

Jefferson County
Board of
Zoning Appeals

Thursday,
April 18, 2013

JEFFERSON COUNTY, WEST VIRGINIA

Department of Zoning

116 East Washington Street, 2nd Floor

P.O. Box 338

Charles Town, West Virginia 25414

Phone: 304-728-3228

Email: zoning@jeffersoncountywv.org

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MEMORANDUM

TO: Jefferson County Board of Zoning Appeals Members

FROM: Jennilee Hartman, Zoning Clerk

DATE: April 12, 2013

SUBJECT: April 18, 2013 Board of Zoning Appeals Meeting

Please find enclosed a copy of the Agenda for the upcoming Board of Zoning Appeals meeting to be held on Thursday, April 18, 2013. Also for your review, you will find corresponding information regarding said Meeting. When applicable, I will include copies submitted to this office that pertain to items of new business.

Please note a letter received in the office on April 11, 2013 has been included in your packet as Item #8 Correspondence.

If you have any questions, or will not be able to attend the upcoming meeting, please do not hesitate to contact me.

JEFFERSON COUNTY, WEST VIRGINIA
Department of Zoning
116 East Washington Street
P.O. Box 338
Charles Town, West Virginia 25414

Email: zoning@jeffersoncountywv.org

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

MEMORANDUM

TO: Board of Zoning Appeals Members

CC: Engineering & Building Permits Departments

FROM: Steve Barney, Zoning Administrator

DATE: April 12, 2013

SUBJECT: April Monthly Report of Department Activities

PENDING ZONING CERTIFICATES

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

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

#ZC13-07 TWIN OAKS, LLC – OWNER /
PETER CORUM – APPLICANT

Issuance Date: TBD
Proposed Use: Change of location for current Farm Market use.
Physical Location: 3988 Kearneysville Pike; Shepherdstown West Virginia 25443
Zone: Rural

PENDING ZONING CERTIFICATES

#ZC13-08 FRANK E. HARDY, SR. – APPLICANT

Issuance Date: TBD
Proposed Use: Change of Nonconforming Use. From “Smoots Water Garden” to auto Body Shop.
Physical Location: 164 Tel Farm Lane; Kearneysville, West Virginia 25430
Zone: Rural

#ZC13-09 DAVID RAMPERSAUD – APPLICANT

Issuance Date: TBD
Proposed Use: Thrift Shop
Physical Location: 824 East Washington Street; Charles Town, West Virginia 25414
Zone: Residential-Light Industrial-Commercial

#ZC13-10 ANTONIO COLANDREA – APPLICANT

Issuance Date: TBD
Proposed Use: Continued Nonconforming Use. Convenience Store to include incidental propane service, ABC off-premises packaged alcohol sales; restaurant (counter service only), video lottery area with on-premises alcohol service and office/storage area.
Physical Location: 4843 Middleway Pike; Kearneysville, West Virginia 25430
Zone: Rural

#ZC13-11 SBABA, LLC - OWNER
PRAVEEN KHURANA – APPLICANT

Issuance Date: TBD
Proposed Use: Change in Nonconforming Use. Restaurant, offering sale of on and off premises prepared food; on premise alcoholic beverages and West Virginia Lottery products.
Physical Location: 21 Tusawilla Drive; Charles Town, West Virginia 25414
Zone: Residential-Growth



AGENDA
Jefferson County
Board of Zoning Appeals
Thursday, April 18, 2013, 3:00 p.m.

Members
Jeff Bresee, Chair
Christy Huddle, Vice Chair
Edwin Kelly
Tyler Quynn

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

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

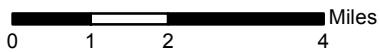
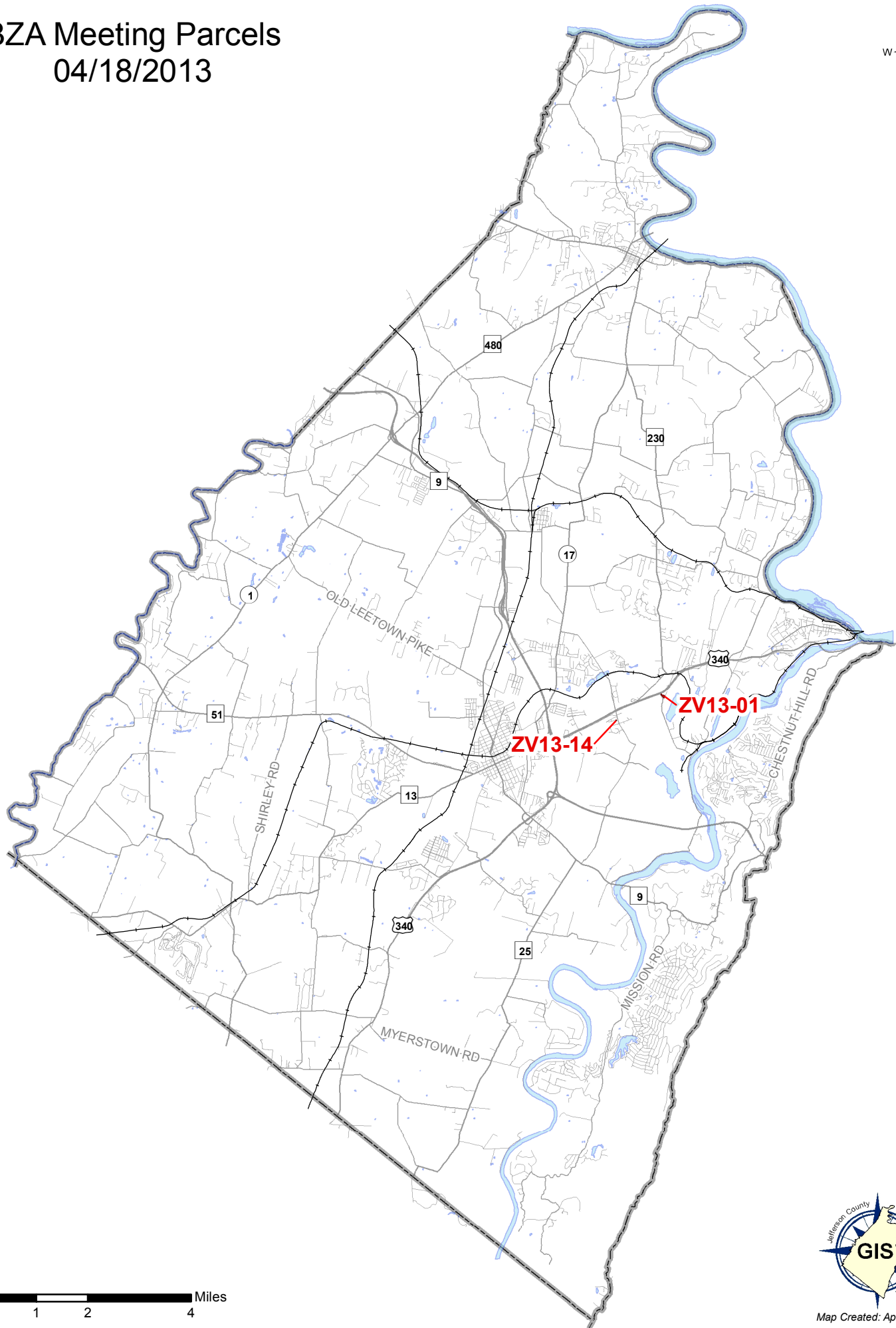
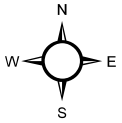
1. Approval of the minutes from the March 21, 2013 meeting.
2. Swearing in of members of the public intending to provide testimony.
3. Variance request represented by applicants, Les Bowman and Alice James of Jumbo Seafood, LLC, from the following sections:
 - 1) Section 5.6.D: to reduce the front and rear setback distances from 25' to 0' to allow a market truck to remain parked on the property for the purpose of selling seafood during daylight hours on Friday-Sunday, from April to December; and,
 - 2) Section 10.4.C: to reduce the setback from a street right-of-way from 25' to 0' for a sign-supporting structure; and, to reduce the setback for a sign from 5' to 0'.

Property owner: The Marty Mart Group, LLC; Property location: 1422 Blair Road; Harpers Ferry, West Virginia. District: Harpers Ferry (04); Map: 11; Parcel: 21.1; Zoned: Industrial-Commercial; Size: 1.404 acres; File: #ZV13-01.

4. Variance request by applicant, Patrick Joseph Beirne, from Section 5.4(B) for a reduction of the rear setback distance from 25' to 13 ½' to allow for the construction of a deck with a corresponding concrete patio situated beneath. Property location: 33 Don Quixote Drive; Charles Town, WV. District: Charles Town (02); Map: 9C; Parcel: 143; Zoned: Residential-Light Industrial-Commercial; Size: 2000 sq. ft.; File: #ZV13-14.
5. Director's Report.
6. Legal Update.
7. Signing of written decisions from prior Board of Zoning Appeals meetings.
8. Correspondence.

BZA Meeting Parcels

04/18/2013



Draft Minutes
Jefferson County Board of Zoning Appeals
Thursday, March 21, 2013

The Jefferson County Board of Zoning Appeals met on Thursday, March 21, 2013. The meeting was held in the Charles Town Library Conference Room, located at 200 East Washington Street, in the City of Charles Town, West Virginia. Unless otherwise noted, all requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

Board members Jeff Bresee, Chairman; Christy Huddle, Vice Chair; Tyler Quynn and Ed Kelly were present. Staff members present were: Jennifer Brockman, Director of Planning and Zoning; Steve Barney, Zoning Administrator; Stephen Groh, Assistant Prosecuting Attorney; and JT Redmon, Office Manager.

