



# MORGANTOWN BOARD OF ZONING APPEALS

April 17, 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:** V13-05 / John Callcott / 383 Rotary Street

### **REQUEST and LOCATION:**

Request by John Callcott for variance relief from Article 1333.04 as it relates to a rear-yard setback at 383 Rotary Street.

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

Tax Map 7, Parcel 190; R-1, Single-Family Residential District

### **SURROUNDING ZONING:**

R-1, Single-Family Residential District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to raze the existing single-family house and detached garage and construct a new single-family house with an attached garage. Addendum A illustrates the location of the subject.

The petitioner's proposed site plan illustrates a rear setback of 11 feet. Article 1333.04(4) provides that the rear setback standard for principal structures in the R-1 District is 25 feet. As such, the petitioner must obtain a variance of 14 feet.

By attaching the garage to the home as proposed by the petitioner, the rear setback standard changes from 5 feet for a detached accessory structure to 25 feet for the principal structure.

For a thorough explanation of the petitioner's request, objectives, and alternate site design considered, please review the petitioner's findings of fact and related exhibits.

On April 8, 2013, Staff received a note from Adolph Neidermeyer of 652 Nueva Drive who stated that he did not object to the petitioner's variance request. Staff received approximately four telephone calls seeking additional information but none objected.

### **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. Restaurant

Staff concurs with the petitioner's findings of fact as submitted and recommends approval with the condition that the principal structure may be no closer to the rear property boundary than the existing detached accessory garage structure.

