



MORGANTOWN BOARD OF ZONING APPEALS

November 19, 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: V14-52 / Strategic Management Corporation / 1073 Windsor Avenue

REQUEST and LOCATION:

Request by Kurtis Clinton, on behalf of Strategic Management Corporation for variance relief from Article 1333.04 as it relates to side-yard setback standards at 1073 Windsor Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 6, Parcel 26; R-1, Single-Family Residential District

SURROUNDING ZONING:

R-1, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner has razed and removed the existing single-family structure and seeks to construct a new single-family house that will include an integral garage. Addendum A illustrates the location of the subject.

The width of the subject parcel along Windsor Avenue is 48.69 feet. The parcel has a 4.28-foot jog in middle of the property along the north side property boundary. This results in a parcel width of 44.41 feet where a portion of the house will be situated. The subject parcel is considered a legal, pre-existing, non-conforming, grandfather parcel as it does not meet the minimum lot width standard of 70 feet in the R-1 District [see Article 1333.03(B)]. The lot size of the parcel is approximately 8,612 square feet, which exceeds the minimum lot size standard of 7,200 square feet in the R-1 District [see Article 1333.03(A)].

The width of the proposed house is 34 feet, which leaves 10.41 feet for side setbacks. It appears from the petitioner's site plan that the proposed setbacks will be approximately five (5) feet on each side of the house. It should be noted, based on orthoimagery, that the width of the previous house was 34 to 35 feet.

Article 1333.04(3) provides that the minimum side setback standard for principal structures in the R-1 District is ten (10) feet. As such, the petitioner must obtain a total side setback variance of ten (10) feet.

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 responses.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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Staff recommends that a ten-foot variance be granted from the minimum side setback standard as requested with the condition that the proposed house may not be located closer than five (5) feet from either side property boundary.

Enclosures: Application and accompanying exhibits

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Director

Planning Division

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Morgantown, WV 26505
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STAFF REPORT ADDENDUM A

V14-52 / Strategic Management Corporation / 1073 Windsor Avenue





STAFF REPORT ADDENDUM B

V14-52 / Strategic Management Corporation / 1073 Windsor Avenue

Staff recommended revisions to the petitioner's Findings of Fact responses (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:

~~Because the new home we are building will be the exact same width as the former home. We are also taking down a home that was unkept and falling apart, and replacing it with a very nice new construction home that fits in great with the look of the neighborhood. It appears that the previous house had a similar width as that proposed by the petitioner's new construction plan, which does not appear to have adversely impacted the general public, the rights of neighbors, or the enjoyment and value of adjacent properties.~~

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:

~~Because The code current minimum lot width standard was not in effect when the parcel was created and the minimum side setback standard was not in effect when the previous house was constructed has changed since the existing structure was built. This made the existing home in conflict with the minimum side setback standard of 10'. The new home will be the same size as the existing structure that was just razed and removed. The petitioner did not subdivide the property into its present configuration and lot frontage, which includes a four-foot jog in the side property boundary alignment.~~

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

~~Because with the new code you would be unable to build a similar single-family home on the existing lot as what was there before. The new home will set in the same width footprint as the home that has been there for over 50 years. The parcel is considered nonconforming as it does not meet current minimum lot width standards.~~

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

~~Because with the variance, and the ability Relief from the minimum side setback requirement, given the nonconforming width of the parcel, enables to build a beautiful new home to be built in the nearly identical location of the former structure. place, The lot will proposed single-family house should add value to the neighborhood rather than lower it. Also this variance will not encroach on any of the neighbor's properties any more than it has for the past 50 plus years. Observing the minimum side setback requirement would leave only 24 feet in width of buildable area, which would not be consistent with the development pattern of homes along Windsor Avenue.~~



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V14-52
RECEIVED:	10/3/14

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75 VISA

I. APPLICANT		Name:	Strategic Management Corporation			
Mailing Address:	Street	411 Saint Andrews Dr		Phone:	304-290-8810	
	City	Morgantown	WV	26508	Mobile:	Same
	State	WV		Zip	26508	Email:
II. PROPERTY		Street Address:	1073 Windsor Ave.			
Owner:	Strategic Management Corporation			Zoning:	R-1	
Mailing Address:	Street	Same		Tax Map No:	6	
	City	Same		Parcel No:	26	
	State	WV		Zip		Phone:
III. NARRATIVE		Please describe the nature and extent of your variance request(s).				
<p>Building a single family home that is 34' wide on a 48.69' parcel, which will encroach on minimum side setback standard of 10'. I tore down the existing house that was the exact same width, I am changing the depth of the home.</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 Development Services 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.				
Chris Barnhizer/VP				10/03/2014		
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 VARIANCE PETITION