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 the minutes from the February 21, 2013 meeting.

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

- a) Page 1, item 1, line 2, change the word *minutes* to *motion*
- b) Page 1, item 3, paragraph 2, line 4, add semicolon after *constructed* and comma after *however*
- c) Page 3, item 5, line 2, remove the *s* from the word *Orders*

Mr. Bresee called for a vote which carried unanimously.

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

Mr. Barney swore in the individuals who indicated they would be giving testimony.

Mr. Bresee explained to the public how the meeting would be conducted.

3. Variance request by applicant, Mission Tabernacle Church, represented by Pastor Bobby Roadcap, from Sections 4.11.A, 4.11.H, 5.7.B and 11.1, for a reduction of setback distances, to waive landscape buffer and street tree requirements and to reduce required parking spaces to allow for an addition to an existing Church. Property location: 446 Mission Road, Harpers Ferry, West Virginia. District: Charles Town (02); Map: 21A; Parcel: 9.2; Zoned: Rural; Size: .814 acres; File: #ZV13-03.

Scott McNutt presented the request to the Board. Pastor Robert Roadcap was also present. Mr. McNutt explained that the church would like to build an addition where a deck currently extends off of the existing facility. Several existing parking spaces would potentially need to be removed per the Department of Highways permit process. Mr. Kelly asked the applicant if the church would be willing to remove an existing shed to add the required parking. The applicant stated that this could be done if necessary. Attorney Groh requested clarification on how much parking the church needed. Mr. Barney stated that the church needed up to 31 spaces currently and confirmed with the pastor that the paved area between the current deck and the sheds could be striped for parking if necessary. Once the addition is completed, the site would be short approximately 4 parking spaces.

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

Director Brockman introduced newly hired Project/Office Manager, JT Redmon.

4. Variance request by applicant, Pete Kubic, Burr SK, LLC, from Sections 4.11.A and 5.6.D.5 for a reduction of the required parking and access drive setbacks, from 10' to 0', and a reduction of the required landscape buffer between two commercial uses, from 10' to 0', for two newly created parcels. Property location: 120 Commerce Circle, Kearneysville, West Virginia. District: Charles Town (02); Map: 1; Parcel: 71; Zoned: Industrial-Commercial; Size: 9.06 acres; File: #ZV13-10.

Kristen Stolipher, Gordon Associates, presented the request to the Board. Pete Kubic was present as well. Ms. Stolipher explained that Lot 18 in Burr Industrial Park was proposed to be subdivided into three separate lots. The new lot lines will create non-conformity with the setback regulations. Thus, the applicant is requesting a variance from the requirements. Mr. Barney reviewed the lot's unique characteristics and updated the Board regarding the conditions of approval associated with recent Planning Commission approval of waivers for the proposed subdivision. Ms. Huddle questioned the applicant regarding the ease and flow of truck access. Ms. Stolipher explained that the access on site would be shared access.

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

5. Variance request by applicants, Rocco and Marie Cipriano, from Section 4.3.H to allow replacement of a nonconforming above-ground swimming pool, destroyed by a storm in 2012. Property location: 26 Tall Oak Court, Charles Town, West Virginia. District: Charles Town (02); Map: 11B; Parcel: 116; Zoned: Residential-Growth; Size: 22,255 sq. ft.; File: #ZV13-11.

Rocco Cipriano presented the request to the Board. Marie Cipriano was present as well. Mr. Cipriano explained that a pool existing in his back yard since 1986 was damaged during a June 2012 storm. The replacement pool would not be permitted under the current regulations.

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

6. Request withdrawn by applicant. Variance request by applicant, Matt Bernazzoli, from Section 4.3.H to allow for replacement of a nonconforming shed destroyed by a storm in 2012. Property location: 664 Carter Avenue, Harpers Ferry, West Virginia. District: Harpers Ferry (04); Map: 3A; Parcel: 3; Zoned: Rural; Size: 0.62; File: #ZV13-12.

This request was withdrawn by the applicant.

7. Variance request by applicant, Peter Corum (Twin Oaks Subdivision, LLC), from Section 4.10 and Section 11.1 to waive Site Plan and Parking Requirements for a 1,200 sq. ft. tent structure to be used for a Farm Market. Property location: 3988 Kearneysville Pike, Shepherdstown, West Virginia. District: Shepherdstown (09); Map: 13; Parcels: 26.1, 26.2, 26.3, 26.4; Zoned: Rural; Size: 13.69 acres combined; File: #ZV13-13.

Fred Blackmer presented the request to the Board. Peter Corum was present as well, and spoke briefly towards the end of the presentation. Mr. Blackmer explained that the Morgan's Grove Farm Market is in its third year of existence. Separately, the proposed development known as Morgan's Grove Market

has an approved Conditional Use Permit, and the project is currently proceeding through the Site Plan process. The project is projected to soon begin the initial phases of development and the applicant would like to continue to operate the farm market during this phase. Grading the site will remove the impervious surfaces that are currently used to meet the parking requirements for the market. The applicant's intent is for market patrons to park in the grass.

Ms. Huddle asked Mr. Blackmer his opinion regarding Staff's recommended conditions of approval. Mr. Blackmer stated that the suggested condition of a "van-accessible parking space, and an accessible route between the parking space and the market, both meeting ADA standards" negated the intent of removing the impervious area because ADA standards require paving. Otherwise, he would be amenable to the conditions and meeting them so far as they do not impose additional time delays on the project.

Mr. Barney provided a brief history of the site, existing and proposed land uses, and information regarding recent Planning Commission decisions regarding on the project. He clarified the reasons for the suggested conditions of approval and offered to assist the applicant in determining if there were temporary provisions available for the ADA requirements.

Mr. Bresee called for public comment. Ann Spurgas, resident of Ledge Lowe Estates located across Shepherdstown Pike from the project, stated that she was concerned with the traffic flow and utilization of the proposed private driveway access. Additionally, she suggested that the variance be temporary and last only during the duration of the summer farmer's market. She asked that any new variance be limited and in no way change any of the previously approved conditions on the property and its usage. Joe Spurgas also spoke, stating he was concerned with the traffic flow and safety of utilizing a private driveway access for a public use. He believed the area was too narrow and felt that parking needed to be delineated. Mr. Spurgas was concerned that access to the market through the construction area would be dangerous for the large amount of people that would attend. Mr. Blackmer responded to the public concerns.

Mr. Kelly motioned to go into deliberative session at 4:16 p.m. Ms. Huddle seconded the motion, which carried unanimously.

Ms. Huddle motioned to come out of deliberative session at 4:37 p.m. Mr. Kelly seconded the motion, which carried unanimously.

Board of Zoning Appeals Rulings

3. Variance request by applicant, Mission Tabernacle Church, represented by Pastor Bobby Roadcap, from Sections 4.11.A, 4.11.H, 5.7.B and 11.1, for a reduction of setback distances, to waive landscape buffer and street tree requirements and to reduce required parking spaces to allow for an addition to an existing Church.

Mr. Kelly moved to approve the variance request with the condition that a minimum of 20 parking spaces be maintained. Mr. Quynn seconded the motion, which carried unanimously.

4. Variance request by applicant, Pete Kubic, Burr SK, LLC, from Sections 4.11.A and 5.6.D.5 for a reduction of the required parking and access drive setbacks, from 10' to 0', and a reduction of the required landscape buffer between two commercial uses, from 10' to 0', for two newly created parcels.

Mr. Quynn moved to approve the variance with the following conditions:

- 1) The reductions apply only to internal lot lines; and
- 2) The subdivision plat for the development shall include easements to allow access between the three lots.

Mr. Kelly seconded the motion, which carried unanimously.

5. Variance request by applicants, Rocco and Marie Cipriano, from Section 4.3.H to allow replacement of a nonconforming above-ground swimming pool, destroyed by a storm in 2012.

Ms. Huddle moved to approve the variance with the condition that it be limited to the replacement of a swimming pool. Mr. Kelly seconded the motion, which carried unanimously.

7. Variance request by applicant, Peter Corum (Twin Oaks Subdivision, LLC), from Section 4.10 and Section 11.1 to waive Site Plan and Parking Requirements for a 1,200 sq. ft. tent structure to be used for a Farm Market.

Ms. Huddle moved to approve the variance with the following conditions:

The variance expires November 1, 2013;

- 1) A new zoning certificate is required prior to initiation of the land use;
- 2) An informal sketch plan be submitted showing locations of proposed access drives, parking areas, structures, space designated for vendors, and grading activity areas to the Planning and Zoning Department; and
- 3) A van-accessible parking space and accessible route between the parking space and the market meeting the minimum ADA requirements for a temporary use.

Mr. Quynn seconded the motion, which carried unanimously.

8. Director's Report.

Director Brockman announced to the Board that Alex Beaulieu was hired to fill the vacant Planning Clerk position and is scheduled to begin April 22nd. She updated the Board on the Comprehensive Plan process. Lunch and Learn educational sessions and community workshops have been held and have generated a good turnout. Director Brockman reminded the Board about the upcoming Ethics and Robert's Rules of Order training and her attendance at the National APA Conference being held April 12th through the 18th. She will be absent from the April BZA meeting.

9. Legal Update. None.

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

Mr. Bresee signed the Findings of Fact for case number ZV12-35.

11. Correspondence. None.

Ms. Huddle motioned to adjourn the meeting at 4:53 p.m. Mr. Kelly seconded the motion, which carried unanimously.