Enclosures: Application and accompanying exhibits

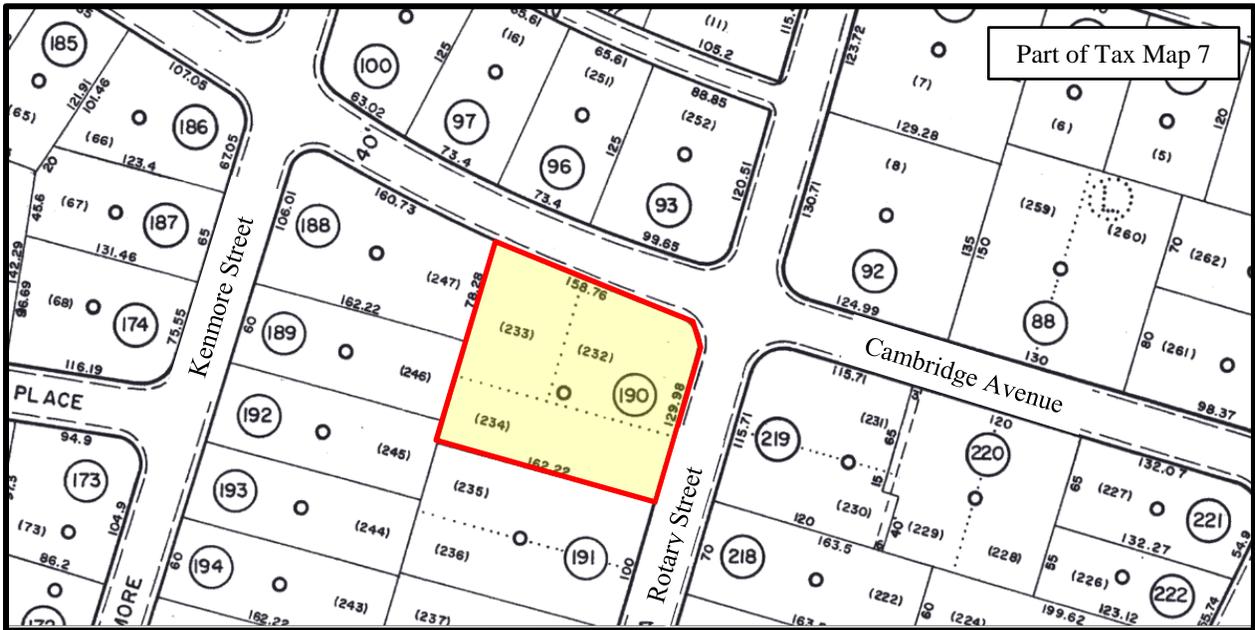
## **Development Services**

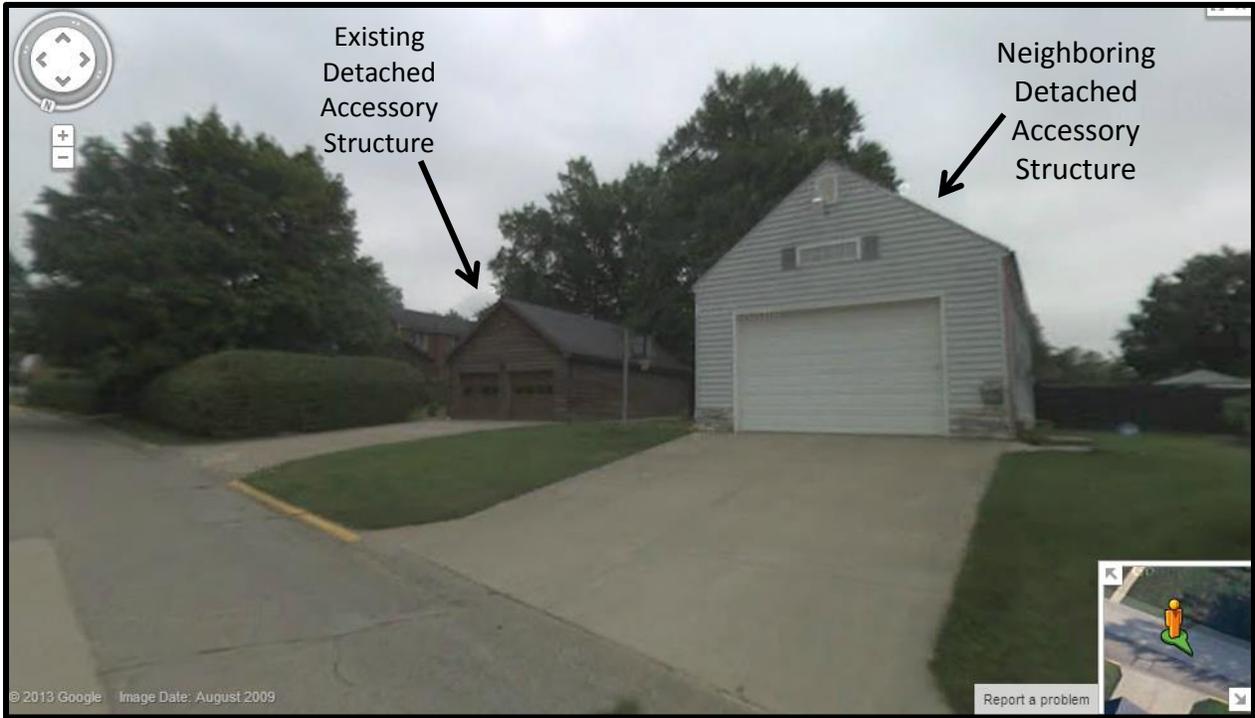
Christopher Fletcher, AICP  
Director

## **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

**STAFF REPORT ADDENDUM A**  
**V13-05 / John Callcott / 383 Rotary Street**







City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	113-05
RECEIVED:	3/8/13
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

<b>I. APPLICANT</b>		Name:	John Callcott		
Mailing Address:	Street	383 Rotary Street		Phone:	(304) 598 8151
	City	State	Zip	Mobile:	(304) 276-6668
	Morgantown	WV	26505	Email:	john.callcott@steptoe-johnson.com
<b>II. PROPERTY</b>		Street Address:	383 Rotary Street		
Owner:	John Callcott & Jennifer Sivak-Callcott			Zoning:	R-1
Mailing Address:	Street	383 Rotary Street		Tax Map No:	7
	City	State	Zip	Parcel No:	190
	Morgantown	WV	26505	Phone:	304 598 8070
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).			
<p>Homeowner is requesting a variance related to the rear lot line. The structures on the lot now include a house and a separate two car garage. The garage is located approximately 11 feet from the rear lot line. (See attached survey) Homeowner plans to raze the residence and the garage and rebuild. When rebuilding, the homeowner seeks the ability to reconstruct the garage in a similar location to the current garage, but attached to the home. By attaching the garage to the home, the rear set back by code changes from 5 feet (for an accessory structure) to 25 feet. Homeowner requests a variance of 14 feet with respect to the rear lot line to permit the rebuilding of the home, including an attached garage, with the same rear set back as the current garage of 11 feet. Justification for the variance is discussed in the attachment reflecting responses to the Findings of Fact.</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>					
John Callcott				03/08/2013	
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: 2      Gross floor area of each building: N/A

