history report on the dogs including every aspect of what the dogs like and need. She asked for our references at other doggy day care facilities as well as gave us her references from other customers. The very first thing she told us was that she could not accept any dogs before 9:00 a.m. as she was concerned about the welfare of her neighbors. She also told us that she may have to leave our dogs on occasion at her home while she had other pick ups or errands. We were perfectly fine with both restrictions.

We have been extremely happy with Ms. Krassowski's service. Our dogs completely love and trust her. She is the best care taker we have ever had for our dogs and they have even stopped some bad habits, like chasing our cats, due to Ms. Krassowski's training and time spent with them. It is our belief that the desire of the Department of Planning and Zoning is to do everything in its legal authority to encourage and further develop small businesses within its jurisdiction while balancing the legitimate rights of its citizenry. It is also our belief that Ms. Krassowski has taken measures herself and has been more than willing to work with lawmakers to ensure that her business is not an imposition to her neighbors.

We sincerely back up Miss Booger's, LCC Company to stay in business because Ms. Krassowski is the most caring and considerate dog care taker we have had. Our dogs are much better dogs from the service she provides. Thank you in advance for your time.

Sincerely,



John Sigmon



Danielle Sigmon

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JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING



April 3, 2011

Meg Geisler  
Rob Callahan  
17411 Lakefield Road  
Round Hill, VA 20141

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APR 15 2011

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

To Whom It May Concern:

I am writing in support of Michelle Krassowski's doggie day care service, Miss Boogers, LLC. We moved to Round Hill from Falls Church back in October 2010 and we were concerned about finding good day care for our 85 lb Bouvier. We found Miss Boogers, LLC on the internet and we have been extremely happy with her services. Miss Krassowski is very professional. Before we became her customers, she scheduled a consultation and met with our dog Bear. She had a questionnaire for us to fill out asking all kinds of things from where his dog food is kept to what shots he's had and any medicines he is taking. It was very thorough. Our dog Bear took to her right away and although he is a large dog, she had no issue whatsoever managing Bear on a walk. Miss Krassowski was in charge not our dog. You could tell that Miss Krassowski's had some kind of dog training and had been exposed to dogs on a professional level. Miss Krassowski keeps us well informed on her schedule, how many dogs she is caring for and contacts us well in advance of bad weather to discuss options.

Not long after hiring Miss Krassowski for her dog walking service, we decided to take advantage of her doggie day care. We brought Bear to her home to see the facilities she had for her day care. Miss Krassowski's had several dogs already at her home as we arrived late about 1 p.m. in the afternoon. We had not given her an exact time of arrival but had been told not to arrive before 10 a.m. Still in the middle of a doggie day care day, the yard was immaculate and her home very clean. Miss Krassowski did a fabulous job of controlling several dogs at one time. As you might suspect, they were all excited to see a new playmate but Miss Krassowski calmed all the dogs down immediately. She very professionally introduced our dog to the day care dogs one by one and she quickly had them all out in the yard getting to know each other. She observed the dogs interaction making sure that our dog did not pose any issues with the other dogs in her care. Once she was convinced there were no issues, we sat down to fill out more paperwork and discuss how day care worked at her facility. Another one of her customer stopped by while we were there to drop off her dogs for the weekend. Again Miss Krassowski maintained control of the dogs in her care even with the new arrivals. We have been extremely happy with the day care. Bear gets so excited when he sees Miss Krassowski's car in the drive now. On day care visit days, we come home to an exhausted puppy. Sometimes he doesn't even get up to greet us at the door he's so exhausted.

We hope that you allow Miss Krassowski to continue her doggie day care service. She has been an invaluable resource for us and takes great care of our dog Bear. It is hard to



find a pet sitter you know loves your dog and cares for him the way you would. If further information is needed, please do not hesitate to contact us.

Sincerely,

Meg Geisler and  
Rob Callhan



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Planning and Zoning**

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

1171101  
File #: \_\_\_\_\_  
Rec'd By: \_\_\_\_\_  
Total Fee: \$ \_\_\_\_\_

Phone: (304) 728-3228

Fax: (304) 728-8126

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

**Zoning Certificate Application**

Contact/Co. Name: Michelle Krassowski / Miss Bagers, LLC

Mailing Address: 31 Black Bear Trail

City: Harpers ferry State: WV Zip Code: 25425

Phone Number: 1-304-551-7315 E-mail: missbagers@comcast.net  
(optional)

List the information for the proposed property you are inquiring about.

Property Owner: Michelle Krassowski

Mailing Address 31 Black Bear Trail, Harpers ferry, WV 25425

Physical Address: Same

Tax District: \_\_\_\_\_ Map No: \_\_\_\_\_ Parcel No: \_\_\_\_\_ Parcel Size: \_\_\_\_\_

Deed Book: \_\_\_\_\_ Page: \_\_\_\_\_

Zoning District: (circle one)

R-A R-G I-C R-L-C V

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Type of Certificate:

Animated Sign: \_\_\_\_\_ Cottage Industry: \_\_\_\_\_  
Non-Animated Sign: \_\_\_\_\_ Home Occupation, Level 1: \_\_\_\_\_  
Change in Use: \_\_\_\_\_ Home Occupation, Level 2: ✓ \_\_\_\_\_  
Change in Non-conforming Use: \_\_\_\_\_ Other: \_\_\_\_\_

*\*Any future change in use or expansion will require processing through the Jefferson County Departments of Planning, Zoning and Engineering to update this Certificate, and ensure compliance with all applicable County regulations.*

(Turn Over)




To whom it may concern;

My name is Michelle Krassowski and I own Miss Booger's, LLC. Miss Booger's is an internet pet supply business. I also make homemade dog and cat treats and other handmade pet products that I sell at farmers markets away from home. I would like to apply for a Zoning Certificate so that I may offer pet sitting and doggy daycare in my home. It will not be a typical 'kennel' facility as I do/will not have any kennels. I will limit the amount of guest dogs to only four at a time and they will reside in my home and yard as if they were my own pets.

I have included Section 4A.2 Home Occupation, Level 2 of the Zoning Ordinance below. You will find my responses to each lettered item below each item in bold print. If you need any further information from me or have any questions, please feel free to contact me at 1-304-551-7315 (home) or 1-540-686-6808 (cell). Thank you for your consideration and your time.

Sincerely,

  
Michelle Krassowski  
Miss Booger's, LLC  
31 Black Bear Trail  
Harpers Ferry, WV 25425

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APR 15 2011

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

**Section 4A.2 Home Occupation, Level 2**

An occupation conducted in a dwelling unit for gain, provided that:

a. The occupation must be conducted by a full-time resident of the property. Up to two (2) nonresident employees also may be permitted to work on the premises.

**It just me and my boyfriend living here full time. Miss Booger's, LLC is registered in my name and I am the owner of the property. He does help me at times but he is not an employee.**

b. The use shall be conducted wholly within the dwelling unit and shall not exceed one third (1/3) of floor area of the dwelling unit.

**I limit the amount of dogs that stay here to no more than four (4) at a time. They do not stay in kennels or crates, they have full access to the house and fenced 1/2 acre yard. My home is 1144 square feet upstairs and 1144 square feet downstairs. The space they occupy could never exceed one third of floor area because of the four (4) dog limit I have chosen.**

*I have 2 dogs of my own so it would actually be a total of 6 dogs here at a time + that will not be all of the time.*

c. The use shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square foot in area, non-illuminated.

**I have not made any changes to the outside appearance of my home or yard. I do not display any signage at all.**

d. There shall be no sales, other than items crafted on the premises, in connection with such home occupation.

**Miss Booger's, LLC is also a pet treat and supply business. However, I do not do any sales from my home nor do any customers come to my home to purchase my products. I sell my handmade products at farmer's markets, away from home and on my website. In addition to my handmade products, I also carry other products on my website which I drop-ship to my customers, meaning I do NOT carry any inventory of those products in my home at all.**



e. No more than three (3) business-related vehicle visits per day nor more than fifteen (15) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted. Any need for parking generated by the conducted use of such home business shall be met off street and other than in a required front yard.

**Because of the four (4) dog limit in place, the pick ups and drop offs of clients is also very limited. The 'dog' limit also allows me to schedule pick up and drop off times to stay within the permitted visit allowance. I would not want a bunch of visits at one time because that would be too stressful for the dogs and everyone else.**

f. It is clearly incidental and subordinate to the use of the dwelling unit as a residence.

**It is my home first and a business second. I will not allow it to be any other way. As mentioned earlier, there are no signs, limited traffic and no kennels.**

g. No equipment or process shall be used in such a home business which creates offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.

**There is no equipment or process used, but with dogs there is occasional barking. I limit the time(s) that they are outside. For instance, I do not allow them out in the yard for more than a potty break in the morning to respect any neighbors who may be sleeping. I let the dogs in the yard after the noon hour to exercise and bring them in at night. In addition, I also have four (4) spray citronella anti-bark collars. I use those to limit the barking as well. They are safe and humane for the dogs. I also keep a 'bark book' to the best of my ability. I use it to keep a record of when and who barks for how long.**

h. No business which includes the storage of weapons such as firearms (other than the residents hunting, protection and leisure weapons) shall be permitted. Home businesses do not include; boarding or rooming homes or bed and breakfast establishments or adult uses.

**There are no weapons on the premises. I do not board people, run a bed and breakfast or any adult business.**

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]

i. Is not permitted in existing subdivisions established since 1979.

**I am sure that Shannondale was established before 1979.**

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JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING



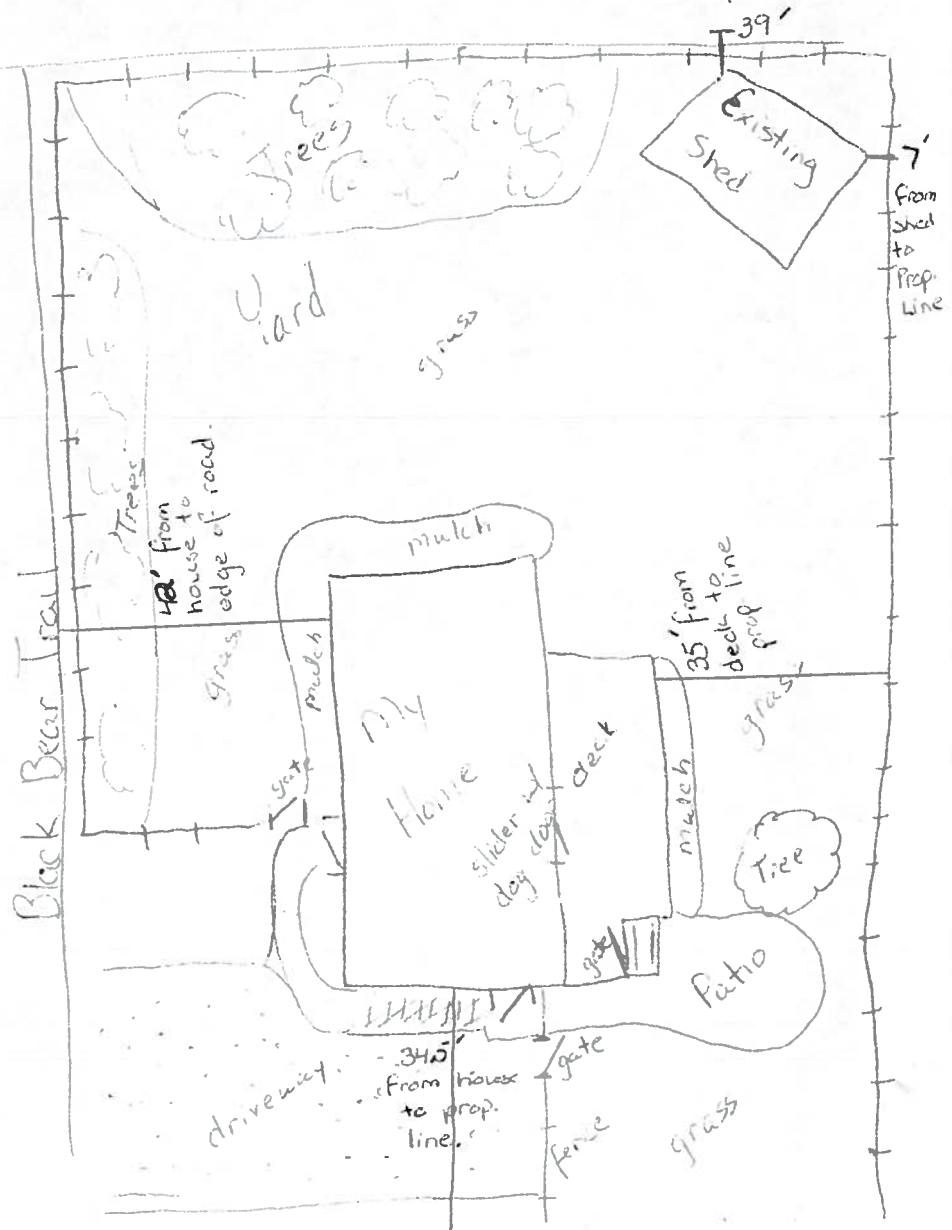
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APR 15 2011

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

Distance from  
shed to edge  
of road is

Skyline Trail





**Jefferson County, West Virginia  
Department of Planning and Zoning**

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

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

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

May 7, 2010

Ms. Michelle Krassowski  
31 Black Bear Trail  
Harpers Ferry, West Virginia 25425

RECEIVED

APR 15 2011

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING


RE: Zoning Certificate

Dear Ms. Krassowski,

Pursuant to our recent conversation concerning the issuance of a Zoning Certificate for your proposed project, enclosed you will find a copy of said approved Zoning Certificate #ZC10-08 which has been assigned to this endeavor. Please take note of the conditions of approval which are associated with this Certificate.

Should you have any questions, please do not hesitate to contact our office at (304) 728-3228.

Sincerely,



Jennifer Snyder  
Zoning Administrator

JJS/clc  
Enclosure



**JEFFERSON COUNTY  
DEPARTMENT of ZONING  
ZONING CERTIFICATE**

#ZC10-08

This is to certify that the use cited on this form is a Permitted Use in the Zone where it is proposed, by virtue of the following justification. This use is subject to the conditions imposed below and any requirements of the Jefferson County Land Use Ordinances. This may include a site plan.