An audio transcript of this meeting can be found at the Department of Zoning and on the Department's website at www.jeffersoncountywv.org. These minutes were prepared by Jennifer Snyder, Temporary Planning Clerk.

Jefferson County Board of Zoning Appeals Consideration of a Variance

Article 3, Section 3.4 of the Jefferson County Zoning and Land Development Ordinance amended by the County Commission on July 7, 2011, states the following:

Section 3.4 Boards and Commissions²³

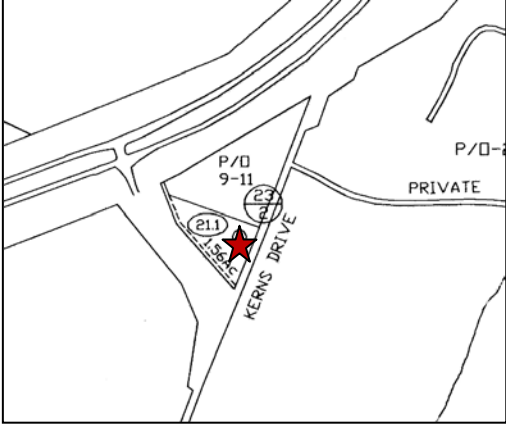

A. Board of Zoning Appeals

4. The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.²³
 - a. The Board shall approve a variance request if the Board finds that a variance:
 - i. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
 - ii. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
 - iii. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
 - iv. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.^{17, 21}
 - b. The owner or authorized representative of the owner of the property which is the subject of a variance request shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The variance request shall be filed with the Board at offices of the Departments of Planning and Zoning.
 - c. Notification for a variance must be conducted according to the requirements of Section 3.4A(3)(b).
 - d. A public hearing must be conducted according to the requirements of Section 3.4A(3)(c) and such hearing may be continued according to the requirements of Section 3.4A(3)(d).

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 April 18, 2013

Les Bowman and Alice James, Jumbo Seafood, LLC Request

Item #3 Variance request by applicant, Les Bowman and Alice James, representing Jumbo Seafood, LLC, from Section 5.6(D) for a reduction of the front & rear setback distances from 25' to 0' to allow a market truck to remain parked at the location for the purpose of selling seafood during daylight hours on Friday- Sunday, from April to December; and from Section 10.4(C) for the setback from a right-of-way for a sign supporting structure (from 25' to 0') and for a sign (from 5' to 0').

APPLICANT:	Les Bowman and Alice James, representing Jumbo Seafood, LLC
OWNER :	Marty Mart Group
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	1422 Blair Road Harpers Ferry, WV
LEGAL DESCRIPTION:	<p style="text-align: center;">Harpers Ferry (04); Map: 11; Parcel: 21.1</p> 
ZONING DISTRICT:	<p style="text-align: center;">Zoning Map Designation: Industrial - Commercial District</p> 

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 April 18, 2013

Les Bowman and Alice James, Jumbo Seafood, LLC Request

SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> RLIC/IC <i>South:</i> IC/RG <i>East:</i> IC <i>West:</i> RG
LOT AREA:	1.4 acres (approximate)
PRIOR CASES:	S06-09, EZ Mart (site plan for a 1,760 sq. ft. car wash) PCV07-09, PC variance for 2 principle uses on one lot
BZA VARIANCE(S):	ZV07-06, BZA Variance to allow the existing drive area to remain "as is" for the proposed Car Wash and existing Gas Station. ZV07-07, BZA Variance to Request Variance to waive the Landscape Buffer Requirement for the proposed Car Wash and existing Gas Station.
APPROVED ACTIVITY:	Gas Station

RELEVANT INFORMATION:

1. Overview of Request

The applicant is seeking a variance from:

- a. Section 5.6(D) for a reduction of the front & rear setback distances from 25' to 0' to allow a market truck to remain parked at the location for the purpose of selling seafood during daylight hours on Friday- Sunday, from April to December; and
- b. Section 10.4(C) for the setback from a right-of-way for a sign supporting structure (from 25' to 0') and for a sign (from 5' to 0').

The truck (8' x 12'), tent (10' x 10'), and sign are proposed to be located at the northwest corner of the lot.

The applicants have obtained approval from the Jefferson County Health Department for sales 3 days per week.

Because of a lack of clarity as to where the proposed location of the truck vis-à-vis the property lines, staff has advised the applicant to request a 0' setback. This request applies to both

2. Previous Case History

In 2004, the property owner executed a merger deed with the West Virginia Division of Highways to acquire a narrow strip of right-of-way along the Blair Road frontage of the property, partially encompassing the existing improvements on the subject property.

In 2006-2007, a number of cases were associated with a proposed 1,760 square foot car wash, including a site plan (S06-09) and several variances listed above. The site plan was approved by the Engineering Department on 10/26/07 but the improvements shown on the plan were not built.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
April 18, 2013

Les Bowman and Alice James, Jumbo Seafood, LLC Request

3. Applicant's Justification of Request

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

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

The application states, "Jumbo Seafood LLC is a market truck that operates Fri, Sat and Sun during daylight hours the months of April through Dec. We are completely self-contained and do not pose any threat or danger to the public."

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

The application states, "Due to the irregular shape of the parking lot and the narrowness of the area of which we are speaking, we are requesting a setback reduction from 25' to 0'."

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

The application states, "Granting this variance will allow us to continue to operate our successful small business of 17 years and therefore allow us to make a living. We provide a legitimate service to the Eastern Panhandle of WV and the tri state area and provide tax revenue."

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

The application states, "Granting this variance will allow Jumbo Seafood, LLC to continue providing a valuable service to the citizens of Jefferson County and the tri-state area at no physical risk to the general population whatsoever."



Staff Report
Jefferson County Board of Zoning Appeals Meeting
April 18, 2013

Les Bowman and Alice James, Jumbo Seafood, LLC Request

4. Staff Evaluation of Request

The Zoning Ordinance is not clear on the applicability of setbacks to a mobile use such as a seafood truck. Staff's understanding is that past departmental policy has been that that setback requirements apply not merely to the building but also to a land use.

The gas station is assumed to have been developed prior to the enactment of the Zoning Ordinance. This property includes many setback nonconformities. The principal building appears to be located on (or very close to) the northeast property line. Parking and drive aisles are not compliant with setbacks on multiple sides of the lot. Part of the paved area along Blair Rd. appears to be located in WVDOH right-of-way.

Additionally, the existing gas station sign appears to not meet setback requirements, but is an existing nonconforming structure. The proposed sign (shown in photos in this staff report) is generally in the vicinity of the existing sign.



a. Source and purpose of ordinance requirements

Section 5.6D establishes setback requirements for a commercial use in the Industrial - Commercial District.

The purpose of rear yard setback requirements is to reduce the impact that a land use might cause to an adjacent property, to allow adequate space between a structure and a property line so that maintenance of the structure is feasible, to maintain adequate separation between structures for fire prevention purposes, and to allow room for utility easements. Most of these concerns appear to be inapplicable due to the fact that the proposed land use is mobile.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
April 18, 2013

Les Bowman and Alice James, Jumbo Seafood, LLC Request

A key purpose of front setback requirements is to ensure that any future right-of-way expansion will not be obstructed by structures built too close to a road, as well as to ensure that sight visibility is not impaired for drivers along the right-of-way. Right-of-way expansion is not an applicable concern because the land use is mobile in nature.

Section 10.4C provides requirements for setbacks for signs. The purpose of setbacks for signs and their supporting structures is similar to the purpose of front setbacks as described above. The site is eligible for two freestanding signs by virtue of its location at the corner of two rights-of-way.

b. Unique characteristics of property

The subject property is approximately 1.4 acres in size. The lot is roughly triangular and is irregularly shaped, narrowing to an acute angle at its northwest corner where the seafood truck is proposed to be located.

The property includes an existing gas station and a substantial paved area for parking and drive aisles.

A portion of the front of the lot, including paved area currently used as existing drive aisle and parking area, appears to be located in right-of-way for Blair Road. The WVDOH right-of-way adjacent to the subject property is unusually large for a local route such as Blair Road, and ranges from 130' to 180' (typical existing WVDOH right-of-way for a local road in Jefferson County is 30' – 50').

c. Character of area

The property is located at the intersection of Blair Rd and US 340. An adjacent lot located to the northeast contains a residential use and an auto repair shop. Property located to the southwest is in agricultural use. To the southeast is undeveloped property associated with the Millville Quarry.

d. Impact on adjacent properties

The adjacent property contains a residential use. However, the proposed location of the seafood truck is more distant from the residential dwelling (approximately 360') than is the existing gas station building. The adjacent residential property is also zoned Industrial - Commercial and includes an auto repair shop.

e. Feasibility of complying with the ordinance by other means

There are various areas on the property where the truck could be parked or where the sign could be located. However, it is assumed that the proposed location is preferred because it allows for maximum visibility from US 340.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
April 18, 2013

Les Bowman and Alice James, Jumbo Seafood, LLC Request

5. Conditions of Approval

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

- a. The variance is limited to the uses stated in the application.
- b. Temporary signage (including flags and similar devices) associated with the freestanding sign is limited to Thursday through Sunday.
- c. Size of the sign is limited to 4' x 6' (or other dimension) and height including supporting structure is limited to 8' (or other dimension).

