

Jefferson County  
Board of  
Zoning Appeals

Thursday,  
March 17, 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: MARCH 11, 2011**

**SUBJECT: MARCH 17, 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, March 17, 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

Phone: (304) 728-3228

Fax: (304) 728-8126

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: March 11, 2011

SUBJECT: March Monthly Report of Department Activities

**Issued Zoning Certificates**

#ZC11-02 WESLEY WEIGLE

*Issue Date:* January 25, 2011  
*Proposed Use:* Insurance Agency  
*Physical Location:* 5511 Charles Town Road; Kearneysville, West Virginia  
*Zone:* Village

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#ZC11-03 JOAN L. JOHNSTON

*Issue Date:* January 28, 2011  
*Proposed Use:* Pottery Studio  
*Physical Location:* 484 Billmyer Mill Road; Shepherdstown, West Virginia  
*Zone:* Rural

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#ZC11-04 MICHELLE KRASSOWSKI

*Issue Date:* February 16, 2011  
*Proposed Use:* Cottage Industry – Level II / Doggie Daycare  
*Physical Location:* 31 Black Bear Trail; Harpers Ferry, West Virginia  
*Zone:* Rural

#ZC11-05 CHARLES RYAN III

*Issue Date:* February 15, 2011  
*Proposed Use:* Verizon Wireless Telecommunication Facilities  
*Physical Location:* Oak Lee Drive; Charles Town, West Virginia  
*Zone:* Rural

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#ZC11-06 DALE HAINZ

*Issue Date:* March 02, 2011  
*Proposed Use:* Home Occupation – Level II / Logo Apparel  
*Physical Location:* 554 Wheatland Road; Charles Town, West Virginia  
*Zone:* Rural

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#ZC11-07 ALICE CHAPMAN

*Issue Date:* March 10, 2011  
*Proposed Use:* Childcare Facility – Grammy’s Place  
*Physical Location:* 2142 Mission Road; Harpers Ferry, West Virginia  
*Zone:* Rural

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#ZC11-08 MARY J. HELMICK

*Issue Date:* March 02, 2011  
*Proposed Use:* Ambulance Facility – Ryneal Medical Transport  
*Physical Location:* 147 Edmond Road; Kearneysville, West Virginia  
*Zone:* Industrial-Commercial

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**Pending Zoning Certificates**

#ZC11-09 JOY BRIDY

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

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#ZC11-10 RECREATIONAL ADVENTURES CAMPGROUND, LLC

*Issue Date:* TBD  
*Proposed Use:* Change of from Museum to Coffee Shop & Wine Store  
*Physical Location:* 343 Campground Road; Harpers Ferry, West Virginia  
*Zone:* 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



**Draft Minutes**  
Jefferson County Board of Zoning Appeals  
Thursday, January 20, 2011

The Jefferson County Board of Zoning Appeals met on Thursday, January 20, 2011 at 3:00 pm. The meeting was held in the Charles Town Library meeting room located at 200 East Washington Street, at the side entrance on Samuel Street in Charles Town, West Virginia. 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, Julie Quodala, Office Manager and Jennilee Hartman, Zoning Clerk.

Board member Tiffany Hine was absent with notification.

Mr. Kelly 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. Election of Officers.

Mr. Kelly nominated Mr. Bresee as Chairman and Ms. Huddle as Vice Chairman. Mr. Brusco seconded the nominations. The Board unanimously approved the nominations.

2. Approval of Minutes from the December 29, 2010 meeting.

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

Page 1, seventh paragraph, change, “*Boards*” to “*Board’s*.”

Page 3, second paragraph, change, “*timeline*” to “*deadline*.”

The motion to approve the minutes with corrections carried unanimously.

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

Mr. Bresee expressed that it was unnecessary to recuse himself, as no substantive action had been taken at the previous meeting regarding a variance request by property owner Herb Jonkers relating to Highland Farms and a variance request by property owner Christopher Zanella relating to Hillbrook Inn.

3. Postponed from the December 29, 2010 meeting. Variance request by property owner, Herb Jonkers, Highland Farms, LLC from Section 5.7(d)2.b.7 to modify the maximum lot size for two lots: #19 and #21. The property is located on Charles Town Road approximately 300’ west of John Rissler Road in Charles Town, West Virginia. (District: Charles Town; Map: 19; Parcels: 33, 38, 39 & 41; Size: 270 acres; Zoned: Rural, File: #ZV10-24)

Mr. Groh stated that the technical issue for which this item was postponed has been resolved.

John Sekerak with Greenhorne & O’Mara Consulting Engineers was present on behalf of the applicant to address the Board. Mr. Sekerak referred to an aerial photograph to show the Board the proposed subdivision layout. Mr. Sekerak explained the purpose of the variance was to allow

for the layout to coincide with the existing topographical features and land use. Ms. Huddle questioned the availability of the proposed equestrian use on lot 21. Mr. Sekerak explained this use would be for the lot owner and not for the use of the public. Additionally, Mr. Sererak clarified that there will be equestrian uses available to the subdivision residents in the proposed open space areas of the development.

Mr. Bresee called for public comment. Susan Rissler Sheely spoke in favor of the proposal.

Mr. Barney reiterated that he believed the subdivision, even with the variances from lot sizes, would meet the intent of the Clustering provision of the Ordinance.

