



MORGANTOWN BOARD OF ZONING APPEALS

February 20, 2013
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: V13-02 / Jones / 309-317 Grant Avenue

REQUEST and LOCATION:

Request by Dow Jones for variance relief from Article 1365.09(C) as it relates to the surfacing and drainage of an off-street parking area at 309, 311, and 317 Grant Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 20, Parcels 26, 27, and 28; R-3, Multi-Family Residential District

SURROUNDING ZONING:

R-3, Multi-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to develop off-street parking crossing three properties to serve the eight (8) registered rental units situated thereon. Addendum A of this report illustrates the location of the subject site.

The Planning and Zoning Code provides that all off-street parking areas for four or more automobiles shall be developed in accordance with the dimension, layout, design, surfacing, and drainage standards set forth in Article 1365.09 (except one- and two-family dwellings, agricultural, and rural uses).

Article 1369.09(C)(1) "Surface and Drainage" provides the following:

"All open off-street parking areas shall be surfaced with an all-weather, dust-free concrete or asphalt material, and shall be maintained in good condition and free of weeds, dirt, trash and debris; except that, a gravel surface may be used for a period not exceeding six months after the date of granting the Certificate of Occupancy where ground conditions are not immediately suitable for permanent surfacing as specified above."

The petitioner seeks variance relief from the paving-related requirements so that gravel parking may be developed instead, which requires variance approval by the Board of Zoning Appeals.

The alley from which the proposed gravel parking spaces will be accessed from is currently gravel and not improved with asphalt or concrete paving. Staff confirmed with the City Engineer that the paving of the subject alley is not currently included in the City's capital improvement program.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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STAFF RECOMMENDATION:

The Board 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 V13-02 as requested with the following conditions:

1. No later than (60) days following the variance relief granted herein, the petitioner shall:
 - a. Cause to be prepared, to the satisfaction of the Planning Division, and execute a declaration of zoning compliance agreement obligating the owner or owners of the three (3) subject parcels to surface the subject gravel parking area with an all-weather, dust-free concrete or asphalt material to the satisfaction of the City Engineer no less than 180 days following the paving of the alley from which the subject parking area is accessed from;
 - b. Said agreement and obligation shall be recorded at the Monongalia County Courthouse and run with the deeds of record for each of the three (3) subject parcels; and,
 - c. The petitioner shall submit to the Planning Division a certified copy of the recorded agreement.
2. In the event the condition No. 1 above is not fulfilled, the variance relief granted herein shall become null and void without prior notification and the petitioner and/or owner or owners of the subject realty shall within 180 days following the date of the Board's decision herein comply with all related parking development standards set forth in Article 1363 of the City's Planning and Zoning Code. Failure to comply with all related parking development standards within said period shall result in the initiation of enforcement action under Article 1393 of the City's Planning and Zoning Code.

Enclosures: Application and accompanying exhibits

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STAFF REPORT ADDENDUM A
V13-02 / Dow Jones / 311 Grant Avenue



STAFF REPORT ADDENDUM B

V13-02 / Dow Jones / 311 Grant Avenue

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:

~~There are no extraordinary circumstances.~~ The alley from which the proposed parking area will be accessed from is currently gravel and not improved with asphalt or concrete.

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:

~~I am keeping the lot consistent with the other surrounding parking areas.~~ It appears that the majority of the parking areas containing four or more parking spaces within the immediate area and the Sunnyside Neighborhood are currently gravel; particularly the large parking lot serving the McLane Manor development opposite the alley from the petitioner's subject site.

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 gravel parking is what is most common for parking areas in sunnyside.~~ The petitioner's plan to gravel the proposed parking area should not adversely impact nor damage the gravel alley from which the parking area will be accessed from and reasonable conditions can be included in the granting of the variance to ensure that the subject gravel parking area is paved as otherwise required in the event the alley is improved with asphalt or concrete surfacing.

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 gravel parking is what is most common for parking areas in Sunnyside.~~ The availability of on-site parking within the Sunnyside Neighborhood appears to be a contributing factor to existing on-street parking congestion trends. The petitioner's efforts to create new off-street parking supply while recognizing the fact that the alley from which the proposed parking area will be accessed from is currently gravel and not surfaced in asphalt or concrete. The existing land use will remain the same but perhaps improved by virtue of creating on-site parking where none currently exists. The nature of this variance relief request cannot contribute to nor mitigate traffic congestion that may exist on neighboring roadways; however it should serve to aid, in some measure, in relieving on-street parking congestion.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.:	V13-02
RECEIVED:	1/11/2013
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name: Dow Jones	
Mailing Address:	98 Quay St		Phone: 692-8879
	Street	Morgantown WV 26505	Mobile:
	City	State Zip	Email: Jones30@mix.wvu.edu
II. PROPERTY		Street Address: 311 Grant Ave	
Owner:	Dow Jones		Zoning: R-3
Mailing Address:			Tax Map No: 20
	Street		Parcel No:
	City	State Zip	Phone: 692-8879
III. NARRATIVE		Please describe the nature and extent of your variance request(s).	
<p>I replaced a retaining wall that failed with a new one that created parking. The alley and the current parking on each side are gravel. I'm seeking a variance request to be able to keep the new parking area gravel and not pave it.</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>			
Dow Jones		Dow Jones	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	
		Date: 1/10/13	

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: _____ 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