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 5.6 Industrial - Commercial District²³

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

1.	Front yard building setback	
	Commercial sites	25 feet
	Industrial sites	50 feet
2.	Side yard building setback	
	Commercial sites greater than 1.5 acres	50 feet
	Commercial sites 1.5 acres and smaller	25 feet
	Industrial sites	50 feet
3.	Rear yard building setback	
	Commercial sites greater than 1.5 acres	50 feet
	Commercial sites 1.5 acres and smaller	25 feet
	Industrial sites	50 feet

Section 10.4 Signs Requiring a Zoning Permit

C. Individual business or industrial establishments may erect a freestanding business sign, provided the lot frontage is at least forty (40) feet. The freestanding sign shall be located in such a manner that no part of the supporting structure is less than twenty-five (25) feet from the street right-of-way, and that no part of the sign is closer than five (5) feet to the right-of-way. The total area for any sign or signs on one supporting structure shall not exceed 300 square feet and the total height of the sign structure shall not exceed thirty-five (35) feet. Businesses or industries having a frontage on more than one street may have an additional freestanding sign for each street frontage, provided that the total area for all freestanding signs does not exceed 600 square feet. Where the lot adjoins a residence and a freestanding sign is on the side of the business lot adjoining the residential lot, the sign shall not face the adjoining residence. Signs governed by the Development Review System are subject to Section 10.4 (e). Structures which have more than one use shall be required to use a pylon sign. One is permitted on each street frontage.⁸



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

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

MARCH 21ST MTG.
File Number: # ZV13-01
Fees Paid (\$100 or \$150): \$ 100.00
Staff Initials: alc

Email planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Zoning Variance Request

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

Property Owner Information

Property Owner Name: The Marty Mart Group, LLC
Mailing Address: PO Box 1150
City: Ranson State: WV Zip Code: 25438
Phone Number: 304-725-1900 Email: waremart2@comcast.net

Applicant or Contact Information

Applicant / Contact Name: Jumbo Sea Food, LLC (Les Bowman + Alice James)
Mailing Address: 215 E. 3rd Ave
City: Ranson State: WV Zip Code: 25438
Phone Number: 304-728-0930-Hm
540-931-8052-cel Email: ALIBLU@AOL.com

Applicant Representatives

Company/Organization Name: _____
Attorney(s), Engineer(s), or Surveyor(s) Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Phone Number: _____ Email: _____

Physical Property Details

Physical Property Address: 1422 Blair Rd. Harpers Ferry WV 25425
Tax District: Harpers Ferry Map No: M11 Parcel No: P 21.1
Parcel Size: 1.404 Acres Deed Book: 980 Deed Bk. Pg. No: 598

RECEIVED

JAN 14 2013

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

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

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

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

Reference the section of Ordinance pertaining to this request: S.6(D), 10.4(C) SB 4/11/13

Please briefly describe the nature of the variance request:

We are requesting this variance to allow Jumbo Seafood LLC to continue serving our customers fresh, wild caught seafood.

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

Front Setback Side Setback Rear Setback Reduction From 25ft to 0ft.

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.

Jumbo Seafood LLC is a market truck that operates Fri, Sat and Sun during daylight hours the months of April through Dec. We are completely self-contained and do not pose any threat or danger to the public.

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?

Due to the irregular shape of the parking lot and the narrowness of the area of which we are speaking, we are requesting a setback reduction from 25 ft. to 0 ft.

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

Granting this variance will allow us to continue to operate our successful small business of 17 years and therefore allow us to make a living. We provide a legitimate service to the Eastern Panhandle of WV and the tri-state area.

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

Granting this variance will allow Jumbo Seafood LLC to continue providing a valuable service to the citizens of Jefferson County and the tri-state area at no physical risk to the general population whatsoever. (See attached letter)

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge. Note: Original signature is required. If additional signatures are necessary, please attach a separate sheet of paper.

Martha L. Jan 11-13-12
Signature of Property Owner 1 Date

Signature of Property Owner 2 Date

Notification Requirements (to be completed by staff)

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

THURSDAY, MARCH 21, 2013 @ 3:00pm WEDNESDAY MARCH 6, 2013 WEDNESDAY, MARCH 6, 2013
Date of Public Hearing Advertising Date Placard Posting Date

RECEIVED
JAN 14 2013
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

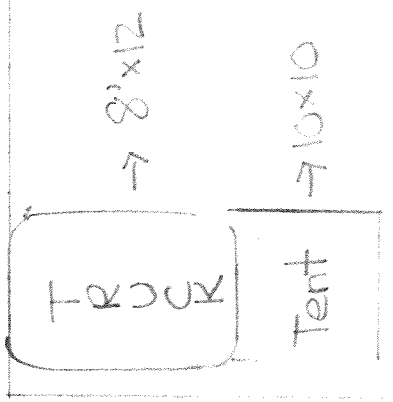
Rte 340 Toward Charlestown # 2113-01



Rte 340



Toward Harpers Ferry



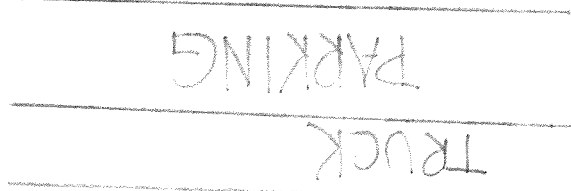
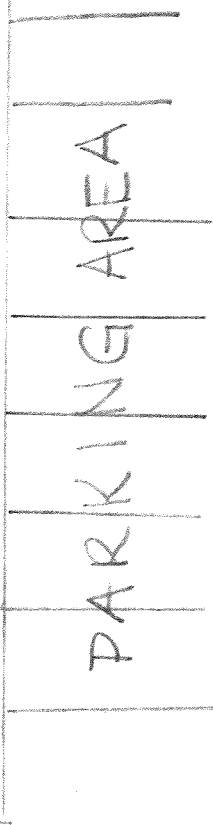
Grassy Area (Bank)

EZ-Mart

Blair Road



PARKING



GAS

RECEIVED

JAN 14 2013

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

ZV13-01

Jefferson County, West Virginia

Department of Zoning

116 East Washington Street, Suite 201

P.O. Box 338

Charles Town, West Virginia 25414

zoning@jeffersoncountywv.org

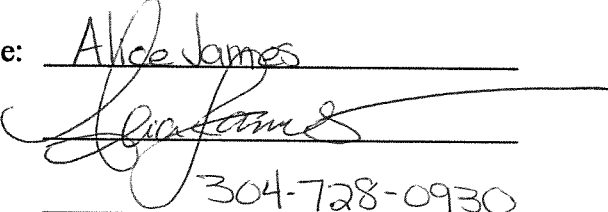
Phone: (304) 728-3228

Fax: (304) 728-8126

Staff Assignment #: #ZV13-01

Please be advised that staff from the Department of Zoning is authorized to make necessary revisions to the enclosed submission if required for processing. I understand that said revisions will be discussed with me prior to content modification.

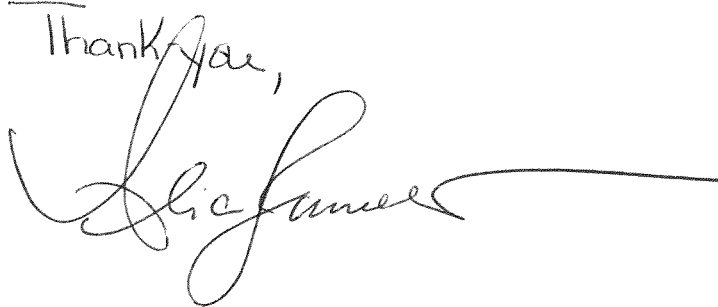
Applicant PRINTED Name: Alice James

Applicant SIGNATURE: 

Contact Number: 304-728-0930

Date: 1-14-13

I am requesting to attend the meeting on March 21st.
We will be traveling most of February and the early part
of March if all goes as planned.

Thank you,


RECEIVED
JAN 14 2013
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Jumbo Seafood opened its tent in the spring of 1995 in Loudoun County, Va., at the very eastern end of the Route 340 corridor. During our seventeen years of operating in Loudoun County, we built a solid reputation of being the best suppliers of fresh, wild-caught US Seafood in the tri-state area.

In the early spring of 2012, it came to light that our existing place of operation was in jeopardy because of impending road work at that location.

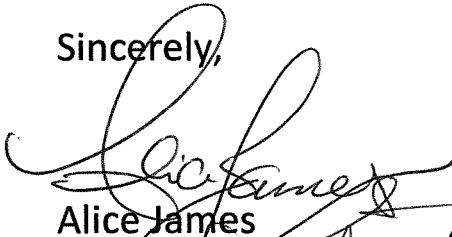
From a business perspective, maintaining our presence on Route 340 was imperative. Ease of access and ample parking were also of great consideration. From a personal perspective, the safety of our customers and ourselves was paramount. After much thought and consideration, we spoke with Martha Ware, owner of the EZ Mart, and a tentative rental agreement resulted.

After complying with all Federal, State, county and Local matters pertaining to operating a small business, we opened Jumbo Seafood, LLC on June 1 of 2013, at the EZ Mart on Blair Road. Our hours of operation are Friday and Saturdays from 10:00 am until 7:00 pm. On Sundays we operate from 10:00 am until we are sold out. We are a seasonal business, open from April through the month of December. Jumbo Seafood, LLC leaves no environmental impact on Jefferson County. In fact, we generate less than one five gallon bucket of trash per day which we deposit in the dumpster provided us by the EZ Mart.

In closing, we urge you to grant the variance requested for Jumbo Seafood, LLC to continue its operation on Blair Road. We provide a quality product and an invaluable service to the citizens of Jefferson County and indeed the tri-state area and beyond.

We would like to extend a personal invitation to each of you to stop by our seafood market and experience what a lot of your friends and neighbors have been enjoying for the past 17 years; the highest quality fresh, wild-caught, US seafood and professional customer service with a smile every time.