4. Postponed from the December 29, 2010 meeting. Variance Request by property owner, Christopher Zanella, Hillbrook Inn from Section 4.3(d) to permit additional expansion (over 35%) of the existing nonconforming use to allow for the construction of a 3,600 sq. ft. deck and from Section 4.10 to waive the requirement for a Site Plan. The property is located at 4490 Summit Point Road in Charles Town, West Virginia. (District: Kabletown; Map: 14; Parcel: 10; Size: 17.010 acres; Zoned: Rural; File: #ZV10-25)

Christopher Zanella, applicant, was present to address the Board. Mr. Zanella explained the proposed deck would allow them to simplify hosting events at Hillbrook Inn by providing a proper party space that is close to the Inn's kitchen versus having a mobile kitchen.

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

Mr. Kelly asked if Mr. Zanella planned to cover the deck. Mr. Zanella stated that the deck would not be covered, although a temporary tent could be used on the deck at a customer's request. Mr. Barney stated that allowing the proposed deck would expand the seating of the existing restaurant, which would require additional parking. The applicant stated that the proposed deck would only be used for special events, therefore adding additional parking would not be necessary.

5. Variance request by property owner Ebenezer Mt. Calvary Holy Church from Section 4.10 to waive the requirement of a site plan to construct a handicap ramp and entrance. The property is located at 408 Shirley Road in Summit Point, West Virginia. (District: Kabletown; Map: 15A; Parcels: 12, 12.1 & 13; Size: .9999 acres; Zoned: Rural; File: ZV11-01)

Charles Hunter, Church Pastor, was present to address the Board. Mr. Hunter explained that the church has a number of handicapped members that are cannot use the facility because it is not handicap accessible. Ms. Huddle was concerned about snow accumulating by the entrance. Mr. Hunter said members of the congregation get together to shovel the snow as needed. Alice Hunter, Church Co-pastor, addressed the Board. Ms. Huddle asked staff if covering the handicap ramp would require a site plan. Staff stated there were a number of items that would need to be considered, however, a minor site plan may be necessary. Mr. Barney explained to the Board that the church currently had a site plan under review, although the ramp is not included as part of the proposal because of the time constraints of completing a site plan. The Board discussed

the possibility of including a cover over the handicap ramp as part of their motion. Mr. Groh stated that the site plan the applicant is processing would have to take into account all the existing features of the property, including the ramp.

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

Mr. Brusco motioned to go into deliberative session at 3:47 p.m. Ms. Huddle seconded the motion, which carried unanimously.

Mr. Brusco motioned to come out of deliberative session at 3:55 p.m. Ms. Huddle seconded the motion, which carried unanimously.

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

3. Postponed from the December 29, 2010 meeting. Variance request by property owner, Herb Jonkers, Highland Farms, LLC from Section 5.7(d)2.b.7 to modify the maximum lot size for two lots: #19 and #21.

Mr. Kelly motioned to approve the above referenced request, noting that the approval was for the maximum size shown on the submission. Mr. Brusco seconded the motion, which carried unanimously.

4. Postponed from the December 29, 2010 meeting. Variance Request by property owner, Christopher Zanella, Hillbrook Inn from Section 4.3(d) to permit additional expansion (over 35%) of the existing nonconforming use to allow for the construction of a 3,600 sq. ft. deck and from Section 4.10 to waive the requirement for a Site Plan.

Mr. Brusco motioned to approve the above referenced request, with the condition that no additional tables may be located on the deck during regularly-scheduled meals, other than those meals served as part of a special event. Ms. Huddle seconded the motion, which carried unanimously.

5. Variance request by property owner Ebenezer Mt. Calvary Holy Church from Section 4.10 to waive the requirement of a site plan to construction a handicap ramp and entrance. The property is located at 408 Shirley Road in Summit Point, West Virginia. (District: Kabletown; Map: 15A; Parcels: 12, 12.1 & 13; Size: .9999 acres; Zoned: Rural; File: ZV11-01)

Ms. Huddle motioned to approve the above referenced request, with the condition that the proposed improvements must be shown on site plan S10-06, and the site plan must account for all impacts such as stormwater management. Mr. Kelly seconded the motion, which carried unanimously.

6. Monthly Address by Director Jennifer M. Brockman
7. Legal Update

- a) Discussion on drafting a Contingency Plan for emergency meetings.

The Board agreed to allow Steve Groh to file blanket appeals on its behalf if in litigation. Mr. Groh will announce such action at the Board of Zoning Appeals meeting following the filing. The Board reserves the right to withdraw the appeal at the following meeting or the Chairman can call a special meeting to discuss the appeal.

- b) Discussion on announcement for alternate Board members. Ms. Brockman stated that staff will provide an update on the status of this announcement.

8. Vote on written decisions from prior Board of Zoning Appeals meetings.

9. Correspondence. None.

Ms. Huddle motioned to adjourn the meeting at 4:16 p.m. Mr. Brusco seconded the motion, which carried unanimously.

