



# 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:** V13-55 / Eve Faulkes / 49 Maple Avenue

### **REQUEST and LOCATION:**

Request by John Garlow, on behalf of Eve Faulkes, for variance relief from Article 1331.08(3) as it relates to setbacks for an accessory structure at 49 Maple Avenue.

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

Tax Map 36, Parcel 479; R-1A, Single-Family Residential District

### **SURROUNDING ZONING:**

R-1A, Single-Family Residential District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to replace a canvas/metal temporary carport facility with an 11' x 27' detached accessory structure approximately two feet from the side property line. Addendum A of this report illustrates the location of the subject site.

Article 1331.08(3) provides that detached accessory structures shall not be located closer than five (5) feet to the side or rear property line.

According to the petitioner, there is approximately 16 feet between the principal structures at 49 Maple Avenue and 51 Maple Avenue. The site plan illustrates a 2'-6" setback for the principal structure at 51 Maple Avenue from the petitioner's 49 Maple Avenue shared side property boundary. The construction of an 11-foot wide accessory structure against the side of the principal structure at 49 Maple Avenue would result in a side setback of 2'-6" for the proposed detached accessory structure.

As such, the proposed location of the petition's detached accessory structure requires a three-foot variance from the side property line.

### **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 Case No. V13-55 with the following condition:

1. That the detached accessory structure may not extend closer to Maple Avenue than the front building line of the principal structure at 49 Maple Avenue, exclusive of the front porch.