**RECEIVED**

- \*Principal Permitted Use in Zone stated below:
- \*Nonconforming Grand-fathered Use in Zone stated below:
- \*Change in Nonconforming Use approved by Public Hearing in Zone stated below:
- \*Change in Nonconforming Use approved by Zoning Administrator in Zone stated below:
- \*OTHER: \_\_\_\_\_

APR 15 2011

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

**PROPERTY DESCRIPTION**

BUSINESS OWNER'S NAME: MICHELLE KRASSOWSKI (304) 551-7315 / Home  
(304) 540-686-6808 / Cell

PHYSICAL/MAILING ADDRESS: 31 BLACK BEAR TRAIL  
HARPERS FERRY, WEST VIRGINIA 25425

PROPERTY OWNER'S NAME: SAME  
MAILING ADDRESS: SAME

TAX DISTRICT: CT (2) / MAP NUMBER: 23G / PARCEL: 7  
DEED BOOK NUMBER: 1030 / PAGE NUMBER: 106

ZONING DISTRICT: RURAL

PROPOSED USE: HOME OCCUPATION – LEVEL II  
Pet Sitting/Doggie Daycare and Internet Pet Supply Business  
RESTRICTIONS: Including owner's dogs, pet sitting is limited to a six (6) dog total.  
No Kennels permitted. Conformance to all State and Federal Regulations and appropriate State Licenses must be issued, prior to establishing use.

CONDITIONS: Any future change in use or expansion, will require processing through the Jefferson County Departments of Planning, Zoning and Engineering to update this Certificate, and ensure compliance with all applicable County Regulations. This Zoning Certificate shall be rendered null and void should any required License or Permit be revoked.

This certification in no way relieves the Owner, Applicant or User from the documented requirements of the Jefferson County Ordinances, to include Building and Sign Permit processing, unless the appropriate variances are granted by the corresponding County authorities.



*[Signature]*  
\_\_\_\_\_  
Zoning Administrator  
Department of Planning and Zoning Seal

May 7, 2010  
Date of Issuance



Dear Mr. Barney;

I am writing this letter in response to your decision to not increase the number of pet sitting clients that I am allowed to have at my home as stated on my zoning permit. Currently, my zoning permit only allows for me to have a total of six dogs at my home, including two of my own.

I would like to again ask you to reconsider your decision and allow me to at least accept two more dogs into my home for daycare, which is my regular income, plus occasional additional boarding clients. If I cannot have any more clients, I cannot cover my living expenses and will have to end my business or maybe even move.

I hope that you will agree after visiting my home that I am passionate about what I do. The dogs that come to my home become like a part of my family. I also hope that you will agree that I take great care in respecting those around me. My home and my yard are kept clean and orderly. I go to every effort to limit any noise, in fact, most times when I have the dogs outside for a play session; it is quite quiet, other than the occasional playful bark. I currently have a variety of anti-bark collars that I utilize plus an anti-bark 'birdhouse' that hangs in my yard. I would also be willing to hold off play sessions until late morning or even noon.


I believe that the barking ordinance requires two complaints, each from a separate address. To my knowledge, only one of my neighbors has complained and I check with my other neighbors regularly to see if it is an issue and no one has stated a problem. Incidentally, I was reminded while composing this letter that that neighbor that has complained had a roommate until the first part of October of 2010. That roommate also worked two jobs, one of which was third shift. I repeatedly asked that roommate to let me know if the barking was ever a problem for him and each time he told me that he didn't hear it.

As I stated during your visit to my home, if business traffic is a concern, that is completely controllable by me as I pick up and drop off most of my clients. Any others are flexible in scheduling. In addition, I encourage you to speak with any of my clients if you are concerned about my abilities to manage multiple dogs.

I would also like to add that I am perfectly willing to agree to any inspections, either scheduled or not, as to whether or not my business is a nuisance to those around me. After reading this letter, I hope you will see that I am willing to be flexible and do whatever it takes in order for me to maintain my business and my income in these tough economic times. I implore you to please reconsider and allow me to accept more clients so that I may keep my business and my home going.

Thank you for your time and consideration.

Sincerely,

  
Michelle Krassowski  
Miss Booger's, LLC  
31 Black Bear Trail  
Harpers Ferry, WV 25425

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APR 15 2011

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING



Home Occupation Level II Supplemental Zoning Certificate Requirements

The requirements for the land use "Home Occupation Level II" are established in Section 4A.2 of the Jefferson County Zoning Ordinance. As part of an application for a Zoning Certificate, the Applicant certifies that the proposed Home Occupation Level II will meet the following requirements:

- (a) The occupation must be conducted by a full-time resident of the property. Up to two (2) nonresident employees also may be permitted to work on the premises

I certify that the proposed Home Occupation Level II use will meet this standard.

- (b) The use shall be conducted wholly within the dwelling unit and shall not exceed one third (1/3) of floor area of the dwelling unit.

I certify that the proposed Home Occupation Level II use will meet this standard.

- (c) The use shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square foot in area, non-illuminated.

I certify that the proposed Home Occupation Level II use will meet this standard.

- (d) There shall be no sales, other than items crafted on the premises, in connection with such home occupation.

I certify that the proposed Home Occupation Level II use will meet this standard.

- (e) No more than three (3) business-related vehicle visits per day nor more than fifteen (15) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted. Any need for parking generated by the conducted use of such home business shall be met off street and other than in a required front yard.

I certify that the proposed Home Occupation Level II use will meet this standard.

- (f) It is clearly incidental and subordinate to the use of the dwelling unit as a residence.

I certify that the proposed Home Occupation Level II use will meet this standard.



(g) No equipment or process shall be used in such a home business which creates offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.

I certify that the proposed Home Occupation Level II use will meet this standard.

(h) No business which includes the storage of weapons such as firearms (other than the residents hunting, protection and leisure weapons) shall be permitted. Home businesses do not include; boarding or rooming homes or bed and breakfast establishments or adult uses.


I certify that the proposed Home Occupation Level II use will meet this standard.

(i) Is not permitted in existing subdivisions established since 1979.

I certify that the proposed Home Occupation Level II use will meet this standard.

(j) Deed restrictions or Homeowners' Association covenants (which are not enforced by Jefferson County) may prohibit the proposed land use. Applicants are advised to review deed restrictions and Homeowners' Association covenants.

I understand that it is an applicant's responsibility to verify whether deed restrictions or Homeowners' Association covenants prohibit the proposed land use.

Signature 

Date 2/7/11

Michelle Krassowski  
Printed name

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JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING



**Jefferson County, West Virginia  
Department of Planning and Zoning**

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

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

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

February 16, 2011

Michelle Krassowski  
31 Black Bear Trail  
Harpers Ferry, West Virginia 25425

RE: Home Occupation – Level II / Doggie Daycare

Dear Ms. Krassowski,

Pursuant to your recent application for the issuance of a revised Zoning Certificate for the established project referenced above, enclosed you will find a copy of said approved Zoning Certificate #ZC11-04 which has been assigned to this endeavor. Please take note of the Restrictions / Conditions of approval which are associated with this Certificate. You must also contact the Permit Department at (304) 725-2998 prior to commencement of any construction/renovations/repairs for this project.

Should you have any questions, please do not hesitate to contact our office at (304) 728-3228.

Sincerely,



Steve Barney  
Zoning Administrator

SB/clc  
Enclosure

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#ZC11-04

JEFFERSON COUNTY  
DEPARTMENT of ZONING  
ZONING CERTIFICATE

AP11-01

 COPY

This is to certify that the use cited on this form is a Permitted Use in the Zone where it is proposed, by virtue of the following justification. This use is subject to the conditions imposed below and any requirements of the Jefferson County Land Use Ordinances. This may include a site plan.

- \*Principal Permitted Use in Zone stated below.
- \*Nonconforming Grand-fathered Use in Zone stated below.
- \*Change in Nonconforming Use approved by Public Hearing in Zone stated below.
- \*Change in Nonconforming Use approved by Zoning Administrator in Zone stated below.
- \*OTHER: \_\_\_\_\_

PROPERTY DESCRIPTION

PROPERTY/BUSINESS OWNER: MICHELLE KRASSOWSKI (304) 551-7315 / Home  
(540) 686-6808 / Cell

PHYSICAL/MAILING ADDRESS: 31 BLACK BEAR TRAIL  
HARPERS FERRY, WEST VIRGINIA 25425

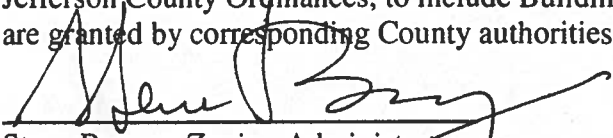
TAX DISTRICT: CT (2) / MAP NUMBER: 23G / PARCEL: 7  
DEED BOOK NUMBER: 1030 / PAGE NUMBER: 106  
RURAL

ZONING DISTRICT:

PROPOSED USE: HOME OCCUPATION – LEVEL II  
Pet Sitting/Doggie Daycare and Internet Pet Supply Business.  
RESTRICTIONS: Counting Owner’s dogs, Pet Sitting/Daycare Service (including overnight boarding) is limited to an eight (8) dog total. No outdoor kennels permitted. No delivery or pick-up of dogs may occur before 9:00 a.m. Except for brief “visits of necessity”, dogs are not allowed outside before 11:00 a.m. Dogs must remain confined inside residence during those times that Daycare Operator is not on the premises. Conformance to all State and Federal Regulations and any appropriate State Licenses must be issued, prior to establishing use.

CONDITIONS: Any future change in use or expansion, will require processing through the Jefferson County Departments of Planning, Zoning and Engineering to update this Certificate, and ensure compliance with all applicable County Regulations. This Zoning Certificate shall be rendered null and void should any required License or Permit be revoked.

This certification in no way relieves the Owner, Applicant or User from the documented requirements of the Jefferson County Ordinances, to include Building and Sign Permit processing, unless the appropriate variances are granted by corresponding County authorities.

  
Steve Barney, Zoning Administrator

February 16, 2010  
Date of Issuance



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JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING



Subject: Letter of Rebuttal from Miss Booger's, LLC

February 14, 2011

Dear Mr. Carter and Mr. Barney;

After reviewing the complaints that my neighbor, Joseph Hoffman, has filed against my business, Miss Booger's, LLC, I would like to submit this rebuttal to your office to keep on record. First I'd like to point out that I take my business very seriously. I've always had a great love for animals and because of this I took a job at an animal hospital. While I was there I was a veterinary assistant with the added responsibility of educating the clients on proper training techniques. I really enjoyed working with the animals and I am blessed to now be able to make a career of caring for animals. Mr. Hoffman has made several accusations against me which are plainly false and I will provide information and names of people who can verify this to be the case.

In the interest of keeping this rebuttal simple to follow, I will use a format in which I will first quote statements from his emails in italics. I will follow immediately below each quote with my statements and references.

So that there is no question as to the accuracy of the quotes taken from his emails, let it be known that I did not even correct Mr. Hoffman's misspelling of my name. If any one reading this rebuttal would like to read the original emails, they will be provided upon request.

**Excerpts from an email dated Tuesday, January 18, 2011 1:30 PM**

**From: Joseph Hoffman**

**To: Mr. Steve Barney**

*...Legally, Ms. Krassowski has been in violation of her permit since it was issued. A point of the permit is that kennels are not allowed, just pet sitting. Ms. Krassowski has been keeping dogs overnight and actually advertises such. As for physical kennels, she does have at least one very large animal cage requiring two men to unload...*

When I first applied for my permit I met with Jennifer Snyder and Seth Rivard of the zoning administration. I first met Mr. Rivard at our neighborhood community center and asked him how one gets the proper permits. I was completely honest with both of them and told them that I had placed some flyers on our mailboxes and later an ad on the Shannondale forum to see what kind of response I got. I didn't get anything at first except a neighbor down the road for boarding and some pet sitting visits. A couple of months later I got a couple of more clients, and that is when I scheduled a meeting with them.

I explained the nature of my business to them from the beginning as offering overnight boarding without the use of kennels. Kennels were defined as permanent structures and were not to be used. I explained that I do have several collapsible crates that I use when necessary, for instance, if a dog is in training to be house broken or is known to be destructive at night or when left alone. The very large crate that Mr. Hoffman is referring to here actually belongs to some friends of mine. I watched their dogs for them, for free,

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while they went on their honeymoon. They brought it with them as one of their dogs is a young St. Bernard.

It clearly states on my original application for permit what my intentions were with regards to the type of services I provide. I also explained to Ms. Snyder and Mr. Rivard that I would like to also offer daycare services for dogs as well, meaning dogs could stay and play at my home while their owners were at work and go home in the evening. I mentioned this to them because while I didn't have any daycare customers at the time it was something I would like to offer. I did not get my first regular daycare client until October of 2010.

*...Speaking to the maximum number of dogs allowed, I have seen as many as thirteen (13) dogs boarded at once, and just last Thursday when she was ordered into compliance, there were nine (9) dogs on the property....*

I admit it was my error when I went over the limit expressed on my permit, but that is exactly what it was, an error. When I met with Ms. Snyder and Mr. Rivard, I told them that I couldn't imagine needing to board more than 4 – 6 dogs at a time. I had no idea that my services would become as popular as they have. I simply did not realize or had forgotten that they had put that in writing on my permit. Once it was brought to my attention by Mr. Hoffman at approximately 12:15 p.m. on January 13, 2011, I immediately called to find out about applying to get the limit increased. It was later that afternoon that I received a call from Mr. Carter Mason, the Ordinance Compliance Officer concerning Mr. Hoffman's complaint.

I would like to add that when I began looking into this as a serious business, I called every authority I could think of to make sure I did it the right way. I called the Assessor's office, the Sheriff's office, the Zoning Administration, the Secretary of State and Animal Control to name a few. I talked with each authority and took the necessary steps to make sure I was in compliance with all of them. I hope this shows that if I had realized sooner that there was a limit on my permit I would have taken the steps to change it immediately.

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*...Speaking to the condition the dogs are kept in and the attentiveness provided, my wife and I will attest that she is frequently not present when dogs are boarded, and again, last week a boarder waited ten minutes outside the residence to pick up an animal, and ten to fifteen minutes after she left, Ms. Krasowski returned....*

This is completely untrue. The week that Mr. Hoffman is referring to would have been that of January 10, 2011. Of the customers I had that week, three of them were picked up by their owners and they will attest to the fact that they have never waited on my property to pick up their dogs. Their names and phone numbers are provided here:  
Sue Bubel – 315-790-0132, Sarah Brantley – 304-820-4124 & Penny & Chuck Keon – 304-551-7030. Please feel free to contact them with questions on this matter or any matter concerning the care I provide.

