



# MORGANTOWN BOARD OF ZONING APPEALS

August 17, 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:** V16-25 / Davis / 2060 Eugenia Avenue

**REQUEST and LOCATION:**

Request by Phillip Davis, on behalf of Mary Clark, for variance relief from Article 1335 concerning an uncovered deck at 2060 Eugenia Avenue.

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

Tax Map 44, Parcel 123.1; R-1A, Single-Family Residential District

**SURROUNDING ZONING:**

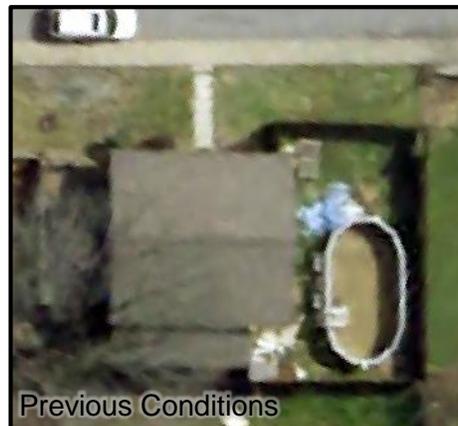
R-1A, Single-Family Residential District

**BACKGROUND and ANALYSIS:**

The petitioner initiated the construction of an uncovered deck to the northerly side and in the front yard of the single-family dwelling at 2060 Eugenia Avenue prior to the issuance of a building permit. Addendum A of this report illustrates the location of the subject site.

Article 1335.05 of the Planning and Zoning Code provides a minimum front, side, and rear yard setback requirement of three (3) feet for stairs/landings/porches in the R-1A District. The front setback of the stairs/landing/porch is ten (10) inches, which requires variance relief of twenty-six (26) inches. The side setback of the stairs/landing/porch is zero (0) feet, which requires variance relief of three (3) feet.

The following images illustrate the previous and constructed conditions surrounding the petitioner's pool.



Previous Conditions



Constructed Conditions

Top Deck  
Approximately 10 inches  
from front property line.  
Approximately 0 inches  
from side property line.

Bottom Deck  
Approximately 0 inches  
from side property line.

**Development Services**

Christopher Fletcher, AICP  
Director

John Whitmore, AICP  
Planner III

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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## **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 restates the Findings of Fact submitted by the petitioner. No recommendation is submitted by Staff concerning whether or not the petitioner's Findings of Fact should be amended. Further, no recommendation is submitted concerning whether or not variance relief should be granted by the Board as requested by the petitioner.

Addendum A of this report includes an image illustrating an accessory structure placed in the petitioner's front yard (see clipped image to the right). Article 1331.08(A)(2) prohibits accessory structures from being placed in the front yard. Staff requests the Board direct the petitioner to remove the accessory structure from the front yard regardless of whether variance relief is granted or not.



