



Charleston Board of Zoning Appeals

AGENDA

8:30 a.m., Thursday, June 9, 2022

City Service Center Conference Room · 915 Quarrier Street

I. Items for Review

VAR-22-3010

Application of Bonnie Stark requesting a fence height variance in order to install a 6.5' privacy fence in the front yard on the property located at **5 Shamblin Place**.

VAR-22-3008

Request for Reconsideration

Application of Kevin Cantrell requesting a rear setback variance in order to construct an addition to a single family dwelling on the property located at **3811 Virginia Avenue**.

II. Approval of minutes for the May 26, 2022 hearing.



**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Case Description

VAR-22-3010: Application of Bonnie Stark requesting a fence height variance in order to install a 6.5' privacy fence in the front yard on the property located at **5 Shamblin Place**.

The file (including the application, site plan and other supporting documentation) is available for your inspection online at <https://charlestonwv.civicclerk.com/>. If you have questions, email lori.brannon@cityofcharleston.org or call 304-348-8105.

Hearing Details

WHEN: 8:30 a.m.
Thursday, June 9, 2022

WHERE: City Service Center Conference Room
915 Quarrier Street

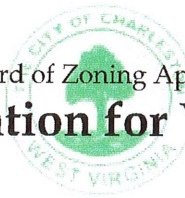
Public Participation

Anyone who wishes to comment on the case described above is encouraged to do so in one of the following ways:

1. Send a written statement to lori.brannon@cityofcharleston.org. These statements will become a part of the record and will be shared with members of the Board prior to the hearing.
2. Speak directly to the Board by joining the meeting.

As a matter of general policy these proceedings will not be transcribed by the Board. Anyone wishing a legal transcript must provide a court reporter at his/her own expense.

Board of Zoning Appeals
Application for Variance



BZA # _____

Hearing Date: _____

Applicant Information	Property Information
Name: <u>BONNIE STARK</u>	Address: <u>5 SHAMBLIN PLACE</u>
Address: <u>5 SHAMBLIN PLACE</u>	Tax Map and Parcel: <u>LOT #5</u>
Phone: <u>304-545-5187</u>	Zoning District: _____
Agent Name, Address and Phone Number: (if other than applicant)	Property Owner and Mailing Address: (if other than applicant)

INSTRUCTIONS: This application must be typed or legibly printed and filed with the Planning Department in person or by mail to 915 Quarrier Street, Suite 1 Charleston, WV 25301. The following items must accompany this application:

1. a site plan drawn to scale;
2. a list of the owners, with their mailing addresses, of the properties within a 100 foot radius of the property for which the variance is being sought; and
3. \$125.00 filing fee in the form of cash, personal check or money order made payable to the City of Charleston.

You are also encouraged to submit any additional information, including photographs, elevations, testimonials or other documentation which may support your application. You or your representative must be present at the scheduled public hearing in order to present your request and answer questions.

THE PLANNING DEPARTMENT WILL NOT ACCEPT INCOMPLETE APPLICATIONS.

A variance is a method by which a property owner receives permission to vary from the development standards established in the Zoning Ordinance governing such matters as building location, building dimensions, setback requirements, placement and quantity of parking, landscaping, signage, and other features included in site design. **Please describe your variance request.**

REQUESTING A VARIANCE ON RIGHT SIDE REAR YARD FENCE AND
LEFT SIDE YARD FENCE AS PER ACTUAL LENGTH TO 6.5 ft IN HEIGHT.

Applicable Section(s) of the Zoning Ordinance SEC. 3-080

Please describe the proposed work to be done on the property. REMOVAL OF 8 ft HEIGHT
OF EXISTING FENCE TO 6.5 ft HEIGHT ON BOTH SIDES OF YARD.
LEFT SIDE TO BE INSTALLED TO 6.5 AFTER PERMIT GRANTED.

IMPORTANT: According to Section 8A of the Code of the State of West Virginia and Section 29-040 of the City of Charleston's Zoning Ordinance, the Board of Zoning Appeals may grant a variance if and only if **ALL** of the following four criteria can be satisfied:

- 1.) The variance, if granted, will not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents; and,
- 2.) The variance arises from special conditions or attributes which pertain to the property for which a variance is being sought and which were not created by the person or entity seeking the variance; and,
- 3.) The variance, if granted, would eliminate an unnecessary hardship and permit a reasonable use of the land; and,
- 4.) The variance, if granted, will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

1.) If granted, your variance must not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents. For example, public safety cannot be compromised by limiting access for emergency vehicles, and neighboring property owners must not be hindered in the use their properties in any manner permitted in the Zoning Ordinance. If your variance request is granted, how will others in the area be affected?