Estimated number of employees: N/A      No. of dwelling units: N/A      No. of bedrooms: 3

Additional structure-related details:  
There is a house and a separate two car garage. There is also a small playhouse, (See survey).

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

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Suggested Scale: 1 square = 5'

See exhibits attached



City of Morgantown, West Virginia

## 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:**

See attachment

**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:**

See attachment

**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:**

See attachment

**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:**

See attachment

## VII. Findings 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:**

383 Rotary Street and its neighbors on Rotary, have unusually deep set backs 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.

- 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 are 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 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.

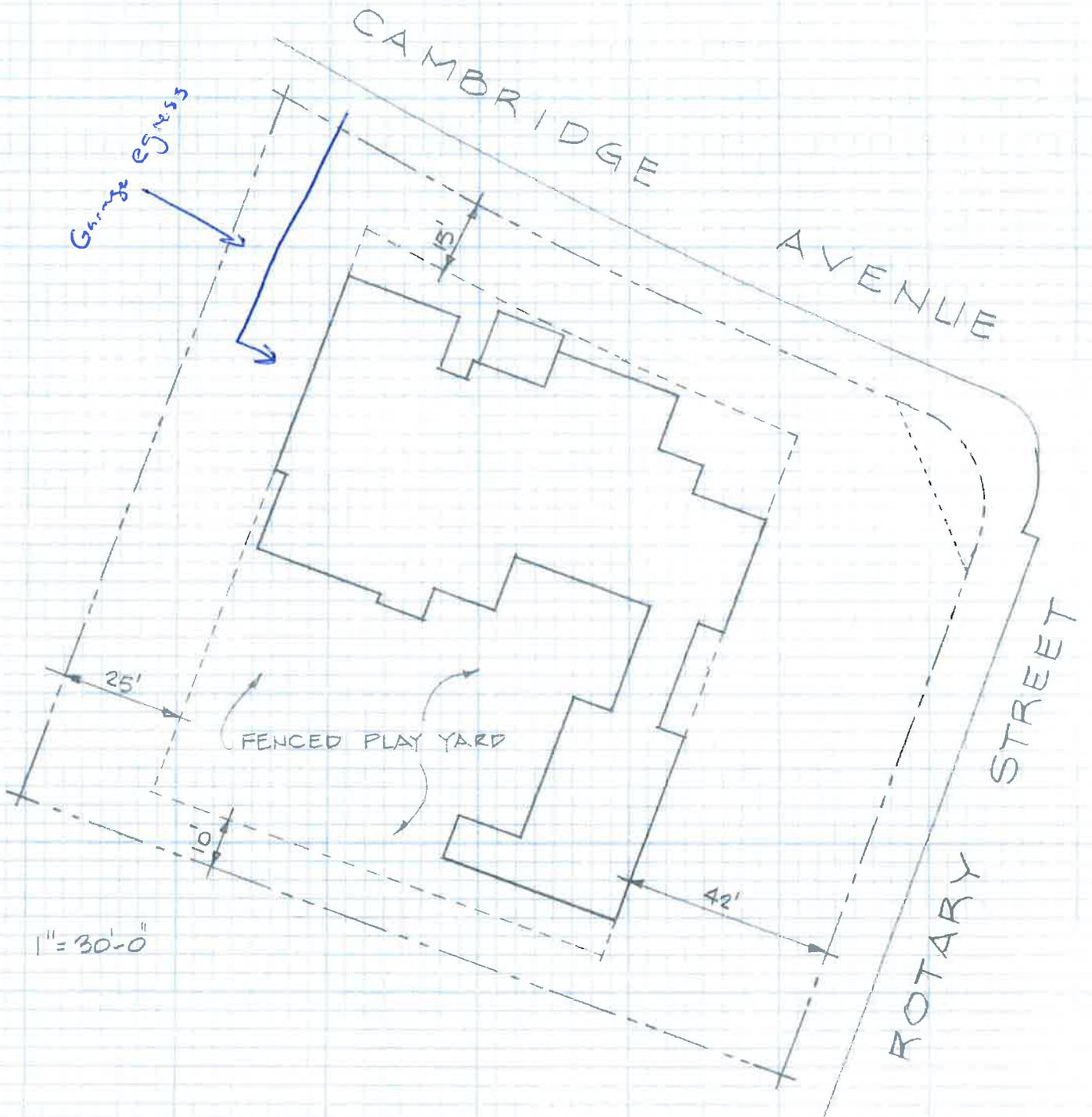
**3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located because:**