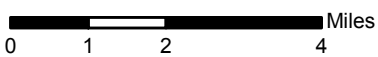
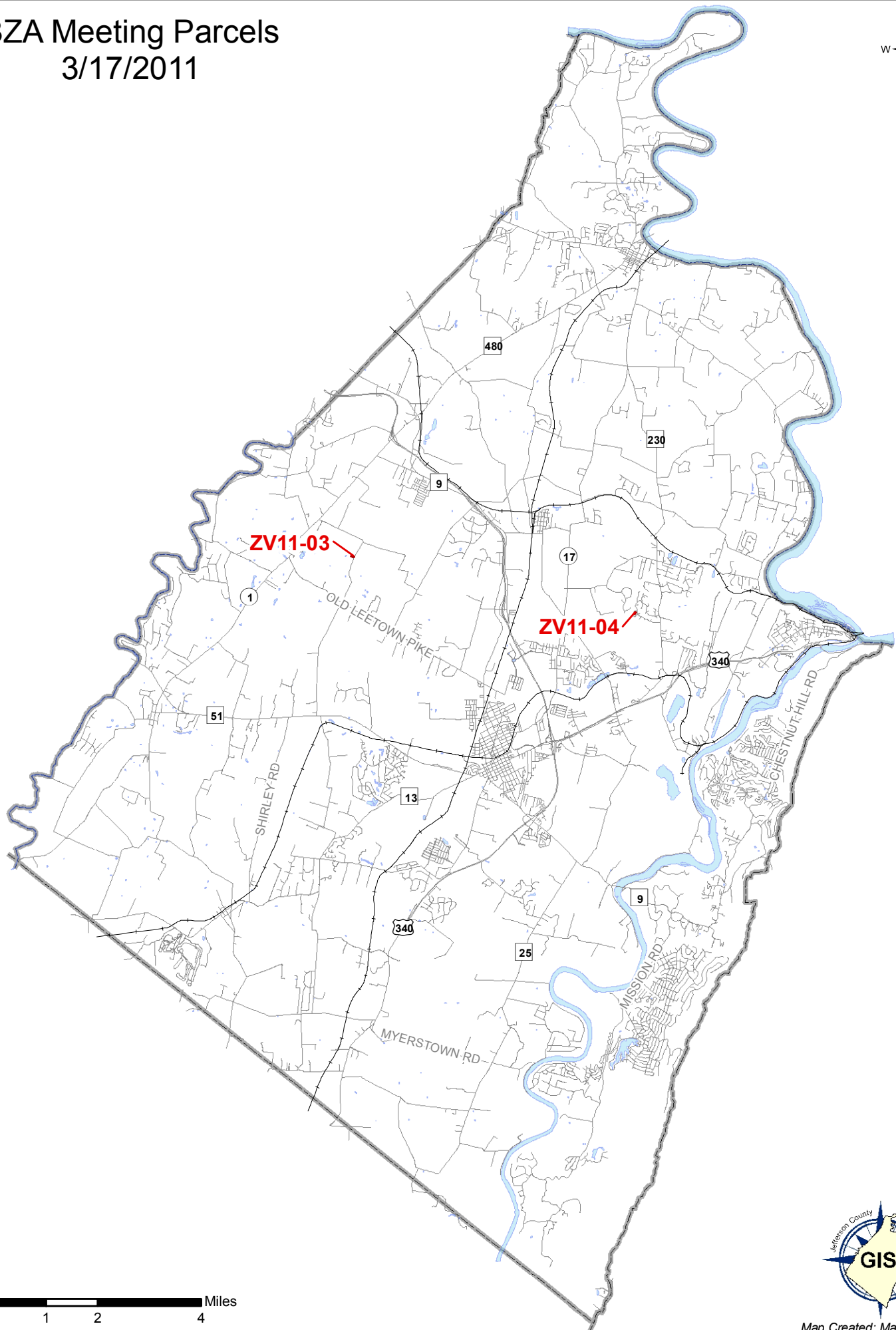
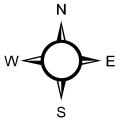
An audio transcript of this meeting can be found at the Department of Zoning and on our website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org). These minutes were prepared by Jennilee Hartman, Zoning Clerk.

**Agenda**  
**Jefferson County Board of Zoning Appeals**  
**Thursday, March 17, 2011, 3:00 p.m.**

1. Approval of the Minutes from the January 20, 2011 meeting.
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)
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. 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)
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.*
5. Discussion on existing animated signs.
6. Monthly Address by Director Jennifer M. Brockman
7. Legal Update
8. Vote on written decisions from prior Board of Zoning Appeals meetings
9. Correspondence

# BZA Meeting Parcels

3/17/2011



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

**Section 7.8** of the current Jefferson County Zoning and Land Development Ordinance, dated December 3, 2009, states the following:

“Section 7.8 Board of Zoning Appeals Approval of Conditional Use Permit

...

(b) The Board of Zoning Appeals shall:

...

(3) Authorize such variances from the terms of the Ordinance if the Board finds that variance:

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

[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]”



**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): David Kidwell Jr  
 Address: 953 Jefferson Orchard Road  
Charles Town, WV 25430  
 Phone Number: 304-671-0963  
 Location of Property: 953 Jefferson Orchard Rd  
Kearneysville, WV 25430  
 Lot Size: 1 acre  
 Deed Book Reference: Deed Book Number 99 Page Number 314  
 Tax Map Reference: District Middleway Map 11 Parcel 26.4  
 Zoning District: Rural  
 Section of Ordinance: 5.7 B / 9.6 B

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.

- ① The existing mobile home park's septic system is on the piece of property asking to be merged to mobile home park.
- ② Rear set back to shed is 14' and shed is 15 X 21. Waiver to go from 21' to 14'

*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 03 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:

Because National Fish Hatchery, this is a existing septic that cannot be built on anyway.

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:

existing mobile home park is non conforming use. All structures were not in violation when built.

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

cannot sell house because of septic to mobile home park is on property.

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

Reduce lot size of parcel 26.4, in order to remove the non-conforming use of the septic.