Enclosures: Application and accompanying exhibits

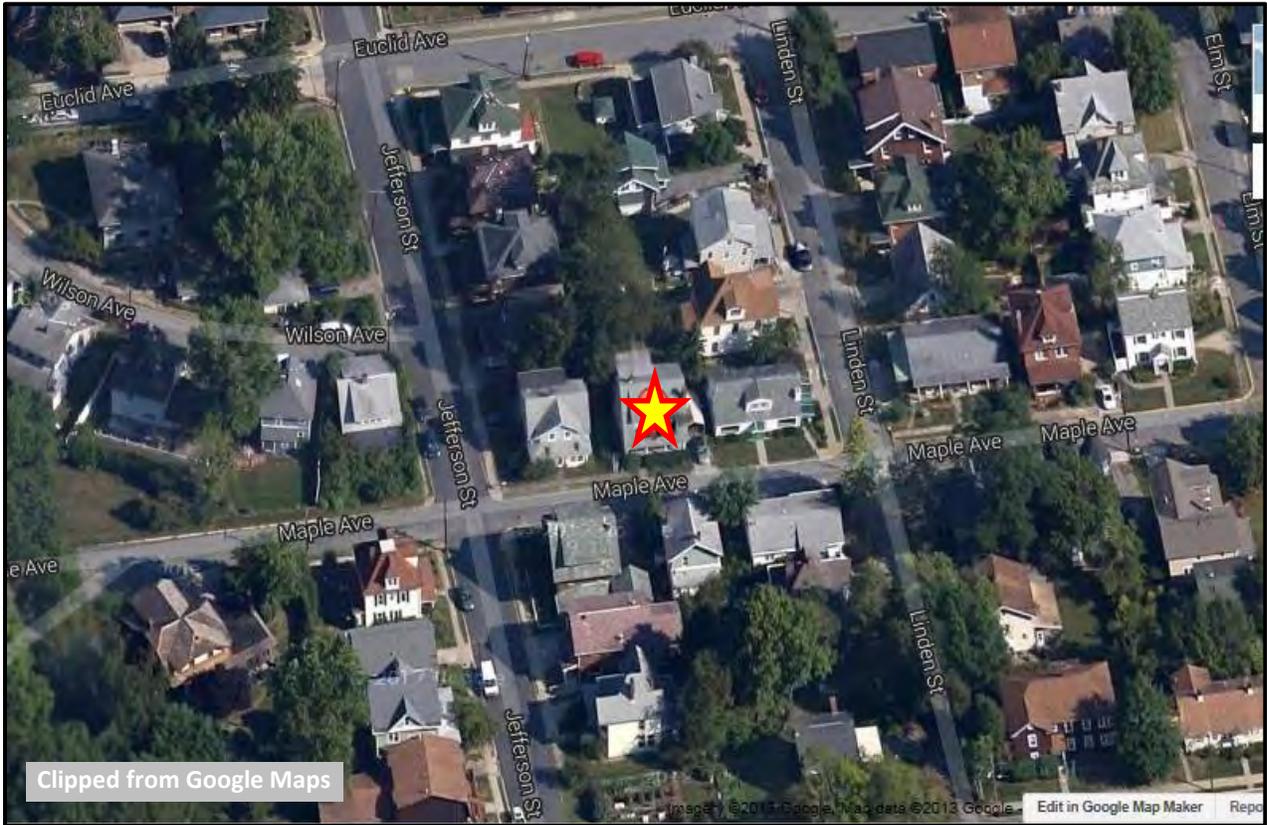
## **Development Services**

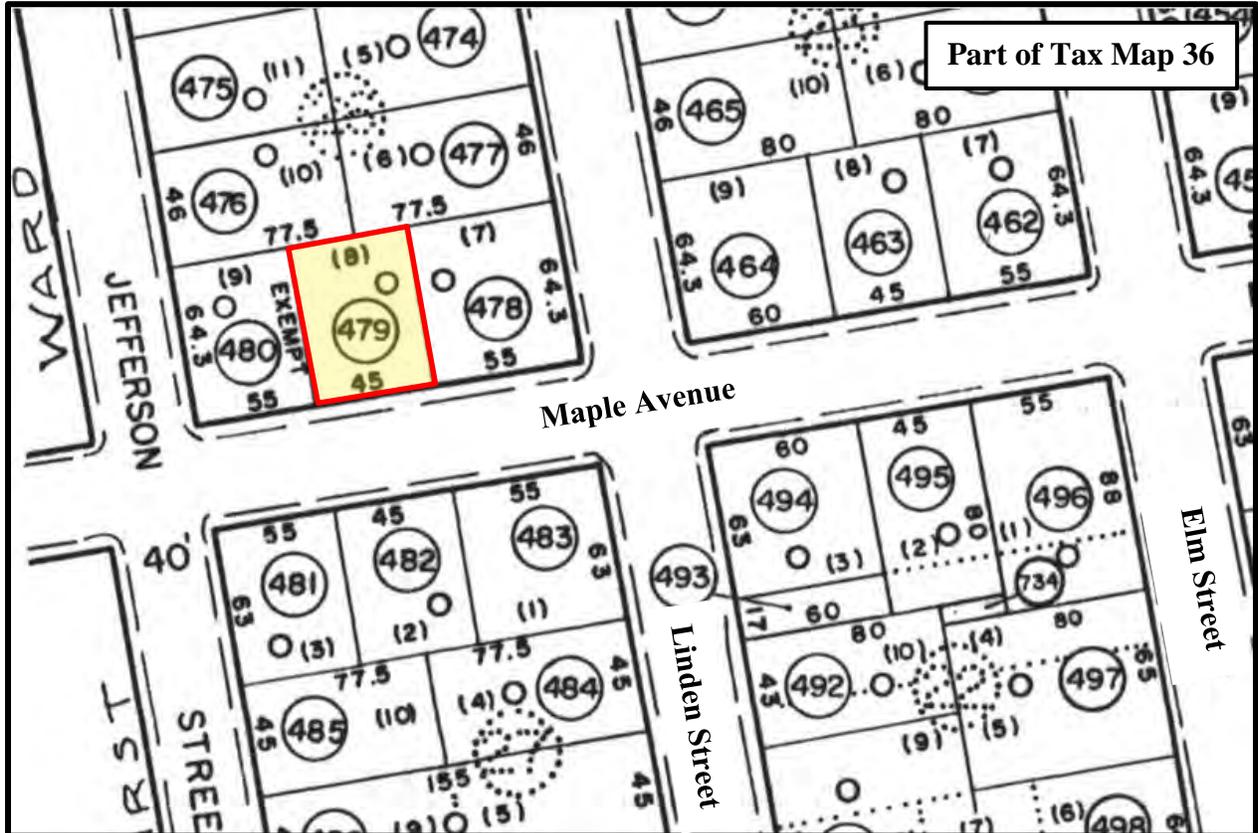
Christopher Fletcher, AICP  
Director

## **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

**STAFF REPORT ADDENDUM A**  
**V13-55 / Eve Faulkes / 49 Maple Avenue**





## STAFF REPORT ADDENDUM B

### V13-55 / Eve Faulkes / 49 Maple Avenue

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:

There is an existing driveway that is used for parking. On that block of Maple Avenue there are only two permit parking spaces on the street – one of which is handicapped, and there are six houses on the street. Given the prevailing proximity of houses in the South Park neighborhood to property boundaries, additions to existing principal structures and the construction of new detached accessory structures, appears to be challenged by requisite setback standards.

**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:

There appears to be several carports and principal structures in the South Park neighborhood that do not comply with requisite setback standards. A carport covering ~~would make sense and should serve to help control rainwater run-off for the existing two-car driveway.~~ but would come within two feet of our property line and seven feet from neighbor's house.

**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:

There appears to be ~~are~~ several carports in the South Park neighborhood that are close to property lines. According to the petitioner, the proposed carport # will be an open-walled design with ~~but~~ engineered with hurricane tie downs for safety and strength.

