



**DEVELOPMENT  
SERVICES  
DEPARTMENT**

# The City of Morgantown

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May 3, 2013

John Callcott  
383 Rotary Street  
Morgantown, WV 26505

**RE: V13-05 / John Callcott / 383 Rotary Street  
Tax Map 7, Parcel 190**

Dear Mr. Callcott,

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced variance petition for variance relief from Article 1333.04 as it relates to setbacks at 383 Rotary Street.

The decision is as follows:

**Board of Zoning Appeals, May 2, 2013:**

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted a fourteen-foot (14') variance from the minimum rear setback standard for principal structures provided under Article 1333.04(4) with the following condition:
  - a. That the principal structure may be no closer to the rear property boundary than the existing detached accessory garage structure.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approval is set to expire in twelve (12) months unless you can demonstrate that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board. Please note that building permits must be obtained prior to the commencement of work for which variance relief was granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving your plans review and permitting needs.

Respectfully,

Stacy Hollar  
Executive Secretary  
[shollar@cityofmorgantown.org](mailto:shollar@cityofmorgantown.org)

## **ADDENDUM A – Approved Findings of Fact**

**V13-05 / John Callcott / 383 Rotary Street**

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**Finding of Fact No. 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:

383 Rotary Street and its neighbors on Rotary, have unusually deep setbacks for the neighborhood. 383 Rotary is set back 59 feet from the front lot line and 70 feet from the street. (See survey, attached as Exhibit D). The house next door on Rotary is approximately 50 feet from its lot line and approximately 61 feet from the road. 383 Rotary is on a corner, so it only has one neighbor on Rotary. (See Exhibit E, photograph).

Because of the application of Article 1363.02(C)(1) of the zoning code (stating that the front façade of one home must be within 8 feet of adjacent home(s)), the front set back for 383 Rotary is 42 feet from the front lot line. This is 17 feet more than the typical 25 foot front setback prescribed by Article 1333.04(A)(1). As a result, 383 Rotary loses 17 feet of buildable space, typically available and enjoyed by other homes complying with the standard 25 foot front set back rule.

In order to regain part of this lost building space usually available to other homes, the homeowner seeks a variance of 14 feet at the rear of the lot, to place the rear portion of the home in approximately the same location (as it pertains to the rear set back), as a current accessory structure, the two car garage. A diagram showing this possible design is attached as Exhibit B. Should the homeowner build in this manner, the homeowner anticipates positioning the rear portion of the structure 25 feet back from Cambridge, for aesthetic and other reasons. The homeowner is aware of at least one other instance where a home in a residential area with a corner lot was given the option of treating both sides of the lot facing streets as "fronts," thus making the two remaining sides of the lot "sides", subject to a 10 foot setback requirement. The variance request in this instance is consistent with this prior exception.

**Finding of Fact No. 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 variance is necessary to make up some of the lost building space caused by the unusually deep setbacks of 383 Rotary and the adjacent home. The homeowner has examined different permutations of the design for the anticipated home, and without the additional building space lost by the application of Article 1363.02(C)(1), several features of the home desired by homeowner will be difficult to maintain. One example of an alternative design is attached as Exhibit A. This design complies with the set back rules, but permits only a 25 foot space in the rear of the lot for going into and out of the garage. Homeowners' design professional, Larry Martin, a long time Morgantown architect, has informed homeowner that 25 feet is not enough room for this feature, and he recommends a minimum of 30 feet. This in turn would cause the home to violate the front set back requirement, and would require the pouring of concrete for the drive to the property line. This is not a desired outcome. There are also concerns that this alternative design will be difficult to build, because of elevation changes on this portion of the lot relative to the garage, and placing the garage on the same level as the intended home.

The homeowner has also explored flipping the design of the home, to place the mass of the house at the rear of the lot and open up the front of the yard for use. However, because a

## ADDENDUM A – Approved Findings of Fact

V13-05 / John Callcott / 383 Rotary Street

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primary design element for the property is a fenced space for the homeowners' young children, this design, reflected in Exhibit C, is also not a desired outcome, because it would require a fenced area in the front of the home facing Rotary. If at all possible, homeowner wishes to maintain the fenced area in the back of the home. This is more consistent with other homes in the area.

**Finding of Fact No. 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 granting of the variance will be consistent with the prior use of the property as well as the adjacent property on Cambridge Street. Attached as Exhibit F please find a photograph showing the current garage for 383 Rotary (two car, brown sided), in relation to the property line (see orange topped property stake) and the adjacent garage of the next home over. A 14 foot variance from the 25 foot rear set back rule will result only in the placement of a structure in the same or similar location as the current garage on the lot.

**Finding of Fact No. 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:

A variance of the type requested will permit continued use of the property in the same manner as it has been used for many years, with a structure in approximately the same location as the current garage, only attached to the home. The placement of the rear of a structure in this location will be consistent with the usage of the lot of the adjacent structure on Cambridge. (See Exhibit F). It will not increase traffic congestion.

Granting the requested variance will also be unlikely to create any material precedent regarding future variances, because of the uniqueness of this situation. Unique factors include: (1) a home on a corner lot (2) a home adjacent to another home with unusually deep setbacks (3) a large accessory structure already in the location of the requested variance and (4) consistent usage by the adjacent parcel on the Cambridge side of the home.