



MORGANTOWN BOARD OF ZONING APPEALS

August 15, 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: V12-26 / Kleinschmidt / 526 Valley Road

REQUEST and LOCATION:

Request by Robert F. Kleinschmidt for variance relief from Article 1333.04 as it relates to a rear setback at 526 Valley Road.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 53, Parcel 203; R-1, Single Family Residential District

SURROUNDING ZONING:

R-1, Single Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to reconstruct an existing 240 square foot sunroom at the rear portion of his property, which is approximately fifteen feet from the rear property line. Addendum A illustrates the location of the subject.

Article 1333.04(4) provides that the rear setback standard for principal structures in the R-1 District is 25 feet. The petitioner seeks to reconstruct the sunroom using the existing concrete slab and footprint and will thereby not increase the existing rear setback encroachment. However, variance relief is necessary.

It should be noted that the protections afforded legal, pre-existing, nonconforming structures provided in Article 1373.02 do not apply in this case as the subject sunroom has not suffered damage by fire, flood, explosion, or other casualty. Specifically, the subject sunroom could be repaired without variance relief. However, the petitioner maintains that repairing the existing addition as desired would exceed the cost of reconstructing the 240 square foot sunroom addition and would not fully achieve desired quality of construction.

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.

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 V12-26 as requested with the following condition:

1. That the reconstruction of the subject sunroom may not increase the extent of the existing nonconforming rear setback by extending any closer to the rear property line than the present sunroom addition.

Enclosures: Application and accompanying exhibits

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V12-26 / Kleinschmidt / 526 Valley Road



STAFF REPORT ADDENDUM B

V12-26 / Kleinschmidt / 526 Valley Road

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:

The structure in question is an existing addition to the main structure. ~~It has~~ The sunroom addition appears to have been in place for at least 20 years and, according to the petitioner, requires renovation due to ~~the original/ poor standards~~ its present state of disrepair.

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:

~~Please note attached photographs. The land to the southwest is open, primarily due to the adjacent stream, Burroughs Run. However, the northeastern direction is crowded with sheds and fences some appear to violate setback requirements. The petitioner's single-family dwelling appears to have been constructed further from Valley Road than other adjacent structures due to the adjoining stream and its angle thereby limiting the opportunity of constructing a rear addition without encroaching into the rear setback standard; the opportunity of which appears to be enjoyed by neighboring property owners.~~

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:

Zoning and use will not change. This is a single family dwelling in what appears to be a quiet residential neighborhood. The existing sunroom appears to have been in place without harm for at least 20 years.

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:

The sunroom addition structure is already an existing amenity, which does not appear to have diminished the market value of adjacent properties and reclassification of zoning is not requested. The nature of the variance should not have the effect of contributing to nor mitigating existing traffic patterns within the immediate area.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V12-26
RECEIVED:	7/5/12
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

1052

I. APPLICANT		Name:	Robert F Kleinsehmidt		
Mailing Address:	Street	526 Valley Road		Phone:	
	City	Morgantown WV	26505	Mobile:	304 692 0013
	State		Zip	Email:	rfkii@comcast.net
II. PROPERTY		Street Address:			
Owner:	<same as Applicant>			Zoning:	R-1
Mailing Address:	Street	<same>		Tax Map No:	53
	City		State	Parcel No:	203
	State		Zip	Phone:	

III. NARRATIVE	Please describe the nature and extent of your variance request(s).
<p><see attached letter to Morgantown Director of Development Services></p>	

V. ATTEST			
<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>			
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	PAID	Date
Robert F Kleinsehmidt		75.00	7/05/2012
			14:27:36
			201211539
			SITE PLAN

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.

Finance Office
Morgantown, WV 26505
(304) 284-7408



APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V12-26
RECEIVED:	07/05/12
COMPLETE:	

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: One Gross floor area of each building: addition: 240 ft²
- Estimated number of employees: 0 No. of dwelling units: _____ No. of bedrooms: _____
- Additional structure-related details: would like to demolish old, poorly constructed addition and reconstruct to same dimensions

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.



