



Jefferson County
Board of Zoning Appeals
Thursday, December 10, 2015, 2:00 p.m.

Members
Tyler Quynn, Chair
Jeffrey Bannon, Vice Chair
Christy Huddle
Matt Knott
Ted Schiltz
Jeff Bresee, Alternate
Craig Foster, Alternate

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

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

1. Approval of the minutes from the November 12, 2015 meeting.
2. Swearing in of members of the public intending to provide testimony.
3. An Appeal of the Acting Zoning Administrator's determination to enforce a 2013 Memorandum, which restricted shipping containers from being used as residential accessory structures. Appellant: Brian Billey. Location: Lot 1, William Parker Minor Subdivision, 46 Hinton Ridge Rd, Middleway. District: 07; Map: 27; Parcel: 4.1; Size: 2.38 ac; Zone: R; File: AP15-03.
4. **Withdrawn by applicant.** Variance from Section 10.4C to reduce the setback of 25' to 17' to replace the existing freestanding sign. Owner: United Methodist Church Trustees. Location: 289 Potomac Ave. Shenandoah Junction. District: 02; Map: 1A; Parcel: 62; Size: .21 ac; Zone: V; File: ZV15-28.
5. Variance from Section 9.7 and Appendix A to reduce the front setback on S. Church St. from 20' to 7' for a 12'x15' breezeway, a 25' x 28' attached garage with a 5' x 25' attached porch. Owner: Elena Mestre and Eric Hyman. Location: 110 Fairmont Ave. Shepherdstown. District: 09; Map: 8B; Parcel: 48; Size: .25 ac; Zone: RG; File: ZV15-29.
6. Director's Report.
 - a) Monthly Zoning Certificate Activity Report
7. Legal Update.
 - a) William Neufeld Pending Litigation CA #14-C-394
 - b) Shenandoah Air Conditioning & Heating Inc. Pending Litigation CA #15-P-73
 - c) Whistling Farms Bed & Breakfast Litigation CA # 15-C-209 (possible executive session)
8. Discussion with possible deliberative session and signing of draft findings/decisions.

Meeting Date: 10/22/15, 11/12/15 meetings. (*see agenda for full item description*)

 - a) The Middleway Volunteer Fire Company (MVFC) is requesting the following: (a) Request for a Special Exception for an outdoor advertising sign per Sec. 10.5. The sign will be located on a parcel adjacent to the MVFC (File: SE15-01); and, (b) Variance from Sec. 10.4G & App A to reduce the front setback from 40' to 25' for an outdoor advertising sign for MVFC and, (c) Variance from Sec. 9.6C to allow the sign in the required front yard (File ZV15-25). Property owner: M. Edwards, Sr.
 - b) Variance from Sec. 9.7 and App A to reduce the side setback from 15' to 10' for an addition to a single family residence. Owner: Brett and Anne Basham. File: ZV15-26.
 - c) Variance from Sec. 4.11A, 5.6D.1, and 5.8C.2, and App B to eliminate the required landscape buffer and the parking & drive aisle setbacks for the internal lot lines proposed on the Jefferson Business Park Associates, LLC Minor Subdivision PC File #15-18 (formerly Alex Chevrolet site). Owner: John Good, Manager, Jefferson Business Park Assoc. File: ZV15-27.

Draft Minutes
Jefferson County Zoning Board of Appeals

- 1 Meeting Date: November 12, 2015
2 Meeting Location: Charles Town Library Conference Room
3 200 East Washington Street, West Virginia
4
5 Board members present: Tyler Quynn, Chair; Jeffrey Bannon, Vice Chair; Christy Huddle, Ted
6 Schiltz, Matt Knott.
7 Board members absent: Craig Foster, Alternate, and Jeff Bresee, Alternate (with notification)
8 Staff members present: Jennifer M. Brockman, Acting Zoning Administrator/Director of
9 Planning and Zoning; David Simon, County Planner; Lydia Lehman,
10 Assistant Prosecuting Attorney; Jennilee Hartman, Zoning Clerk
11

12 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.
13

14 Ms. Huddle moved to begin the meeting at 2:00 p.m. Mr. Quynn called for a vote, which carried
15 unanimously.
16

17 Mr. Quynn explained how the meeting would be conducted to the public.
18

19 1) Approval of the minutes from the October 22, 2015 meeting.
20

21 Ms. Huddle moved to approve the minutes with the following corrections:
22

- 23 1. Mr. Bresee was not in attendance at the meeting. Make corrections where relevant
24 (pg. 1; lines 6 & 15).
25 2. Page 1, line 33, add a comma after Mr. Foster's name and change the following
26 word ~~and~~ to as.
27 3. Page 2, line 37, correct ~~opened~~ to open.
28 4. Page 3, line 4, correct ~~are~~ to is.
29 5. Page 3, line 15, correct ~~approved~~ to approve.
30 6. Ensure the name *Steeley* is spelled correctly throughout the document.
31 7. Page 3, line 39, correct *Lehmen* to *Lehman*.
32 8. Page 4, line 13, correct the sentence to read, "*which carried three (3) in support and*
33 *(2) abstentions (Ms. Huddle and Mr. Foster).*"
34

