CITY OF CHARLES TOWN
BOARD OF ZONING APPEALS
AGENDA • JUNE 18, 2024

BZA Meeting **COUNCIL CHAMBERS** **7:00 PM**
101 E Washington Street, Charles Town, WV 25414

I. CALL TO ORDER

II. DETERMINATION OF QUORUM

III. APPROVAL OF MINUTES

III.1 : March 19, 2024
3.19.24 Minutes_DRAFT.pdf

IV. APPROVAL OF FINDINGS OF FACTS AND CONCLUSIONS OF LAW

IV.1 : **BA2024-01** - Wall Street variances
BZA Findings & Conclusions 2024-01.pdf

IV.2 : **BA2024-02** - Opera House Variance
BZA Findings & Conclusions 2024-02.pdf

IV.3 : **BA2024-03** - Baylor Street Variances
BZA Findings & Conclusions 2024-03.pdf

V. PUBLIC HEARINGS

V.1 : **BA2024-04**: Variance request for 854 W. Washington St.
1. Staff Report.pdf
2. Application.pdf
3. Survey.pdf
4. Deeds.pdf

VI. CONTINUED CASES

VII. OTHER BUSINESS

VIII. ADJOURNMENT

IX. NOTICE: The Public May View the Meeting Live by Clicking on the Event Link at:

https://www.charlestownwv.us/government/agendas-and-minutes/

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/18/24
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

March 19, 2024

ATTACHMENTS:
- 3.19.24 Minutes_DRAFT.pdf

CITY OF CHARLES TOWN

BOARD OF ZONING APPEALS

MINUTES • MARCH 19, 2024

BZA Meeting **COUNCIL CHAMBERS** **7:00 PM**

101 East Washington Street, Charles Town, WV 25414

DRAFT

1. CALL TO ORDER

Present: Locke Wysong, Chair
Christopher Cox
Patrick Kratovil
Jim Thomas

Staff: James Newman, Zoning Administrator
Mike Funk, City Attorney - Virtual
Kimberly Crosson, Minutes Secretary - Virtual

2. DETERMINATION OF QUORUM

3. APPROVAL OF MINUTES

3.1: Minutes – December 19, 2023

RESULT:	**Approved**
MOVER:	Thomas
SECONDER:	Kratovil
AYES:	Wysong, Kratovil, Thomas
ABSTAIN:	Cox

4. APPROVAL OF FINDINGS OF FACTS AND CONCLUSIONS OF LAW

4.1: BA2023-06 – Beckwith St. Property – Findings of Facts

4.2: BA2023-07 – 134 Shutter St – Findings of Facts

Motion to approve BA2023-06 Beckwith St. Property and BA2023-07 134 Shutter St, Findings of Facts

RESULT:	**Approved**
MOVER:	Kratovil
SECONDER:	Thomas
AYES:	Wysong, Kratovil, Cox, Thomas

5. PUBLIC HEARINGS

5.1: BA2024-01 – Mark Roper – Wall Street Variances

Staff gave presentation.

Seth Rivard, Applicant Representative sworn in.

Rivard: – Variances will permit compatible design. Meet intent and spirit of Ordinance.

Cox – Are the similar homes listed in the report 14 ft. tall?

Seth – Yes

Cox – Do they have basements?

Rivard – They probably have crawl spaces.

Locke – Similar floor plans as adjacent lots?

Seth – Yes

Chair opens public hearing.

No public comment received.

Motion to enter deliberation at 7:09 pm.

RESULT:	**Approved**
MOVER:	Thomas
SECONDER:	Cox
AYES:	Wysong, Thomas, Kratovil, Cox

Motion to restore session at 7:15 pm.

RESULT:	**Approved**
MOVER:	Thomas
SECONDER:	Cox
AYES:	Wysong, Thomas, Kratovil, Cox

Motion to approve BA2024-01 Mark Roper – Wall Street Variances

RESULT:	**Approved**
MOVER:	Cox
SECONDER:	Kratovil
AYES:	Wysong, Kratovil, Cox, Thomas

DRAFT

5:2: BA2024-02 – Old Opera House – Variance for Signage

Staff gave presentation.

