



MORGANTOWN BOARD OF ZONING APPEALS

June 15, 2016
6:30 PM
City Council Chambers

Board Members:

Bill Burton,
Chair

George Papandreas,
Vice-Chair

Linda Herbst

Jim Shaffer

Colin Wattleworth

STAFF REPORT

CASE NO: V16-14 / Nelson / 1220 Lions Avenue

REQUEST and LOCATION:

Request by Stephen and Johanne Nelson for variance relief from Article 1331.08(3) as it relates to a setback encroachment at 1220 Lions Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 7, Parcel 30; R-1, Single-Family Residential District

SURROUNDING ZONING:

R-1, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to reconstruct a detached garage to the rear of a single-family dwelling at 1220 Lions Avenue that will encroach into the minimum accessory structure side and rear setback standard. An existing nonconforming detached garage is currently located in same vicinity as the proposed improvement. The new garage would be larger than the existing garage, enlarging the nonconformance. Addendum A of this report illustrates the location of the subject site.

Article 1331.08(3) provides that the minimum side and rear setback for detached accessory structures is five (5) feet. The proposed detached garage will have no (0' – 0") side or rear yard setback. As such, a five (5) foot side and rear setback variance is required for the development of the detached accessory garage structure as proposed.

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. 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 restates the petitioner's responses to the Findings of Fact portion of the variance application. No revisions are recommended by Staff.

Staff recommends that a variance five (5) feet be granted from the minimum side and rear yard setback standard for accessory structure under Case No. V16-14 as requested without conditions. In addition, Staff recommends the Board clearly remind the petitioner of his obligation to ensure the proposed detached accessory garage structure does not encroach onto adjoining properties.

