MORGANTOWN BOARD OF ZONING APPEALS

October 16, 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: V13-54 / James Watson / 324 Barrickman Street

REQUEST and LOCATION:

Request by James Watson for variance relief from Article 1331.08(A)(4) as it relates to accessory structures and uses in residential districts at 324 Barrickman Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 37, Parcel 168; R-1A, Single-Family Residential District

SURROUNDING ZONING:

R-1A, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to construct a 16' x 24' accessory detached garage structure between the principal structure and Dorsey Avenue. Addendum A of this report illustrates the location of the subject site.

Article 1329.02 provides the following definition to guide determining lot frontage:

> LOT FRONT – The side of a lot that abuts a public street is the front of the lot. For corner lots, the shortest side fronting upon a street shall be considered the front of the lot. Where buildings exist on the lot, the frontage may be established by the orientation of the building, or of the principal entrance, if building orientation does not clearly indicate lot frontage. Where no other method determines conclusively the front of a lot, the Planning Director shall select one frontage on the basis of traffic flow on adjacent streets, so that the lot is considered to front on the street with the greatest traffic flow.

The subject property is located at the corner of Dorsey Avenue and Barrickman Street (see Addendum A). As the following photo illustrates, the "front" door of the principal single-family dwelling structure is located on what appears to be the side or rear of the structure.

Development Services
Christopher Fletcher, AICP
Director

Planning Division
389 Spruce Street
Morgantown, WV 26505
304.284.7431

Board Members:
Bernie Bossio, Chair
Leanne Cardoso, Vice-Chair
George Papandreas
Jim Shaffer
Tom Shamberger

It is therefore the opinion of the Planning Division that the subject parcel's lot front is the boundary running parallel with Dorsey Avenue.

Article 1331.08 "Accessory Structures and Uses in Residential District" provides the following related provisions:

(A)(2) Accessory structures, if detached from a principal structure, shall not be placed in the front yard. If placed in a side yard, accessory structures shall not be located closer to the street than the required front setback of the principal structures.

(A)(4) On corner lots, accessory structures shall not be located between any portion of the principal structure and either street.

Because the petitioner seeks to construct the detached accessory garage structure between the principal structure and Dorsey Avenue, variance relief is required from Article 1331.08(A)(2) and Article 133108(A)(4).

It should be noted that similar variance relief was granted under Case No. V12-21 on 25 JUL 2012 for a detached accessory storage shed structure at 310 Ford Street.

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 approval of the variance petition V13-54 with the following conditions:

1. That the proposed accessory detached garage may be located no closer to Barrickman Street than the principal structure.
2. That the setback of the proposed accessory detached garage may be no closer than ten (10) feet from the property boundary running with the Barrickman Street right-of-way.
3. That no part of the proposed detached accessory structure may be designed, constructed, or used for sleeping purposes and no cooking fixtures may be placed or permitted therein.
4. That no part of the proposed detached accessory structure may be designed, constructed, or used for the conduct of commercial enterprises or a home occupation.

