

**AGENDA**  
**THE CITY OF FAIRMONT**  
**BOARD OF ZONING APPEALS**  
7:00pm, January 8, 2026  
**Public Safety Building**

- I. MEETING CALLED TO ORDER**
- II. ROLL CALL OF MEMBERS**
- III. ELECTION OF 2026 OFFICERS**
- IV. APPROVAL OF MINUTES – October 2, 2025**
- V. PUBLIC HEARINGS (OLD/NEW BUSINESS)**

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**BZA 26-01** – Nick Fantasia is **appealing** a decision that the unapproved garage door on the southern side of 329 Haymond St does not violate the 20-foot setback requirement for garage doors from property lines because it is an overhead door and not a garage door and therefore exempt.

**BZA 26-02** – Jay Trickett, on behalf of the property owner Marilyn Gifford, is requesting a **Variance** at 1849 Morgantown Avenue to construct a carport attached to the home that will encroach on the required side yard. The required setback is 5 feet. The requested setback is 10 inches. The property is zoned Industrial and also known as Tax District 6, Map 7, Parcel 131.

- VI. DISPOSTION OF PAST CASES**
- VII. OTHER BUSINESS**
- VIII. ADJOURNMENT**



## Introduction

Nick Fantasia of 625 Columbia Street is appealing a decision made by the Director of Planning and Development made on September 15<sup>th</sup>, 2025 that he failed to meet two requirements set forth in the City of Fairmont Zoning Code and WV State Code to apply for a variance.

## Decision Rendered and Appeal

The decision rendered on September 15<sup>th</sup>, 2025 is that Mr. Fantasia did not qualify for a variance to Article 3.4.3.2.A that requires a garage door to be setback a minimum of 20 feet from any lot line because the installation of an unapproved garage door on the southwestern wall of the newly constructed 329 Haymond Street because it was “a variance of Mr. Fantasia’s own making” and that there were no unique conditions relating to the property which necessitated a variance (Articles 8.9.7.B.i and 8.9.7.B.ii).

Mr. Fantasia claims that the variance is not required because the Director of Planning and Development misapplied the zoning code. **According to Mr. Fantasia, the door installed is an “overhead door” and not a garage door and therefore exempt from the garage door setback requirements. Mr. Fantasia states treating overhead doors like garage doors is an abuse of the discretion of the Director and clearly erroneous for the use at hand.** No “use” of the door was stated in the appeal application.

For other evidence, Mr. Fantasia submitted a plat of the property prior to the principal structure being built. That item will be included in the attachments.

## Staff Evidence for Decision Rendered and Petitioner Actions

A building permit was issued on September 17, 2024 for the construction of a single-family dwelling at 329 Haymond St. The final inspection was done for rough-in of electrical and plumbing on December 19, 2024. No final inspection for the closeout of the permit was conducted and no certificate of occupancy (CO) are issued for single-family dwellings.

Below are photos from June 2025 that were part of a code enforcement action taken on the property. Mr. Fantasia was performing construction without a building permit by building a new driveway, pouring concrete, and regarding the WV DOH landscaping within the Gateway Connector right-of-way.



Figure 1 – Southwestern wall and driveway area of 329 Haymond St; note the door behind the small excavator



*Figure 2 – Looking at the front door and driveway of 329 Haymond St*

During this code enforcement visit for working without a permit, it was noted that the door on the southwestern wall was a garage door and not the French doors the approved building and site plans had shown for the original construction of the home. The door on the site plan was also intended to be covered by a small porch.

After this visit and notice, Mr. Fantasia was informed of several issues. First that the HVAC equipment in the northern side yard must be screened from view of Haymond Street. Next, the lawn must be planted and could not be covered with stone or concrete and that the property, because of added unauthorized concrete for the driveway and covering the entire backyard between the principal structure and the garage, may be over the impervious surface limit of 70%. It was determined that the property with the added concrete was just under the 70% limit of impervious area. However, the removal of all planted landscaping around the home being replaced with stone has yet to be corrected by Mr. Fantasia. Next, Mr. Fantasia was notified that the driveway could not be widened toward the southwestern lot line because the driveway did not meet setback requirements (five

feet). Mr. Fantasia had already extended the driveway over the lot line near the garage without authorization during the concrete work of this code enforcement stop. This has also not been corrected. Lastly, Mr. Fantasia was notified that the garage door had not been authorized and must be replaced with the pedestrian door shown on the approved floor plans for the home. Mr. Fantasia refused to remove the garage door and replace it with the approved door.

In response, Mr. Fantasia filed for two variances on August 14<sup>th</sup>, 2025. The first, BZA 25-16, was for the impervious surface limit to exceed the 70% limit by 13% claiming the soils were glacial sediment and drained poorly.

The second variance, BZA 25-17, was to reduce the required garage door setback from lot lines from 20 feet to 12 feet.

On August 25<sup>th</sup>, 2025, Mr. Fantasia was informed that both Variance applications were incomplete because both applications lacked measurements or other required information to understand the variance requests. Mr. Fantasia came in later and updated in blue pen the original application forms with the additional information required.

On September 15<sup>th</sup>, 2025, Mr. Strait contacted Mr. Fantasia via email regarding the two variance petitions, which is attached to this report. It was determined that BZA 25-16 was not required after all measurements were completed by staff showing the impervious surface was just under the 70% limit.



### **Appeal Timeline and Actions for this Case**

In the September 25, 2025 email, Mr. Strait denied the petition for a variance, BZA 25-17, because the petition failed to demonstrate that the petition 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, which is a requirement under City of Fairmont Zoning Code Article 8.9.7.B.ii and WV State Code [8A-7-11](#). This is one of five requirements under the City of Fairmont Zoning Code and one of four requirements for a variance under WV State Code.

How to file an appeal was then elaborated to Mr. Fantasia within the email. All Mr. Fantasia had included in this appeal application was a plat of 329 Haymond St prior to the construction of the new principal structure. There was no specific language of which decision was being appealed and why Mr. Fantasia thought that decision was in error.

### **Incomplete Appeal**

On October 14, 2025, Mr. Fantasia filed an appeal for the denial of the variance. The application was determined to be incomplete as it was written as a variance request to the garage door setback rather than appealing any decision made by an official regarding the zoning code.

On November 18, 2025, Mr. Strait emailed Mr. Fantasia again to explain that the appeal was incomplete and how to file an appeal. Mr. Strait recommended two options to Mr. Fantasia: to proceed with the existing

application and almost certainly be denied as there was no relevant evidence to consider, or resubmit the appeal to comply with the appeal requirements.

### **Final and Completed Appeal**

On December 1, 2025, Mr. Fantasia submitted a completed Appeals application. The appeal was not for the denial of the variance on the basis of the variance being of Mr. Fantasia's own making and did not arise from special conditions of the land. Instead, Mr. Fantasia filed an appeal based on the following:

- Seeking to "appeal" the decision requiring 20ft drive for garage door. This is a misapplication of the code. The door in question is an overhead door. Using garage door requirements misapplies the rule of law to the facts. Further treating the overhead door as a garage door is an abuse of discretion, and clearly erroneous for the use at hand.

Mr. Fantasia did not elaborate on what the facts were, the rule of law being referenced, or how this was an abuse of discretion.

### **Additional Facts in Decision Definitions**

Article 2.1.A sets the rules for defined and undefined terms for the zoning code. It says: Whenever a defined word appears in the Ordinance, its meaning is as set forth in this article. Words not defined in this Ordinance are interpreted in accord with their usual dictionary meaning and customary usage.

The following are definitions of doors within the zoning code Article 2:



- Door – A hinged, sliding, or revolving barrier used as the entrance to a building or room. This shall not include entrances for loading berths, parking, or motorized vehicles or equipment.
- Door, Garage - A large door that covers the opening through which a car, motorized vehicle, or motorized equipment enters and leaves a garage.

### Other Definition Sources

When a term is undefined, the zoning code One of the premier sources for zoning definitions is a book called [A Planners Dictionary](#). This book is a collection of terms from zoning codes across the United States to be used as a precedent or reference. Review of this book found no definition of door, garage door, or overhead door.

It has the following definitions of words not defined in the City of Fairmont zoning code:

- Garage - A building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles. (Fairbanks North Star Borough, Alaska)
- Garage, side-load - A private garage where the overhead doors are perpendicular to the front lot line and generally not visible from a public way. (Glen Ellyn, Ill.)

From the private corporation, Overhead Door Co of Greater Cincinnati, their [website](#) defined overhead door as:

- An overhead door is any upward-operating door that swings or rolls open from the ground level,

assuming a horizontal position above the doorway when opened. The door may consist of multiple panels or a single unit that operates via an electric opener, manual pulley or another mechanism.

Overhead doors are commonly used as residential garage doors as well as in:

- Commercial storefronts
- Warehouses
- Car washes
- Service counters
- Storage facilities
- Fire stations
- And more

The company further elaborates that overhead doors were invented by C.G. Johnson in 1921 to address vehicle storage due to the inefficiencies and design issues of sliding and hinged doors for automobile storage. Some contribute the first overhead door to Cornell Iron Works in 1906 and was then called a “float over door” for car storage.

Merriam-Webster defines a garage door as:

- A large door that covers the opening through which a car enters and leaves a garage.

### Zoning Code Garage Door Regulations

#### Article 2.3 Measurements and Exemptions

Article 2.3.4.A.i.b. Garages must be setback a minimum of twenty (20) feet from the property line the garage doors face.



Neighborhood Residential and Neighborhood Mixed Use District Supplemental Regulations

Article 3.4.3.2.A & 3.5.3.3.A.3. - Garages, Detached or Attached. All garages shall be setback a minimum of twenty (20) feet from the property line which the garage door(s) primarily faces.

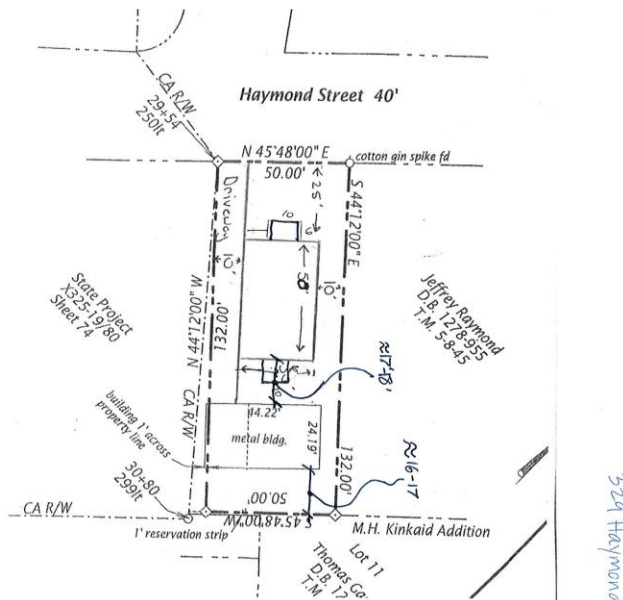
**Approved Building Permit**

The approved building plans showed a set of French doors in this location.



RIGHT SIDE ELEVATION SCALE: 1/4"=1'-0"

The approved site plan is below.



No changes to these plans were ever requested or approved.

**Other Facts**

- The property is not registered on the rental property registry; no known occupants exist
- The property already features a garage in the rear yard that is 44 ft by 24 ft
- Storage of automobiles and living spaces must be separated in accordance with the International Residential Code (302.5), both for fire and carbon monoxide. This could put potential occupants at a life safety risk if an automobile is stored within the single-family dwelling
- The setback requirement for garage doors is intended to ensure adequate clearance from the vehicle storage area to the lot lines for reduced risk of collision with other vehicles and pedestrians, provide adequate turning and exit area to prevent personal property damage, and to prevent parked vehicles from blocking public sidewalks or overtop of public utilities installed within the public ROW.

**Staff Comments**

Based on the evidence available, an overhead door, although not defined, is commonly considered a garage door, and therefore covered by the definition and subsequent regulations required of garage doors.

There is also no evidence that this principal structure is being used as a dwelling unit.



## Board of Zoning Appeal Actions in an Appeal

For an appeal, the Board of Zoning Appeals, based on the evidence available within this report and at the time the appeal was filed, may choose the following actions:

**Reverse, affirm or modify the order, requirement, decision or determination appealed** from so long as the action of the Board taken on appeal is consistent with the rules, regulations and requirements of this ordinance.

So the question to the Board of Zoning Appeals is to reverse, affirm, or modify that the door in question is a garage door.

## Findings of Fact

1. Nick Fantasia, via Vintage Holdings LLC, is the owner of the property
2. The property is addressed 329 Haymond St
3. The property is identified as Tax District 5, Map 8, Parcel 44
4. The property is zoned Neighborhood Mixed Use
5. The property is approximately 6600 square feet in area
6. A building permit was issued on September 17, 2024 for the construction of a single-family dwelling on the lot which already had a driveway and a garage
7. The approved building plans had a set of French doors on the southwestern wall along the driveway
8. In June 2025, code enforcement was notified of unauthorized construction at 329 Haymond St which involved concrete work, grading of the gateway connector landscaping, and removal of

the planted landscaping around the home

9. During the code enforcement review, Planning and Development determined that an unapproved garage door was installed in the principal structure where the French doors were proposed that did not meet the setback requirements from the lot lines per Article 2.3.4.A.i.b
10. Mr. Fantasia filed two incomplete variance applications on August 14, 2025 for an exceeding to impervious surface area and the setback requirement of the garage door
11. On August 25, 2025 Mr. Fantasia was informed by Planning and Development Director, Mr. Strait, that the applications were incomplete
12. On September 15, 2025, Mr. Fantasia updated the submitted variance application for the garage door setback (BZA 25-17) in blue ink as a now complete application
13. On September 25, 2025, Mr. Strait denied Mr. Fantasia's BZA 25-17 Variance Petition determining that the variance was of Mr. Fantasia's own making and did not arise from special conditions of the land, per City of Fairmont Zoning Code Article 8.9.7.B.ii
14. On October 14, 2025, Mr. Fantasia filed an incomplete Appeal application
15. On November 18, 2025, Mr. Strait elaborated again the process which Mr. Fantasia would need to go through to submit a complete Appeal application
16. On December 1, 2025, Mr. Fantasia submitted a new and complete Appeal application; This appeal was not to address the denial of the variance petition BZA 25-17; instead the Appeal is



that the door in question is not a garage door and is instead an overhead door

17. Overhead door is not defined in the zoning code or any other reliable reference of terms; the best definition staff could produce was obtained from a private company called Overhead Door Co which indicates that overhead doors are primarily garage doors for motor vehicles and equipment to pass through.
18. The following are definitions of doors within the zoning code Article 2:  
Door – A hinged, sliding, or revolving barrier used as the entrance to a building or room. This shall not include entrances for loading berths, parking, or motorized vehicles or equipment.  
Door, Garage - A large door that covers the opening through which a car,

motorized vehicle, or motorized equipment enters and leaves a garage.

