



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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July 21, 2016

Raphael Dodrill
451 Legion Street
Morgantown, WV 26505

**RE: V16-17 and V16-18 / Dodrill / 451 Legion Street
Tax Map 7, Parcel 37**

Dear Mr. Dodrill:

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 451 Legion Street. The decisions are as follows:

Board of Zoning Appeals, July 20, 2016:

V16-17 – Variance petition to encroach into the minimum side and rear setback standard for an accessory structure.

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted variance relief from Article 1331.08 to permit a three (3) foot variance from both side and rear setback standards as requested without conditions.

V16-18 – Variance petition to encroach into the minimum rear and side yard setback for stairs/landings/porches in the R-1 District.

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted variance relief from Article 1333.05 to permit a three (3) foot encroachment into the minimum rear setback standard as requested without conditions.

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

V16-17 – Variance relief to encroach into the minimum side and rear setback standard for an accessory structure.

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:

The manufactured vinyl shed would be at the rear of the property and no detract from the residential appearance of the property. Also, the adjacent properties are bounded by fences so a storage shed would not impede the residents from utilizing their properties.

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 existing driveway ends 9 feet from the rear property line and this space is necessary for pulling in/out of the garage. A variance to erect a storage shed that encroaches into the 5-foot setback would provide valuable storage for outdoor power equipment without hindering the ability to use the garage. Also, the house was constructed around 1943 and the existing setbacks do not conform to the current R-1 zoning ordinances. The existing rear setback of the house is 14.5 feet while 1333.04(4) of the planning code specifies a minimum 25-foot rear setback. This would prevent erecting a shed behind the house while maintaining the 5-foot setback and a reasonable clearance between the house and a shed.

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

A variance allowing the storage shed to be erected within the 5-foot rear/side setbacks for accessory structures would maintain the usability of the driveway. It will also allow better use of the garage as the outdoor power equipment is currently stored in the back of the 2 car garage and it is necessary to move one of the vehicles in order to access the equipment.

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

The storage shed would not detract from the residential nature/use of the property. Also, the fact that the existing rear setback of the house is 10.5 feet less than specified by current R-1 zoning ordinances.

V16-18 – Variance relief to encroach into the minimum rear and side yard setback for stairs/landings/porches.

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:

The deck will be about 1-foot above grade and surrounded by a privacy fence that conforms to 1331.09(B). As such the appearance from adjacent properties will be the same as if only a fence were present.

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 house was constructed around 1943 and the existing setbacks do not conform to the current R-1 zoning ordinances. The existing rear and side setbacks of the house are 14.5 feet and 9 feet respectively while 1333.04 of the planning code specifies a minimum 25-foot rear and 10-foot side setbacks. Since a 3-foot setback is required for a deck and a hot tub is commonly 7.5 feet X 7.5 feet, this would only allow a 2-foot path around the perimeter of the hot tub. A variance relief would provide additional space making the deck more usable.

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

The proposed deck will be used for entertaining guests and be the location of a hot tub, grill, and picnic table. Due to the limited space behind the house, a variance would allow for an acceptable amount of space to move around the desired hot tub and table.

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

The deck would be used for entertaining guests as is common in a residential setting. The existing rear/side setbacks would prevent the construction of a deck that meets the current zoning ordinance while allowing sufficient space for a hot tub and a picnic table and grill for entertaining purposes.