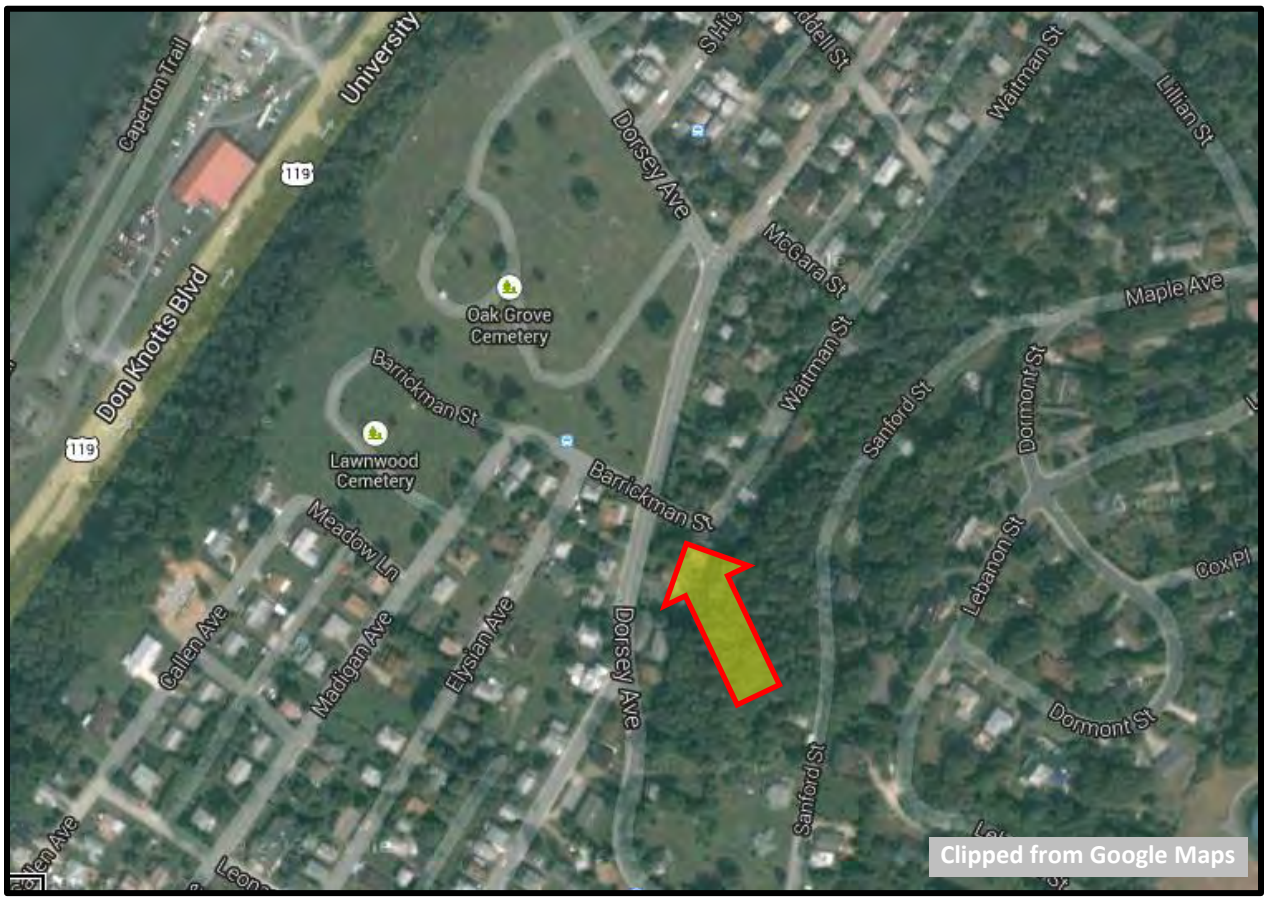
Enclosures: Application and accompanying exhibits

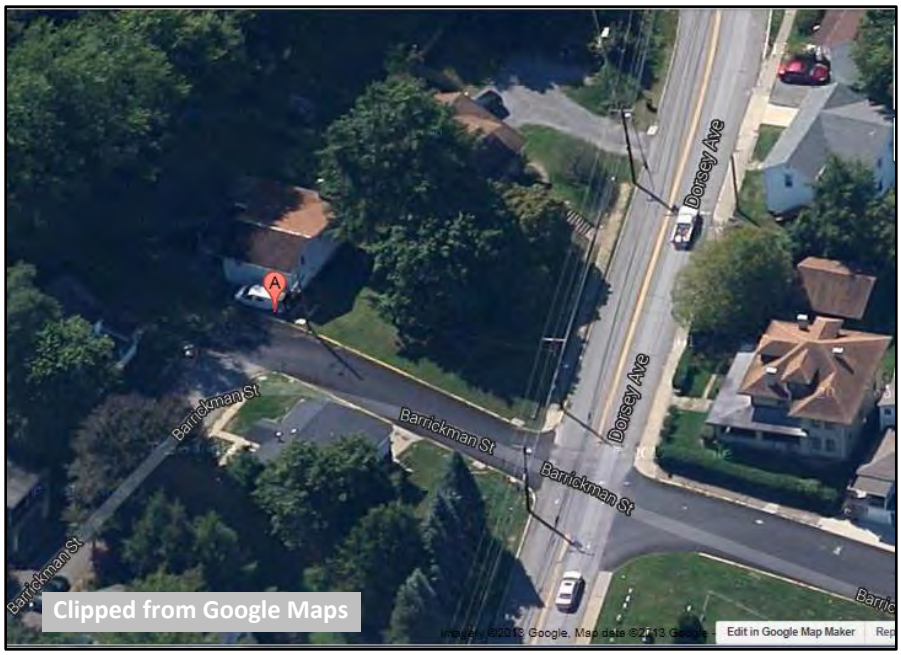
Development Services
Christopher Fletcher, AICP
Director