Sincerely,

A handwritten signature in cursive script that reads "Alice James".

Alice James

Lester Bowman

A handwritten signature in cursive script that reads "Lester Bowman".

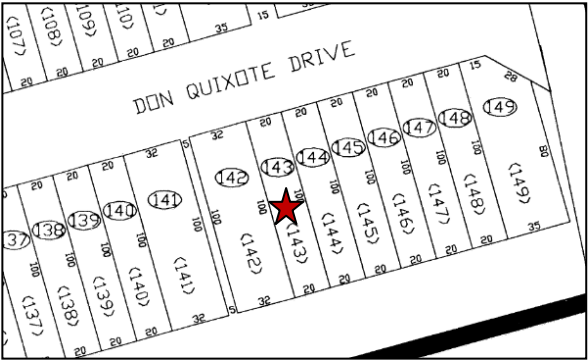
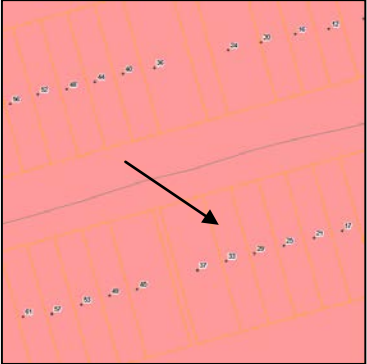
Owners/Operators

Jumbo Seafood, LLC

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 April 18, 2013

Patrick Joseph Beirne Variance Request (#ZV13-14)

Item #4 Variance Request from Section 5.4(B) for a reduction of the rear setback distance from 25' to 13½' to allow for the construction of a 12' x 20' deck with the same size concrete patio situated beneath.

APPLICANT:	Patrick Joseph Beirne
OWNER:	Same as above
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	Windmill Crossing Subdivision, 33 Don Quixote Dr., Charles Town, West Virginia
LEGAL DESCRIPTION:	District: Charles Town (02); Map: 9C; Parcel: 143 
ZONING DISTRICT:	Zoning Map Designation: Residential-Light Industrial-Commercial (R-LI-C) 
SURROUNDING PROPERTIES:	Zoning Map Designation: North: R-LI-C South: R-LI-C East: R-LI-C West: R-LI-C
LOT AREA:	2,000 sq. ft.
VARIANCE(S):	None
APPROVED ACTIVITY:	Residential
Community Impact Statement	PC Approval: 02/11/03
Preliminary Plat	Staff Approval: 11/22/04
Final Plat (PC File #03-01)	PC Approval: 01/11/05

Staff Report
Jefferson County Board of Zoning Appeals Meeting
April 18, 2013

Patrick Joseph Beirne Variance Request (#ZV13-14)

RELEVANT INFORMATION:

1. Overview of Request

The applicant seeks a rear yard setback variance of 6.5' in order to construct a 12' x 20' deck.

Per the material submitted with the variance request, the proposed deck would be 20' wide and would extend 12' from the townhome towards the rear property line. The applicant is also proposing a concrete patio underneath the deck.

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).

2. Applicant's Justification of Request

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

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

The application states, "The variance we are asking for will not have a negative effect on safety or welfare of the public health. It will be built within our property line. We have talked to our neighbors and they have approved the project, so the structure will not affect the adjacent properties."

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

The application states, "The variance we are asking for is to change the setback line, so we can build a larger deck."

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

The application states, "If granted the variance that we are seeking, it would provide enjoyment, along with increased value in the property. Along with the provided enjoyment, and increased value, it would also increase the appearance of the property."

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

The application states, "The intent of the zoning ordinance shall be observed by placarding as has been done by numerous other residents who have sought and received similar variances."

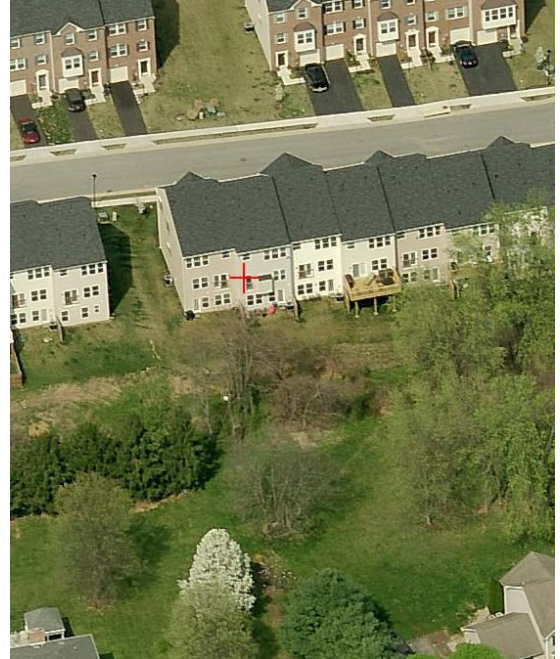
3. Staff Evaluation of Request

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 located in the Residential-Light Industrial-Commercial District (R-LI-C).

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 April 18, 2013

Patrick Joseph Beirne Variance Request (#ZV13-14)

The Board of Zoning Appeals reviewed similar variance requests in the Windmill Crossing Subdivision, including requests approved on May 20, 2010 (Weaver, ZV10-04), July 15, 2010 (Brown, ZV10-08), September 16, 2010 (Einreinhof, ZV10-16), April 21, 2011 (Muniz, ZV11-08), August 18, 2011 (Reed, ZV11-24), January 19, 2012 (Stine, ZV12-03, Kimmel, ZV12-04, Franz, ZV12-05), March 15, 2012 (McFadden, ZV12-09), April 19, 2012 (Silva, ZV12-11), May 17, 2012 (Gonzalez and Mercado, ZV12-15, Gahagan, ZV12-16, Devolites, ZV12-18, Cox, ZV12-19), and June 21, 2012 (Powell, ZV12-20, Friend, ZV12-21), August 16, 2012 (ZV12-25, Somerville).



The applicant’s rear property line is adjacent to a 50’ - wide area labeled as “semi-public open space area” on the subdivision plat. Therefore granting this variance would not appear to adversely affect adjacent property owners to the rear.

4. Possible Conditions of Approval

No conditions of approval are identified for this variance request.

SECTION OF ORDINANCE TO BE CONSIDERED:

Table 5.4 - 1 Residential Growth District - Height and Yard Requirements^{5, 19, 23}

	Development Type	Minimum Lot Area (MLA)	Required Yards (ft)				Maximum Building Height (ft)*
		Area per Dwelling Unit (ADU)	Front	Side	Street Side	Rear	
3	Townhouse Dwelling		25	12	15	20	40
	Public/Central water and sewer	1,400 sq. ft. MLA	“	“	“	“	“
		3,500 sq. ft. ADU	“	“	“	“	“



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

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

File Number: ZV13-14

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

Staff Initials: BC

Email planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Zoning Variance Request

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

Property Owner Information

Property Owner Name: Patrick Joseph Beirne

Mailing Address: 33 Don Quixote Dr.

City: Charles Town State: WV Zip Code: 25414

Phone Number: 703-888-9507 Email: PJB3423@yahoo.com

Applicant or Contact Information

Applicant / Contact Name: Patrick Joseph Beirne

Mailing Address: 33 Don Quixote Dr.

City: Charles Town State: WV Zip Code: 25414

Phone Number: 703-888-9507 Email: PJB3423@yahoo.com

Applicant Representatives

Company/Organization Name: Beirner - Keith Jones (Jones Deck and Fence)

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

Mailing Address: 177 Old Schoolhouse Lane

City: Milville State: WV Zip Code: 25432

Phone Number: 304-535-2179 Email: _____

Physical Property Details

Physical Property Address: 33 Don Quixote Dr. Charles Town WV 25414

Tax District: 02 Map No: 9C Parcel No: 143

Parcel Size: 2600 Deed Book: 1095 Deed Bk. Pg. No: 14

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

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

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

Reference the section of Ordinance pertaining to this request: 5.4(B)

Please briefly describe the nature of the variance request: I would like to build a Deck (12x20) on the back of the house. The Deck will be built by Jone Deck & fence. It will be built 12 feet off the house reducing the variance from 25 1/2 to 13 1/2. The Deck will be 10 feet high, and built with pressure treated wood. Also to include a cement pad, the same size of Deck.

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

Front Setback Side Setback Rear Setback Reduction From 25 1/2 to 13 1/2

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 variance we are asking for will not have a negative effect on safety or welfare of the public health. It will be built within our property line. We have talked to our neighbors and they have approved the project, so the structure will not affect the adjacent properties.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance? The variance we are asking for is to change the set back line, so we can build a larger Deck.

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

If granted the variance that we are seeking, it would provide enjoyment, along with increased value in the property. Along with the provided enjoyment, and increased value, it would also increase the appearance of the property.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done? The intent of the zoning ordinance shall be observed by placing as has been done by numerous other residents who have sought and received similar variances.

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge. Note: Original signature is required. If additional signatures are necessary, please attach a separate sheet of paper.

[Signature] 3.18.13
Signature of Property Owner 1 Date

Signature of Property Owner 2 Date

Notification Requirements (to be completed by staff)

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

THURSDAY APRIL 18, 2013
Date of Public Hearing
AT 3:00 P.M.

