



MORGANTOWN BOARD OF ZONING APPEALS

February 17, 2016
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: V16-05 / Dawson / 1525 Hyatt Avenue

REQUEST and LOCATION:

Request by Timothy and Stephanie Dawson for variance relief from Article 1335.04 concerning a front and rear setback encroachment at 1525 Hyatt Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 23, Parcels 25 and part of Parcel 27; 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 dwelling at 1525 Hyatt Avenue that will exceed the maximum front setback standard and encroach into the minimum rear setback standard. Addendum A of this report illustrates the location of the subject site.

Article 1335.04 provides that the maximum front setback be twenty (20) feet and the minimum rear setback be twenty (20) feet. The proposed single-family dwelling will have a twenty-five (25) foot front setback and a ten (10) foot rear setback. As such, a five (5) foot front setback variance and a ten (10) foot rear setback variance are required for the development as proposed.

STAFF RECOMMENDATION:

It is the duty of the Board of Zoning Appeals to 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. If the Board disagrees with the petitioner's "Findings of Fact" and determines the proposed request does not meet the standard criteria for a variance, then the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject variance petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Addendum B of this report provides Staff recommended revisions to the petitioner's "Findings of Fact" responses and serve only to remove narrative that is clearly inapplicable. Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's "Findings of Fact" responses (deleted matter struck through; new matter underlined).

No recommendation is submitted concerning whether or not variance relief should be granted as requested.

Enclosures: Application and accompanying exhibits

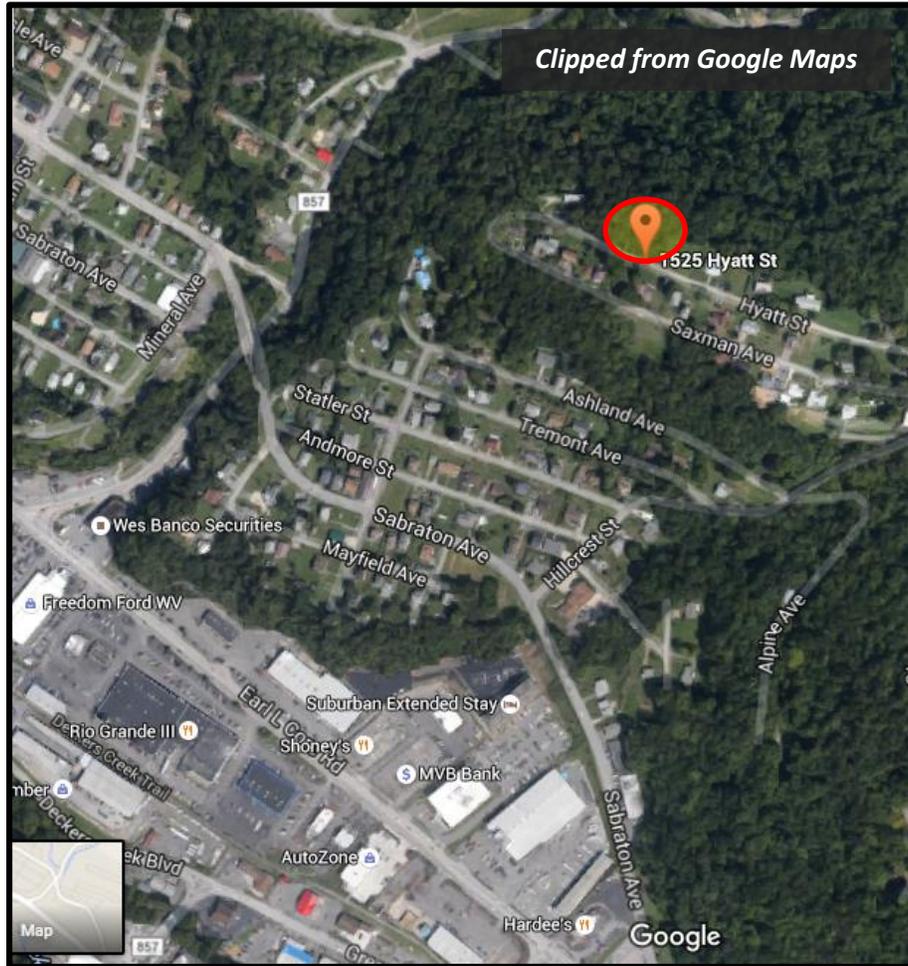
Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V16-05 / Dawson / 1525 Hyatt Avenue



STAFF REPORT ADDENDUM B

V16-05 / Dawson / 1525 Hyatt Avenue

Staff recommended revisions to the petitioner's Findings of Fact responses provided herein serve only to remove narrative that is clearly inapplicable. Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's 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:

This request will only affect one single-family residence lot and should have no effect on the public health, safety or welfare, or the rights of adjacent property owners or residents.

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 lot's slope and depth restrict the development of a newly constructed single-family residence to allow adequate parking depth without encroaching ~~reasonable~~ into the rear setback and effectively utilizing on increased front setback. The irregularly shaped parcel and zoning requirements (setbacks) appear to prevent safe and adequate off-street parking.

