



MORGANTOWN BOARD OF ZONING APPEALS

December 18, 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: V13-66 / Jack L. Hammersmith / 309 Simpson Street

REQUEST and LOCATION:

Request by Jack Hammersmith for variance relief from Article 1335 as it relates to maximum lot coverage and setbacks at 309 Simpson Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 37, Parcel 258; R-1A, Single-Family Residential District

SURROUNDING ZONING:

R-1A, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to enclose an existing patio, which, as proposed, requires variance relief to encroach into the minimum side setback standard and to exceed the maximum lot coverage standard in the R-1A District. Addendum A of this report illustrates the location of the subject site.

Article 1335.03(C) provides a maximum lot coverage standard of 50% percent within the R-1 District. The petitioner's property is a 40' x 100' parcel or 4,000 square feet in area. The footprint of the existing principal structure, according to aerial photography, is 3,086 square feet, which results in 77.2% existing lot coverage. The proposed addition will increase the lot coverage to 82%, which requires variance relief of 32%.

Article 1335.04(B) provides, for a corner lot, that the minimum side setback on the side facing the street is one and on-half (1.5) times the normal side setback requirement. The minimum side setback in the R-1A District is 5 feet, which results in a minimum corner lot side setback of 7.5 feet. The petitioner did not submit a survey and the measurements identified on the petitioner's site plan appear to reflect distances to roadway edges and not to property boundaries. The extent of requisite side setback encroachment variance is therefore unknown. However, the proposed addition will be no closer to the Waitman Street curb than the existing front setbacks for two (2) of the principal structures along the same side of Waitman 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). No recommendation is submitted.