19. The property is not registered with the City of Fairmont Rental Registry and has no proof as being used as a dwelling
20. There are no protections to prevent potential occupants from the dangers of fire or carbon monoxide poisoning should it be rented and vehicles stored within the building.
21. There is an existing garage in the rear yard of the property.

### **Attachments**

Please see the attached maps, emails, building plans, petitions, and application.



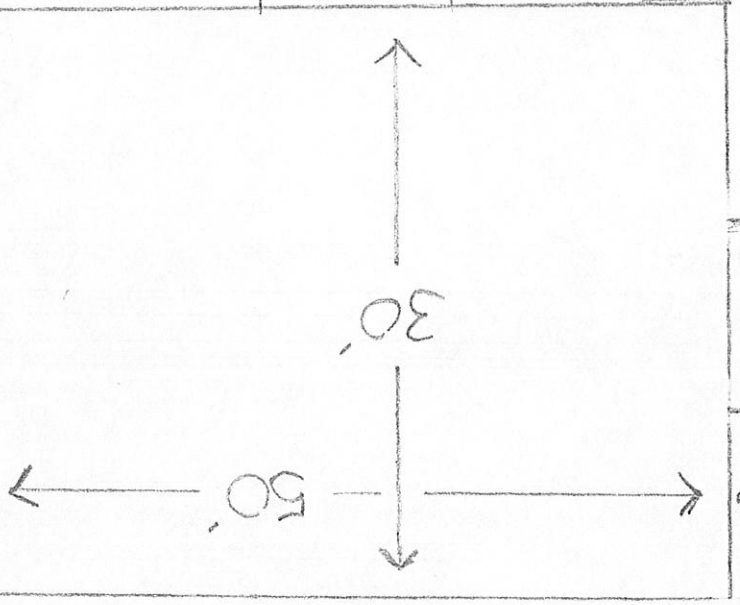
Hymannd St.

K-1030nd-S

10' Driveway

Existing Garage

Hand-drawn sketch of a building footprint with wavy lines representing walls or landscaping.



Property line

Neighboring house

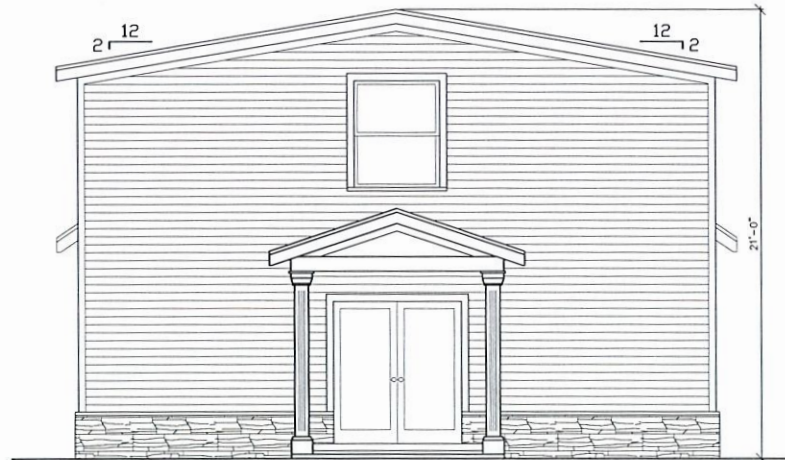
Rennie Nichols  
 Dwane Blackwell



1 FRONT ELEVATION  
 A-3 SCALE: 1/4"=1'-0"



2 RIGHT SIDE ELEVATION  
 A-3 SCALE: 1/4"=1'-0"

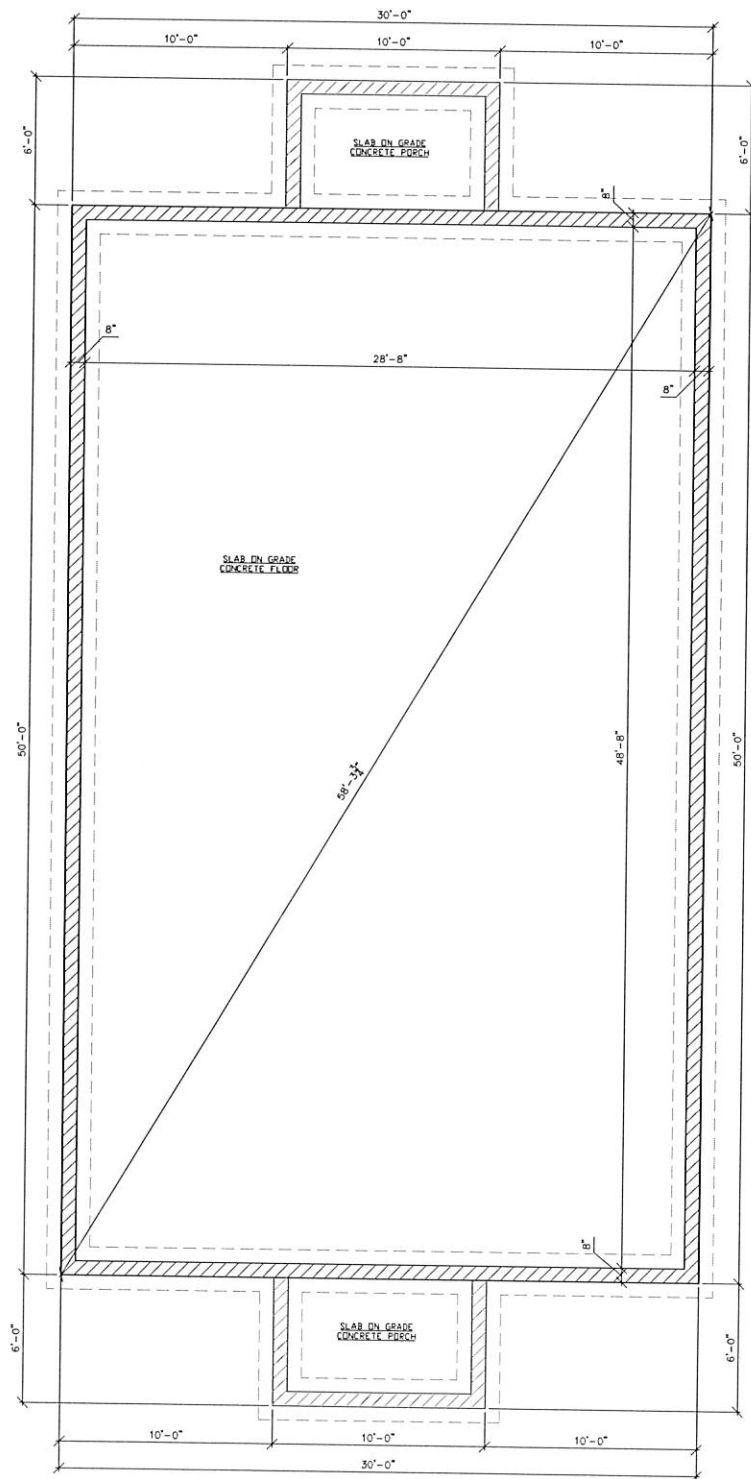


3 REAR ELEVATION  
 A-3 SCALE: 1/4"=1'-0"

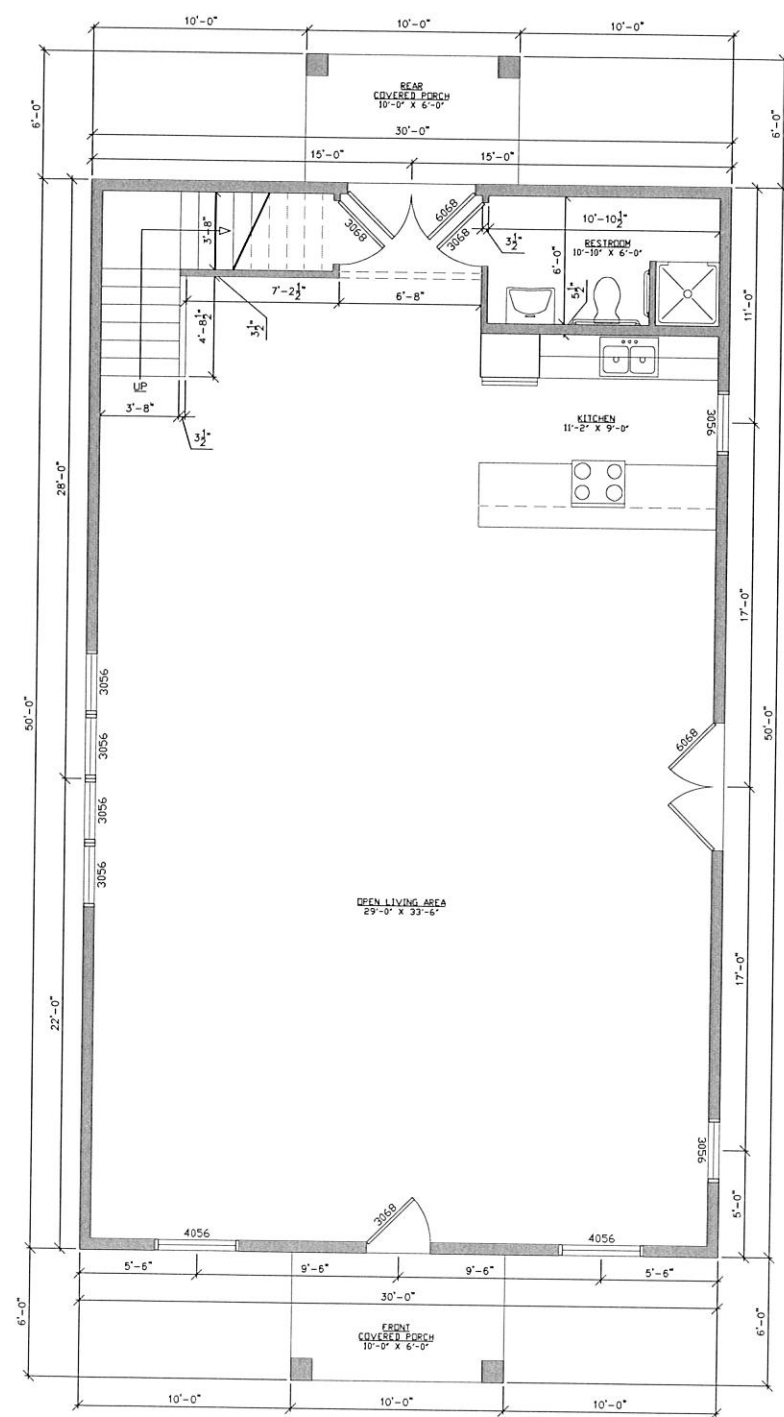


4 LEFT SIDE ELEVATION  
 A-3 SCALE: 1/4"=1'-0"

PROJECT NO. 23054.01	
DRAWN BY	
CHECKED BY	
APPROVED BY	
HAMOND STREET NEW PROJECT DESIGN	
REVISION	DATE
ISSUED FOR CONSTRUCTION DOCUMENT	
DATE	08-22-24
SHEET TITLE ELEVATIONS	
SHEET NO. A-3	

