



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: V13-67 / Kathleen Sutter / 1248 Fairlawns Avenue

REQUEST and LOCATION:

Request by Kathleen Sutter for variance relief from Article 1333 as it relates to setbacks at 1248 Fairlawns Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 7, Parcel 163; R-1, Single-Family Residential District

SURROUNDING ZONING:

R-1, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to construct an addition onto the existing integral garage so that it is more accessible. Addendum A of this report illustrates the location of the subject site.

Article 1333.04(A) provides a minimum side setback standard of ten (10) feet within the R-1 District.

According to the petitioner's site plan, the existing setback on the east side of the house is ten (10) feet. The proposed six-foot addition would result in a four-foot side setback, which would require a six-foot side setback variance.

The imagery provided in Addendum A of this report illustrates an evergreen tree, evergreen hedge, and a privacy fence separating the petitioner's property from the adjoining property to the west addressed as 1260 Fairlawns Avenue.

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.

Development Services

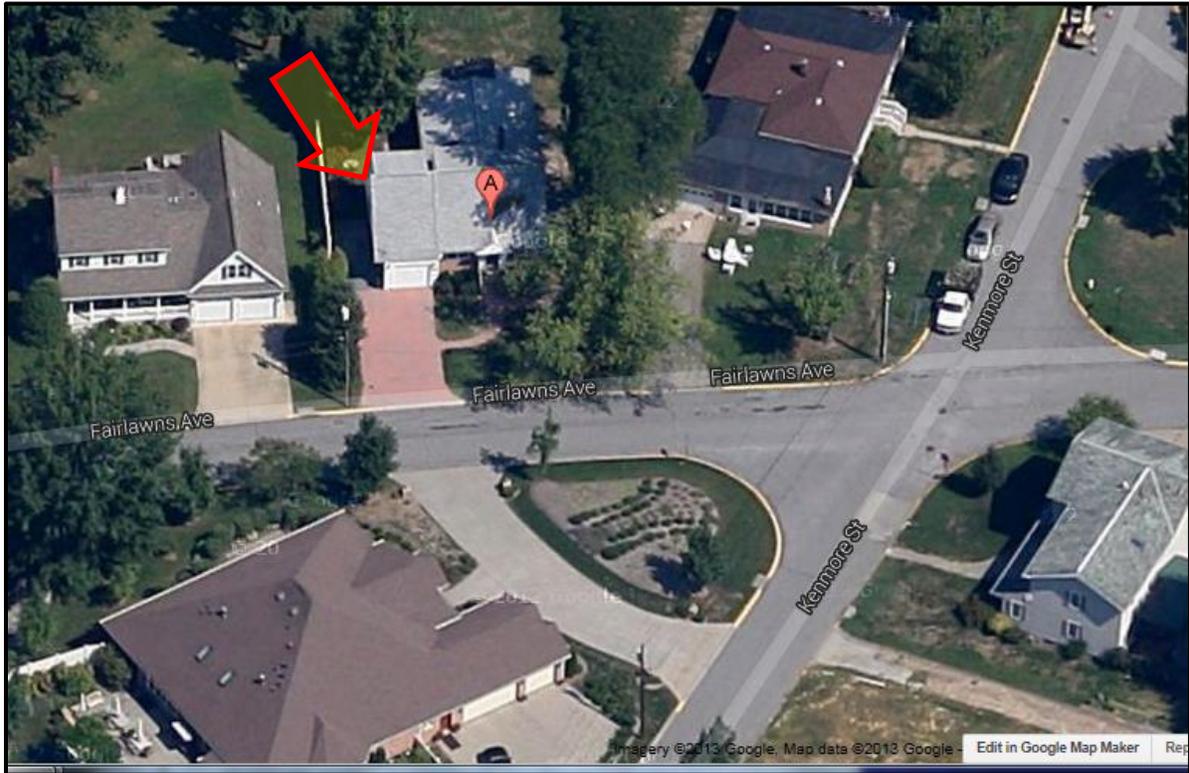
Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

Enclosures: Application and accompanying exhibits

STAFF REPORT ADDENDUM A
V13-67 / Kathleen L. Sutter / 1248 Fairlawns Avenue



STAFF REPORT ADDENDUM B
V13-67 / Kathleen Sutter / 1248 Fairlawns 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:

Because the request is to widen the garage six feet to accommodate a wheelchair lift and to give sufficient room for a person using a wheelchair to exit the car in the garage and move forward to the lift in the garage.