SAFETY NOT COMPROMISED, PROPERTY NOT HINDERED, EMERGENCY VEHICLES NOT HINDERED

2.) Your request must arise from special conditions or attributes which pertain to the subject property and which you did not create. The size, shape and topography of your lot are examples of the physical conditions which may satisfy this criterion. In comparison with other properties in the vicinity and under the same zoning regulations, what is unusual or different about the subject property?

MY PROPERTY IS DIFFERENT - IT IS SURROUNDED ON 3 SIDES BY SMITH ROAD - UNUSUAL FOR MY AREA. IT IS ON A SLIGHT SLOPE - UNUSUAL SEMI CIRCLE SHAPE - SHAMPLIN # 7 LINE IS 9FT FROM MY HOUSE - DECREASING TO 4FT MIDYARD TO LINE. ALSO IM AT A DISADVANTAGE OF USE.

3.) **An unnecessary hardship is neither personal nor financial in nature.** In this application, an unnecessary hardship is a problem created by some feature of the land which prevents the owner from making reasonable use of the property as permitted by the Zoning Ordinance. The following three questions help to determine if there is an unnecessary hardship with regard to your property.

Without a variance, are you deprived of all beneficial use of your land? YES - LINE ON RIGHT SIDE DOES NOT PERMIT ENJOYMENT OF USE WITH OUT A FENCE WITH HEIGHT - CARS PARKED 4ft FROM MY PROPERTY LINE. IM AT A DISADVANTAGE ALSO DUE TO LINE FRONTS SMITH ROAD

Is your situation due to unique circumstances that are not shared by other land in the district?

YES BY SHAPE AND LOCATION ON SMITH ROAD

Would approval of your variance request alter the essential character of the surrounding neighborhood or community?

SINCE THIS REQUEST IS BEHIND MY HOUSE - THE NEIGHBORHOOD CHARACTER IS NOT ALTERED

4.) The general purpose and intent of the Zoning Ordinance of the City of Charleston is to protect and promote the public health, safety, convenience, morals and general welfare. For more specific information in regard to the scope and intent of the Zoning Ordinance, please see Section 1-020 as well as the section from which you are requesting this variance. Will approval of the variance allow the intent of the Zoning Ordinance to be observed?

YES

Substantial justice is the idea that a standard of fairness has been satisfied according to the substance of the law. Does your variance request represent the least deviation from the Zoning Ordinance necessary to achieve an outcome that is fair to both you and to your community?

YES REMOVING BY CONSTRUCTION PART OF MY FENCE AT GREAT COST TO 6.5 FEET FROM 8 FT IS A COMPROMISE AND FAIR TO ADHERE TO ORDINANCE

I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.

Bonnie Stark
Signature

4/27/2022
Date

Planning Department Use Only	
The following is a list of related cases:	
The following is a list of zoning ordinance violations, building code violations and enforcement actions relating to the subject property:	
Application reviewed by:	
Action: ☐ Approved ☐ Rejected	
If approved, were there any specific conditions or limitations imposed by the BZA?	
Planning Official Signature and Title	
Date	

4-27-2022 SUBMITTED

X RIGHT SIDE FENCE EXISTING
** PROPOSED LEFT SIDE FENCE 6.5 FT

Planning Web Map App - v2

← → ↻ 📍 🗨️ 🗲️ 📏

https://gisweb.cityofcharleston.org/agp/rtx/apps/webappviewer/index.html?id=f018162139ea4a8196bee987de7f47db#

Zoom to Clear Selected

5 SHAMBLIN PL

Search Google Maps

[View Map Card Front](#)

[View Map Card Back](#)

District: 09 - South Annex

Map: 5C

Parcel: 200

Parcel ID: 09 6C02000000000000

APN: 06C.0200.0000.09

Comments:

Land Description

Account Number: 07541500

Owners: STARK SONNIE BARLOW

Mailing Address: 5 SHAMBLIN PL
CHARLESTON WV 25314

Deed Book/Page: 3096/500

Last Sale: 4/27/2021

Sale Price: 307,000.00

Legal Description: LT 5 SHAMBLIN PLACE

Tax Class: 2 - Owner Occupied

Tax Year: 2022

Land Value: 62,100.00

Building Value: 199,200.00

Mineral Value: 0.00

Total Value: 266,000.00

Land Use Code: 101 - Residential 1 Family

Neighborhood: 110P

Structure Description:

