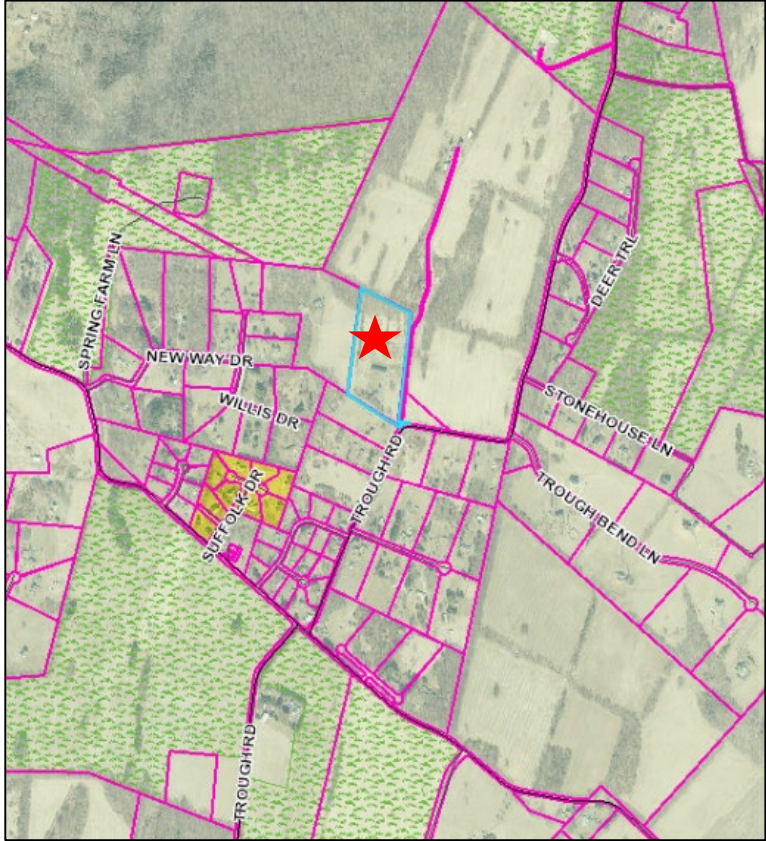


Staff Report  
Jefferson County Planning Commission Meeting  
July 25, 2023

**Russo-Davenport Variance Request (File #23-2-PCV)**

**Item #5: Public Hearing:** Variance from Section 2.1 of the 1979 Subdivision Ordinance (Outsale Exemption) to lift the single family restriction to allow for the establishment of a Kennel on the property.

|                                         |                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Owner/Applicant:                        | Nicholas Russo and Alice Davenport                                                                                                                                                                                                                                                                                                                                               |
| Parcel Information and Zoning District: | <p style="text-align: center;">1899 Trough Road, Shepherdstown, WV<br/>Parcel ID: 09000900070006; Size: 10 acres; Zoning District: Rural</p>  <p style="text-align: center;">  Conversation Easements </p> |
| Surrounding Zoning:                     | <i>North, South, East and West: Rural</i>                                                                                                                                                                                                                                                                                                                                        |
| Proposed Activity:                      | Kennel                                                                                                                                                                                                                                                                                                                                                                           |
| History:                                | This 10-acre parcel was created through an Outsale Exemption recorded 04/01/86 (DB 554/PG 142)                                                                                                                                                                                                                                                                                   |

