



MORGANTOWN BOARD OF ZONING APPEALS

November 16, 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: V16-38 / Fairmont Morgantown Housing Authority / 521 Grove Street

REQUEST and LOCATION:

Request by John Martys of the Fairmont Morgantown Housing Authority, for variance relief from Article 1331.08 concerning minimum setback standards for an accessory structure.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 14, Parcel 145.2; R-1A, Single-Family residential District

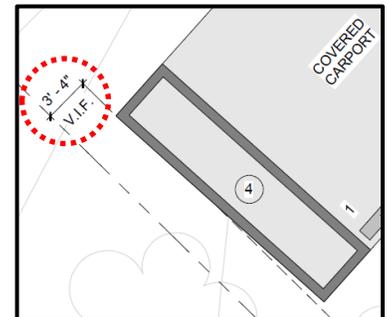
SURROUNDING ZONING:

R-1A, Single-Family residential District

BACKGROUND and ANALYSIS:

The petitioner constructed a detached accessory carport structure that includes a small shed component near the southern side property boundary at 521 Grove Street. Addendum A of this report illustrates the location of the subject site.

Article 1331.08 provides a minimum side and rear setback requirement of five (5) feet for accessory structures. The side setback of the accessory carport structure is three feet, four inches (3' – 4") as illustrated in the graphic to the right clipped from the petitioner's as-built survey. The setback encroachment requires a one foot, eight inch (1' – 8") variance.



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 restates the petitioner's findings of fact responses. No recommendation is submitted concerning the petitioner's findings of fact or whether variance relief should be granted as requested.