Enclosures: Application and accompanying exhibits

Development Services

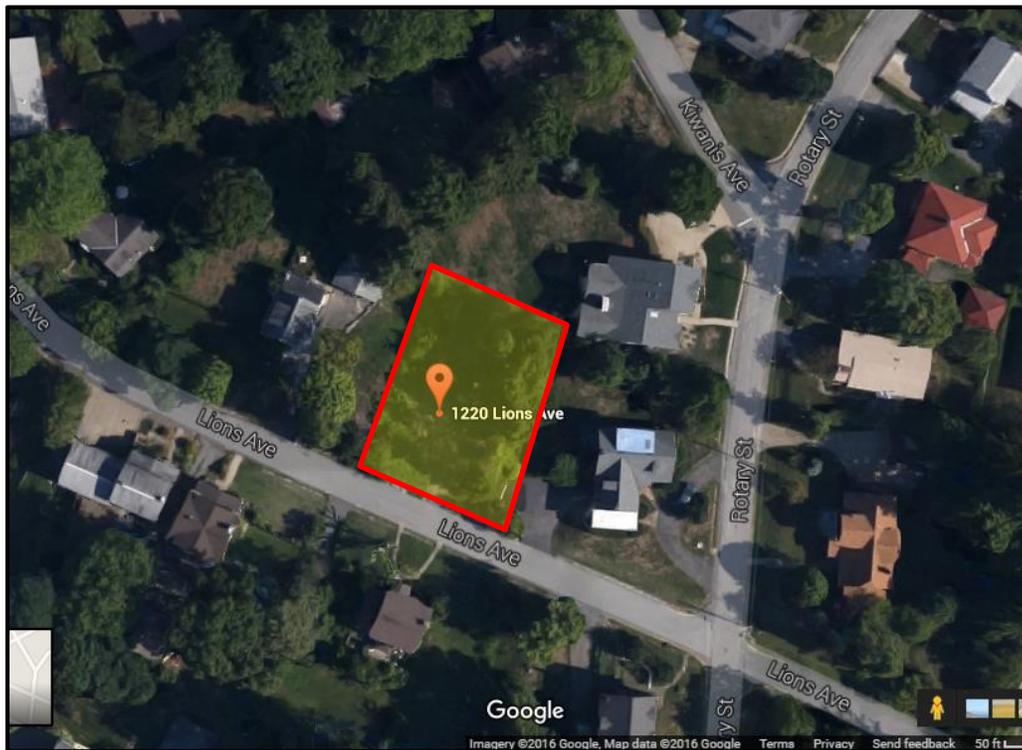
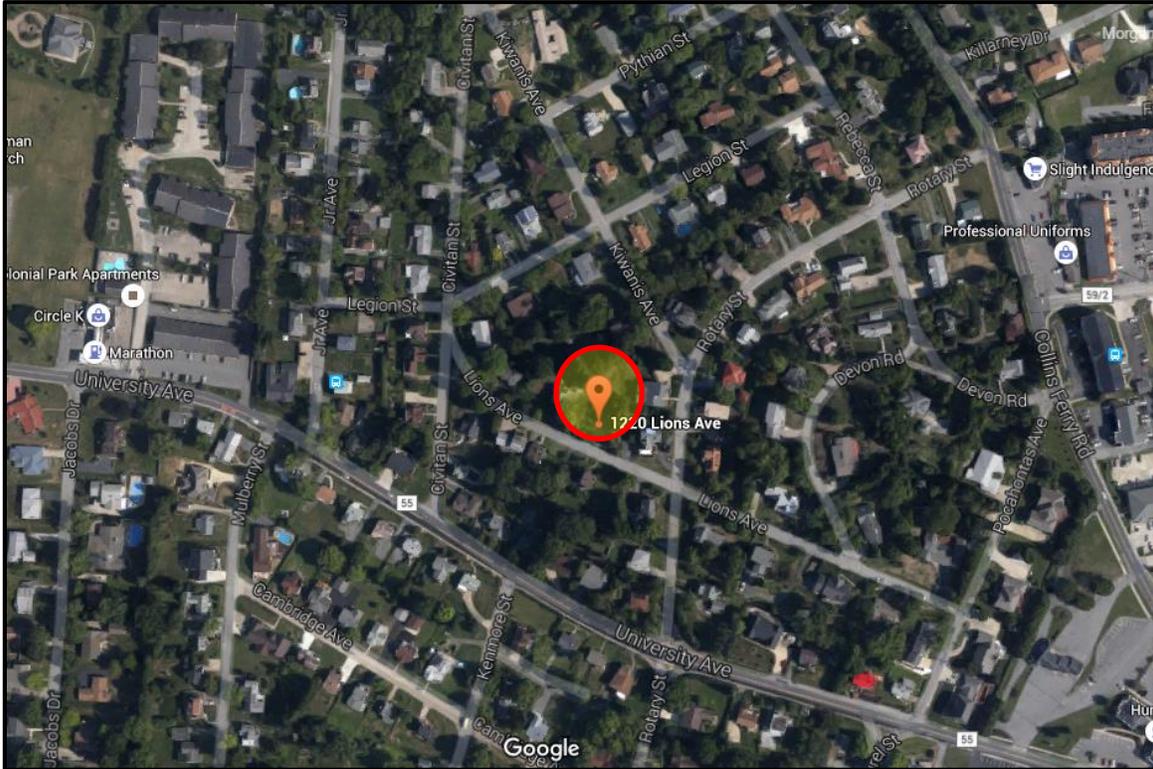
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V16-14 / Stephen Nelson / 1220 Lions Avenue