*...It is also not rare to see her drive up just before a customer drops off a dog and then leave soon after. When there are so many animals on the property, some of them very*



*small such as a Terrier we have seen in the snow, what level of care can she claim to provide if she is absent?...*

I tell all of my customers up front what my schedule is. I have occasionally in the past taken on temporary side jobs to help make ends meet and I also have errands to run or pets to care for in their homes. Those pet sitting visits are varied in their length and frequency depending on what the customer requests. If what Mr. Hoffman describes here has taken place that is what is happening. Rest assured that (a), my customers and I are in constant contact with each other as to my schedule and they are always aware of it, and (b), if I have to leave for any reason I make sure I am not gone for an unreasonable amount of time or that my boyfriend will be returning home in my stead.

The 'Terrier' that Mr. Hoffman is referring to is actually a Corgi that recently started daycare with me two or three days per week. It just so happens that he loves to play in the snow and enjoys staying out for periods of time. I have a dog door which he is fully capable of using and can come in whenever he wants but he chooses to play in the snow. As for his size, it is only physical and not mental. He is perfectly capable of hanging out with the big dogs and actually they all get along really well and look forward to playing together. This dog's owner is Sarah Brantley, whose number is listed earlier. You may contact her on these matters as well.

*...We routinely get home at 1 to 2am and with many of her charges getting dropped off early in the morning and all of them barking at the next that shows up and every car that drives by, we are lucky to get even a few hours of good sleep...*

From the beginning I have scheduled drop offs or pick ups after 9 a.m. Because of the Hoffmans' sleep schedule, I have even tried to keep it after 10 a.m. I have always had my customers come after either 9 or 10 a.m. or drop off the evening before. To avoid listing dozens of names and phone numbers because all of my customers, 47 in all, can attest to this, please ask for this information if you would like to verify this and I will gladly provide it. You can certainly ask the customers whose names and numbers I have already provided as well.

*...I have complained to Ms. Krasowski about this, and her claim is that they only bark for a few seconds before she stops them. I've timed them as long as seventeen minutes and have made two calls to the county Sheriff's office about the noise and duration.*

Mr. Hoffman and his wife came to me about the barking only one time in the winter/spring of 2010 after she moved in with him. I apologized and said I would do something about it. I immediately purchased four anti-bark spray collars and an anti-bark 'birdhouse' that hangs from a tree in my yard. I admit that it is ironically my own sheltie who is the instigator of barking when someone passes by the property. (Please note that even Mr. Hoffman has said that they bark when people pass by or when someone shows up at my home, as stated in the previous quote above. I have never even had to correct my dogs or my clients for barking incessantly). It has taken some effort but I have recently purchased two more e-collars that are much more effective on my sheltie.

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The instance Mr. Hoffman is referring to in which he claims to have complained to me about it was actually on January 13, 2011, when I caught him trespassing on my property and taking photos. I would also like to note that the dogs were all quiet until he came onto my property. That is when they began barking at him. He stated that 'the barking was insane' and I then replied that they only bark for a few seconds until I stop them. That day, I could not get them to stop until he left my property. I think it is understandable dog behavior to bark when there is a man dressed in black standing among the trees and right along side my fence which is at least 20 -25 feet into my property.

As for his timing them at seventeen minutes, I have kept a 'bark book' in the past and have resumed doing so due to these complaints. I have never had them continue barking for more than the time it takes for someone to walk or drive passed my property. This is usually mere seconds. Incidentally, I have seen the sheriff parked down the road on two separate occasions and have never been notified by them that they heard any excessive barking.

**Excerpts from an email dated Sunday, January 23, 2011 2:46 PM**

**From: Joseph Hoffman**

**To: Mr. Steve Barney**

*...Just two days ago, one of her client's dogs got free at home and found it's way to the kennel. When I let Ms. Krasowski know I was calling animal control to see whose it was, I was cursed at. That was followed the next morning by howling dogs...*

Friday night at about 10:30 pm I was in my bedroom watching television with my two dogs. My boyfriend was asleep on the couch in the living room. I heard an engine running outside and looked out the window. I could barely make out a truck in the road out front and someone in my driveway. When I went to go out side and see who it was my dogs woke up and ran out into the yard. (Please note: they only got up when I got up to check it out.) It was not a customer but my neighbor from up the road, Bill Little, and a mutual friend or ours, Roger Shelton. Bill's dog had gotten loose and made his way down to my house as he has done a couple of times before. They followed him to my house and were about to ask me to help catch him since I seem to be the only one who can. My dogs began barking at his dog and vice-versa until only moments later my boyfriend went into the yard and got our dogs into the house. Once that happened, I was able to catch Bill's dog and he put him into Roger's truck. Roger, Bill and I were chit-chatting with the truck running for a few minutes in the driveway before they headed back. While standing there, Mr. Hoffman came out of his front door and starting yelling something at us but we couldn't hear him over the engine of the truck. Bill began yelling something back at him and I told Bill to "knock it off." Bill stopped, we said good night and they left.

It is obvious that Mr. Hoffman is either unaware of the facts or is only telling half truths to serve his purpose. He is clearly trying to imply that I cursed at him when in fact I was the one who put a stop to it. Below are the signatures and phone numbers of Mr. Little and Mr. Shelton, who have read this statement and find it to be true and accurate.

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Mr. Bill Little  
301-712-1222

Signed William Z Little

Mr. Roger Shelton  
703-932-8250

Signed [Signature]

2-14-11

As for the howling dogs the next morning, I did not have any clients here that weekend. I do not recall my dogs barking at anyone passing by that morning.

**Excerpts from an email dated Wednesday, January 26, 2011 2:46 PM**

**From: Joseph Hoffman**

**To: Mr. Steve Barney**

*...We spoke today about her business being run in absentia. She was gone for over two and a half hours after we spoke, which reflects on the care she purports to provide. Since the dogs cannot be separated into cages without it being a full blown kennel, she cannot be said to provide pet sitting services or expect to maintain a reasonable level of care or safety for her charges while she is away...*

As I explained in an earlier response to an excerpt, I do have to leave from time to time. Before any customer boards their dog(s) at my home, I have them bring their dog(s) over for an introduction to meet my dogs and get familiar with the place and my rules. I evaluate each dog based on their temperament and how they interact with other dogs. I have only had to refuse three (3) customers because their dogs either attacked one of my dogs or my cats. All three of those customers call me to care for their pets in their home while they are away. Those clients' names are Chris Lucarelli, Lee Chew and Kathy Newton.

I have never and would never leave dogs in my home unattended for any amount of time unless I was absolutely sure were accustomed to each other and to the rules of my home. My canine clients become a part of my family when they are here which means they receive love just as they would at home but they also abide by my rules. I work diligently with each new customer and make those rules clear right from the beginning. At this point, most of my customers that board here have all met each other and are familiar with each other. I have even heard from some of my customers that their dogs are better behaved when they get them home.

When I have a new client I plan my schedule so that I don't have to leave while they are here until they are well adjusted. If an emergency arises and I need to leave, I have the crates that I mentioned earlier that I can set up in my living room. Any dog that needs to be crated if I am away is protected but still in nose, eye and ear shot of the other dogs. This provides a safe environment for the interaction and learning to continue.

I would like to note that I have training tools and methods that I use that are completely disclosed to and approved by the dogs' owners. You may contact three of my regular customers, Danielle Sigmon at 202-550-1288 and Meg Geisler at 703-328-2544 or Penny and Chuck Keon at 304-551-7030 for verification of these statements.

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*...One of her own dogs there has been known to get into fights and has killed a neighbor's chickens. So while they may get along well moment to moment, if a fight starts while she is away she has effectively abandoned the animals...*

My dog, Munster, was abused and neglected as a puppy. We found him when he was eight months old and I spent ten (10) months working with him and walking him two and a half hours a day to train and rehabilitate him. While he is still a little fearful of new people, I inform all of my clients on how to act when around him and it has never been an issue. He has made great progress and boarding dogs here has played a huge part in that. He has NEVER attacked another dog; in fact, he is quite submissive and was pinned down by one of the canine clients mentioned earlier and also was attacked by another dog in the neighborhood. It should be noted that when my dog, Booger, passed away and I spent an entire weekend in bed, Mr. Hoffman and his then fiancé came and invited me on a hike with them. I brought Munster with me and we had to climb a rocky portion on the mountain and Munster was having trouble. Mr. Hoffman carried this 'dangerous' dog in his arms to higher ground. As for the chickens that he supposedly killed, Munster did used to roam and he made some neighbors nervous which is why we installed the fence. It was made well known who he belonged to and no neighbor has ever come to me about him killing their chickens. There are two facts that I would like to note. One is that there was a bear roaming the area at the time of said chicken killing and two is that since Munster's roaming days, we have walked him to each of the neighbors that we knew he frightened and introduced ourselves and him to them and we are all friendly now. Many of them are able to pet Munster now without any fear. Many of my clients are actually impressed because Munster has become the role model to the other dogs for obeying the rules.

In conclusion, I have been completely honest from the beginning and I am very saddened that I have to defend myself and my business from such libelous allegations. I hope that the statements included herein provide enough information to demonstrate that Mr. Hoffman is either omitting or twisting the facts to serve his own purpose. I will again say that if any one reading this document would like further details, please contact me and I will be glad to provide them. Please feel free to contact any of the people whose names are provided above. I will also be glad to provide additional contact information for others as well. Thank you for your time on this matter.

Sincerely,

Michelle Krassowski  
Miss Booger's, LLC  
31 Black Bear Trail  
Harpers Ferry, WV 25425  
1-304-551-7315

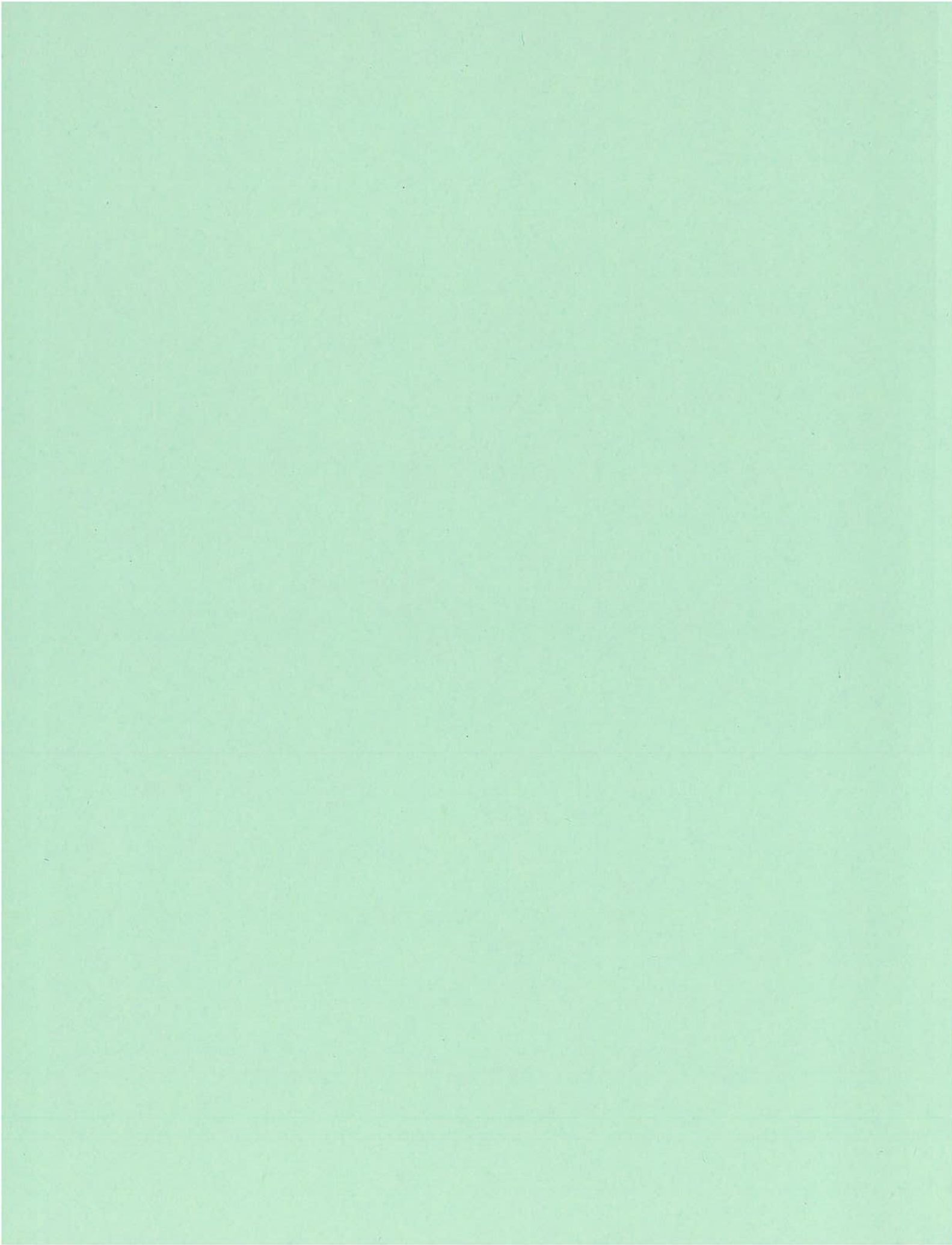
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Exhibit C  
Staff Report



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Michelle Krassowski Appeal (#AP11-01)**

Item #5 Appeal of an Administrative Decision of Zoning Certificate (ZC11-04) by Michelle Krassowski on behalf of Miss Booger's Pet Services & Supplies. The Zoning Certificate, approved on February 16, 2011, restricts the pet sitting/doggie daycare to a total of 8 dogs. The appeal is to request that the applicant be permitted to increase the number of dogs permitted for the land use.

APPLICANT:	Michelle Krassowski
OWNER :	Same as above
DEVELOPER:	Miss Booger's Pet Services & Supplies
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	31 Black Bear Trail, Harpers Ferry, WV 25425
LEGAL DESCRIPTION:	District: Charles Town; Map: 23G; Parcel: 7 
ZONING DISTRICT:	Zoning Map Designation: Rural 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Rural <i>East:</i> Rural <i>West:</i> Rural
LOT AREA:	.459 acres
PRIOR CASES:	ZC10-08: Issued 05/07/10 ZC11-04: Issued 02/16/11
VARIANCE(S):	None
APPROVED ACTIVITY:	Residential

**Staff Report**  
**Jefferson County Board of Zoning Appeals Meeting**  
**April 21, 2011**

**Michelle Krassowski Appeal (#AP11-01)**

**RELEVANT INFORMATION:**

1. Overview

The Applicant has submitted an appeal to the restrictions of Zoning Certificate ZC11-04, issued on February 16, 2011. This Zoning Certificate is for a Home Occupation Level II located at the Applicant's residence, with the land use designation, "Pet Sitting / Doggie Daycare and Internet Pet Supply Business."

