



MORGANTOWN BOARD OF ZONING APPEALS

March 18, 2015
6:30 PM
City Council Chambers

Board Members:

Leanne Cardoso, Chair
Bill Burton, Vice-Chair
Linda Herbst
George Papandreas
Jim Shaffer

STAFF REPORT

CASE NO: COMBINED STAFF REPORT
V15-20 & V15-21 / Mon County Habitat for Humanity / Addison Circle

REQUEST and LOCATION:

Request by Evan Zuverink, on behalf of Mon County Habitat for Humanity, for two (2) variance relief petitions from Article 1335.04 concerning setback encroachments on Addison Circle

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 24, p/o Parcel 41; R-1A, Single-Family Residential District

SURROUNDING ZONING:

R-1A, Single-Family Residential District

BACKGROUND and ANALYSIS:

Mon County Habitat for Humanity is constructing single-family houses in phases as a part of a new subdivision along a new cul-de-sac to be named "Addison Circle" that will be accessed from Jerome Street. Addendum A of this report illustrates the location of the subject site.

Article 1335.04(A)(3) provides a minimum side setback standard of five (5) feet. Under Case No. V15-20, the petitioner seeks to construct a single-family house on "Lot 9" with a proposed side setback of 3'-7", which requires variance relief of 1'-5" from the R-1A District minimum side setback standard.

Article 1335.04(A)(2) provides a maximum front setback standard of twenty (20) feet. Under Case No. V15-21, the petitioner seeks to construct a single-family house on "Lot 5" with a proposed front setback of 26'-3", which requires variance relief of 6'-3" from the R-1A District maximum front setback standard.

Staff recommends that the Board, without objection from members of the Board, the petitioner, or the public, combine the public hearings for Case Nos. V15-20 and V15-21. However, each respective variance petition must be considered and acted upon by the Board separately.

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.

Please note that each respective variance petition must be considered and acted upon by the Board separately.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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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 that the following variances be granted as requested:

Case No. V15-20That variance relief be granted permitting the encroachment of 1'-5" into the minimum side setback standard on "Lot 9".

Case No. V15-21That variance relief be granted permitting the maximum front setback standard to be exceeded by 6'-3" on "Lot 5".

Enclosures: Applications and accompanying exhibits

Development Services

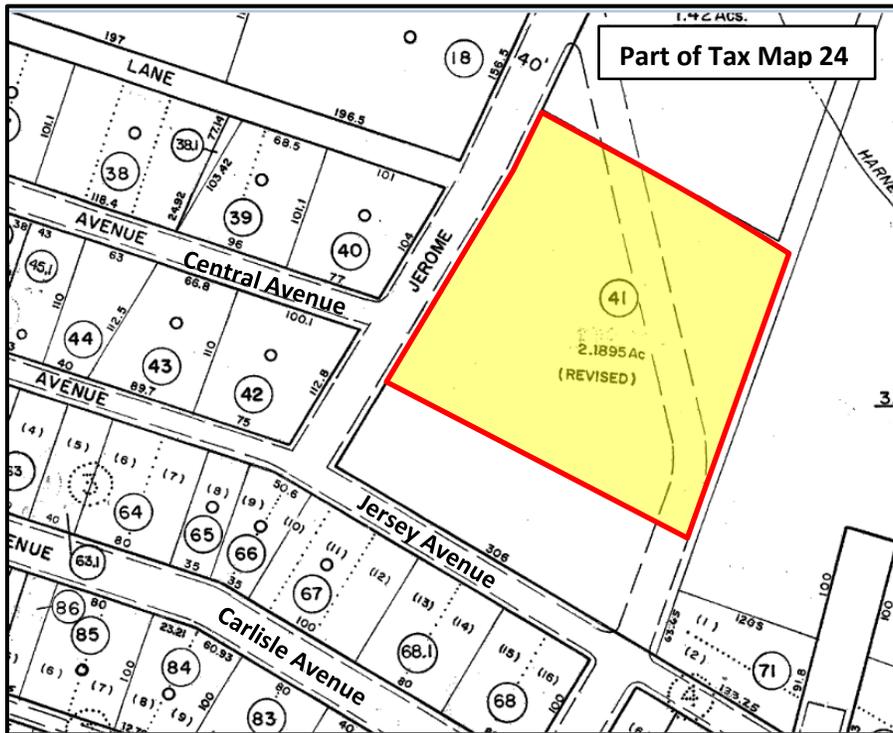
Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

V15-20 & V15-21 / Mon County Habitat for Humanity / Addison Circle



STAFF REPORT ADDENDUM B

V15-20 & V15-21 / Mon County Habitat for Humanity / Addison Circle

Staff recommended revisions to petitioner's Findings of Fact (deleted matter struck through; new matter underlined).