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

Variance relief will permit the construction of a single-family residence on a newly created irregularly shaped parcel. Variance relief ~~will~~ should not create other unnecessary hardships because the rear of the property abuts Deland Avenue, which is not open.

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

Variance relief will permit the necessary depth for off-street parking to promote / improve safety and visibility while entering and exiting the newly constructed single-family residence for the residents and those traveling the narrow street of Hyatt Avenue. The proposed setback distances ~~are~~ appear to be consistent with surrounding properties with similar attributes.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V116-05
RECEIVED:	1/4/16

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT Name: Timothy and Stephanie Dawson

Mailing Address: Timothy and Stephanie Dawson
 Street: 1525 Hyatt Ave
 City: Morgantown State: WV Zip: 26505
 Phone: Mobile: 304-685-3114
 Email: tdawsonwv@yahoo.com

II. PROPERTY Street Address: 1525 Hyatt Ave. Morgantown, WV 26505

Owner: Timothy and Stephanie Dawson Zoning: R-1A
 Mailing Address: Timothy and Stephanie Dawson
 Street: 1525 Hyatt Ave. Tax Map No: 01-23-25 part of 27
 City: Morgantown State: WV Zip: 26505 Parcel No: 274 and 275
 Phone: 304-685-3114

III. NARRATIVE Please describe the nature and extent of your variance request(s).

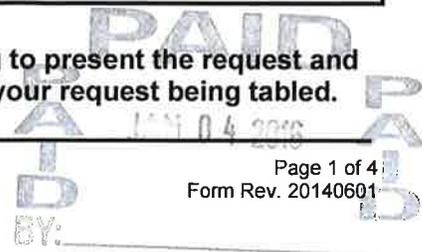
Variance relief is being requested for the development of a newly constructed single family residence because the parcel is irregularly shaped and sloped. A variance to increase the front setback requirement to 25 feet ^{maximum} and encroach the rear setback requirement to 10 feet minimum.

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.

Timothy Dawson/Stephanie Dawson *[Signature]* / spawson
 Type/Print Name of Applicant/Agent Signature of Applicant/Agent Date 1-3-16

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.



V116-05



City of Morgantown, West Virginia

APPLICATION FOR
VARIANCE PETITION

OFFICE USE	
CASE NO.	V116-05
RECEIVED:	04 JAN 16

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):

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



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V116-05
RECEIVED:	04 JAN 16

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:**

Variance relief will permit the construction of a single family residence on a newly created, irregularly shaped parcel. Variance relief will not create other unnecessary hardships because the rear of the property abuts Deland Avenue, which is not open.

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

Variance relief will permit the necessary depth for off street parking to promote/improve safety and visibility while entering and exiting the newly constructed single family residence for the residents and those traveling the narrow street of Hyatt Avenue. The proposed setback distances are consistent with surrounding properties with similar attributes.



APPLICATION FOR
VARIANCE PETITION

OFFICE USE	
CASE NO.	V110-05
RECEIVED:	07 JAN 16

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:

This request will only affect one single family residence lot and should have no affect on the public health, safety or welfare, or the rights of adjacent property owners or residents.

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 lots slope and depth restrict the development of a newly constructed single family residence to allow adequate parking depth without encroaching reasonably into the rear setback and effectively utilizing an increased front setback. The irregularly shaped parcel and zoning requirements (setbacks) prevent safe and adequate off street parking.