**Summary of Request:**

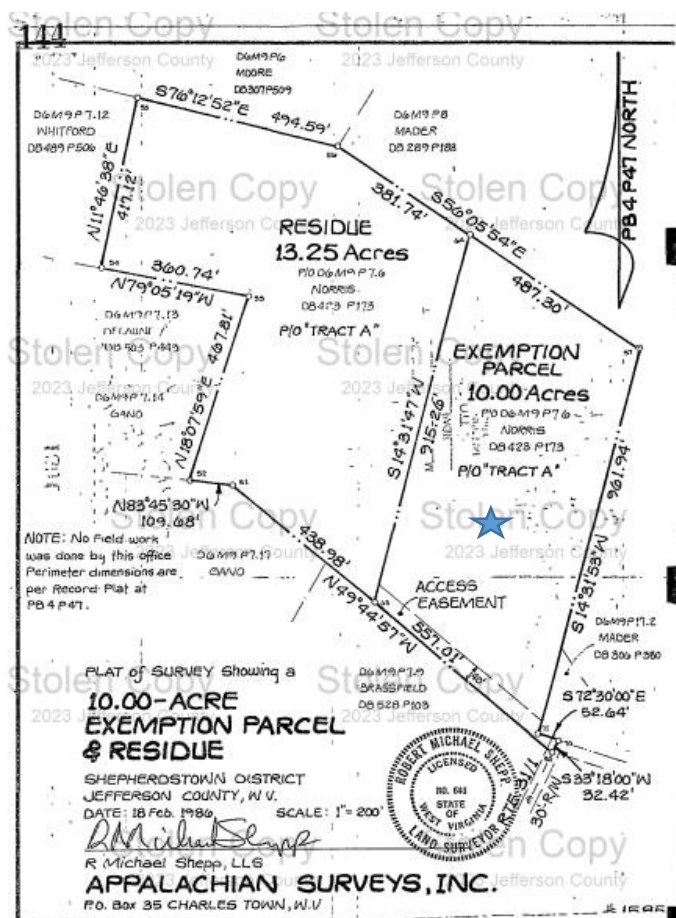
The applicant is requesting to lift the required single-family restriction for the purpose of establishing a dog training and kennel facility in an existing outbuilding on the property. Appendix C of the Zoning Ordinance states that a Kennel is a Principal Permitted Use in the Rural Zoning District provided it meets the criteria of Section 8.4 of the Zoning Ordinance. The subject parcel was created on April 1, 1986 through the Outsale process outlined in Section 2.1 of the 1979 Subdivision Ordinance.

Staff Report  
Jefferson County Planning Commission Meeting  
July 25, 2023

**Russo-Davenport Variance Request (File #23-2-PCV)**

At the time that the lot was created, a note was required in the deed (DB554/PG142) that restricted the exempt lot to a single-family residence (see excerpt below).

SUBJECT, HOWEVER, to the restriction that the "Exemption Parcel" (the "Lot") shall be used only for a single family residence as long as the Lot is not further subdivided. Any further subdivision of the Lot will dissolve the single family restriction and will place development of the Lot under County land development laws in effect at that time. Further, that portion of the Lot which lies in the bed of West Virginia Route 31/1 is subject to the rights of the general public.



Staff Report  
Jefferson County Planning Commission Meeting  
July 25, 2023  
**Russo-Davenport Variance Request (File #23-2-PCV)**

**Zoning Ordinance Requirements**

If the Planning Commission approves lifting the single-family restriction, which was required by the Subdivision Ordinance at the time the lot was created, then the applicant can process under Section 8.4 of the Zoning Ordinance to establish a Kennel in the Rural Zoning District.

**Relevant Section(s) of Ordinance/Regulations:**

***2008 Subdivision Regulations (as amended):***

**Section 24.202 Amendment, Modification, and the Vacating of Subdivision Plats**

**A. Amendment.** The Planning Commission (or staff, in the case of a minor subdivision plat) may approve an amendment to a subdivision plat in the same manner as the plat was originally approved, provided:

1. All of the property that is affected by the amendment is under the ownership of the applicant;
2. The amendment will not affect the ownership or right of convenient access of persons owning other parts of the subdivision; and
3. The amendment complies with all of the standards of these Regulations, including verification of compliance with the Zoning Ordinance.

Under the 1979 Subdivision Ordinance, this type of a request was typically heard through the Planning Commission Variance process.

***1979 Subdivision Ordinance:***

**Section 17.1 Variance**

Any request for a variance from the provisions of this Ordinance shall be made in written form and shall be submitted to the Planning Commission by the Subdivider. A variance request shall clearly specify the nature of the variance being requested and the reasons for the request.

A variance request may be granted by the Planning Commission only when it is determined that:

- a) The request is not contrary to the public interest.
- b) A literal enforcement of this Ordinance will result in an unnecessary hardship.
- c) The request is not the result of a self-imposed hardship.
- d) The spirit of this Ordinance will be observed and substantial justice done.