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.

**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.



1" = 30'-0"

EXHIBIT "A"

CALLCOTT RES.

2-28-13

1 OF 1

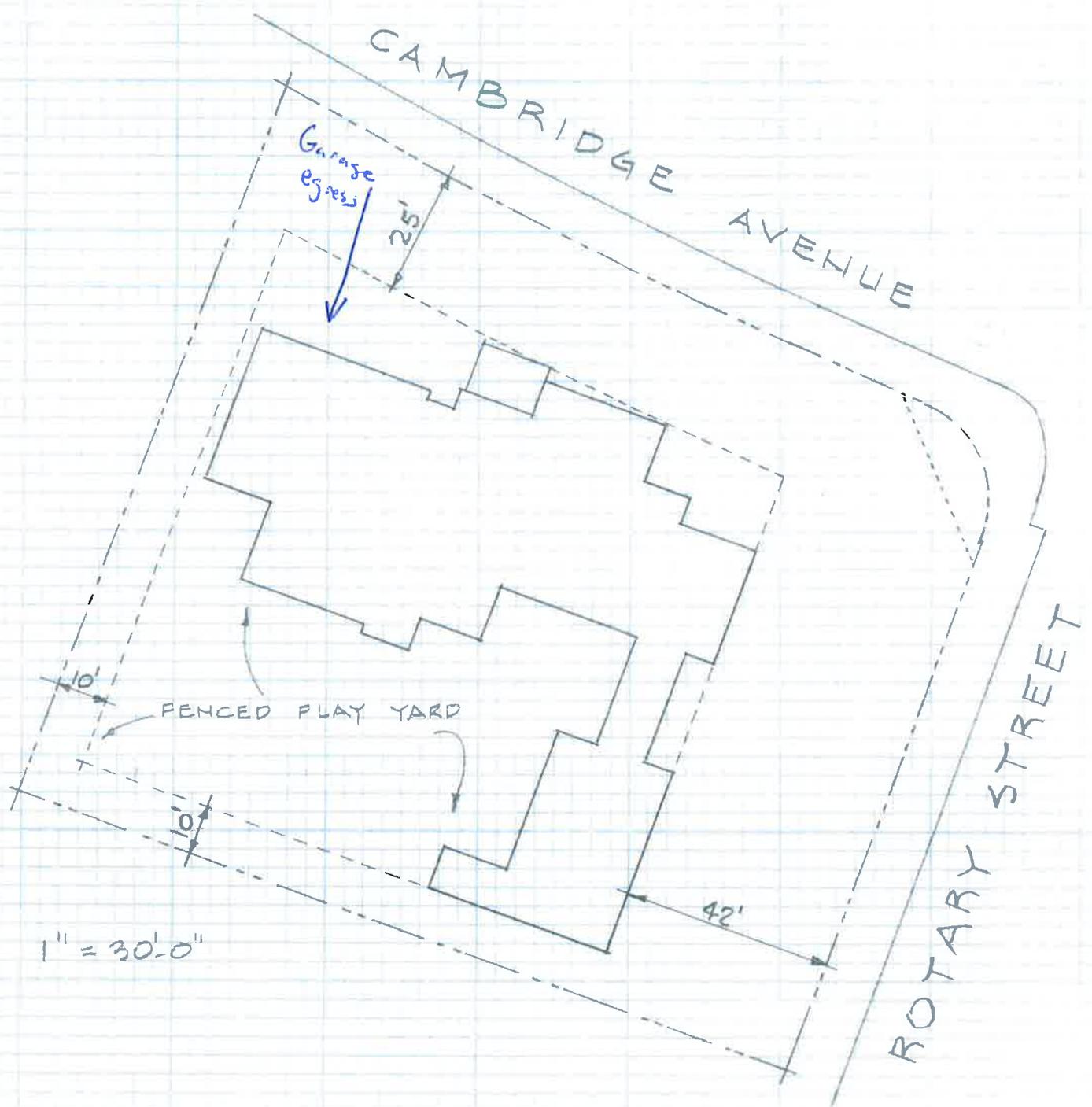


EXHIBIT "B"  
CALLCOTT RES.