WEDNESDAY APRIL 3, 2013
Advertising Date

WEDNESDAY APRIL 3, 2013
Placard Posting Date

Jefferson County, West Virginia

Department of Zoning
116 East Washington Street, Suite 201
P.O. Box 338
Charles Town, West Virginia 25414

zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Fax: (304) 728-8126

Staff Assignment #: # Z/13-14

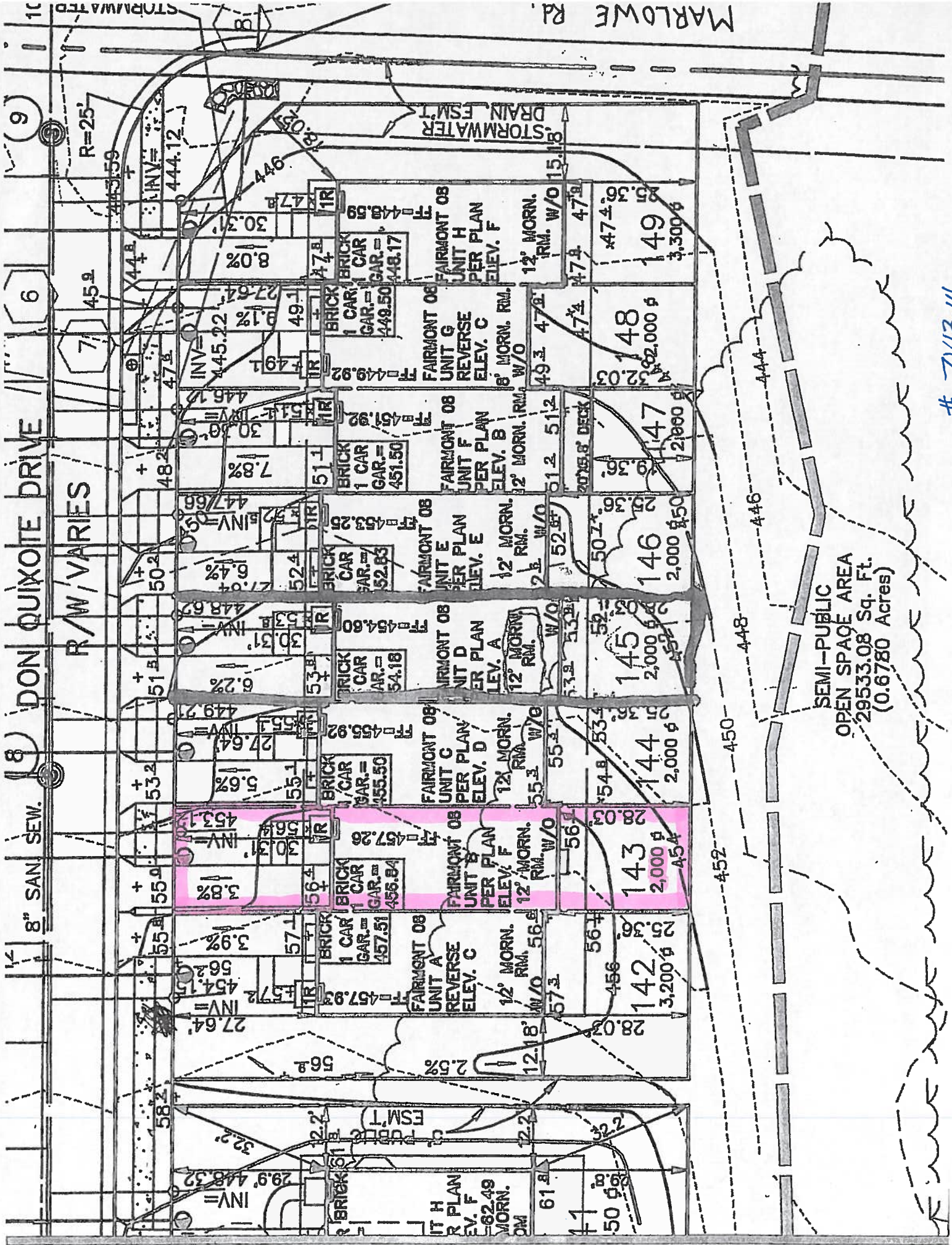
Please be advised that staff from the Department of Zoning is authorized to make necessary revisions to the enclosed submission if required for processing. I understand that said revisions will be discussed with me prior to content modification.

Applicant PRINTED Name: Patrick Beirne

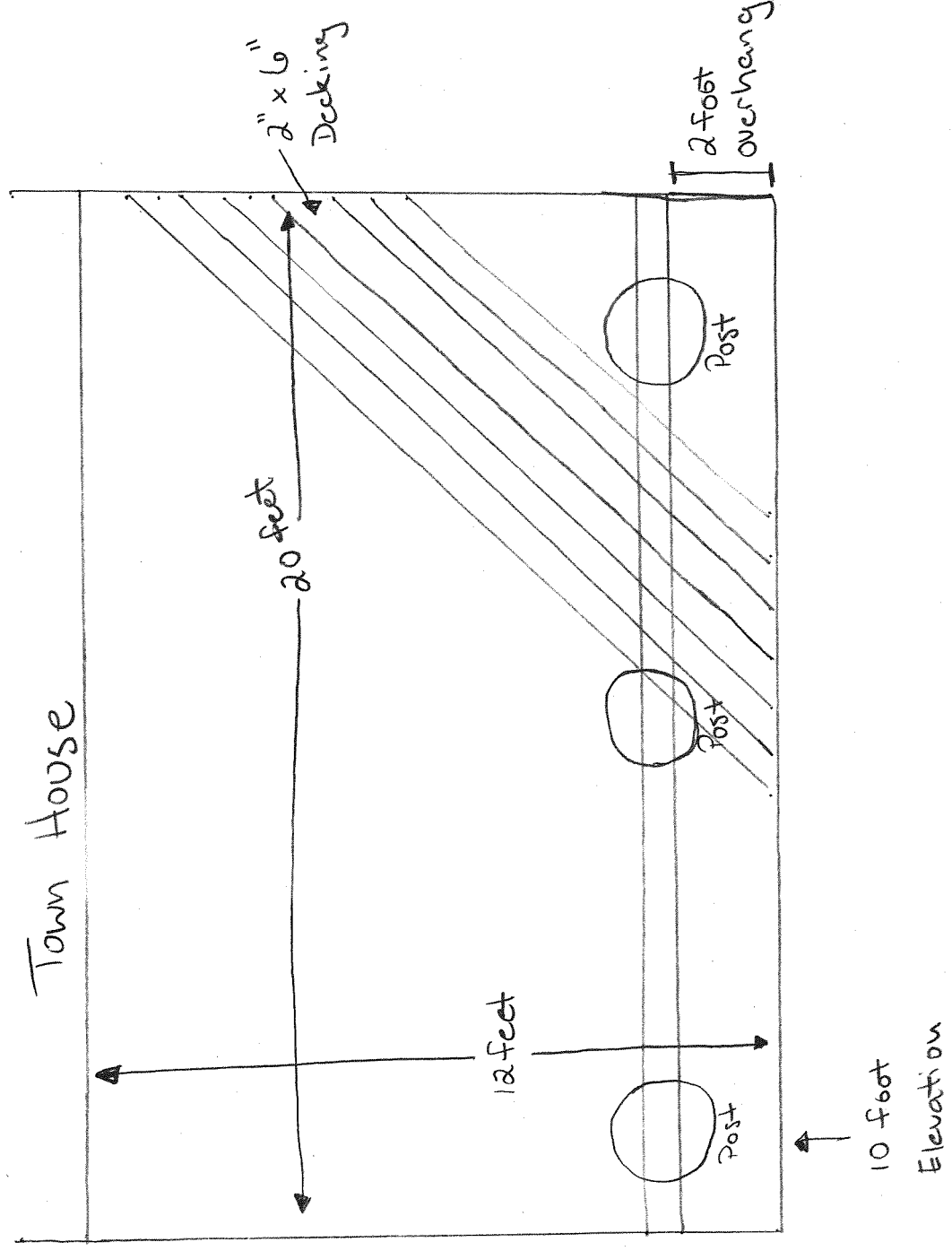
Applicant SIGNATURE: 

Contact Number: 703.988.9507

Date: 3-18-13



Z13-14



- Pressure Treated Lumber
- 2x6 Decking
- 2x8 Joist (16" o.c.)
- Double 2" x 10" Beam
- 6" x 6" Support Post
- 16" x 30" Footers
- 2" x 10" wrap board
- Threaded rod on Brackets to floor Joist (Ledger)
- A Cement Pad. The same size as Deck.