Enclosures: Application and accompanying exhibits

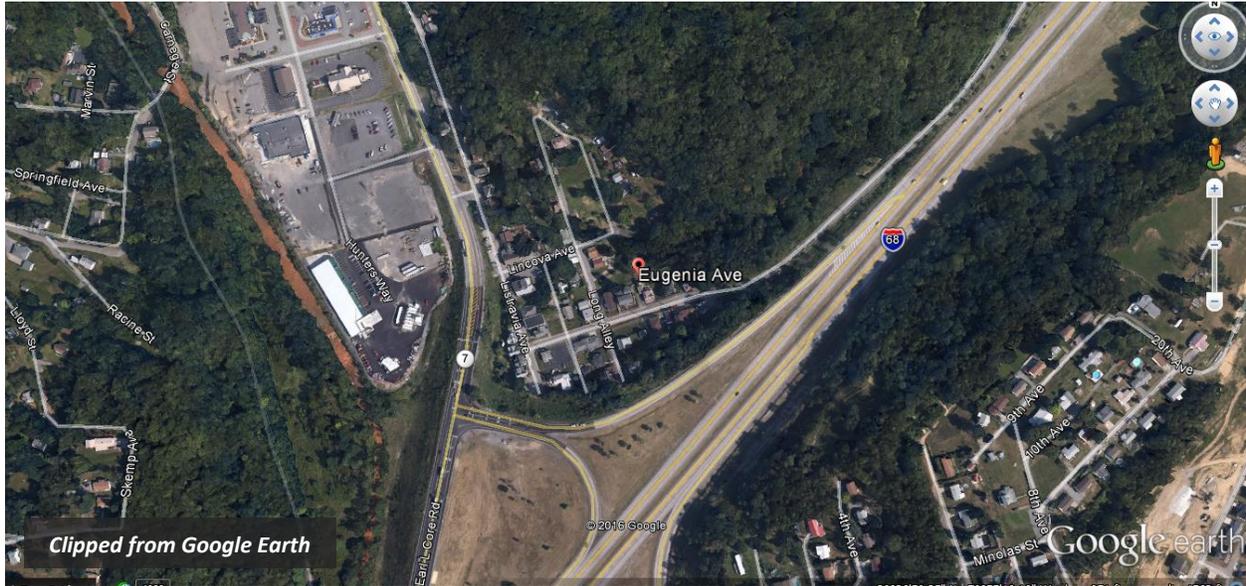
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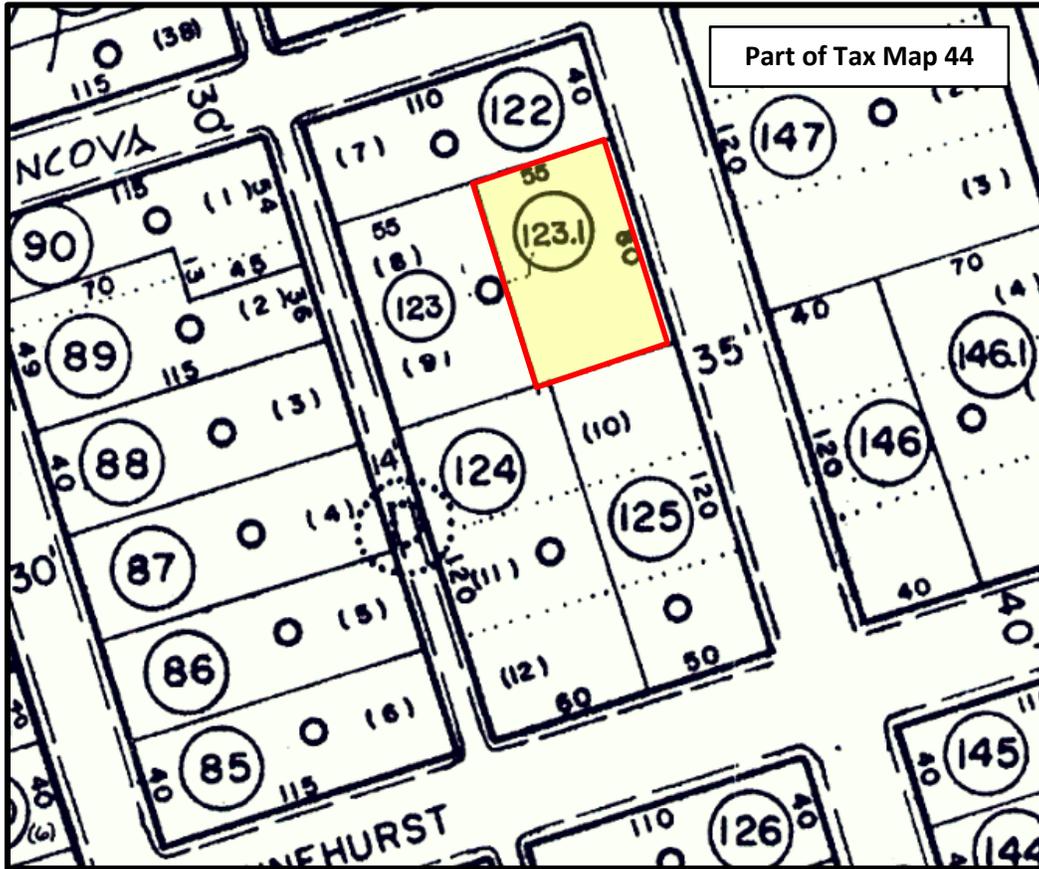
**STAFF REPORT ADDENDUM A**  
**V16-25 / Davis / 2060 Eugenia Avenue**



**STAFF REPORT ADDENDUM A**  
**V16-25 / Davis / 2060 Eugeniva Avenue**



STAFF REPORT ADDENDUM A  
V16-25 / Davis / 2060 Eugeniva Avenue



**STAFF REPORT ADDENDUM B**  
**V16-25 / Davis / 2060 Eugeniva Avenue**

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The following restates the Findings of Fact submitted by the petitioner.