David Kidwell Jr  
Signature of Property Owner

David Kidwell Jr  
Print Name

2-3-11  
Date

**FOR OFFICAL 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: \_\_\_\_\_



STATE OF WEST VIRGINIA  
Department of Health and Human Resources



# PERMIT

In accordance with WV Legislative Rule 64 CSR 40

**David Kidwell, Jr.**

is hereby issued a **Permit to Operate a Mobile Home Park** in  
Jefferson County, WV

Known as: **Little Dave's Court (MHP)**

Located at: **953 Jefferson Orchard Road**

**(9) two-bedroom units, private well on site**

*Post permit in location conspicuous to consumers*

Date issued: January 1, 2011

Signature: Bill Zaleski, RS

Permit No: MHP 19-1011- 19

Title: Environmental Supervisor

Expires: December 31, 2011

Agency: Jefferson County Health Dept.

# Jefferson County Health Department

ROBERT E. JONES, M.D.  
HEALTH OFFICER

February 2, 2011



1948 WILTSHIRE ROAD, SUITE 1  
KEARNEYSVILLE, WV 25430  
ENVIRONMENTAL: (304) 728-8415  
FAX: (304) 728-3314  
MEDICAL: (304) 728-8416  
FAX: (304) 728-3319

David Kidwell Jr.  
Little Dave's Court (MHP)  
953 Jefferson Orchard Rd.  
Kearneysville, WV 25430

Subject: Septic Reserve Approval

## Memo:

The Jefferson County Health Department has approved a septic reserve area for Little Dave's Court on Jefferson County Tax Map 11, Parcel 26.6. An individual private dwelling, with a septic tank and soil absorption field is located on 26.4 and includes a septic tank with soil absorption field to serve a portion of Little Dave's Court (MHP) Tax Map 11 Parcel 26.5.

Currently, Part of the Trailer Court is serviced by a septic tank and soil absorption field located on Jefferson County Tax Map 11, Parcel 26.4. At such a time as this septic system needs to be replaced, it is understood by all parties that the field will be relocated to the approved site on Tax Map 11 Parcel 26.6. Repairs are still allowed at the original site. It is also understood by all parties that this may require a pump station to be installed to reach this location. At such a time that a septic tank or pump station must be replaced, modified or installed, they would most likely have to remain on Tax Map 11, Parcel 26.4.

There is significant septic reserve area space for the replacement of existing septic fields on Tax Map 11, Parcel 26.6 to service all (9) two bedroom mobile homes. This is the maximum allowed.

Little Dave's Trailer Court (MHP) predates the WVDHHR, Title 64, Legislative Rules, Series 40, Mobile Home Parks Regulation, adopted October 1, 1971. Hence, this park is exempt from these regulations. However, any upgrades to this trailer court (MHP) would trigger the enforcement and compliance of the entire WVDHHR Mobile Home Park Legislative Rule by the owner.

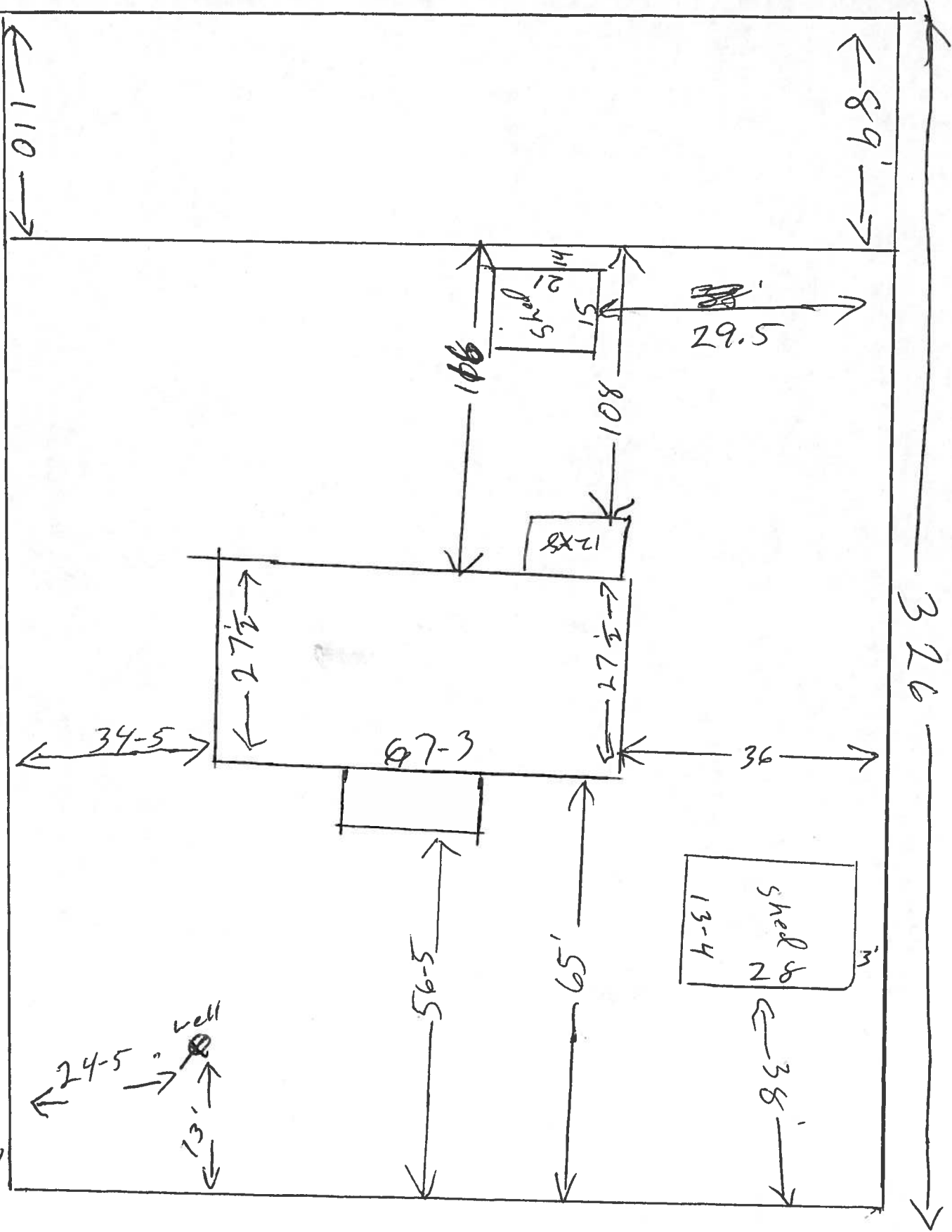
Bill Zaleski, RS, Environmental Supervisor  
Jefferson County Health Department