Enclosures: Application and accompanying exhibits

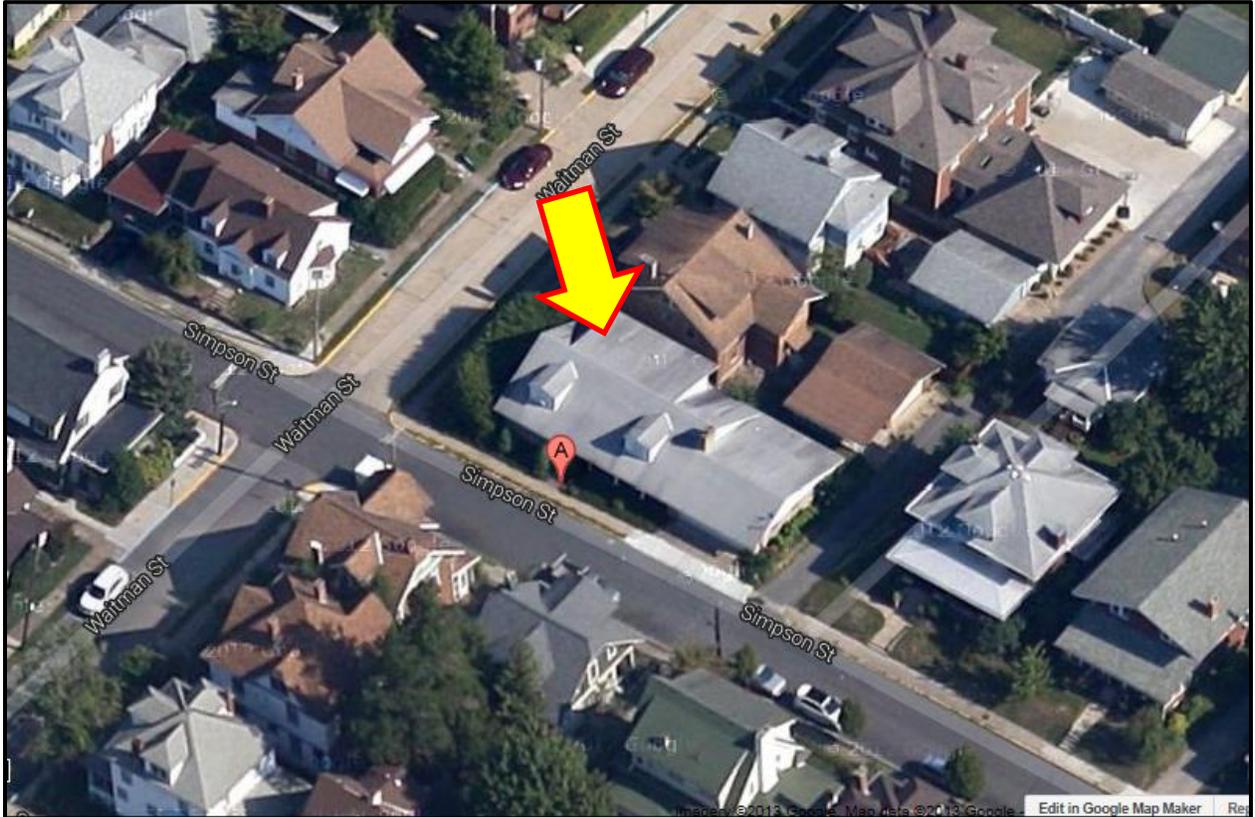
Development Services

Christopher Fletcher, AICP
Director

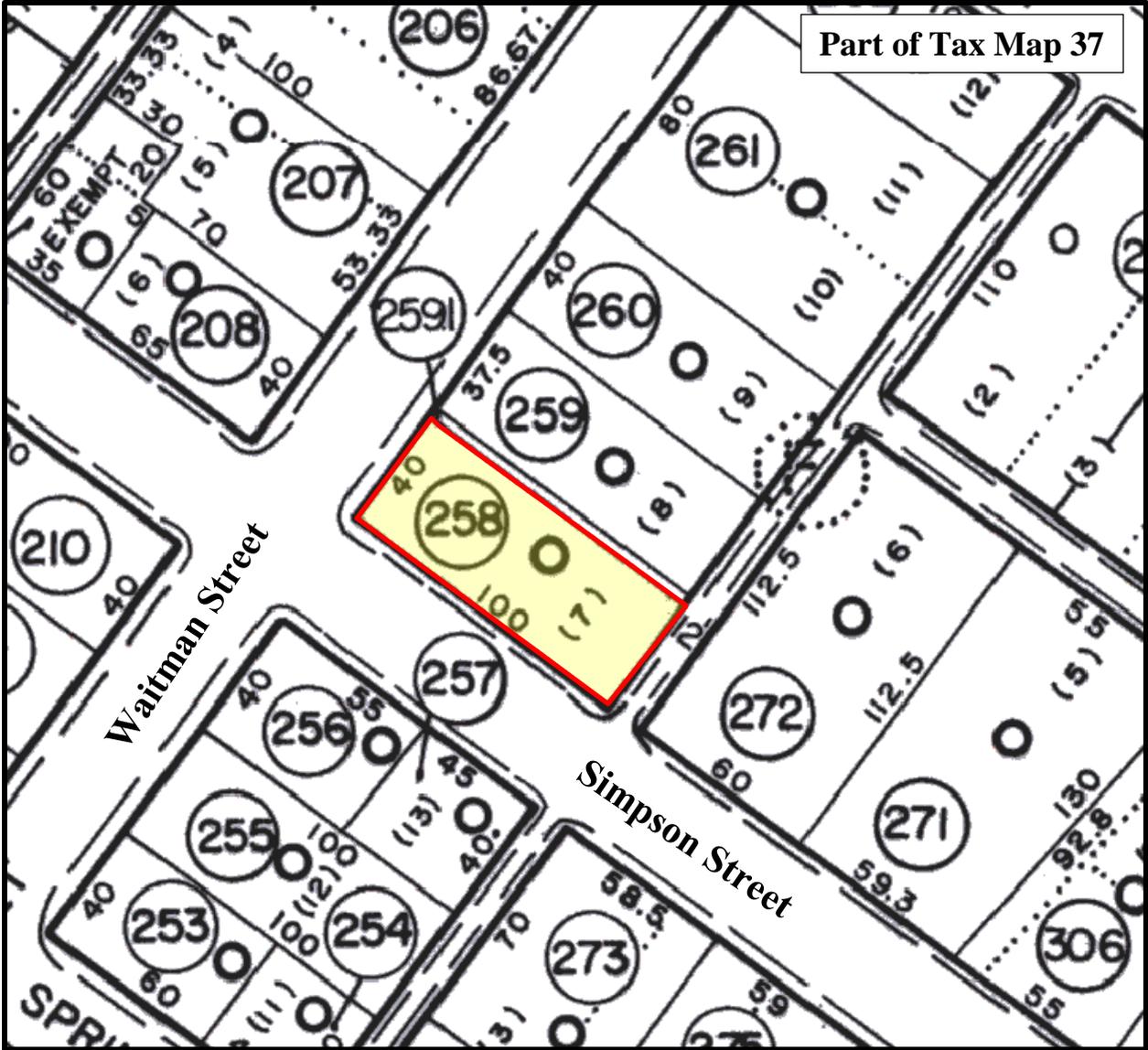
Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V13-66 / Hammersmith/ 309 Simpson Avenue