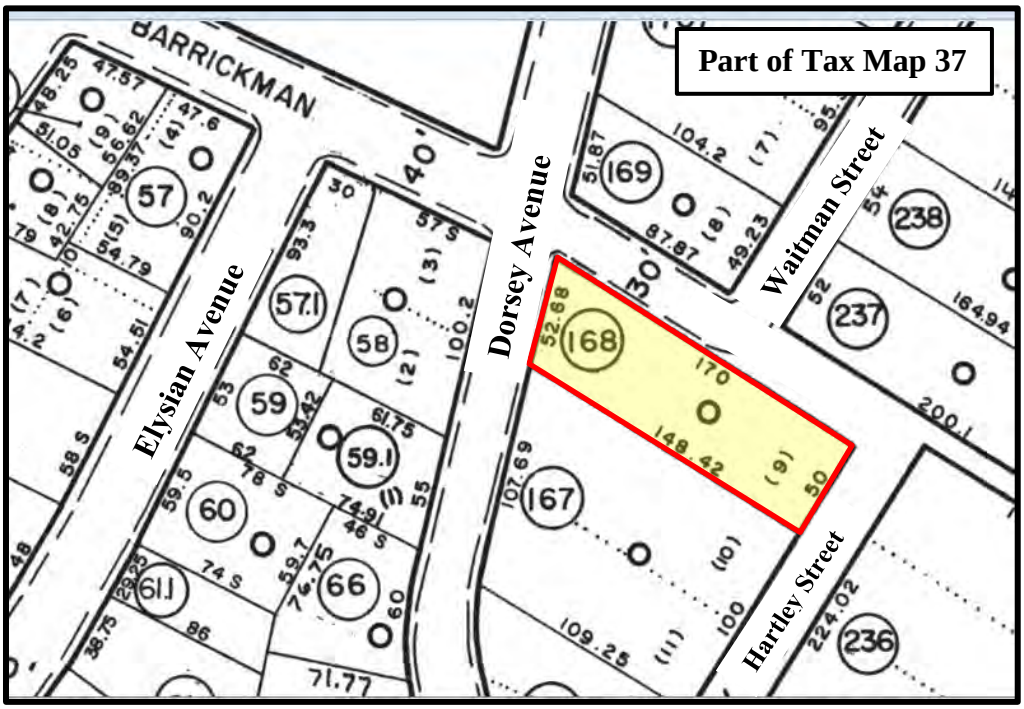
Planning Division
389 Spruce Street
Morgantown, WV 26505
304.284.7431