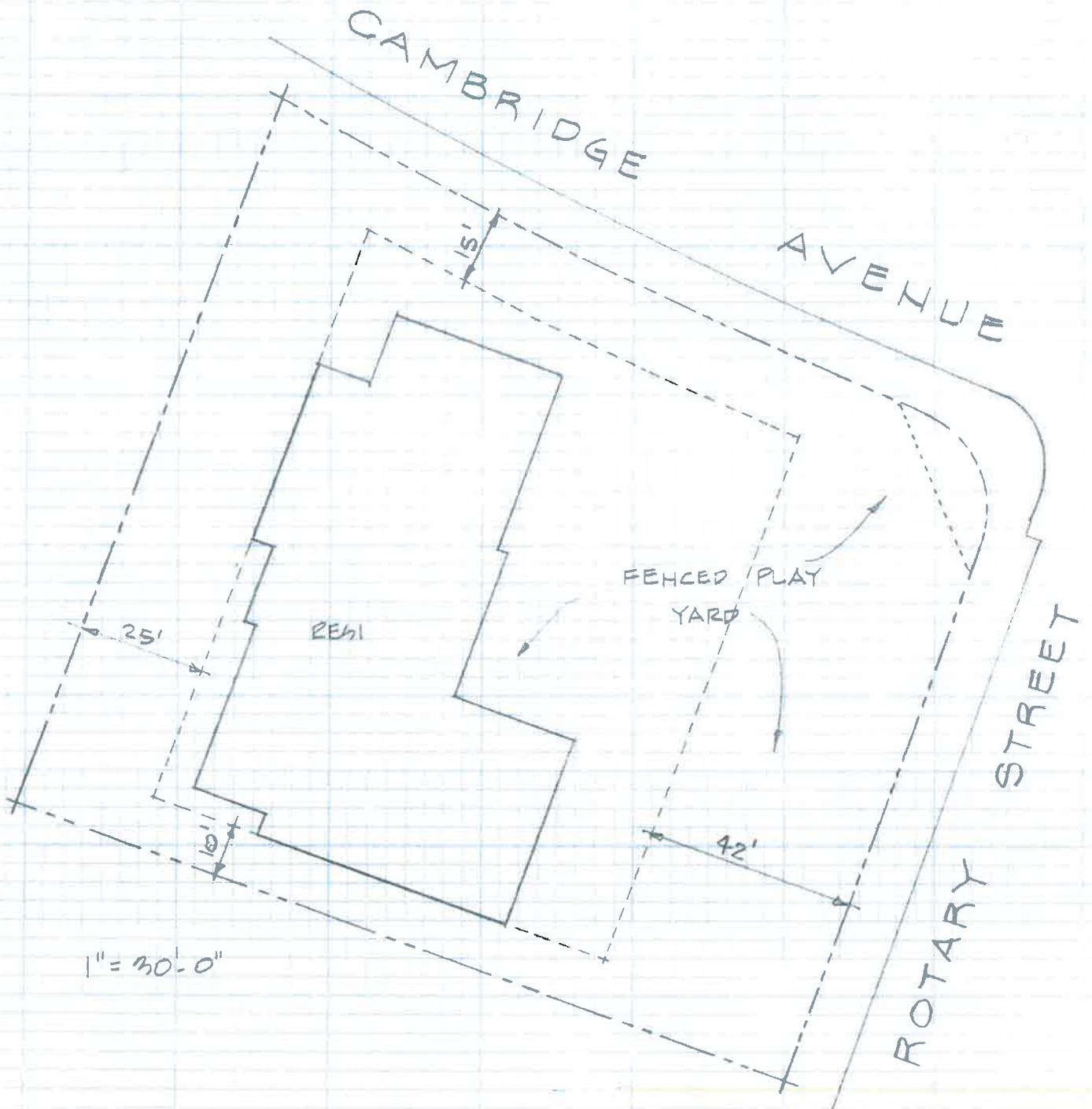
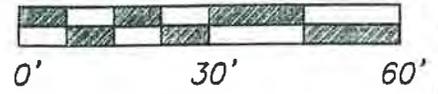
