



# 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:** V16-26 / Smith / 798 Morgan Drive

### **REQUEST and LOCATION:**

Request by Mary Jane Smith for variance relief from Article 1333 concerning an addition at 798 Morgan Drive.

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

Tax Map 52, Parcel 49; R-1, Single-Family Residential District

### **SURROUNDING ZONING:**

North; Unincorporated Monongalia County (outside the City of Morgantown)  
East, South and West; R-1, Single-Family Residential District

### **BACKGROUND and ANALYSIS:**

The petitioner initiated the construction of an elevator addition to the westerly side of the single-family dwelling located at 798 Morgan Drive prior to the issuance of a building permit. Addendum A of this report illustrates the location of the subject site.

The site plan submitted by the petitioner is not based on a property boundary survey. According to the petitioner, the addition is 10.5 feet from a line drawn perpendicular from the location of a shared mailbox post along Morgan Drive. The relationship between the shared mailbox post and the side property boundary is unknown. The following graphics illustrate the adjoining side yards and the subject elevator addition.



## **Development Services**

Christopher Fletcher, AICP  
Director

John Whitmore, AICP  
Planner III

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

The distance between the petitioner's dwelling and the neighboring dwelling at 796 Morgan Drive is approximately 32 feet. Assuming the buildings were constructed with an equal side setback, the petitioner's dwelling could be approximately 16 feet from the side property boundary. Without a survey document, Staff cannot confirm the exact location of the improvement in relation to the side parcel boundary.



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Article 1333.04(A)(3) provides a side yard setback requirement of ten (10) feet in the R-1 District. According to documents submitted with the related building permit application, the subject elevator addition extends seventy (70) inches from the western wall of the petitioner's single-family dwelling. The setback of the addition could be as little as 4.2 feet from the side property boundary to as much as 10.2 feet.

### **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 (deleted matter struck through; new matter underlined). Recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's "Findings of Fact" responses.

No recommendation is submitted by Staff concerning whether or not variance relief should be granted so that the subject elevator addition can be completed as requested.