Year Built: 1994

Style: COLONIAL

Living Area (sf): 2,700

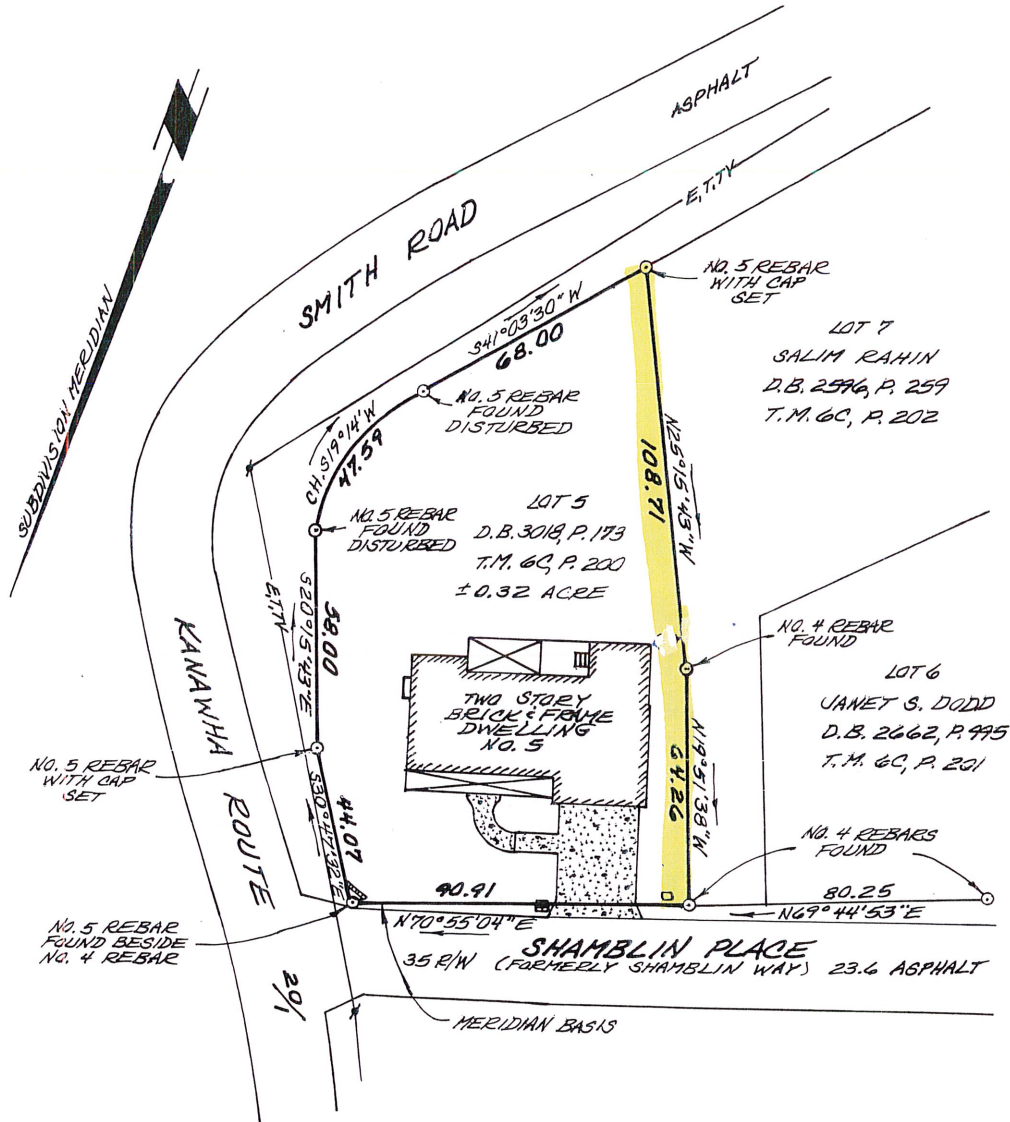
Popup Panel Widget

(1 of 3)

20ft

1,769,495.960 486,311.899 Feet

NOTES: SEE MAP OF "SHAMBLIN PLACE" BY E. L. ROBINSON AND TAX MAP 6C, CHARLESTON SOUTH ANNEX.