Development Services

Christopher Fletcher, AICP
Director

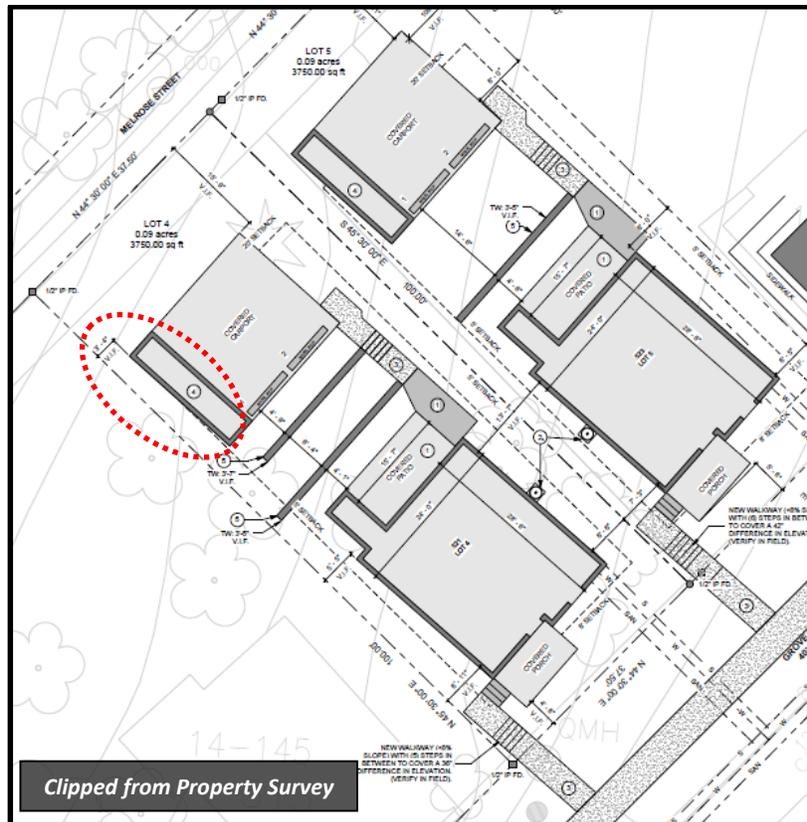
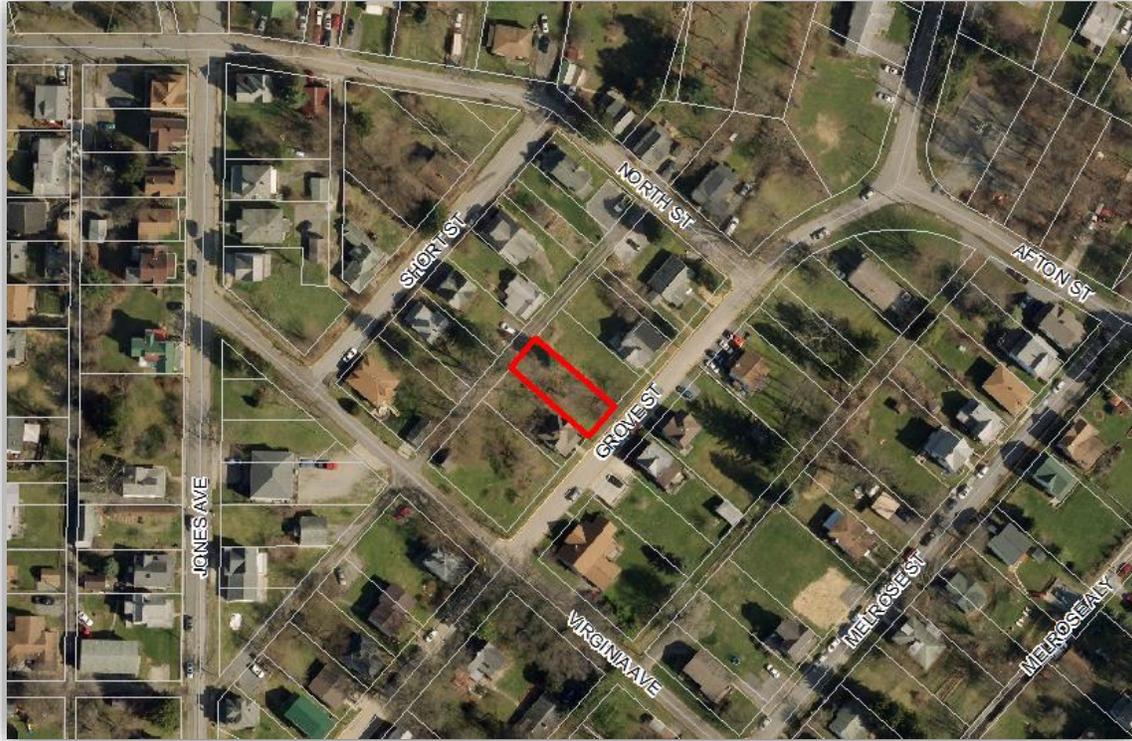
John Whitmore, AICP
Planner III

389 Spruce Street
Morgantown, WV 26505
304.284.7431

Enclosures: Application and accompanying exhibits

STAFF REPORT ADDENDUM A

V16-38 / The Fairmont-Morgantown Housing Authority / 521 Grove Street



STAFF REPORT ADDENDUM A

V16-38 / The Fairmont-Morgantown Housing Authority / 521 Grove Street



STAFF REPORT ADDENDUM B

V16-38 / The Fairmont-Morgantown Housing Authority / 521 Grove Street

The following restates 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:

The carport is already built and isn't affecting the public health, safety or welfare, or the rights of the adjacent property owners or residents. We have received no complaints from 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 contractor (Dan Salai Contracting) was provided a site plan with the required setbacks before constructing the dwelling and carport located at 521 Grove Street. After construction was completed an "as is" site plan/survey was completed and indicated that the accessory structure (carport) located at 521 Grove Street was not 5' from the property line.

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

In order for the FMHA to obtain Certificate of Occupancy, the variance must be granted. Otherwise, the property cannot be sold.