Part of Tax Map 37



STAFF REPORT ADDENDUM B

V13-66 / Jack L. Hammersmith / 309 Simpson 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:

~~n/a~~ The existing house does not appear to have been constructed to meet current building orientation, lot coverage, or setback requirements. Therefore, any additional to the house will require variance relief.

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:

~~Purpose is to enjoy quiet and privacy outdoors. Although home has a front porch, it is small, open, and quite close to Simpson Street, a well-traveled and noisy thoroughfare. Thus, it is not an appropriate place to relax, have a cup of coffee, or read the morning newspaper. The Chancery Hill and South Park Neighborhoods are historic districts where larger single-family homes were constructed on smaller lots resulting in high dwelling unit per acre densities and extensive nonconformance with current building envelope standards. The majority of homes within the immediate area do not appear to meet maximum lot coverage or front, side, and/or rear setback standards.~~

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:

~~#~~ The proposed addition encloses an existing patio (8'X24') but does not extend it. Nor ~~will~~ should it affect the aesthetics of the neighborhood in any way.

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:

~~See point #3.~~ The proposed addition encloses an existing patio, which will not alter the single-family use within a predominately single-family neighborhood. The addition should increase the market value of the petitioner's property, as home improvements customarily do. The nature of the requested variance cannot contribute to or mitigate existing traffic flow and patterns on neighboring streets.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO:	V13-tele
RECEIVED:	11/8/13
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	Jack L. Hammersmith		
Mailing Address:	Street	309 Simpson Street		Phone:	304-292-7945
	City	Morgantown, WV	26501	Mobile:	304-288-0550
	State		Zip	Email:	jhammer@wvu.edu
II. PROPERTY		Street Address:	309 Simpson Street		
Owner:	Jack and Jean Hammersmith		Zoning:	residential	
Mailing Address:	Street	same as above		Tax Map No:	
	City		State	Parcel No:	Block F: lot 7+
			Zip	Phone:	2.5 of lot 8
III. NARRATIVE		Please describe the nature and extent of your variance request(s).			

Apparently, when our home was constructed in the 1960s, regulations differed from those in effect today. The house takes up 77% of the lot space; today, 50% is the maximum allowed. Our proposal would not expand that percentage at all. At the Waitman Street end of our home is a cement patio. We wish to screen in this area to make it more usable in good weather, simply as a place to relax in privacy. It will remain virtually invisible from the street. Addition would, however, also enhance security as today only a single sliding door prevents entrance to home behind existing hedge. Again, it does not affect in any way the percentage of space taken up on our lot as the patio was part of the original plan.

Variance relief to: (1) Exceed maximum lot coverage; and, (2) Encroach into minimum setback

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.

Jack L. Hammersmith		RS1 11/08/2013 304-288-0550	PATTY 10:57:33 SITE PLAN/7/13
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	PAID 75.00	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.

PLANNING DEPARTMENT
MORGANTOWN, WV 26505
(304) 284-7408



APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V13-100
RECEIVED:	11/8/13
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. V13-166
RECEIVED: 11/8/13
COMPLETE: _____

Suggested Scale: 1 square = 5'

SEE ATTACHMENTS



**APPLICATION FOR
ZONING VARIANCE**

OFFICE USE	
CASE NO.:	V13-66
RECEIVED:	11/8/13
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:**

n/a

- 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:**

Purpose is to enjoy quiet and privacy outdoors. Although home has a front porch, it is small, open, and quite close to Simpson Street, a well-traveled and noisy thoroughfare. Thus, it is not an appropriate place to relax, have a cup of coffee, or read the morning newspaper.