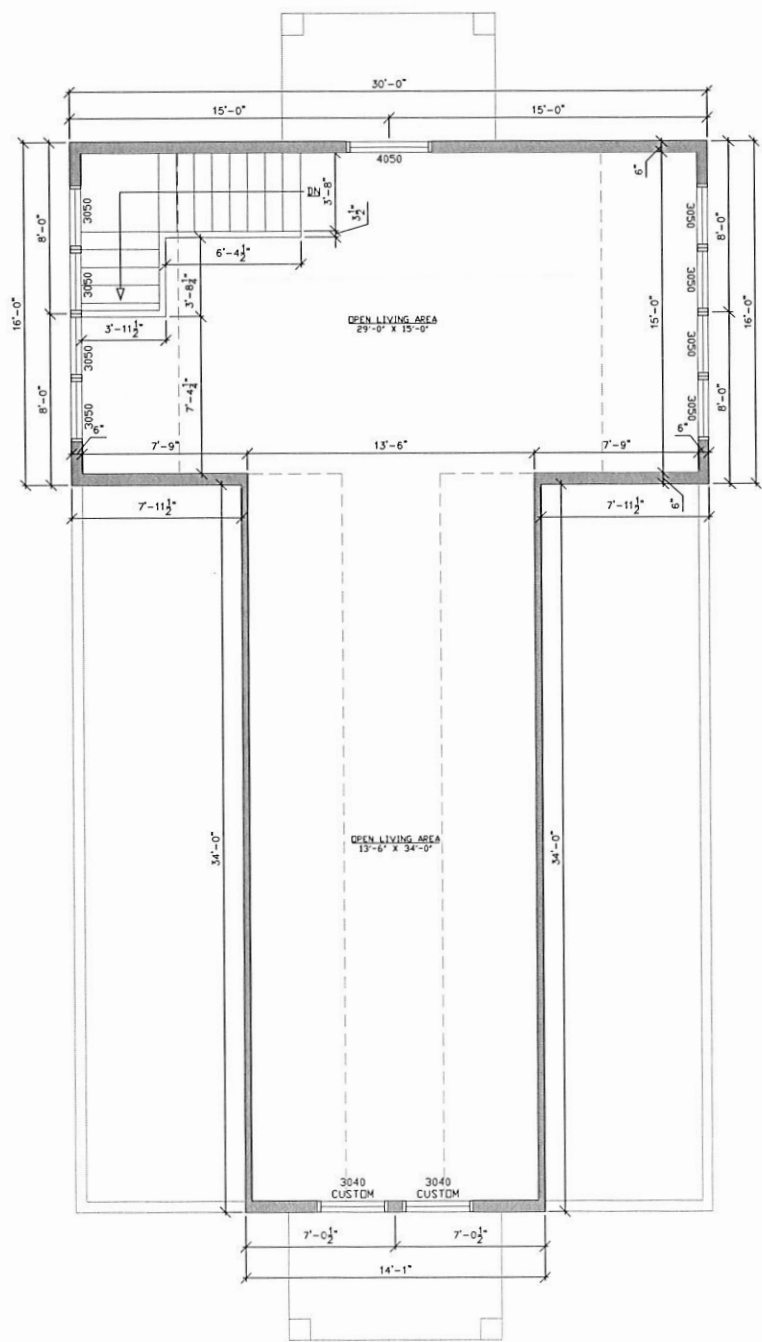


1 FOUNDATION PLAN  
A-1 SCALE: 1/4"=1'-0"

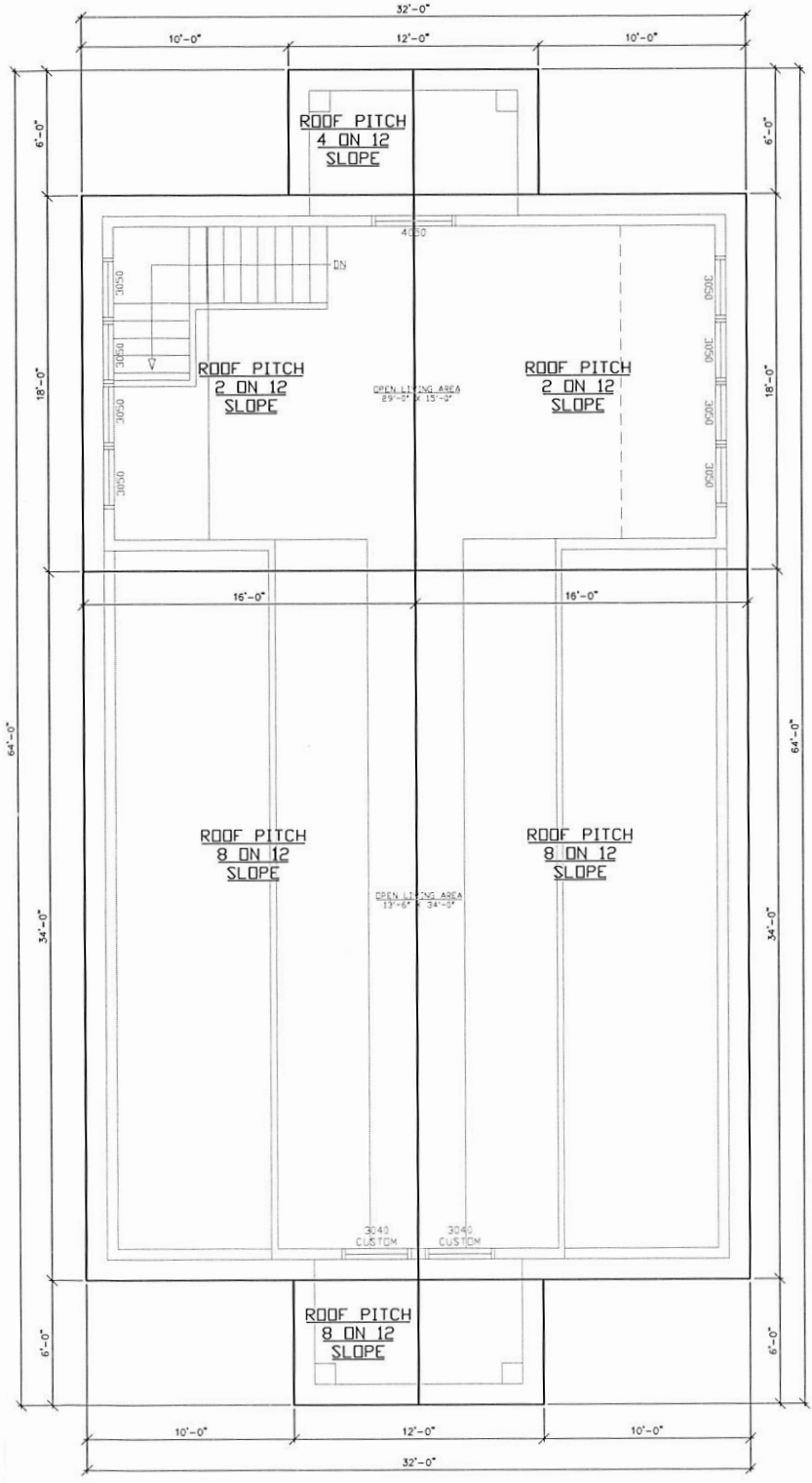


2 MAIN LEVEL FLOOR PLAN  
A-1 SCALE: 1/4"=1'-0"

PROJECT NO. 23054.01	
DRAWN BY	
CHECKED BY	
APPROVED BY	
HAYMOND STREET NEW PROJECT DESIGN	
REVISION	DATE
ISSUED FOR CONSTRUCTION DOCUMENT	
DATE 08-22-24	
SHEET TITLE FOUNDATION & MAIN LEVEL FLOOR PLAN	
SHEET NO. A-1	



1 UPPER LEVEL FLOOR PLAN  
A-2 SCALE: 1/4"=1'-0"



2 ROOF PLAN  
A-2 SCALE: 1/4"=1'-0"

PROJECT NO. 23054.01	
DRAWN BY	
CHECKED BY	
APPROVED BY	
HAYMOND STREET NEW PROJECT DESIGN	
REVISION	DATE
ISSUED FOR CONSTRUCTION DOCUMENT	
DATE	08-22-24
SHEET TITLE	UPPER LEVEL FLOOR & ROOF PLAN
SHEET NO.	A-2

## Shae Strait

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**From:** Shae Strait <sstrait@fairmontwv.gov>  
**Sent:** Monday, August 25, 2025 12:19 PM  
**To:** 'Nick Fantasia'  
**Cc:** 'Alecia Ford'; Carly Jones; tfluharty@fairmontwv.gov  
**Subject:** 329 Haymond Streer Variance Applications - Incomplete

Good morning Nick,

The City received both of your variance requests. The applications are incomplete as they are missing the measurements required for either of them.

You must provide the following on the applications to complete them:

- Garage door
  - Requested setback to be approved measured from the door to the private property line
- Maximum Lot Coverage
  - Maximum impervious lot coverage permitted for Detached Single-Family Dwellings is 70%
    - Your original site plan, submitted by your contractor and approved, had maxed this out with the two buildings, existing driveway, and proposed front and back porches; that amount was at exactly 70%
    - You have already exceeded this percentage because of the unauthorized concrete coverage of the entire rear yard between the home and the existing garage, plus the 2 foot widening of the driveway out away from the garage, which was also not approved
    - You must submit your requested percentage and all of the area measurements for the impervious surfaces, both existing and proposed (home, garage, driveway, concrete, etc), and the total area of your property to compare these numbers to

You are required to do this, otherwise your applications will be denied outright and not forwarded to the BZA.

In addition, it was observed that a substantial amount of river rock or similar aggregate has been placed on site, piled up in the driveway. This was also not part of your approved site plan. All not impervious areas must be planted and landscaped. Please do not install any stone without prior review and approval to ensure the landscaping requirements are met.

Thanks,

**Shae Strait, Director of Planning and Development**  
City of Fairmont | Planning and Development Department  
200 Jackson Street, Room 305  
Fairmont, WV 26554  
Phone: (304) 366-6211, Ext. 313  
Fax: (304) 366-0228



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## Shae Strait

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**From:** Shae Strait <sstrait@fairmontwv.gov>  
**Sent:** Tuesday, November 18, 2025 8:40 AM  
**To:** 'Nick Fantasia'  
**Cc:** 'Alecia Ford'; 'Carly Jones'; 'tfluharty@fairmontwv.gov'  
**Subject:** RE: 329 Haymond Streer Variance Applications - Incomplete  
**Attachments:** 329 Haymond Street Appeal Application.pdf

Mr. Fantasia,

Your appeal from was received. However, I wanted to inform you that it does not appear to be properly completed.

An appeal is framed as a decision was made. The decision was based on “x”. The law references for that decision is “y”. The petitioner believes this is incorrect because of “z”.

Instead your application just tells the Planning Commission to look at a plat. You did not clearly state what it was you disagreed with. To assist, the reason for the denial was Article 8.9.7.B.ii in which the petition fails to demonstrate that the petition 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.

To appeal this, you would need to state how this has been misinterpreted, that the information was given to demonstrate compliance with the above but not properly considered, etc. You cannot introduce new evidence. Only the existing evidence available at the time of denial may be used for your appeal.

Your options are:

- Proceed to the BZA on the grounds of no evidence and no specific appeal. This would result in a denial outright.
- Resubmit the appeal to comply with the above process and requirements.

You have two weeks to complete this work. Please let me know if you have any questions about this process.

Thanks,

**Shae Strait, Director of Planning and Development**  
City of Fairmont | Planning and Development Department  
200 Jackson Street, Room 305  
Fairmont, WV 26554  
Phone: (304) 366-6211, Ext. 313  
Fax: (304) 366-0228



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**From:** Shae Strait <sstrait@fairmontwv.gov>  
**Sent:** Monday, September 15, 2025 2:59 PM  
**To:** 'Nick Fantasia' <nick@nickfantasia.com>  
**Cc:** 'Alecia Ford' <aford@fairmontwv.gov>; Carly Jones <cjones@fairmontwv.gov>; tfluharty@fairmontwv.gov  
**Subject:** RE: 329 Haymond Streer Variance Applications - Incomplete

Good morning Nick,

This email is a formal follow up concerning the following items:

- BZA 25-16 – A variance to Article 3.4.2 – Lot Coverage Maximum for a Detached Single-Family Dwelling to exceed the 70% maximum impervious surface area by 13.1% to a total of 83.1% impervious surface area.
- BZA 25-17 – A variance to Article 3.4.3.2.A which requires all garages to be setback a minimum of twenty (20) feet from the property line which the garage door(s) primarily faces by reducing the setback to 12 feet along the southern lot side for the side yard.

I got good news and bad news for these. Both petitions have been determined to be complete except for the application fee of \$85 each. I wanted to make you aware of an issue with both petitions that will need addressed differently.

- **BZA 25-16**
  - After reviewing all of the evidence provided, your proposed calculations appear to be incorrect but in your favor.
    - Total lot area: 6600 SF
    - Maximum Impervious Surface Area: 4620 SF
      - Home: 1500 SF
      - Front Porch: 60 SF
      - Back Porch: 60 SF
      - Front Sidewalk: 30 SF
      - Rear Patio: 660 SF
      - Existing Detached Garage: 1069.8 SF
      - Driveway: 970 SF
      - Unauthorized Driveway Addition: 43.6 SF
    - Total Proposed Impervious Surface Area: 4393.4 SF
  - What this all means is that this would need to be **a setback variance to reduce the required driveway setback in accordance with Article 5.4.5.B from 5 feet to negative 2 feet.**
    - **Would you like to seek this variance?** You would be requesting to encroach onto DOH ROW which is also managed by the City of Fairmont; **This is a variance of your own making** (Article 8.9.7.B.ii) and would be recommended for denial and would then require an appeal. Please let us know in writing, simply by responding to this email, what your decision will be. More information about that process below.
- **BZA 25-17**
  - After reviewing all of the evidence submitted, I have determined that the petition fails to meet Article 8.9.7.B.ii because the garage door was placed within the required 20 foot setback without prior authorization in place of a set of approved French doors. There was no requirement to place a

garage door at this location on the single-family dwelling and was an intentional change by you, the petitioner.

- Reason: Petition fails to demonstrate that the petition **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;**
- **Decision: BZA 25-17 has been denied for the above reason.**
- Appeal: **You have 30 days from the day of this email to file for an appeal.** Failure to file within this 30 day period shall result in the inability to file an appeal that the above decision has been made in error to the interpretation of the facts and the law.
  - To file an appeal: You must state clearly in your appeal how you have determined that the above decision is incorrect based on the same facts which were made available at the time of your application and made available back to you as part of this denial. Additional information may not be submitted.
- Not Filing an Appeal: No appeal shall result in the denial of the variance being rendered and the variance may not be sought again for a year. This would then require corrective action to prevent potential fees and penalties which may result from municipal court.

Please let us know if you have any questions and our staff will be here to help. I've attached the approve site plans, building drawings, a blank variance petition, and a blank appeals petition.