35 Mr. Quynn called for a vote, which carried unanimously.
36

37 2) Approval of the 2016 Board of Zoning Appeals Meeting Schedule.
38

39 Ms. Huddle moved to approve the 2016 Board of Zoning Appeals Meeting Schedule as drafted.
40 Mr. Quynn called for a vote, which carried unanimously.
41

42 3) Swearing in of members of the public intending to provide testimony.
43

44 Ms. Hartman swore in members of the public who indicated they would be providing testimony.
45

- 1 4) Variance request from Section 9.7 and Appendix A to reduce the side setback from 15' to 10'
2 for an addition to a single family residence. Owner: Brett and Anne Basham. Location:
3 1792 Terrapin Neck Rd, Shepherdstown WV. District: 09; Map: 1 Parcel: 4.3; Size: 2.13 ac;
4 Zone: R; File: ZV15-26.
5

6 Mr. Brett Basham, owner, was present to address the Board. Mr. Simon briefly presented his staff
7 report to the Board. Mr. Basham went on record stating that he had received email correspondence
8 from his neighbor expressing an interest in the request; however, he would be unable to attend the
9 meeting as he was out of the country. Staff confirmed receipt of similar correspondence; however,
10 the document was not submitted early enough to be distributed to the Board. Mr. Basham stated
11 that while he would be willing to postpone the variance, he believed the request would not
12 negatively impact the neighbor. Mr. Quynn opened the public hearing. There was no public
13 comment. Mr. Quynn closed the public hearing.
14

15 The Board agreed a deliberative session was unnecessary. Ms. Huddle moved to approve the
16 variance to allow the addition to be located not less than 10' from the requested side property
17 line. Mr. Quynn called for a vote, which carried unanimously.
18

- 19 5) Variance request from Sections 4.11A, 5.6D.1, and 5.8C.2, and Appendix B to eliminate the
20 required landscape buffer and the parking and drive aisle setbacks for the internal lot lines
21 proposed on the Jefferson Business Park Associates, LLC Minor Subdivision PC File #15-18
22 (formerly known as the Alex Chevrolet site). Owner: John Good, Manager, Jefferson Business
23 Park Associates. Consultant: Paul J. Raco, P. J. Raco, Consulting, LLC and Mike Shepp,
24 Allegheny Surveys, PLLC. Location: 1 Chevrolet Drive, Charles Town WV. District: 09;
25 Map: 1; Parcel: 4.3; Size: 2.13 ac; Zone: RLIC; File: ZV15-27.
26

27 Mr. John Good, Manager, and Mr. Michael Shepp, Consultant, were present to address the Board.
28 Ms. Brockman briefly presented her staff report to the Board. Ms. Brockman stated that a text
29 amendment to the landscaping regulations in the Zoning Ordinance is on the Department's work
30 plan. Mr. Shepp explained the nature of the request to the Board. Discussion ensued regarding
31 the practicality and the sustainability of landscaping within the existing strip of grass between
32 Lots 2 and 3 of the proposed minor subdivision. Mr. Quynn opened the public hearing. There
33 was no public comment. Mr. Quynn closed the public hearing.
34

35 The Board agreed a deliberative session was unnecessary. Mr. Knott moved to approve the
36 request to eliminate all landscaping buffers and parking and drive aisle setbacks along the internal
37 property lines. Mr. Knott added that the applicants were bound by their testimony. Ms. Huddle
38 seconded the motion to add an amendment. Mr. Quynn denied the second. Mr. Bannon requested
39 a deliberative session. Mr. Quynn stated a motion was on the table and therefore needed action.
40 Mr. Quynn noted if the motion was denied then Ms. Bannon could make a motion to go into
41 deliberative session. Ms. Huddle asked if she could amend the motion. Mr. Quynn asked for a
42 second to allow for Ms. Huddle to amend the motion. Ms. Huddle seconded the motion for the
43 purpose of amending the motion to include a condition to retain a 30' x 40' landscaped area within
44 the existing grass area, depicted on page 6 of the staff report, to include one (1) tree to mitigate
45 solar impact on this parcel.
46

47 Mr. Quynn called for a vote to approve the amendment, which carried four (4) in support and
48 one (1) in opposition (Mr. Knott). Mr. Quynn called for a vote on Mr. Knott's original motion,
49 to include Ms. Huddle's amendment, which carried unanimously.