Enclosures: Application and accompanying exhibits

### **Development Services**

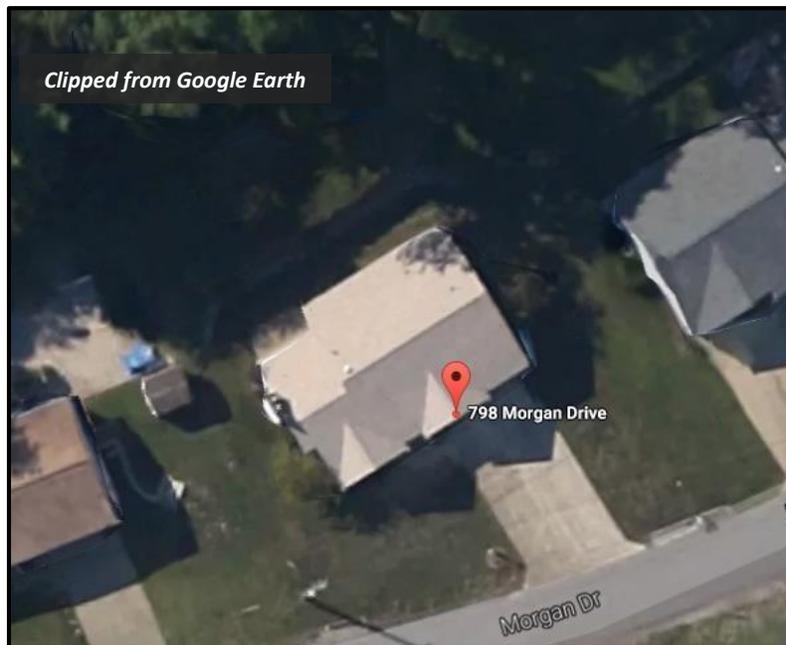
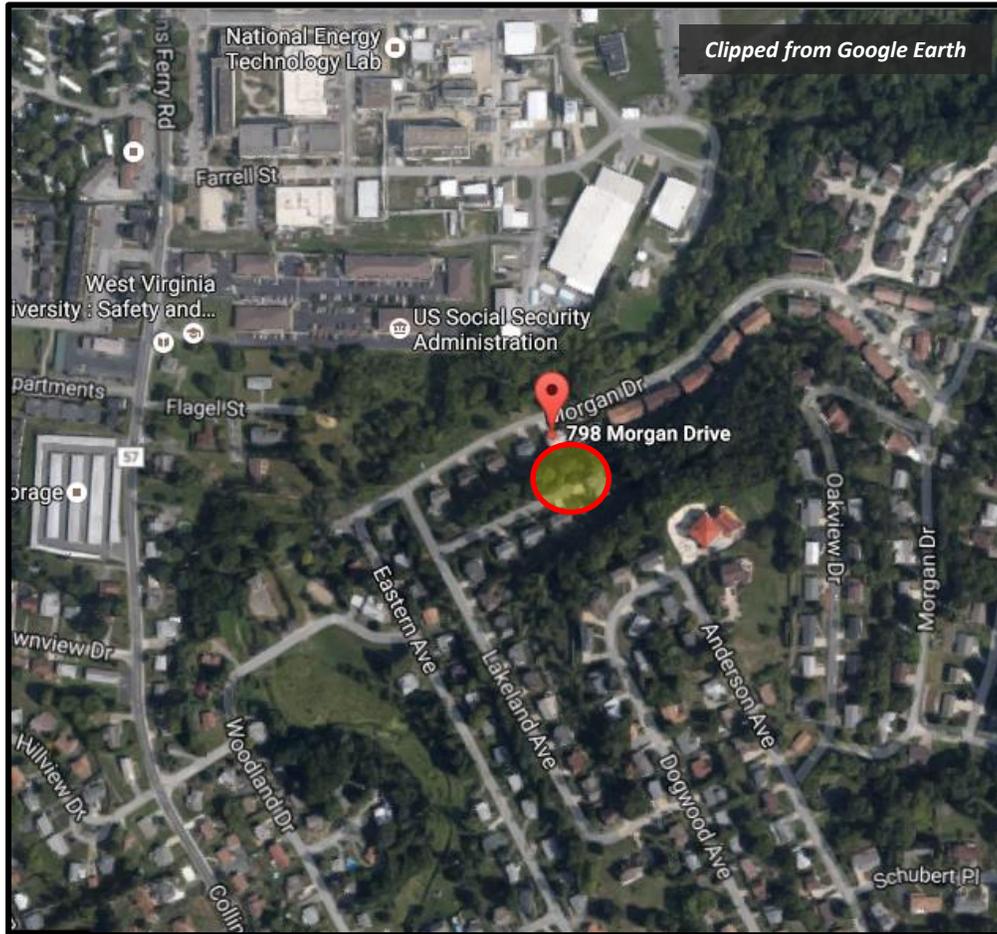
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# STAFF REPORT ADDENDUM A

V16-26 / Smith / 798 Morgan Avenue





## STAFF REPORT ADDENDUM B

### V16-26 / Smith / 798 Morgan Avenue

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Staff recommends the following revisions to the petitioner's Findings of Fact responses (deleted matter struck through; new matter underlined). Recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's "Findings of Fact" responses.

**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:

There is nothing in the elevator that connects to the property next to it. The elevator enclosure will not in any way affect the safety or welfare of anyone in the neighborhood.

**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:

According to the petitioner, the owners of the property is 78 years old. This elevator will allow her to remain in this house for many years to come. The integral basement garage from which access to the upper story via the elevator addition is fixed and appears to be the only functional and reasonable area to locate the independent living amenity.

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

According to the petitioner, the elevator structure has been designed to be compatible with the existing house. It does not detract from the appearance of the house.

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

According to the petitioner, the elevator structure was designed by a person knowledgeable in making a structure for this elevator. This elevator has to be constructed at this location in order to take her to a necessary upper room in the house.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V16-26
RECEIVED:	

(PLEASE TYPE OR PRINT IN BLACK INK)

CALL 484-7  
Fee: \$75

<b>I. APPLICANT</b>		Name:	Mary Jane Smith		
Mailing Address:	Street	798 Morgan Avenue DRIVE			
	City	State	Zip		
	Morgantown	WV	26505		
		Phone:	304-599-4004		
		Mobile:	304-290-6061		
		Email:	mjasmith@hsc.wvu.edu		
<b>II. PROPERTY</b>		Street Address:			
Owner:			Zoning:	R-1	
Mailing Address:	Street			Tax Map No:	52
	City	State	Zip	Parcel No:	49
				Phone:	

PAID PAID  
JUL 01 2016

<b>III. NARRATIVE</b>	Please describe the nature and extent of your variance request(s).
Request for 5ft, 10 inch encroachment to side setback.	