Thanks,

**Shae Strait, Director of Planning and Development**  
City of Fairmont | Planning and Development Department  
200 Jackson Street, Room 305  
Fairmont, WV 26554  
Phone: (304) 366-6211, Ext. 313  
Fax: (304) 366-0228



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**From:** Shae Strait <[sstrait@fairmontwv.gov](mailto:sstrait@fairmontwv.gov)>  
**Sent:** Monday, August 25, 2025 12:19 PM  
**To:** 'Nick Fantasia' <[nick@nickfantasia.com](mailto:nick@nickfantasia.com)>  
**Cc:** 'Alecia Ford' <[aford@fairmontwv.gov](mailto:aford@fairmontwv.gov)>; Carly Jones <[cjones@fairmontwv.gov](mailto:cjones@fairmontwv.gov)>; 'tfluharty@fairmontwv.gov' <[tfluharty@fairmontwv.gov](mailto:tfluharty@fairmontwv.gov)>  
**Subject:** 329 Haymond Streer Variance Applications - Incomplete

Good morning Nick,

The City received both of your variance requests. The applications are incomplete as they are missing the measurements required for either of them.

You must provide the following on the applications to complete them:

- Garage door
  - Requested setback to be approved measured from the door to the private property line
- Maximum Lot Coverage

- Maximum impervious lot coverage permitted for Detached Single-Family Dwellings is 70%
  - Your original site plan, submitted by your contractor and approved, had maxed this out with the two buildings, existing driveway, and proposed front and back porches; that amount was at exactly 70%
  - You have already exceeded this percentage because of the unauthorized concrete coverage of the entire rear yard between the home and the existing garage, plus the 2 foot widening of the driveway out away from the garage, which was also not approved
  - You must submit your requested percentage and all of the area measurements for the impervious surfaces, both existing and proposed (home, garage, driveway, concrete, etc), and the total area of your property to compare these numbers to

You are required to do this, otherwise your applications will be denied outright and not forwarded to the BZA.

In addition, it was observed that a substantial amount of river rock or similar aggregate has been placed on site, piled up in the driveway. This was also not part of your approved site plan. All not impervious areas must be planted and landscaped. Please do not install any stone without prior review and approval to ensure the landscaping requirements are met.

Thanks,

**Shae Strait, Director of Planning and Development**

City of Fairmont | Planning and Development Department

200 Jackson Street, Room 305

Fairmont, WV 26554

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## Shae Strait

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**Sent:** Monday, September 15, 2025 2:59 PM  
**To:** 'Nick Fantasia'  
**Cc:** 'Alecia Ford'; Carly Jones; tfluharty@fairmontwv.gov  
**Subject:** RE: 329 Haymond Streer Variance Applications - Incomplete  
**Attachments:** 329 Haymond St - Approved Site Plan.pdf; 329 Haymond St - Building Plans for Permit Application for New Home.pdf; BZA - Appeal of Decision Form 20211007.pdf; BZA - Variance Rev 20210422.pdf

Good morning Nick,

This email is a formal follow up concerning the following items:

- BZA 25-16 – A variance to Article 3.4.2 – Lot Coverage Maximum for a Detached Single-Family Dwelling to exceed the 70% maximum impervious surface area by 13.1% to a total of 83.1% impervious surface area.
- BZA 25-17 – A variance to Article 3.4.3.2.A which requires all garages to be setback a minimum of twenty (20) feet from the property line which the garage door(s) primarily faces by reducing the setback to 12 feet along the southern lot side for the side yard.

I got good news and bad news for these. Both petitions have been determined to be complete except for the application fee of \$85 each. I wanted to make you aware of an issue with both petitions that will need addressed differently.

- **BZA 25-16**
  - After reviewing all of the evidence provided, your proposed calculations appear to be incorrect but in your favor.
    - Total lot area: 6600 SF
    - Maximum Impervious Surface Area: 4620 SF
      - Home: 1500 SF
      - Front Porch: 60 SF
      - Back Porch: 60 SF
      - Front Sidewalk: 30 SF
      - Rear Patio: 660 SF
      - Existing Detached Garage: 1069.8 SF
      - Driveway: 970 SF
      - Unauthorized Driveway Addition: 43.6 SF
    - **Total Proposed Impervious Surface Area: 4393.4 SF**
  - What this all means is that this would need to be **a setback variance to reduce the required driveway setback in accordance with Article 5.4.5.B from 5 feet to negative 2 feet.**
    - **Would you like to seek this variance?** You would be requesting to encroach onto DOH ROW which is also managed by the City of Fairmont; **This is a variance of your own making** (Article 8.9.7.B.ii) and would be recommended for denial and would then require an appeal. Please let us know in writing, simply by responding to this email, what your decision will be. More information about that process below.
- **BZA 25-17**
  - After reviewing all of the evidence submitted, I have determined that the petition fails to meet Article 8.9.7.B.ii because the garage door was placed within the required 20 foot setback without prior authorization in place of a set of approved French doors. There was no requirement to place a garage door at this location on the single-family dwelling and was an intentional change by you, the petitioner.

- Reason: Petition fails to demonstrate that the petition **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;**
- **Decision: BZA 25-17 has been denied for the above reason.**
- Appeal: **You have 30 days from the day of this email to file for an appeal.** Failure to file within this 30 day period shall result in the inability to file an appeal that the above decision has been made in error to the interpretation of the facts and the law.
  - To file an appeal: You must state clearly in your appeal how you have determined that the above decision is incorrect based on the same facts which were made available at the time of your application and made available back to you as part of this denial. Additional information may not be submitted.
- Not Filing an Appeal: No appeal shall result in the denial of the variance being rendered and the variance may not be sought again for a year. This would then require corrective action to prevent potential fees and penalties which may result from municipal court.

Please let us know if you have any questions and our staff will be here to help. I've attached the approve site plans, building drawings, a blank variance petition, and a blank appeals petition.

Thanks,

**Shae Strait, Director of Planning and Development**  
 City of Fairmont | Planning and Development Department  
 200 Jackson Street, Room 305  
 Fairmont, WV 26554  
 Phone: (304) 366-6211, Ext. 313  
 Fax: (304) 366-0228



[www.fairmontwv.gov](http://www.fairmontwv.gov)

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**From:** Shae Strait <sstrait@fairmontwv.gov>  
**Sent:** Monday, August 25, 2025 12:19 PM  
**To:** 'Nick Fantasia' <nick@nickfantasia.com>  
**Cc:** 'Alecia Ford' <aford@fairmontwv.gov>; Carly Jones <cjones@fairmontwv.gov>; 'tfluharty@fairmontwv.gov' <tfluharty@fairmontwv.gov>  
**Subject:** 329 Haymond Streer Variance Applications - Incomplete

Good morning Nick,

The City received both of your variance requests. The applications are incomplete as they are missing the measurements required for either of them.

You must provide the following on the applications to complete them:

- Garage door
  - Requested setback to be approved measured from the door to the private property line
- Maximum Lot Coverage
  - Maximum impervious lot coverage permitted for Detached Single-Family Dwellings is 70%

- Your original site plan, submitted by your contractor and approved, had maxed this out with the two buildings, existing driveway, and proposed front and back porches; that amount was at exactly 70%
- You have already exceeded this percentage because of the unauthorized concrete coverage of the entire rear yard between the home and the existing garage, plus the 2 foot widening of the driveway out away from the garage, which was also not approved
- You must submit your requested percentage and all of the area measurements for the impervious surfaces, both existing and proposed (home, garage, driveway, concrete, etc), and the total area of your property to compare these numbers to

You are required to do this, otherwise your applications will be denied outright and not forwarded to the BZA.

In addition, it was observed that a substantial amount of river rock or similar aggregate has been placed on site, piled up in the driveway. This was also not part of your approved site plan. All not impervious areas must be planted and landscaped. Please do not install any stone without prior review and approval to ensure the landscaping requirements are met.

Thanks,

**Shae Strait, Director of Planning and Development**

City of Fairmont | Planning and Development Department

200 Jackson Street, Room 305

Fairmont, WV 26554

Phone: (304) 366-6211, Ext. 313

Fax: (304) 366-0228



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**APPEAL OF DECISION APPLICATION FORM  
BOARD OF ZONING APPEALS**

**Planning & Development Department**  
200 Jackson St., Fairmont WV 26554  
Phone (304) 366-6212, Ext 333

<b>Office Use</b>	
Date Received <u>12/1/25</u>	Complete <u>Yes</u>
Petition No. <u>26-01</u>	Hearing Date <u>1/8/26</u>
	Fee Paid <u>10/13/25</u>

**I. APPLICANT**

APPLICANT'S NAME NICK FANTASIA - Vintage Holding LLC  
 ADDRESS 625 Columbia St  
 CITY Fairmont STATE WV ZIP \_\_\_\_\_  
 PHONE 304 282 0511 EMAIL Nick@NickFantasia.com  
 INTEREST IN PROPERTY Owner

**II. PROPERTY INFORMATION**

PROPERTY ADDRESS 329 Haywood St  
 GENERAL LOCATION Union District - Kincaid Addn.  
 LEGAL DESCRIPTION  ATTACHED  ON PLAT  
 PROPERTY TAX MAP AND PARCEL NO. 800440000000  
 PROPERTY SIZE (acres) 0.15 Acres PROPERTY FRONTAGE (feet) 50 Ft  
 EXISTING ZONING Mixed / Res ZONING OF ADJACENT PROPERTY Mixed / Res  
 CURRENT USE Mixed / Res

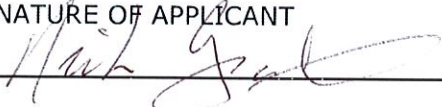
**III. REQUEST DETAIL**

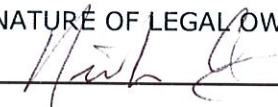
APPEAL OF ACTION BY Planning BZA-25-17 DATE OF ACTION 9/15/25

(attach a copy of the decision on which the appeal is being requested.)  
*Seeking to "Appeal" the decision requiring 20ft drive for garagedoor. This is a misapplication of the code. The door in question is an overhead door. Using garage door requirements misapplies the Rule of Law to the facts. Further treating the overhead door as a garagedoor is an abuse of discretion, and clearly erroneous for the use at hand.*

**IV. SIGNATURES** (This application form must be signed by both the applicant and legal owner of the property.)

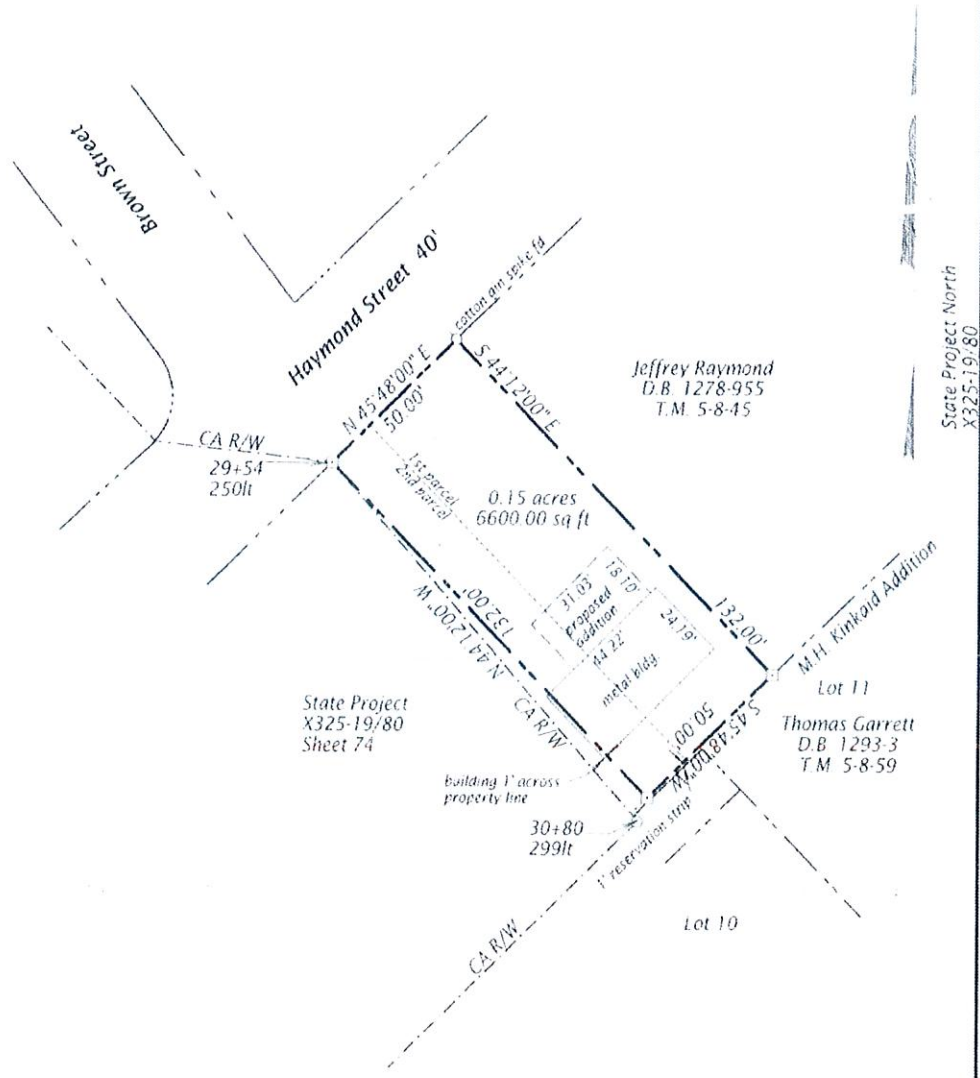
The undersigned deposes that the foregoing statements and answers and accompanied information are true and correct.