It should be noted that a separate appeal of the issuance of Zoning Certificate ZC11-04 has been submitted by Joseph Hoffman, a neighbor of the property. As a result of the date this appeal application was submitted, Mr. Hoffman's appeal will be scheduled for the Board of Zoning Appeals May 19, 2011 meeting.

2. Chronology of Relevant Events

The chronology of events culminating in the issuance of Zoning Certificate ZC11-04 and the Applicant's subsequent appeal is as follows:

<b>Date</b>	<b>Event</b>	<b>Comment</b>
April 29, 2010	Michelle Krassowski submits Zoning Certificate application	<i>Applicant's description of proposal:</i> "I would like to offer a pet sitting / doggy daycare at my home. I will not use kennels. The dogs would have full access to my home + yard which is fenced (1/2 acre)."  "I will limit the number of dogs here to 4 guests + my own two (2) dogs for a total of never more than 6 dogs here at one time."  <i>[A supplemental letter submitted with the application provides additional detail regarding the business. This letter is included in the BZA packet.]</i>
May 7, 2010	Zoning Administrator issues Zoning Certificate (ZC10-08) for a "Home Occupation Level II. Pet Sitting/Doggie Daycare and Internet Pet Supply Business."	<i>Restrictions:</i> "Including owner's dogs, pet sitting is limited to a (6) dog total. No Kennels permitted. Conformance to all State and Federal Regulations and appropriate State Licenses must be issued, prior to establishing use."
January, 2011	Joseph Hoffman, neighbor of applicant, submits complaint.	A neighbor of Ms. Krassowski's property contacted the Jefferson County Code Compliance Officer to report that more than 6 dogs are regularly present at 31 Black Bear Trail.
February 4, 2011	Zoning Administrator and Code Compliance Officer visit applicant's home	It is observed that the land use appears in compliance with the issued zoning certificate.
February 7, 2011	Michelle Krassowski submits Zoning Certificate application	<i>Applicant's description of proposal:</i> "I would like to be able to increase the number of dogs/clients that I have at my home for Doggy Daycare + Boarding."

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Michelle Krassowski Appeal (#AP11-01)**

Date	Event	Comment
February 16, 2011	Zoning Administrator issues Zoning Certificate (ZC11-04) for a "Home Occupation Level II. Pet Sitting/Doggie Daycare and Internet Pet Supply Business "	<p><i>Restrictions:</i></p> <p>"Counting Owner's dogs, Pet Sitting/Daycare Service (including overnight boarding) is limited to an eight (8) dog total. No outdoor kennels permitted. No delivery or pick-up of dogs may occur before 9:00 a.m. Except for brief "visits of necessity", dogs are not allowed outside before 11:00 a.m. Dogs must remain confined inside residence during those times that Daycare Operator is not on the premises. Conformance to all State and Federal Regulations and any appropriate State Licenses must be issued, prior to establishing use."</p>
March 8, 2011	Michelle Krassowski appeals Zoning Administrator's decision to limit number of dogs to 8 (AP11-01)	<p><i>Letter attached to appeal application includes the following:</i></p> <p>"I would like to file this appeal in response to the Zoning Administrator's decision to only increase the number of dogs permitted at my home/business to eight (8), including my own two dogs, which is only two (2) more than previous allowed."</p> <p>[This letter is included in the BZA packet.]</p>
March 18, 2011	Neighbor Joseph Hoffman files appeal of the issuance of Zoning Certificate ZC11-04 (AP11-02)	Because this appeal was filed after the submittal deadline for the April 21 BZA agenda, the case will be heard at the May 19 BZA meeting.

3. Rationale for Restrictions on Zoning Certificate

The Zoning Certificate for a Home Occupation Level II land use for this property was initially approved on May 7, 2010. Regarding Ms. Krassowski's February 7, 2011 application, staff needed to make a determination as to how many additional dogs (if any) could be permitted, while still meeting the intent of the Zoning and Land Development Ordinance regarding the Home Occupation land use.

It was staff's judgment that the land use could reasonably accommodate more than 6 dogs, based on factors including the results of a site visit as well as the Applicant's willingness to abide by proposed conditions such as hours of operation.

Staff determined that the land use could not accommodate more than 8 dogs, due to the following factors:

**Staff Report**  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Michelle Krassowski Appeal (#AP11-01)**

1. The size of the property. Compared to other properties in Jefferson County with Rural zoning, the size of the subject property (approximately ½ acre) is relatively small. As such, there is little buffer space between the land use and adjacent residential properties. While staff does not consider the land use to be a dog kennel, it should be noted that the Zoning and Land Development Ordinance (Section 5.7(a)(28) requires a dog kennel to be set back at least 500 feet from any property that contains a residence.
2. The property's location in a residential neighborhood. While Ms. Krassowski utilizes anti-bark technologies as part of the business, some amount of barking while dogs are outdoors appears inevitable. Staff perceived that a large number of dogs barking would be more likely to disturb surrounding neighbors than a smaller number of dogs.
3. Section 4A.2(b) of the Ordinance states that a Home Occupation Level II shall not exceed one third (1/3) of the floor area of the dwelling unit. As a standard single-family dwelling unit, the home has limited square footage that may be allocated to the land use. Staff's determination was that more than 8 dogs would require more space for the land use than Section 4A.2(e) would otherwise allow.
4. Section 4A.2(e) of the Ordinance states that for a Home Occupation Level II, no more than three business-related vehicle visits per day nor more than fifteen per week are permitted at the premises. Staff determined that allowing more than 8 dogs on the site could result in business-related vehicle visits exceeding three per day.
5. Section 4A.2(f) of the Ordinance states that a Home Occupation Level II shall be "clearly incidental and subordinate to the use of the dwelling unit as a residence." Staff's determination was that 8 dogs was the maximum number that the land use could support while remaining incidental and subordinate to the residential use.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Michelle Krassowski Appeal (#AP11-01)**

SECTION OF ORDINANCE TO BE CONSIDERED:

ARTICLE 8. APPEAL PROCESS UNLESS SUPERCEDED BY THE BOARD OF ZONING  
APPEALS RULES OF PROCEDURE

Section 8.1 Filing an Appeal

- (a) An appeal to the Board may be taken by any person, board, associate, corporation or official allegedly aggrieved by any administrative decision based or claimed to be based, in whole or in part, upon the provisions of this Ordinance. The property owner of the subject appeal shall sign the application or an affidavit allowing an agent for the property owner to file the application which shall be submitted.
- (b) Such appeal shall be filed with the Board within thirty (30) days from the decision appealed.
- (c) Appeal applications shall be made on the forms designated by the Planning and Zoning Commission and shall be accompanied by three (3) copies of the application and an accurate drawing of the property showing distance of all structures from property lines and any pertinent data deemed necessary for the request. Submittal of the application shall be made to the Planning and Zoning Office.
- (d) All zoning fees, in accordance with the approved County fee structure, shall be paid upon application.
- (e) No application shall be accepted in the Planning and Zoning Office unless it contains all pertinent information and is accompanied by the required fees.

Section 8.2 Processing Procedures

- (a) Appeal applications filed in the proper form shall be numbered serially, docketed, and placed upon the calendar of the Board of Appeals.
- (b) The Board shall hold a hearing within forty-five days (45) from the date the appeal is received in the Department of planning, Zoning, and Engineering Office. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON SEPTEMBER 13, 1990 AND MAY 18, 1996 AND PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- (c) Notice of the hearing shall be advertised in two issues of a newspaper having general circulation in the County at least 15 days before the hearing. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON SEPTEMBER 13, 1990 AND [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

**Staff Report**  
**Jefferson County Board of Zoning Appeals Meeting**  
**April 21, 2011**

**Michelle Krassowski Appeal (#AP11-01)**

- (d) Property upon which the application is concerned shall be posted conspicuously by a zoning notice no less than twenty-eight (28) inches by twenty-two (22) inches, in size, at least 15 days before the hearing. The sign will be prepared by the Planning Office but is the responsibility of the applicant for the posting of the property. The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.

**Section 8.3    Public Hearing**

- (a) The Board following action in Section 8.2, shall hold such hearing. At the hearing, any party may appear and be heard in person or by agent or attorney.
- (b) The Board shall render its determination on the application no more than thirty (30) days following the public hearing by registered mail. Any party aggrieved by a decision of the Board may appeal to the circuit court of Jefferson County within thirty (30) days of the Board's decision. The Court may affirm, reverse, vacate, or modify the decision subject to the appeal.

**Section 8.4    Continuance of Hearing**

- (a) The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session. Any hearing continued shall be held within thirty (30) days from the initial hearing.

Exhibit D  
Zoning Certificate  
#ZC11-04,  
dated February 16, 2011



#ZC11-04

**JEFFERSON COUNTY  
DEPARTMENT of ZONING  
ZONING CERTIFICATE**

This is to certify that the use cited on this form is a Permitted Use in the Zone where it is proposed, by virtue of the following justification. This use is subject to the conditions imposed below and any requirements of the Jefferson County Land Use Ordinances. This may include a site plan.

- \*Principal Permitted Use in Zone stated below.
- \*Nonconforming Grand-fathered Use in Zone stated below.
- \*Change in Nonconforming Use approved by Public Hearing in Zone stated below.
- \*Change in Nonconforming Use approved by Zoning Administrator in Zone stated below.
- \*OTHER: \_\_\_\_\_

**PROPERTY DESCRIPTION**

PROPERTY/BUSINESS OWNER: MICHELLE KRASSOWSKI (304) 551-7315 / Home  
(540) 686-6808 / Cell

PHYSICAL/MAILING ADDRESS: 31 BLACK BEAR TRAIL  
HARPERS FERRY, WEST VIRGINIA 25425

TAX DISTRICT: CT (2) / MAP NUMBER: 23G / PARCEL: 7  
DEED BOOK NUMBER: 1030 / PAGE NUMBER: 106  
RURAL

ZONING DISTRICT:

PROPOSED USE:

HOME OCCUPATION – LEVEL II  
Pet Sitting/Doggie Daycare and Internet Pet Supply Business.

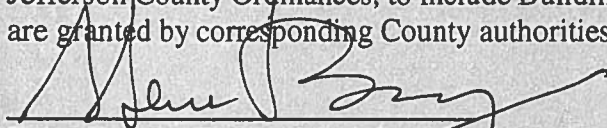
RESTRICTIONS:

Counting Owner's dogs, Pet Sitting/Daycare Service (including overnight boarding) is limited to an eight (8) dog total. No outdoor kennels permitted. No delivery or pick-up of dogs may occur before 9:00 a.m. Except for brief "visits of necessity", dogs are not allowed outside before 11:00 a.m. Dogs must remain confined inside residence during those times that Daycare Operator is not on the premises. Conformance to all State and Federal Regulations and any appropriate State Licenses must be issued, prior to establishing use.

CONDITIONS:

Any future change in use or expansion, will require processing through the Jefferson County Departments of Planning, Zoning and Engineering to update this Certificate, and ensure compliance with all applicable County Regulations. This Zoning Certificate shall be rendered null and void should any required License or Permit be revoked.

This certification in no way relieves the Owner, Applicant or User from the documented requirements of the Jefferson County Ordinances, to include Building and Sign Permit processing, unless the appropriate variances are granted by corresponding County authorities.

  
Steve Barney, Zoning Administrator




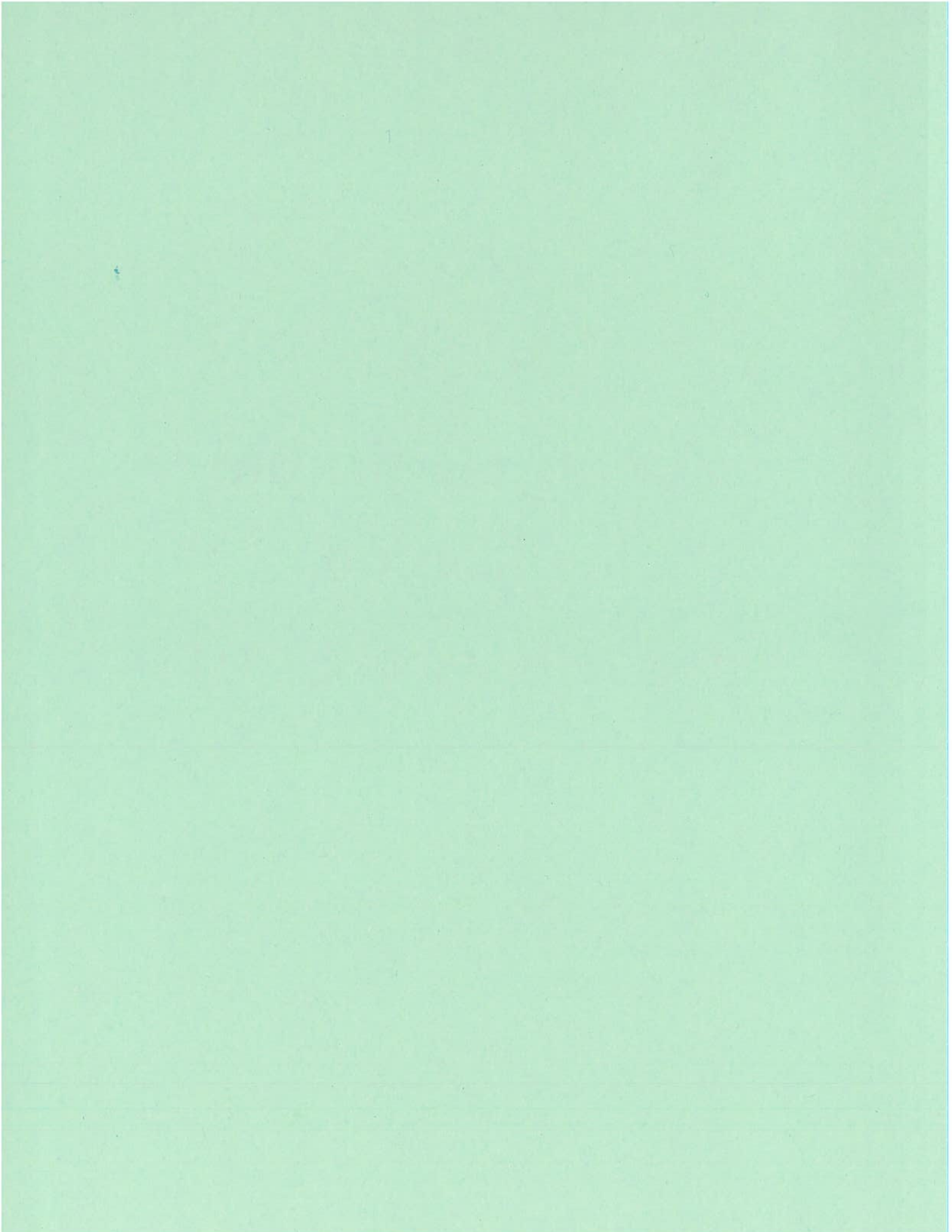
February 16, 2010 2011   
Date of Issuance



Exhibit E  
Zoning Certificate  
application,  
dated February 7, 2011



JEFFERSON COUNTY, WEST VIRGINIA

Department of Planning and Zoning

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

P.O. Box 338

Charles Town, West Virginia 25414

File #: \_\_\_\_\_

Rec'd By: \_\_\_\_\_

Total Fee: \$ \_\_\_\_\_

Phone: (304) 728-3228

Fax: (304) 728-8126

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

Zoning Certificate Application

Contact/Co. Name: Michelle Krassowski / Miss Boogers

Mailing Address: 31 Black Bear Trail

City: Harpers Ferry State: WV Zip Code: 25425

Phone Number: 1-304-551-7315 E-mail: missboogers@comcast.net  
(optional)

List the information for the proposed property you are inquiring about.