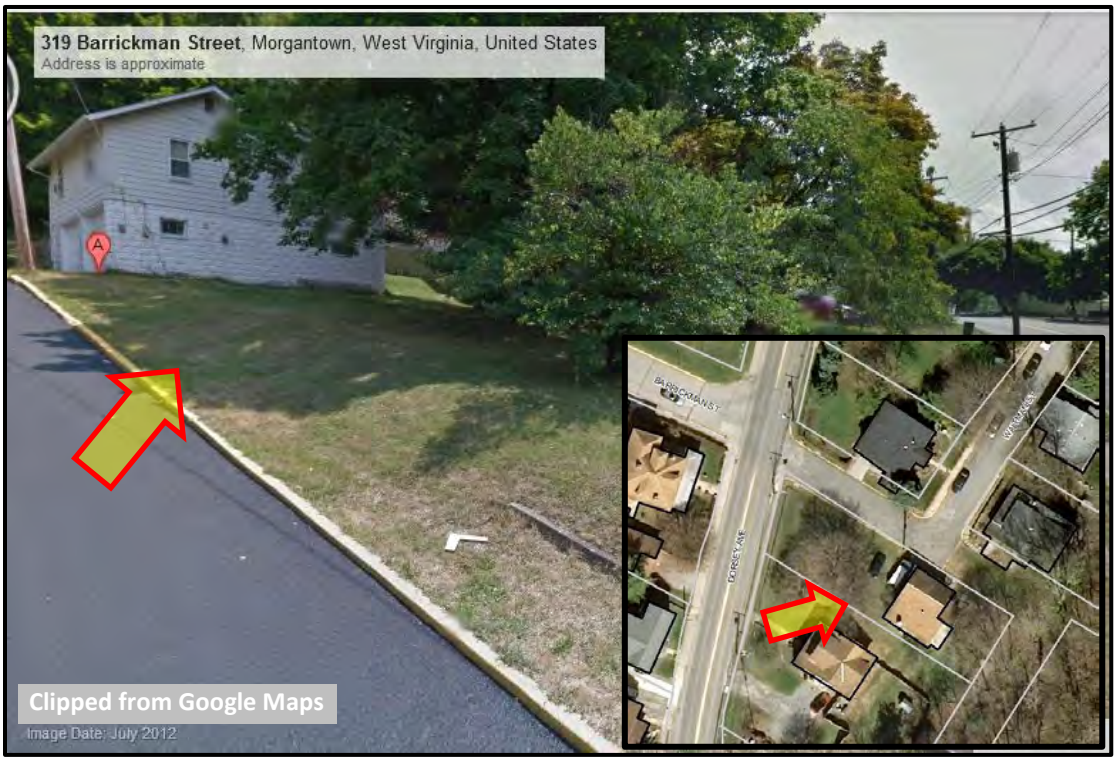
STAFF REPORT ADDENDUM A

V13-54 / James Watson / 324 Barrickman Street






Part of Tax Map 37
BARRICKMAN
Elysian Avenue
Dorsey Avenue
Waitman Street
Hartley Street
57
57.1
58
59
59.1
60
61.1
66
167
168
169
237
238
236


319 Barrickman Street, Morgantown, West Virginia, United States
Address is approximate
Clipped from Google Maps
Image Date: July 2012

STAFF REPORT ADDENDUM B

V13-54 / James Watson / 324 Barrickman 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 doesn't face Dorsey Avenue but does face Barrickman St~~. The subject parcel extends from Dorsey Avenue along Barrickman Street approximately 170 feet to an unopened thirty-foot wide public right-of-way that is labeled "Hartley Street" on Tax Map 37. The existing principal single-family dwelling structure was constructed near the Waitman Street intersection with Barrickman Street. For reasons unknown, the orientation of the principal structure faces the unopened right-of-way at the rear of the property. Due to the location and orientation of the existing principal structure, constructing a detached accessory garage structure in the rear yard closest to the unopened right-of-way at the rear of the property does not appear feasible without improving the unopened portion of Barrickman Street and possibly the unopened "Hartley Street" right-of-way and potentially encroaching into rear setback requirements. Further, the subject property is surrounded on three sides by public rights-of-way and the width of the parcel ranges from approximately 50 feet to 52.68 feet. If the "Hartley Street" right-of-way were open and improved or opened and improved in the future, there does not appear to be a side or rear yard within which an accessory structure could be constructed given the exclusion of same provided by Article 1331.08(A)(4).

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:

~~Otherwise I'd be unable to use over half of the property.~~ It appears that a strict interpretation and enforcement of Article 1331.08(A)(2) and Article 1331.08(A)(4) would prohibit construction of any detached accessory structure in the largest portion of the property. Additionally, similar variance relief was granted by the Board for Case No. V12-21 on 25 JUL 2013 for a detached accessory storage shed structure at 310 Ford Street.

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:

~~Other homes in the vicinity also have detached garages. There is one directly across Dorsey Ave from my property.~~ Although not necessarily complicated by the requirements of Article 1331.08(A)(2) and Article 1331.08(A)(4), there appears to be a number of detached accessory garage structures within the immediate neighborhood that contribute to value and convenience for the owners/occupants of same. A strict interpretation and enforcement of Article 1331.08(A)(2) and Article 1331.08(A)(4) would otherwise deny the petitioner the ability to similarly contribute to the value and convenience of his property.

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:

~~This is a private residence, not a business.~~ The principal use of property will remain a single-family dwelling permitted by-right in the R-1A District. The nature of the variance cannot contribute to or mitigate existing traffic congestion within the immediate area.

City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V13-54
RECEIVED:	
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: $75

I. APPLICANT	Name: James Watson		
Mailing Address:	Street 324 Barrickman St.	Phone:	304-291-5520
		Mobile:	304-212-8391
	City Morgantown, WV State 26501 Zip	Email:	

II. PROPERTY	Street Address: 324 Barrickman St.		
Owner:	James Watson	Zoning:	
Mailing Address:		Tax Map No:	1-37-168
	Street 324 Barrickman St.	Parcel No:	
	City Morgantown, WV State 26501 Zip	Phone:	304-291-5520

III. NARRATIVE Please describe the nature and extent of your variance request(s).

I would like to build a 16'x24' detached garage at my residence. Since my house faces Barrickman St and my address is also on Barrickman the location for the propsed garage is in a side yard and not my front yard between the house and the street.

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.

James Watson		8/30/2013
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.