SIGNATURE OF APPLICANT  
  
 \_\_\_\_\_  
 (Print/type name of applicant)  
 Date 12/1/25

SIGNATURE OF LEGAL OWNER  
  
 \_\_\_\_\_  
 (Print/type name of legal owner)  
 Date 12/1/25

NOTE: THIS SURVEY NOT VALID WITHOUT ORIGINAL BLUE SIGNATURE  
 THIS SURVEY DECLARATION IS MADE ON THE DATE INDICATED, TO  
 THE OWNER OR BUYER LISTED BELOW. IT IS NOT TRANSFERABLE TO  
 ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS OR BUYERS  
 NOTE: SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF  
 LAWYER'S TITLE REPORT AND MAY NOT REFLECT ALL  
 EXCEPTIONS, RIGHTS OF WAY, EASEMENTS OR  
 RESTRICTIONS

Note: All corners 5/8" iron pins found,  
 except where noted  
 Deed Ref. 1189-24  
 Tax Map 5-8-44  
 Property Zoned: Neighborhood Mixed Use  
 This property is not located in a flood zone  
 Community Panel No. 54049C0207D



Plat of 0.15 Acres  
 Located at 329 Haymond Street  
 Surveyed For  
**Vintage Holding, LLC**  
 City of Fairmont  
 Union Corp. Dist. Marion Co. WV  
 Scale 1"=40' June 2024



*Paul D. Harbert*  
 Paul D. Harbert, PS  
 McCoy Land Surveying  
 Monongah, WV (304) 534-5562  
 PS No. 862

Shae Strait <sstrait@fairmontwv.gov>

Sep 15, 2025,  
2:59 PM

to me, Alecia, Carly, tfluharty

Good morning Nick,

This email is a formal follow up concerning the following items:

- BZA 25-16 – A variance to Article 3.4.2 – Lot Coverage Maximum for a Detached Single-Family Dwelling to exceed the 70% maximum impervious surface area by 13.1% to a total of 83.1% impervious surface area.
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  - After reviewing all of the evidence provided, your proposed calculations appear to be incorrect but in your favor.
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      - Home: 1500 SF
      - Front Porch: 60 SF
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Thanks,

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City of Fairmont | Planning and Development Department  
200 Jackson Street, Room 305  
Fairmont, WV 26554  
Phone: (304) 366-6211, Ext. 313  
Fax: (304) 366-0228



**APPEAL OF DECISION APPLICATION FORM  
BOARD OF ZONING APPEALS**

Planning & Development Department  
200 Jackson St., Fairmont WV 26554  
Phone (304) 366-6212, Ext 333

**Office Use**

Date Received 10/14/25

Complete No

Fee Paid No

Petition No. -

Hearing Date -

**I. APPLICANT**

APPLICANT'S NAME NICK FANTASIA - Vintage Holdings LLC

ADDRESS 32625 Columbia St

CITY Fairmont STATE MD ZIP 20554

PHONE 3042820511 EMAIL Nick@nickfantasia.com

INTEREST IN PROPERTY Owner

**II. PROPERTY INFORMATION**

PROPERTY ADDRESS 329 Haymond St

GENERAL LOCATION Union Dist - Kincaid Addition

LEGAL DESCRIPTION  ATTACHED  ON PLAT

PROPERTY TAX MAP AND PARCEL NO. 8004400007000

PROPERTY SIZE (acres) 0.15 Acres PROPERTY FRONTAGE (feet) 50 ft

EXISTING ZONING Mixed/Res ZONING OF ADJACENT PROPERTY Same

CURRENT USE Mixed/Res

**III. REQUEST DETAIL**

APPEAL OF ACTION BY Planning DATE OF ACTION 9/15/20

(attach a copy of the decision on which the appeal is being requested.)

Attached - BZA 25-17 20 ft requirement for garage door.

**IV. SIGNATURES** (This application form must be signed by both the applicant and legal owner of the property.)

The undersigned deposes that the foregoing statements and answers and accompanied information are true and correct.

SIGNATURE OF APPLICANT

SIGNATURE OF LEGAL OWNER

(Print/type name of applicant)

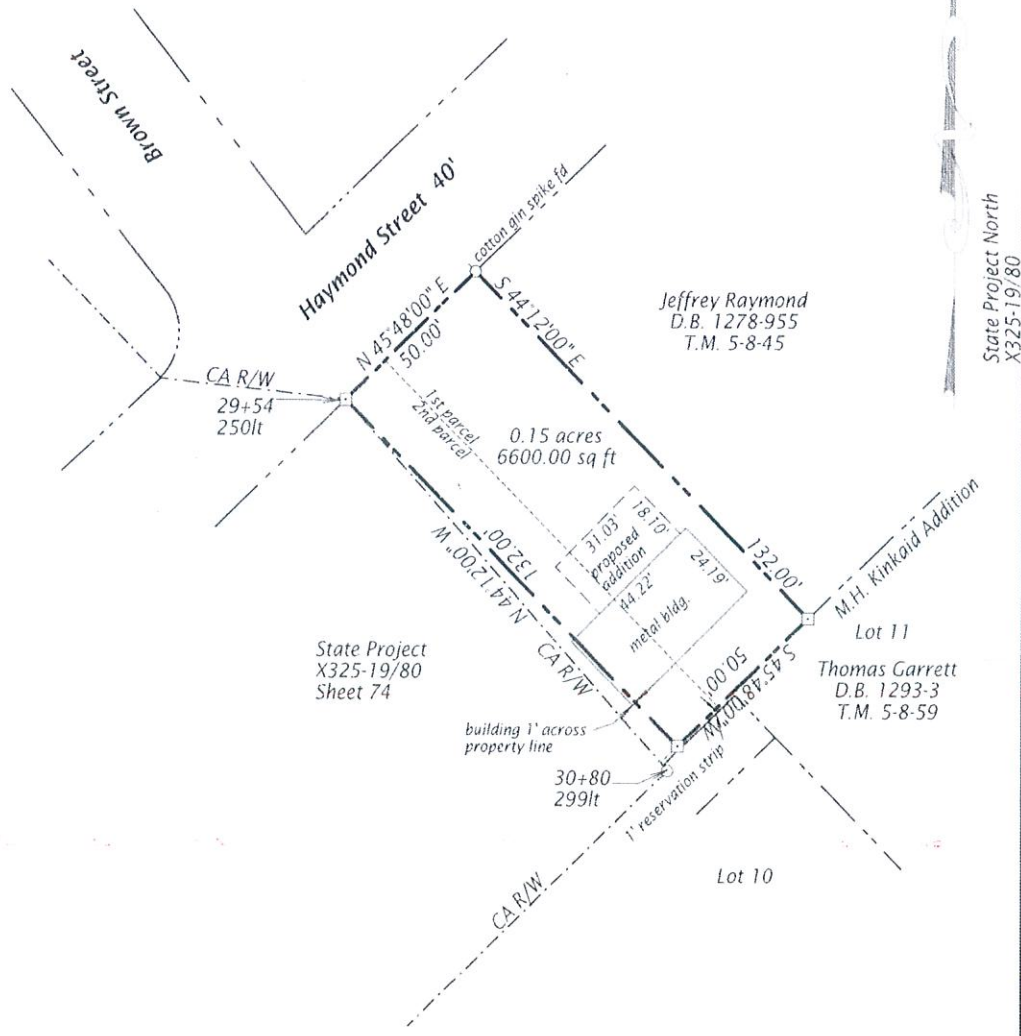
(Print/type name of legal owner)

Date 10/10/25

Date 10/10/25

NOTE: THIS SURVEY NOT VALID WITHOUT ORIGINAL BLUE SIGNATURE  
 THIS SURVEY DECLARATION IS MADE ON THE DATE INDICATED, TO  
 THE OWNER OR BUYER LISTED BELOW. IT IS NOT TRANSFERABLE TO  
 ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS OR BUYERS.  
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 RESTRICTIONS.

Note: All corners 5/8" iron pins found,  
 except where noted.  
 Deed Ref. 1189-24  
 Tax Map 5-8-44  
 Property Zoned: Neighborhood Mixed Use  
 This property is not located in a flood zone.  
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Plat of 0.15 Acres  
 Located at 329 Haymond Street  
 Surveyed For  
**Vintage Holding, LLC**  
 City of Fairmont  
 Union Corp. Dist. Marion Co. WV  
 Scale 1"=40' June 2024



*Paul D. Harbert*

Paul D. Harbert, PS  
 McCoy Land Surveying  
 Monongah, WV (304) 534-5562

PS No. 862



25-16

**APPLICATION FORM  
BOARD OF ZONING APPEALS—VARIANCE**

Planning & Zoning Department  
200 Jackson St., Fairmont WV 26554  
Phone (304) 366-6211, Ext 333

Office Use  
Date Received 8/14/2025 <sup>(CO)</sup> Complete \_\_\_\_\_ Petitioner Number 25-16 Hearing Date \_\_\_\_\_

**I. APPLICANT**

APPLICANT'S NAME NICK FANTASIA - Vintage Holding LLC  
ADDRESS 625 Columbia St  
CITY Fairmont STATE WV ZIP 26554  
PHONE 304 782 0511 FAX \_\_\_\_\_

**II. PROPERTY INFORMATION**

PROPERTY ADDRESS 329 Raymond St  
GENERAL LOCATION \_\_\_\_\_  
LEGAL DESCRIPTION  ATTACHED  ON PLAT  
PROPERTY TAX MAP AND PARCEL NO. \_\_\_\_\_

**III. NARRATIVE—Please describe the nature and extent of your variance request(s).**

Requesting a variance on the % of greenspace at the property.  
The existing water mitigation required addition landscaping to facilitate a surface water drain across the garage. The steps and drain pad create a violation of the greenspace percentage. The area of structures and porches totals the max 70% impervious area. The new porch totals 24x30 minus the porch 7x2 for an additional 13.1%. The 2x21.8 over on the driveway adds less than 1% for a lot total of 83.1% - my request is a variance for the additional 13.1% or area total 83.1%

**IV. ATTEST**

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 the 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 Fairmont representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.

[Signature]  
SIGNATURE OF APPLICANT/AGENT  
8/14/25  
Date

[Signature]  
(Print/type name of applicant/agent)  
NICK FANTASIA

\*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 FORM  
BOARD OF ZONING APPEALS—VARIANCE**

Planning & Zoning Department  
200 Jackson St., Fairmont WV 26554  
Phone (304) 366-6211, Ext 333

**VI. SUPPLEMENTAL INFORMATION**

Depending on the type of variance requested 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
- Mufti-Family Dwelling
- Non-Residential or Mixed-Use (please explain)

*Office Use Only:* Zoning Code Primary Use Classification(s):  
\_\_\_\_\_

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

**Structure Characteristics (complete only those that apply)**

Total number of buildings: 2 Gross floor area of each building: 1500  
Estimated number of employees (max shift, typical): \_\_\_\_\_  
No. of dwelling units: \_\_\_\_\_ No. of bedrooms: \_\_\_\_\_  
Additional structure-related details:

*House and Carage*

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

If Applicable:

Current Setbacks: Front Yard \_\_\_\_\_ Side \_\_\_\_\_ Back \_\_\_\_\_

Desired Setbacks: Front \_\_\_\_\_ Side \_\_\_\_\_ Back \_\_\_\_\_

**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.

**Elevation or Floor Plans—A scaled set of building plans may be required to assist the Board in rendering a variance decision.**

- All dimensions and relevant area calculations shall be shown, such as height, blank wall widths, transparency percentage, or build-out percentage.

\_\_\_\_\_



**APPLICATION FORM  
BOARD OF ZONING APPEALS—VARIANCE**

Planning & Zoning Department  
200 Jackson St., Fairmont WV 26554  
Phone (304) 366-6211, Ext 333

**VII. Findings of Fact**

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. It will not adversely effect the public health, safety, welfare or the rights of adjacent property owners, residents or the neighborhood, because:

The variance would allow for hardscape to catch water and direct it into a drain system. Adjacent properties are higher than the area of the requested variance. The 13.1% addition allows for drains and collection on the perimeter so water can be piped into the storm drain system

2. It 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 property has had a historical water problem. The composition of the soils and subsurface are not suitable for drainage. Water ponded in the rear property damaging the garage. Previous french drains proved ineffective. The contractor designed a catch basin system to catch water from this and adjacent property to effectively move water into the storm system

3. It would eliminate an unnecessary hardship and permit a reasonable use of the land, because:


It eliminates water flooding the garage from the rear property and adjoining property. The additional water managed will aid in the water collection behind the property that is already prone to flooding. The state has added a collection point behind the garage trying to remedy the problem.

4. It will allow the intent of the Zoning Ordinance to be observed and substantial justice done, because:

It will allow the use of the property without historical damage from run off.