<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.		
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date
Mary Jane Smith	Mary Jane Smith	7/1/16

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.

V16-26



City of Morgantown, West Virginia

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)

*addition to an existing single-family dwelling*

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



APPLICATION FOR VARIANCE PETITION

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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:

There is nothing in the elevator that connects to the property next to it. The elevator enclosure will not in any way affect the safety or welfare of anyone in the neighborhood.

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 owners of the property is 78 years old. This elevator will allow her to remain in this house for many years to come.



APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	
RECEIVED:	

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:

The elevator structure has been designed to be compatible with the existing house. It does not detract from the appearance of the house.

ms

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

The elevator structure was design by a person knowledgeable in making a structure for this elevator. This elevator has to be constructed at this location in order to take her to an necessary upper room in the house.

ms



**Detailed Description of Work to be Done:**

Building a 60" x 54" Addition. This will be  
 a open area to accept a elevator.  
 concrete footings, foundation to grade, 2x6 framing Above grade  
 elevator shaft -  
 any electrical on separate permits

**STRUCTURAL FRAME INFORMATION:**

Steel     Masonry     Concrete     Wood     Other (identify) \_\_\_\_\_

**EXTERIOR WALL INFORMATION:**

Steel     Masonry     Concrete     Wood     Other (identify) \_\_\_\_\_

Street Frontage (FEET)	Stories (NUMBER)	Lot Area (SQ. FT.)
Front Setback (FEET)	Bed Rooms (NUMBER)	Total Building Area (SQ. FT.)
Rear Setback (FEET)	Full Baths (NUMBER)	Parking Area (SQ. FT.)
Left Setback (FEET)	Partial Baths (NUMBER)	Living Area (SQ. FT.)
Right Area (FEET)	Garages (NUMBER)	Basement Area (SQ. FT.)
Height Above Grade (FEET)	Windows (NUMBER)	Garage Area (SQ. FT.)
New Residential Units (NUMBER)	Fireplaces (NUMBER)	Office/Sales Area (SQ. FT.)
Existing Residential Units (NUMBER)	Enclosed Parking (NUMBER)	Service Area (SQ. FT.)
Elevators/Escalator (NUMBER)	Outside Parking (NUMBER)	Manufacturing Area (SQ. FT.)

**ELECTRICAL INFORMATION:**

Size of underground conductor \_\_\_\_\_  
 Size of grounded conductor \_\_\_\_\_  
 Size of grounding conductor \_\_\_\_\_  
 Type of grounding system (water pipe, ground rods, etc) \_\_\_\_\_  
 Size of conduit used \_\_\_\_\_  
 Electrician license number \_\_\_\_\_

OFFICE USE ONLY

APPROVALS:

Engineering Department Approval Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_ DATE

Planning Department Approval Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_ DATE

Code Enforcement Approval Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_ DATE

Fire Department Approval Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_

VALIDATION:

Permit Number: <i>Addition Res 2016-00000852</i>	Fee
Electrical:	Fee
Other:	Fee
Other:	Fee
Stop Work Order:	Fee

Application Accepted and Processed By: \_\_\_\_\_

Total Fee

Approved By: \_\_\_\_\_ DATE

Signature of Person Picking Up Building Permit: \_\_\_\_\_ DATE

Print Name of Person Picking up Permit: \_\_\_\_\_

Cutting two 36" doors  
into existing rooms.  
Header off w/ 2x12 header  
for door opening

