



MORGANTOWN BOARD OF ZONING APPEALS

June 18, 2014
6:30 PM
City Council Chambers

Board Members:

- Bernie Bossio, Chair
- Leanne Cardoso, Vice-Chair
- Bill Burton
- George Papandreas
- Jim Shaffer

STAFF REPORT

CASE NO: V14-26 / White / 1340 Fairfield Street

REQUEST and LOCATION:

Request by Harold White for variance relief from Article 1331.08 as it relates to setbacks for accessory structures at 1340 Fairfield Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 2, Parcel 67; R-1, Single-Family Residential District

SURROUNDING ZONING:

R-1, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to construct a 9' X 11" gazebo atop an existing stone patio in the back corner of the property. Addendum A of this report illustrates the location of the subject site.

The petitioner seeks to construct the gazebo four (4) feet from the property boundary. According to the petitioner, existing decking in the yard hinders placing the proposed gazebo at least five (5) feet from the property line given the proposed dimensions of the gazebo. The following graphic generally illustrates the approximate proposed location of the gazebo and the surrounding built environment.



Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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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. Therefore, a one (1) foot variance must be approved to construct the gazebo as proposed.

Staff received an email of support from Joseph and Catherine George (see attachment), who are residents of the adjoining 512 Princeton Avenue home.

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. Please note that Staff has taken the petitioner's Findings of Fact responses submitted with the old variance application, associated said responses to similar Findings of Fact provided in the new variance application, and included recommended revisions (deleted matter struck through; new matter underlined).

No recommendation is submitted concerning approval or conditions pertaining to the subject variance petition.

Enclosures: Application and accompanying exhibits

Development Services

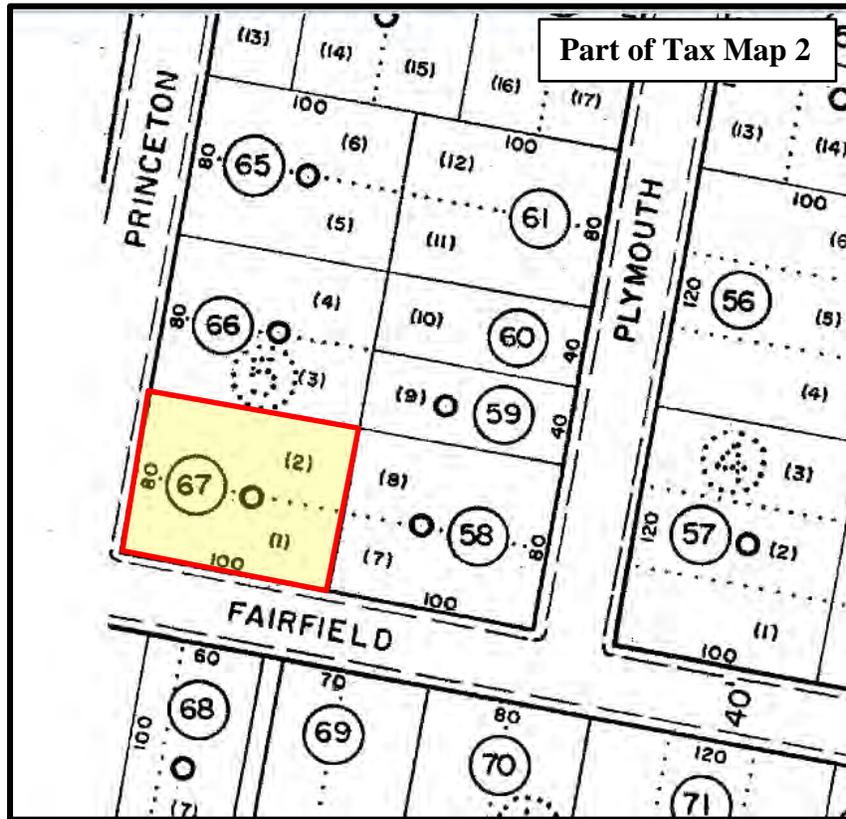
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STAFF REPORT ADDENDUM A
V14-26 / White / 1340 Fairfield Street





STAFF REPORT ADDENDUM B
V14-26 / White / 1340 Fairfield Street

Staff has taken the petitioner's Findings of Fact responses submitted with the old variance application, associated said responses to similar Findings of Fact provided in the new variance application, and included recommended revisions (deleted matter struck through; new matter underlined).

