



MEMORANDUM

Date: Tuesday, April 19, 2016
To: Board of Zoning Appeals
RE: **V16-09 / Strader / 633 Madison Avenue**

The Morgantown Board of Zoning Appeals granted variance relief from the rear setback standards for 633 Madison Avenue, at the March 16, 2016 meeting. A fifteen (15) foot rear setback variance from Article 1335.04, allows the applicant to construct an addition to the primary single-family dwelling located on the property. The addition is thirty (30) feet by twenty-four (24) feet, and is proposed to be to the south of the property, or to the left of the single-family dwelling when viewing from Madison Avenue. The variance allowed the addition to be located five (5) feet from a neighboring property line, addressed as 427 Mildred Street.

The Application for Variance Petition requests that the applicant provide reasoning for the Board of Zoning Appeals to grant a variance. Variance from Article 1335.04 is only to be granted based on four (4) Findings of Fact. The Following Findings of Fact were included into the motion that approved the rear yard setback variance for 633 Madison Avenue:

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The garage addition does not change traffic turning area in the vicinity. The addition and driveway will not block the neighbors' driveways, and will allow safer travel to Mildred Avenue. The Addition will have 20' x 20' parking, plus off-street parking. Addition is on level ground, so line of sight is not impaired by the construction of this addition. The home's siding and windows will be upgraded creating a better visual appearance to properties near us, increasing property values.

Finding of Fact No. 2 – The variance 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, because:

The present driveway entrance on Madison Avenue is dangerous. The addition and new driveway is the safest location for onsite parking.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The addition and driveway will allow safer access to and from the property. The addition will not decrease property values and will not impact the views of near-by properties.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Off-Street parking in the R-1A zoning district is at a premium. Newly created off-street parking will enable better use of the property in keeping with the R-1A zoning district.



MEMORANDUM

In recently submitted project materials, the applicant decided to maintain the driveway entrance on Madison Avenue to preserve closer access to the house's current front door. Because elements of the Board's approved Findings of Fact were based on the relocation of the driveway entrance from Madison Avenue to Mildred Street, Staff advised the petitioner the Board must modify its Findings of Fact accordingly for variance relief to remain in effect.

Attached hereto are the petitioner's modified Findings of Fact, in the form of a new application (see note #1). A revised site plan showing the changed driveway access to the addition is attached to this memorandum, with an additional image created by Staff.

Staff recommends the Board reconsider its motion concerning the findings of fact as follows (deleted matter struck through; new matter underlined).

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The garage addition does not change traffic turning area in the vicinity. The addition and driveway will not block the neighbors' driveways, ~~and will allow safer travel to Mildred Avenue.~~ The Addition will have 20' x 20' parking, plus off-street parking. Addition is on level ground, so line of sight is not impaired by the construction of this addition. The home's siding and windows will be upgraded creating a better visual appearance to properties near us, increasing property values.

Finding of Fact No. 2 – The variance 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, because:

~~The present driveway entrance on Madison Avenue is dangerous. The addition and new driveway is the safest location for onsite parking. The narrow portion of the parcel is along Mildred Street, which would normally serve as the property's frontage in determining building envelope orientation under current Planning and Zoning Code provision. However, the house was constructed several decades ago facing Madison Avenue resulting in a building envelope orientation that generates a rear setback encroachment by the proposed addition. Specifically, if the house was constructed orienting toward Mildred Street, the proposed five-foot setback of the addition would be in compliance with the minimum side setback standard in the R-1A District.~~

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

~~The addition and driveway will allow safer access to and from the property. The proposed addition appears to resemble similar attached garage development patterns within the immediate neighborhood and single-family neighborhoods in the City.~~ The addition will not decrease property values and will not impact the views of near-by properties.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Off-Street parking in the R-1A zoning district is at a premium. Newly created off-street parking will enable better use of the property in keeping with the R-1A zoning district.