- 1 5) Director's Report.
- 2 a) Monthly Zoning Certificate Activity Report
- 3 b) Ms. Brockman updated the Board on the following:
- 4 i. Campground text amendment Planning Commission discussion and recommendation
- 5 scheduled for 12/08/15.
- 6 ii. Subdivision and Site Plan process text amendment scheduled for the 12/03/15 County
- 7 Commission meeting for action.
- 8 iii. Mass Events text amendment County Commission public hearing scheduled for
- 9 12/08/15.
- 10 iv. Article 12 text amendment Planning Commission discussion scheduled for 12/08/15.
- 11 v. Historic Resource Demolition and Adaptive Reuse, staff met with Historic Landmarks
- 12 Commission and Engineering staff to review proposed text amendments.
- 13 vi. LESA/Cluster (subdivision density rights) text amendment a priority for Staff; however,
- 14 it has not been drafted.
- 15 vii. Other text amendments Staff would be researching, parking, sign and landscaping standards.
- 16 viii. Reminder that the next meeting is scheduled for December 10, 2015. Mr. Knott stated
- 17 that he would not be attending the December and January BZA meetings.
- 18
- 19 6) Legal Update.
- 20 a) William Neufeld Pending Litigation CA #14-C-394. Pending Court response.
- 21 b) Shenandoah Air Conditioning & Heating Inc. Pending Litigation CA #15-P-73.
- 22 Pending Court response.
- 23 c) Whistling Farms Bed & Breakfast Litigation CA # 15-C-209 (possible executive session).
- 24 Pending Court response.
- 25
- 26 7) Discussion with possible deliberative session and signing of draft findings/decisions.
- 27 Meeting Date: September 24, 2015 and October 22, 2015 (*see agenda for full item description*)
- 28 a) Variance from Sec. 9.6C to allow an accessory structure in the required front yard; and,
- 29 Sec. 9.7 to reduce the front setback from 25' to 10' to construct a 25' x 28' two car garage.
- 30 Owner: J. Schneider.
- 31 b) Variance from Sec. 9.5B to permit a fence taller than 6' to remain 6" from the property line.
- 32 Owner: L. Holdaway.
- 33 c) Variance from Sec. 4.11A.2 & 4.11E, and App B to remove the side and rear landscaping
- 34 requirements.
- 35 d) Variance from Sec. 5B.1 to reduce rear setback from 20' to 15' for a 10' x 18' deck.
- 36 Owner: A. Sperry.
- 37 e) The Middleway Volunteer Fire Company (MVFC) is requesting the following: (a) Request
- 38 for a Special Exception for an outdoor advertising sign per Sec. 10.5. The sign will be
- 39 located on a parcel adjacent to the MVFC (File: SE15-01); and, (b) A variance from Section
- 40 10.4G & Appendix A to reduce the front setback from 40' to 25' for an outdoor advertising
- 41 sign for the MVFC (File ZV15-25) and, (c) Variance from Sec. 9.6C to allow the sign in the
- 42 required front yard (File ZV15-25). Property owner: M. Edwards, Sr.
- 43
- 44 Mr. Knott moved to adjourn the meeting at 2:50 p.m. Mr. Quynn called for a vote, which carried
- 45 unanimously.

Staff Report

Jefferson County Board of Zoning Appeals Meeting
December 10, 2015

Brian Billey Appeal (#AP15-03)

RELEVANT INFORMATION:

1. Overview of Administrative Appeal

On June 4, 2015, Brian Billey received a building permit for the temporary use of two Shipping Containers (aka Sea Containers/Connex Boxes) for use on his property on Hinton Ridge Road with the provision that such containers had to be removed when the house construction was complete. While the house received its Use and Occupancy Permit in 2014, the house has not yet been occupied. On June 23, 2015, the Departments of Planning and Zoning received a request to allow these shipping containers to be permitted to remain on the property as storage sheds permanently. Mr. Billey's property on which these containers are located in a part of a Minor Subdivision consisting of three lots, two of which are 2.3+ acres and one of which is 5.2+ acres. Mr. Billey's lot is one of the 2.3 acres lots. The three lots share an access easement as required in the Subdivision Ordinance.

After careful review of the Zoning Ordinance and previous internal land use policies, on October 6, 2015, Jefferson County Departments of Planning and Zoning replied to the request stating that shipping containers are not permitted as accessory uses on residential properties as shipping containers are customarily associated with commercial and industrial uses and are not typically associated with single family residences.

The applicant is appealing this decision stating that "this is not listed as a Zoning Ordinance; it is listed as a "memo"."

2. Case History related to Shipping Containers in Jefferson County

In 2012, the question arose as to whether shipping containers are of an appropriate scale and size to be a compatible use on residential properties. Prior to this time, such containers were treated as a storage unit and were required to comply with building permits and setbacks that would apply to any type of shed.

Taking into consideration that one of the purposes listed in Section 1.1 of the Zoning Ordinance is to "Encourage an improved appearance of Jefferson County with relationship to the use and development of land and structures," careful consideration has gone in to the interpretation as to whether shipping containers are a compatible use on residential properties. After considerable thought and research, on June 13, 2013 the Zoning Administrator at that time, Steve Barney, drafted an internal staff memo to the Departments of Planning, Zoning and Engineering clarifying where shipping containers were permitted to be located in the County (memo attached).

When this request came to the Departments of Planning and Zoning in June 2015, staff carefully reviewed the Ordinance and the memo and determined that the policy was still valid and would remain in effect with no changes at this time. This was conveyed to the applicant.

Section 3.2A of the Jefferson County Zoning and Land Development Ordinance states that the Zoning Administrator shall "administer and enforce the Zoning and Land Development Ordinance", including but not limited to interpreting the provisions of the Ordinance as required by law. As there is not a clear statement specifically about the placement of shipping containers on residential properties, it is the responsibility of the Zoning Administrator to determine whether this is an appropriate land use in the requested location.

Section 3.2B then states that "Any decision or action by the Zoning Administrator based on Section 3.2A above is subject to appeal to the Board of Zoning Appeals."