[Signature]

Patrick Beirne
 33 Don Quixote Dr.
 Charles Town WV 25414
 • Windmill Crossing
 • District - Charles Town
 • Map 9c • Parcel 143

Construction to be Completed By:
 Jones Deck + Fence
 (304) 535-2179

JONES DECK & FENCE

LIC. NO.
WV009522

Box 95
Millville, WV 25432
(304) 535-2179

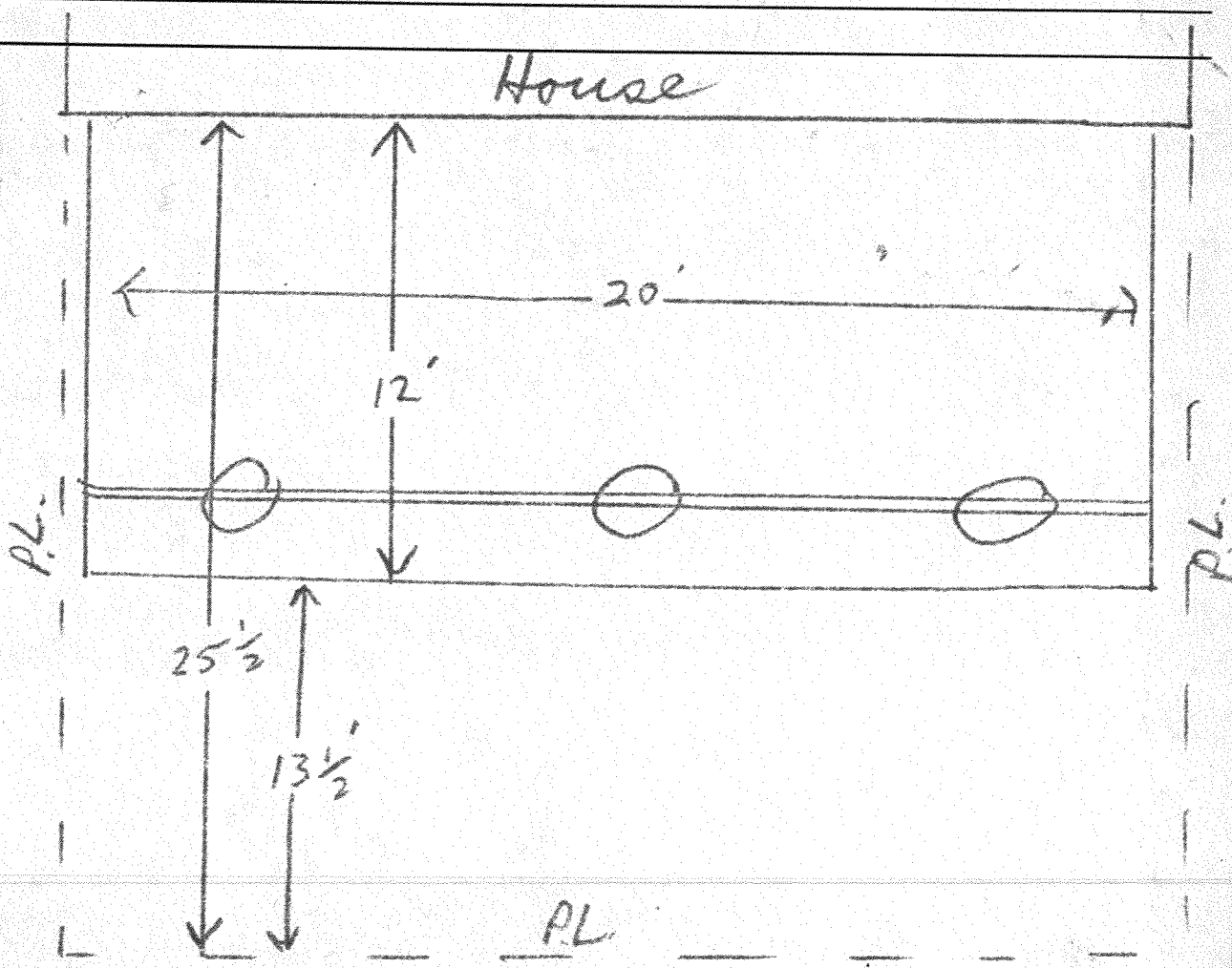
DATE: 3/17/13

NAME: Patrick Bunn's PHONE NO. (903) 888-9507

ADDRESS: 33 Don Quixote Dr

PROPOSAL: 12 x 20' = \$4,200.00

10' elevation



Estimate Good for 30 Days

FB solutions residential construction management and design

9628 Moncove Lake Road

Gap Mills, WV 24941

304 536 3743

fred@fredblackmer.com

Jefferson County Board of Zoning Appeals
110 East Washington Street
Charles Town, WV 25414

April 11, 2013

Ms. Brockman,

Please place Morgan's Grove Market (Fred Blackmer) on the April 18, 2013 Board of Zoning Appeals agenda. The subject will be Planning and Zoning Staff interpretations regarding the Morgan's Grove Market "Farm Market". Agenda item can read "Interpretation of Jefferson County Land Use ordinances and intent of BZA Approvals. Executive session may be required (personnel issues)".

BZA should also know that similar topics are being heard before the County Commission and Planning Commission. Documentation will be FAXed.

signed

Fred Blackmer
Morgan's Grove Market, Clerk of the Works
304.536.3743

FB solutions residential construction management and design
9628 Moncove Lake Road Gap Mills, WV 24941 304 536 3743 fred@fredblackmer.com

Jefferson County Board of Zoning Appeals
110 East Washington Street
Charles Town, WV 25414

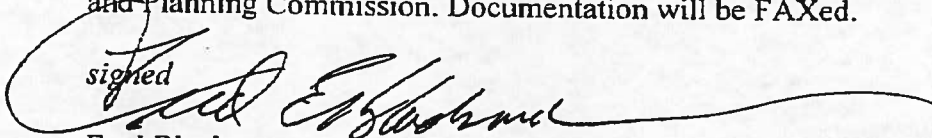
April 11, 2013

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BZA should also know that similar topics are being heard before the County Commission and Planning Commission. Documentation will be FAXed.

signed


Fred Blackmer
Morgan's Grove Market, Clerk of the Works
304.536.3743



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

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

File Number: _____

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

Staff Initials: _____

Email planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Zoning Variance Request

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

Property Owner Information

Property Owner Name: Twin Oaks Subdivision, LLC.

Mailing Address: PO Box 536

City: Shepherdstown State: WV Zip Code: 25443

Phone Number: _____ Email: _____

Applicant or Contact Information

Applicant / Contact Name: Peter Corum

Mailing Address: PO Box 536

City: Shepherdstown State: WV Zip Code: 25443

Phone Number: 304.283.2467 Email: petercorum@gmail.com

Applicant Representatives

Company/Organization Name: _____

Attorney(s), Engineer(s), or Surveyor(s) Name: Fred Blackmer

Mailing Address: 9628 Moncove Lake Road

City: Gap Mills State: WV Zip Code: 24941

Phone Number: 304.536.3743 Email: fred@fredblackmer.com

Physical Property Details

Physical Property Address: 3988 Kearneysville Pike

Tax District: Shepherdstown Map No: 13 Parcel No: 26.1,2,3,4

Parcel Size: 13.68 acres Deed Book: attached Deed Bk. Pg. No: Attached

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

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

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

Reference the section of Ordinance pertaining to this request: 4.10 and 11.1 (Staff advised)

Please briefly describe the nature of the variance request:

Attempt to continue Morgan's Grove Farm Market during site plan approval process and construction. A variance from additional site plan and parking standards for a 1200 square foot tent structure. This is a temporary variance in that it will become moot when the full site plan is approved.

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

Front Setback Side Setback Rear Setback Reduction From ___ to ___

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

The farm market has been operated on this site since 2011. This variance will not relieve the applicant from any ordinance standard or that would adversely affect the above listed concerns

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

Continuation of an existing community amenity during site construction and expansion is not contemplated in current ordinance. Technical detail and interpretation are creating the special condition

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

Granting will eliminate the requirement for a redundant temporary site plan and construction of a county standard temporary parking lot

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

The entire 13 acre site has a submitted site plan with storm water management and fully compliant permanent streets and parking. Development has CUP approval.

By signing this application, I give permission for the Departments of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge. Note: Original signature is required. If additional signatures are necessary, please attach a separate sheet of paper.

Signature of Property Owner 1 Date Signature of Property Owner 2 Date

Notification Requirements (to be completed by staff)

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

Date of Public Hearing

Advertising Date

Placard Posting Date

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

Twin Oaks Subdivision, LLC (ZV13-13)

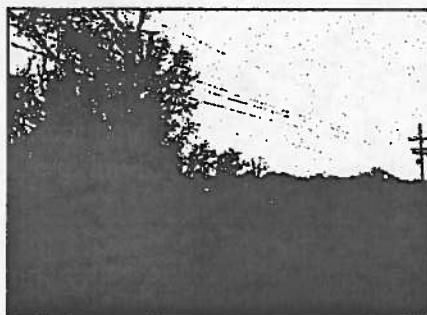
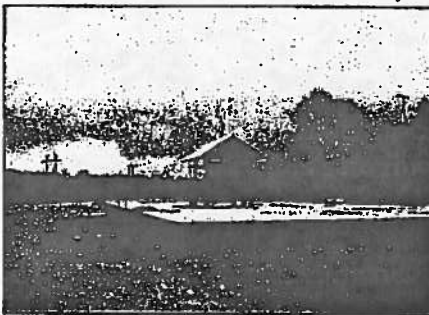
- Stormwater management
- Buffering of adjacent properties via landscaping and/or fencing
- Handicapped accessibility (parking, accessible route to building entrances)
- Adequate parking
- Setbacks from property lines and roads
- Other factors (lighting, etc)

The purpose of non-residential parking requirements is to ensure that adequate off-street parking space is available for commercial land uses. The requirement for permanent parking is to ensure that parking is safe for users, e.g. having a solid, level surface, adequate drive aisles, suitable topography, etc.

c. Unique characteristics of property

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

An unusual characteristic of the property is the existing improvements on the site (concrete building pad and asphalt parking lot), as illustrated above under the "existing conditions" section.



d. Character of area

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

e. Impact on adjacent properties

Because the applicant has not identified the proposed location for the parking area and market area, the impact on adjacent properties is unknown.

f. Feasibility of complying with the ordinance by other means

The variance request would not be necessary were the applicant to defer the demolition of the existing parking area and slab until after the conclusion of the market season.

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

Twin Oaks Subdivision, LLC (ZV13-13)

6. Possible Conditions of Approval

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

- NO**
- a. The variance has a duration of one year from the date of approval.
 - b. A new Zoning Certificate for the land use is required prior to initiation.
 - c. The applicant must submit to the Planning and Zoning Department an informal sketch plan showing locations of proposed parking areas, structures, and space designated for vendors.
 - d. A van-accessible parking space, and an accessible route between the parking space and the market, both meeting ADA standards, are required.