60' Property line

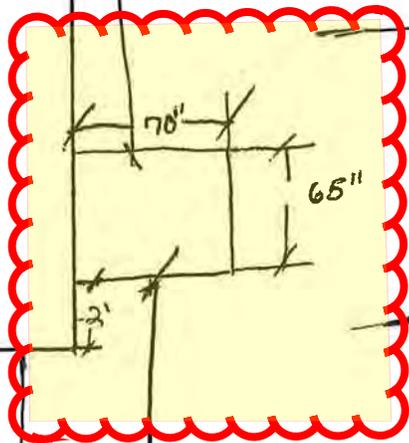
Roof 8:12 Pitch

Asphalt shing to match  
16" center  
2x6 Rafters  
Approach  
1/2 Plywood

existing garage

16" center  
2x6 stud  
Framing

existing garage



vinyl siding to match

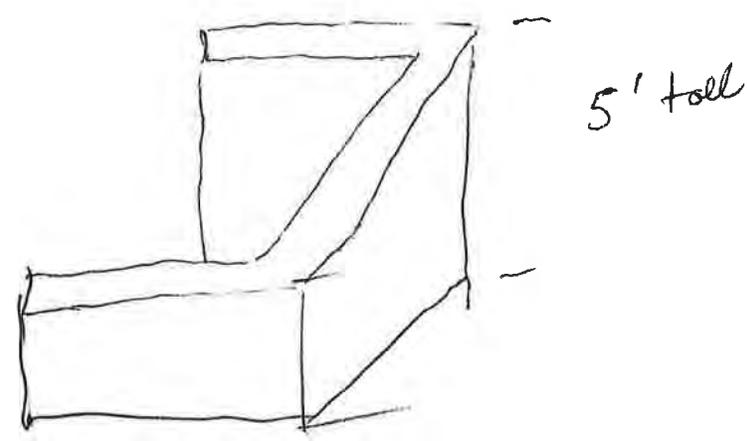
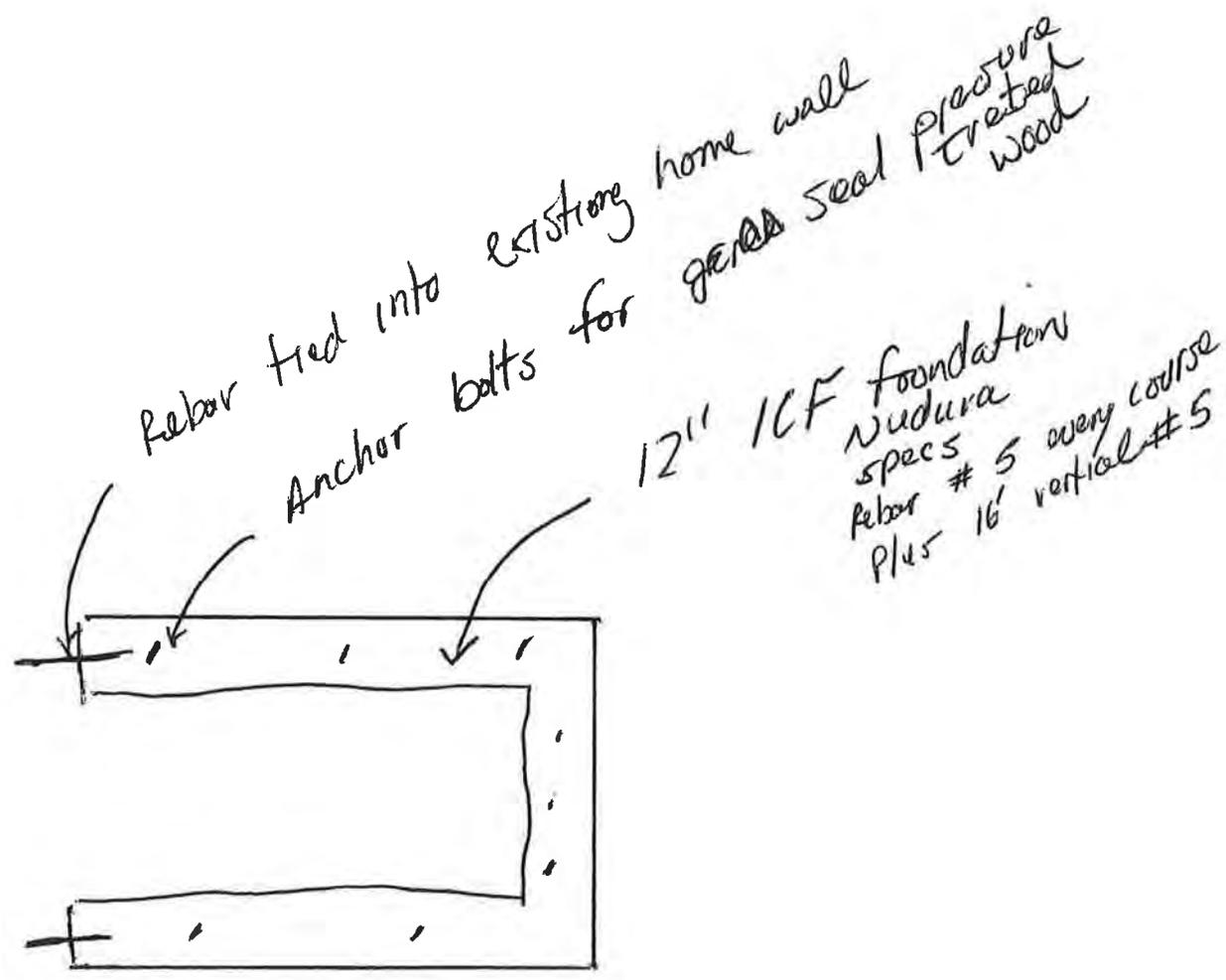
edge of existing garage

