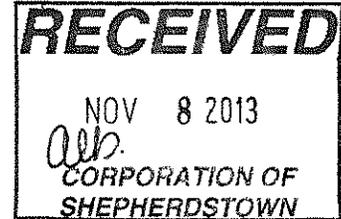


D. FRANK HILL, III  
ATTORNEY AT LAW  
POST OFFICE BOX A  
SHEPHERDSTOWN, WEST VIRGINIA 25443

D. FRANK HILL, III (WV & MD BAR)

136 E. GERMAN STREET  
THE PHARMACY BUILDING  
(304) 876-9333



November 8, 2013

Corporation of Shepherdstown  
P.O. Box 248  
108 N. King Street  
Shepherdstown, WV 25443

(HAND DELIVERY)

Attn: Amy L. Boyd, Town Clerk

Re: Michael Patrick Bean Petition For Annexation

Dear Ms. Boyd:

On behalf of Michael Patrick Bean, I have attached a Petition seeking annexation of two (2) contiguous parcels which contain, in the aggregate, 0.87 acre.

It is requested that this Petition be placed on the agenda for the Council's next scheduled meeting and that it processed in accordance with the Town's annexation policy.

Please contact me should you have any questions, and thank you for your assistance.

Sincerely,

D. Frank Hill, III

Enclosure as stated

cc: Michael Patrick Bean (w/copy of Petition For Annexation)

## PETITION FOR ANNEXATION

TO:           The Honorable Arthur J. Auxer, III, Mayor  
              Town Council Members

FROM:         Michael Patrick Bean

DATE:         October 25, 2013

---

Michael Patrick Bean (the "Petitioner") petitions the Corporation of Shepherdstown (the "Town"), pursuant to West Virginia Code § 8-6-4 (Annexation without an election), to annex two (2) contiguous parcels of real estate (the "Property") which contain, in the aggregate, 0.87 acre.

### PROPERTY DESCRIPTION

The Property is located on the east side of what would be an extension of Washington Street in the Shepherdstown Magisterial District, and is known for postal purposes as 8672 Shepherdstown Pike (house) and 8668 Shepherdstown Pike (garage).

The Property is contiguous with the municipal boundary of Shepherdstown on its north side, its south side, and its east side.

The western boundary of the Property abuts Mill Street and Secondary Rt. 230.

Access to the Property will continue to be by both Mill Street and by Washington Street.

A triangular portion of the 0.702 acre parcel (First Outsale) is within the corporate limits of Shepherdstown as shown on both the Tax Map and the plat, both as hereinafter described.

The Property is more particularly described in and was acquired by the Petitioner by a Deed dated the 3<sup>rd</sup> day of February, 2012, and recorded in the office of the Clerk of the County Commission of Jefferson County, West Virginia, on February 13, 2012, in Deed Book 1104, page 261, a copy of which is attached and labeled Exhibit A.

A copy of the plat referenced in the aforesaid Deed is attached as Exhibit B, and is recorded in the aforesaid Clerk's office in Plat Book 7, page 28.

The Property is identified on Jefferson County Tax Map 8-B, a copy of which is attached as Exhibit C, and is described on the aforesaid plat (Plat Book 7, page 28) as

First Outsale (containing 0.702 acre) - Parcel 108  
Residue (containing 0.168 acre) - Parcel 109

The three adjacent parcels, within the corporate boundary of the Town, are owned by Garland Jay Hurley (Tax Map parcel 149) and by United Bank, Inc. (Tax Map 3, parcel 154 and parcel 157 - which includes the 11-foot wide alley; Deed Book 1078, page 443).

OWNERSHIP

The Petitioner is the sole freeholder of the Property.

QUALIFIED VOTERS

The house on the Property (Residue, containing 0.168 acre) is occupied by one (1) person who is not registered to vote in Jefferson County, West Virginia.

REQUIREMENTS OF CHAPTER 14 OF THE TOWN CODE

In accordance with the provisions of Section 9-1424, Annexation, of the Town Code, the Petitioner submits the following information:

I.

BASIS FOR ANNEXATION REQUEST, DEVELOPMENT PLANS, ZONING

The Property is improved by a single-family house on the "First Outsale" parcel and by a garage/repair facility on the "Residue" parcel.