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

The intent was never questioned. The contractor did not follow the approved site plan that was provided to them.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V116-38
RECEIVED:	06 OCT 16

(PLEASE TYPE OR PRINT IN BLACK INK)

VISA Fee: \$75

I. APPLICANT		Name:	The Fairmont Morgantown Housing Authority		
Mailing Address:	PO Box 2738		Phone:	304-363-0860 ext. 109	
	Street	Fairmont WV 26555-2738	Mobile:		
	City	State Zip	Email:	ldarden@fmhousing.com	
II. PROPERTY		Street Address:	521 Grove Street		
Owner:	The Fairmont Morgantown Housing Authority		Zoning:	R1A	
Mailing Address:	PO Box 2738		Tax Map No:	01-14	
	Street	Fairmont WV 26555-2738	Parcel No:	145.2	
	City	State Zip	Phone:	304-363-0860 ext.109	
III. NARRATIVE		Please describe the nature and extent of your variance request(s).			
<p>The contractor (Dan Salai Contracting) was provided a site plan with the required set backs before constructing the dwelling and car port located at 521 Grove Street. After construction was completed an "as is" site plan/survey was completed and indicated that the accessory structure (car port) located at 521 Grove Street was not 5' from the property line. We are requesting a 1 foot, 8 inch variance. I have attached the site plans referenced in this narrative for your use and review.</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>					
John martys				10/5/16	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date	

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.



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VARIANCE PETITION**

OFFICE USE	
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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: _____ 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



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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:

The car port is already built and isn't affecting the public health, safety or welfare, or the rights of the adjacent property owners or residents. We have received no complaints from 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 contractor (Dan Salai Contracting) was provided a site plan with the required set backs before constructing the dwelling and car port located at 521 Grove Street. After construction was completed an "as is" site plan/survey was completed and indicated that the accessory structure (car port) located at 521 Grove Street was not 5' from the property line.



