



# MORGANTOWN BOARD OF ZONING APPEALS

July 25, 2012  
6:30 PM  
City Council Chambers

## **Board Members:**

Bernie Bossio, Chair  
Leanne Cardoso, Vice-Chair  
George Papandreas  
Jim Shaffer  
Tom Shamberger

## **STAFF REPORT**

**CASE NO:** V12-21 / Gallagher / 310 Ford Street

### **REQUEST and LOCATION:**

Request by Arthur Gallagher for variance relief from Article 1331.04 as it relates to accessory structures and uses in residential districts at 310 Ford Street.

### **TAX MAP NUMBER(s) and ZONING DESCRIPTION:**

Tax Map 37, Parcels 80, 81, and 82; R-1A, Single-Family Residential District

### **SURROUNDING ZONING:**

R-1A, Single-Family Residential District

### **BACKGROUND and ANALYSIS:**

The petitioner placed a detached 10'x16' accessory garden shed structure within the front yard of a corner lot. Addendum A of this report illustrates the location of the subject.

Because the petitioner had purchased the structure and scheduled delivery prior to the Board's hearing, Staff advised the petitioner through the building permit process that the structure could be set and remain provided variance relief was granted by the Board. However, should variance relief be denied by the Board, the subject accessory structure would have to be relocated in compliance with the Planning and Zoning Code.

Article 1331.08 "Accessory Structures and Uses in Residential Districts" provides the following related provisions:

- (2) Accessory Structures, if detached from a principal structure, shall not be placed in the front yard. If placed in a side yard, accessory structures shall not be located closer to the street than the required front setback of the principal structure.
- (4) On corner lots, accessory structures shall not be located between any portion of the principal structure and either street.

The location of the shed is on a tract of land under single-ownership that is surrounded by three public streets: Ford Street, Goodwin Street, and Dorsey Avenue. The existing single-family structure faces Dorsey Avenue but is addressed to Ford Street.

Variance relief is therefore required from paragraphs Article 1331.08(2) and Article 1331.08(4) for the shed to remain.

### **STAFF RECOMMENDATION:**

The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the petitioner.

## **Development Services**

Christopher Fletcher, AICP  
Director

## **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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Addendum B of this report provides Staff recommended revisions to the petitioner's findings of fact (deleted matter struck through; new matter underlined). Staff recommends approval of Variance Petition V12-21 as requested with the following condition:

1. That the petitioner shall fulfill one of the following actions no later than three (3) months from the variance relief granted herein so that the principal structure and the subject accessory structure are located on the same parcel as required by Article 1363.04(A) of the Planning and Zoning Code:
  - a. A minor subdivision petition must be approved by the Planning Commission to combine Parcels 80, 81, and 82 of Tax Map 37.

OR

- b. The notation provided in Article 1363.02(B)(3) of the Planning and Zoning Code be placed on the recorded deed(s) to each of the three (3) affected parcels; specifically, Parcels 80, 81, and 82 of Tax Map 37.

Enclosures: Application and accompanying exhibits

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**STAFF REPORT ADDENDUM A**  
**V12-21 / Gallagher / 310 Ford Street**



## STAFF REPORT ADDENDUM B

### V12-21 / Gallagher / 310 Ford Street

Staff recommended revisions to petitioner's Findings of Fact (deleted matter struck through; new matter underlined)

**Finding of Fact #1** – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

~~Our~~ The petitioner's home appears to have been constructed some ~~was built almost~~ 50 years before any of the surrounding structures and is oriented differently than all adjacent homes. The house sits on the northwest corner of an approximate ½ acre, heavily wooded lot. It is bordered on three of its four sides by city streets. Although the lot appears to be is substantially larger than most in the area, the street frontage and house orientation appear to restrict the location of the ~~leave no room for our~~ proposed shed without obtaining ~~being granted a variance~~ relief.