CC: Dr. Robert Johnson, Chairman, JCBOH  
David & Marsha Kidwell, Owner  
Richard Wheeler, RS, District Sanitarian, WVBOPH  
Jennifer Brockman, Director, Jefferson County Planning & Zoning

Feb 2 2011  
DPM-250000

Trailer PK.

662




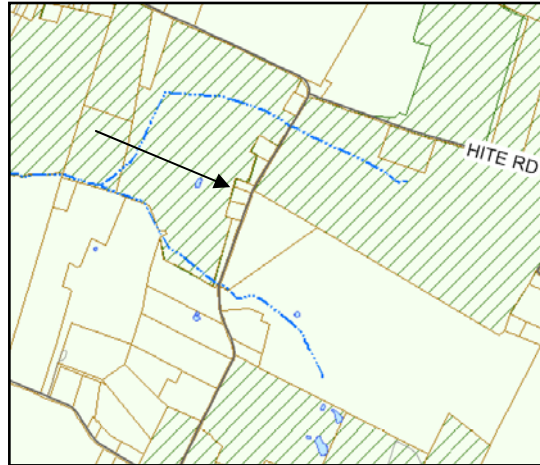
Jeff. Orchard Rd



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 March 17, 2011

**David Kidwell Jr. Request (#ZV11-03)**

Item #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.

APPLICANT:	David Kidwell Jr.
OWNER :	Same as above
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	953 Jefferson Orchard Road in Kearneysville, WV
LEGAL DESCRIPTION:	District: Middleway; Map: 11; Parcel: 26.4 
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:	1 acre
PRIOR CASES:	None
VARIANCE(S):	None
APPROVED ACTIVITY:	Residential

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
March 17, 2011

**David Kidwell Jr. Request (#ZV11-03)**

**RELEVANT INFORMATION:**

The Applicant seeks to undertake a lot line adjustment between two existing properties in order to locate an existing septic system on the same property as an existing mobile home park that predates the adoption of the Zoning and Land Development Ordinance. The two properties are as follows:

<b>Parcel #</b>	<b>Size</b>	<b>Existing Land Use</b>
26.4	43,547 square feet	Single-family home with accessory structures and septic system to serve parcel 26.5
26.5	55,108 square feet	Mobile home park with space for nine mobile homes

Currently, the lot boundaries separate the septic system (on lot 26.4) and the park (on lot 26.5), and an easement allows access from lot 26.5 to the septic area.

The proposed lot line adjustment will require two variances:

1. Reduction of minimum lot size requirements of Section 5.7(b)

Lot 26.4 is currently 43,547 square feet in size. The proposed lot line adjustment would remove approximately 12,460 square feet of lot area (89' x 140') from lot 26.4 and transfer this area to lot 26.5. The new area of lot 26.4 would be approximately 31,087 square feet.

Because the minimum lot size for a residential use in the Rural district is 40,000 square feet, the proposed size of lot 26.4 would be 8,913 square feet smaller than the required minimum lot size.

2. Reduction of a required rear yard setback to accommodate an existing shed

A shed currently exists on lot 26.4, with dimensions of 15' x 21'. While the shed currently meets setback requirements, the proposed lot line adjustment would result in a nonconforming rear setback for the shed.

The Zoning Ordinance classifies sheds as accessory structures, and Section 9.6(b) establishes a minimum setback for residential accessory structures of a distance "not less than the longest horizontal dimension of the accessory structure or the minimum distance specified for that District, whichever is the lesser of the two." The longest dimension of the shed is 21'; as such, the required rear setback for the shed is 21'.

Because the shed is currently located within 14' of the proposed rear property line that would result from a proposed lot line adjustment, a setback reduction of seven feet would be necessary to accommodate the existing shed.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
March 17, 2011

**David Kidwell Jr. Request (#ZV11-03)**

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 5.7 Rural

(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>
Dwelling	40,000 sq. ft.	100	40	15	50

Section 9.6 Accessory Structures

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

- (b) In any District wherein single-family and two-family dwellings are permitted, the minimum distance from any accessory structure, not attached to the principal permitted use, to the side or rear lot line shall be not less than the longest horizontal dimension of the accessory structure or the minimum distance specified for that District, whichever is the lesser of the two.



