



# MORGANTOWN BOARD OF ZONING APPEALS

May 20, 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:** V15-26 / Smith / 402 Sanford Street

### **REQUEST and LOCATION:**

Request by Justin Smith for variance relief from Article 1335.04 as it relates to front setback encroachment at 402 Sanford Street.

### **TAX MAP NUMBER(s) and ZONING DESCRIPTION:**

Tax Map 40, Parcel 237; R-1A, Single-Family Residential District

### **SURROUNDING ZONING:**

R-1A, Single-Family Residential District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to construct a single-family home that will exceed the maximum front setback standard at 402 Sanford Street. Addendum A of this report illustrates the location of the subject site.

Article 1335.04(A)(2) provides a maximum front setback requirement of twenty (20) feet in the R-1A District. The proposed front setback of the principal structure is approximately 70 feet, which requires a 50-foot variance. The petitioner notes in the application that the subject site has a steep slope between Sanford Street and the proposed location of the single-family structure. The following graphic illustrates the two-foot contours of the site and immediate area.



## **Development Services**

Christopher Fletcher, AICP  
Director

## **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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### **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 as to whether or not variance relief should be granted is submitted.

Enclosures: Application and accompanying exhibits

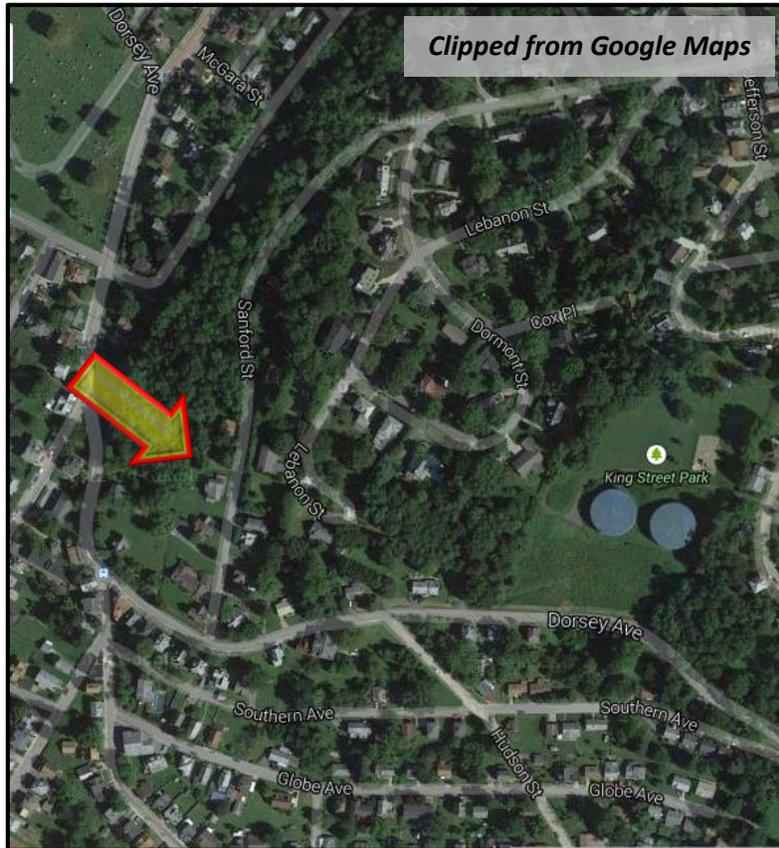
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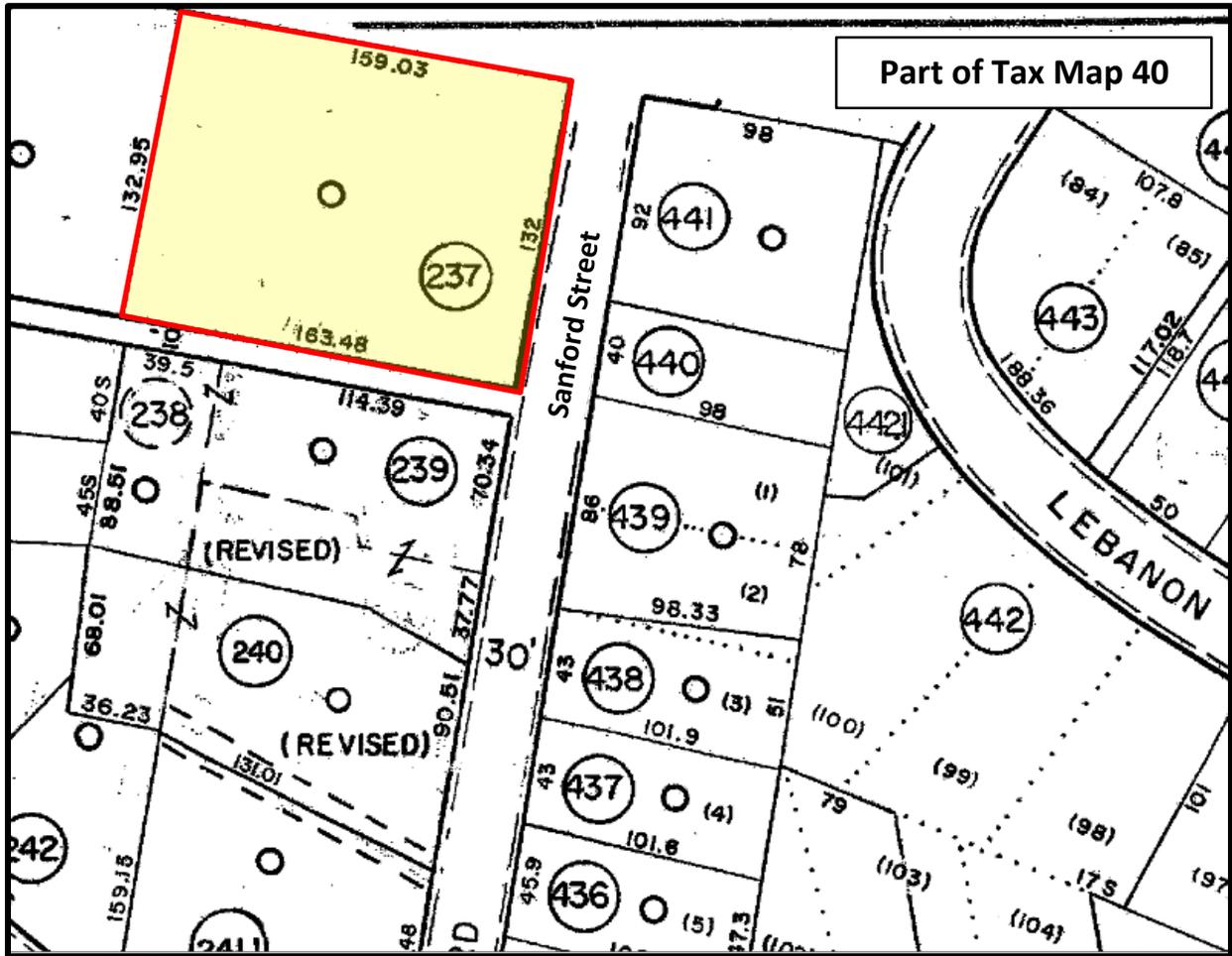
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**STAFF REPORT ADDENDUM A**  
**V15-26 / Smith / 402 Sanford Street**