Case No. V15-20 To Encroach Into Minimum Side Setback Requirement

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:

~~Mon County Habitat for Humanity seeks to construct a single family dwelling to serve a low income family in Morgantown.~~ This request will only affect one individual building lot and should have no effect on public health, safety, or the rights of adjacent 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:

~~There are several other single family dwellings in the vicinity that do not meet the minimum side setback requirements in the community. The variance would have no adverse effect on any other property in this community. Examples can be made available at the BZA's request. The configuration of the east side boundary line of "Lot 9" is not parallel with the west side boundary line resulting in a front parcel width that is less than the rear parcel width. This configuration appears to result, in part, on the cul-de-sac layout of the entire development. The minimum side setback standard could be observed by moving the proposed single-family structure deeper into the site (further away from the street). However, doing so would exceed the maximum front setback standard requiring related variance relief.~~

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

~~The variance allows for the creation of one additional affordable housing unit in the City of Morgantown. Variance relief will permit the construction of a single-family dwelling on a newly created, but irregularly shaped parcel.~~

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

~~This variance only deals with lot layout exclusively. Additionally, affordable housing has no negative impact on market values or land use in the community. Variance relief will permit the construction of a single-family dwelling on a newly created parcel that meets R-1A District minimum lot frontage and minimum lot area standards.~~

Case No. V15-21 To Exceed Maximum Front Setback Standard

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:

~~Mon County Habitat for Humanity seeks to construct a single family dwelling to serve a low income family in Morgantown.~~ This request will only affect one individual building lot and should have no effect on public health, safety, or the rights of adjacent 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:

~~There are several other single-family dwellings in the vicinity that do not meet the maximum front setback requirements in the community. The variance would have no adverse effect on any other property in this community. Examples can be made available at the BZA's request. The configuration of the side parcel boundary lines of "Lot 5" is not parallel resulting in a parcel width that is much narrower at the front than the rear. This configuration results, in part, on the cul-de-sac layout of the entire development. The maximum front setback standard could be observed by moving the proposed single-family structure forward or closer to the street. However, doing so would encroach into the minimum side setback standard requiring related variance relief.~~

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

~~The variance allows for the creation of one additional affordable housing unit in the City of Morgantown, WV. Variance relief will permit the construction of a single-family dwelling on a newly created, but irregularly shaped parcel.~~

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

~~This variance only deals with lot layout exclusively. Additionally, affordable housing has no negative impact on market values or land use in the community. Variance relief will permit the construction of a single-family dwelling on a newly created parcel that meets R-1A District minimum lot frontage and minimum lot area standards.~~



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-20
RECEIVED:	2/6/15

Waived per City Manager
Fee: \$75 *off.*

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT		Name: Evan Zuverink (On Behalf of Mon County Habitat for Humanity)	
Mailing Address:	251 Don Knotts Blvd		Phone: 304-292-0914 ext 21
	Street	Morgantown WV 26505	Mobile: 304-633-0036
	City	State Zip	Email: ops@moncountyhfh.org
II. PROPERTY		Street Address: 22 Addison Circle (Lot 9 Deckers Court)	
Owner:	Mon County Habitat for Humanity		Zoning: R- 1A
Mailing Address:	Same as above		Tax Map No: 24
	Street		Parcel No: 41
	City	State Zip	Phone: Same as above
III. NARRATIVE		Please describe the nature and extent of your variance request(s).	
<p>Mon County Habitat for Humanity is requesting variance relief from the side setback requirement of 5 feet. If the variance is approved, the southeast corner of the building envelope will sit 3' 7" from the property boundary.</p>			
V. ATTEST			
<p>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.</p>			
<i>Evan Zuverink</i>			<i>2/6/15</i>
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	Date



APPLICATION FOR VARIANCE PETITION

OFFICE USE table with CASE NO. V15-20 and RECEIVED: 2/6/15

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.

