



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: V13-08 / Tree of Life Congregation / 242 South High Street

REQUEST and LOCATION:

Request by Marty Sippin, on behalf of Tree of Life Congregation, for variance relief from Article 1333.05(D) as it relates setbacks for HVAC mechanical units at 242 South High Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 37, Parcel 118; R-1A, Single-Family Residential District

SURROUNDING ZONING:

R-1A, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to install new HVAC mechanical units on the ground rather than the rooftop where existing units are currently located. According to the petitioner, the current rooftop location is inefficient and does not adequately cool the building. The proposed ground location is in the side yard between the petitioner's site and adjoining Parcel 119. Addendum A of this report illustrates the location of the subject site.

According to the petitioner, the existing building is approximately seven (7) feet from the southern side property boundary. The proposed area for the two five-ton and two three-ton HVAC mechanical units and associated pad is 44" X 120". Assuming that six to twelve inches of clearance is necessary between the units and the building, the resultant side setback for the units from the adjoining side property boundary would be approximately 2.3 feet.

Article 1333.05 (D) provides that the setbacks for HVAC mechanical units in the R-1A District may be located no closer than five (5) feet to a side lot line. As proposed, the petitioner must obtain variance relief of at least 2.7 feet.

In studying the County Tax Map and City GIS spatial data, there appears to be an unopened alley right-of-way behind the petitioner's property connecting Demain Court and Caddell Street. The petitioner's building appears to be closer to the alley than the side property boundary where the petitioner seeks to locate the subject mechanical units. The aerial photography provided in Addendum A illustrates that the existing rooftop location is closest to the proposed ground location in terms of internal feeds for electrical, cooling agent, and ductwork lines.

The adjoining property includes two parcels owned by J. Vernon and Nola Jean Jamison. Parcel 119 is a vacant lot currently serving as a yard for the Jamison residence located on Parcel 120. According to City GIS spatial data, the side of the Jamison house is approximately 60 feet from the side of the Tree of Life Congregation

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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building. Additionally, the petitioner has submitted a letter from Mr. Vernon Jamison addressed to the Board dated 12 March, 2013 supporting the variance petition.

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 a 2.5-foot variance be granted without conditions.

Enclosures: Application and accompanying exhibits

Development Services

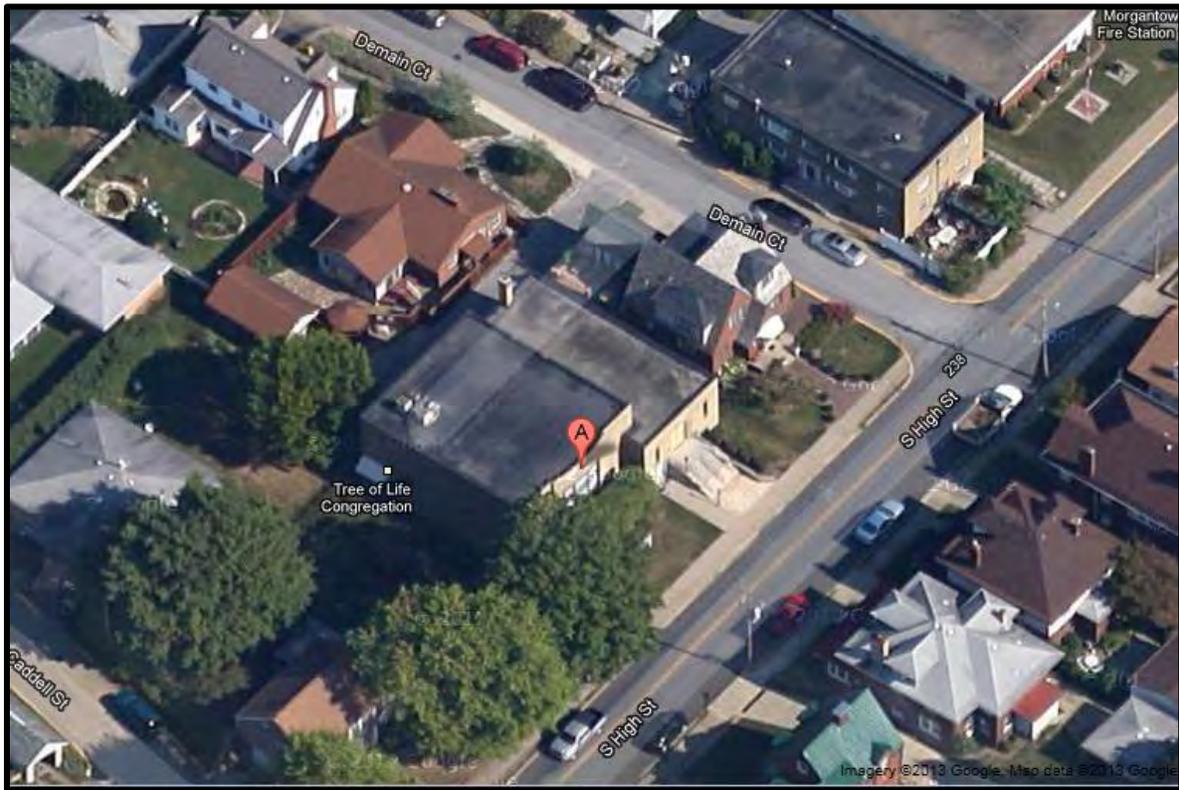
Christopher Fletcher, AICP
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STAFF REPORT ADDENDUM A

