



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: V13-06 / Jimmy Shreeves / 465 Lawnview Circle

REQUEST and LOCATION:

Request by Jimmy Shreeves for variance relief from Article 1331.08(3) as it relates to setbacks for an accessory structure at 465 Lawnview Circle.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 53, Parcel 8; R-1, Single-Family Residential District

SURROUNDING ZONING:

R-1, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to construct a 10' X 10' detached accessory structure approximately two feet from the rear and side property lines. Addendum A illustrates the location of the subject site.

Article 1331.08(3) provides that detached accessory structures shall not be located closer than five feet to the side or rear property line. As such, the proposed location of the petition's accessory structure requires a three-foot variance from both the side and rear property lines.

On June 21, 2006, the Board granted a two-foot variance under Case No. V06-05 for an accessory structure to be built three feet from the rear property boundary at 473 Lawnview Drive, which is located two residences away from the petitioner's subject property.

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 that the Board consider granting a two-foot variance as it did under Case No. V06-05 rather the three-foot variance requested by the petitioner.

Enclosures: Application and accompanying exhibits

Development Services

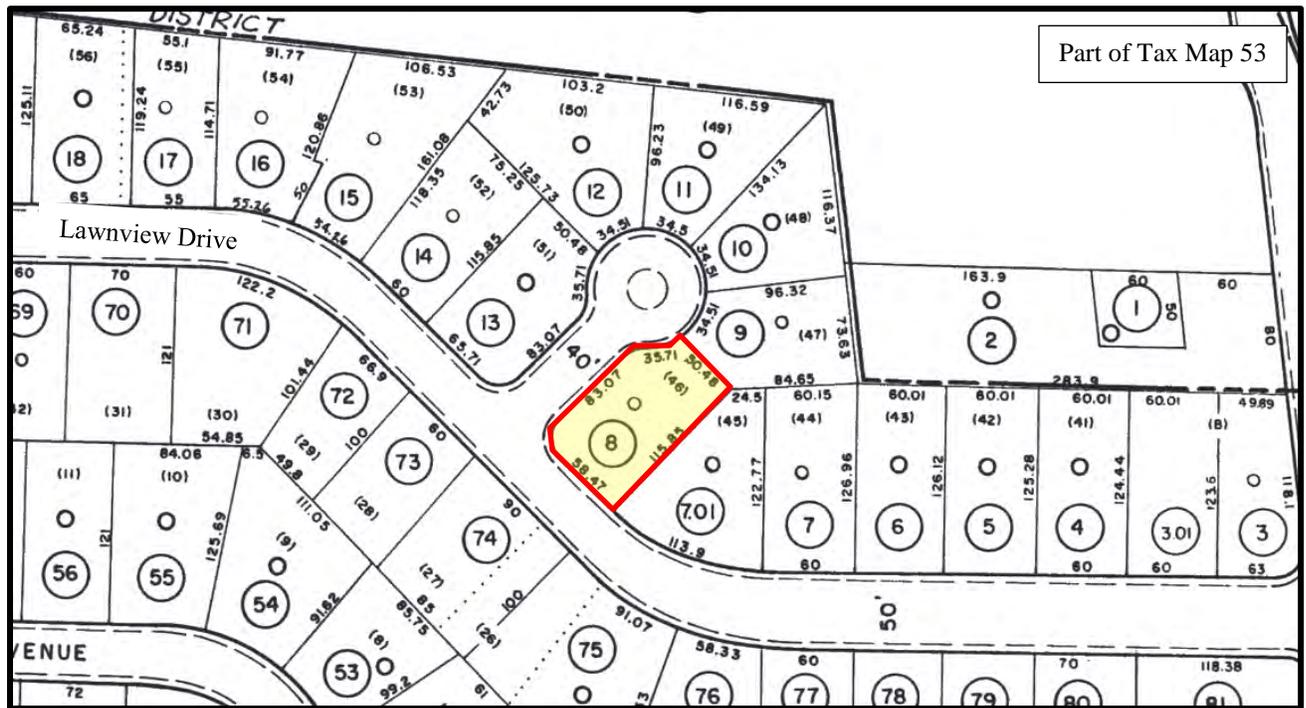
Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V13-06 / Jim Shreeves / 465 Lawnview Circle





STAFF REPORT ADDENDUM B

V13-06 / Jim Shreeves / 465 Lawnview Circle

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

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:

~~...several neighboring properties already have sheds within 1' of their property lines. My property would be the exception if I was required by code to maintain 5 feet from my proposed shed to the fence/property line. However, I do not wish to build my shed within 1' of the property line, merely 2'. The petitioner affirms that the property boundaries to which the setback encroachment relief is requested are surrounded by an existing fence. The fence appears to diminish the consequence of a reasonable two-foot encroachment on adjoining properties most affected. The configuration of the parcels within the immediate area resulting from the fronting cul-de-sac subdivision and development pattern appear to isolate the proposed location of the accessory structure from public view.~~

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:

~~...maintaining 5' of distance from the corner of my property (rather than 2') would cause the shed to take up too much space in my lawn and infringe on the other uses I have for my lawn. On June 21, 2006, the Board granted a two-foot variance under Case No. V06-05 for an accessory structure to be built three feet from the rear property boundary at 473 Lawnview Drive, which is located two residences away from the petitioner's subject property.~~

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:

~~...it is in the rear of my property, which is not highly visible from the road; the property immediately surrounding it is bounded by a fence, and therefore poses no harm; it will be constructed of a good quality and maintained as such, so that it will be pleasing to the eye; and it will be similar in appearance to the neighboring sheds, which are within 1' of their property boundary. The proposed design and placement of accessory 10' X 10' storage shed appears to be consistent with similar residential storage sheds within the immediate area, which does not appear to have adversely affected property or improvements.~~

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:

~~...for the same reasons as listed in number 3; it is in the rear of my property, which is not highly visible from the road; the property immediately surrounding it is bounded by a fence, and therefore poses no harm; it will be constructed of a good quality and maintained as such, so that it will be pleasing to the eye; and it will be similar in appearance to the neighboring sheds, which are within 1' of their property boundary. The existing single-family dwelling use will remain; the market values of adjacent properties do not appear to have been adversely affected by similar accessory structure encroachments within the immediate area; and, the nature of the variance cannot contribute to nor mitigate existing vehicular traffic patterns.~~



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V13-06
RECEIVED:	03/12/13
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	Jimmy Shreeves	
Mailing Address:	465 Lawnview Circle		Phone:	304-276-3832
	Street Morgantown, WV 26505		Mobile:	304-276-3832
	City	State	Zip	Email: jashreeves@hotmail.com
II. PROPERTY		Street Address:	465 Lawnview Circle	
Owner:	Jimmy Shreeves		Zoning:	Residence
Mailing Address:	465 Lawnview Circle		Tax Map No:	53
	Street Morgantown, WV 26505		Parcel No:	8
	City	State	Zip	Phone: 304-276-3832
III. NARRATIVE		Please describe the nature and extent of your variance request(s).		
<p>I wish to build a 10' x 10' shed in the rear corner of my property within the 5' perimeter required by code. I simply wish to maintain 2' from the rear and side property boundary (which is currently more than the boundary maintained by my immediate neighbors with sheds; i.e., approximately 1').</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>				
Jimmy Shreeves				RSP 3/12/2013 201311307 CRISTAL 03/06/2013 14:32:00 SITE PLAN Date
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.

PAID
75.00
Planning Office
Morgantown, WV 26505
(304) 284-7400



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

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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: _____ No. of dwelling units: _____ No. of bedrooms: _____

Additional structure-related details:
Adding a 10' X 10' pre-fab shed to rear corner of property.

Additional Information (as required by Staff):

Site plan has already been submitted to the code enforcement office.

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'

*All attached
completes
04/11/13*



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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:

...several neighboring properties already have sheds within 1' of their property lines. My property would be the exception if I was required by code to maintain 5 feet from my proposed shed to the fence/property line. However, I do not wish to build my shed within 1' of the property line, merely 2'.

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:

...maintaining 5' of distance from the corner of my property (rather than 2') would cause the shed to take up too much space in my lawn and infringe on the other uses I have for my lawn.

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:

...it is in the rear of my property, which is not highly visible from the road; the property immediately surrounding it is bounded by a fence, and therefore poses no harm; it will be constructed of a good quality and maintained as such, so that it will be pleasing to the eye; and it will be similar in appearance to the neighboring sheds, which are within 1' of their property boundary.

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:

...for the same reasons as listed in number 3: it is in the rear of my property, which is not highly visible from the road; the property immediately surrounding it is bounded by a fence, and therefore poses no harm; it will be constructed of a good quality and maintained as such, so that it will be pleasing to the eye; and it will be similar in appearance to the neighboring sheds, which are within 1' of their property boundary.

V13-06

Site Plan for Shreeves, James

Address: 465 Lawnview Circle, Morgantown, WV 26505

Addition: Rainier 10.15-ft x 10.03-ft Gambrel Wood Storage Shed

Shed will be 5' from the rear and left side of the property as seen in the bird's eye view below (unless variance can be obtained to install it closer to property border):

