



The City of Morgantown

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August 20, 2015

Ann and Gary Devine-King
726 Snake Hill Road
Morgantown, WV 26508

**RE: V15-51 / Devine-King / 524 Overhill Street
Tax Map 14, Parcels 303 and 304**

Dear Ms. Devine-King:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced variance petitions relating to the proposed development at 524 Overhill Street. The decisions are as follows:

Board of Zoning Appeals, August 19, 2015:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted variance relief of 4' – 3" from Article 1331.08(A)(4) and 17 square feet (1.5%) from Article 1331.08(A)(7) as requested with the following conditions:
 - a) That the subject detached accessory two-car garage structure may not exceed eighteen (18) feet in height calculated as the halfway point between the highest and lowest elevations of the building footprint measured from the ground level to the midpoint between the eave and ridge of the roof.
 - b) That no part of the subject detached accessory two-car garage structure may be designed or used for sleeping purposes, and no cooking fixtures shall be placed or permitted therein.

These decisions may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note that building permits must be issued prior to the commencement of work for which the variance approvals were granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development's planning and permitting needs.

Respectfully,

Stacy Hollar
Executive Secretary

ADDENDUM A – Approved Findings of Fact
V15-51 / Devine-King / 524 Overhill Street

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:

Placement of the garage with driveway onto Eureka will provide safer access for residents to enter and leave premises with unobstructed view of the roadway. This will help decrease car and pedestrian traffic from parking on either Eureka or Overhill Streets. It will not negatively influence adjacent property owners or residents and it will make use of the alley for the neighbors safer with traffic flow more inclined to use Eureka Street rather than the alley that is used for garage access for immediate neighbor on Overhill St.

The 2-car garage will provide off-street parking for the residents in a secure and protected structure.

The garage will allow easy, convenient, closer access for the residents from the car to the primary residence. This will replace the current situation whereby the residents park on the grass or street and walk 50+ ft, usually on the grass, to the primary residence.

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 proposed 2-car garage is slightly more than the 50% of the principal structure, however, there are compelling reasons why this variance is reasonable. The Primary residence is a smaller home built in 1950 on a 40X100 ft. lot at a time when homes were small and often did not accommodate more than one car. Receiving approval from the City of Morgantown for Minor Subdivision approval, 2 parcels were joined by the owners and the primary residence is on a larger lot measuring 100X52.5X100X76 ft. The lot will accommodate a 2-car garage, providing the benefits cited in section 1.

In addition, the site of the garage is placed at maximum setback from Eureka Street and adjacent alley and as close to the primary residence as the lot size will allow while not disturbing the integrity of the foundation, basement windows and air conditioning unit. This does place the garage a few feet forward to the primary residence but it lies smoothly with the front porch and architectural design, thereby making this variance reasonable.

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

Unnecessary hardship will be avoided and will permit a reasonable use of the land to benefit the residents of the premises by accepting the reasons cited for a slightly larger garage in relation to the traditional size proportion to the primary residence and accepting the citing of the garage.

The residents of the property will benefit with safer access to the primary residence while being able to safely store their vehicle in off-street, secure and protected structure. Access from the garage to Eureka Street provides the safest and most reasonable approach, considering the lot size and geometry and structure of the primary residence.

Overall curb-appeal and residential design is considered enhanced from the current situation.

ADDENDUM A – Approved Findings of Fact
V15-51 / Devine-King / 524 Overhill Street

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 will allow accommodation for the small primary residence, the size and geometry of the expanded lot, and the benefits of a 2-car garage while respecting the intent of the zoning ordinance. It will provide a more convenient and safer access for the residence of the primary residence without affecting the health, safety, welfare of others.