Property Owner: Michelle Krassowski

Mailing Address 31 Black Bear Trail, Harpers Ferry, WV 25425

Physical Address: " " " " " " " "

Tax District: \_\_\_\_\_ Map No: \_\_\_\_\_ Parcel No: \_\_\_\_\_ Parcel Size: \_\_\_\_\_

Deed Book: \_\_\_\_\_ Page: \_\_\_\_\_

Zoning District: (circle one)

R-A R-G I-C R-L-C V

Type of Certificate:

Animated Sign: \_\_\_\_\_ Cottage Industry: \_\_\_\_\_  
Non-animated Sign: \_\_\_\_\_ Home Occupation, Level 1: \_\_\_\_\_  
Change in Use: \_\_\_\_\_ Home Occupation, Level 2: X  
Change in Non-conforming Use: \_\_\_\_\_ Other: \_\_\_\_\_

*\*Any future change in use or expansion will require processing through the Jefferson County Departments of Planning, Zoning and Engineering to update this Certificate, and ensure compliance with all applicable County regulations.*

(Turn Over)

Please provide any information or known history regarding this property (ex: previously subdivided, etc.).

None that I am aware of

Give a brief description of your proposal.

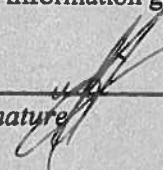
I would like to be able to increase the number of dogs/clients that I have at my home for Doggy Daycare & Boarding.

On a separate sheet of paper, sketch the shape and location of the lot. Show the location of the intended construction or land use indicating building setbacks, size and height. Identify existing buildings, structures or land uses on the property. If proposing a business, please specify the number and location of the intended parking spaces.

See Previous application

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

Signature



2/7/11  
Date

**For Official Use Only**

Restrictions/Conditions:

Action Taken:

Zoning Administrator

Date

Home Occupation Level II Supplemental Zoning Certificate Requirements

The requirements for the land use "Home Occupation Level II" are established in Section 4A.2 of the Jefferson County Zoning Ordinance. As part of an application for a Zoning Certificate, the Applicant certifies that the proposed Home Occupation Level II will meet the following requirements:

- (a) The occupation must be conducted by a full-time resident of the property. Up to two (2) nonresident employees also may be permitted to work on the premises

I certify that the proposed Home Occupation Level II use will meet this standard.

- (b) The use shall be conducted wholly within the dwelling unit and shall not exceed one third (1/3) of floor area of the dwelling unit.

I certify that the proposed Home Occupation Level II use will meet this standard.

- (c) The use shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square foot in area, non-illuminated.

I certify that the proposed Home Occupation Level II use will meet this standard.

- (d) There shall be no sales, other than items crafted on the premises, in connection with such home occupation.

I certify that the proposed Home Occupation Level II use will meet this standard.

- (e) No more than three (3) business-related vehicle visits per day nor more than fifteen (15) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted. Any need for parking generated by the conducted use of such home business shall be met off street and other than in a required front yard.

I certify that the proposed Home Occupation Level II use will meet this standard.

- (f) It is clearly incidental and subordinate to the use of the dwelling unit as a residence.

I certify that the proposed Home Occupation Level II use will meet this standard.

(g) No equipment or process shall be used in such a home business which creates offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.

I certify that the proposed Home Occupation Level II use will meet this standard.

(h) No business which includes the storage of weapons such as firearms (other than the residents hunting, protection and leisure weapons) shall be permitted. Home businesses do not include; boarding or rooming homes or bed and breakfast establishments or adult uses.

I certify that the proposed Home Occupation Level II use will meet this standard.

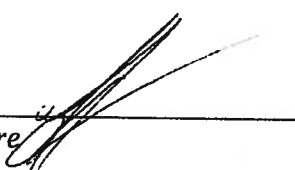
(i) Is not permitted in existing subdivisions established since 1979.

I certify that the proposed Home Occupation Level II use will meet this standard.

(j) Deed restrictions or Homeowners' Association covenants (which are not enforced by Jefferson County) may prohibit the proposed land use. Applicants are advised to review deed restrictions and Homeowners' Association covenants.

I understand that it is an applicant's responsibility to verify whether deed restrictions or Homeowners' Association covenants prohibit the proposed land use.

Signature



Date

2/7/11

Michelle Krassowski  
Printed name

Exhibit F  
Zoning Certificate  
#ZC10-08,  
dated May 7, 2010



**JEFFERSON COUNTY  
DEPARTMENT of ZONING  
ZONING CERTIFICATE**

#ZC10-08

This is to certify that the use cited on this form is a Permitted Use in the Zone where it is proposed, by virtue of the following justification. This use is subject to the conditions imposed below and any requirements of the Jefferson County Land Use Ordinances. This may include a site plan.

- \*Principal Permitted Use in Zone stated below:
- \*Nonconforming Grand-fathered Use in Zone stated below:
- \*Change in Nonconforming Use approved by Public Hearing in Zone stated below:
- \*Change in Nonconforming Use approved by Zoning Administrator in Zone stated below:
- \*OTHER: \_\_\_\_\_

**PROPERTY DESCRIPTION**

BUSINESS OWNER'S NAME: MICHELLE KRASSOWSKI (304) 551-7315 / Home  
(304) 540-686-6808 / Cell

PHYSICAL/MAILING ADDRESS: 31 BLACK BEAR TRAIL  
HARPERS FERRY, WEST VIRGINIA 25425

PROPERTY OWNER'S NAME: SAME  
MAILING ADDRESS: SAME


TAX DISTRICT: CT (2) / MAP NUMBER: 23G / PARCEL: 7  
DEED BOOK NUMBER: 1030 / PAGE NUMBER: 106  
ZONING DISTRICT: RURAL

PROPOSED USE: HOME OCCUPATION – LEVEL II  
Pet Sitting/Doggie Daycare and Internet Pet Supply Business  
RESTRICTIONS: Including owner's dogs, pet sitting is limited to a six (6) dog total.  
No Kennels permitted. Conformance to all State and Federal Regulations  
and appropriate State Licenses must be issued, prior to establishing use.

CONDITIONS: Any future change in use or expansion, will require processing through the  
Jefferson County Departments of Planning, Zoning and Engineering to  
update this Certificate, and ensure compliance with all applicable County  
Regulations. This Zoning Certificate shall be rendered null and void  
should any required License or Permit be revoked.

This certification in no way relieves the Owner, Applicant or User from the documented requirements of the Jefferson County Ordinances, to include Building and Sign Permit processing, unless the appropriate variances are granted by corresponding County authorities.

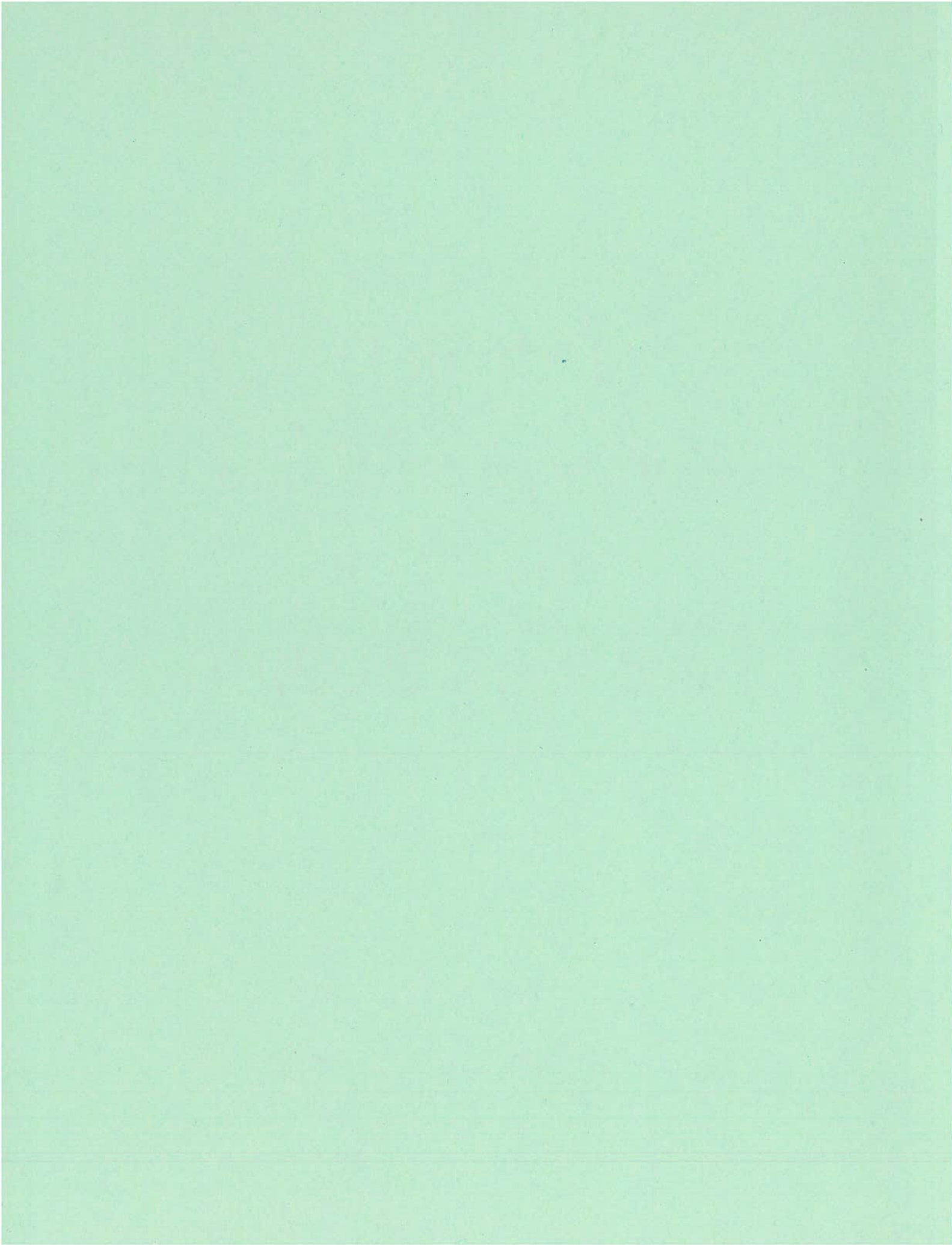


  
\_\_\_\_\_  
Zoning Administrator  
Department of Planning and Zoning Seal

May 7, 2010  
Date of Issuance



Exhibit G  
Zoning Certificate  
application,  
dated April 29, 2010



JEFFERSON COUNTY, WEST VIRGINIA  
Department of Planning and Zoning

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

File #: \_\_\_\_\_  
Rec'd By: \_\_\_\_\_  
Total Fee: \$ \_\_\_\_\_

Phone: (304) 728-3228

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

Fax: (304) 728-8126

**Zoning Certificate Application**

Contact/Co. Name: Michelle Krassowski / Miss Boogers, LLC

Mailing Address: 31 Black Bear Trail

City: Harpers Ferry State: WV Zip Code: 25425

Phone Number: 1-304-551-7315 E-mail: missboogers@comcast.net  
(optional)

List the information for the proposed property you are inquiring about.

Property Owner: Michelle Krassowski

Mailing Address: 31 Black Bear Trail, Harpers Ferry, WV 25425

Physical Address: Same

Tax District: 02-0T Map No: 23G Parcel No: 7 Parcel Size: \_\_\_\_\_

Deed Book: 1030 Page: 106

Zoning District: (circle one) SHANNONDALE  
(APPROX 1/2 ACRE LOT)

R-A R-G I-C R-L-C V

Type of Certificate:

Animated Sign: \_\_\_\_\_ Cottage Industry: \_\_\_\_\_  
Non-animated Sign: \_\_\_\_\_ Home Occupation, Level 1: \_\_\_\_\_  
Change in Use: \_\_\_\_\_ Home Occupation, Level 2: ✓  
Change in Non-conforming Use: \_\_\_\_\_ Other: \_\_\_\_\_

*\*Any future change in use or expansion will require processing through the Jefferson County Departments of Planning, Zoning and Engineering to update this Certificate, and ensure compliance with all applicable County regulations.*

(Turn Over)

Please provide any information or known history regarding this property (ex: previously subdivided, etc.).

No known addities.

Give a brief description of your proposal.

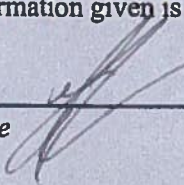
I would like to offer a pet sitting/doggy daycare at my home. I will not use kennels. The dogs would have full access to my home + yard which is fenced (~1/2 acre).

I will limit the number of dogs here to 4 guests + my own two (2) dogs for a total of never more than 6 dogs here at one time.