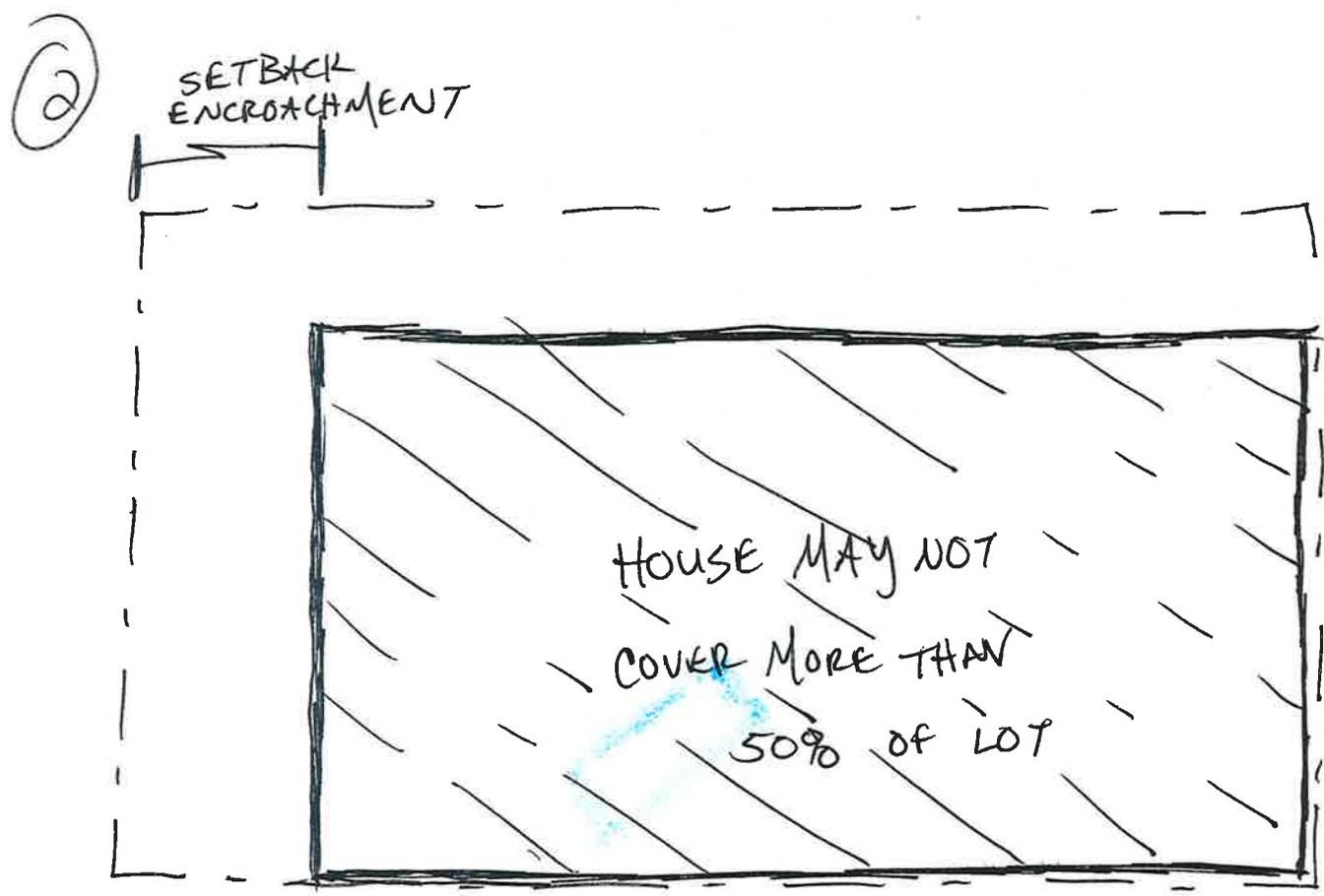
- 3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:**

It encloses an existing patio (8' x 24') but does not extend it. Nor will it affect the aesthetics of the neighborhood in any way.

- 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:**

See point #3.