Planning Department
389 Spruce Street
Morgantown, WV 26505
304.284.7431

MEMORANDUM

Assuming the Board agrees to revise its Findings of Fact, Staff recommends the Board reconsider its motion granting approval of the requested variance relief based on its revised findings of fact.

This recommendation is provided as the basis of the original Findings of Fact permitting the physical improvement have not changed. The change in driveway entrance provides different automobile access to the site, potentially improving overall access conditions. The addition to the single-family dwelling will still be five (5) feet from 427 Mildred Street's property line, the item of the original application that required a variance from the Planning and Zoning Code.

Note #1: Mr. Strader provided an Application for Variance Petition to the Development Services Department on March 30, 2016. Staff reviewed procedure to modify V16-09. The application, bares Case No. V16-13, but was determined to be supplemental to the original variance application. Please disregard the Office Use section of this attachment.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

| OFFICE USE | |
|------------|---------|
| CASE NO. | Vile-13 |
| RECEIVED: | |

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

| | | | | |
|---------------------|--------|---------------------|---------------------------------|-----------------|
| I. APPLICANT | | Name: | Bonnie Strader <i>per Steve</i> | STRADE 290 5231 |
| Mailing Address: | Street | 1033 Madison Ave | Phone: | 282 8211 |
| | City | Morgantown WV 26505 | Mobile: | |
| | State | | Zip | |
| | | Email: | | |

| | | | | |
|---------------------|--------|-----------------|---------|-------------|
| II. PROPERTY | | Street Address: | SAMS | |
| Owner: | | | Zoning: | |
| Mailing Address: | Street | | | Tax Map No: |
| | City | State | Zip | Parcel No: |
| | | | Phone: | |

III. NARRATIVE Please describe the nature and extent of your variance request(s).

Chg driveway location, i.e. garage addition *OUTWARDLY* from street. Not chg GAR. LOCATION - JUST GAR DOOR. WE ASK Zoning Board to let us move it from Madison Ave to Mildred, you did. AFTER further consideration, we would like to move the gar door, w/ driveway back to Madison side of gar.

| | | |
|--|------------------------------|------------------|
| V. ATTEST | | |
| I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal. | | |
| <i>Steve Strader</i> | <i>STEVE STRADER</i> | <i>Mar 30/16</i> |
| Type/Print Name of Applicant/Agent | Signature of Applicant/Agent | Date |

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.

V16-13



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

| OFFICE USE | |
|------------|--|
| CASE NO. | |
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VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. *Staff will check the appropriate boxes below that must be addressed.*

Land Use Characteristics (complete only those that apply)

- Residential Single-Family Dwelling Townhouse Dwelling
 Two-Family Dwelling Multi-Family Dwelling
- Non-Residential or Mixed *(please explain)*

Structure Characteristics (complete only those that apply)

Total number of buildings: _____ Gross floor area of each building: _____
Estimated number of employees: _____ No. of dwelling units: _____ No. of bedrooms: _____
Additional structure-related details: _____

Additional Information (as required by Staff):

Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required



APPLICATION FOR VARIANCE PETITION

| OFFICE USE | |
|------------|---------|
| CASE NO. | V118-13 |
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VII. FINDINGS OF FACT

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

WE WANT TO RELOCATE DRIVEWAY FOR THE ATTACHED GARAGE TO THE FRONT OF HOME. ADJACENT TO THE ORIGINAL ONE WHICH HAS BEEN THERE FOR 60 YRS? WHICH DOES NOT INTERFERE W/ THE ABOVE CONDITIONS, AS THE OLD ONE DID NOT IT WILL NOT CAUSE ANY PARKING PROBLEMS - OR ANY OTHER HINDERANCES.

2. The variance 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, because:

WE NEED CLOSER ACCESS TO FRONT DOOR ON MADISON AVE, AS OPPOSED TO THE MILDRED GAR. DOOR LOCATION.

V16-13



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VII. FINDINGS OF FACT

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The gap door entrance & driveway, will now be closed to the homes Ft. door.

4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The driveway will now allow a little more visibility