Note: The Variance Policy in effect requires that the property be posted with a placard and that letters are sent to adjacent and confronting property owners one week prior to the meeting.

**Recommendation**

Staff recommends approving the Variance request from Section 2.1a of the 1979 Subdivision Ordinance (Outsale Exemption) to lift the single family restriction to allow the establishment a dog training and kennel facility in an existing outbuilding on the property in accordance with Section 8.4 of the Zoning Ordinance. If approved, the applicant will need to apply for a Zoning Certificate for the proposed land use unit prior to commencement.





Jefferson County, West Virginia  
Department of Engineering, Planning and Zoning  
**Office of Planning and Zoning**  
116 E. Washington Street, 2<sup>nd</sup> Floor  
P.O. Box 716  
Charles Town, West Virginia 25414

File #: 23-2-PCV  
Mtg Date: 07-11-23  
Date Rec'd: 06-14-23  
Fees Paid: 100  
Staff Int: gjt  
List of Adjoiners: X

Email:

Phone: (304) 728-3228

Fax: (304) 728-8126

**Subdivision Ordinance Variance Request**

Variances must comply with Article 17 of the 1979 Subdivision Ordinance, as amended.

**Property Owner Information**

Owner Name: Alice Davenport and Nicholas Russo

Business Name: \_\_\_\_\_

Mailing Address: 1899 Trough Rd

Phone Number: 631-335-9654

Email: alidav013@gmail.com

**Applicant Contact Information**

Applicant Name: Alice Davenport and Nicholas Russo

Same as owner: ☒

Business Name: \_\_\_\_\_

Mailing Address: 1899 Trough Rd

Phone Number: 631-335-9654

Email: alidav013@gmail.com

**Consultant Information**

Name: \_\_\_\_\_

Business Name: \_\_\_\_\_

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

Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 1899 Trough Rd

Vacant Lot: ☐

Tax District: 9

Map No: 0009

Parcel No: 0007

Parcel Size: 10 acres

Deed Book: 1260

Page No: 5

Zoning District: Rural

**On a separate sheet of paper sketch the shape and location of the lot. Show the location of the intended construction or land use and indicate building setbacks, size, and height. Identify existing easements, roads, buildings, structures, or land uses on the property. Sign and date the sketch.**

☒ Included

☐ Not applicable (include a vicinity map if a sketch is not applicable)

**Which Section of the Subdivision Ordinance are you requesting to vary?**

Requesting to lift the single family restriction.

**Briefly Describe the Nature of Your Variance Request:**

Requesting to lift the single family restriction

We would like to use the barn as a training facility to train dogs and K9's. We are interested and would like to provide board and board and trains to customers. No major modifications will be made to the structure and dogs will be kept inside if boarding to reduce noise.

**Explain why this request is NOT contrary to the public interest:**

By lifting this restriction it would benefit the town and surrounding counties supplying them with high quality dog training.

We are also providing the community with police support K9's and aiding their training

**Explain how enforcement of this Ordinance will result in an unnecessary hardship:**

No unnecessary hardship can be foreseen at this time.

This would cause us to need to move or find another location to operate business.

**Explain how this request is NOT the result of a self-imposed hardship:**

Landowners do not foresee this happening at this time.

This property was purchased with the knowledge of being agricultural use and did not have knowledge of the single family restriction

**Explain how the spirit of this Ordinance will be observed and substantial justice will be done:**

Business is to be conducted in a way that is approved by law

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.

*Ali Danyal*

Property Owner

*6/27/23*  
Date

*[Signature]*

Property Owner

Date

**Notification Requirements**

The subject parcel shall be posted with a minimum of one 28" x 22" placard at least 14 days prior to the public hearing. The placard(s) will be prepared and posted by the Staff. Adjacent property owner name and address information shall be provided by the applicant so that notification letters can be mailed by Staff least 14 days prior to the public hearing.

*07-11-23*

Public Hearing Date

*06-27-23*

Date Placard Posted

*06-27-23*

Date Adjoiners Mailed

**Planning Commission Determination**

Approved ☐

Denied ☐

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