OFFICE USE	
CASE NO.	V14-50
RECEIVED:	

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: _____

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



**APPLICATION FOR
VARIANCE PETITION**

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VII. FINDINGS OF FACT

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

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. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Because the new home we are building will be the exact same width as the former home. We are also taking down a home that was kept and falling apart, and replacing it with a very nice new construction home that fits in great with the look of the neighborhood.

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:

Because the code has changed since the existing structure was built. This made the existing home in conflict with the minimum side setback of 10'. The new home will be the same size as the existing structure.



**APPLICATION FOR
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V14-52
RECEIVED:	

VII. FINDINGS OF FACT

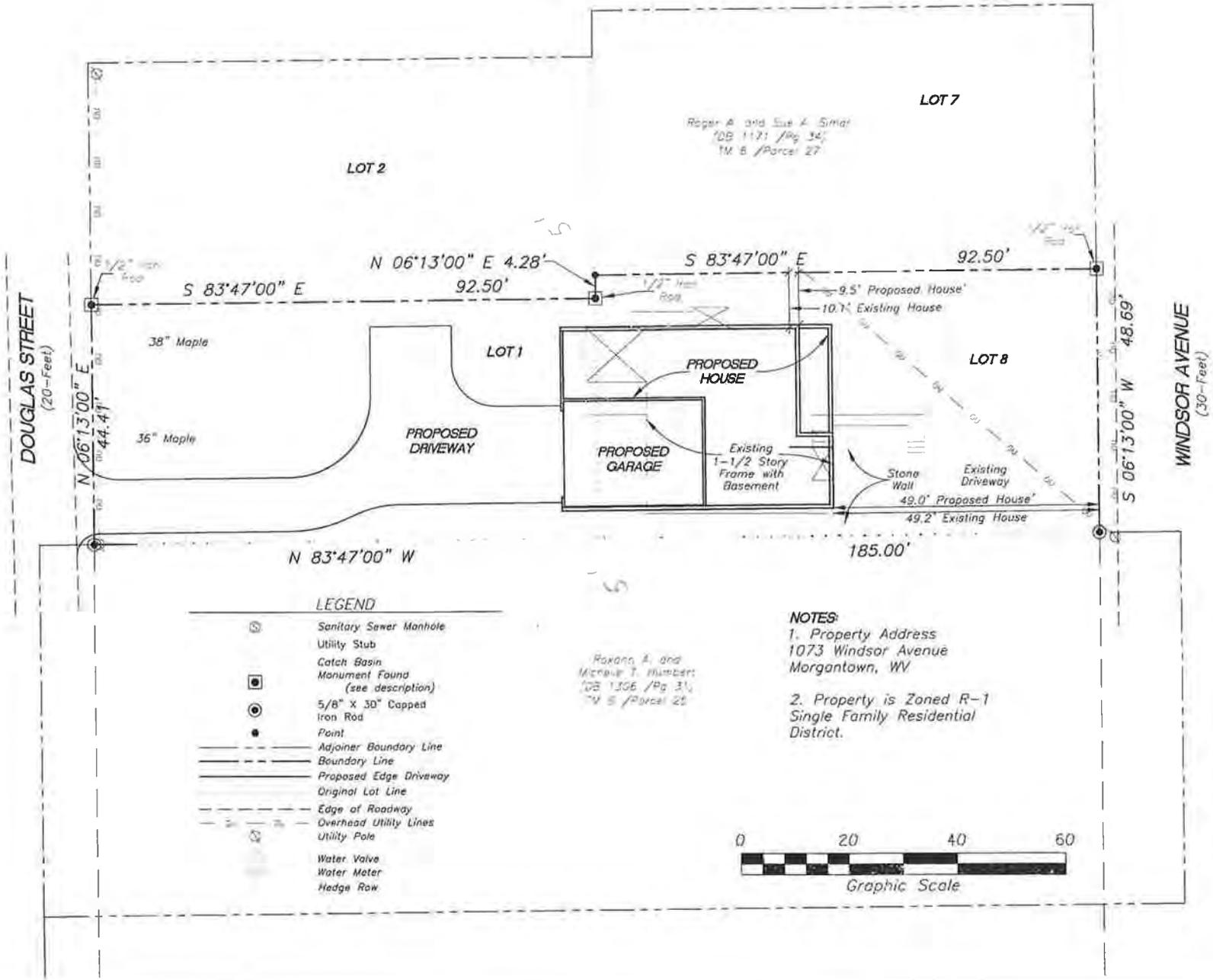
COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

- 3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

Because with the new code you would be able to build a similar single-family home on the existing lot as what was there before. The new home will set on the same width footprint as the home that has been there for over 50 years.