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:

~~Because the owner may need this accommodation in the future to enter his home because of a disability caused by Parkinson's disease, a progressing disease.~~ There appears to be single-family homes fronting Mulberry Street that do not meet minimum interior side setback requirements. Additionally, the Board granted similar variance relief on October 19, 2011 to encroach into the minimum ten-foot side setback standard at 1248 Oxford Place under Case No. V11-37.

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:

Because it will not be harmful to the public interest or harm property value because, unlike a ramp, this accommodation will not alter the appearance of the house negatively. The neighbor's high solid fence, shrubbery, and garage will shield view.

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:

Because widening the garage will be within the style of the home with professional advice. No additional traffic will be caused.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	113-67
RECEIVED:	11/8/13
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name: Kathleen L. Sutter	
Mailing Address:	Street	1248 Fairlawn Ave.	Phone: 304-599-4836
	City	Morgantown, WV	Mobile: 304-290-3487
	State	26505	Email: sutter.kathleen@gmail.com
II. PROPERTY		Street Address: 1248 Fairlawn Ave.	
Owner:	Richard & Kathleen Sutter		Zoning: R-1
Mailing Address:	Street	1248 Fairlawn Ave.	Tax Map No:
	City	Morgantown, WV	Parcel No:
	State	26505	Phone: 304-599-4836
III. NARRATIVE		Please describe the nature and extent of your variance request(s).	

Kathleen and Richard Sutter request a variance to widen the garage 6 ft, first floor only, from 12 ft to 18 ft wide. The property line is 10 ft from the present side of the garage. There will be 4 ft remaining to the property line. The purpose of the extension is to make the home accessible with room for a person to exit the car to reach a wheelchair lift within the garage.

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.	
Kathleen L. Sutter	Kathleen L. Sutter
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent
	PAID 75.00
	Date 11-8-2013

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.



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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.