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, Two-Family Dwelling, Non-Residential or Mixed
- Townhouse Dwelling, Multi-Family Dwelling

- Structure Characteristics (complete only those that apply)
- Total number of buildings: 1, Gross floor area of each building: Aprox. 1200 sq ft
- Estimated number of employees: NA, No. of dwelling units: 1, No. of bedrooms: 4
- 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**

OFFICE USE	
CASE NO.	V15-20
RECEIVED:	2/6/15

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:

Mon County Habitat for Humanity seeks to construct a single family dwelling to serve a low income family in Morgantown. This request will only effect one individual building lot and have no effect on public health, safety, or the rights of adjacent property owners.

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:

There are several other single-family dwellings in the vicinity that do not meet the minimum side setback requirements in the community. The variance would have no adverse effect on any other property in this community. Examples can be made available at the BZA's request.



**APPLICATION FOR
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-20
RECEIVED:	2/6/15

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <p>The variance allows for the creation of one additional affordable housing unit in the city of Morgantown, WV.</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>This variance only deals with lot layout exclusively. Additionally, affordable housing has no negative impact on market values or land use in the community.</p>	



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-21
RECEIVED:	2/6/15

Waived per City Manager
Conf

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name: Evan Zuverink (On Behalf of Mon County Habitat for Humanity)	
Mailing Address:	251 Don Knotts Blvd		Phone: 304-292-0914 ext 21
	Street	Morgantown WV 26505	Mobile: 304-633-0036
	City	State Zip	Email: ops@moncountyhfh.org
II. PROPERTY		Street Address: 14 Addison Circle (Lot 5 Deckers Court)	
Owner:	Mon County Habitat for Humanity		Zoning: R- 1A
Mailing Address:	Same as above		Tax Map No: 24
	Street		Parcel No: 41
	City	State Zip	Phone: Same as above
III. NARRATIVE		Please describe the nature and extent of your variance request(s).	
<p>Mon County Habitat for Humanity is requesting variance relief from the maximum front setback requirement of 20 feet. If the variance is approved, the front of the building envelope will sit 26' 3" from the road, exceeding the maximum front setback by 6' 3".</p>			
V. ATTEST			
<p>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.</p>			
<i>Evan Zuverink</i>		<i>[Signature]</i>	
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent		Date



APPLICATION FOR VARIANCE PETITION

OFFICE USE table with CASE NO. V15-21 and RECEIVED: 2/6/15

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.

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 section with checkboxes for Residential, Single-Family Dwelling, Townhouse Dwelling, Two-Family Dwelling, Multi-Family Dwelling, and Non-Residential or Mixed.

Structure Characteristics section with fields for Total number of buildings (1), Gross floor area of each building (Aprox. 900 sq ft), Estimated number of employees (NA), No. of dwelling units (1), and No. of bedrooms (3).

Additional Information section with a checkbox for 'Additional Information (as required by Staff):'

Site Plan section with a checkbox and a list of features to be represented on a scaled site plan, including location, setbacks, paved surfaces, contours, traffic circulation, and landscaped areas.



**APPLICATION FOR
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-21
RECEIVED:	2/16/15

VII. FINDINGS OF FACT

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

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**APPLICATION FOR
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V15-21
RECEIVED:	2/6/15

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
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3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The variance allows for the creation of one additional affordable housing unit in the city of Morgantown, WV.

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

This variance only deals with lot layout exclusively. Additionally, affordable housing has no negative impact on market values or land use in the community.