PLAT SHOWING

LOT 5,

SHAMBLIN PLACE

IN THE CITY OF CHARLESTON
KANAWHA COUNTY, WEST VIRGINIA
SURVEYED FOR

BONNIE J. STARK

SCALE: 1" = 40'

MAY 6, 2021

WILLIAM R. GUNTER
LICENSED
STATE OF WEST VIRGINIA
REGISTERED PROFESSIONAL SURVEYOR NO. 801
CLINTON, WV

From: Kevin Cantrell <KCantrell@acandsinc.com>
Sent: Friday, May 27, 2022 11:47 AM
To: Vriendt, Dan <dan.vriendt@cityofcharleston.org>
Subject: Variance 3811 Virginia Ave SE

Director Vriendt,

As discussed with you in person today, I was unable to attend the variance hearing on May 26 at 8:30 am due to a family matter. My middle daughter has SVT and was scheduled to have a heart procedure in July, but her doctor in Pittsburgh moved it to May 25 with short notice. Rather than postpone the variance meeting until the next hearing, my father-in-law volunteered to go in my place.

During the meeting, a member of the variance board became concerned that if we ever decided to park a vehicle in front of our garage doors, it would block the alley. It was explained that we would not park in front of our garage doors or block the alley, but the member wanted assurance by having more room from the alley to our house. Therefore, the board granted an 8.5' setback so there would be room for a car to park. The confusion, which was not directly addressed, is that there is 5' from the alley to property line. A 5' setback from the property line would result in 10' from the house structure to the alley. Therefore, a vehicle could still park behind the house and not block the alley.

I believe that if I was present and able to present this information to the variance board, concerns would have been alleviated, and the 5' setback would be granted. Please let me know if there is a way for me to share this information with the variance board or what other steps need to be taken. I appreciate you meeting with me today and working with me regarding this variance.

Kevin Cantrell
304-767-1001



**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Case Description

VAR-22-3008: Application of Kevin Cantrell requesting a rear setback variance in order to construct an addition to a single family dwelling on the property located at **3811 Virginia Avenue**.

The file (including the application, site plan and other supporting documentation) is available for your inspection online at <https://charlestonwv.civicclerk.com/>. If you have questions, email lori.brannon@cityofcharleston.org or call 304-348-8105.

Hearing Details

WHEN: 8:30 a.m.
Thursday, May 26, 2022

WHERE: City Service Center Conference Room
915 Quarrier Street

Public Participation

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1. Send a written statement to lori.brannon@cityofcharleston.org. These statements will become a part of the record and will be shared with members of the Board prior to the hearing.
2. Speak directly to the Board by joining the meeting.

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 Board of Zoning Appeals
Application for Variance

BZA # _____

Hearing Date: _____

Applicant Information	Property Information
Name: Kevin Cantrell	Address: 3811 Virginia Ave SE, Charleston, WV
Address: 3811 Virginia Ave SE, Charleston, WV	Tax Map and Parcel: Map: 5 Parcel: 0123 0000 0000
Phone: 304-767-1001	Zoning District: R-4
Agent Name, Address and Phone Number: (if other than applicant)	Property Owner and Mailing Address: (if other than applicant)

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1. a site plan drawn to scale;
2. a list of the owners, with their mailing addresses, of the properties within a 100 foot radius of the property for which the variance is being sought; and
3. \$125.00 filing fee in the form of cash, personal check or money order made payable to the City of Charleston.

You are also encouraged to submit any additional information, including photographs, elevations, testimonials or other documentation which may support your application. You or your representative must be present at the scheduled public hearing in order to present your request and answer questions.

THE PLANNING DEPARTMENT WILL NOT ACCEPT INCOMPLETE APPLICATIONS.

A variance is a method by which a property owner receives permission to vary from the development standards established in the Zoning Ordinance governing such matters as building location, building dimensions, setback requirements, placement and quantity of parking, landscaping, signage, and other features included in site design. **Please describe your variance request.** Minimum rear setback of 5 feet.

Applicable Section(s) of the Zoning Ordinance Sec. 5-030 Setbacks A. The following setbacks shall be... 3. Minimum Rear Setback: 25 feet

Please describe the proposed work to be done on the property. Rear addition with 1st floor laundry room, kitchen, family room, bathroom, garage and with 2nd floor bathroom, 2 bedrooms, and master suite.