50' from Road

Driveway

total height 235"

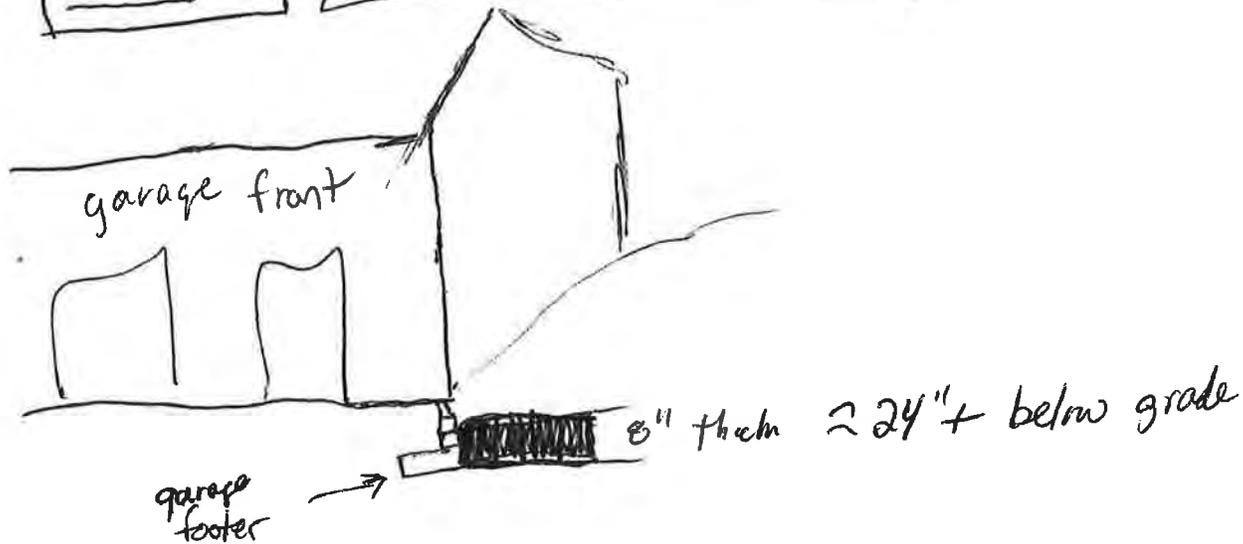
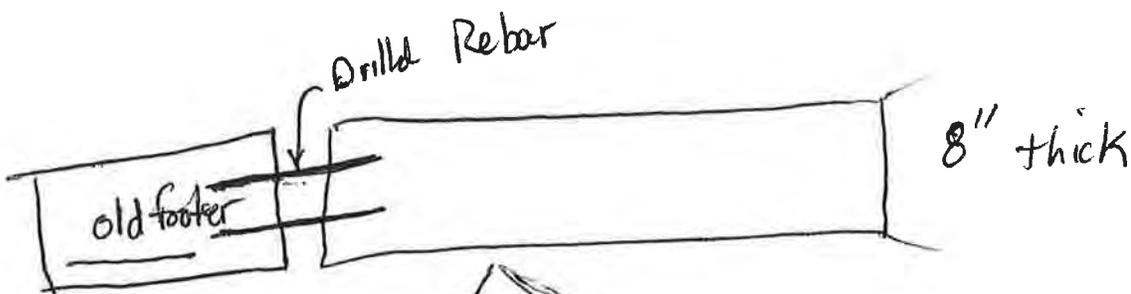
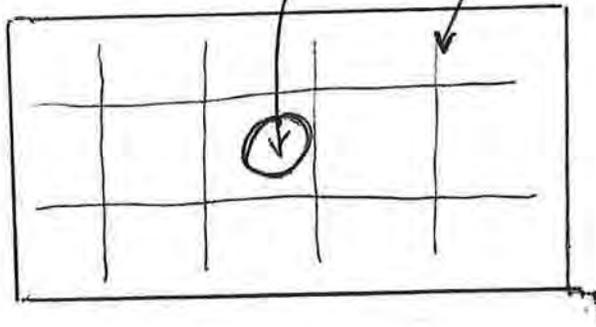
- (Inside walls 1/2 Drywall)
- (R-19 insulation)
- (TYVEK exterior wrap)