PROJECT LOCATION

VICINITY MAP

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C-1	25.00'	39.27'	35.36'	N 72°11'14" E	90°00'00"
C-2	15.00'	23.56'	21.21'	S 17°48'46" E	90°00'00"
C-3	35.00'	12.71'	12.64'	S 16°47'02" W	20°48'24"
C-4	35.00'	24.68'	24.17'	S 13°49'22" E	40°24'25"
C-5	35.00'	15.12'	15.00'	S 46°24'05" E	24°45'01"
C-6	34.00'	11.25'	11.20'	S 68°15'17" E	18°57'22"
C-7	34.00'	21.21'	20.87'	N 84°23'34" E	35°44'57"
C-8	34.00'	23.34'	22.88'	N 46°51'10" E	39°19'51"
C-9	35.00'	3.25'	3.25'	N 24°31'28" E	5°19'33"
C-10	35.00'	22.26'	21.89'	N 03°38'20" E	36°26'42"
C-11	35.00'	22.74'	22.34'	N 33°11'53" W	37°13'45"
C-12	35.00'	6.72'	6.71'	N 57°18'46" W	11°00'00"
C-13	25.00'	39.27'	35.36'	N 17°48'46" W	90°00'00"

LEGEND

- Monument Found (see description)
- Monument Set, 3/8" by 30" Capped Iron Rod
- Concrete Monument
- Point
- Boundary Line
- Edge of Roadway
- Edge of Right of Way
- N/F Now or Former
- Proposed Sanitary Sewer Manhole
- Proposed Drip Inlet
- Proposed Sanitary Sewer Line
- Proposed Water Line
- Proposed Storm Line
- Common Element A

CURVE TABLE

LINE	BEARING	DISTANCE
L-1	S 62°48'46" E	26.00'
L-2	S 27°11'14" W	25.06'
L-3	S 58°46'36" E	9.01'
L-4	N 27°11'14" E	26.69'

Being a part of the same tract or parcel of real estate in the conveyance between Ronald Jean Good, Gary Alan Good, Patricia Gayle Good, and Robert Louise Shuman, in his capacity as ancillary administrator of the estate of Alan Ronald Good, party of the first part, and Mon County Habitat for Humanity, a West Virginia corporation, party of the second part, by deed dated the 7th day of June 2005 and of record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book 1300, at Page 563.

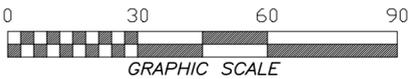
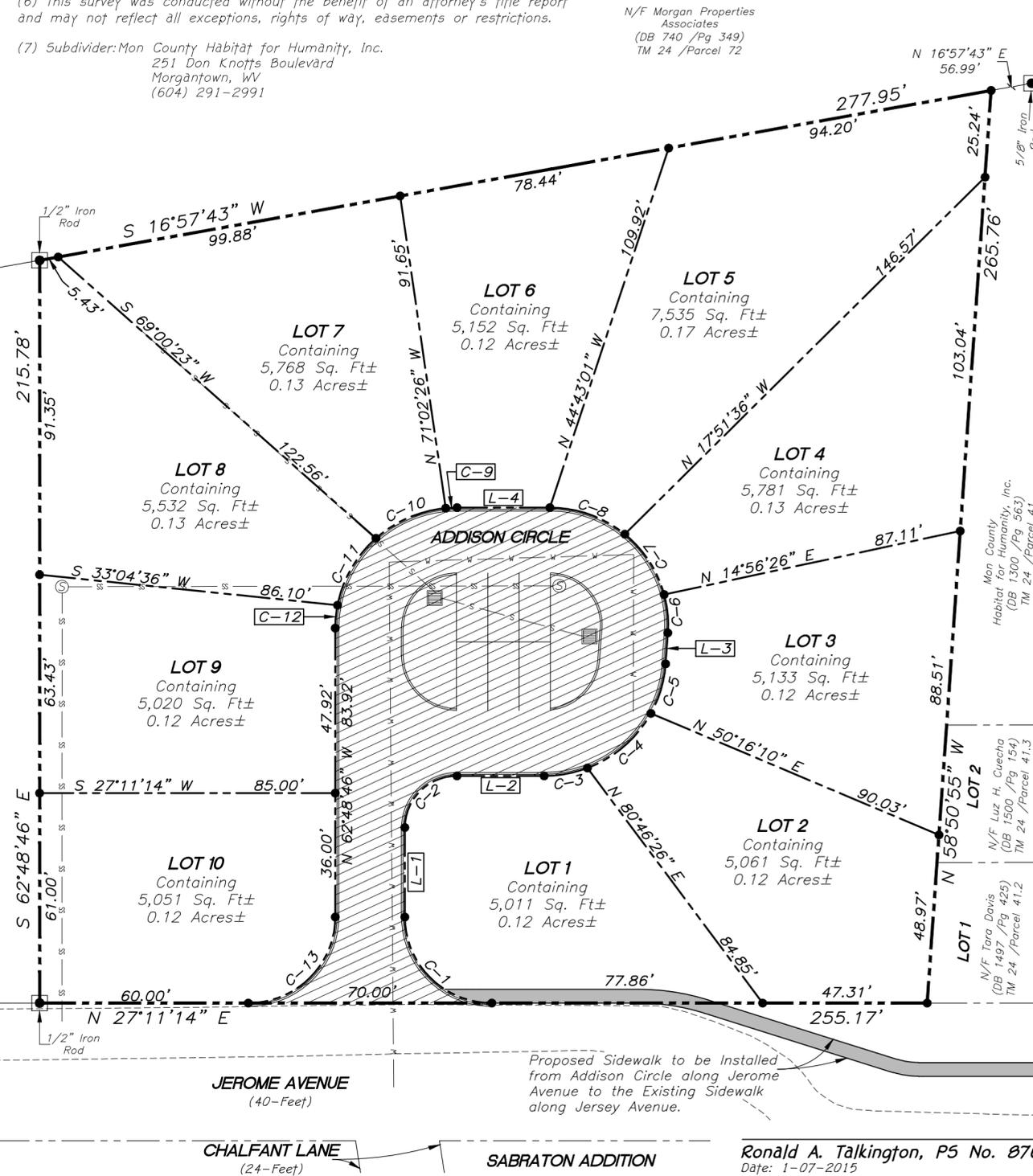
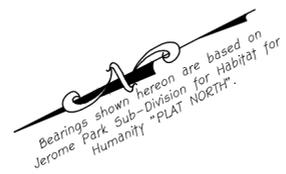