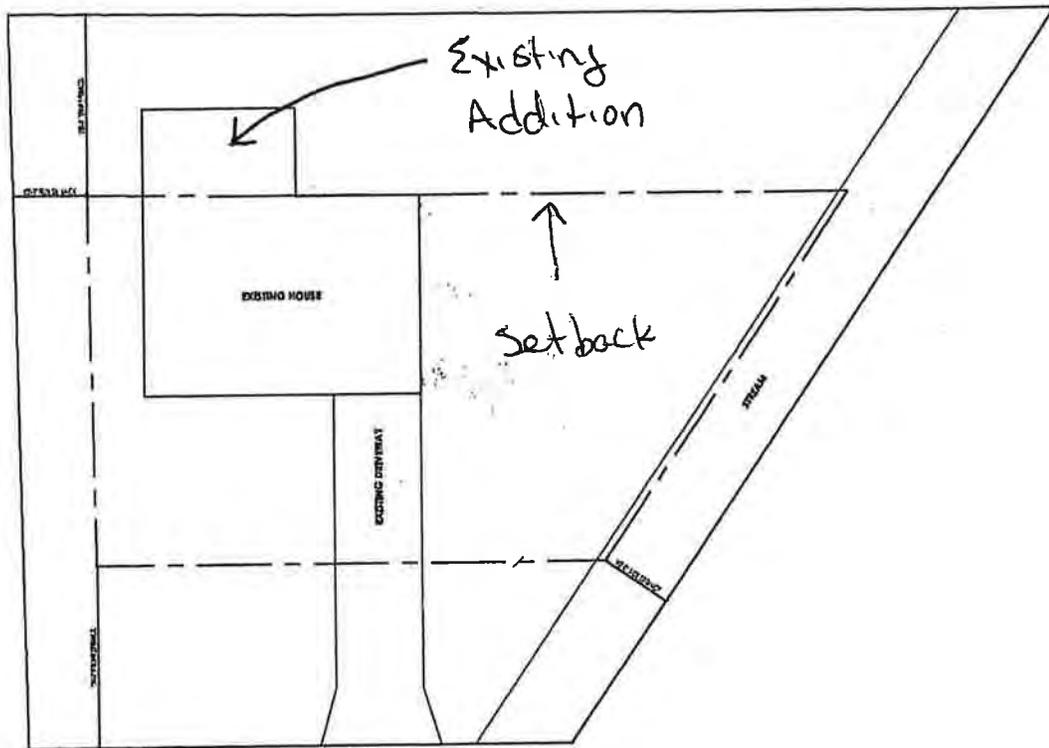
City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE

CASE NO. V12-26
RECEIVED: 07/05/12
COMPLETE: _____

Suggested Scale: 1 square = 5'



 **SITE PLAN**
SCALE 1/8" = 1'-0"

1" = 25'



**APPLICATION FOR
ZONING VARIANCE**

OFFICE USE

CASE NO. V12-26
RECEIVED: 07/05/12
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:** The structure in question is an existing addition to the main structure. It has been in place for at least 20 years and requires renovation due to the original poor standards
- 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:** Please note attached photographs. The land to the southwest is open, primarily due to the adjacent stream, Burroughs Run. However, the northeastern direction is crowded with sheds and fences - some appear to violate setback requirements
- 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:** Zoning and use will not change. This is a single family dwelling in a quiet residential neighborhood.
- 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:** structure is already existing and reclassification of zoning is not requested.

SUBJECT PROPERTY:



The Property (526 Valley Road) is Well Maintained

ADJACENT PROPERTIES:



View Looking Southwest across Burroughs Run



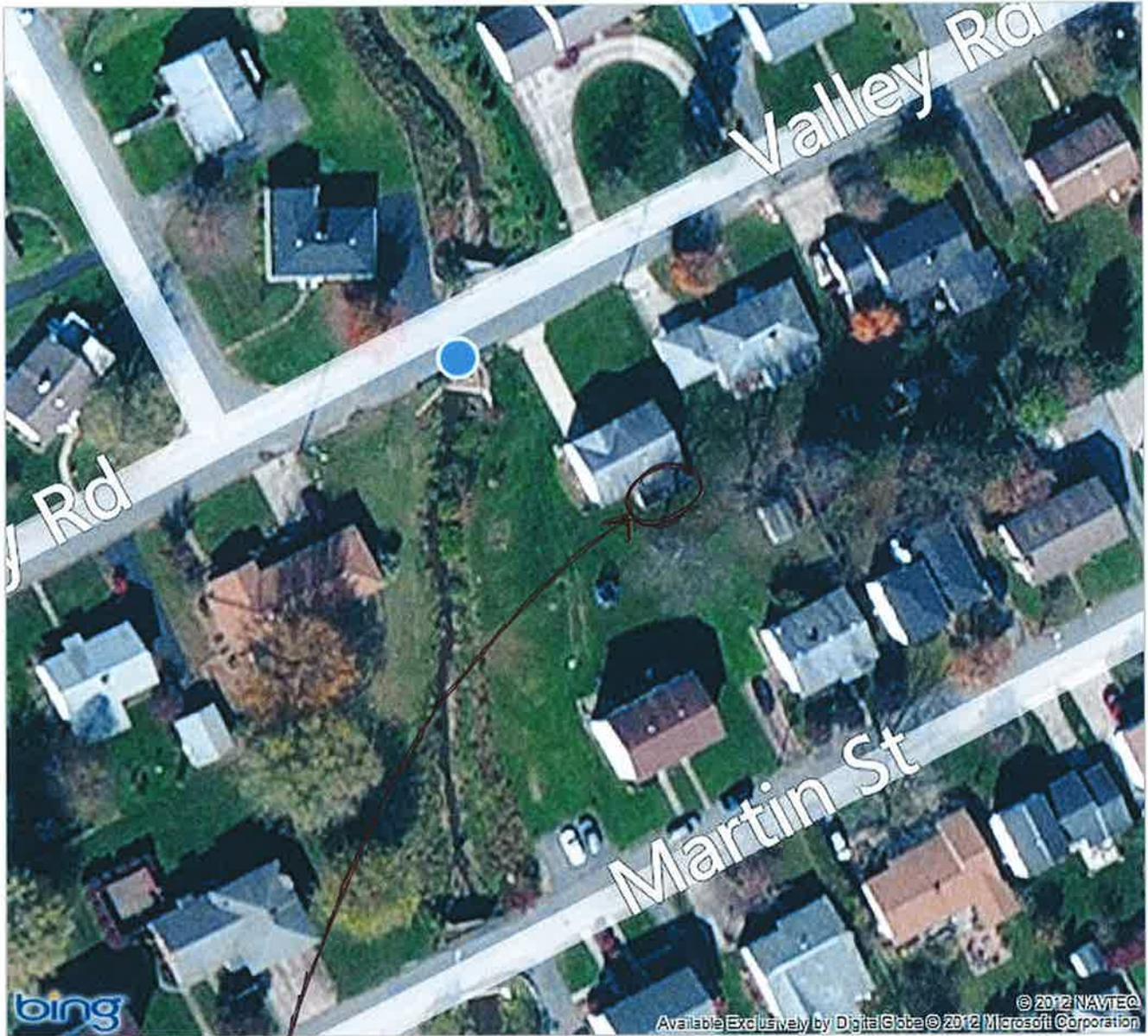
View Looking Northeast along Rear Prop. Boundary



View Looking South at 527 Martin Street



View Looking South at 521/525 Martin Street



Existing
Addition

Robert F. Kleinschmidt
526 Valley Road
Morgantown, WV 26505
(304) 692-0013
rfkii@comcast.net

July 2, 2012

Mr. Christopher M. Fletcher, AICP
Director of Development Services
City of Morgantown
389 Spruce Street
Morgantown, WV 26505

Re: **Zoning Variance**
526 Valley Road
Morgantown, WV

Dear Mr. Fletcher:

This correspondence serves as a formal request to obtain a zoning variance from the City of Morgantown concerning the construction setback on the rear portion of my property. I purchased 526 Valley Road in Suncrest in 2007, and have lived there since. A sunroom was added on to the rear portion of house sometime before I purchased the property. Conversations with neighbors have indicated that the room was constructed at least 20 years ago.



Exterior View of Sunroom

I would like to reconstruct the sunroom because the windows are outdated and lack energy efficiency - it is cold in the winter and hot in the summer although HVAC supply air is present in

the room. In addition, the roof is dilapidated to the point where water is present in the left exterior electrical outlet. The wind storm this past Friday evening (June 29th) further indicated the state of disrepair - note the right side of the truss is completely rotted in the picture below.



Storm Damage

My wife and I enjoy morning coffee in the room and our grandchildren use it as a playroom. We do not want to lose this 240 square feet of living space in our home.



Interior View of Sunroom

However, the addition violates the 25-foot setback rule as the rear wall of the structure is approximately 15 feet from the rear property boundary.



Red Line Indicates Rear Property Boundary
(Approximately 15' from Rear Wall of Sunroom)

I would like to demolish the existing addition down to the concrete slab and reconstruct the room to the same dimensions installing modern double-pane picture windows and insulating the walls and ceiling, thereby adding value to the structure. I recently attempted to get demolition and construction permits from the City, but was told that permits could not be issued without a variance from the Zoning Board.

Therefore, I would like this appeal to be placed on the August 15, 2012 docket for the Zoning Board meeting and have enclosed a check for \$75.00 as required. If you have any questions or comments concerning this correspondence, please contact me at (304) 692-0013 or rfkii@comcast.net.

Respectfully submitted,

Robert F. Kleinschmidt
Home Owner