



**DEVELOPMENT  
SERVICES  
DEPARTMENT**

# The City of Morgantown

389 SPRUCE STREET  
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May 3, 2013

Tree of Life Congregation  
c/o Marti Sippin  
242 South High Street  
Morgantown, WV 26508

**RE: V13-08 / Tree of Life Congregation / 242 South High Street  
Tax Map 7, Parcel 190**

Dear Mr. Sippin,

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 1333.05 as it relates to setbacks for HVAC mechanical units at 242 South High 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 2.5-foot variance from the minimum side setback standard for HVAC mechanical units provided under Article 1333.05(D) without conditions.

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@cityofmorgantownwv.gov](mailto:shollar@cityofmorgantownwv.gov)

**ADDENDUM A – Approved Findings of Fact**  
**V13-08 / Tree of Life Congregation / 242 South High 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:

The property is a house of worship that requires more extensive HVAC than other properties in the vicinity. The petitioner affirms that the present rooftop location of existing HVAC mechanical units is inefficient and does not adequately cool the building. There does not appear to be a side or rear yard area available that would permit the placement of the proposed four HVAC mechanical units on the ground without encroaching into the minimum setback requirement for same.

**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 predominant development pattern within the historic Chancery Hill and South Park neighborhoods represents an tight urban density constructed on small parcels and includes frequent instances of side and rear yard setback encroachments by principal and accessory structures and HVAC mechanical units.

**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 does not appear to adversely impact the exercise of any property rights of any neighboring homes or businesses. Locating the mechanical units in the front yard would have a more detrimental effect on the built environment and the neighboring single-family residential and historic development pattern where ground placed HVAC mechanical units appear to be situated in side and rear yards.

**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:

The owner of the adjoining property most affected by the proposed encroachment has submitted a letter in support of the variance; the adjoining Parcel 119 is currently used as a yard for the residence located on Parcel 120 creating a distance of approximately 60 feet between the residence and place of worship principal structures; the variance will not change the existing “Church, Place of Worship” use; and, the variance cannot contribute to nor mitigate existing vehicular traffic patterns.