VB-66



②

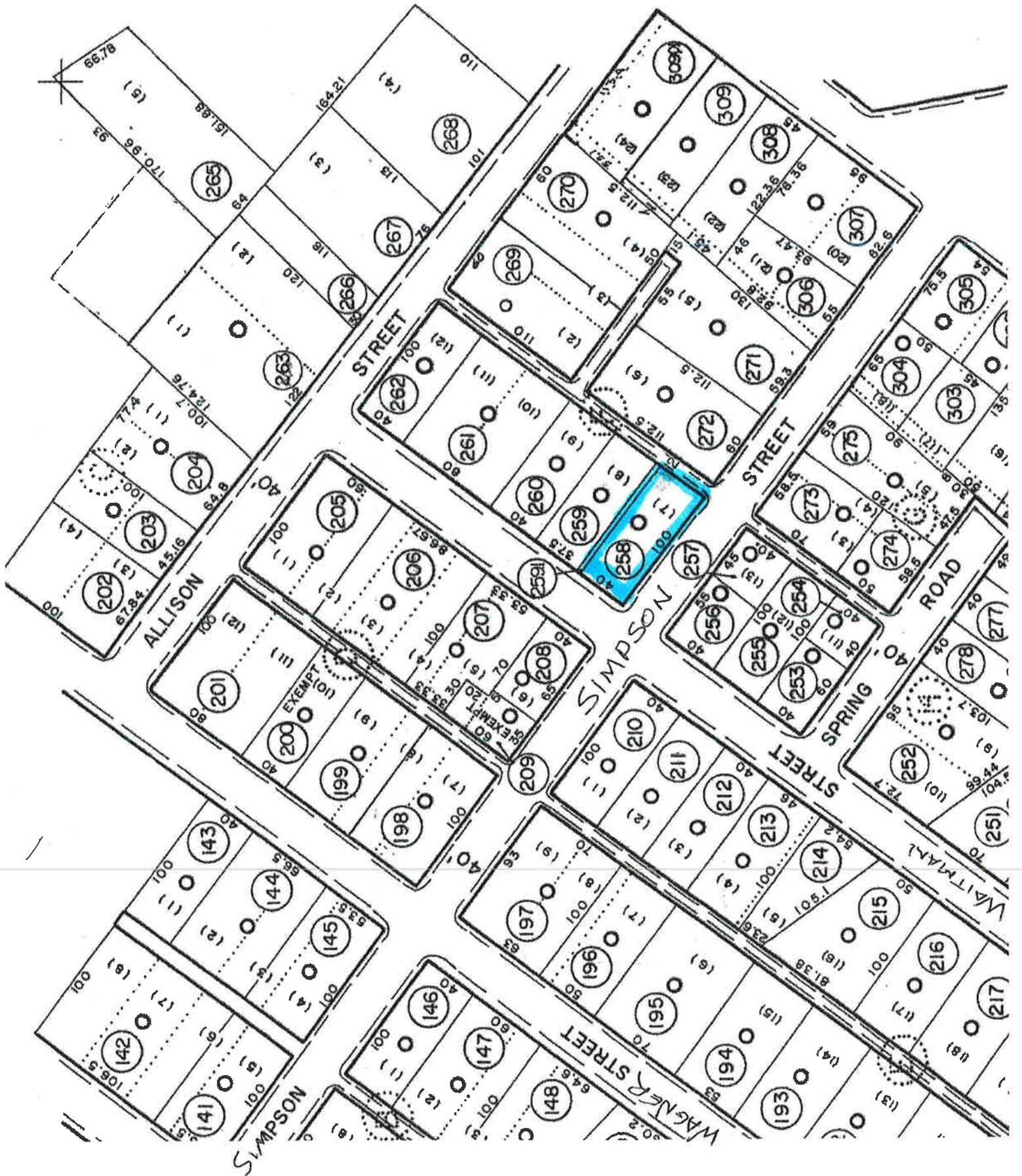
SETBACK ENCROACHMENT

HOUSE MAY NOT COVER MORE THAN 50% OF LOT

① EXISTING CONDITION \approx 77%