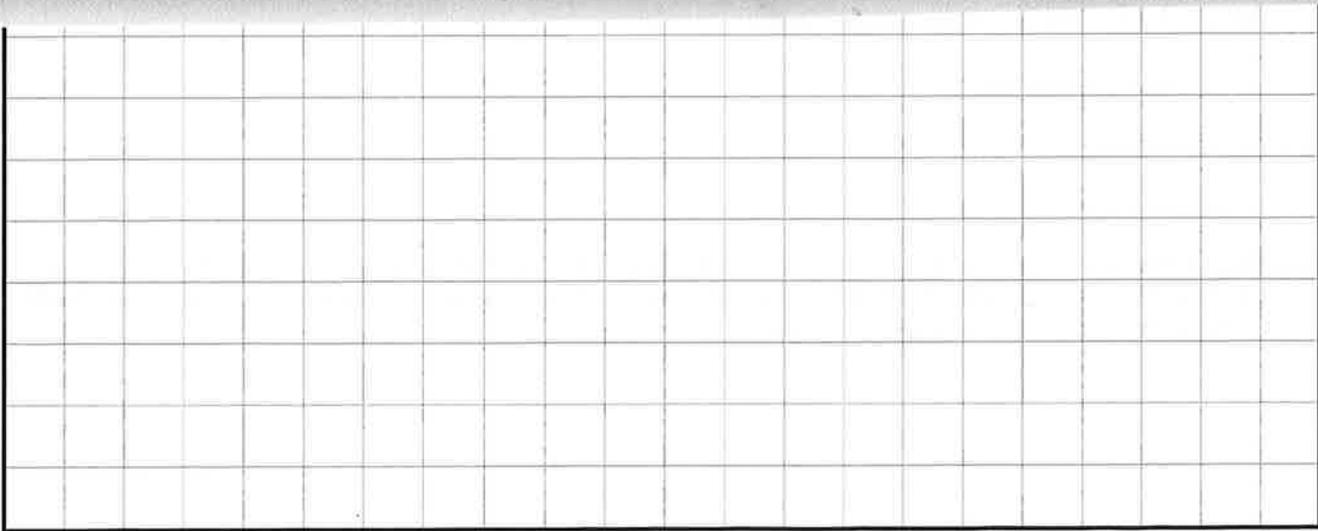
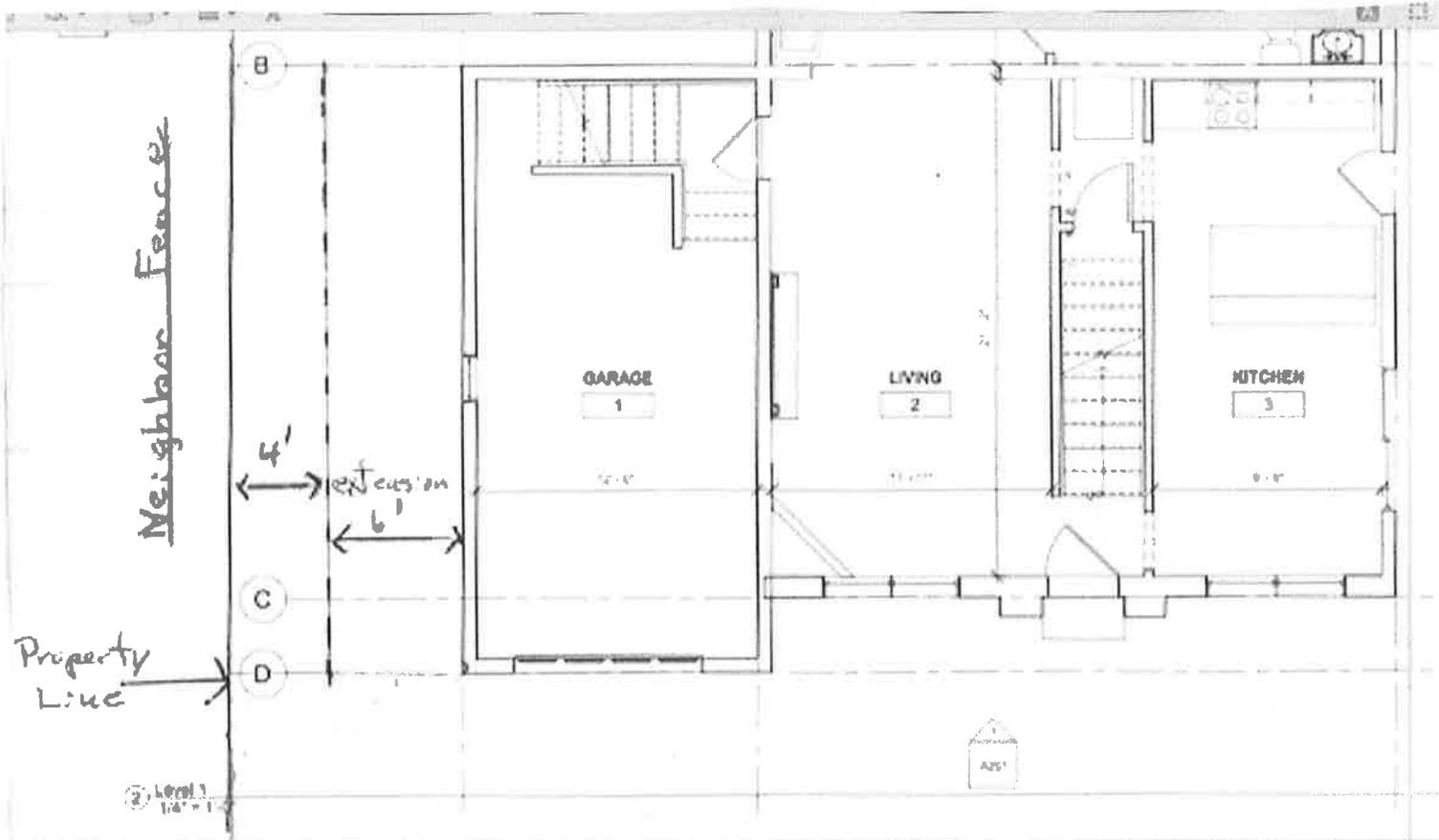


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APPLICATION FOR ZONING VARIANCE

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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:

...because the request is to widen the garage 6ft to accommodate a wheelchair lift and to give sufficient room for a person using a wheelchair to exit the car in the garage and move forward to the lift in the garage.

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:

...because the owner may need this accommodation in the future to enter his home because of a disability caused by Parkinson's disease, a progressive disease.

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:

...because it will will not be harmful to the public interest or harm property value because, unlike a ramp, this accommodation will not alter the appearance of the house negatively. The neighbor's high solid fence, shrubbery, and garage will shield view.

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:

...because widening the garage will be within the style of the home with professional advice. No additional traffic will be caused.