**Finding of Fact #2** – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

The location and orientation of the principal structure ~~our home~~ relative to the ~~our~~ lot and surrounding public streets does not appear to ~~will not~~ allow the addition of a garden shed without receiving a variance. Several neighboring homes of lesser lot size appear to utilize garden sheds on their property. ~~A few have required a variance, and have been approved.~~

**Finding of Fact #3** – The granting of this variance not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

The pre-made Amish garden shed ~~has been~~ was required to be built and ~~will be~~ installed in accordance with all applicable building codes as required by the City of Morgantown. It should therefore ~~is not believed to~~ pose ~~any~~ harm to neighboring property or improvements.

**Finding of Fact #4** – The granting of this variance not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

According to the petitioner, ~~the~~ intended use of the garden shed is to store tools and gardening supplies ~~necessary for the upkeep of our property~~. Such sheds appear to be are common within the ~~our~~ neighborhood. The shed appears to ~~will~~ exceed the minimum setback requirements for the area and appears ~~will be~~ barely visible from the street. The architectural style and color of the shed appears to ~~will~~ match that of existing principal structure ~~our home~~.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V12-21
RECEIVED:	5/31/12
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

<b>I. APPLICANT</b>		Name: Arthur F Gallagher	
Mailing Address:	310 Ford Street		Phone:
	Street	Morgantown WV 26501	Mobile: (304) 376-1869
	City	State Zip	Email: art.gallagher@comcast.net
<b>II. PROPERTY</b>		Street Address: 310 Ford Street	
Owner:	Arthur F Gallagher		Zoning: R1a
Mailing Address:	310 Ford Street		Tax Map No: 37
	Street	Morgantown WV 26501	Parcel No: 81
	City	State Zip	Phone: (304) 376-1869
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>-I am requesting a variance to place a garden shed on my property. Although our lot is over 1/2 acre in size, the home is situated on the north/west corner of the parcel, leaving no room for an outbuilding on the rear, or Goodwin Street sides. The property is also bordered on three of its four sides by roads (Ford Street, Goodwin Street and Dorsey Avenue)</p> <p>-Our home originally sat on a 10 acre parcel and was one of the first built on the south side of deckers creek (c. 1863-1868.) Around the turn of the last century, the home was owned by a Mr. McGraw. He parceled out 9.5 of those 10 acres and created the neighborhood we now know as the McGraw Addition. The front of our home actually faces Dorsey Avenue, while all surrounding homes are oriented parallel to High Street.</p> <p>-Due to the large size of our lot, and the unique position of our home on that lot, which excludes locating the proposed structure on two of the four sides, I respectfully request a variance for a garden shed.</p>			
<b>V. ATTEST</b>			
<p>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 Planning 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.</p>			
Arthur F Gallagher			05/28/2012
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.



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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: 1      Gross floor area of each building: \_\_\_\_\_

Estimated number of employees: N/A      No. of dwelling units: N/A      No. of bedrooms: N/A

Additional structure-related details:  
10' x 16' STORAGE SHED

**Additional Information** (as required by Staff):

N/A

**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

For simple variance requests (as determined by Staff), please use the graph area on the following page to illustrate applicable features listed above.



City of Morgantown, West Virginia

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Suggested Scale: 1 square = 5'

SEE ATTACHMENT  
COMPT



**310 Ford Street**

Proposed Garden Shed Location

- ▣ Property Line
- ▣ Existing Structures
- ▣ Proposed Shed

V12-21



**APPLICATION FOR  
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COMPLETE:	

**VII. FINDINGS OF FACT**

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. There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:**

Our home was built almost 50 years before any of the surrounding structures and is oriented differently than all adjacent homes. The house sits on the northwest corner of a 1/2 acre, heavily wooded lot. It is bordered on three of its four sides by city streets.

Although the lot is substantially larger than most in the area, the street frontage and house orientation leave no room for our proposed shed without being granted a variance.

**2. The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:**

The orientation of our home relative to our lot will not allow the addition of a garden shed without receiving a variance.