V13-08 / Tree of Life Congregation / 242 S. High Street



STAFF REPORT ADDENDUM B

V13-08 / Tree of Life Congregation / 242 S. High Street

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:

~~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 current HVAC system is inefficiently located and does not adequately cool the building. 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 will not interfere with 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:

~~It will not interfere with any neighboring property rights. 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.~~



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V13-08
RECEIVED:	3/13/13
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	Tree of Life Congregation	
Mailing Address:	Street	242 S. High St		Phone:
	City	Morgantown	WV	26508
	State	Zip	Mobile: Sippin 226 0 frontier.com	
				Email: 304-685-0801
II. PROPERTY		Street Address:		
Owner:			Zoning:	
Mailing Address:	Street			Tax Map No: 37
	City	State	Zip	Parcel No: 118
			Phone:	
III. NARRATIVE		Please describe the nature and extent of your variance request(s).		
We would like to locate HVAC equipment closer to the property line than 5 feet.				
V. ATTEST				
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.				
Marty Sippin		[Signature]		RS2 3/13/2013 201311331
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		PAID 75.00
				CRYSTAL 14:06:37 SITE PLAN V13-2013

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.

Finance Office
Morgantown, WV 26505
(304) 284-7408



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V13-08
RECEIVED:	
COMPLETE:	

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)
House of worship

- 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:

- 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

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COMPLETE:	

Suggested Scale: 1 square = 5'

4 UNITS (2 5 TON AND 2 3 TON)

(Handwritten initials)

Apron building
with 49'

↑
7'10" existing door

← HVAC coil + pads 44" x 120"

property line



**APPLICATION FOR
ZONING VARIANCE**

OFFICE USE	
CASE NO.	V13-08
RECEIVED:	_____
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: the property is a house of worship that requires more extensive HVAC than other properties in the vicinity.

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 current HVAC system is inefficiently located and does not adequately cool the building.

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 will not interfere with the exercise of any property rights of any neighboring homes or businesses.

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: it will not interfere with any neighboring property rights.