Staff Report

Jefferson County Board of Zoning Appeals Meeting
December 10, 2015

Brian Billey Appeal (#AP15-03)

3. Staff Response to Appeal

As there is not a clear statement specifically about the placement of shipping containers on residential properties in the Zoning Ordinance, it is necessary to determine what uses are permitted on residential properties. In addition the residential structures themselves, the Ordinance provides that “Accessory Uses” are permitted uses in all zoning districts. Further, the Ordinance defines “accessory uses” as “a structure or use which is *customarily incidental and subordinate to* the principal building or use which is located on the same lot as the principal building. Accessory structures include garages, tool sheds, storage buildings, swimming pools or other similar structures. An accessory structure having any part of a wall in common with a dwelling is considered part of the main building and must meet those setbacks.” (emphasis added)

A determination has been made by past and the present Acting Zoning Administrator that the key part of this definition is “customarily”, defined as “usually, typically, regularly, etc.”. While the Ordinance does not specify design of structures, it is logical to state that while garages, sheds, or swimming pools are types of structures that are commonly found with single-family uses, shipping containers are not.

For this reason it has been determined that that shipping containers are typically associated with commercial or industrial uses and are not typically associated with single-family residences and, as such, they are not permitted accessory uses on residential properties (see attached memo). The memo further differentiates shipping containers from storage pods leased from moving/storage companies which are a typical, incidental, temporary storage use associated with residences and are permitted.

This administrative decision further clarifies that shipping containers may be permitted temporarily for the purpose of construction storage when located on the same lot as a dwelling unit that is being constructed, when there is a valid, active building permit for the construction; however, such container must be removed immediately upon expiration of the permit or completion of final inspection for the home. It should also be noted that it is acknowledged that a shipping container is permitted for agriculture-related storage when located on the same property as an agricultural activity (per Section 4.5 of the Zoning Ordinance).

4. Conclusion

Based on the background and research above, the Acting Zoning Administrator finds that a 2.3 acre lot in a Minor Residential Subdivision in the Rural Zoning District cannot be considered commercial or industrial and does not meet the criteria for allowing agriculture-related storage when located on the same property as an agricultural activity. Therefore such shipping containers are only permitted on this lot for the purpose of construction storage when located on the same lot as a dwelling unit that is being constructed, when there is a valid, active building permit for the construction. As the final inspection has already occurred on the new construction of the residence, the shipping containers are required to be removed.

5. Board of Zoning Appeals’ Role

Section 3.4 Boards and Commissions

A. Board of Zoning Appeals

3. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.

Staff Report

Jefferson County Board of Zoning Appeals Meeting
December 10, 2015

Brian Billey Appeal (#AP15-03)

- a. Filing an Appeal
 - i. 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.
 - ii. Such appeal shall be filed with the Board within thirty (30) days from the decision appealed.
 - b. Notification
 - i. Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing.
 - ii. The subject property shall be posted conspicuously by a zoning notice no less than twenty-eight (28) inches by twenty-two (22) inches in size, at least 15 days before the hearing. The sign will be prepared by the Departments of Planning and Zoning but posting the sign is the responsibility of the applicant. The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.
 - c. Public Hearing
 - i. The Board shall hold a hearing within forty-five (45) days of the date the appeal is received in the Departments of Planning and Zoning. At the hearing, any party may appear and be heard in person or by agent or attorney.
 - ii. The Board shall render its determination on the application no more than thirty (30) days following the public hearing by registered mail.
 - d. Continuance of Hearing
 - i. 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.
6. In exercising its power and authority, the Board of Zoning Appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as the Board deems appropriate.^{17, 21}

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 2.2 Terms Defined

Accessory Use A structure or use which is customarily incidental and subordinate to the principal building or use which is located on the same lot as the principal building. Accessory structures include garages, tool sheds, storage buildings, swimming pools or other similar structures. An accessory structure having any part of a wall in common with a dwelling is considered part of the main building and must meet those setbacks.

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.

Section 9.7 Other Exceptions³

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.

Section 4.5 Agricultural Uses Permitted Generally

Except for compliance with distance requirements for a building set forth in Section 4.6, nothing in this Ordinance shall prohibit the use of land for agricultural purposes or the construction or use of building or structures incidental to the use for agricultural purposes.



Jefferson County, West Virginia

Departments of Planning and Zoning

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

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

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

MEMO

TO: Planning, Zoning, and Engineering Departments
FROM: Steve Barney, Zoning Administrator, Planning and Zoning Departments
DATE: June 13, 2013
RE: Shipping or Trucking Containers

The purpose of this memo is to clarify under what circumstances a shipping or trucking container may be allowed to be used as an accessory storage structure, on a residential property or a farm property. Please note that where permitted, shipping containers require building permit approval.

1. Residential Properties (other than multi-family or townhouse)

The Jefferson County Zoning and Land Development Ordinance allows accessory uses such as sheds, garages, swimming pools, fences and other types of uses that are commonly associated with single-family or two-family homes. However, shipping or trucking containers are typically associated with commercial or industrial uses and are not typically associated with single-family residences. As such, they are not permitted accessory uses on residential properties.

Storage pods leased from moving/storage companies are a typical, incidental storage use associated with residences and are permitted. These structures differ significantly from shipping or trucking containers because they are temporary in nature, are intended for residential use, and are typically significantly smaller than a shipping or trucking container.