Table Showing Acreage and Derivation of Title.	
Unit 1	2.19 Acre Tract (DB 1300 Pg 563) TAX Map 24, Parcel 41
Common Element A	0.19 Acres
Total Acreage Dedicated	1.45 Acres
Remaining Acreage Not Dedicated	0.74 Acres

NOTES:

- Pursuant to WV Code 36B-4-120 the undersigned professional hereby certifies the the Subdivision is substantially completed.
- There are no encroachments by or upon any portion of Deckers Court.
- There are no horizontal Unit boundaries and there are no noncontiguous parcels of real estate comprising the Subdivision.
- Property Monuments will be set/established in accordance with the City Engineer's requirements and specifications or in accordance of Section 7.3.e. 2.B of the Minimum Standards for Surveys, Title 23, Legislative Rule, Board of Professional Surveyors or whichever one is more stringent of the two after the completion of construction activities.
- This survey is not valid without original raised seal and blue signature.
- This survey was conducted without the benefit of an attorney's title report and may not reflect all exceptions, rights of way, easements or restrictions.
- Subdivider: Mon County Habitat for Humanity, Inc. 251 Don Knotts Boulevard Morgantown, WV (604) 291-2991



DRAWN BY:	RAT
CHECKED BY:	SC
DRAWING SCALE:	1" = 30'
DRAWING DATE:	JANUARY 07, 2015



CHEAT ROAD ENGINEERING, INC.
 170 OLD CHEAT ROAD
 MORGANTOWN, WV 26508
 P: 304.212.5480

DECKERS COURT
 MON COUNTY HABITAT FOR HUMANITY
 SIXTH WARD, CITY OF MORGANTOWN
 MONONGALIA COUNTY, WEST VIRGINIA
 TAX MAP 24, PARCEL 41
 PROJECT NO: 13-036
 DRAWING FILE: 2014_12_03 SUBDIVISION PLAT.DWG

SUB-DIVISION PLAT
 SHEET NUMBER:
S-01

Ronald A. Talkington, P5 No. 876
 Date: 1-07-2015