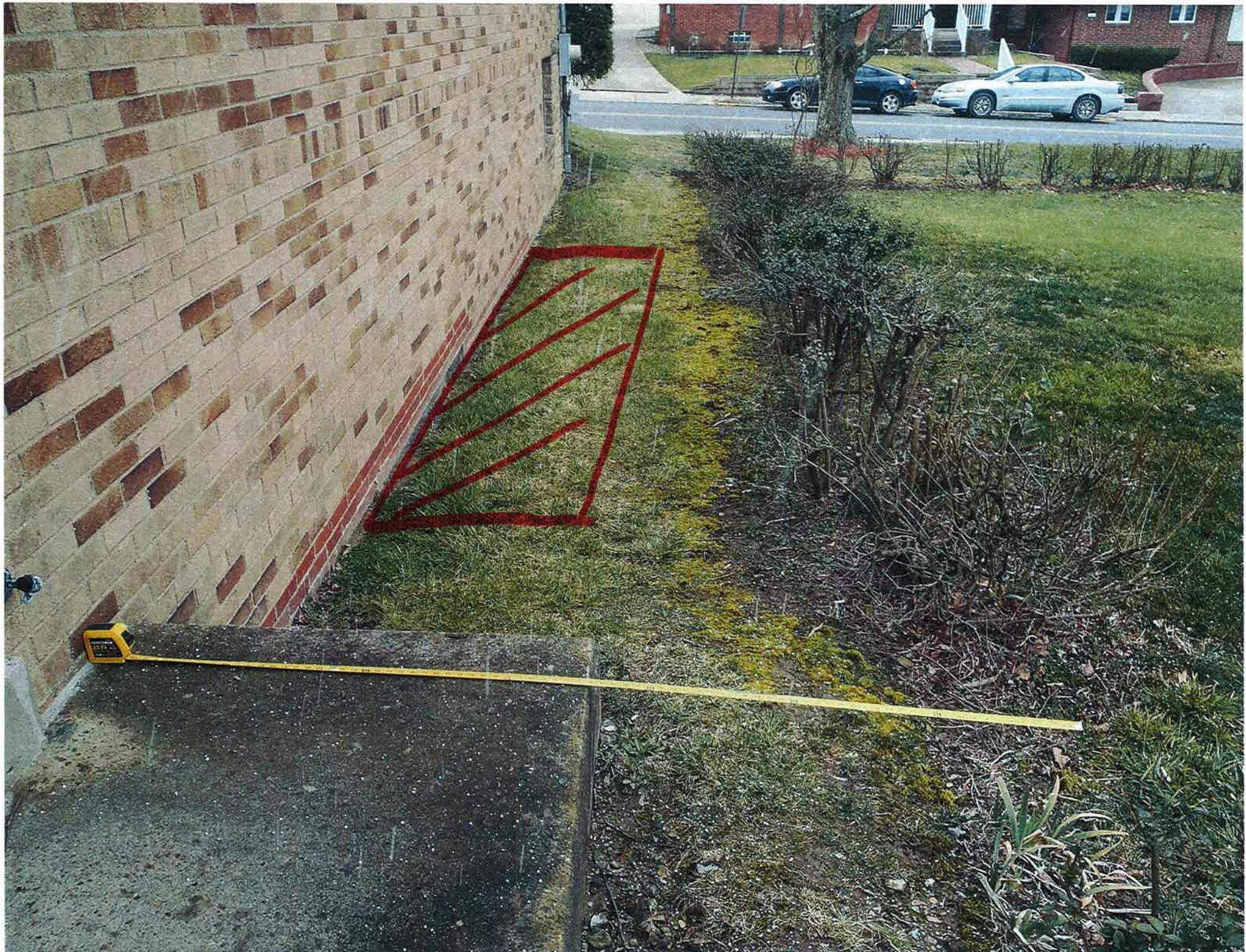


CITY OF MORGANTOWN
PROPOSED ZONING ACTION **Z**
CASE # [REDACTED]
FOR INFO CONTACT PLANNING DEPT.
304-284-7431

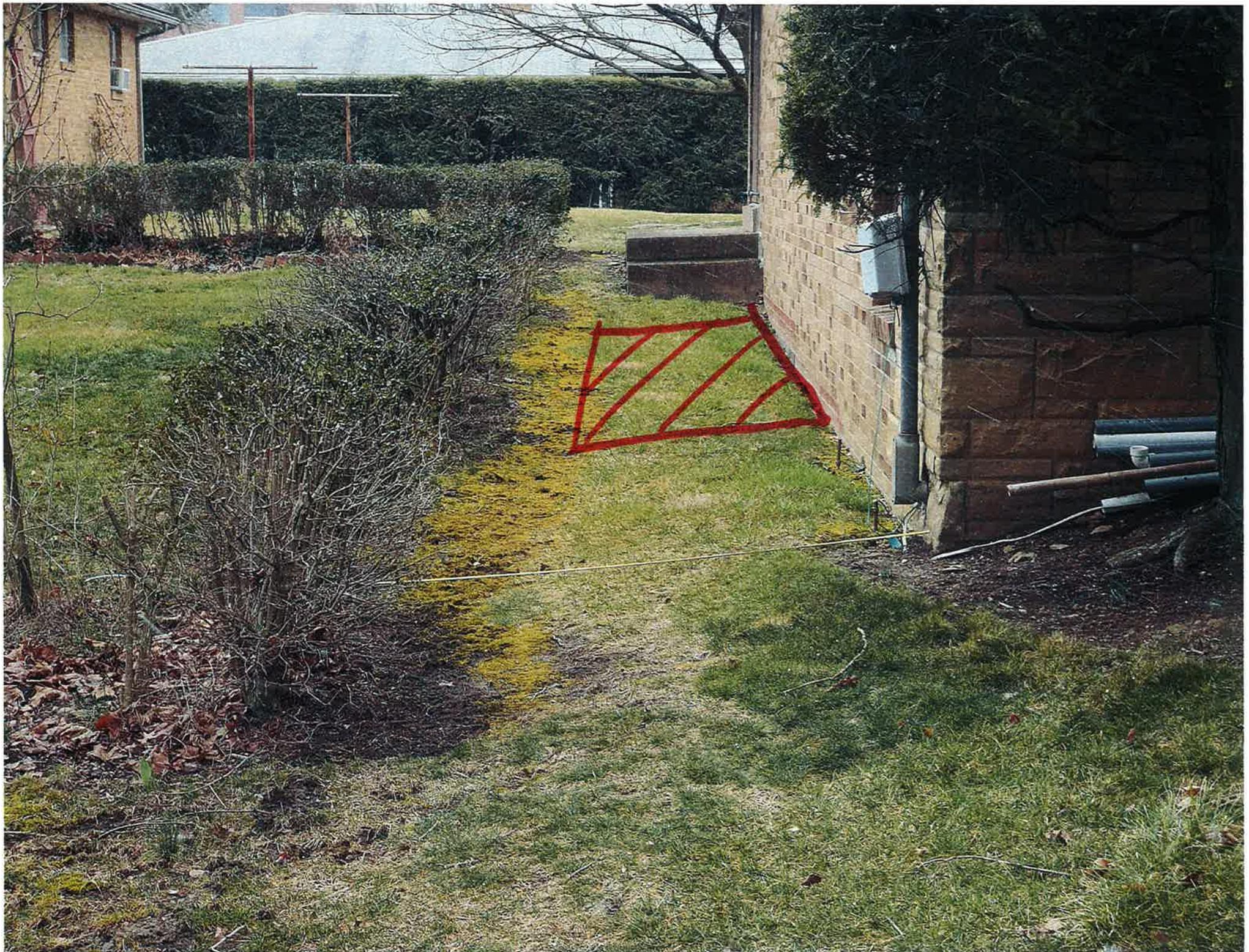
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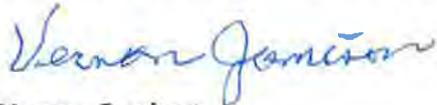
12 March, 2013

Board Zoning of Appeals
City of Morgantown
389 Spruce Street
Morgantown, WV 26505

Dear Board:

I support the granting of a zoning variance to the Tree of Life Congregation (242 S. High St.) so that they may locate HVAC equipment closer to my property line than the 5 feet required by Article 1335.05 of the planning code.

Thank you for your consideration.



Vernon Jamison

260 S. High Street
Morgantown, WV 26501
304-292-5503