**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 variance will not adversely affect any of the following: public health, safety or welfare, or rights of adjacent property owners/residents due to the variance requested for an uncovered deck meets an existing privacy fence located 10 inches from front property line. The uncovered deck will be on property and within property lines. Uncovered deck will also create more appeal to the area and 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 present area is a slope and/or inclined hill not useful to property owners and/or tenants, present area is currently more hazardous and an inconvenience. The variance will allow utilization of the property.

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

The land is a slope making the area useless and a hazard to occupants. The variance will allow use of land in a safe environment for occupants. The variance will also eliminate hardship with keeping area clean and grass cutting on a sloped environment.

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

Variance will enable better use of the property. The variance will not decrease property value and will not impact and adjacent property negatively.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V16-25 <del>160040</del>
RECEIVED:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

PAID VISA

<b>I. APPLICANT</b>		Name: Phillip Davis	
Mailing Address:	Street	2060 Eugenia ave	Phone:
	City	Morgantown	Mobile:
	State	WV	304-376-7664
	Zip	26505	Email:
<b>II. PROPERTY</b>		Street Address: 2060 Eugenia Ave.	
Owner:	Mary V Clark / K.P. Clark		Zoning:
Mailing Address:	Street	146 Linnhurst ST	Tax Map No:
	City	Morgantown	44
	State	WV	Parcel No:
	Zip	26505	123.1 123
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
Requesting an uncovered deck be placed on property to join to an existing privacy fence and create utilization of property.			
<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.			
Phillip Davis			29 JUN 2016
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	Date

CAJ  
20 JUL 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.



APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	1116-25
RECEIVED:	

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:

The variance will not adversely affect any of the following: public health, safety or welfare, or rights of adjacent property owners/residents due to the variance requested for an uncovered deck meets an existing privacy fence located 10 inches from front property line ~~space~~ + 18 inches from adjacent property line. The uncovered deck will be on property and within property lines. Uncovered deck will also create more appeal to the area + residence.

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 present area is a slope and/or inclined hill not useful to property owners and/or tenants, present area is currently more hazardous and an inconvenience. The variance will allow utilization of property.



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V110-25
RECEIVED:	

<b>VII. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <p>The land is a slope making the area useless and a hazard to occupants. The variance will allow use of land in a safe environment for occupants. The variance will also eliminate hardship with keeping area clean and grass cutting on a sloped environment.</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>Variance will enable better use of the property. The variance will not decrease property value and will not impact any adjacent property negatively.</p>	

# City of Morgantown Application for Building Permit

**Application Date** 6/10/16      **Type of Work:**     Electrical     Plumbing     Demo    **Is Applicant Owner?**  
 Deck     Mechanical     Grading     Asbestos     Yes    WB P  
 Remodel or Repair     Shed     Other     No

**PROPERTY INFORMATION:**

**Parcel Type:**     Residential     Rental/ Commercial     Industrial

Street Address Where Work is being done: 2060 Eugenia Ave    Morgantown, WV    Zip Code: 26505

Owners First Name: Mary    Last Name: Clark    Phone: 304-692-4928

Owners Address (if different from above address): 146 Linnehurst St. Mgtm WV 26505

CONTRACTORS INFORMATION:	Contractors Business Name	City License Number
General Contractor		
Excavation		
Concrete		
Carpentry		
Electrical		
Plumbing		
Sewer		
Mechanical		
Roofing		
Masonry		
Drywall/Lathing		
Demolition		
Other	<u>Owner</u>	

**SCOPE OF WORK TO BE DONE:**

Detailed Description of Work:    24-6x6's that are 18 to 24 inches into the ground with 4000psi concrete holding in ground free standing 2x10x8 + 2x8x8 for ~~beam~~ support boards and 2x6x8 for bam boards total deck area 625sq ft

**MUST ATTACH DETAILED SITE PLAN**    YES    NO    Est. Value of Work \$ 4,000

I here by certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the code official or the code official's authorized representative shall have the authority to enter areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to this permit.