IMPORTANT: According to Section 8A of the Code of the State of West Virginia and Section 29-040 of the City of Charleston's Zoning Ordinance, the Board of Zoning Appeals may grant a variance if and only if **ALL** of the following four criteria can be satisfied:

- 1.) The variance, if granted, will not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents; and,
- 2.) The variance arises from special conditions or attributes which pertain to the property for which a variance is being sought and which were not created by the person or entity seeking the variance; and,
- 3.) The variance, if granted, would eliminate an unnecessary hardship and permit a reasonable use of the land; and,
- 4.) The variance, if granted, will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

1.) If granted, your variance must not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents. For example, public safety cannot be compromised by limiting access for emergency vehicles, and neighboring property owners must not be hindered in the use their properties in any manner permitted in the Zoning Ordinance. If your variance request is granted, how will others in the area be affected? There will be no adverse affect on public health, safety, and welfare or the rights of adjacent property owners or residents. The property currently has an accessory structure with a 3 foot setback from the alley. The variance would simply allow the primary structure to extend to 5 foot from the property boundary once the accessory structure is removed. There will still be approximately 12 feet from the primary structure to the paved portion of the city alley.

2.) Your request must arise from special conditions or attributes which pertain to the subject property and which you did not create. The size, shape and topography of your lot are examples of the physical conditions which may satisfy this criterion. In comparison with other properties in the vicinity and under the same zoning regulations, what is unusual or different about the subject property? As with several other houses in Kanawha City, the front setback of my house is much greater than the other R-4 zoned houses throughout Charleston.

3.) **An unnecessary hardship is neither personal nor financial in nature.** In this application, an unnecessary hardship is a problem created by some feature of the land which prevents the owner from making reasonable use of the property as permitted by the Zoning Ordinance. The following three questions help to determine if there is an unnecessary hardship with regard to your property.

Without a variance, are you deprived of all beneficial use of your land? Without a variance, I would not be able to have an attached garage, a family room, a master suite, and a secondary exit from upstairs out the back of the house.

Is your situation due to unique circumstances that are not shared by other land in the district? Neighbors in Kanawha City have similar issues of deep front setbacks when building rear additions. I assume they have requested and been approved for variances as well, considering the large number of homes with setbacks less than 25 feet in R-4 zones in Kanawha City. Please see Attachment C for a listing of similar houses with pictures.

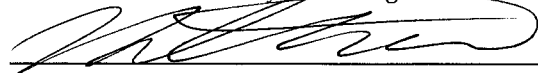
Would approval of your variance request alter the essential character of the surrounding neighborhood or community? As seen in my supporting attachments, 3 houses on my side of the block all have rear setbacks

less than 25 feet (1 home even has a rear setback of 3 feet). Specifically, the immediate next door neighbors to both the right and left of my property have rear setbacks less than 25 feet (the house to my left has a 5 foot setback, like my request). Therefore, my variance would match the essential character of the surrounding neighborhood and match my neighbor to the left exactly.

4.) The general purpose and intent of the Zoning Ordinance of the City of Charleston is to protect and promote the public health, safety, convenience, morals and general welfare. For more specific information in regard to the scope and intent of the Zoning Ordinance, please see Section 1-020 as well as the section from which you are requesting this variance. Will approval of the variance allow the intent of the Zoning Ordinance to be observed? If approved, this variance will continue to encourage beneficial development and to protect, preserve, and increase the value of land and buildings in this R-4 zoned area. The intent of the Zoning Ordinance (to bring about conformity of the uses of land and buildings and to minimize conflicts among the uses of land and buildings) is preserved considering that my home would conform to other homes in the immediate area, specifically the homes directly to the right and left of my home.