2. Storage for Construction of a Residence

Shipping or trucking containers may be permitted temporarily for the purpose of construction storage when located on the same lot as a dwelling unit that is being constructed, when there is a valid, active building permit for the construction. The container(s) must be removed immediately upon expiration of the permit or completion of final inspection for the home.

3. Agricultural Storage

A shipping container is permitted for agriculture-related storage when located on the same property as an agricultural activity.

For more information, please contact the Jefferson County Planning and Zoning Department at 304-728-3228.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

Appeal Number: AP15-03
Staff Initials: CLK
Fees Paid (\$100): \$ 100.00

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

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Appeal Form - Board of Zoning Appeals

Pursuant to Section 3.4 of the Jefferson County Zoning and Land Development Ordinance, the Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or any ordinance adopted thereto.

Name and/or File Number of Project

Name of Project: Sued

Permit # 15-239
File Number: 240

Appellant Information

Appellant Name: Brian Billey
Mailing Address: 13479 Brighton Dam Rd
City: Clarksville State: MD Zip Code: 21029
Phone Number: 301-370-9674 Email: brianbilley@yahoo.com

Appellant Representative(s) Information

Company Name: Sump
Representative Name(s): RECEIVED
Mailing Address:
City: State: NOV 06 2015 Zip Code:
Phone Number: Email: JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING

Appellant Physical Property Details

Physical Address: 46 Hinton Ridge Rd
City: State: WV Zip Code:
Tax District: Middle Way Map No: 27 Parcel No: 4.6
Size: 2.38 acres Deed Book: 1132 Page No: 436

Zoning District (please check one) (CHERRY MEADE PARKER)

Grid of zoning districts with checkboxes: Residential Growth (RG), Industrial Commercial (IC), Rural (R), Residential-Light Industrial-Commercial (RLIC), Village (V), Neighborhood Commercial (NC), General Commercial (GC), Highway Commercial (HC), Light Industrial (LI), Major Industrial (MI), Planned Neighborhood Development (PND), Office/Commercial Mixed-Use (O/C). Rural (R) is checked.

Only if applicable to your request, provide a sketch showing the shape and location of the lot indicating all roads, rights of ways, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e., the distance of the structure from all property lines), size and height. Identify all existing buildings, structures or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch and submit with this form.

Decision Being Appealed

Use of Sea Container as shed

Type of Appeal

Administrative Decision

LESA Point Score

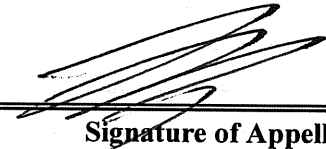
Other

If other, please describe: _____

Please explain reasons/justifications for appeal and desired action by Board, in numerical order. Use a separate sheet of paper if necessary.

This is NOT listed as a Zoning Ordinance. It is listed as a "MEMO."

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



11-6-15

Signature of Appellant

Date

Signature of Appellant

Date

Notification Requirements (to be completed by staff)

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

THURSDAY
DECEMBER 10, 2015 @ 2:00pm.
Date of Public Hearing

WEDNESDAY
NOVEMBER 25, 2015
Advertising Date

WEDNESDAY
NOVEMBER 25, 2015
Placard Posting Date

From: Billey, Brian S <BilleyBS@state.gov>
Sent: Wednesday, November 25, 2015 2:34 PM
To: zoning@jeffersoncountywv.org
Subject: Appeal Update Attention: Jennilee Hartman

To Whom May Concern;

I wanted to clarify my Appeal explanation on the property at 46 Hinton Ridge Way, Kearneysville, WV.

Shipping Containers are an inexpensive way to provide storage. Shipping containers are used for everything from storage, to office space currently in Jefferson County. Other uses of shipping containers include Military use for everything from workshop to bunk houses. There is also a growing popularity with the green movement (recycling) to convert shipping containers into homes.

Stating that shipping containers are “not typical associated with residential use” as stated in zoning memo us untrue. These are multi use structures used for a verity of reasons, for a verity of uses.

Thus, there is no reason to not to allow us to use shipping containers that is “customarily” and “typically” used for a variety of uses.

Please take this into consideration.

Brian Billey
Driving Instructor
US Department of State
Diplomatic Security
Interim Training Facility
80 O'Connor Court
Summit Point, WV 25446
Office (304) 885-5744
Cell (301)370-9674

PERSONAL
This email is UNCLASSIFIED.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
December 10, 2015

Hyman Variance Request (#ZV15-29)

RELEVANT INFORMATION:

1. Overview of Request

Section 9.7 and Appendix A to reduce the front setback on Church St. from 20' to 7' for a 12'x15' breezeway, a 25' x 28' attached garage with a 5' x 25' attached porch.

2. Previous Case History

The subject property was created prior to the adoption of the Jefferson County Subdivision and Zoning standards.