The Property was historically known as "Schlack's Gulf Station" and by "Trail's Chevron", and is now known as "Cool Green Auto and Tire" which is owned and operated by the Applicant.

The Petitioner desires to annex the Property and begin the planning process for his anticipated expansion of the garage (to the east, bordering Schlack's Alley), a modification of the front of the garage, and the possible conversion of the existing single-family house to a component use of the Applicant's existing vehicle repair facility. In addition, it is expected that the Applicant will utilize a portion of the rear (eastern)

portion of the Property for parking of vehicles incident to their repair, etc., so as to reduce the congested parking on the Property and on the eastern side of Mill Street.

This Petition is submitted conditioned on the Property being annexed in the Commercial District.

(See Section 9-702(d); Automobile Filling Stations, Automobile Repair and Sales).

## II.

### LEGAL DESCRIPTION AND PLAT

A legal description of the Property, prepared by Peter H. Lorenzen, West Virginia Professional Surveyor No. 948, dated September 3, 2013, is attached as Exhibit D, which describes the Property as an unitary parcel containing 0.87 acre.

The most recent plat of the Property (Exhibit B) is recorded in the aforesaid Clerk's office in Plat Book 7, page 28.

## III.

### STATEMENT OF PROJECTED IMPACTS TO THE TOWN

A. Utilities. Water and sewer services are furnished to the Property by the Town. Upon annexation of the Property, garbage service will be provided to the Property by the Town. Electric and telephone services are, and will be, furnished to the Property by Potomac Edison and Frontier, respectively.

B. Proffers. The Petitioner, in consultation with his Architect, Sara Lambert, anticipates the need of addressing the long-standing problem of water draining across the Property prior to it emptying into the storm drain situate near the

southern terminus of Mill Street. Accordingly, the Petitioner, in consultation and Ms. Lambert and the Town, intends to formulate remedial measures regarding this problem, the cost of which is expected to be paid by the Petitioner. Additionally, as part of this undertaking, the Petitioner proposes to regrade/pave/repave that portion of Schlack's Alley which contributes to the aforementioned water problem as well as paving all or a portion of the eastern side of Mill Street which abuts the Property.

C. Financial Impact. There will be no detrimental financial impact to the Town resulting from the annexation of the Property. Rather, a positive financial benefit will inure to the Town from various sources, i.e., utility excise taxes (electricity, telephone, and water).

In addition, the Town will receive additional real estate taxes. The 2013 real estate tax bills for the Property report an aggregate assessed value of \$161,700.00 (being sixty percent of its fair market value as determined by the County Assessor). The combined 2013 real estate taxes are \$3,730.74. Upon annexation, the Town will receive real estate taxes of approximately \$475.00 per year.

In summary, the Town will improve its financial posture upon the Property being annexed.

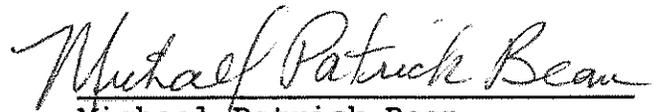
D. Traffic Study. The Petitioner sees no need to perform a traffic study of the proposed annexation as no traffic will be generated beyond that which now exists. Only the Petitioner accesses the Property.

E. Adequate Public Facilities. The Petitioner is unaware of any adverse impact to the Town by the annexation of the Property, primarily because the improvements are in existence and that any changes to the Property, by modifications, additions, etc., would be subject to review and approval by the appropriate commissions of the Town.

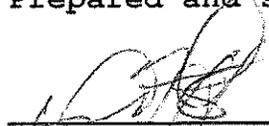
As stated in Section A, other than the Town providing garbage service to the Property, there will be no impact upon the Town's public facilities beyond those that exist at this time.

SUMMARY

For the foregoing reasons, the Petitioner respectfully prays the Town Council to approve this Petition.

  
Michael Patrick Bean  
Owner/Petitioner

Prepared and submitted by:

  
D. Frank Hill, III  
Attorney for the Petitioner  
136 E. German Street  
P.O. Box A  
Shepherdstown, WV 25443  
(304) 876-9333  
West Virginia Bar No. 1725

October 25, 2013

THIS DEED made and entered into this 3<sup>rd</sup> day of February 2012, by and between ALFRED JAYNE, party of the first part, hereinafter referred to as GRANTOR, and MICHAEL PATRICK BEAN, party of the second part, hereinafter referred to as GRANTEE.