**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 change the present use and should increase market property values. 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. V13-55
RECEIVED:
COMPLETE:

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT Name: Eve Faulkes - Agent John A. Garlow

Mailing Address: 49 Maple Ave, Morgantown, WV 26501
Phone: 304-276-3655
Mobile: 304-692-1116
Email: elomadjag@gmail.com

II. PROPERTY Street Address:

Owner: Eve Faulkes Zoning: R-1A
Mailing Address: 49 Maple Ave, Morgantown, WV 26501
Tax Map No: 36
Parcel No: 479
Phone: 304-692-1116

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

Building a carport encroaching into the minimum side set back requirement

Accessory structure (mpf) 30 AUG 2013

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.

John A. Garlow Signature of Applicant/Agent Date: Aug 30, '13

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.   | V13-55 |
| 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: 1      Gross floor area of each building: Carport 11'x27'

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. V13-55

RECEIVED: \_\_\_\_\_

COMPLETE: \_\_\_\_\_

Suggested Scale: 1 square = 5'

*All attached  
Plans  
Gaff  
30-AUG-2013*



APPLICATION FOR ZONING VARIANCE

|            |        |
|------------|--------|
| OFFICE USE |        |
| CASE NO.   | V13-55 |
| 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: *There is an existing driveway that is used for parking. On that block of Maple there are only two parking spaces on the street - one of which is handicapped, and there are six houses on the street.*

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: *A car port covering would make sense & help control rainwater run-off but would come within two feet of our property line and seven feet from neighbor's house.*

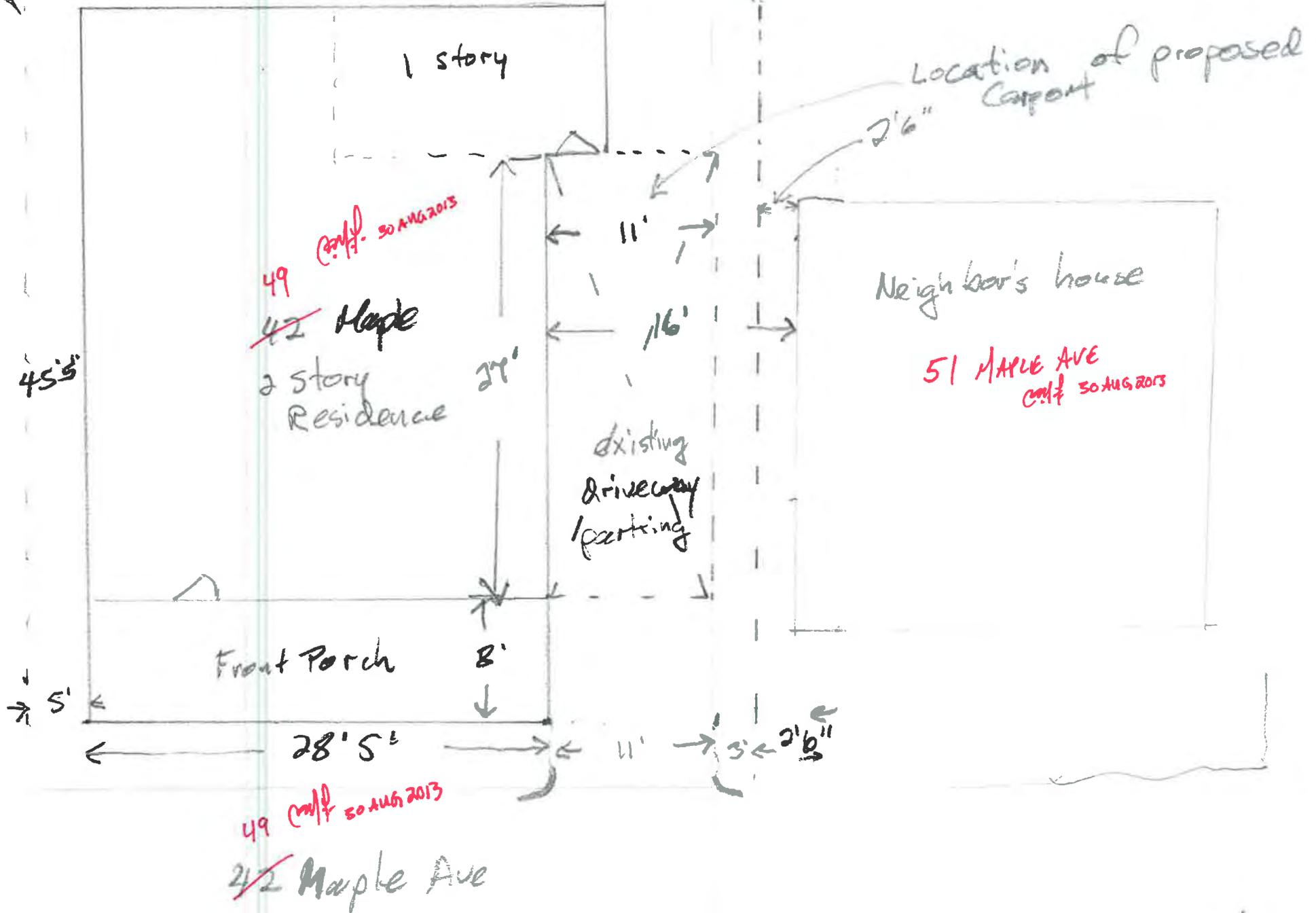
3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because: *There are several car ports in S. Park that are close to property lines. It will be open walled but engineered with hurricane tie downs for safety & strength.*