# 2V11-04

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): Frank + Kathi Katzenberger

Address: 43 General Anderson Court  
Harpers Ferry, WV 25425

Phone Number: 304-724-9334

Location of Property: same as above  
Gap View Village - off General Early Drive

Lot Size: 3/4 acre

Deed Book Reference: Deed Book Number 945 Page Number 8

Tax Map Reference: District Harpers Ferry Map 5D Parcel 61 - lot 61

Zoning District: R4

Section of Ordinance: 54B

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 want to purchase a 10' x 16' shed for our backyard. Code says we must be at least 12' from the side property line. We are asking for a variance to be 4' from the side property line. If we follow the 12' rule, the front edge of the shed would stick out 22' from the side property line versus 14'. If the shed is out 22', we will not be able to drive into our backyard for yard work, future septic cleaning, or other things because we would have to drive OVER our current septic field - see Picture #4. In order to avoid doing that, we need a variance to get our truck past the shed without hitting our septic field. The other side of our property has a hillside and we cannot get into our backyard from there. We also chose this location so the shed would be close to our garage and basement door allowing us to be near our tools and where we work. More importantly, we need to leave the rest of the backyard alone and open to accommodate the required 2 extra septic drain fields if needed in the future.

*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 04 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:

does not affect any of this to my knowledge and understanding as my neighbor has an existing fence

- 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:

not applicable - but due to hillside on the other side of property, we are not able to access the back yard

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

the hardship would be having to drive over my current septic field to get in my back yard without a variance

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

ok - neighbor Jon Brusco said he did not mind, but will submit a letter from him.

We will be applying for a building permit and follow all county guidelines.