3. Applicant's Justification of Request

In the attached application submitted for the variance request the applicant provided a response to the following four criteria for a variance:

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*
- 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.*
- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

4. Staff Evaluation of Request

a. Purpose of ordinance requirements

The purpose of this ordinance, *Section 9.7 Other Exceptions*³, was meant as a way for Jefferson County to establish a framework by which lots subdivided prior to September of 1989 would be bound by lot setbacks, as prior to 1989 Jefferson County did not have a Zoning Ordinance in effect. This was established to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of the structure is feasible; to maintain adequate separation between structures for fire prevention purposes; and to allow room for utility easements.

b. Unique characteristics of property

The property is located at the southeast corner of Fairmont Street and South Church Street in the southern end of Shepherdstown. Along South Church Street, a sidewalk has been installed as part of a federally-funded "Safe Routes to Schools" program intended to increase pedestrian safety in proximity to schools. This sidewalk has a designed curb cut in alignment with the undeveloped alley that runs behind the applicant's property. There is a large mature tree in the rear yard. Parking for the property is done on Fairmont Avenue.

The lot's topography slopes significantly to the southeastern corner of the property and any construction will require a significant amount of fill to allow the structures to sit at street level. The applicant's request to locate the proposed structure near South Church Street minimizes the amount of fill that will be required and should lessen the potential impact of stormwater runoff on the balance of the property.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
December 10, 2015

Hyman Variance Request (#ZV15-29)

The rear property line is bounded by an undeveloped alley which would allow access to the property from that direction. The garage is proposed to be located in a manner that allows access to the structure via the alley.



c. Character of area

The location of the applicant's property is in an area which locals recognize as being part of Shepherdstown but it is actually a residential neighborhood in unincorporated Jefferson County. It is located at the South end of the ordinal street grid pattern connected to the center of Shepherdstown. The neighborhood has a vintage feel with mature street trees and smaller front and side yards. Most residents park on the street side of their homes, as not every property has a garage. The property fronts on Fairmont Street, with its side on South Church Street, which leads to Shepherdstown Middle and Elementary Schools.

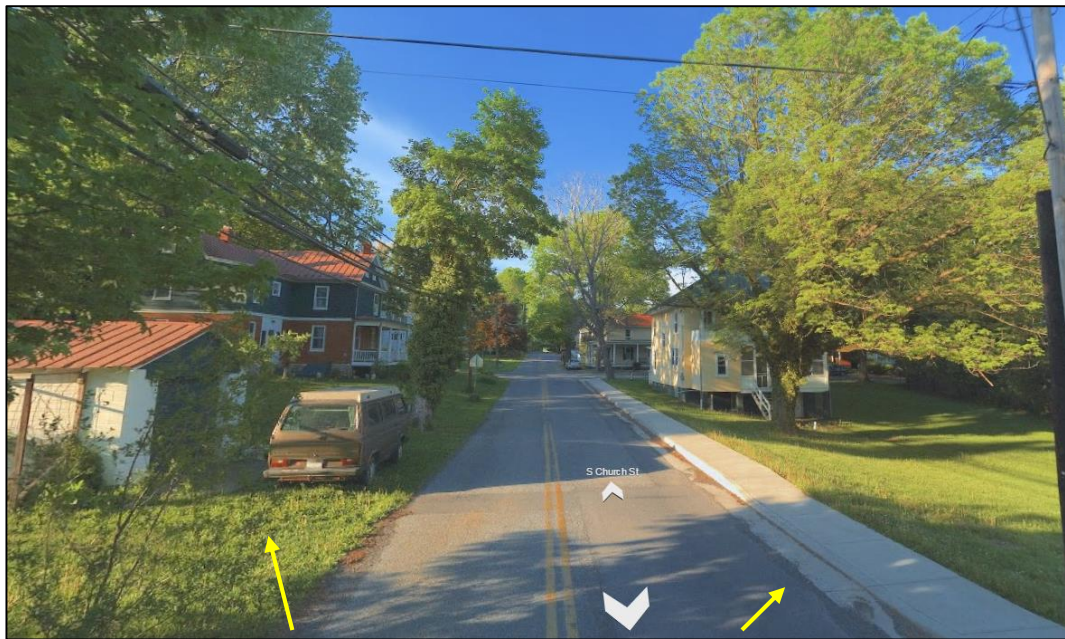


Staff Report
Jefferson County Board of Zoning Appeals Meeting
December 10, 2015

Hyman Variance Request (#ZV15-29)

d. Impact on adjacent properties

The variance that has been requested by the applicant represents a reduction in the front yard setback to construct modifications to their property. The construction of a garage for private parking would potentially alleviate the parking situation on Fairmount Avenue, as the applicant would be taking cars off the street. Access to the garage is proposed to occur from the undeveloped alley in the rear of the house. The associated porch and breezeway would be additions that would not project out onto the sidewalk or beyond property lines. The requested reduction of the front yard setback would allow the garage to be constructed near South Church Street, allowing the balance of land in the rear and side yard to remain undeveloped.



Neighboring entrance/
existing garage

Proposed entrance
to rear alley

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 December 10, 2015

Hyman Variance Request (#ZV15-29)

e. Feasibility of complying with the ordinance by other means

Due to the historic nature of the community with well-established residential properties located on smaller lots with irregularly placed dwellings, the applicant has some limitations in the placement of a proposed addition to their existing home. Placement of the proposed garage in a place that meets the front yard setbacks would require considerably more fill and would impact the drainage pattern on their property and their neighbors. It may also require the structure to be detached if it were to meet setbacks. The proposed location of the garage integrates well within the existing character of the neighborhood.