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 change the present use & should increase market property values.*

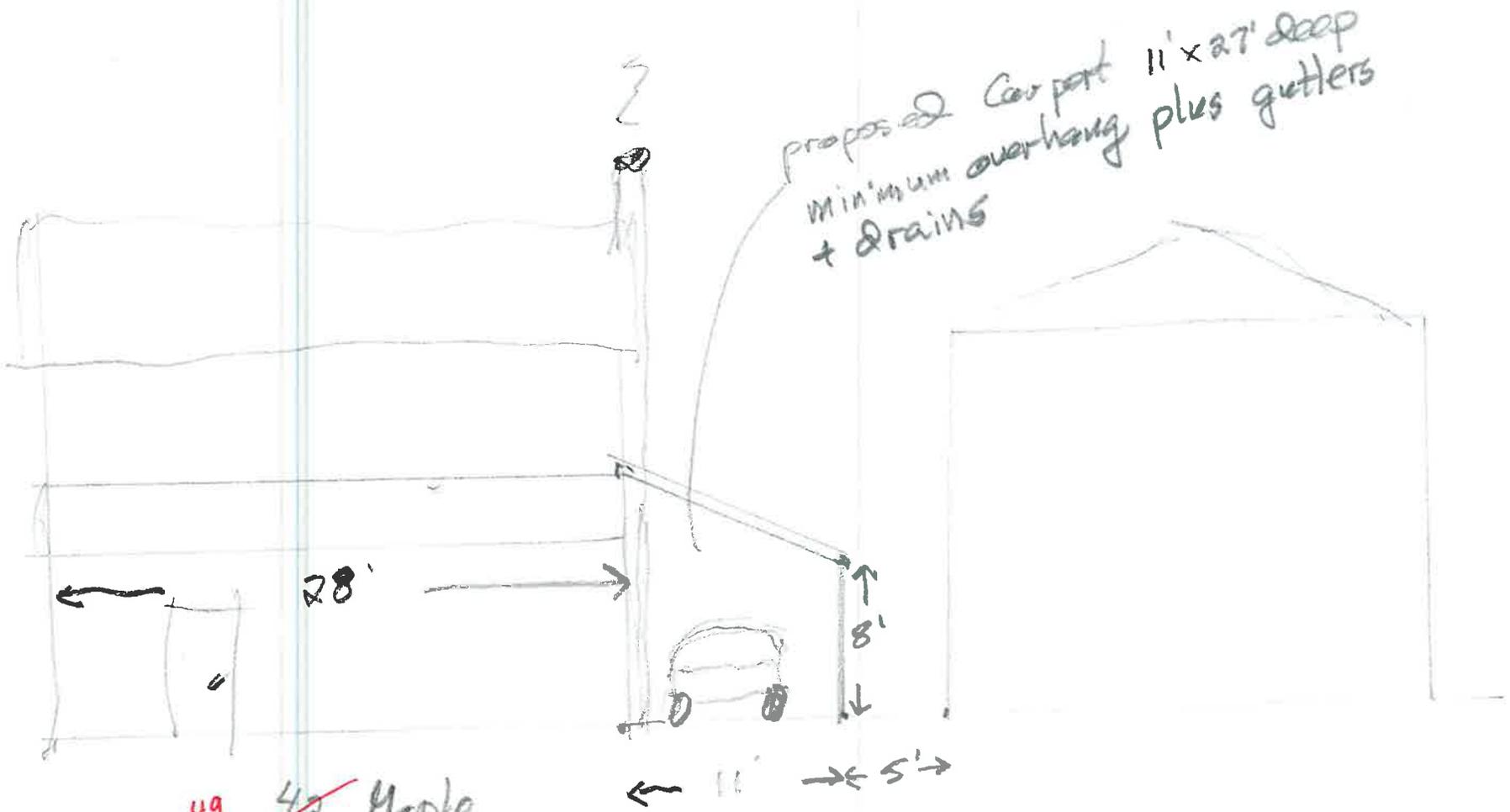
City of Morgantown, WV

prop line

prop line



scale 1" = 8'



49  
 (2nd fl.)  
 30 AUG 2013

~~42~~ Maple

Both House 10-10" above street grade