Kathi Katzenberger  
Signature of Property Owner

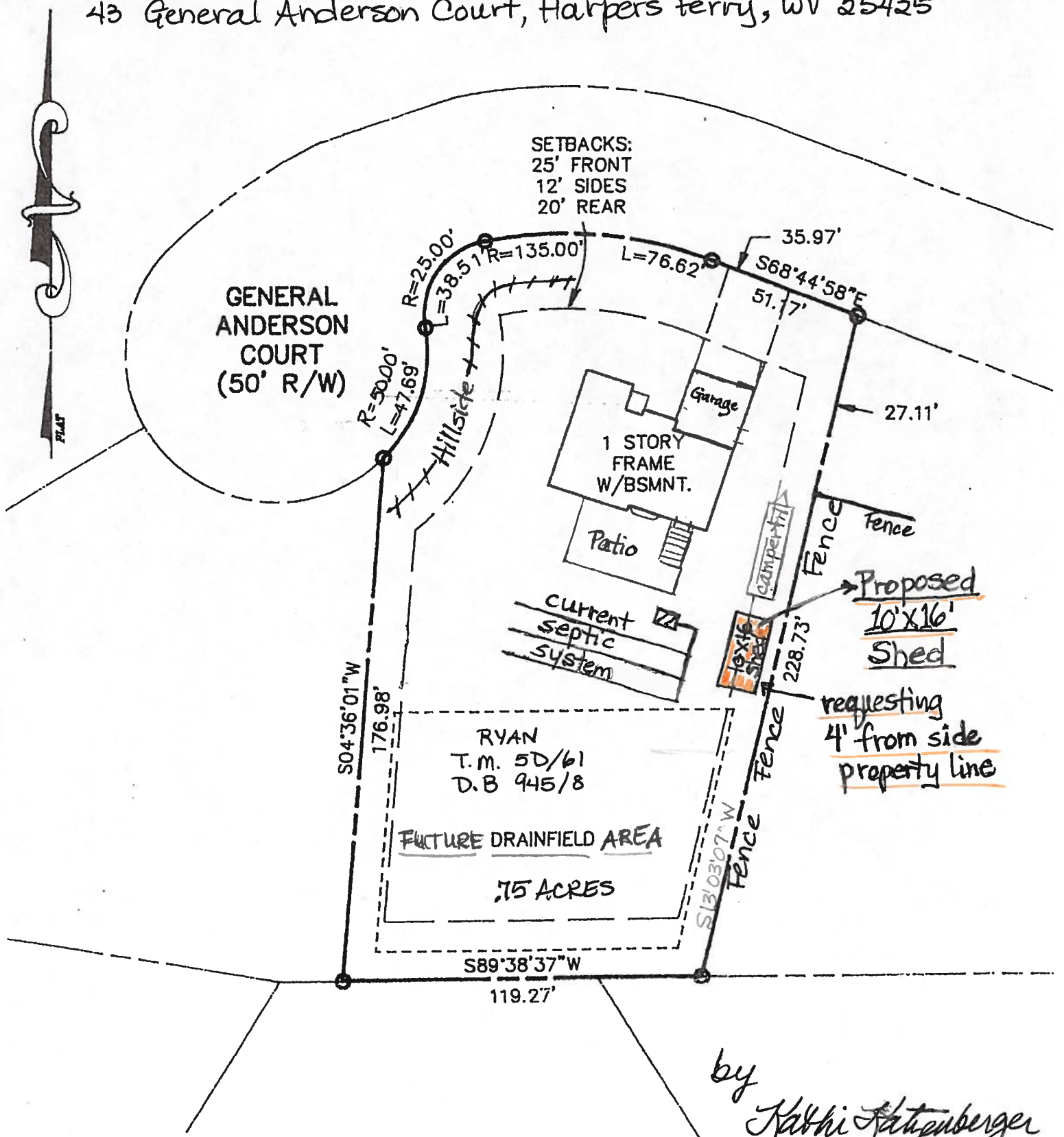
Kathi Katzenberger  
Print Name

Feb 4, 2011  
Date

<b>FOR OFFICAL 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: _____	

Frank & Kathi Katzenberger - Shed - Side Variance

43 General Anderson Court, Harpers Ferry, WV 25425

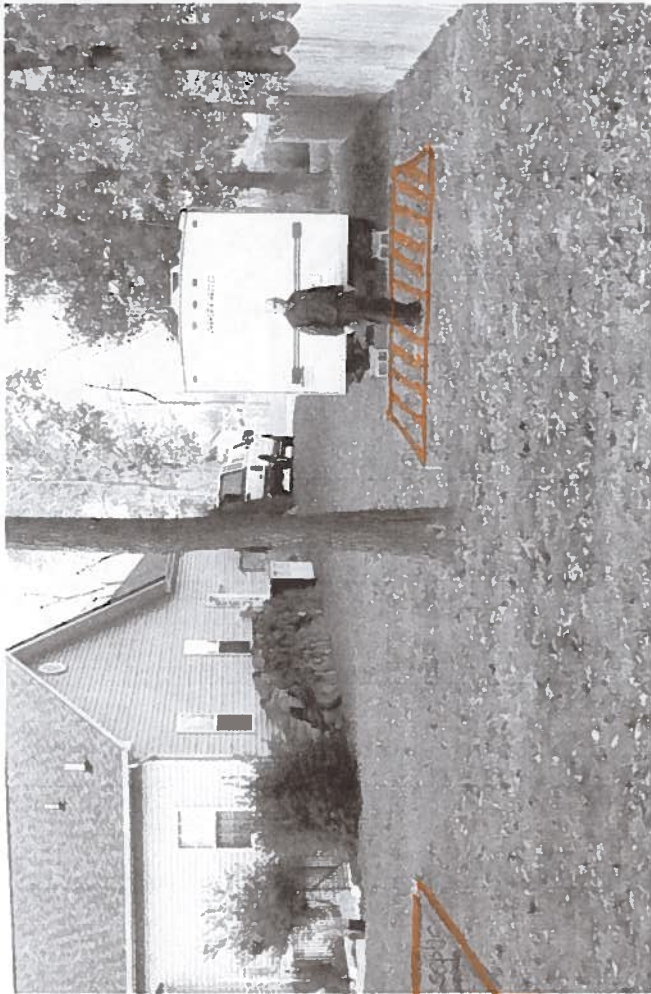


Proposed  
10'x16'  
Shed  
requesting  
4' from side  
property line

by  
Kathi Katzenberger  
Feb 4, 2011

PLAT OF HOUSE LOCATION

THIS PROPERTY IS MAPPED ON FFMA PANFL # 540065 0035 C ZONE C.



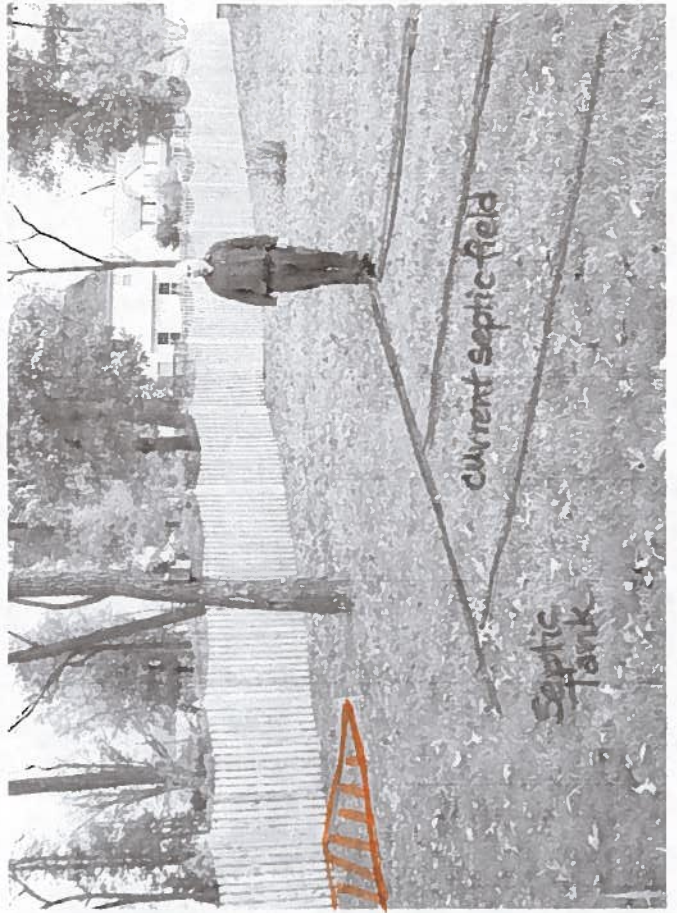
#1 - The roped off area is where we propose to put the shed.



#2 - Front side yard looking to backyard. Roped area is past the camper.



#3 - Roped area is 10' x 16' and is 4' from the side property line.



#4 - Frank is standing at the edge of our septic field.