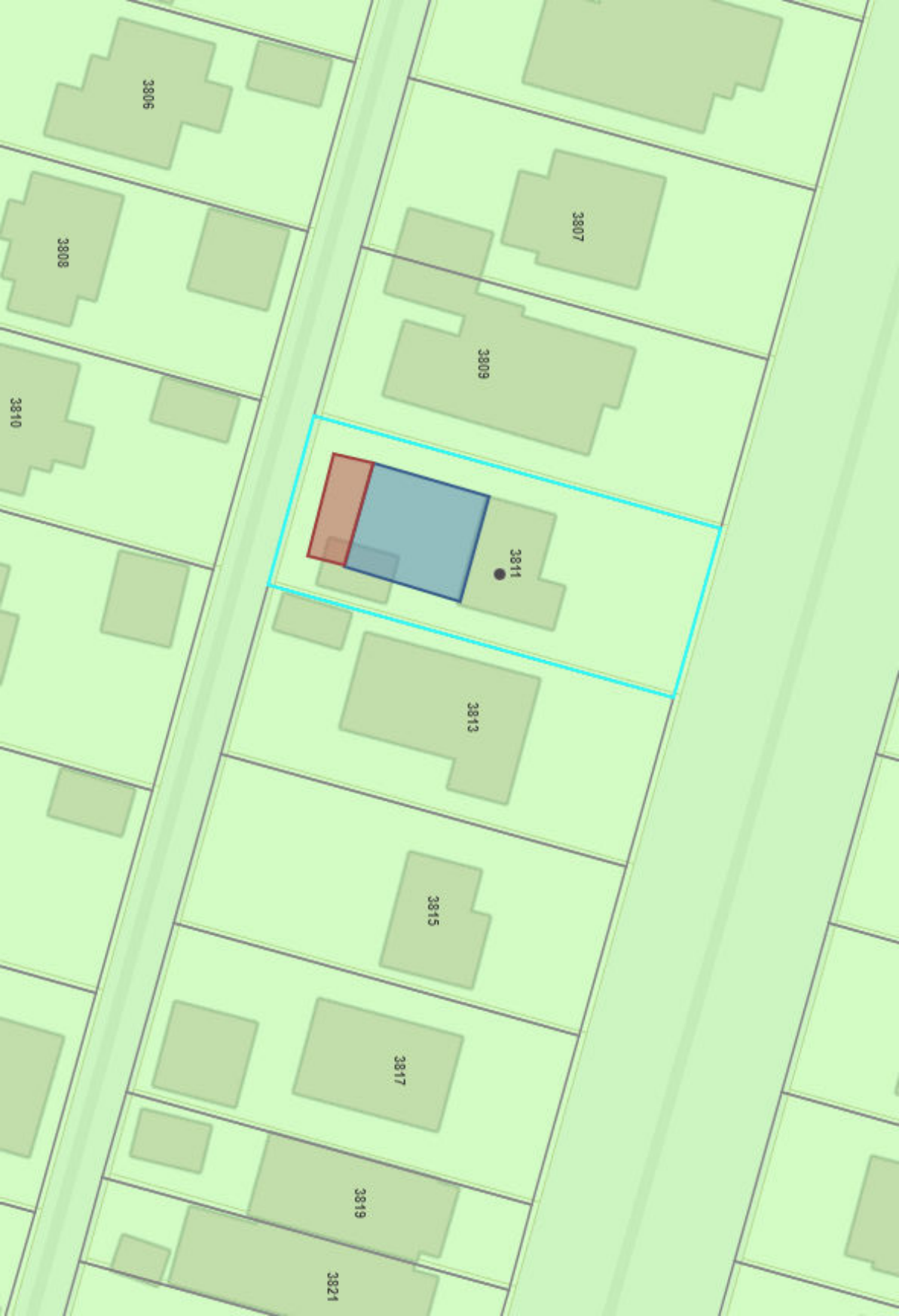
Substantial justice is the idea that a standard of fairness has been satisfied according to the substance of the law. Does your variance request represent the least deviation from the Zoning Ordinance necessary to achieve an outcome that is fair to both you and to your community? My variance approval would demonstrate fairness since my variance would result in a primary structure similar to those found throughout the area, including ones on my street. I do not believe my request deviates from the intent of the Zoning Ordinance considering that my home is between two houses with setbacks less than 25 feet and my setback would exactly match my neighbor to the left. Additionally, the outcome will benefit the community due the increase property value. It would not only be fair to me and my community, but beneficial as well. Please see Attachment D containing letters from nearby neighbors in support for my variance request.

I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.


Signature

4/12/22
Date

Planning Department Use Only	
The following is a list of related cases:	
The following is a list of zoning ordinance violations, building code violations and enforcement actions relating to the subject property:	
Application reviewed by:	
Action: ☐ Approved ☐ Rejected	
If approved, were there any specific conditions or limitations imposed by the BZA?	
Planning Official Signature and Title	Date