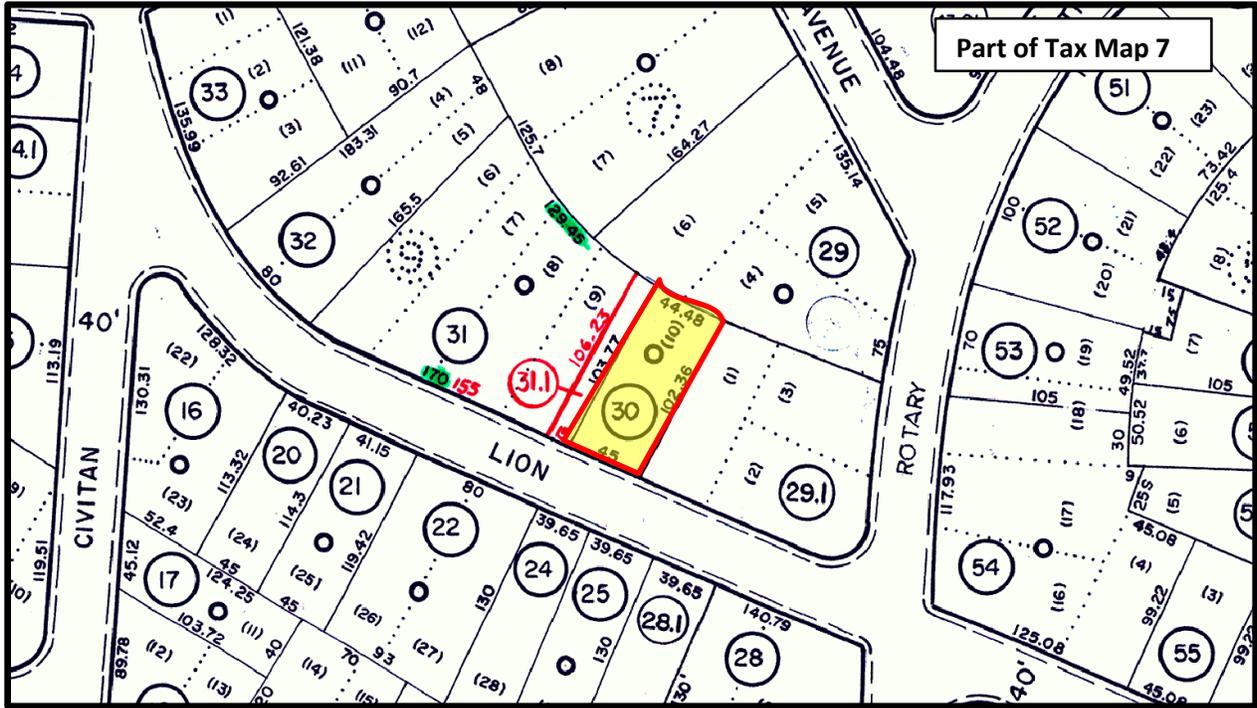
STAFF REPORT ADDENDUM A
V16-14 / Stephen Nelson / 1220 Lions Avenue



STAFF REPORT ADDENDUM A
V16-14 / Stephen Nelson / 1220 Lions Avenue



STAFF REPORT ADDENDUM A
V16-14 / Stephen Nelson / 1220 Lions Avenue



STAFF REPORT ADDENDUM B

V16-14 / Nelson / 1220 Lions Avenue

The following restates the petitioner's responses to the Findings of Fact portion of the variance application. No revisions are recommended by Staff.

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:

- A) Access is not substantially impugned – existing driveway location remains the same.
- B) Drainage to and from property will not be negatively impacted. New construction will more effectively gather and direct snow and water thus lessening impact to adjacent properties.
- C) Visually new structure will not be an impairment to adjacent property sight lines nor impair views. New garage will be designed and built to match existing home thus improving neighborhood ambience (ref: Attached photos)

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:

Existing garage sits on lot lines on the property's corner. New structure will be an expansion with improved retaining walls and structures.

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

- A) Current arrangement of house and garage does not permit safe and effect storage of two modern cars. (i.e. typical SUV's)
- B) Parking on property requires "single file" vehicle arrangement which requires increased intrusion of vehicles onto Lions Avenue to "unstack" cars. This increases vehicle interaction with neighbors and public to remove cars from property.
- C) New structure allows for improved safer more practical parking/storage of vehicles within the property.