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

~~We would like to make this a gazebo with outside furniture so we can enjoy relaxing, reading and also hanging out with our neighbors. There are no other structures in the neighborhood. This structure will be landscaped and completed with materials that are the same as house and decking on our property and maintained in the same manner. It will be located in the corner of our back yard. The nearest structure (- 8-10ft) is our neighbors garage. When we purchased our property 21 years ago, the property was a rental and neglected, we feel we have improved the landscape and house and this would only add value to the property because of the manner it will be finished.~~ The proposed location of the gazebo is at the northeast corner of the petitioner's property. The only nearby structure is a detached garage. The proposed location of the gazebo adjoins the far rear yard corners of neighboring properties. The variance of one (1) foot should not manifest harm to public interests, the public realm, or the rights of adjoining property owners.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

~~The gazebo will be located in the corner of our back yard. This is the only part of our back yard that is big enough to accommodate this structure due to location of existing decks. The petitioner purports that existing decking in the side and rear yard hinder the placement of the proposed gazebo to conform to minimum setback requirements for accessory structures.~~

ALTERNATE NEGATIVE FINDING: The variance DOES NOT ARISE from special conditions or attributes which pertain to the property for which a variance is sought because the requested encroachment is created by the petitioner's decision to pursue the proposed gazebo dimensions rather than pursuing a smaller sized gazebo that conforms to minimum setback standards for accessory structures.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The petitioner purports that existing decking in the side and rear yard hinder the placement of the proposed gazebo to conform to minimum setback requirements for accessory structures. The one-foot variance appears to be reasonable given conditions of the surrounding built environment in terms of proximity of neighboring principal and accessory structures and the utilization characteristics of adjoining rear yards as outdoor open space.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Being built on back part of property and not near Fairfield Street or Princeton Avenue. The proposed location of the gazebo is furthest from neighboring principal structures. Granting a one-foot variance in this case should not undermine the intent of protecting property values; preserving the comfort, convenience, and enjoyment of adjoining properties; and mitigating potential encroachment of nuisances or hazards.



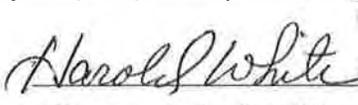
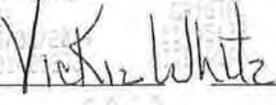
City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V14-26
RECEIVED:	
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	Harold & Vickie White	
Mailing Address:	1340 Fairfield Street		Phone:	304-598-8608
	Street	Morgantown WV 26505	Mobile:	304-685-5341
	City	State Zip	Email:	vwhite@hsc.wvu.edu
II. PROPERTY		Street Address:	1340 Fairfield Street	
Owner:	Vickie White		Zoning:	R-1
Mailing Address:	Same as above		Tax Map No:	2
	Street		Parcel No:	67
	City	State Zip	Phone:	
III. NARRATIVE		Please describe the nature and extent of your variance request(s).		
<p>We are requesting a 1 foot variance to build a covered gazebo on the back corner of our property. This structure will be built over an existing paver/stone patio. The structure will be 9 x 11, will not have enclosed sides and will be 4 feet from our neighbors on the side and back of our property. The roof line of the gazebo will not hang over on the neighbors property. We are requesting the variance due to the fact that our current decking will not allow for this structure to be located in a different area in our yard as this area is the biggest part of the back yard.</p>				
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.		
Harold White, Vickie White		 		5/1/14
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.



APPLICATION FOR ZONING VARIANCE

OFFICE USE
CASE NO. V14-26
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):
This work will be completed by homeowners.

- 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.



APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V14-26
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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 gazebo will be located in the corner of our back yard. this is the only part of our back yard that is big enough to accommodate this structure due to location of existing decks.

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:

We would like to make this a gazebo with outside furniture so we can enjoy relaxing, reading and also hanging out with our neighbors. There are no other such structures in the neighborhood.

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:

This structure will be landscaped and completed with materials that are the same as house and decking on our property and maintained in the same manner. It will be located in the corner of our back yard. The nearest structure (~ 8-10 ft.) is our neighbors garage. When we purchased our property 21 years ago, the property was a rental and neglected, we feel we have improved the landscape and house and this would only add value to the property because of the manner it will be finished.

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:

Being built on back part of property and not near Fairfield Street or Princeton Ave

Zimbra

shollar@cityofmorgantown.org

Please grant RE V14-26/White/1340 Fairfield St Tax map 2 Parcel 67

From : Leonard George <Phil740@aol.com>

Wed, Jun 04, 2014 11:42 AM

Subject : Please grant RE V14-26/White/1340 Fairfield St Tax map 2 Parcel 67**To** : shollar@cityofmorgantown.org

Please grant RE V14-26/White/1340 Fairfield St Tax map 2 Parcel 67

Joseph M. & Catherine V. George

Stacy Hollar

City of Morgantown

389 Spruce St.

Morgantown, WV 26505

RE V14-26/White/1340 Fairfield St Tax map 2 Parcel 67

Ms. Hollar:

I write to ask that you grant the variance request of Harold White. Mr. White's project would be a benefit to the neighborhood. Being that we are his closest neighbors we are the only people who could be adversely affected by the project. Knowing this we support the project and request that you grant his request.

Thank you,

Joseph M. & Catherine V. George
304-599-2568