3806

3808

3810

3807

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3811

3813

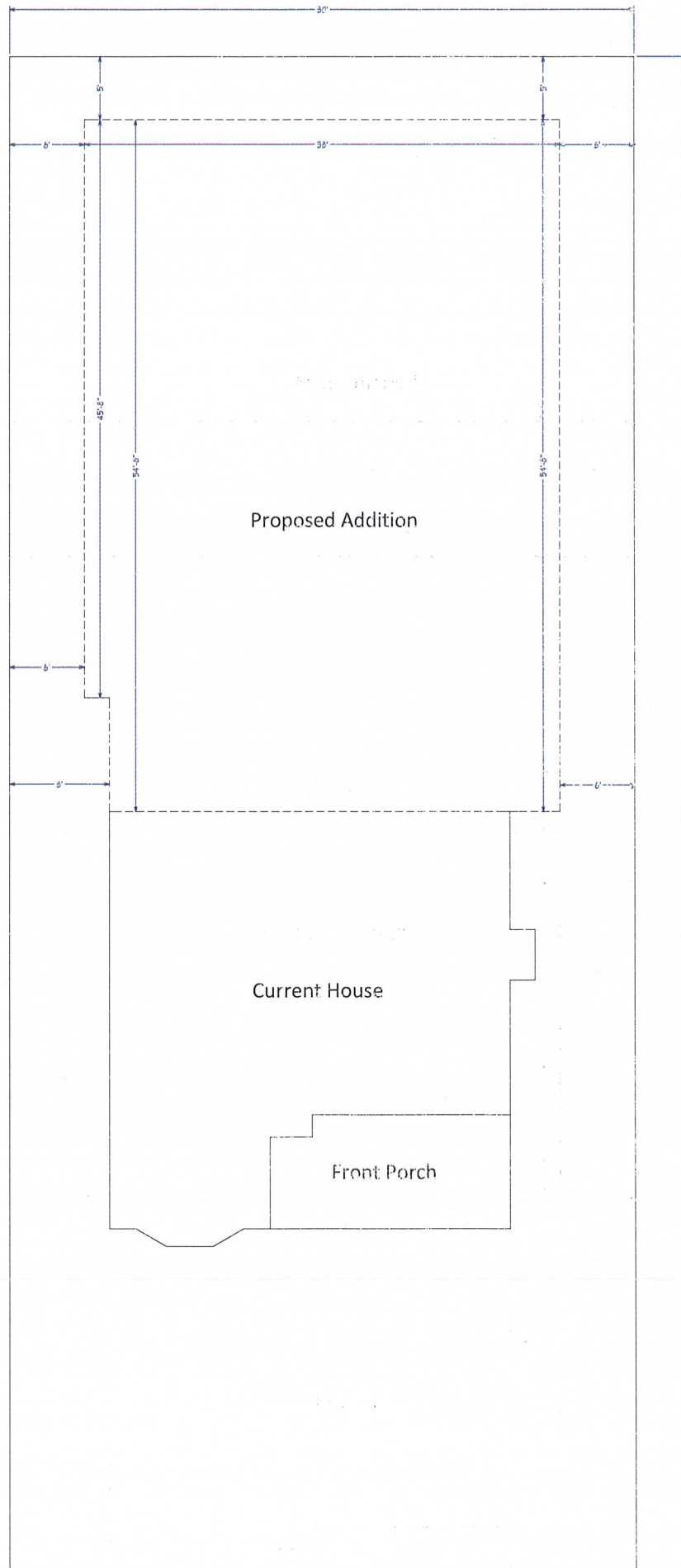
3815

3817

3819

3821

Attachment A



Attachment C

Homes with setbacks less than 25 feet in R-4 zones within a 1 block radius of Site.