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

This garage expansion doesn't impugn the property rights of neighborhood property primarily due to the neat "like kind" replacement of the garage structure. This improvement, on the same corner, is the only practical option for effective parking on this property.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

| OFFICE USE | |
|------------|--------|
| CASE NO. | V16-14 |
| RECEIVED: | |

(PLEASE TYPE OR PRINT IN BLACK INK)

CK 3593

Fee: \$75

| | | | | | |
|---|-------------------------|--|-----------------|----------------|-------|
| I. APPLICANT | | Name: | STEPHEN NELSON | | |
| Mailing Address: | Street | 1220 LIONS AVE | Phone: | 304 282 5059 | |
| | City | MORGANTOWN W.V. | State | Zip | |
| | | | | 26505 | |
| | | | Mobile: | SAME | |
| | | | Email: | bolldoc@me.com | |
| II. PROPERTY | | Street Address: | 1220 LIONS AVE. | | |
| Owner: | STEPHEN & JOHANE NELSON | | Zoning: | R-1 | |
| Mailing Address: | Street | 1220 LIONS AVE | Tax Map No: | 0007 | |
| | City | MORGANTOWN WV | State | Zip | |
| | | | | | 26505 |
| | | | Parcel No: | 0030 | |
| | | | Phone: | | |
| III. NARRATIVE | | Please describe the nature and extent of your variance request(s). | | | |
| <p>EXISTING 18'X18' GARAGE IS SITUATED ON THE LOT LINES OF THE PROPERTY'S NORTHEAST CORNER (PLEASE REFER TO ATTACHED SITE PLAN). THE EXISTING GARAGE IS TOO SMALL FOR TWO MODERN VEHICLES AND IS IN A DEGRADED STRUCTURAL STATE (FAILED REMAINING WALL). PROPERTY OWNER WISHES TO REPLACE EXISTING GARAGE WITH A 24'X28' GARAGE PLACING IT ON SAME CORNER. THE ORIENTATION OF HOUSE AND DRIVEWAY DICTATES THIS PLACEMENT TO ACHIEVE PRACTICAL INGRESS/EGRESS OF TWO VEHICLES. VARIANCE REQUIRED DUE TO BUILDING PLACEMENT INSIDE NORMAL REQUIRED SETBACKS</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> | | | | | |
| STEPHEN NELSON | | | | MAY 2, 2016 | |
| Type/Print Name of Applicant/Agent | | Signature of Applicant/Agent | | Date | |

BZA PAID MAY 09 2016

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

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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.

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: 2 Gross floor area of each building: House: 2300 sqft GARAGE:

Estimated number of employees: 0 No. of dwelling units: 1 No. of bedrooms: 3

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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| CASE NO. | V11e-14 |
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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:

- A) ACCESS IS NOT SUBSTANTIALLY IMPUNED - EXISTING DRIVEWAY LOCATION REMAINS THE SAME
- B) DRAINAGE TO AND FROM PROPERTY WILL NOT BE NEGATIVELY IMPACTED. NEW CONSTRUCTION WILL MORE EFFECTIVELY ATTRACT AND DIRECT SNOW AND WATER THUS LESSENING IMPACT TO ADJACENT PROPERTY'S
- C) VISUALLY NEW STRUCTURE WILL NOT BE AN IMPAIRMENT TO ADJACENT PROPERTY SIGHT LINES NOR IMPAIR VIEWS. NEW GARAGE WILL BE DESIGNED AND BUILT TO MATCH EXISTING HOME THUS IMPROVING NEIGHBORHOOD AMBIENCE (REF: ATTACHED PHOTOS)

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:

EXISTING GARAGE SITS ON LOT LINES ON THE PROPERTY'S CORNER. NEW STRUCTURE WILL BE AN EXPANSION WITH IMPROVED RETAINING WALLS AND STRUCTURES.



APPLICATION FOR
VARIANCE PETITION

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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:

- A) Current Arrangement of House and Garage Does NOT Permit Safe and Effect Storage of Two Modern Cars (i.e. typical SUVs)
- B) Parking on property Requires "Single File" Vehicle Arrangement which Requires increased intrusion of vehicles onto Lions Ave to "UNSTACK" CARS. This increases vehicle interaction with neighbors and public to remove cars from property
- C) New structure allows for improved safer more practical parking/storage of vehicles within the property

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

This Garage Expansion DOESN'T impune the Property rights of Neighboring Property primarily due to the near "Like Kind" Replacement of the Garage Structure.

This improvement, on the same corner, is the ONLY Practical option for effective parking on this property

V16-14



V16-14