5. It is the minimum variance that will accomplish this purpose, because:

The variance <sup>13%</sup> will correct a historical water problem in the area. It is consistent with corrective measures to the rear of the property. It solves the water catch while leaving side and rear greenspace intact, while replacing the original ineffective drains

  
SIGNATURE OF APPLICANT

Nick Fantasia  
(Print/type name of applicant)

Date 8/14/25

  
SIGNATURE OF LEGAL OWNER

Nick Fantasia  
(Print/type name of legal owner)

Date 8/14/25

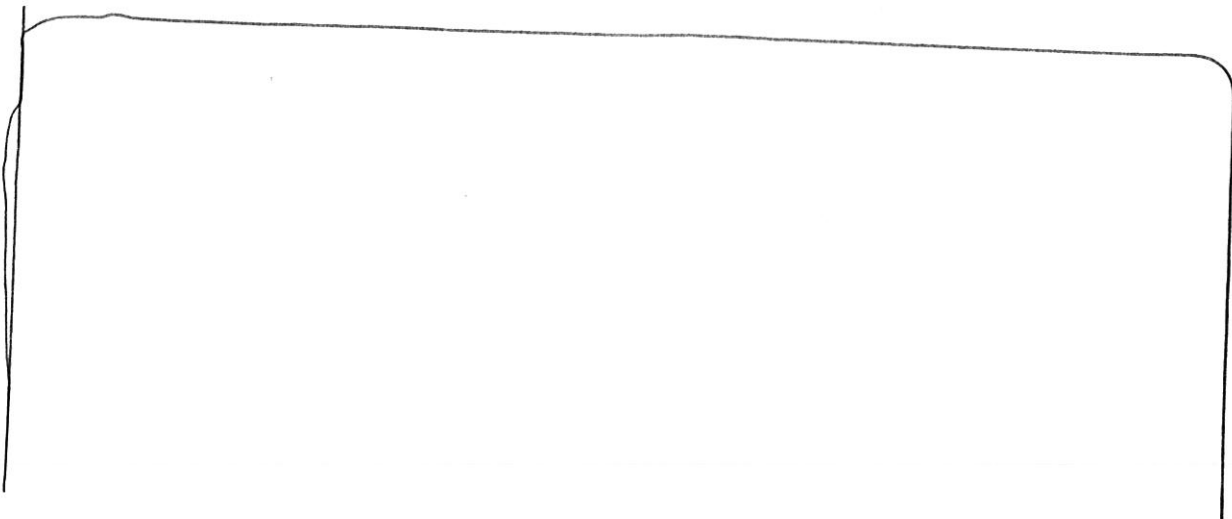
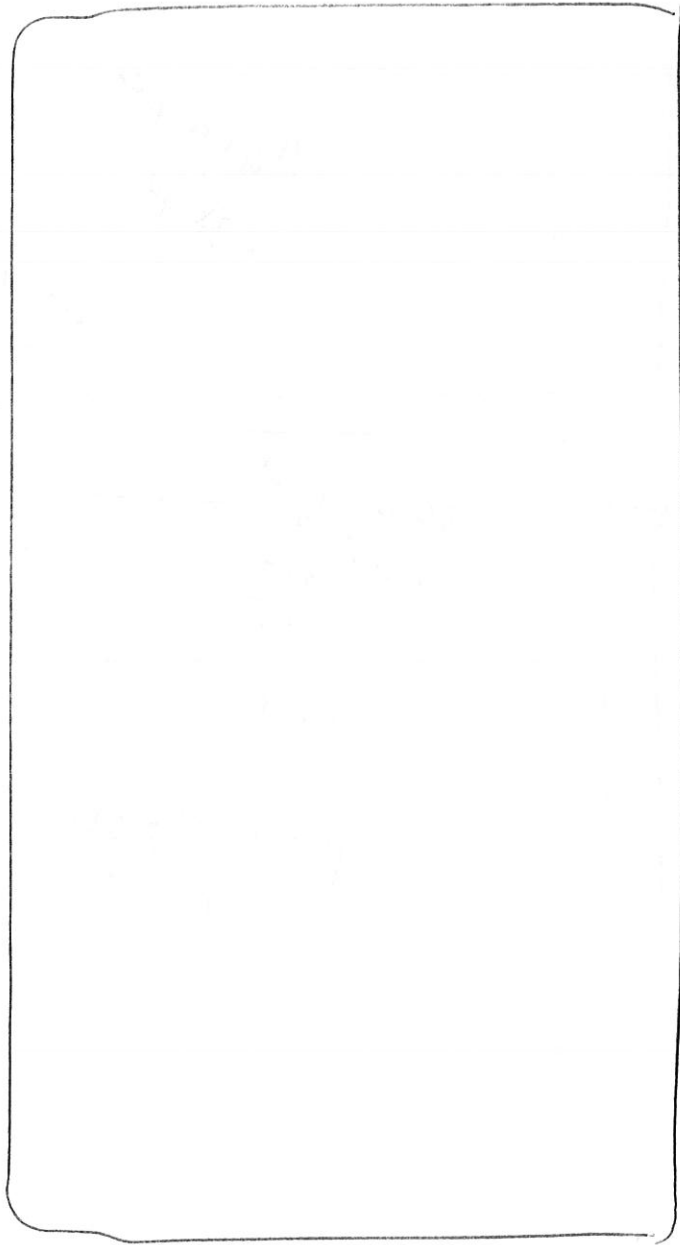
2. cont.

The water table on the property is higher than the low point at the rear. There is a nearly four course drop from the front to rear of the building and a nearly 28" drop from the building to the garage. There is a well in the front yard that shows water at a point at the garage elevation. The soils are a Glacial sedimentary clay which perk slowly and allow ponding in the rear to occur.

5. cont. The site has shown flooding historically and most recently. The additional 13% of surface allows for the collection to occur and go into the base drain at the garage. The additional 1% off the original drive enable pipe to collect and divert to the existing storm water points at the rear of the property. So the variance for a total area of 83.1% of surface appropriate



Lot: 6600  
Limit: 4620  
Proposed: 4347.7





25-17

**APPLICATION FORM  
BOARD OF ZONING APPEALS—VARIANCE**

Planning & Zoning Department  
200 Jackson St., Fairmont WV 26554  
Phone (304) 366-6211, Ext 333

Office Use  
Date Received 8/14/2025 <sup>(CJ)</sup> Complete \_\_\_\_\_ Petitioner Number 25-17 Hearing Date \_\_\_\_\_

**I. APPLICANT**

APPLICANT'S NAME Nick Fantasia - Vintage Holding LLC  
ADDRESS 625 Columbia St  
CITY Fairmont STATE WV ZIP 26554  
PHONE 304 282 0511 FAX \_\_\_\_\_

**II. PROPERTY INFORMATION**

PROPERTY ADDRESS 329 Haymond St.  
GENERAL LOCATION \_\_\_\_\_  
LEGAL DESCRIPTION  ATTACHED  ON PLAT  
PROPERTY TAX MAP AND PARCEL NO. \_\_\_\_\_

**III. NARRATIVE—Please describe the nature and extent of your variance request(s).**

Variance requested for Garage door setback of 20 ft.  
The door is on interior space, not a garage use. The  
property boundary line is less than the requirement. The use  
is for open interior space to the living area. A garage is  
present on the site. The over head door is 8x10 in area.  
The door is 12 feet from the property line. The 12 foot side  
variance of the 20 foot rule is the request.

**IV. ATTEST**

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 the 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 Fairmont representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.

Nick Fantasia  
SIGNATURE OF APPLICANT/AGENT  
8/14/25  
Date

Nick Fantasia  
(Print/type name of applicant/agent)

\*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 FORM  
BOARD OF ZONING APPEALS—VARIANCE**

Planning & Zoning Department  
200 Jackson St., Fairmont WV 26554  
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**VI. SUPPLEMENTAL INFORMATION**

Depending on the type of variance requested 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-Use (please explain)

Office Use Only: Zoning Code Primary Use Classification(s):

**Structure Characteristics (complete only those that apply)**

Total number of buildings: 1      Gross floor area of each building: 1500  
Estimated number of employees (max shift, typical): \_\_\_\_\_  
No. of dwelling units: 1      No. of bedrooms: 1  
Additional structure-related details:  
30X50 dwelling with existing garage on site.

If Applicable:

Current Setbacks: Front Yard \_\_\_\_\_ Side \_\_\_\_\_ Back \_\_\_\_\_  
Desired Setbacks: Front \_\_\_\_\_ Side \_\_\_\_\_ Back \_\_\_\_\_

**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.

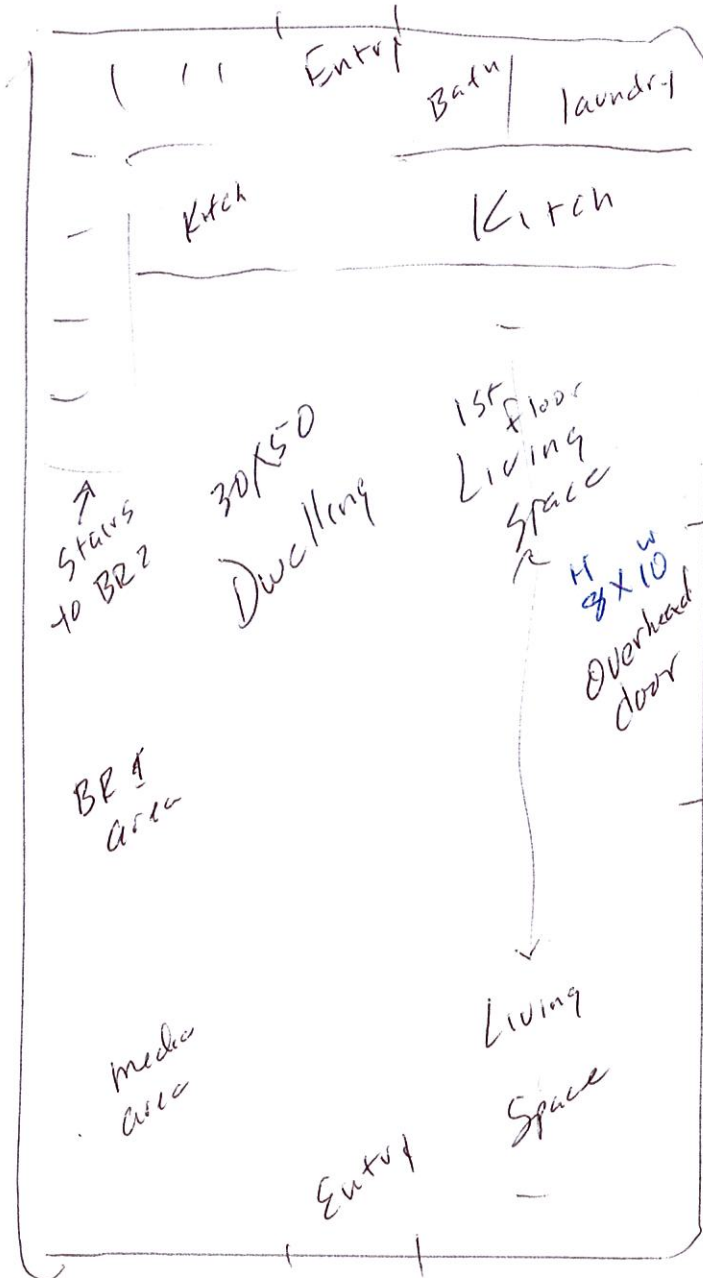
**Elevation or Floor Plans—A scaled set of building plans may be required to assist the Board in rendering a variance decision.**

- All dimensions and relevant area calculations shall be shown, such as height, blank wall widths, transparency percentage, or build-out percentage.

Existing  
Garage

Entry

Garage  
door



↑  
Driveway

10ft

↓  
property line  
12ft



APPLICATION FORM
BOARD OF ZONING APPEALS-VARIANCE

Planning & Zoning Department
200 Jackson St., Fairmont WV 26554
Phone (304) 366-6211, Ext 333

VII. Findings of Fact

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. It will not adversely effect the public health, safety, welfare or the rights of adjacent property owners, residents or the neighborhood, because:

The door is on the Gateway Connector side of the property. No adjoining neighbors exist

2. It 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 property boundary is closer than the 20ft requirement for a garage door. The variance is because the requirement cannot be met. The variance is reasonable because the use is not a garage. The door is not an exterior garage door, but is an interior space over head door as described by the manufacturer.

3. It would eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The use allows for open space into the living space of the dwelling. Overhead doors are a growing trend to open up living space.

4. It will allow the intent of the Zoning Ordinance to be observed and substantial justice done, because:

The space is not a garage, so no exceptions to the ordinance in occurrence. The variance is a logical request.

5. It is the minimum variance that will accomplish this purpose, because:

It is all that the property boundary will allow for the side of the dwelling.

Signature of Applicant: Nick Fantasia

(Print/type name of applicant)

Date: 8/14/25

Signature of Legal Owner: Nick Fantasia

(Print/type name of legal owner)

Date: 8/14/25



## Introduction

Jay Trickett, on behalf of the property owner Marilyn Gifford, is requesting a Variance at 1849 Morgantown Avenue to construct a carport attached to the home that will encroach on the required side yard. The required setback is 5 feet. The requested setback is 10 inches.

## Existing Conditions

This property is located 1849 Morgantown Avenue. It can be identified as Tax District 6, Map 7, Parcel 131.

This property and adjacent properties along Morgantown Avenue is zoned Industrial. Nearby is Highway Commercial, General Residential, Neighborhood Residential, and a small section of Neighborhood Mixed Use zoning.

Since the use of this property is a detached single-family dwelling, the Neighborhood Residential zoning district development standards apply to it and all other residential-only properties nearby. Other nearby uses include many different commercial uses, recreational uses, and heavy manufacturing facilities.

According to property records, this home was constructed in 1900, and contains 1,024 square feet. The parcel contains approximately 7,700 square feet and is 50 feet in width. The previous attached carport structure did not meet the required setbacks and encroached nearly all the way to the shared property line between the subject home and the home to its north.

According to the applicant, the previous carport structure was 75 feet long, the entire depth of the house, and entirely constructed of wood with a shingle roof. The previous structure can be seen in Figure 1, which is the google street view from 2023.



Figure 1 – 1851 (left) and 1849 (right) Morgantown Avenue, via google streetview from 2023

The applicant reported that the previous nonconforming carport structure collapsed last year under a very heavy snow load. The homeowner did get a demolition permit on January 29, 2025, for a contractor, Mazzo Grading and Excavating, to remove the structure, but at that time was not notified that a permit to build a replacement structure would need to be acquired simultaneously, otherwise any new structure would need to meet the current setback requirements.

The property does include the existing asphalt driveway along the northern lot line that is an approximate 18-24" from the property line.