**FRANK & KATHI KATZENBERGER**  
**43 General Anderson Court, Harpers Ferry, WV 25425**  
**304-724-9334**

**Gap View Village Development**

Located 1.25 miles North from Route 340 and Route 230 - Shepherdstown Pike  
Turn left onto Gen Early Drive - Take 4th left - 2nd house on left



**VARIANCE REQUEST FOR SHED TO BE 4' FROM SIDE PROPERTY LINE**

Proposed shed will be 10' deep by 16' wide/long - traditional A frame style.  
It will be built off site and driven to our lot and set down in our backyard on site.

Shed will sit atop 4" of gravel and be bordered by 4" x 4" pressure treated yard ties set 6" larger than shed size = 11' by 17' bordered area.

Double 5' to 6' doors are located in front center

A small window will be placed on either side of the double door with shutters.

Siding will be light sage green as close to our existing house color as possible.

Shingles will be a dark gray as close to our existing house shingle color as possible.

Wall height inside shed will be 6'4" to 7'4" and the peak will be 9'6" to 10'6".

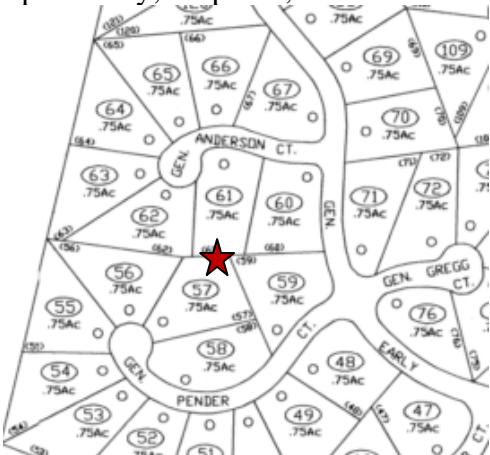
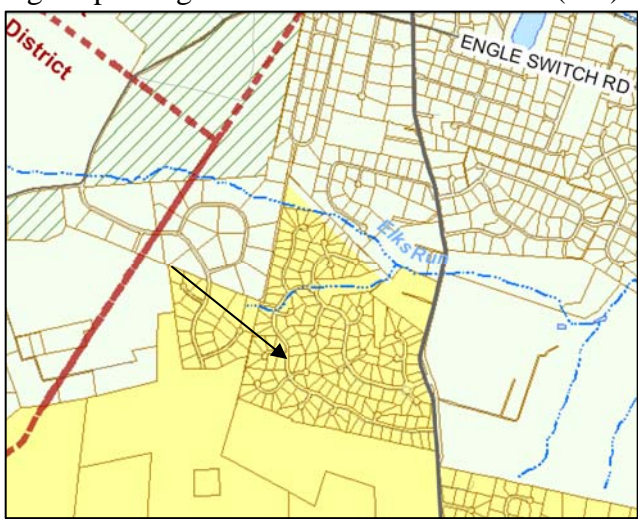
*by*  
*Kathi Katzenberger*  
*Feb 4, 2011*



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 March 17, 2011

**Frank and Kathi Katzenberger Request (#ZV11-04)**

Item # 3 Variance Request by owner, Frank and Kathi Katzenberger from Section 5.4(b) to reduce the side setback from 12' to 4' for a proposed 10'x16' shed.

APPLICANT:	Frank and Kathi Katzenberger
OWNER :	Same as above
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	43 General Anderson Court, Harpers Ferry, WV
LEGAL DESCRIPTION:	District: Harpers Ferry; Map: 5D; Parcel: 61 
ZONING DISTRICT:	Zoning Map Designation: Residential Growth (RG) 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> RG <i>South:</i> RG <i>East:</i> RG <i>West:</i> RG
LOT AREA:	.75 acres
PRIOR CASES:	Subdivision File #00-09
VARIANCE(S):	None
APPROVED ACTIVITY:	Residential

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
March 17, 2011

**Frank and Kathi Katzenberger Request (#ZV11-04)**

RELEVANT INFORMATION:

The Applicant seeks to locate a 10' x 16' shed within 4' of the rear property line.

Per the Applicant, if the proposed shed were to be built in accordance with required setbacks, its proximity to the existing septic drainfield would preclude the owners from vehicular access to the back yard. The Applicant also states that the topography of the west side of the lot would not allow driveway access.

The Zoning Ordinance classifies sheds as accessory structures, and Section 9.6(b) establishes a minimum setback for residential accessory structures of a distance "not less than the longest horizontal dimension of the accessory structure or the minimum distance specified for that District, whichever is the lesser of the two." The longest dimension of the proposed shed is 16'; as such, the required rear setback for the shed is 12' (the side yard setback distance specified for the Residential Growth district).

Because the shed is proposed to be located within 4' of the property line, a setback reduction of 8' would be necessary to accommodate the existing shed.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 5.4b Residential Growth District - Height And Yard Requirements

[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990 AND SEPTEMBER 1, 2006]

<u>Development Type</u>	<u>Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)</u>	<u>Required Yards</u>
Single family detached dwelling	6,000 sq. ft. MLA**	25 ft. front
Public/Central water & sewer	10,000 sq. ft. ADU	12 ft. side
Public/Central Water or Sewer	20,000 sq. ft. MLA	20 ft. rear
No Public/Central water or sewer	40,000 sq. ft. MLA	

Section 9.6 Accessory Structures

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

- (b) In any District wherein single-family and two-family dwellings are permitted, the minimum distance from any accessory structure, not attached to the principal permitted use, to the side or rear lot line shall be not less than the longest horizontal dimension of the accessory structure or the minimum distance specified for that District, whichever is the lesser of the two.