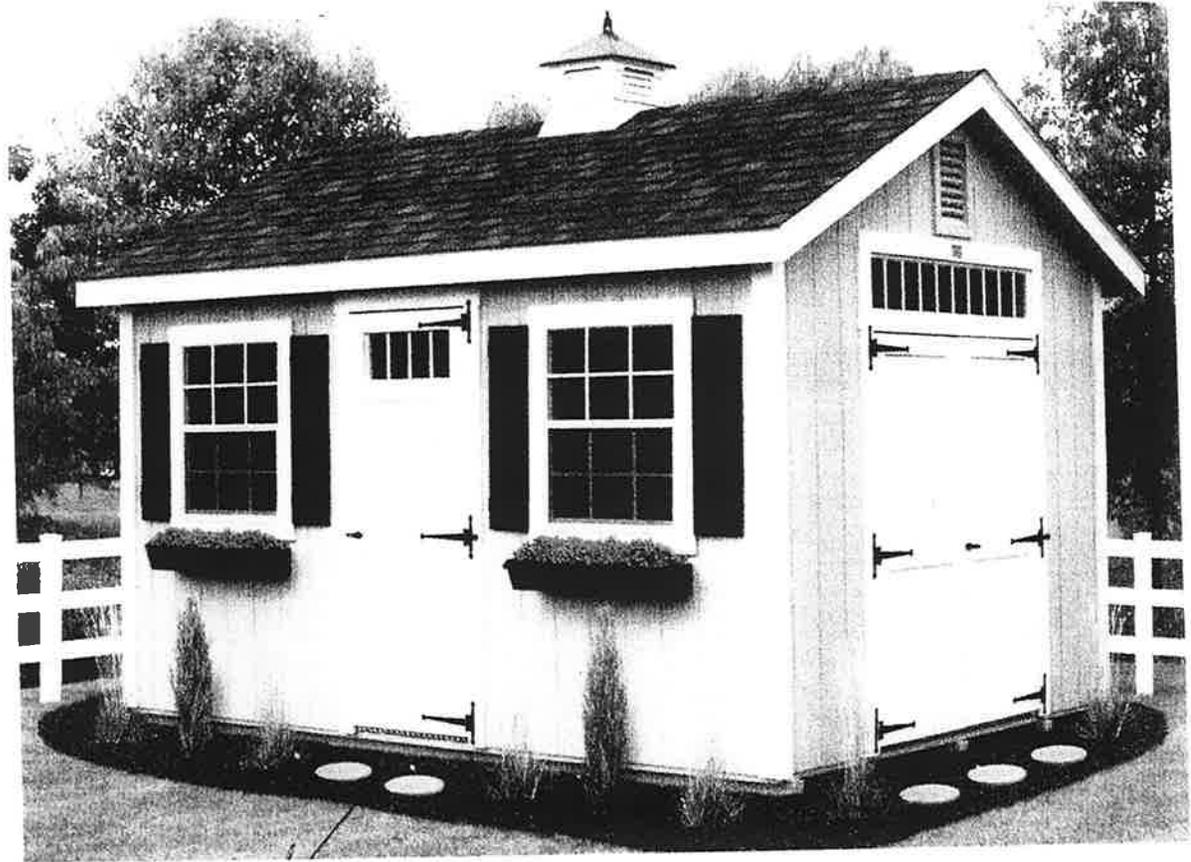
Several neighboring homes of lesser lot size utilize garden sheds on their property. A few have required a variance, and have been approved.

**3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:**

The pre-made Amish garden shed has been built and will be installed in accordance with all applicable building codes as required by the City of Morgantown. It is not believed to pose any harm to neighboring property or improvements.

**4. The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:**

The intended use of the garden shed is to store tools and gardening supplies necessary for the upkeep of our property. Such sheds are common in our neighborhood. The shed will exceed the minimum setback requirements for the area and will be barely visible from the street. The architectural style and color of the shed will match that of our home.



New England Classic Specs: For 310 Ford Street, Morgantown WV

- 10'x16'
- 88 1/2 " wall height
- 9' 10" peak
- 7" overhang
- 2x4 construction 16" on center
- asphalt shingles

Building will be placed on a 12' x 18' x 8" gravel pad and secured using Arrow brand storage building anchor kit.