On a separate sheet of paper, sketch the shape and location of the lot. Show the location of the intended construction or land use indicating building setbacks, size and height. Identify existing buildings, structures or land uses on the property. If proposing a business, please specify the number and location of the intended parking spaces.

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

Signature



4/29/10  
Date

**For Official Use Only**

Restrictions/Conditions:

Limited to 6 total dogs + no kennels

Action Taken:

zc



Zoning Administrator

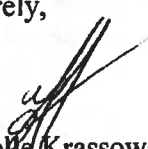
Date

To whom it may concern;

My name is Michelle Krassowski and I own Miss Booger's, LLC. Miss Booger's is an internet pet supply business. I also make homemade dog and cat treats and other handmade pet products that I sell at farmers markets away from home. I would like to apply for a Zoning Certificate so that I may offer pet sitting and doggy daycare in my home. It will not be a typical 'kennel' facility as I do/will not have any kennels. I will limit the amount of guest dogs to only four at a time and they will reside in my home and yard as if they were my own pets.

I have included Section 4A.2 Home Occupation, Level 2 of the Zoning Ordinance below. You will find my responses to each lettered item below each item in bold print. If you need any further information from me or have any questions, please feel free to contact me at 1-304-551-7315 (home) or 1-540-686-6808 (cell). Thank you for your consideration and your time.

Sincerely,



Michelle Krassowski  
Miss Booger's, LLC  
31 Black Bear Trail  
Harpers Ferry, WV 25425

**Section 4A.2 Home Occupation, Level 2**

An occupation conducted in a dwelling unit for gain, provided that:

a. The occupation must be conducted by a full-time resident of the property. Up to two (2) nonresident employees also may be permitted to work on the premises.

**It just me and my boyfriend living here full time. Miss Booger's, LLC is registered in my name and I am the owner of the property. He does help me at times but he is not an employee.**

b. The use shall be conducted wholly within the dwelling unit and shall not exceed one third (1/3) of floor area of the dwelling unit.

**I limit the amount of dogs that stay here to no more than four (4) at a time. They do not stay in kennels or crates, they have full access to the house and fenced 1/2 acre yard. My home is 1144 square feet upstairs and 1144 square feet downstairs. The space they occupy could never exceed one third of floor area because of the four (4) dog limit I have chosen. I have 2 dogs of my own so it would actually be a total of 6 dogs here at a time + that will not be all of the time.**

c. The use shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square foot in area, non-illuminated.

**I have not made any changes to the outside appearance of my home or yard. I do not display any signage at all.**

d. There shall be no sales, other than items crafted on the premises, in connection with such home occupation.

**Miss Booger's, LLC is also a pet treat and supply business. However, I do not do any sales from my home nor do any customers come to my home to purchase my products. I sell my handmade products at farmer's markets, away from home and on my website. In addition to my handmade products, I also carry other products on my website which I drop-ship to my customers, meaning I do NOT carry any inventory of those products in my home at all.**

e. No more than three (3) business-related vehicle visits per day nor more than fifteen (15) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted. Any need for parking generated by the conducted use of such home business shall be met off street and other than in a required front yard.

**Because of the four (4) dog limit in place, the pick ups and drop offs of clients is also very limited. The 'dog' limit also allows me to schedule pick up and drop off times to stay within the permitted visit allowance. I would not want a bunch of visits at one time because that would be too stressful for the dogs and everyone else.**

f. It is clearly incidental and subordinate to the use of the dwelling unit as a residence.

**It is my home first and a business second. I will not allow it to be any other way. As mentioned earlier, there are no signs, limited traffic and no kennels.**

g. No equipment or process shall be used in such a home business which creates offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.

**There is no equipment or process used, but with dogs there is occasional barking. I limit the time(s) that they are outside. For instance, I do not allow them out in the yard for more than a potty break in the morning to respect any neighbors who may be sleeping. I let the dogs in the yard after the noon hour to exercise and bring them in at night. In addition, I also have four (4) spray citronella anti-bark collars. I use those to limit the barking as well. They are safe and humane for the dogs. I also keep a 'bark book' to the best of my ability. I use it to keep a record of when and who barks for how long.**

h. No business which includes the storage of weapons such as firearms (other than the residents hunting, protection and leisure weapons) shall be permitted. Home businesses do not include; boarding or rooming homes or bed and breakfast establishments or adult uses.

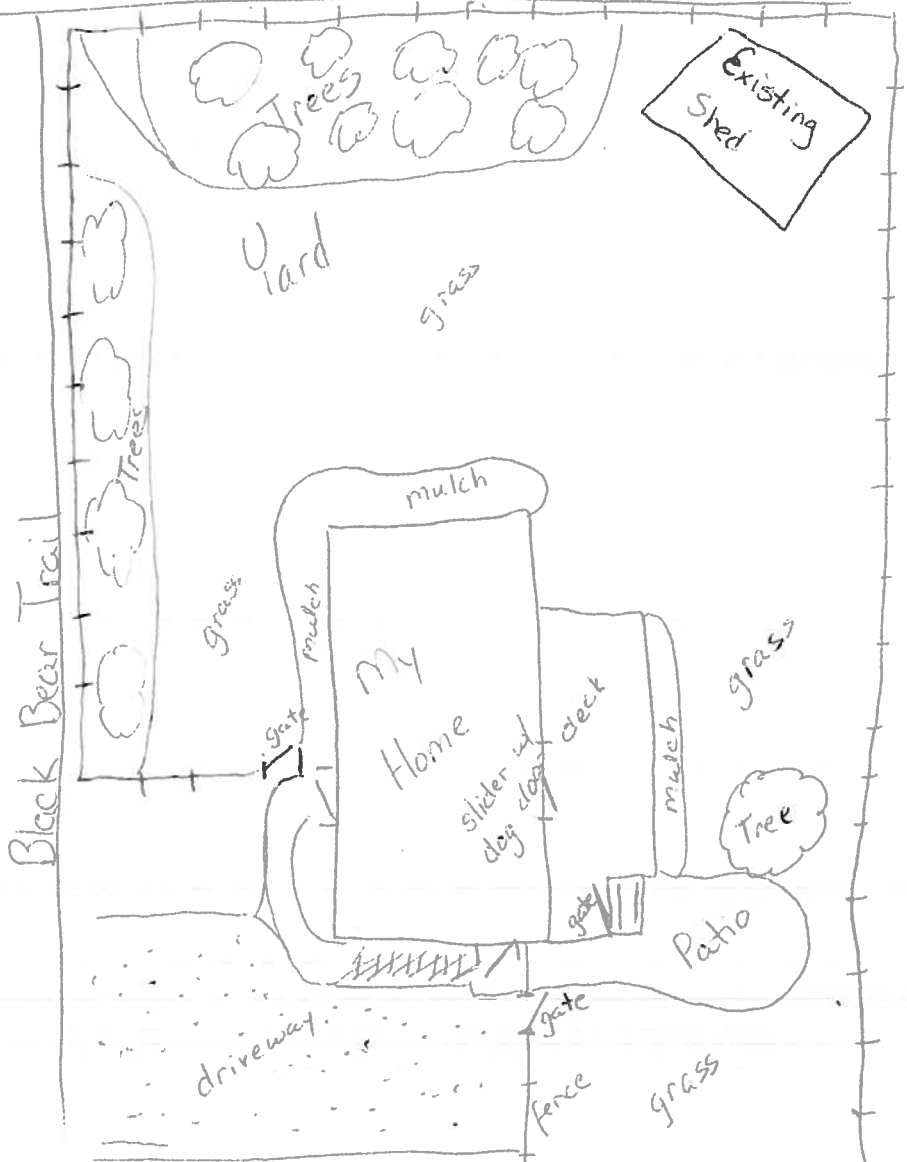
**There are no weapons on the premises. I do not board people, run a bed and breakfast or any adult business.**

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]

i. Is not permitted in existing subdivisions established since 1979.

**I am sure that Shannondale was established before 1979.**

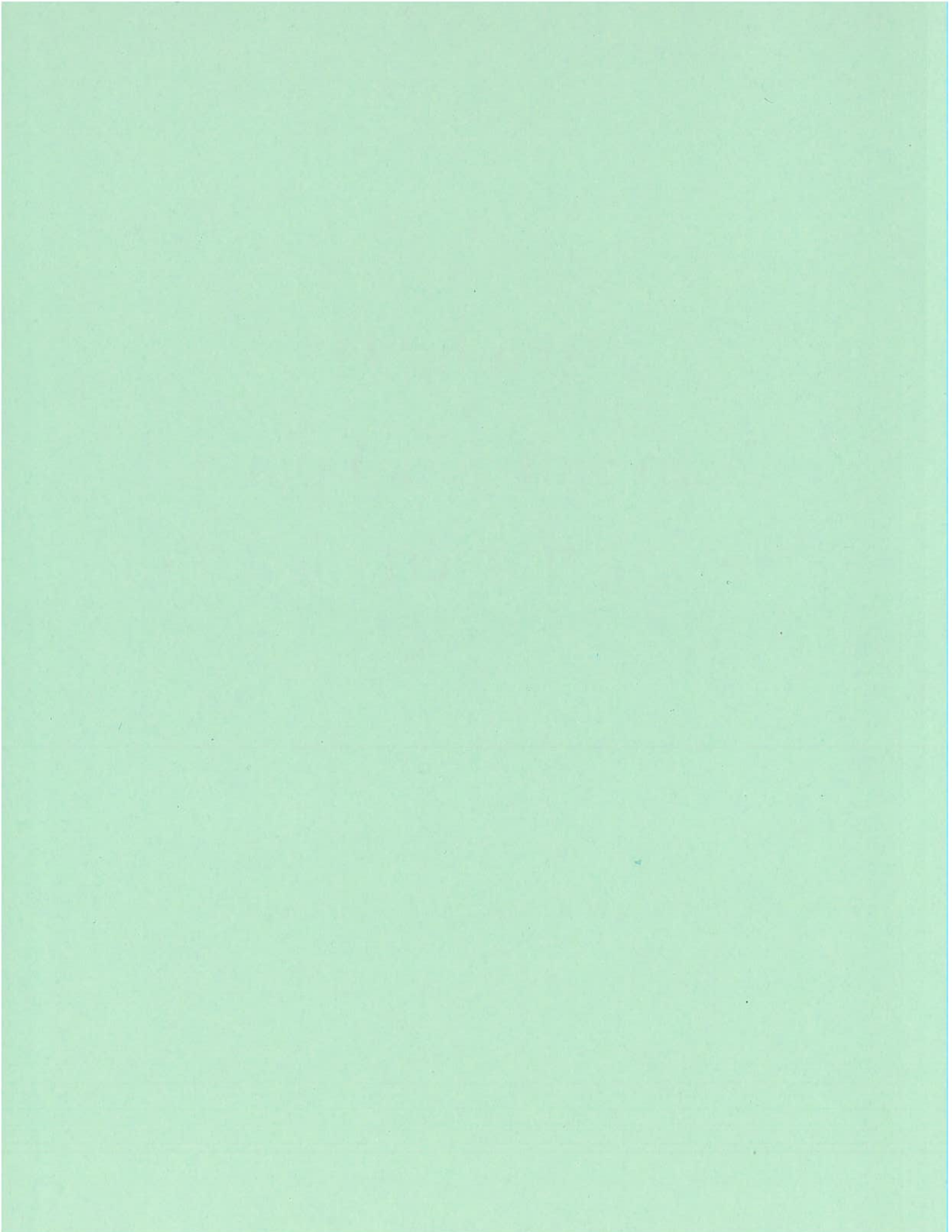
Skyline Trail

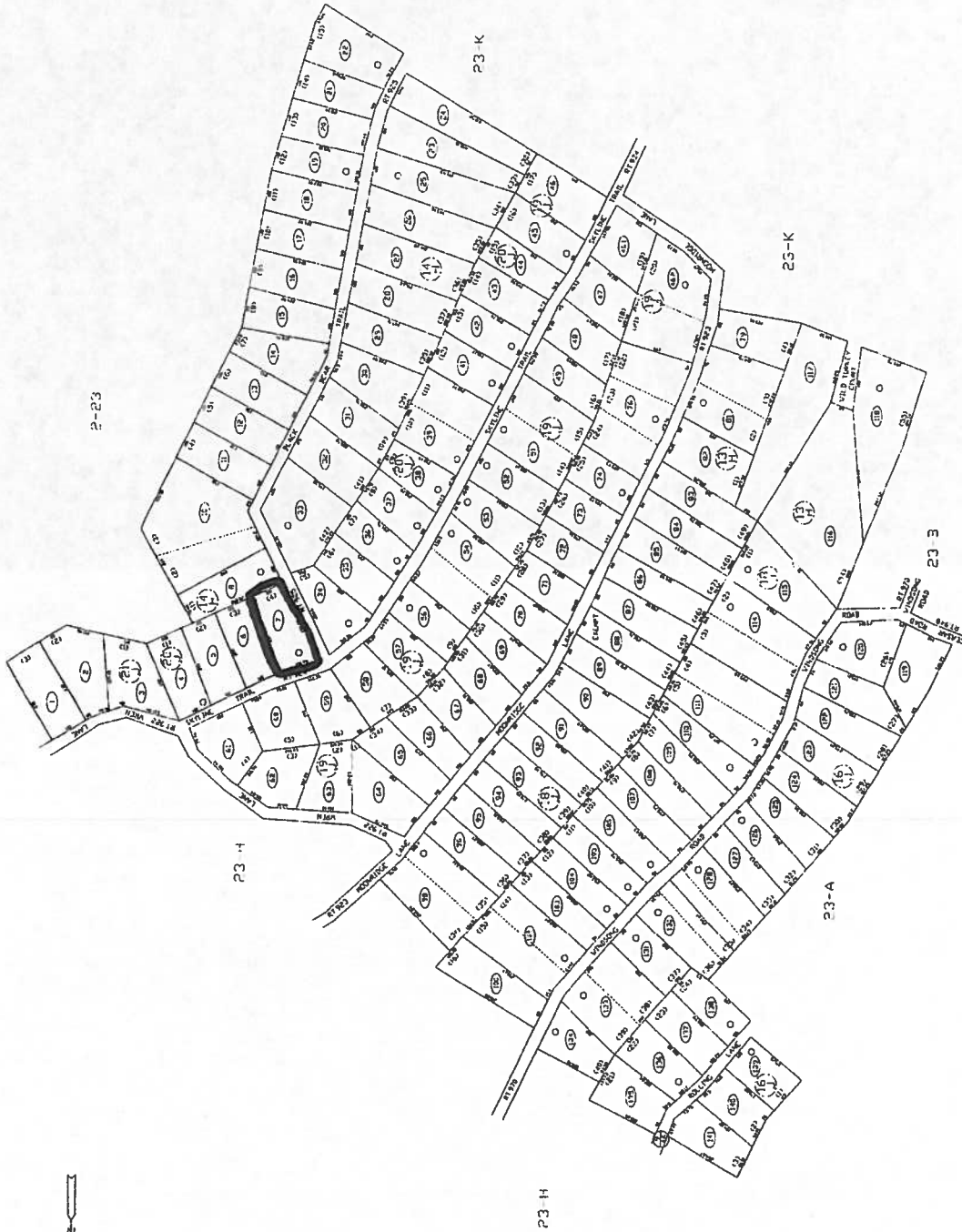




# Exhibit H

Map and aerial photo  
showing property location





**FOR TAX PURPOSES ONLY**  
 prepared by  
**JEFFERSON COUNTY ASSESSORS OFFICE**  
 Note: Maps are updated consistently by the assessor's office, maps are printed only at the beginning of the fiscal year (July)