WITNESSETH: That for and in consideration of the sum of FIVE DOLLARS AND 00/100 (\$5.00), cash in hand paid, and other good and valuable consideration, the receipt of all of which is hereby acknowledged, the said Grantor does hereby grant, bargain, sell and convey, and by these presents has granted, bargained, sold and conveyed, to and unto the said Grantee, in fee simple, with covenants of special warranty, all of that certain lot or parcel of real estate, with the improvements thereon and the appurtenances thereunto belonging, situate in the Shepherdstown District of Jefferson County, West Virginia, more particularly bounded and described as follows:

**PARCEL ONE:** Beginning at the intersection of the east limit of West Virginia Secondary Route 230 with the north limit of an 11-foot alley (253); thence with said Route NE 01-24-05, 76.50 feet to a point (254); thence NE 62-12-51, 35.57 feet to a point (255); thence three new lines of division with Schlack SW 08-27-40, 38.36 feet to a 5/8 inch rebar (256) to be set; thence SW 80-19-38, 89.78 feet to a 5/8 inch rebar (258) to be set; thence SW 07-44-14, 54.07 feet to a 5/8 inch rebar (259) to be set; said rebar on the north limit of the 11-foot alley; thence NW 83-03-28, 113.75 feet to the point of beginning, containing 0.168 acres, more or less.

TOGETHER WITH an easement over and upon that parcel of land, containing 145 square feet as depicted on the aforesaid Plat of Survey, on which are located light poles, signs, vent pipes, and underground storage tanks for petroleum related products, together with the right to maintain, operate, repair, replace, improve, restore, and upgrade said improvements within said easement area.

**PARCEL TWO:** All that certain First Outsale parcel of real estate, containing 0.702 acres, more or less, as said parcel appears on a plat entitled "First Outsale and Residue", made and prepared by Appalachian Surveys, Inc., dated June 1986, appearing of record in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 7, at page 28 (Slide 297-B) to which plat reference is hereby expressly made for a more particular metes and bounds description of the real estate conveyed herein.

AND BEING the same real estate conveyed to Alfred Jayne by deed dated 23<sup>rd</sup> day of March 2005, from William E. Trail and Freda I. Trail, his wife, and recorded in the office of the Clerk of the County Commission of Jefferson County, West Virginia, in Deed Book No. 1005, at Page 613, and that certain deed dated the 23<sup>rd</sup> day of March 2005, from Henry W. Morrow, Jr., as executor of the Estate of Richard B. Schlack, as recorded in Deed Book 1005, at Page 615.

SUBJECT TO AND TOGETHER WITH any and all rights, rights-of-way, covenants, restrictions, easements, conditions, assessments, and other matters of record and in existence.

1 MB

WITNESS our signatures and seals this \_\_\_\_\_ day of May,  
2013.

WITNESS:

\_\_\_\_\_  
Stephen Ayraud (SEAL)

\_\_\_\_\_  
Rebecca White-Ayraud (SEAL)

Borrowers' address:

P.O. Box 3267  
Shepherdstown, WV 25443

THIS CONTRACT IS NOT PAYABLE IN INSTALLMENTS OF EQUAL AMOUNTS  
AN INSTALLMENT OF \$310,625.00 WILL BE DUE THREE (3) YEARS FROM THE DATE HEREOF.

*PLUS ALL ACCRUED INTEREST*

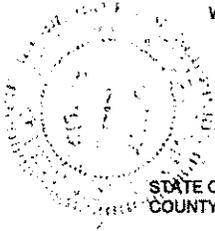
SUBJECT TO AND TOGETHER WITH any and all rights, rights-of-way, covenants, restrictions, easements, conditions, assessments, and other matters of record and in existence.

**DECLARATION OF CONSIDERATION OR VALUE**

Under the penalties of fine and imprisonment as provided by law, the undersigned Grantors hereby declare that the total consideration for the property transferred by the document to which this declaration is appended is \$250,000.00.

The undersigned Grantor, Alfred Jayne, further declares under the penalties of perjury that the above referenced transaction is subject to withholding tax as set forth under West Virginia Code §11-21-71b.

WITNESS the following signature.



Alfred Jayne  
Alfred Jayne

STATE OF NC  
COUNTY OF Runnells, to-wit:

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of February 2012, by Alfred Jayne, the Grantor named herein.