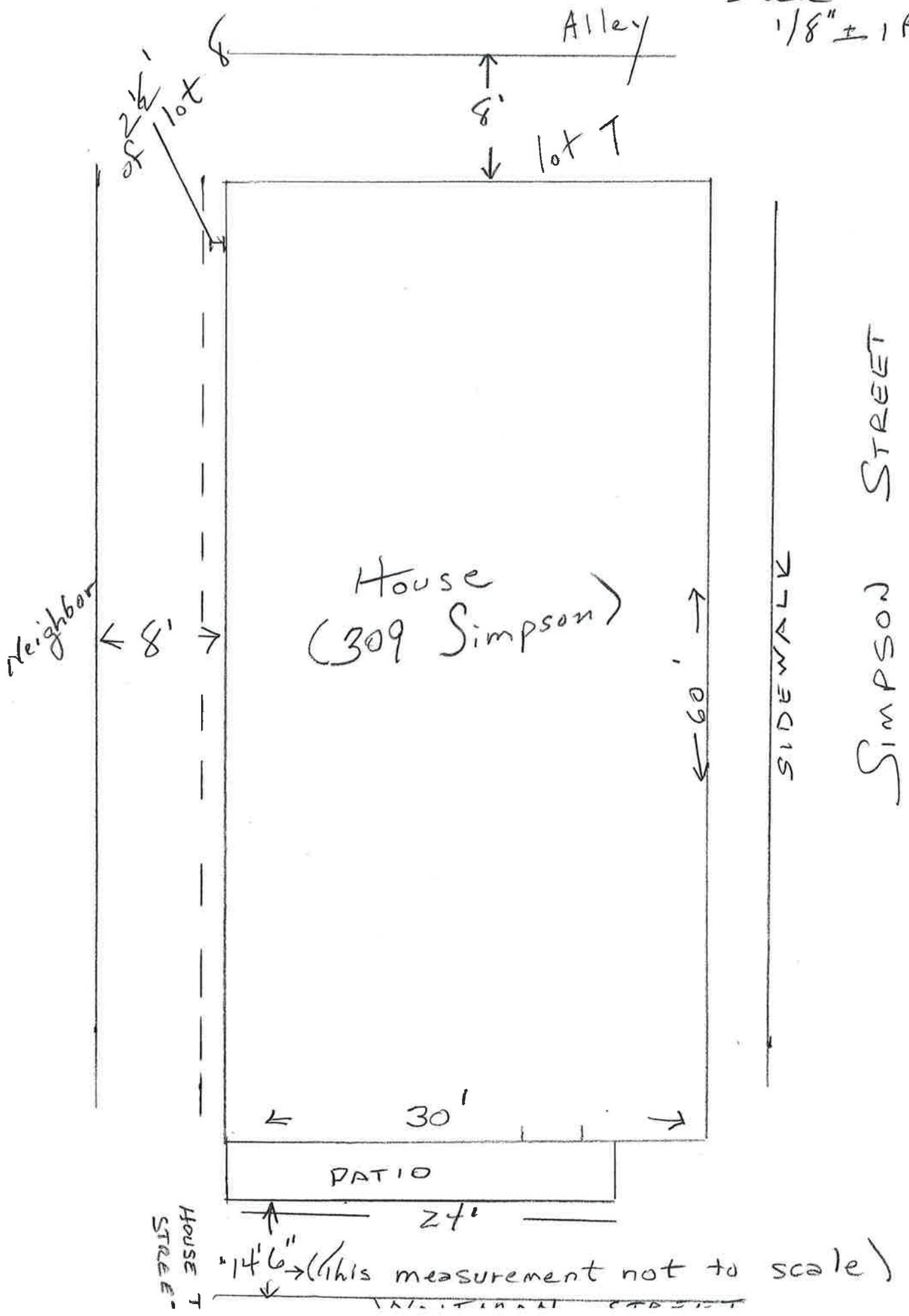
Hammersmill
309 Simpson

Blue mark indicates our lot (# 7) & the 2 1/2 feet narrow strip between 7 & 8 the additional feet that belong to us.