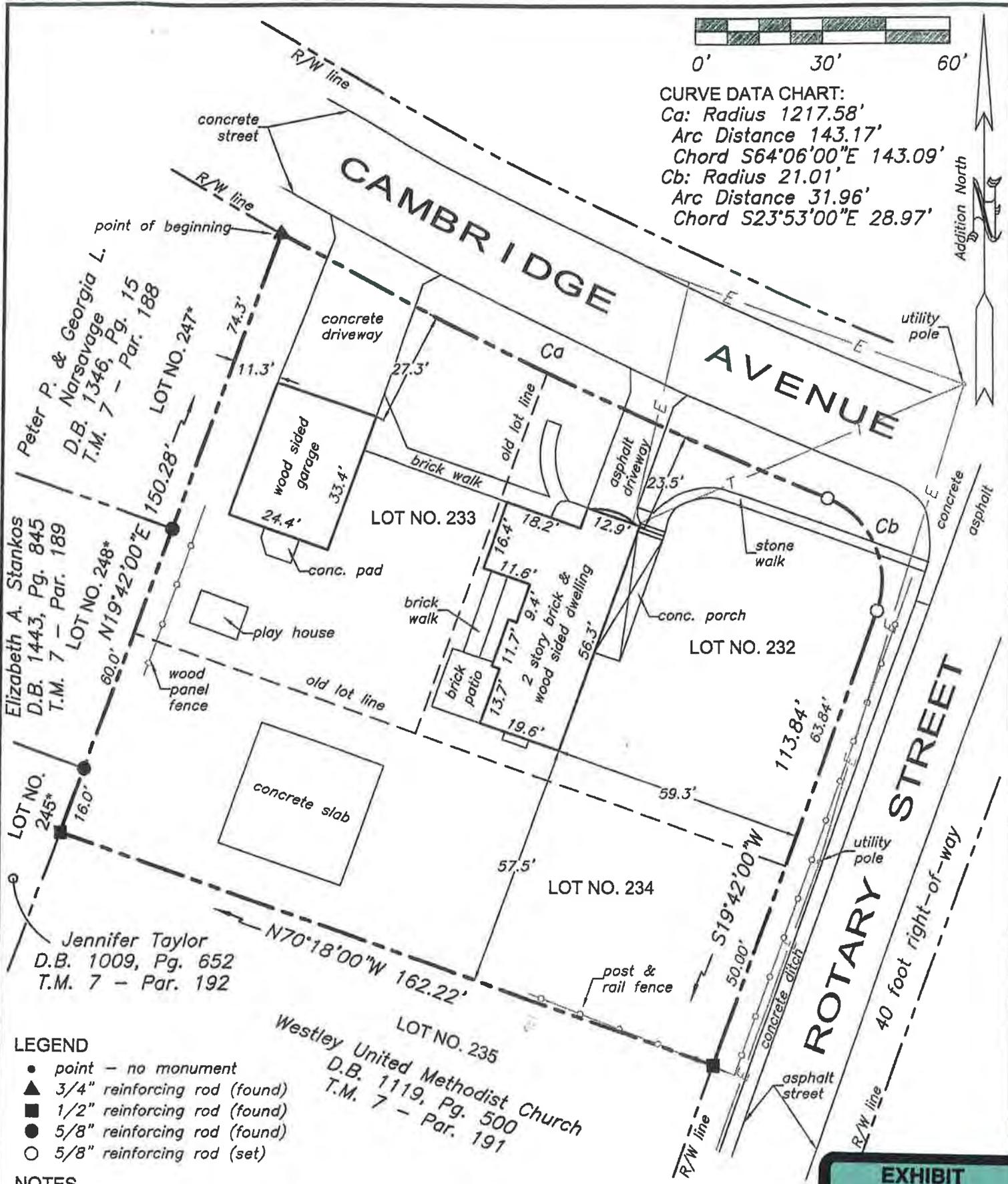