- 4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

Because with the variance, and the ability to build a beautiful new home in the former structures place, the lot will add value to the neighborhood rather than lower it. Also this will not encroach on any of the neighbors property any more than it has for the past 50 plus years.

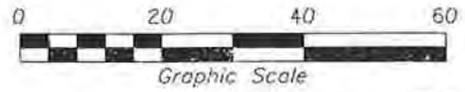


LEGEND

- Sanitary Sewer Manhole
- Utility Stub
- Catch Basin
- Monument Found
(see description)
- 5/8" x 30" Capped Iron Rod
- Point
- Adjoiner Boundary Line
- Boundary Line
- Proposed Edge Driveway
- Original Lot Line
- Edge of Roadway
- Overhead Utility Lines
- Utility Pole
- Water Valve
- Water Meter
- Hedge Row

NOTES

1. Property Address
1073 Windsor Avenue
Morgantown, WV
2. Property is Zoned R-1
Single Family Residential
District.

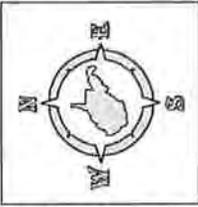


Rowan 1, and
Microplot T. Numbers
JOB 1306 /Pg 3,
TM 5 /Parcel 22

Rowan 8 and Sub A. Similar
JOB 1171 /Pg 34,
TM 5 /Parcel 27

Illustration - James Forester, Jr. based
on "ADDITION NORTH" of record in
Deed Book 596, at Page 354

**Consolidated
Survey, PLLC**
PO Box 133
Worthington, West Virginia
(304) 287-2870



CADD FILE: Lot 1 & 8 Plot Plan.DWG		JOB NO: 140094		CHECKED BY: CEF		SCALE: 1"=20'	
DRAWN BY: RAT		DATE: 9-09-2014		DATE: 9-09-2014		SCALE: 1"=20'	

STRATEGIC MANAGEMENT CORPORATION
LOTS 1 AND 8 - STUMP ADDITION
SEVENTH WARD, CITY OF MORGANTOWN
MONONGALIA COUNTY, WEST VIRGINIA

PROPOSED LAYOUT PLAN

SHEET NUMBER:
C-01
JOB NO.: 140094



FRONT ELEVATION
1/8" = 1'-0"

For Review Only:
Not for Construction



REAR ELEVATION
1/8" = 1'-0"

For Review Only:
Not for Construction

1073 Windsor
Ave.

ProMark
Home Designs L.L.C.

P.O. Box 159144 Nashville, TN 37215

Proudly working with.

Lot 225, Watkin's Creek
Franklin, TN

It is the intent of these documents to provide sufficient information to the experienced builder to construct the project shown; it is therefore his / her responsibility to verify accuracy and compliance with all regulatory agencies prior to construction; and their requirements must take precedence over those shown.

DRAWN BY
JW

PLAN NUMBER:
SMC

DATE 8/01/14

Zimbra

shollar@cityofmorgantown.org

Fwd: Windsor Ave. Variance

From : s <dfmms@aol.com>

Fri, Nov 07, 2014 01:34 PM

Subject : Fwd: Windsor Ave. Variance**To** : shollar@cityofmorgantown.org

-----Original Message-----

From: s <dfmms@aol.com>

To: shollar <shollar@cityofmorgantown.gov>

Sent: Fri, Nov 7, 2014 11:09 am

Subject: Windsor Ave. Variance

Stacy--please let it be known that Gary and Debbie Marano residents of 1068 Windsor Ave., are in FAVOR of granting the variance to Kurtis Clinton. He has our blessing as he is turning a neighborhood eye sore into a beautiful new home on our street. We wish him well with his project--and pursuing a new neighbor on Windsor!!

Thanks Debbie Marano--let me know that this was properly received..