*Clipped from Google Maps*



## STAFF REPORT ADDENDUM B

### V15-26 / Smith / 402 Sanford Street

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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:

It will not cause the proposed dwelling to ~~be any closer to adjacent properties~~ encroach into minimum side or rear setback requirements and ~~will~~ should ~~alleviate the need for additional demand for~~ on-street parking so it will not adversely affect area 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:

Of the ~~lay of the land~~ slope of the development site falling away from Sanford Street.

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

It will allow the new dwelling residents access to off-street parking and not add further crowding to Sanford Street.

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

It ~~will~~ aids in keeping the street clear of additional parked cars and not require encroachment into minimum side and rear setback requirements.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V15-26
RECEIVED:	

PAID BY: APR 25 2015

OK 201

Fee: \$75

(PLEASE TYPE OR PRINT IN BLACK INK)

<b>I. APPLICANT</b>		Name:	JUSTIN SMITH			
Mailing Address:	Street	4508 LAUREL RIDGE DR			Phone:	
	City	State	Zip		Mobile:	304-844-8754
					Email:	lakecrestllc@gmail.com

<b>II. PROPERTY</b>		Street Address:	402 SANFORD ST			
Owner:	MJM PROPERTIES LLC			Zoning:	R-1A	
Mailing Address:	Street	606 JEFFERSON ST			Tax Map No:	40
	City	State	Zip		Parcel No:	237
					Phone:	304-365-0084

<b>III. NARRATIVE</b>	Please describe the nature and extent of your variance request(s).
The maximum front set back in an R-1A zone is 20'. A set back of roughly 70' is proposed as the lot is steep in the front and flattens out as you move away from the roadway. This will allow off street parking for the proposed new home as on street parking on Sanford crowds the narrow roadway.	