5. Conditions of Approval

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

- a. Restricting the approved front yard setback variance along South Church Street for the purpose of constructing the attached structure requested in the application and presented at the BZA meeting.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 9.7 Other Exceptions³

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:²³

Residential Growth District²³

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE²⁷

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft.**	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks			
							Front	Side	Street Side	Rear
Residential Growth	Single Family Detached Dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"
	Small Lot Single-Family Detached Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20
	Duplex Dwelling Unit	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"
	Townhouse Dwelling	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20
	Multi-Family Dwelling (See also Section 4.12)	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	†	12
		30,000 sq. ft. to 40,000 sq. ft.	N/A	N/A	N/A	40	20	10	†	12
Under 30,000 sq. ft.		N/A	N/A	N/A	40	20	8	†	12	



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, P.O. Box 338

Charles Town, WV 25414

File Number: #2V15-29

Staff Initials: C/C

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

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

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Zoning Variance Request

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

Property Owner Information

Name: Elena Mestre and Eric Hyman
Mailing Address: 304 N. Estes Drive Chapel Hill, NC 27514
Phone Number: 919-929-9937 Email: ejhyman01@gmail.com

Applicant Contact Information

Name: Sara Lambert, Architect
Mailing Address: P.O. Box 622 Shepherdstown, WV 25443
Phone Number: 707-326-6443 Email: sara@saralambert.com

Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)

Name: Karen Brill, Allegheny Surveys
Mailing Address: 401 S. Fairfax Blvd Suite 3 Ranson, WV 25438
Phone Number: 304-724-5008 Email: kbrill@allegheny-surveys.com

Physical Property Details

Physical Address: 110 Fairmont Avenue
City: Shepherdstown State: WV Zip Code: 25443
Tax District: Shepherdstown Map No: 8B Parcel No: 048
Parcel Size: 0.252 acres Deed Book: Page No:

Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG), Industrial Commercial (IC), Rural (R), Residential-Light Industrial-Commercial (R-LI-C), Village (V), Neighborhood Commercial (NC), General Commercial (GC), Highway Commercial (HC), Light Industrial (LI), Major Industrial (MI), Planned Neighborhood Development (PND), Office/Commercial Mixed-Use (OC). Includes a 'RECEIVED' stamp dated NOV 13 2015.

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes No

Reference the section of the Zoning Ordinance pertaining to this request: Section 5.4B 9.7 + AppA

Briefly describe the nature of the variance request:

Reduce the Street Side Setback along the West property line to 7'. Reduce the Front Setback along the North property line to 10'.

If this request is for a setback variance, please check one of the following:

Front Setback ^{Street} Side Setback Rear Setback Reduction From 20' to 10' front; 7' street side

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

The existing circa 1920 residence presently encroaches significantly into the 20' front & street side setbacks. The proposed garage addition encroaches no more than the ex. residence, and proposed front porch addition encroaches less than ex. residence

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

Due to the present location of the existing residence, currently substantially within the front and street side setbacks, any reasonable expansion would subsequently encroach in a similar manner. → B.

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

The natural grade has a significant fall across the site, dropping to the lowest elevation at the SE corner. Runoff, not only from this property but, collecting northerly along Church Street, is on a trajectory through the → C.

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

Placement of garages to the rear of the main house and the use of wrap-around porches are consistent with the historical growth patterns of Shepherdstown and are architecturally appropriate for this 1920's four-square home