Julie Aldridge  
Notary Public

My commission expires: June 11, 2013

MICHAEL BEAN  
8668 SHEPHERDSTOWN PL  
SHEPHERDSTOWN, WV 25443-4571

Jennifer S. Maghan  
JEFFERSON County 12:31:30 PM  
Instrument No 2012004016  
Date Recorded 02/13/2012  
Document Type DEED  
Pages Recorded 2  
Book-Page 1104-261  
Recording Fee \$11.00  
Transfer Tax \$1,100.00  
HB4371 Tax \$550.00  
Additional \$25.00

THIS INSTRUMENT WAS PREPARED BY:  
David D. Pill, Esq.  
PILL & PILL, PLLC  
85 Aikens Center  
P. O. Box 440  
Martinsburg, WV 25402-0440

AFTER RECORDING RETURN TO:  
Mr. Michael P. Bean  
X 8668 SHEPHERDSTOWN PIKE  
X SHEPHERDSTOWN, WV 25443  
deb/62753 Jayne to Bean Deed

→ Michael P. Bean

W.V. SECONDARY RTE  
40'-R/W

N04°24'05"E 76.50'

32 P.332  
32 P.333

Ownership  
UNKNOWN  
Probably States  
of West Virginia

MILL STREET

50'-R/W See Note 1.

N02°12'51"E 317.87'

S17°50'43"W  
5.25'

MAGNETIC NORTH

APARTMENT  
145#

N80°19'38"W  
89.78'

RESIDUE  
0.168 Acres  
P.O. D & M B B P 108 & 109  
SCHLACK, Richard & Marie  
DB 226 P 5214 DB 460 P 95497

N07°44'14"E  
54.07'

N83°03'28"W 113.75'

D & M B B P 110  
HILLS  
DB 295 P 198

N83°03'28"E 200.00'

SHEPHERDSTOWN CORPORATION  
SHEPHERDSTOWN DISTRICT

FIRST OUTSALE  
0.702 Acres  
D & M B B P 108 & 109  
SCHLACK, Richard & Marie  
DB 226 P 5214

Shepherdstown  
"Village Manager"  
DB 226 P 5214

11'-ALLEY

N83°03'28"W 231.85'



1.87Ac Cal.

CORPORATION DISTRICT

SHEPHERDSTOWN  
SHEPHERDSTOWN

SHEP  
SHE

EXHIBIT C

PETER H. LORENZEN P.S.  
PROFESSIONAL SURVEYOR  
P.O. BOX 316  
SUMMIT POINT  
W.V. 25446

(304) 728-6093

MEETS AND BOUNDS DESCRIPTION:  
MICHAEL P. BEAN PROPERTY  
DEED BOOK 1104 PAGE 281  
TAX MAP 8B PARCELS 108 AND 109  
SHEPHERDSTOWN DISTRICT  
JEFFERSON COUNTY WV.

**PERIMETER BOUNDARY OF TAX MAP 8B PARCELS 108 AND 109**

BEGINNING AT A SET RAILROAD SPIKE IN THE EASTERN RIGHT OF WAY OF ST. RT. #  
230 AT IT'S INTERSECTION WITH THE NORTH TERMINATION OF AN 11' ALLEY, THENCE  
WITH SAID RIGHT OF WAY THE FOLLOWING COURSES:

N 04-24'-05" E 76.50' TO A POINT, THENCE

N 62-12'-51" E 63.00' TO A FOUND REBAR, IN THE LINE OF MILL STREET, THENCE

S 17-50'-43" W 5.25' TO A FENCE POST. THENCE

S 83-03'-28" E 306.00' TO A FENCE POST, THENCE

S 12-43'-26" W 110.00' TO A FOUND REBAR, THENCE

N 83-03'-28" W 345.60' TO THE POINT OF BEGINNING,

CONTAINING AN AREA OF 7342 SQUARE FEET ON PARCEL 109, AND 30,559 SQUARE  
FEET ON PARCEL 108, FOR A COMBINED AREA OF 37,901 SQUARE FEET OR 0.87  
ACRES .

DATED AT JEFFERSON COUNTY THIS 3 RD DAY OF SEPTEMBER 2013

PETER H. LORENZEN P.S