City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V13-54
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)*

☐ **Structure Characteristics** (complete only those that apply)

Total number of buildings: _____ 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

OFFICE USE	
CASE NO.	V13-54
RECEIVED:	
COMPLETE:	

Suggested Scale: 1 square = 5'

See attached sheet

City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	VB-54
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 doesn't face Dorsey ave but does face Barrickman St.

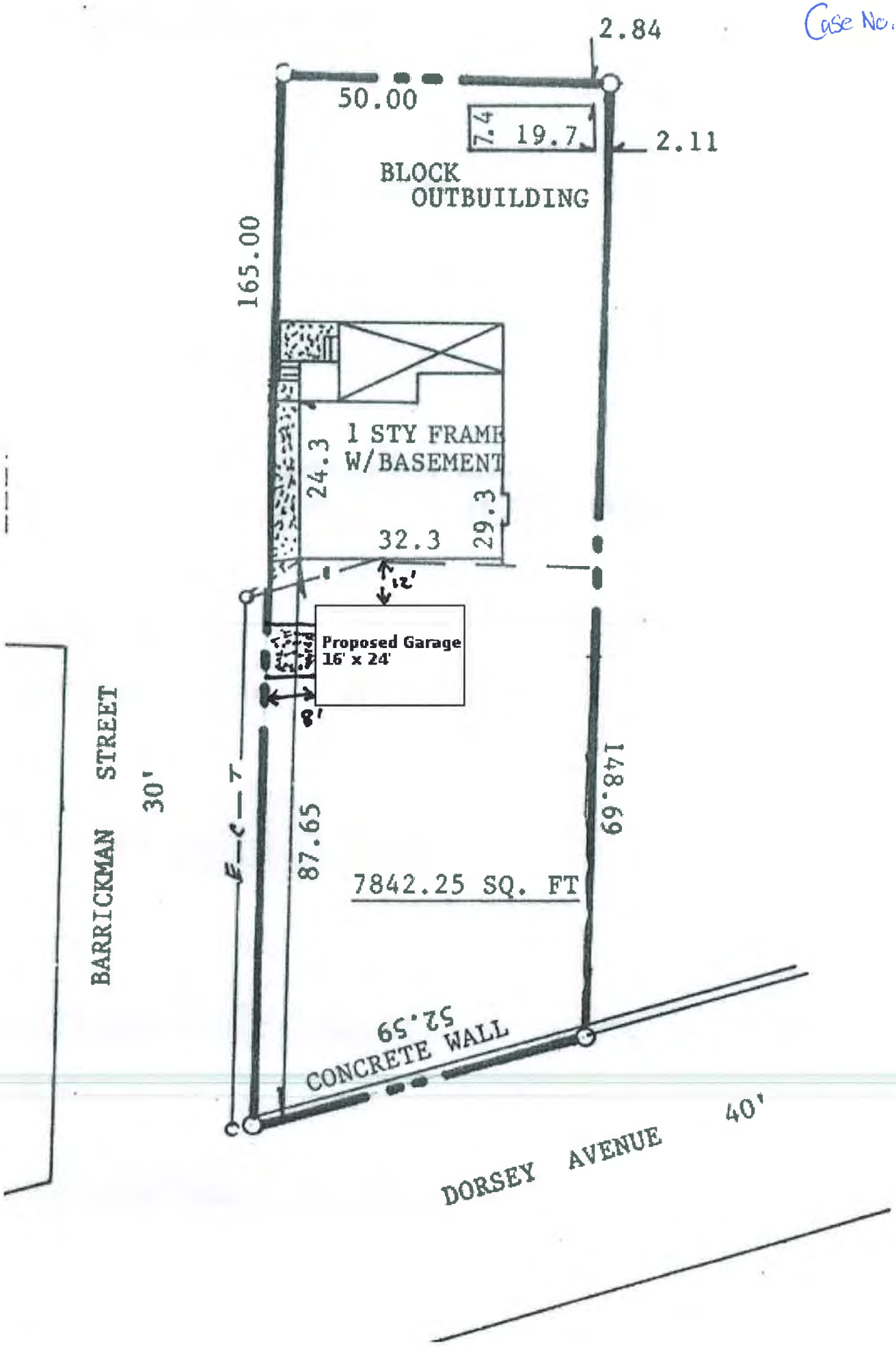
2. **The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:**

   otherwise I'd be unable to use over half of the property.

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:**

   other homes in the vicinity also have detached garages. There is one directly across Dorsey Ave from my property.

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:**

   this is a private residence, not a business.

Case No. V13-54