## Proposed Conditions

The applicant is requesting a variance from the following article:



- 3.4.2 Neighborhood Residential Development Standards for a Detached Single-Family dwelling, minimum 5' side yard

The proposed plan is to reconstruct an attached carport structure on the north side of the home. The proposed structure will be 11' 4" wide and 40' long. It is proposed to encroach in the required side yard area to within 10" of the side property line and an approximate 6' from the neighboring home. It is proposed to be constructed of wood painted with a fire-retardant paint and a metal roof.

It should be noted that some of the construction was completed prior to a "stop work order" issued by Code Enforcement officer Travis Smith on November 14, 2025. A scan of the violation notice can be found as an attachment to this report. The contractor, on behalf of the homeowner, reached out to staff as requested and has been very cooperative to come up with a remedy to the issue.

The work that was completed prior to the stop work order can be seen in the photos submitted by the applicant.

### Variance Requirements

The City of Fairmont Board of Zoning Appeals may grant a variance to the Zoning Ordinance if it finds that the variance:

- i. Will not adversely affect the public health, safety or welfare or the rights of adjacent property owners, residents or the neighborhood;
- ii. Arises from special conditions or attributes which pertain to the

- iii. Would eliminate an unnecessary hardship and permit a reasonable use of the land;
- iv. Will allow the intent of the Zoning Ordinance to be observed and substantial justice done; and
- v. Is the minimum variance that will accomplish this purpose.

### Staff Comments

This case brings up a very conflicting set of circumstances where a previous nonconforming structure could remain as such, since it was most likely built long before the development standards and side yard setback requirements existed. However, the removal of the nonconforming structure and failure to immediately obtain a building permit for the construction of a replacement structure triggered the new structure to be required to meet all current development standards, including the side yard setback of 5'.

While in this specific circumstance, it has been verbally noted that the neighboring property owner to the north does not have any issues with this structure being rebuilt in a similar way to the previous structure, it will now require a variance to that setback requirement, and it should be further noted that a variance is granted to the property itself and in general cannot take the specific circumstances of the property owner into account. Variances should only be granted because of special conditions that pertain to the land itself.



These setback requirements exist for a number of reasons, including providing each property equal access to open space, and in some cases such as this the requirement exists to keep a recommended distance between neighboring structures due to fire and safety codes.

The applicant does state in the application that relocating the structure to the other side of the home is not possible.

The structure is proposed to be built over the existing asphalt driveway, as the previous carport structure had been. The existing driveway cannot be moved further away from the property line. To construct a new driveway on the southern side of the home and lot would require significant grade and fill from the grade of Morgantown Avenue into the yard, which would likely cost the homeowner between \$10,000-\$20,000. In addition, the existing driveway would need to be removed entirely.

### **Staff Recommendation**

Based upon the information within this report and the application submitted, staff is neutral based on the life-safety concerns as well as the financial feasibility of an alternative plan.

### **Comprehensive Plan**

The Comprehensive Plan makes no mention of changing or reducing the setback requirements.

### **Findings of Fact**

1. Marilyn Gifford is the owner of the property

2. The property is addressed 1849 Morgantown Avenue
3. The property is identified as Tax District 6, Map 7, Parcel 131
4. The property is zoned Industrial
5. Since the property's primary use is Single-Family Detached Dwelling, the development standards for the Neighborhood Residential zoning district apply
6. The parcel totals approximately 7,700 square feet or 0.18 acres
7. The petition is for a variance from Article 3.4.2. Minimum required side yard 5'
8. The variance is to encroach to approximately 10" from the side property line and 6' from the neighboring home, to construct an attached carport structure
9. The proposed structure is 11' 4" wide by 40' long
10. There is an existing asphalt driveway on the northern side of the property
11. The structure is proposed to be painted with a fire retardant paint and have metal roofing
12. The home previously had a structure with similar placement but which was much longer, approximately 75'. The structure collapsed under snow load last winter
13. The existing house is approximately 1024 square feet according to property records
14. The existing house was built in approximately 1900 according to property records



BOARD OF ZONING APPEALS  
STAFF REPORT  
PETITION # BZA 26-02  
PREPARED 12/31/2025

### **Attachments**

Please see the attached maps and application.



**APPLICATION FORM  
BOARD OF ZONING APPEALS—VARIANCE**

Planning & Zoning Department  
200 Jackson St., Fairmont WV 26554  
Phone (304) 366-6211, Ext 333

Office Use  
Date Received 12/8/25 Complete X Petitioner Number 26-02 Hearing Date 1/8/26

**I. APPLICANT**

APPLICANT'S NAME JAY Trickett  
ADDRESS 75 Lockhaven Dr  
CITY Fairmont STATE WV ZIP 26554  
PHONE 304 290 6638 FAX \_\_\_\_\_

**II. PROPERTY INFORMATION**

PROPERTY ADDRESS 1849 Morgantown AVE Fairmont  
GENERAL LOCATION Fairmont WV 26554  
LEGAL DESCRIPTION  ATTACHED  ON PLAT  
PROPERTY TAX MAP AND PARCEL NO. \_\_\_\_\_

**III. NARRATIVE—Please describe the nature and extent of your variance request(s).**

Variance to Article 3.4.2 - Setbacks, Side Yards, Minimum is 5'.  
40' x 114' attached carport approx 10' from interior side yard lot line.  
6' from adjacent home.

**IV. ATTEST**

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 the 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 Fairmont representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.

[Signature]  
SIGNATURE OF APPLICANT/AGENT

Jay Trickett  
(Print/type name of applicant/agent)

12-5-26  
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.



**APPLICATION FORM  
BOARD OF ZONING APPEALS—VARIANCE**

Planning & Zoning Department  
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**VI. SUPPLEMENTAL INFORMATION**

Depending on the type of variance requested 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-Use (please explain)

Office Use Only: Zoning Code Primary Use Classification(s):

*Detached Single Family*

**Structure Characteristics (complete only those that apply)**

Total number of buildings: 1      Gross floor area of each building: \_\_\_\_\_  
Estimated number of employees (max shift, typical): \_\_\_\_\_  
No. of dwelling units: 1      No. of bedrooms: 3  
Additional structure-related details:

If Applicable:

Current Setbacks: Front Yard \_\_\_\_\_ Side \_\_\_\_\_ Back \_\_\_\_\_  
Desired Setbacks: Front \_\_\_\_\_ Side left side from Road Back \_\_\_\_\_

**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.

**Elevation or Floor Plans—A scaled set of building plans may be required to assist the Board in rendering a variance decision.**

- All dimensions and relevant area calculations shall be shown, such as height, blank wall widths, transparency percentage, or build-out percentage.



**APPLICATION FORM  
BOARD OF ZONING APPEALS—VARIANCE**

Planning & Zoning Department  
200 Jackson St., Fairmont WV 26554  
Phone (304) 366-6211, Ext 333

**VII. Findings of Fact**

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. It will not adversely effect the public health, safety, welfare or the rights of adjacent property owners, residents or the neighborhood, because:

*NO Because this property has had a carport with a larger footprint for over 50 years. All wood will be covered with fire retardant coating paint.*

2. It 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:

*There has been a carport at this property for over 50 years. It was destroyed last year from snow load. The property owner is 85 years old and still practices nursing and has to leave at different hours. The carport replacement would greatly improve her quality of life and access to vehicles.*

3. It would eliminate an unnecessary hardship and permit a reasonable use of the land, because:

*Mrs Gifford is elderly with 2 bad legs yet still practices nursing and bad weather hurts her access to her driveway & vehicles.*

4. It will allow the intent of the Zoning Ordinance to be observed and substantial justice done, because:

*Because its not possible to relocate on opposite side of home and there was the same type of structure in this space for over 50 years.*

5. It is the minimum variance that will accomplish this purpose, because:

*The carport that was there was 75ft and all wood roofing & shingles. The new proposal is 40ft with metal roof and all wood materials painted with fire retardant paint.*

*Jay Trickett*  
SIGNATURE OF APPLICANT

Jay Trickett  
(Print/type name of applicant)

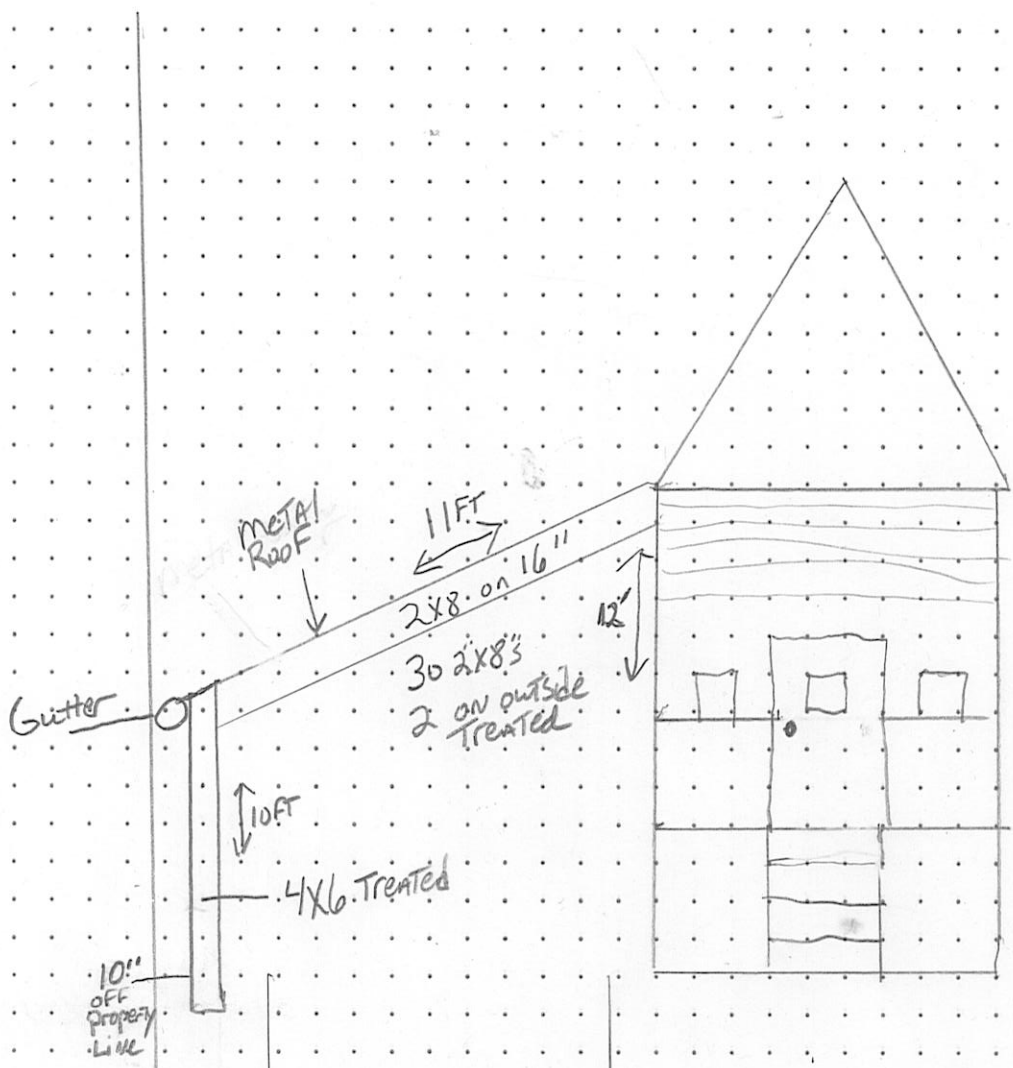
Date 12-5-25

*Marilyn Gifford*  
SIGNATURE OF LEGAL OWNER

Marilyn Gifford  
(Print/type name of legal owner)