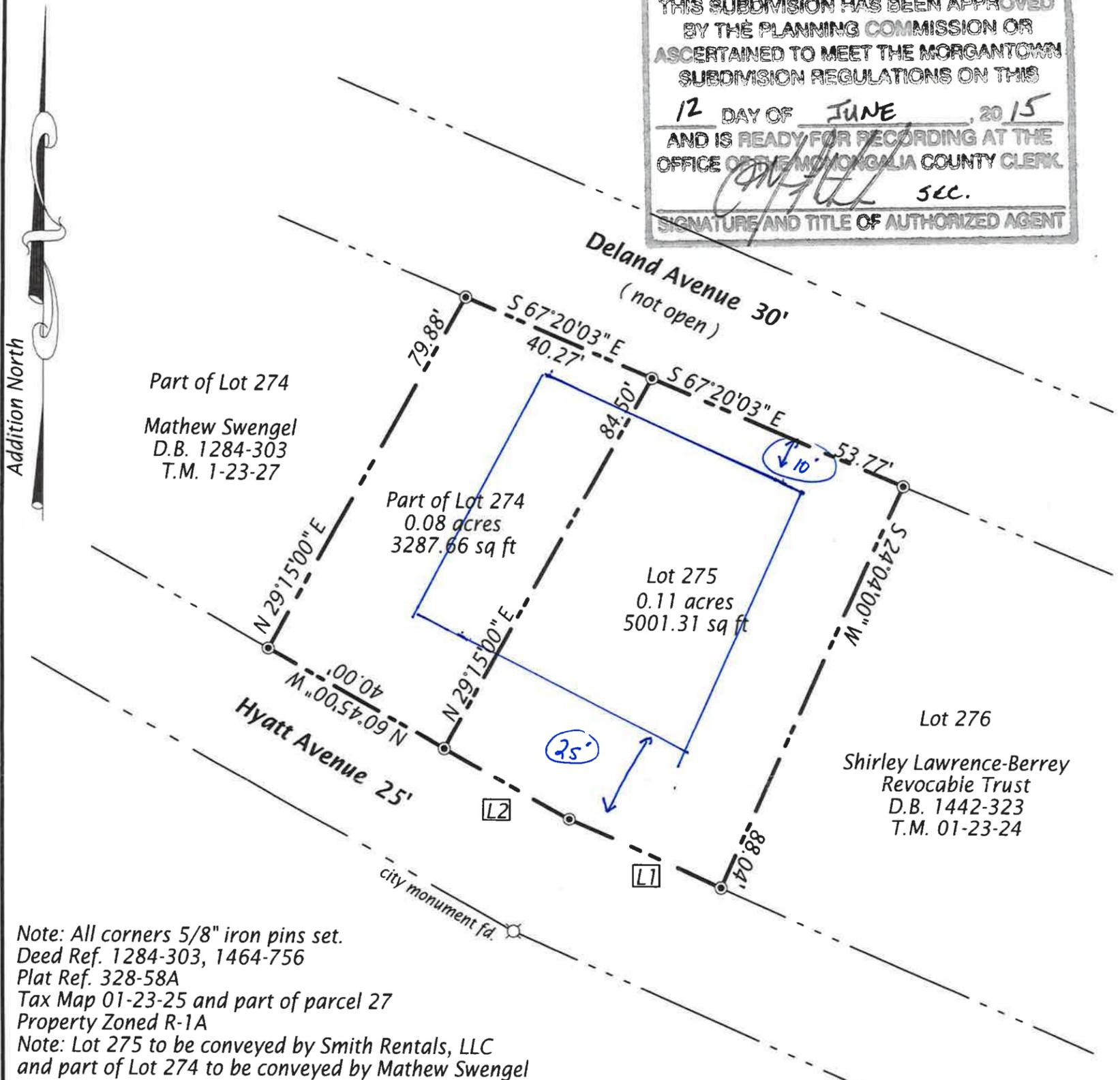
V16-05

NOTE: THIS SURVEY NOT VALID WITHOUT ORIGINAL BLUE SIGNATURE. THIS SURVEY DECLARATION IS MADE ON THE DATE INDICATED, TO THE OWNER OR BUYER LISTED BELOW. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS OR BUYERS.
NOTE: SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF LAWYER'S TITLE REPORT AND MAY NOT REFLECT ALL EXCEPTIONS, RIGHTS OF WAY, EASEMENTS OR RESTRICTIONS.

Line Chart		
Id	Bearing	Distance
L1	N 65°56'00" W	33.00'
L2	N 60°45'00" W	28.50'

CITY OF MORGANTOWN, WV
 THIS SUBDIVISION HAS BEEN APPROVED BY THE PLANNING COMMISSION OR ASCERTAINED TO MEET THE MORGANTOWN SUBDIVISION REGULATIONS ON THIS 12 DAY OF JUNE, 2015 AND IS READY FOR RECORDING AT THE OFFICE OF THE MONONGALIA COUNTY CLERK.

[Signature]
 SEC.
 SIGNATURE AND TITLE OF AUTHORIZED AGENT



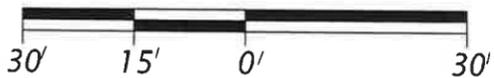
Note: All corners 5/8" iron pins set.
 Deed Ref. 1284-303, 1464-756
 Plat Ref. 328-58A
 Tax Map 01-23-25 and part of parcel 27
 Property Zoned R-1A
 Note: Lot 275 to be conveyed by Smith Rentals, LLC
 and part of Lot 274 to be conveyed by Mathew Swengel

THIS SUBDIVISION PLAT HAS BEEN REVIEWED BY THE MONONGALIA COUNTY ADDRESS ADVISORY COMMITTEE AND APPROVED AS MEETING ALL EXISTING REGULATIONS OF SAID COMMITTEE ON 8-28-15, AND IS READY FOR RECORDING BY THE MONONGALIA COUNTY CLERK.

AUTHORIZED AGENT *[Signature]*
 TITLE Deputy



Plat of Lot 275 and Part of Lot 274
 Norwood Addition
 Surveyed For
Timothy Dawson
 Sixth Ward City of Morgantown
 Monongalia Co. West Virginia
 Scale 1"=30' July 2015



[Signature] PS No. 862
 Paul D. Harbert, PS
 McCoy Land Surveying
 Monongah, WV (304) 534-5562