**LEGEND**  
 Legend symbols for various map features including roads, water, and other geographical markers.

**REVISIONS**  
 Revisions outgrew this space and are now maintained in a database.

**KEY MAP**

23	24	25	26	27	28	29	30	31	32
33	34	35	36	37	38	39	40	41	42
43	44	45	46	47	48	49	50	51	52
53	54	55	56	57	58	59	60	61	62
63	64	65	66	67	68	69	70	71	72
73	74	75	76	77	78	79	80	81	82
83	84	85	86	87	88	89	90	91	92
93	94	95	96	97	98	99	100		

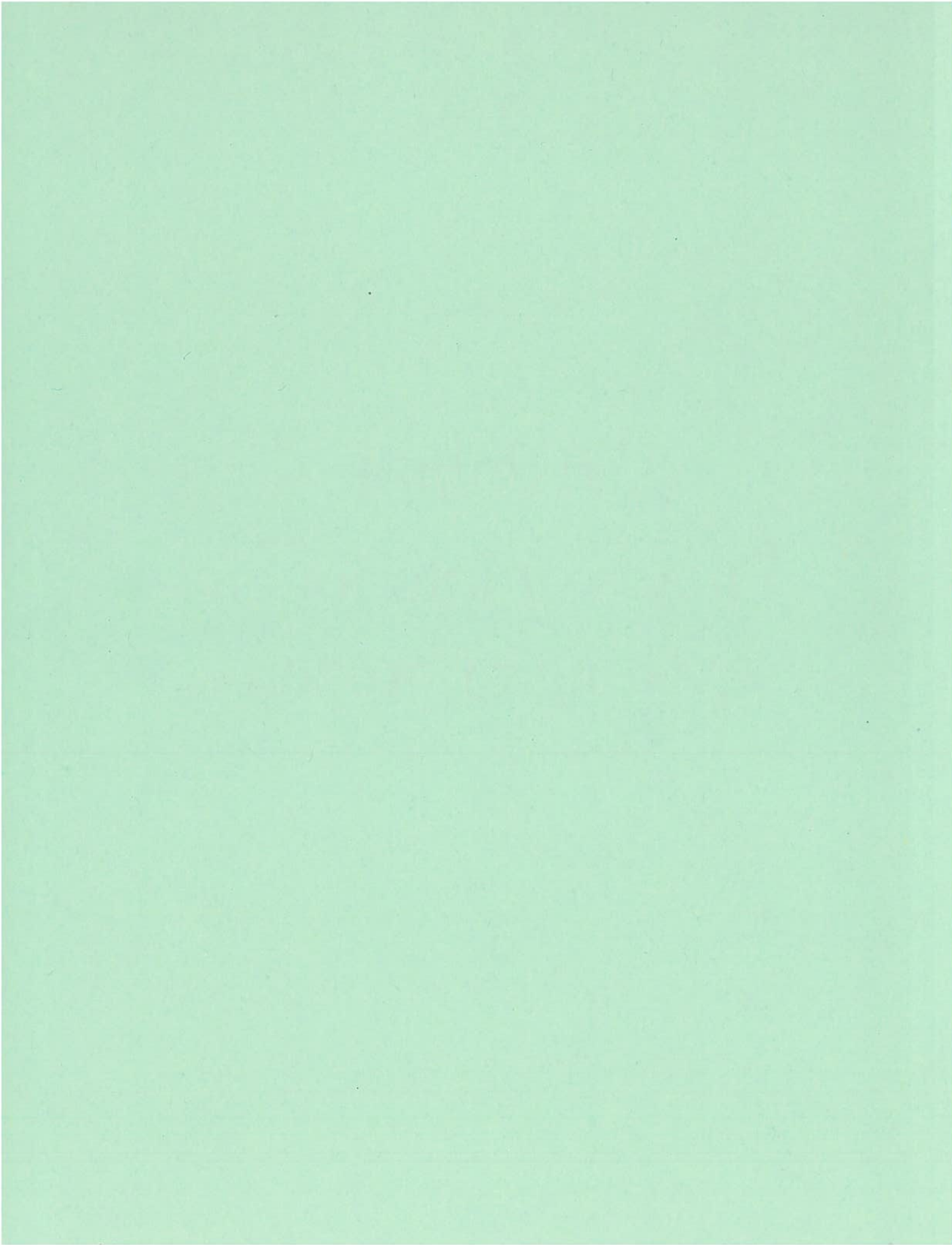
**COUNTY OF JEFFERSON**  
 OFFICE OF ASSESSOR  
 CHARLES TOWN, W. VA.

**CHARLES TOWN DISTRICT 2**  
 DISTRICT 2  
 MAP NUMBER 23G  
 DATE, MAP, APRIL 21, 1992  
 PHOTOGRAPHY, 1992  
 SCALE: 1" = 100'

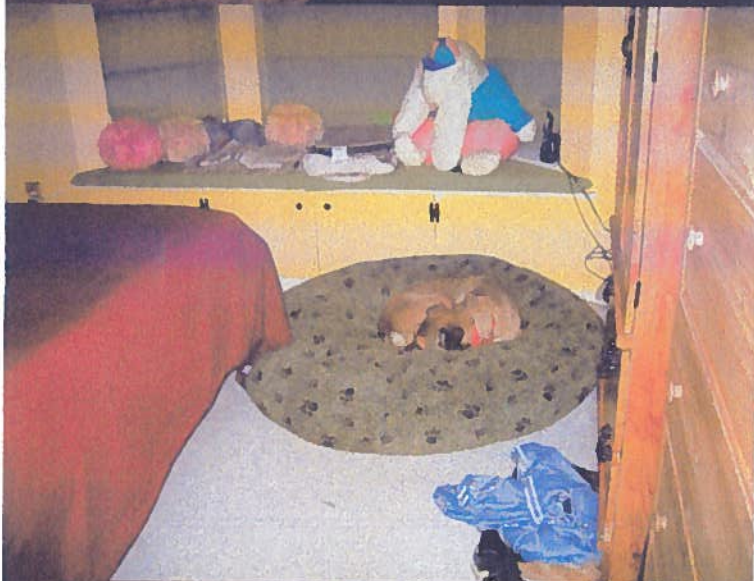


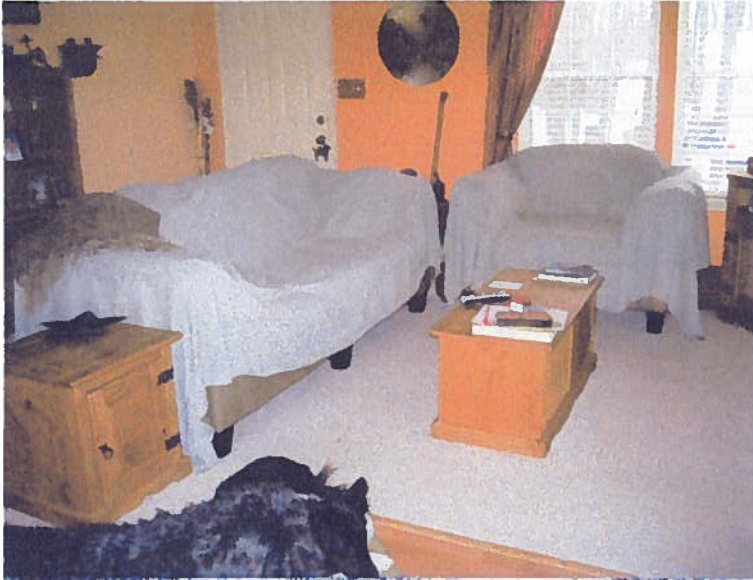
# Exhibit I

Photos of interior and  
existing of property








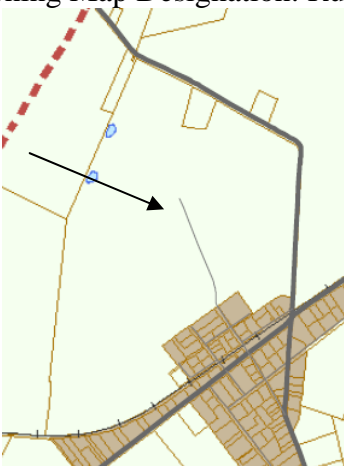




Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Hawthorn Associates, LLC Request (#ZV11-07)**

Item #6 Variance request by property owner, Hawthorn Associates, LLC, c/o Harry F. Byrd III, from Section 5.7(a)17 to increase number of the permitted receptions from 4 to 30 and to increase the permitted tents from 1 to 2 per reception.

APPLICANT:	Hawthorn Associates, LLC, c/o Harry F. Byrd III
OWNER :	Same as above
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	9 Hawthorn Avenue, Summit Point, WV 25446
LEGAL DESCRIPTION:	District: Kabletown; Map: 16; Parcel: 13 
ZONING DISTRICT:	Zoning Map Designation: Rural 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Village <i>East:</i> Rural <i>West:</i> Rural
LOT AREA:	230.7 acres

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Hawthorn Associates, LLC Request (#ZV11-07)**

PRIOR CASES:	01/12/99: PC approved minor subdivision (#98-29). 09/11/01: Office approved lot line adjustment of 1.303 acres.
VARIANCE(S):	10/06/04: BZA approved request to increase the number of bedrooms permitted for a Bed and Breakfast from two to seven (ZV04-14). 10/06/04: BZA granted an exception for a Bed and Breakfast pursuant to Section 9.8 (ZV04-15). 12/16/04: BZA denied request to allow 28 invitation only special events on the property (ZV04-37).
APPROVED ACTIVITY:	Bed and Breakfast consisting of seven bedrooms with 4 receptions per year with no more than 1 tent per reception.

RELEVANT INFORMATION:

1. Overview of Request

Hawthorn Associates seeks a variance from the Bed and Breakfast standards of Section 5.7(a)(17), to increase the number of permitted receptions from 4 per year to 30 per year, and to increase the number of tents permitted from 1 tent to 3 tents.

2. Previous Case History

On October 6, 2004, the Board of Zoning Appeals approved the use of the Hawthorn property as a 7-bedroom Bed and Breakfast. In its approval, the BZA noted, "the use is strictly for a bed and breakfast and is not for a restaurant, a bar or weddings or special event, simply a bed and breakfast with up to seven bedrooms." Because a variance does not expire, the property continues to be approved for use as a 7-bedroom Bed and Breakfast.

Subsequently, representatives of Hawthorn sought a variance from Sec. 5.7 to allow special events on the property, such as weddings and private parties, by invitation only, with a maximum of 28 events (one per weekend during the April to October wedding season) and a maximum of 300 persons. The Board of Zoning Appeals denied the variance on December 16, 2004.

3. Applicant's Justification of Request

The application notes that the subject property is of substantial size (230 acres) and contains a large historic home, capable of supporting many large-scale events. Per the Applicant, four receptions per year would not generate sufficient revenue to support the proposed Bed and Breakfast use. The application notes that increasing the number of receptions to 30 would not be inconsistent with the intent of the Ordinance, due to the size and capacity of the property.

4. Staff Evaluation of Request

In its 12/16/04 denial of the variance request to allow special events on the property, the Board concluded that the use described in the request was a "banquet hall" as defined by the American Planning Association, i.e. a facility or hall available for lease to accommodate private functions including but not limited to banquets, weddings, anniversaries and other similar celebrations. As

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Hawthorn Associates, LLC Request (#ZV11-07)**

such, the use was not a permitted principal use in the Rural district, and the Board of Zoning Appeals determined that it could not grant a variance from a permitted principal use.

However, circumstances have changed since the BZA's decision. At the time of the denial, receptions were not identified in the Zoning and Land Development Ordinance as a permitted accessory use to a Bed and Breakfast use. However, in 2005, the ordinance was amended to allow, as an accessory use to a Bed and Breakfast, 4 receptions per year with no more than 1 tent per reception.

Because receptions and tents are now identified in the Ordinance as an accessory use to a Bed and Breakfast, staff has determined that a request to increase the number of receptions and tents constitutes a variance request from a standard of the Ordinance, rather than a variance request from a principal permitted use.

5. Possible Conditions of Approval

No conditions are identified.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 5.7 Rural District

(a) Principal Permitted Uses

17. Bed and Breakfasts (no more than 7 bedrooms) 4 receptions per year with no more than 1 tent per reception. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993 AND OCTOBER 3, 2005]



**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): HANTHORN ASSOCIATES, LLC % HARRY F. BYRD III

Address: PO. BOX 472  
BEARBYVILLE, VA 22611

Phone Number: 540 955-1384

Location of Property: 9 HANTHORN AVE  
SUMMIT POINT, WV 25446

Lot Size: 230.7 ACRES

Deed Book Reference: Deed Book Number 534 Page Number 698

Tax Map Reference: District KABETT-06 Map 16 Parcel 13

Zoning District: RURAL

Section of Ordinance: 5.7A.17

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.