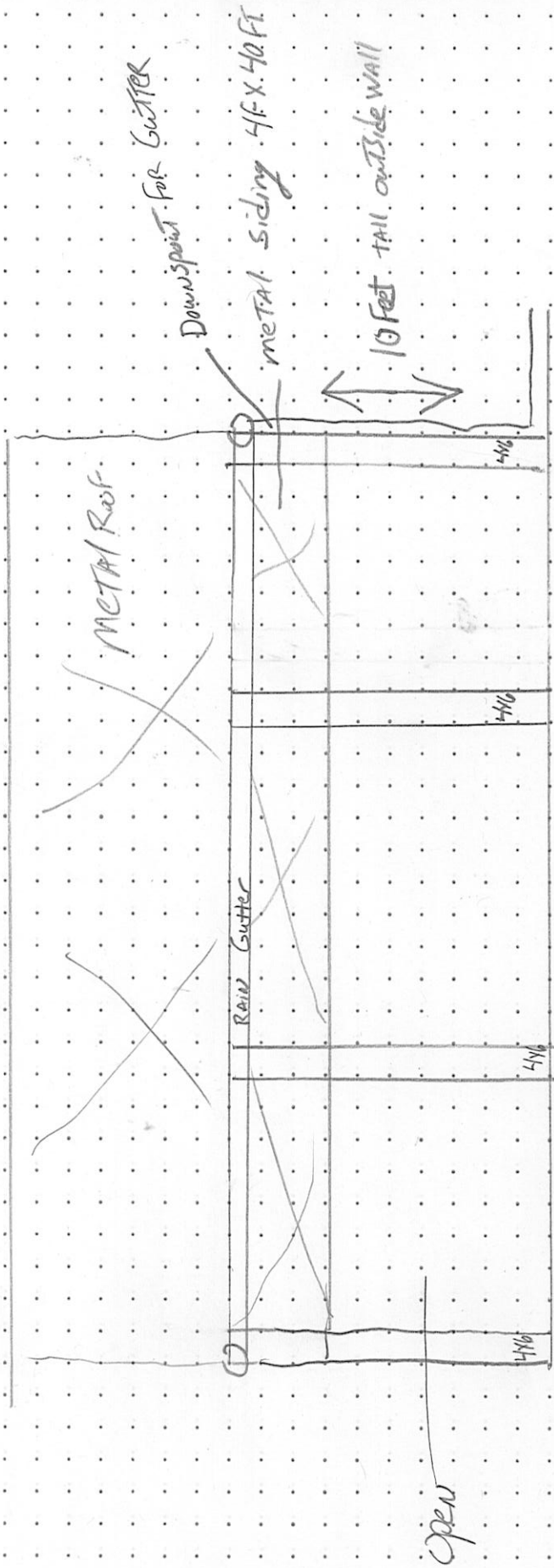
Date 12/6/25

1849 MORGANTOWN AVE  
Fairmont W.V.



Blacktop  
existing Driveway

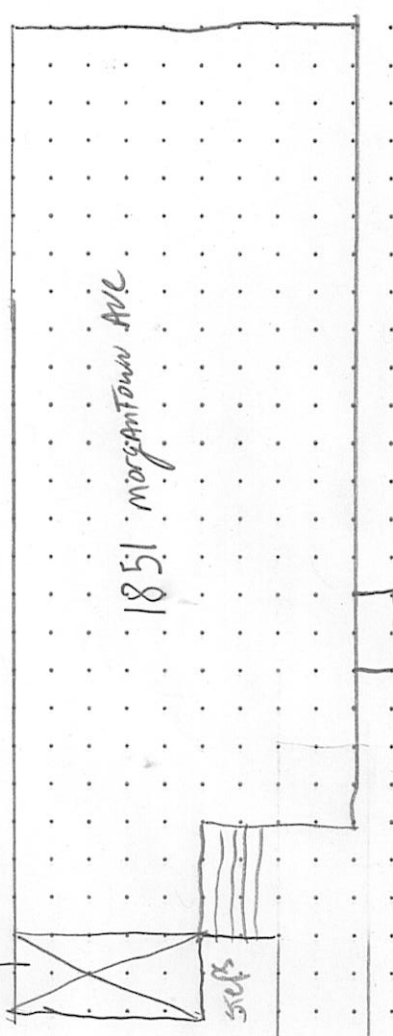
50 FT PROPERTY LINE



View from 1851 MORGANTOWN AVE

OLD CARPORT SIDING WENT ALL THE WAY TO THE GROUND

Porch Roof



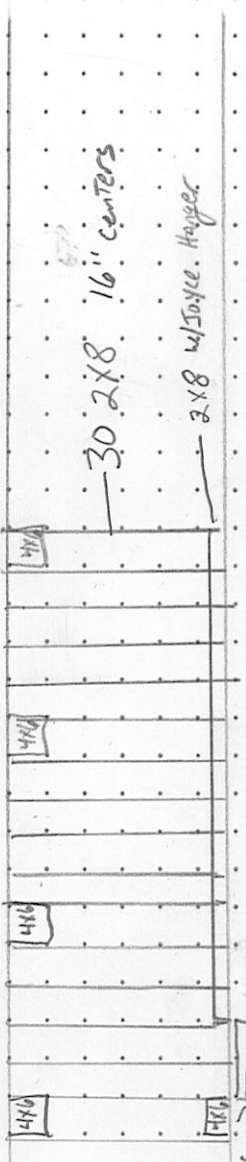
1851 MORGANTOWN AVE

Steps

DRIVEWAY

Corner

Property Line 10"



30 2x8 16" centers

2x8 w/30x12. Hanger

4x6

4x6

4x4

4x4

Steps

BLACK TOP DRIVEWAY

MORGANTOWN AVE



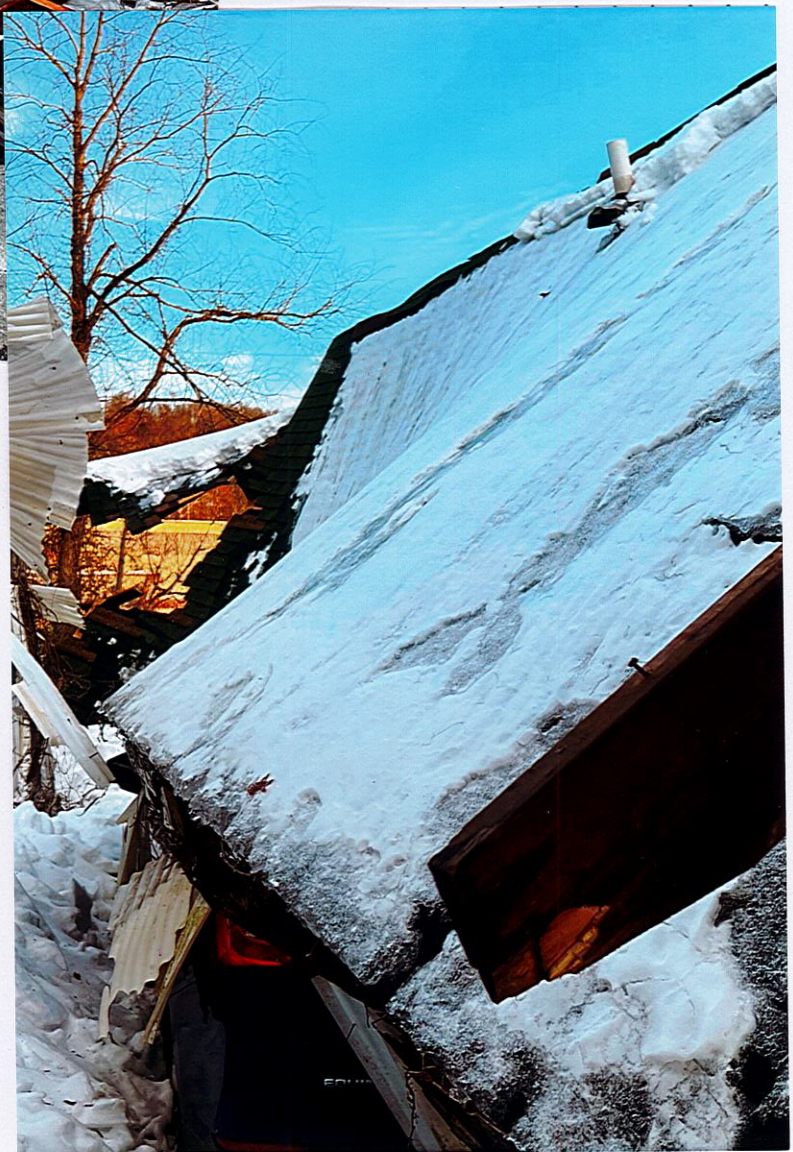
1849

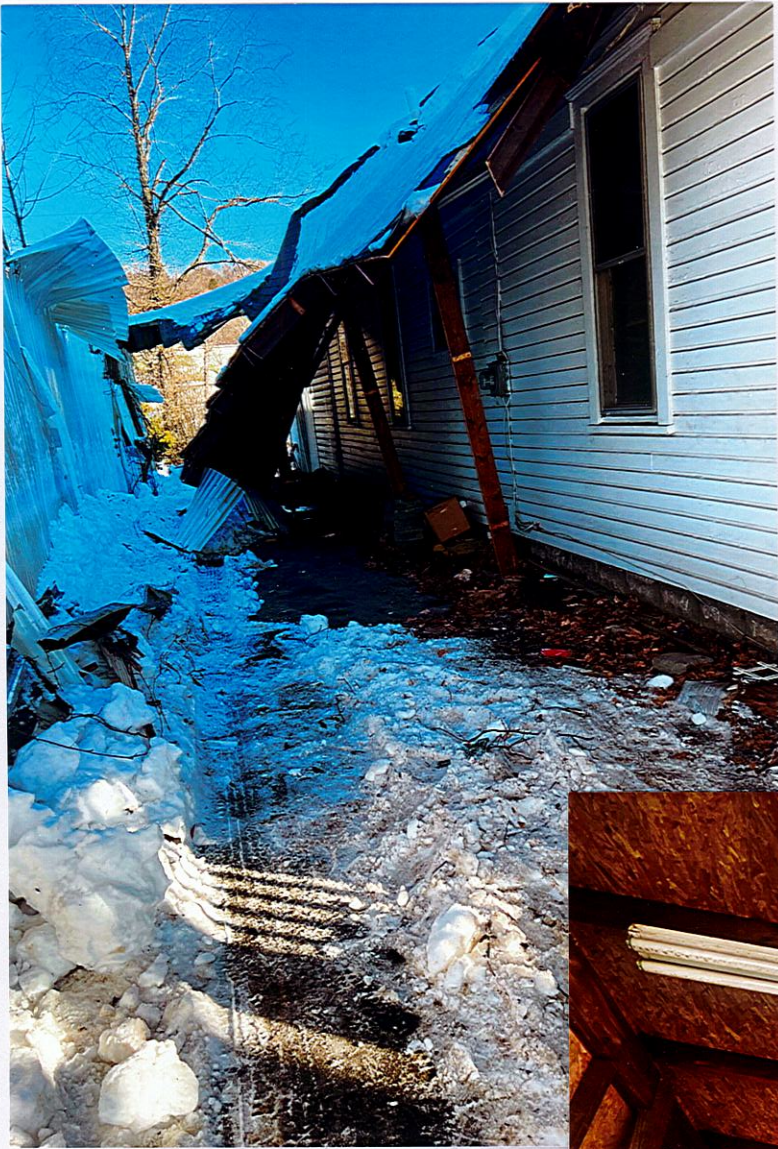
MORGANTOWN AVE

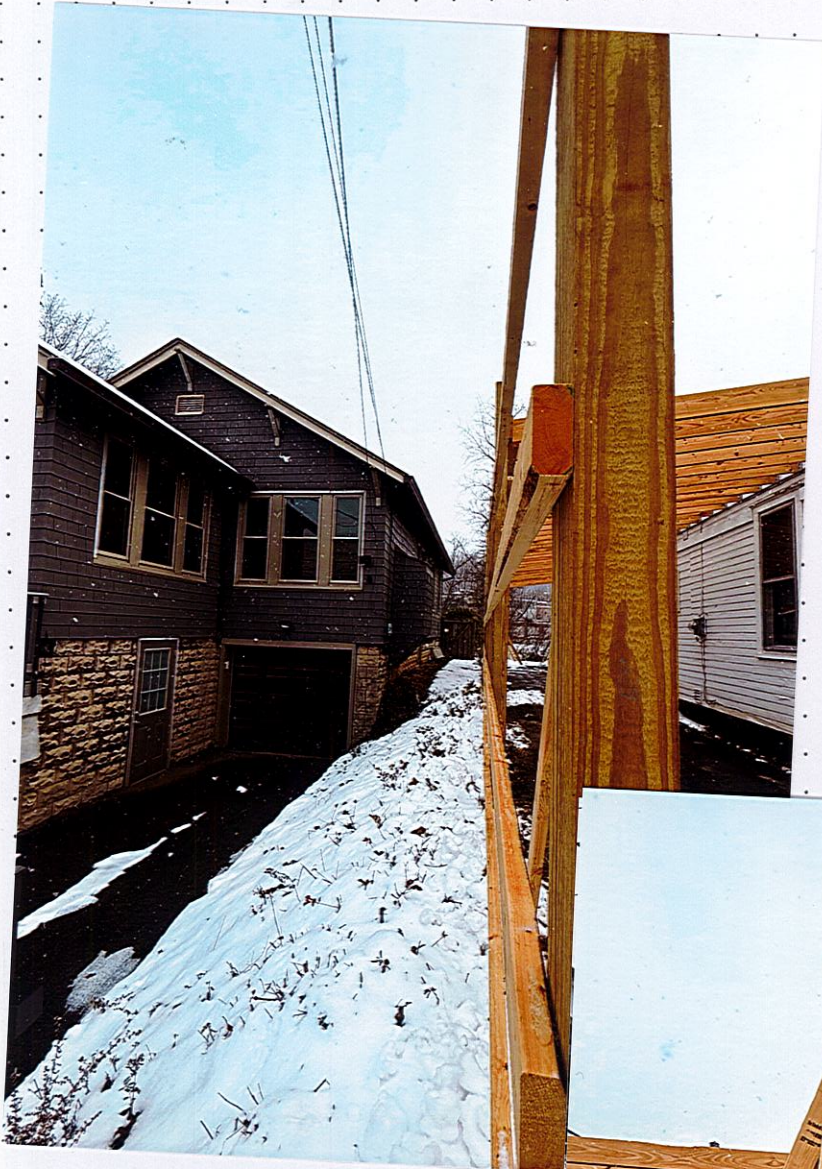
Front Porch Roof

Back Porch Roof

OLD CARPORT









# CITY OF FAIRMONT

City/County Complex

200 Jackson Street - Fairmont, WV 26554 - (304) 366-6211

## NOTICE OF VIOLATION

Location: 1849 Morgantown Ave

Owner or Lessee: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

### VIOLATION(S)

◇ Working without required Building/Electrical/Sign Permit(s)

◇ Stop Work Order

◇ Use and Occupancy without inspection

◇ Violation of Building, Zoning, Property Maintenance or other City Codes as follows: \_\_\_\_\_

Comments: Must obtain permit for work being

refused

You are hereby directed under the enforcement provisions of City Ordinance 1359 to correct this violation(s) within \_\_\_\_\_ days of receipt of this notice. A warrant will be issued for your arrest for failure to comply within the above time frame.

Any notice issued pursuant to Building, Zoning, or Property Maintenance Code is subject to appeal. Contact the Building Inspection office for procedure.

Time: 10:25am Copy received by: \_\_\_\_\_

Date: 11-14-25 Code Official: [Signature]