EXHIBIT "C"  
CALLCOTT RES.



**CURVE DATA CHART:**  
 Ca: Radius 1217.58'  
 Arc Distance 143.17'  
 Chord S64°06'00"E 143.09'  
 Cb: Radius 21.01'  
 Arc Distance 31.96'  
 Chord S23°53'00"E 28.97'



Peter P. & Georgia L. Narsavage L.  
 D.B. 1346, Pg. 15  
 T.M. 7 - Par. 188

Elizabeth A. Stankos  
 D.B. 1443, Pg. 845  
 T.M. 7 - Par. 189

Jennifer Taylor  
 D.B. 1009, Pg. 652  
 T.M. 7 - Par. 192

Westley United Methodist Church  
 D.B. 1119, Pg. 500  
 T.M. 7 - Par. 191

**LEGEND**

- point - no monument
- ▲ 3/4" reinforcing rod (found)
- 1/2" reinforcing rod (found)
- 5/8" reinforcing rod (found)
- 5/8" reinforcing rod (set)

**NOTES**

- 1) Location of underground utilities not shown.
- 2) Survey was conducted without benefit of lawyer's title report and may not reflect all exceptions, rights-of-way, easements or restrictions.
- 3) "\*" denotes lots in the Defense Homes Corporation Re-subdivision of Suncrest Park Addition - plat recorded in D.B. 1008 at Page 452A

PLAT OF SURVEY FOR  
 JOHN R. CALLCOTT &  
 JENNIFER A. SIVAK-CALLCOTT



V13-05

383 Rotary St. House  
↓



V13-05

383 Rotary St. house





**DEVELOPMENT SERVICES  
PLANNING DIVISION**

# The City of Morgantown

389 SPRUCE STREET  
MORGANTOWN, WEST VIRGINIA 26505  
(304) 284-7431 TDD (304) 284-7512  
[www.morgantownwv.gov](http://www.morgantownwv.gov)

March 22, 2013

*over please* →

NEIDERMEYER ADOLPH & M ELLEN  
652 NUEVA DR  
MORGANTOWN, WV 26505

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

Dear Property Owner:

The City's Planning and Zoning Code requires notification of property owners within two-hundred (200) feet of a site where certain land development and/or land use decisions are required by the Planning Commission or Board of Zoning Appeals.

John Callcott has submitted a variance application for property located at 383 Rotary Street. A map is enclosed with this letter illustrating the location of the subject site.

The **Board of Zoning Appeals** will consider this variance petition at a public hearing on:

**Wednesday, April 17, 2013 at 6:30 PM  
City Council Chambers, City Hall, 389 Spruce Street**

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**Project Description:**

The petitioner seeks to raze the existing structure and construct a new single-family home. The proposed development plan requires variance relief approval by the Board of Zoning Appeals to encroach into the minimum rear setback standard.

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Should you have any questions concerning these petitions or require special accommodations to attend the hearing noted above, please call the Planning Division at 304-284-7431 or email to [shollar@cityofmorgantown.org](mailto:shollar@cityofmorgantown.org). Written comments may be submitted to this email address or by mail to the Planning Division address noted above.

The agenda for this hearing and related staff reports will be posted on the City's website, [www.morgantownwv.gov](http://www.morgantownwv.gov), approximately one week before the hearing.

Respectfully,

Stacy Hollar  
Executive Secretary

Enclosure: Site map

*Shollar*

*Ms. Hollan,  
we have no objection to the granting of a  
variance for this renovation.  
A. A. Neidermeyer*