SEE ATTACHMENT

*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.*

**RECEIVED**

**MAR 11 2011**

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: **SEE ATTACHMENT**

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

\_\_\_\_\_  
\_\_\_\_\_

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:

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

  
\_\_\_\_\_  
Signature of Property Owner

H.F. Byrd III  
\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

2/16/11  
\_\_\_\_\_  
Date

**FOR OFFICIAL USE ONLY**

Fees Paid: \_\_\_\_\_ Date Application / Fees Received: \_\_\_\_\_

Date of meeting / Public Hearing: \_\_\_\_\_

Official Administrative Body: Jefferson County Board of Zoning Appeals

Posting Requirements: \_\_\_\_\_ Number of Days Prior to Scheduled Hearing

Advertising Dates: \_\_\_\_\_

Official Action of Board: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Official Signature and Seal: \_\_\_\_\_

Attachment to the  
Jefferson County Board of Zoning Appeals Variance Request Form  
For Hawthorn in Summit Point, WV

Page 1, Nature of Request

The Owners request a variance from the Jefferson County Zoning Ordinance, Article 5, Section 5.7.A.17, that the maximum number of outdoor events be increased from four to thirty and that the number of tents be increased from one to three because The Hawthorn is appropriately outfitted to accommodate large groups on a regular basis and is remote enough from other neighbors not to disturb them. The site is particularly suited to large outdoor events with its beautiful gardens, lawn space, adjacent farm fields, out buildings and the historic mansion. While the three well appointed second floor bedrooms should be in high demand, the size and scale of The Hawthorn grounds would be only lightly utilized if the present limitation were maintained. The proposed variance would do well for the local economy without compromising the integrity of Summit Point's village environment.

Page 2, Items

1. Ingress and egress of attendees to events at Hawthorn shall use tree lined Hawthorn Street which has about a eight nice homes. The street is of ample width for two way traffic and access to Summit Point's main thoroughfare. Railroad tracks provide a discreet speed bump which sets the tone for the shady residential block leading to The Hawthorn's property line.
2. The special condition in this case was cast long ago. Today there is an historic home on large farm acreage that is ideal for the proposed function of Bed & Breakfast Inn with land capable of supporting large scale receptions and ceremonies. These conditions were in place many years ago as this farm has been in production since the beginnings of Hawthorn in 1711.
3. Four events per year would not generate enough revenue to support the proposed B&B use. Spreadsheets could be provided to confirm this point. The site is picturesque and the owner intends to keep it that way provided the revenue stream can support it. More events accommodating more people from out of state, will bring more dollars into West Virginia.
4. Allowing up to 30 events per year on this 230+ acre site will not counter the intent of the zoning ordinance because of its sheer size and ability to handle the increased numbers of people on those event days. People attending these events will have disposable income that may substantiate plans for other small businesses in the heart of Summit Point.



Image USDA Farm Service Agency  
© 2011 Google  
© 2011 Europa Technologies



©2009 Google

39°15'27.09" N 77°57'45.51" W elev 189 m

Eye alt 602 m

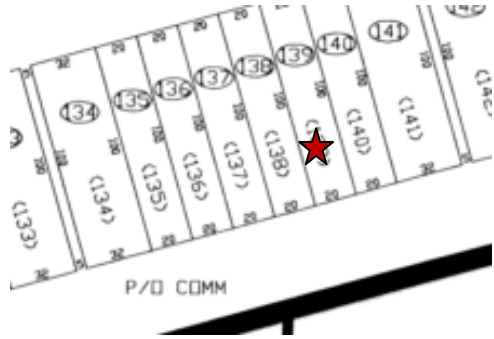
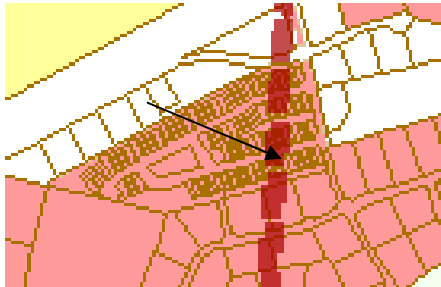
# Hawthorn Associates LLC

0 100 150 200 250 300 FT  
Grove & Dall'Olio Architects pllc 030811

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Brian and Ashlee Muniz Request (#ZV11-08)**

Item #7 Variance request by property owners, Brian and Ashlee Muniz, from Section 5.4(b) to reduce the rear setback from 20' to 14' for a proposed deck and stairs.

APPLICANT:	Brian and Ashlee Muniz
OWNER :	Same as above
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	53 Don Quixote Drive, Charles Town, WV 25414
LEGAL DESCRIPTION:	District: Charles Town; Map: 9C; Parcel: 139 
ZONING DISTRICT:	Zoning Map Designation: Residential-Light Industrial-Commercial (R-LI-C) 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Residential Growth <i>South:</i> R-LI-C <i>East:</i> R-LI-C <i>West:</i> R-LI-C
LOT AREA:	2,000 square feet
PRIOR CASES:	None
VARIANCE(S):	None
APPROVED ACTIVITY:	Residential
Community Impact Statement	PC Approval: 02/11/03
Preliminary Plat	Staff Approval: 11/22/04
Final Plat	PC Approval: 01/11/05

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Brian and Ashlee Muniz Request (#ZV11-08)**

RELEVANT INFORMATION:

1. Overview of Request

The Applicant seeks a rear yard setback variance of 6' in order to construct a deck within 17' 6" of the property line.

Per the material submitted with the variance request, the townhome is approximately 26 feet from the rear property line. The proposed deck (including stairs) is 20' wide and extends 12' from the townhome towards the rear property line, placing it approximately 6 feet into the rear setback.

Section 5.8 of the Zoning Ordinance provides that the setback requirements of the Residential Growth District apply to a residential use in the Residential-Light Industrial-Commercial District. For a townhouse, these setbacks are 25 feet (front), 12 feet (exterior side), and 20 feet (rear).

Section 9.5 of the Zoning Ordinance allows a 4-foot encroachment into yards for certain types of projections, including uncovered porches, provided that such projections are not over 10 feet in length. The variance request is to allow a 6-foot encroachment for a projection of 20 feet in length.

2. Applicant's Justification of Request

The application states that the home extends further to the rear than other properties in Windmill Crossing, as a result of a 4' addition that was added prior to purchase by the current owners. Per the Applicant, there is not sufficient space between the house and the rear setback line to construct a deck of adequate width in addition to deck stairs.

3. Staff Evaluation of Request

The original Windmill Crossing community was approved by subdivision plat in April 2005. This subdivision consisted of 15 commercial lots and 133 townhomes and is found in the Residential-Light Industrial-Commercial District (R-LI-C).

The Board of Zoning Appeals reviewed similar variance requests in the Windmill Crossing Subdivision on July 15, 2010 (Brown, ZV10-08), May 20, 2010 (Weaver, ZV10-04) and September 16, 2010 (Einreinhof, ZV10-16).

4. Possible Conditions of Approval

No conditions of approval are identified for this variance request.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Brian and Ashlee Muniz Request (#ZV11-08)**

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 5.4b Residential Growth District - Height and Yard Requirements

<b>Development Type</b>	<b>Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)</b>	<b>Required Yards</b>	<b>Maximum Building Height*</b>
3. Townhouse Public/Central water and sewer	1,400 sq. ft. MLA 3,500 sq. ft. ADU	25 ft. front 12 ft. side (exterior only) 20 ft. rear	40 ft.



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): Brian and Ashlee MUNIZ

Address: 53 DON Quixote Drive  
Charles Town, WV 25414

Phone Number: Brian ~ (304) 692-9825 or Ashlee ~ (304) 290-5442

Location of Property: DON Quixote Drive, Windmill Crossing  
Lot # 139

Lot Size: 2,000 sq ft - gnt 4/11/11

Deed Book Reference: Deed Book Number 1080 Page Number 536

Tax Map Reference: District 02 Map 9C Parcel 139

Zoning District: Residential Light Industrial Commercial

Section of Ordinance: 5.4B

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.

we are requesting a 6 foot variance in order to build a deck and stairs at our townhome in windmill crossing. The back of our house sits approximately 26 feet away from our property line, which would only allow us to build a 2 foot wide deck. we are requesting the 6 foot variance so that we can build a deck that is 8 foot wide and also to provide us with more space to build our stairs.

*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.*

RECEIVED

MAR 11 2011

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:

\_\_\_\_\_  
\_\_\_\_\_

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:

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

Brian Muniz and Ashlee Muniz  
Signature of Property Owner

Brian Muniz and Ashlee Muniz  
Print Name

March 11, 2011  
Date

<b>FOR OFFICIAL USE ONLY</b>	
Fees Paid: _____	Date Application / Fees Received: _____
Date of meeting / Public Hearing: _____	
Official Administrative Body: <u>Jefferson County Board of Zoning Appeals</u>	
Posting Requirements: _____ Number of Days Prior to Scheduled Hearing	
Advertising Dates: _____	
Official Action of Board: _____	
_____	
_____	
Official Signature and Seal: _____	

1. Granting us a 6 foot variance in order to build our deck would not adversely affect the public or the rights of adjacent property owners or residents for a few simple reasons. First, we do not have any homes directly behind where the deck would be built due to the fact that our home backs to the tree line. Second, the townhomes in our development are staggered. Therefore, we set approximately 4 feet back toward the tree line than our neighbors which means that our plans will not border any neighboring structures that exist now or in the future.

2. One of the main reasons that we must seek a variance does arise from a special condition which pertains to the property which was not created by us. This reason being that we have an additional 4 feet addition on our home which causes us to sit closer to our property line, which gives us less space to build our deck and stairs. This 4 foot addition was not an option when purchasing our home; the addition was preexisting before the purchasing of the home.

3. In granting us a 6 foot variance it would eliminate some unnecessary hardship and permit a reasonable use of the land. We spend the majority of our time on the second level of our home and not having access to our backyard from the second level is an inconvenience with our dog. If we are granted a 6 foot variance it was provide us with enough useable space so that we could build stairs and give our dog easy access to our backyard.

4. The intent of the zoning ordinance is to is to protect and promote the public health, safety, morals, peace, prosperity, and the general community welfare; to encourage orderly, compatible and beneficial uses of land in a manner that will be of benefit to the general community as well as to neighborhoods and individuals; and to enhance the aesthetic quality of the natural and built environment of the community. Granting us a 6 foot variance would still allow these intentions to be observed.

Tree Line

Property Line

17'6"

14'

Ground Height

3'6"

Stairs

Deck  
16'6" x 8'6" x 9'7"

Stairs

3'6"

9'7"  
height

Neighboring  
Townhome

53 Don Quixote Dr.

Neighboring  
Townhome



Don Quixote Dr.

*Apple Munnings*  
*Brian M J*  
3/11/2011

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Grace Baptist Church Request (#ZV11-09)**

Item #7 Variance request by property owner, Grace Baptist Church, from Section 4.16 to reduce the front parking setback from 15' to 0' from the alley Parish Way.

APPLICANT:	Grace Baptist Church
OWNER :	Same as above
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	321 Potomac Street, Shenandoah Junction, WV 25442
LEGAL DESCRIPTION:	District: Charles Town; Map: 1A; Parcel: 66 
ZONING DISTRICT:	Zoning Map Designation: Village 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Village <i>South:</i> Village <i>East:</i> Village <i>West:</i> Village
LOT AREA:	.289 acres
PRIOR CASES:	None
VARIANCE(S):	None
APPROVED ACTIVITY:	Existing Nonconforming Use: Church

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
April 21, 2011

**Grace Baptist Church Request (#ZV11-09)**

RELEVANT INFORMATION:

1. Overview of Request

Grace Baptist Church is seeking a variance from Section 4.16 to reduce the front parking setback from 15' to 0', in order to construct a 4-space addition to an existing parking area.

2. Applicant's Justification of Request

The application states that the variance is necessary due to the small size of the lot (.289 acres). Placement options for additional parking area are also constrained due to the location of the septic area.



3. Staff Evaluation of Request

The subject property is located in the Village District. Properties in this district are typically much smaller than properties located in the County's other zoning districts. The Zoning and Land Development Ordinance standards for the Village District include shorter setbacks for principal permitted uses in addition to some degree of flexibility in the application of setbacks, for land uses that process through the Development Review System. As such, a reduced setback for parking in the Village District does not appear to be inconsistent with the intent of the Ordinance.

A church is identified as a conditional use in the Village District. As such, the existing church is considered to be a nonconforming use. Because the square footage of the proposed expansion is less than 35% of the area of the existing improvements, Board of Zoning Appeals approval of the expansion is not required per Section 4.3(a).

4. Possible Conditions of Approval

No conditions of approval are identified.

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 April 21, 2011

**Grace Baptist Church Request (#ZV11-09)**

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.16 Setback Chart

ADJACENT USE \ PROPOSED USE		BUILDING SETBACKS		PARKING & ACCESS DRIVE SETBACKS				
		Any Use Except Industrial	Industrial Use	Residential Zone	Lot with a Residential	Church/School/Institution for Human Care	Commercial	Industrial
FRONT	Barn/Feeding Pen	See District Requirements		N/A	N/A	N/A	N/A	N/A
	Comm'l Lot <= 1.5 ac.	25	25	15	15	15	15	15
	Comm'l Lot > 1.5 ac.	25	25	15	15	15	15	15
	Industrial	50	25	25	25	25	25	25
	Church	25	25	15	15	15	15	15
	Multi-family	25	25	15	15	15	15	15



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): Grace Baptist Church

Address: P.O. Box 68  
Shenandoah Junction W.V 25442

Phone Number: 304-225-4938

Location of Property: 321 Potomac Street  
Shenandoah Junction, WV 25442

Lot Size: 100 X 126

Deed Book Reference: Deed Book Number \_\_\_\_\_ Page Number \_\_\_\_\_

Tax Map Reference: District 02 Map 1A Parcel 66

Zoning District: Village

Section of Ordinance: 4-16

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.

Asking 0 foot setback for a feet space  
Church parking Area

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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MAR 14 2011

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:  
Propose Small Parking Lot we believe that, it won't  
have adverse impact on anyone
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:  
Small Lot Located between Two Allees  
Septic is on other side
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land:  
Need more parking space
4. Will allow the intent of the zoning ordinance to be observed and substantial justice done (2004, c.153.):  
Will comply with zoning ordinance

Janice A. Myers (Representing Grace Baptist Church)  
Signature of Property Owner

JANICE A. MYERS  
Print Name

March 14, 2011  
Date

<b>FOR OFFICIAL USE ONLY</b>	
Fees Paid: _____	Date Application / Fees Received: _____
Date of meeting / Public Hearing: _____	
Official Administrative Body: <u>Jefferson County Board of Zoning Appeals</u>	
Posting Requirements: _____ Number of Days Prior to Scheduled Hearing	
Advertising Dates: _____	
Official Action of Board: _____	
_____	
_____	
Official Signature and Seal: _____	



Entrance  
From  
Road

126 ft

Potomac Street