Yellow = Homes with setback <25'
Green = Request Variance home site



3710 Staunton Ave



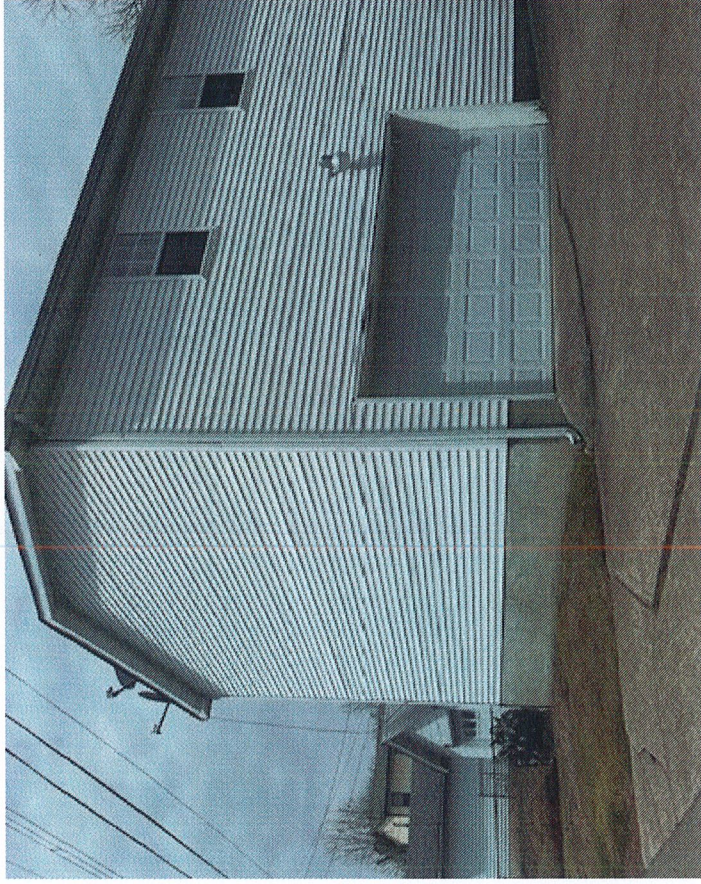
3717 Staunton Ave



3811 Staunton Ave



3809 Kanawha Ave



3813 Kanawha Ave



3809 Virginia Ave SE



3813 Virginia Ave SE



3819 Virginia Ave SE



3905 Virginia Ave SE



3913 Virginia Ave SE



3906 Staunton Ave

To Whom It May Concern,

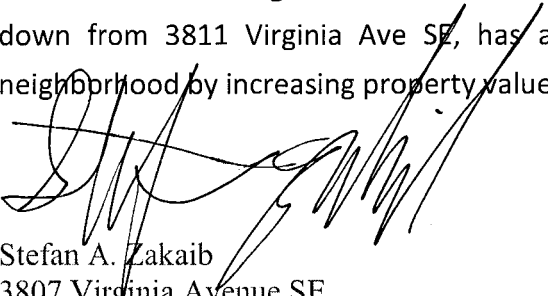
I support a variance allowing 3811 Virginia Ave SE to build to within 3' of the back property. Many homes within the neighborhood have setback less than 25 ft, and 3819 Virginia Ave SE, 4 houses down from 3811 Virginia Ave SE, has a 3 ft setback. The request will also benefit the neighborhood by increasing property value.

A handwritten signature in black ink, appearing to read 'J. Hall'.

Joshua Hall
3808 Staunton Avenue SE
Charleston WV 25304

To Whom It May Concern,

I support a variance allowing 3811 Virginia Ave SE to build to within 3' of the back property. Many homes within the neighborhood have setback less than 25 ft, and 3819 Virginia Ave SE, 4 houses down from 3811 Virginia Ave SE, has a 3 ft setback. The request will also benefit the neighborhood by increasing property value.



Stefan A. Zakaib
3807 Virginia Avenue SE
Charleston, WV 25304

To Whom It May Concern,

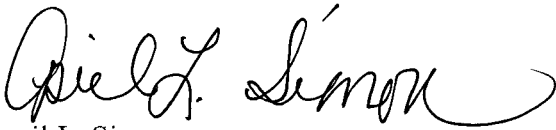
I support a variance allowing 3811 Virginia Ave SE to build to within 3' of the back property. Many homes within the neighborhood have setback less than 25 ft, and 3819 Virginia Ave SE, 4 houses down from 3811 Virginia Ave SE, has a 3 ft setback. The request will also benefit the neighborhood by increasing property value.

Dana K. Griffith
3809 Virginia Avenue SE
Charleston, WV 25304

A handwritten signature in black ink, appearing to read 'Dana K. Griffith', written in a cursive style.

To Whom It May Concern,

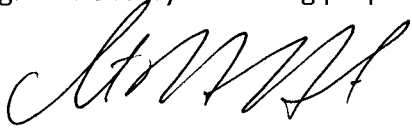
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A handwritten signature in black ink, reading "April L. Simon". The signature is fluid and cursive, with a large, sweeping flourish at the end.

April L. Simon
3810 Virginia Avenue SE
Charleston, WV 25304

To Whom It May Concern,

I support a variance allowing 3811 Virginia Ave SE to build to within 3' of the back property. Many homes within the neighborhood have setback less than 25 ft, and 3819 Virginia Ave SE, 4 houses down from 3811 Virginia Ave SE, has a 3 ft setback. The request will also benefit the neighborhood by increasing property value.

A handwritten signature in black ink, appearing to read 'CH Harich', written in a cursive style.

Chris H. Harich
3812 Virginia Avenue SE
Charleston, WV 25304

To Whom It May Concern,

I support a variance allowing 3811 Virginia Ave SE to build to within 3' of the back property. Many homes within the neighborhood have setback less than 25 ft, and 3819 Virginia Ave SE, 4 houses down from 3811 Virginia Ave SE, has a 3 ft setback. The request will also benefit the neighborhood by increasing property value.

A handwritten signature in black ink, appearing to read "Peter J. Sutton". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Peter J. Sutton
3813 Virginia Avenue SE
Charleston, WV 25304