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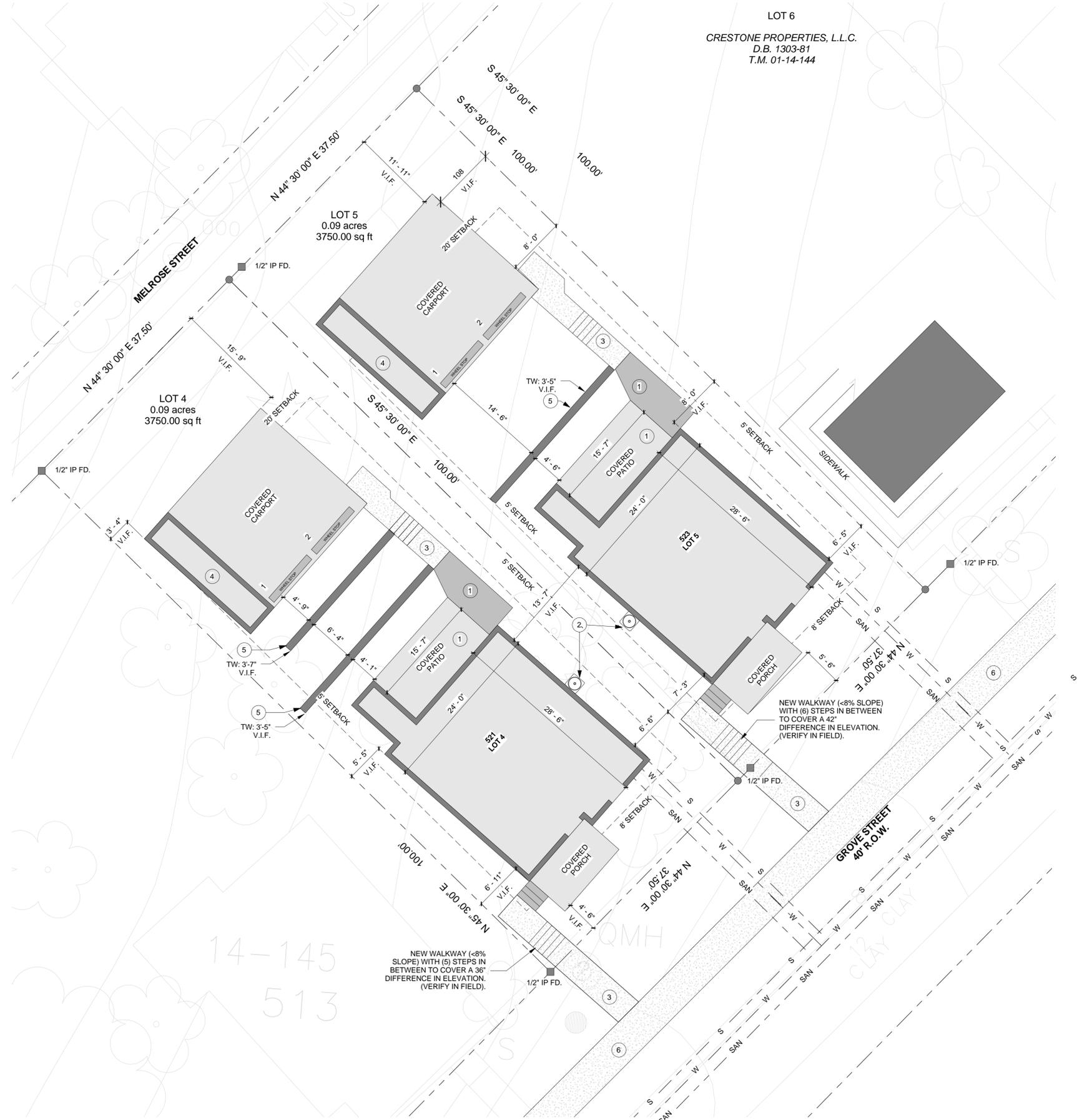
VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <p>In order for the FMHA to obtain a Certificate of Occupancy, the variance must be granted. Otherwise, the property cannot be sold.</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>The intent was never questioned. The contractor did not follow the approved site plan that was provided to them.</p>	

GENERAL NOTES

1. TIE ALL DOWNSPOUTS TO STORM
2. SLOPE GRADE AWAY FROM HOUSE
3. VERIFY ALL DIMENSIONS IN FIELD.
4. ALL DIMENSIONS HAVE BEEN RECORDED BASED ON EXISTING CONDITIONS AND LOCATION OF STAKES LOCATED BY OTHERS. MILLS GROUP DOES NOT ASSUME RESPONSIBILITY OF ACCURACY BUILDING LOCATION BASED ON THOSE STAKES.
5. SITE SURVEY BY OTHERS.
6. COORDINATE WITH SITE/CIVIL ENGINEER FOR GRADING AND ANY SITE WORK.

KEYED NOTES

- ① EXISTING CONCRETE WALKWAY
- ② CONDENSING UNIT
- ③ NEW WALKWAY (<8.3% SLOPE)
- ④ EXISTING STORAGE
- ⑤ BLOCK RETAINING WALL. VERIFY HEIGHT IN FIELD.
- ⑥ NEW CONCRETE SIDEWALK.



LOT 6
CRESTONE PROPERTIES, L.L.C.
D.B. 1303-81
T.M. 01-14-144

PROJECT:
THE CHATHAM
GROVE STREET, MORGANTOWN, WV
AUGUSTA DEVELOPMENT CORP
SITE PLAN

Drawing Set Number

Revision Schedule

No.	Revision Description	Date

INTENDED DRAWING USE:

REVIEW	Conceptual
	Review
	Permitting
	Bidding
	Construction Documents

Project number	14016
Date	08/16/2016
Drawn by	JL
Checked by	RH

A100

Scale 1/8" = 1'-0"

① SITE PLAN - EXISTING CONDITIONS
1/8" = 1'-0"