Hammermill

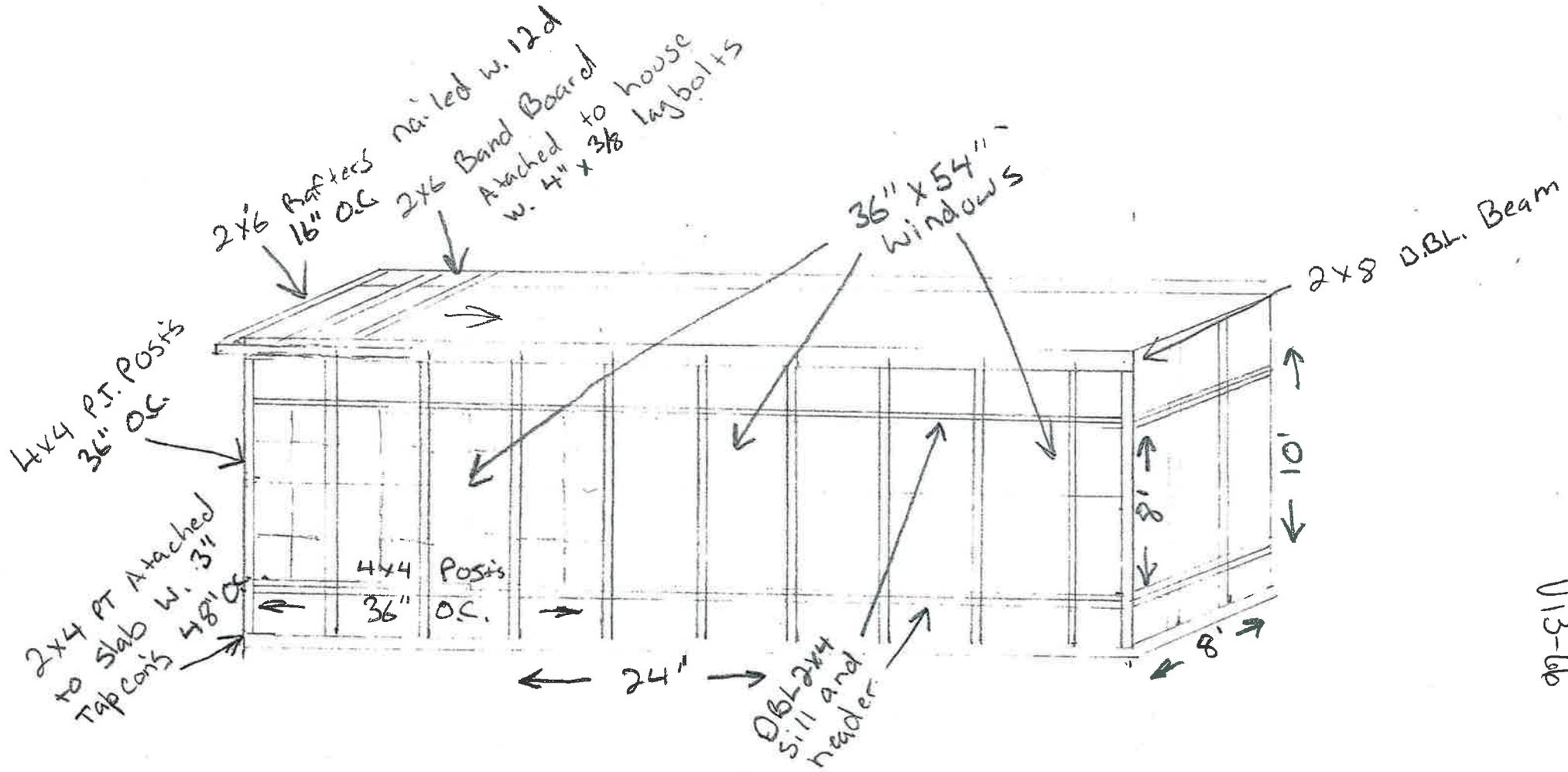
Scale
1/8" = 1 ft.



Hammerson?
309 Simpson St

- 3" Tapcon Screws 48" OC.
- 4 posts 36" OC. Attached to 1 w. approved Base brackets
- 2x8 header
- rafters 16" OC.
- sand board attached to house
- 3" lag bolts 48" OC.

- 35yr Arc. Shingles
- 36" x 54" windows throughout
- 32" door on left side



U13-66

As a homeowner on Waitman Street, Morgantown, WV, I understand the intentions of the Hammersmiths in screening in an existing patio on their property at 309 Simpson Street, and have no objections to those plans.

Paul K Henneberg

Lyndia J. Bunge

(name[s])

141 Waitman St.

Morgantown WV 26501

(address)

Nov 7, 2013

(date)

As a homeowner on Waitman Street (corner of Waitman and Simpson), Morgantown, WV, I understand the intentions of the Hammersmiths in screening in an existing patio on their property at 309 Simpson Street, and have no objections to those plans.

Rosemary Hathaway (name[s])

201 WAITMAN STREET (address)

11-6-13 (date)

As a homeowner on Simpson Street, Morgantown, WV, I understand the intentions of the Hammersmiths in screening in an existing patio on their property at 309 Simpson Street, and have no objections to those plans.

Susan & Don Pauter (name[s])

308 Simpson St (address)
Morgantown WV 26501

Nov. 4, 2013 (date)

As a homeowner on Simpson Street, Morgantown, WV, I understand the intentions of the Hammersmiths in screening in an existing patio on their property at 309 Simpson Street, and have no objections to those plans.

Steven K. McGuire (name[s])

312 SIMPSON ST. (address)

NOV. 5, 2013 (date)