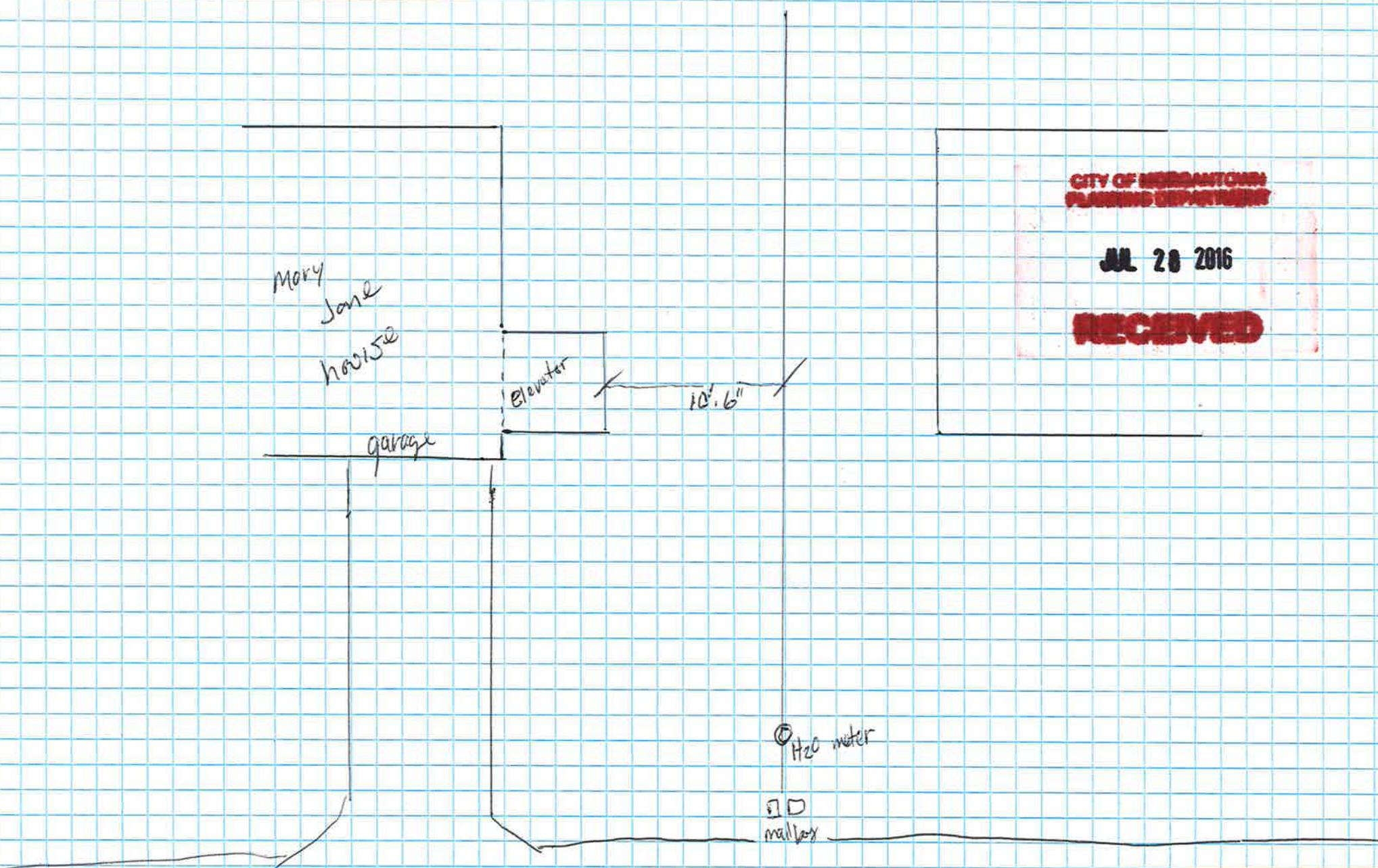


# Footer / Pad

optional sump installed for future need

# 5 Rebar on 16" center tied at contacts comp. 4000 psi concrete





Mary  
Jane  
house

garage

Elevator

10' 6"

H<sub>2</sub>O meter

manhole

Road

CITY OF MORGANTOWN  
PLANNING DEPARTMENT  
JUL 28 2016  
RECEIVED

798 Morgan