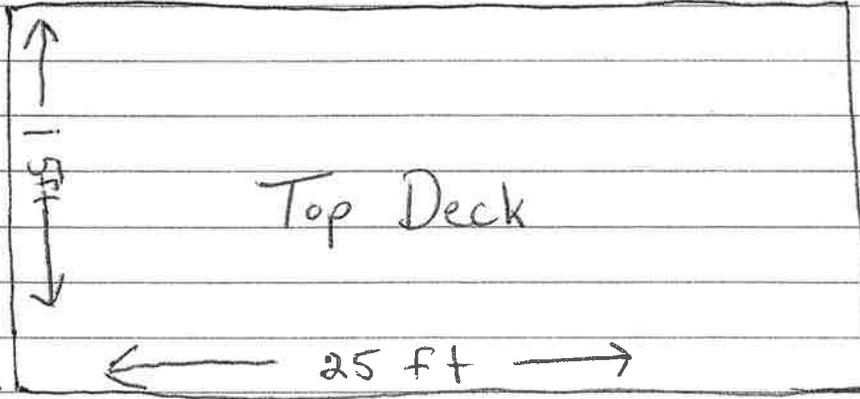
Phillip Davis    2060 Eugenia    (504) 376-7664  
SIGNATURE OF APPLICANT    ADDRESS OF APPLICANT    PHONE

PRINT NAME: Phillip Davis    Skinny 3477@yahoo.com

side walk

Fence ↗

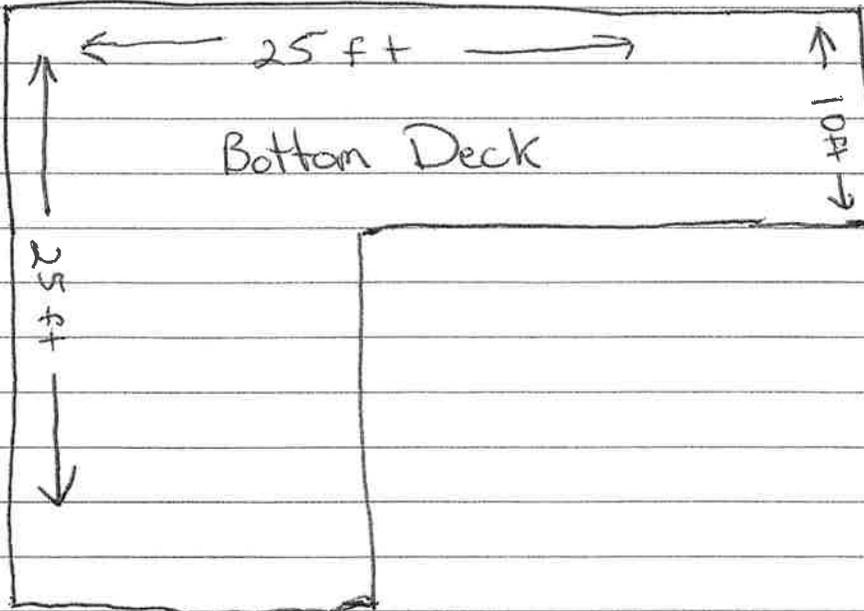
1 ft off ground



Top Deck

25 ft

4 ft off ground



Bottom Deck

25 ft

10 ft

Material : 10 - 2x8x10

14 - 2x8x8

76 - 2x6x8

70 -  $\frac{5}{4}$  x 6 x 16

30 -  $\frac{5}{4}$  x 6 x 12

4 - 4x4x12

18 - 2x10x8

70 - 10inch carriage bolts

70 -  $\frac{1}{2}$  washers

70 -  $\frac{1}{2}$  nuts

Top Deck : 12- 6x6 posts 8ft apart in the ground at 18 to 24 inches free standing with 2-60lbs bags of concrete in each hole.... there are 2x10x8's on each side of 6x6's for the supports with 10inch x 1/2 inch carriage bolts holding using 2x6x8's for bam boards at 16inch centers..... there will be steps from the top deck to the bottom deck it is a 41 inch drop with 5 steps at 8 1/4 inch rise and 9 inch treads the steps will have a handrail at 36 inches high made of 4x4's and 5/4 deckboards at 4 inches apart

Bottom Deck : Will also have 12- 6x6 posts in the ground at 18 to 24 inches free standing with 2-60lbs bags of concrete in each hole there will be 2x8x8's on each side of the 6x6's for support and 2x6x8's for bam board at 16inch centers there will be steps that go to the ground that will be 6 steps at 8 inch rise and 9 inch tread and 4x4's with 5/4 inch deckboards as handrail