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

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.10 Site Plan Requirements

- A. A site plan shall be submitted for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.23
- B. Site plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- C. The site plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations, and this Ordinance.23
- D. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.10,17,21. 23

Section 11.1 Non-Residential Parking Standards

- A. To decrease congestion, permanent off-street automobile parking space and truck loading space shall be provided for all new structures and uses, and for existing structures or uses that are increased in size by 20 percent or more after adoption of these regulations.23

U.S. Department of Justice

Civil Rights Division

Disability Rights Section

ADA Design Guide 1

ADA Parking and access requirements:

Minimum Number of Accessible Parking Spaces

Minimum Number of Accessible Parking Spaces
ADA Standards for Accessible Design 4.1.2.5

Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (60' & 96' aisles)	Van Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
Column A			
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A*	7/8 of Column A**
1001 and over	20 plus 1 for each 100 over 1000	1/8 of Column A*	7/8 of Column A**

* one out of every 8 accessible spaces ** 7 out of every 8 accessible parking spaces

Total Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (60" & 96" aisles)	Van Accessible Parking Spaces with min. 96" wide access	Accessible Parking Spaces with min. 60" wide aisle access
--	---	--	--

Free Technical Assistance

Answers to technical and general questions about restriping parking lots or other ADA requirements are available by telephone on weekdays. You may also order the ADA Standards for Accessible Design and other ADA publications, including regulations for private businesses or State and local governments, at any time day or night. Information about ADA-related IRS tax credits and deductions is also available from the ADA Information Line.

Department of Justice

ADA Information Line

800-514-0301 (voice)

800-514-0383 (tty)

Narrative: The voice information number was called at 3:45 PM, March 22, 2013. I asked the following question.....

I am operating an open air farmer's market. It is one day a week on Saturday. The vendor facility is a 1200 square foot tent and surrounding area for table displays. The entire facility is on grass including the parking area. Local regulation requires a minimum of 8 total parking spaces for this project. The local Zoning Board also is requiring that I meet ADA parking requirements. What type of improvements do I need to meet ADA parking and access requirements?

The answer was short. There do not need to be any improvements to the grass parking area. A minimum of one van accessible space should be located and marked as close as reasonably possible to the vendor area. Any type of sign indicating the space is sufficient.

Fred Blackmer

Morgan's Grove Market Clerk of the Works

304 536 3743

Fred Blackmer

From: "Steve Barney" <sbarney@jeffersoncountywv.org>
To: "Fred Blackmer" <fred@fredblackmer.com>
Cc: "Peter Corum" <petercorum@gmail.com>; "Jennifer Brockman" <jbrockman@jeffersoncountywv.org>
Sent: Thursday, March 28, 2013 4:34 PM
Subject: RE: ADA parking
Fred,

I have verified this information and we are in agreement. There are just a few nuances:

No paved accessible parking is required for a grass parking area. In order to make reasonable accommodation for persons with disabilities, an unpaved accessible space should be created. This could be done with line paint or (recommended) roping off the area and using orange cones. The space should be the standard width for a van-accessible space (16' wide). A sign should be placed within the enclosed area that says "disabled parking only." Ideally, it should be located closest to the entrance to the farmers market area; however, the more important factor is that the space be as level as possible even if it is not the space that is the closest to the entrance.

Please let me know if you have any questions.

Thanks,
Steve B.

From: Fred Blackmer [mailto:fred@fredblackmer.com]
Sent: Friday, March 22, 2013 4:57 PM
To: Mr. Barney
Cc: Peter Corum; 'Jennifer Brockman'
Subject: ADA parking

I have contacted the ADA technical service hotline. The conversation notes are attached.

Fred Blackmer
304 536 3743

Fred Blackmer

From: "Steve Barney" <sbarney@jeffersoncountywv.org>
To: <pcorum@franklinamerican.com>
Cc: "Fred Blackmer" <fred@fredblackmer.com>; "Jennie Brockman" <jbrockman@jeffersoncountywv.org>; "Engineering Department" <engineering@jeffersoncountywv.org>
Sent: Friday, April 05, 2013 5:07 PM
Attach: Sketch plan - ZC13-07.pdf
Subject: Zoning Certificate application - Morgans Grove Market
Peter,

Regarding your Zoning Certificate application, we should be able to approve the application once the sketch plan has been revised. It is not clear what the circled #1 is, or what the X is. I assume that these are intended to represent the parking area and the tent; however, they need to be labeled so that the drawing is legible. Please also identify the dimensions of the parking area and the tent. Legibility and dimensions are requirements for a Zoning Certificate application sketch plan per Section 3.2D of the Zoning Ordinance.

Please also show the location of the accessible parking space, a Board of Zoning Appeals requirement from the 3/21/13 variance approval.

I have attached a PDF of the sketch plan for your reference.

My understanding from the Engineering Department is that an Improvement Location Permit (ILP) application will also be required for the relocated land use. A submittal requirement for the ILP is a copy of an application for a highway entrance permit submitted to the WVDOH. (The entrance permit itself is not required for an ILP application; merely documentation that the property owner has applied to the DOH for the permit.) The Engineering Department can provide additional guidance regarding the ILP application.

Please also be advised that a 1200 square foot temporary structure may require a building permit.

Please let me know if you have any questions.

Sincerely,

Steve Barney

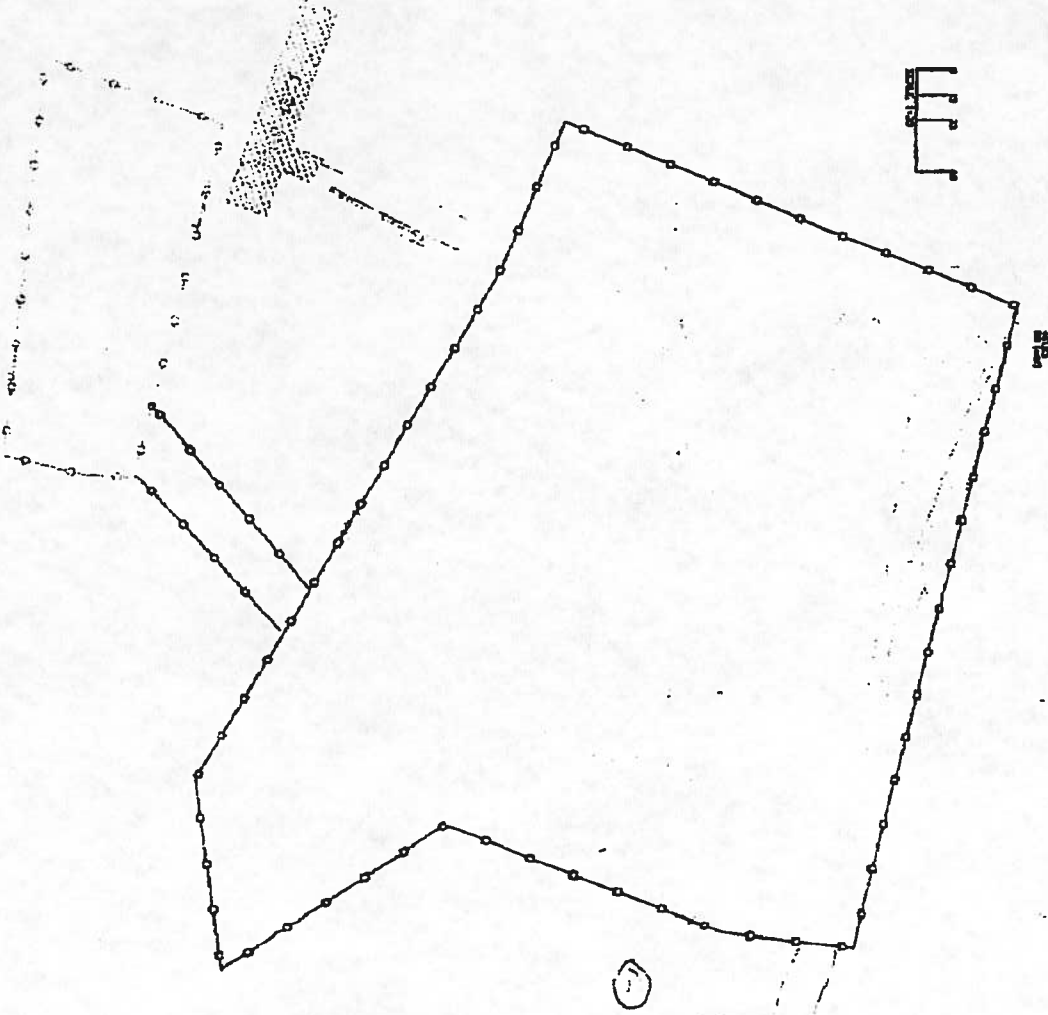
*Steve Barney
Zoning Administrator
Jefferson County Departments of Planning & Zoning
(304) 728-3228*

ZV13-13

Fine Contour to 1/4" Plan

PERSON COUNTY
SURVEYING AND ENGINEERING

PERSON COUNTY



G-1

GRADING ONLY PLAN
Morgan's Grow Market

Kearneyville Pike Site #01
The Boardman Area, Anthonys County, West Virginia

BLACKMER ENGINEERING
A FULL SERVICE SURVEY &
ENGINEERING FIRM
304-971-0000

THE OTHER BLACKMER, LLC
PO Box 833
Charleston, WV 25302
800-225-0000