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

E. M. Mleske 11.13.15
Signature of Property Owner Date

[Signature] 11.13.15
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

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

12/10/15
Date of Public Hearing

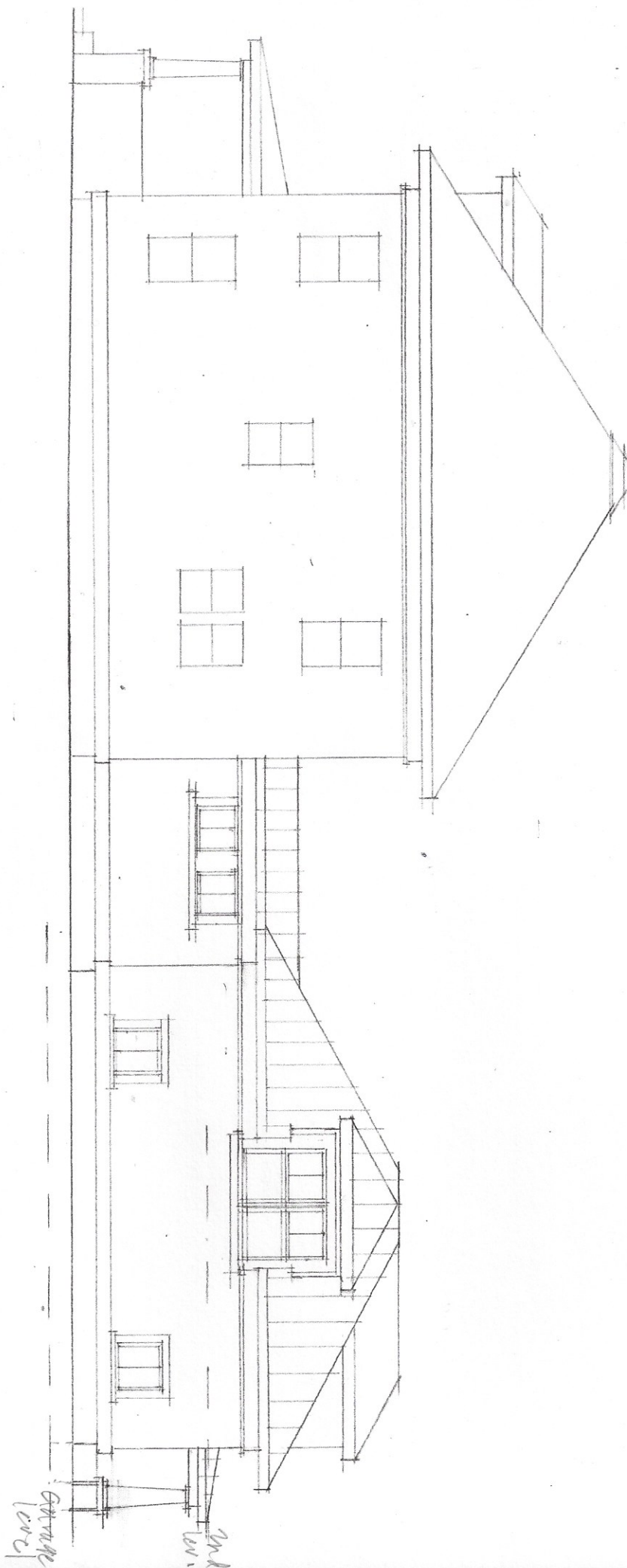
11/25/15
Advertising Date

11/25/15
Placard Posting Date

(cont.)

- A. Therefore the proposed addition is of no greater impact on the adjacent properties.
- B. The two large heritage street trees along Fairmont Avenue (North p.l.) also prohibit accessing a garage from the North. Any grading activities associated with a driveway placed in the vicinity of those trees would be highly inadvisable in order to assure their continued health.
- C. (cont.) property following the pitch to the SE. Therefore the prudent location for the garage is on the higher ground, close to the west side of the lot, to adequately manage runoff without excessive unnatural fill to raise the grade around the garage.

Wrap-around porches are an architecturally appropriate characteristic of Four-Square homes such as this one. With the existing home placed so far into the 20' front setback, we are precluded from constructing any porch that would wrap the NE corner of the existing home. A porch that wraps the corner is not only neighborly and has a better relationship to the pedestrian scale of the street, but is necessary to provide the owners with a privacy buffer from the public way.



HYMAN
WHELF ST. ELEV
11.10.15



Jefferson County, West Virginia

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Director's Report Board of Zoning Appeals Meeting December 10, 2015

1) Pending Zoning Ordinance and Subdivision Regulation Amendments

a) Campgrounds:

- i. PC discussion and action or proposed revisions scheduled for 12/8/15 PC meeting

b) Major and Minor Subdivision and Site Plan Process:

- i. County Commission action scheduled for 12/3/15

c) Mass Events Ordinance (#ZTA 14-02):

- i. New Public Hearing scheduled for 12/8/15 PC meeting

d) Article 12 Zoning Ordinance

- i. Discussion of proposed amendments required to Article 12 to bring it into conformance with the requirements of WV Code 8A – awaiting final language from legal for 12/8/1515 PC meeting

e) Pending amendments:

- i. Historic Resource Demolition and Adaptive Reuse
- ii. LESA/Conditional Use and Cluster Subdivision Provision Modifications
- iii. Parking Standards
- iv. Landscape Standards
- v. Signage

2) Upcoming BZA meeting

Next Regular Meeting: **January 12, 2016**

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

MEMORANDUM

TO: Board of Zoning Appeals Members
CC: Engineering & Building Permits Departments
FROM: Acting Zoning Administrator, Jennifer M. Brockman
DATE: December 04, 2015
SUBJECT: December Monthly Report of Department Activities

ISSUED ZONING CERTIFICATES

#ZC15-54 SBABA, LLC– OWNERS
DAVID SILVEOUS - APPLICANT

Issuance Date: November 16, 2015
Proposed Use: Christmas Tree Sales. Approximately one hundred Christmas trees to be sold from November 23rd – December 23, 2015 from a former Bank parking lot.
Physical Location: 21 Tuscawilla Drive; Charles Town, West Virginia 25414
Zone: Residential-Growth

#ZC15-55 SUNNYSIDE LIMITED PARTNERSHIP / OWNERS
T-MOBILE / CONTACT: ANDREW SWANEKAMP - APPLICANT

Issuance Date: November 24, 2015
Proposed Use: Property contains existing 199.0' self-support tower. T-Mobile to install one (1) microwave dish, one (1) ODU, one (1) LMR-400 cable, and Emerson Cube within the existing lease area and one (1) new IDU in new Emerson Cube. No ground disturbance or electrical work is required.
Physical Location: 844 Wheatland Road; Charles Town, West Virginia 25414
Zone: Industrial-Commercial

PENDING ZONING CERTIFICATES

#ZC15-51 EUGENE AND SARAH ABELOW – OWNERS
 EUGENE ABELOW - APPLICANT

Issuance Date: TBD

Proposed Use: Increase number of residential rental units by three – from current
 10 units to proposed 13 units.

Physical Location: 1585 Gardners Lane; Shepherdstown, West Virginia 25443

Zone: Rural