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

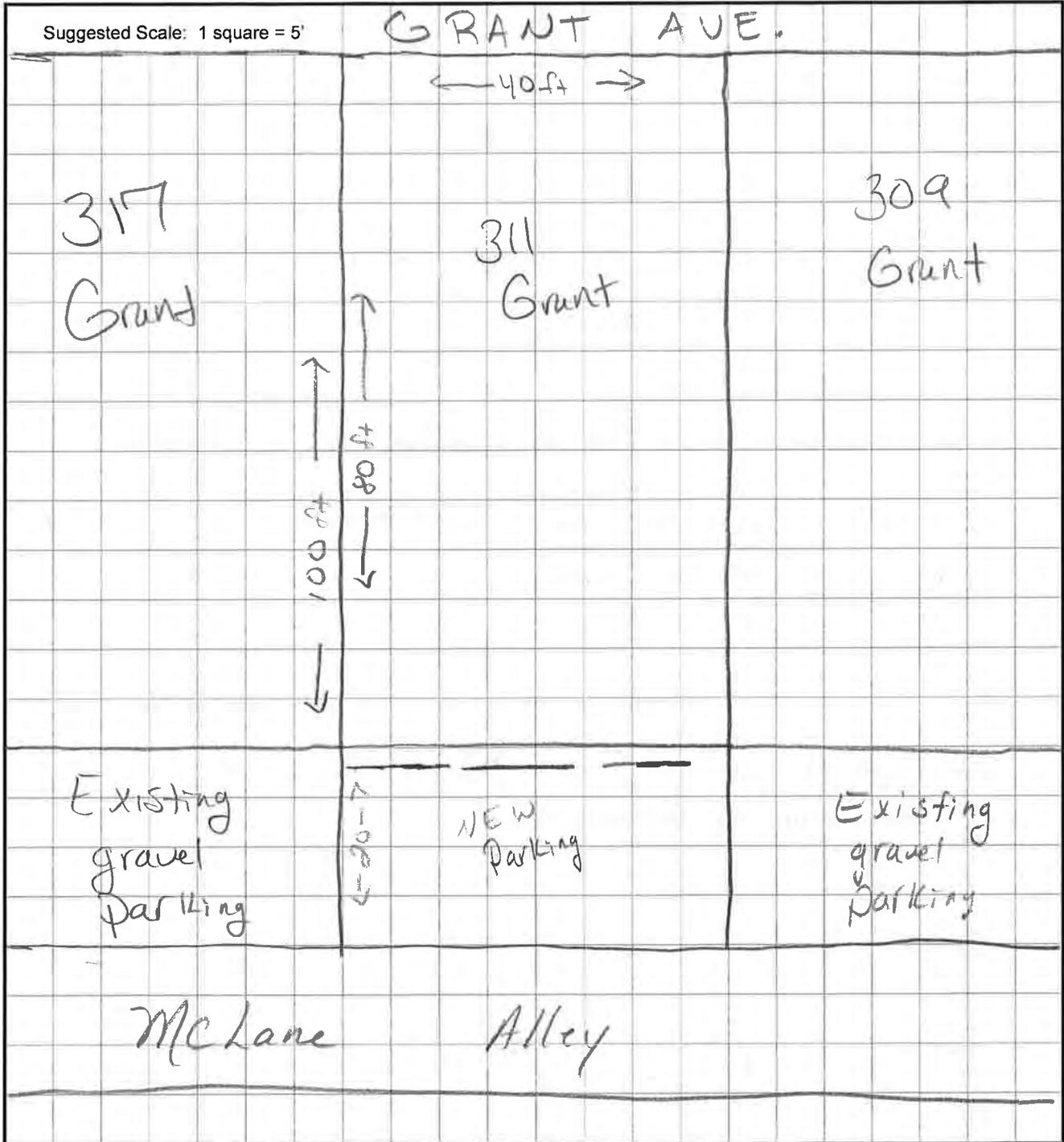


City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE

CASE NO. V13-02
RECEIVED: 1/11/2013
COMPLETE: _____





APPLICATION FOR ZONING VARIANCE

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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:

There are no ~~extraordinary~~ extraordinary circumstances.

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:

I am keeping the lot consistent with the other surrounding parking areas.

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 gravel parking is what is most common for parking areas in Sunnyside.

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 gravel parking is what is most common for parking areas in Sunnyside.

Zimbra

V13-02

shollar@cityofmorgantown.org

V13-02/Jones/309,311,317 Grant Avenue

From : Kelly Rental <kellyrental@comcast.net>

Wed, Feb 06, 2013 10:52 AM

Subject : V13-02/Jones/309,311,317 Grant Avenue**To :** shollar@cityofmorgantown.org

Dear Board Members:

Having received your notice regarding V13-02 relating to a parking area Dow Jones wants to build behind his properties at 309, 311, and 317 Grant Avenue, I would like to recommend approval of his request in that it has always been reasonable to assume an owner/developer should not have to pave a parking area whose access is via a gravel alleyway.

It is of great benefit to the property and the neighborhood that property owners make the effort to provide as much off street parking as possible. The application of gravel to large parking areas adjoining alleys is also better for storm water control. It is my opinion that Mr. Jones is doing the right thing in these circumstances and the variance should be approved.

David L. Kelly
Property Owner of 314 & 316 Grant Avenue

Kelly Rental Management, LLC
100A Seventh St.
Morgantown, WV 26505
www.kellyrentalwv.com
kellyrental@comcast.net
304.291.5100