<b>V. ATTEST</b>	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.	
JUSTIN SMITH		4/26/15
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.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

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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.

[X] 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



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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:**

It will not cause the proposed dwelling to be any closer ~~to~~ to adjacent properties and will alleviate the need for additional on street parking so it will not adversely affect area 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:**

Of the lay of the land.



City of Morgantown, West Virginia

**APPLICATION FOR  
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**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

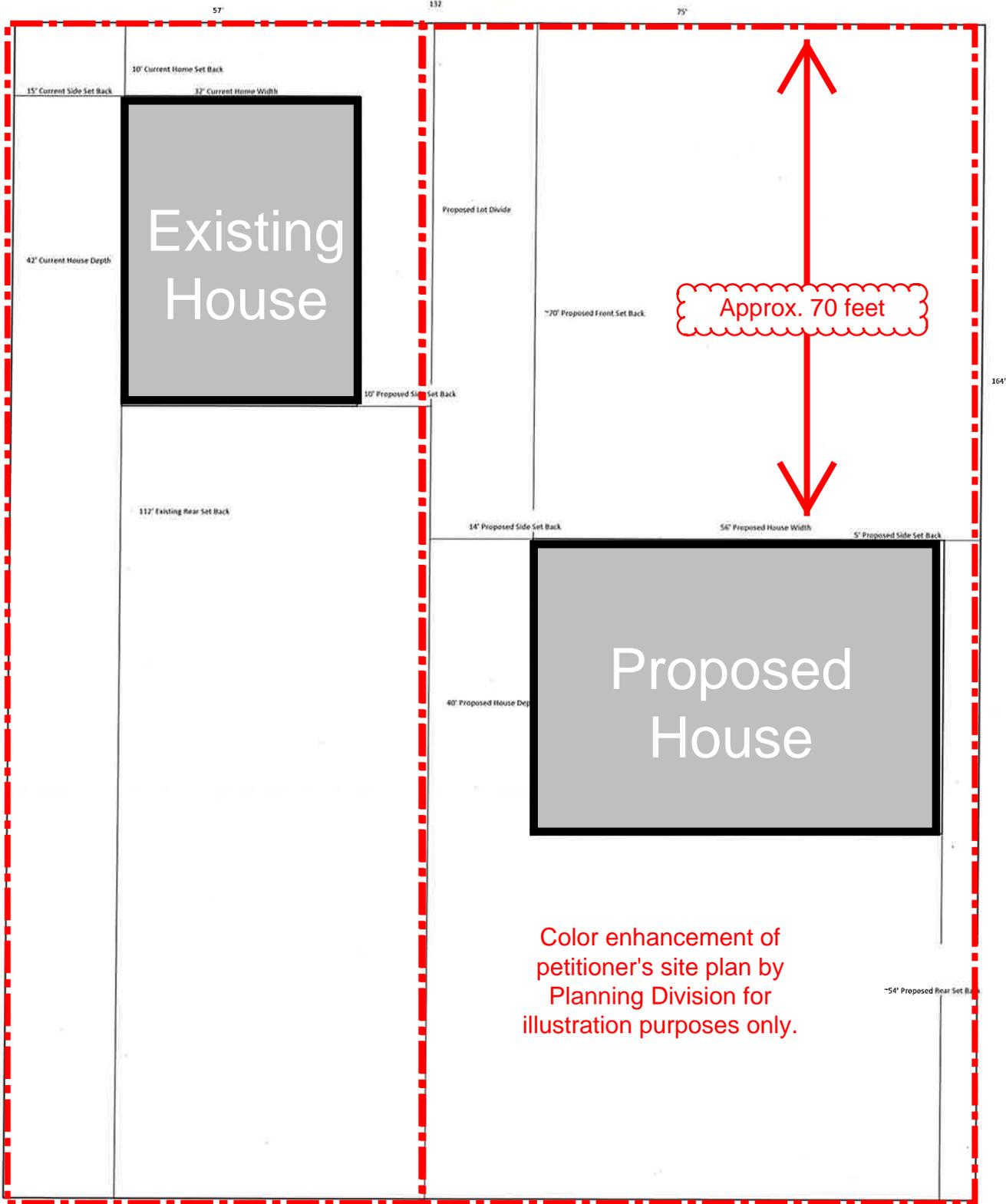
**3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

It will allow the new dwelling residents access to off street parking and not add further crowding to Sanford St

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

It will keep the street clear of additional cars.

Sanford St.



Color enhancement of petitioner's site plan by Planning Division for illustration purposes only.