

BOARD OF APPEALS HEARING
AGENDA
November 13, 2025
Jamie Disterhaupt
Shawn Wolford
103 Ray Street
6:00 p.m.

1. The hearing is called to order. We request all present for this hearing to sign in. Please indicate place of residence (street address, etc.) and interest.
2. The chair will note, for the record, members of the Board present and establish that a quorum is present. Members who have not been previously sworn in will be sworn in.
3. The Board will establish the standing of the appellant for the record.
4. Members of the audience who wish to testify are sworn in and interest in the matter is established for the record.
5. CONFLICT OF INTEREST: The chair will inquire, for the record, whether any board member has a conflict of interest in any of the matters before it.
6. THE NOTICE OF PUBLIC HEARING will be read into the record.
7. The appeal by Jamie Disterhaupt/Shawn Wolford, regarding the Planning Commission's decision of August 18, 2025, as provided in the Notice of Decisions, regarding 103 Ray Street.
8. The chair will note, for the record, whether the bond has been paid.
9. The chair will note for the record, whether the board members have visited the site.
10. GROUND RULES:
 - A. *The Board of Appeal's rules are standardized by Robert's Rules of Order.*
 - B. *The Appeals Board is guided by Title 9, Chapters 1-12 of the Town Code—the Zoning Ordinance – and the requirements and standard of Title 9 are the requirements and standards we abide by in making decisions. Most importantly, we are guided by Chapter 10, Section 9-1009.*
 - C. *The Chair will monitor the recording device.*

- D. *The Board of Appeals may set time limits, as it deems necessary, for the applicant’s responses, the responses of bona fide groups and of individuals.*
- E. *The Board of Appeals will question applicants on proposed use, proposed additions, proposed building or structures, or proposed subdivisions.*
- F. *The Board of Appeals will determine if and for what sections of the Zoning Ordinance a waiver is required.*
- G. *Each person recognized by the chair will approach the table; give his or her name and street address, be sworn in if not previously sworn in, and present questions, comments, or petitions loudly enough to be picked up by the recording device.*
- H. *Actions, votes, findings of facts and conclusions of law shall not become final rulings until the minutes and/or the Decision and Order of the public hearing, or of the subsequent continued public hearing (s), are approved at a continued or adjourned meeting, called for the purpose of approving these documents by the Board of Appeals.*

11. PRESENTATION OF EVIDENCE AND ARGUMENT

- A. The appellant presents evidence and arguments regarding the variance request from Section 9-508 “Required Lot Area, Lot Width and Yards in Residential Districts” of the Shepherdstown Planning and Zoning Ordinances and how Section 9-1008 and Section 9-1009 are met. All ordinances are included in packet.
- B. Interested parties present questions regarding the applicant’s evidence and argument.
- C. The appellant responds.
- D. The Board questions the appellant.
- E. Interested parties present evidence and argument.
- F. The appellant presents questions regarding the interested parties’ evidence and argument.
- G. The interested parties respond.
- H. The Board questions the interested parties.

11. Deliberations, Board of Appeals Members

- A. MOTION to close the public hearing SECOND VOTE
- B. MOTION to deliberate in closed session SECOND VOTE
- C. MOTION to come out of closed session SECOND VOTE
- D. Continuation of hearing if any

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| 1. MOTION to continue | SECOND | VOTE |
| 2. Set date for continued hearing | | |
| 3. State reason for continuing hearing | | |
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| E. MOTION(S) on Finding of Facts and
Conclusions of Law | SECOND | VOTE |
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| F. MOTION on Sections 9-1008
(discussion on possible conditions) | SECOND | VOTE |
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| G. MOTION on Sections 9-1009
(discussion on possible conditions) | SECOND | VOTE |
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| H. MOTION to grant variance from
Section 9-508 "Required lot area, lot width, and yards in Residential
Districts" | SECOND | VOTE |
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| 12. MOTION to reconvene for the purpose of reading
and approving the Decision and Order for this hearing. | SECOND | VOTE |
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| <i>Set date, time and place</i> | | |
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| 13. MOTION to conclude the hearing. | SECOND | VOTE |
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| 14. Old Business | | |
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| 15. MOTION to adjourn | SECOND | VOTE |

Section 9-1008 Variances

(a) Where by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property when zoning was adopted in Shepherdstown or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, the literal enforcement of the requirements of this ordinance would involve practical difficulty or would cause unnecessary hardship to carry out the spirit and purpose of this ordinance, the Board shall have power, upon appeal in specific cases, to authorize a variance from the terms of this ordinance so as to relieve such hardship, and so that the spirit and purpose of this title shall be observed and justice done. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest. In authorizing a variance, with attached conditions, the Board may require such guarantee as it may deem necessary that the conditions attached are being and will be complied with.

(b) No such variance in the provisions or requirements of this ordinance shall be authorized by the Board unless it finds, beyond reasonable doubt, that all the following facts and conditions exist:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or classes of uses in the same zoning district.

(2) That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.

(3) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this title or the public interest.

(4) That the condition or situation of the specific piece of property or the intended use of such property, for which variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.

Section 9-1009 Limitations, guides, and standards

Where, in this title, certain powers are conferred upon the Board it shall study the specific property involved and the neighborhood, cause the property to be posted in a conspicuous place, hold a public hearing, consider all testimony and data submitted, and hear any person for or against the issuance of the permit. However, the application shall not be approved where the Board finds the proposal adversely affect the public health, safety, security, morals or general welfare or would result in dangerous traffic conditions or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall give consideration, among other things, to the following:

- (a) Decisions of the Circuit Court and the Supreme Court of Appeals.
- (b) The orderly growth of the neighborhood and community.
- (c) The most appropriate use of land and structure.
- (d) Facilities for sewers, water, trash and garbage collection and disposal and the ability of the Town or County to supply such services.
- (e) Availability of firefighting equipment.
- (f) The effect of such use upon the peace of people in their homes.
- (g) The number of people residing, working or studying in the immediate area.
- (h) The type and kind of structures in the vicinity where people are apt to gather in large numbers such as schools, churches, theatres, hospitals and the like.
- (i) Traffic conditions, including facilities for pedestrians, such as sidewalks and safety zones and parking facilities available and the access of cars off highways.
- (j) The preservation of cultural and historic landmarks.
- (k) The conservation of property values.
- (l) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the uses of surrounding properties.
- (m) The contribution, if any, such proposed use, building or addition would make toward the deterioration of areas and neighborhoods.

- (n) Any findings and recommendations of the Historic Landmark Commission.