Kratovil – Is the static lighting a WVDOH requirement?

Staff – No, it's a staff recommended condition.

Thomas – How is the sign lit? Staff defers to applicant.

Steven Brewer, Applicant sworn in.

Brewer– This is a historic structure which goes unnoticed. Signage will be an asset and attract customers.

John Ralph, Sign Installation Technician: No exterior fixture lighting, like a spotlight. This will have halo lighting with some exposed bulbs. It will be programmable and dimmable. 20:12

Thomas – Building height? Applicant: 2 stories.

Locke – Sign visible from all streets at intersection? Applicant: Yes.

Locke – When does your latest performance end? Applicant: 10:30 pm.

Chair opens public hearing.

All speakers sworn in.

Michael George – Welcoming sign, lights up a dark area. In favor.

Rikki Twyford – Good sign. Ordinance Committee is working on updating signage language. In favor.

Kevin Tester – Historic Site with unique use. Good for community. Draws folks downtown. In favor.

Seth Rivard – Unique use. Meets variance intent. Promotes an active downtown. In favor.

Julie Philabaum – Building is non-descript, signage will bring more people downtown. In favor.

Gaye Snyder – Signage brings attention to an unknown building. In favor

Chair closes public hearing.

DRAFT

Funk – Will sign overhang the curb?

Locke – It will be located either adjacent to or behind existing street signage/traffic control devices.

Cox – The Division of Highways language in the staff report only seems to allow a sign on W. Liberty side, not the building corner.

Kevin Tester, Applicant Representative – DOH is aware of the sign's corner location.

Motion to enter deliberation at 7:48 pm.

RESULT:	**Approved**
MOVER:	Cox
SECONDER:	Thomas
AYES:	Wysong, Thomas, Kratovil, Cox

Motion to restore session at 8:03 pm.

RESULT:	**Approved**
MOVER:	Thomas
SECONDER:	Kratovil
AYES:	Wysong, Thomas, Kratovil, Cox

Motion to approve BA2024-02: Old Opera House – Variance for Signage subject to the following:
1. The lighting shall be static, and not subject to motion, blinking or other similar changes.
2. If the sign is determined to be hazardous to traffic, it shall be modified or removed if required or requested by the West Virginia Department of Transportation.

RESULT:	**Approved**
MOVER:	Kratovil
SECONDER:	Cox
AYES:	Wysong, Thomas, Kratovil, Cox

5:3: BA2024-03 – Alex Salgado – Variances on Baylor Street

Staff gave presentation.

Cox – Where does the street end? Staff: Unsure, there are conflicting surveys.

Locke – Who maintains the road? Staff: Heard from a citizen who says the City has recently plowed snow off Baylor Street.

Kratovil – Could the applicant be denied a permit by WVDoH to build a driveway on the residual lot, but still build on the proposed new lot? Staff: Yes.

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Salgado – Homes will provide affordable housing. Baylor St ends at 854 W. Washington. Alley not maintained by City or County. Willing to pave the road.

Cox gave a statement of concern about the road and potential ownership issues.

Chair opens public hearing.

All speakers sworn in.

Shirley Tolbert – Been in neighborhood for a long time. Concerned about impact of proposed development, as well as unclear property lines. Baylor St does not provide good emergency services access. Road not maintained by City or County. Not in support of request.

Michael Tolbert – Area had industrial uses nearby, so OTR zoning is not a good description of neighborhood. City plowed snow off Baylor St this year. Alley is only 20 ft wide, Baylor St. is 30 ft wide. Most of the alley is used for parking. Lot shape is similar to adjacent lots on MLK Jr. Blvd. Not in support of request.

Sherri Hutton – Applicant's survey is not correct. Was told that owner of the apartments would pave the alley but he failed to. Not in support of request.

Robert Bryan – Concerned about water line locations and impact that new construction would have on access. Concerned about potential impact on the existing retaining wall that crosses multiple properties. Not in support of request.

Chair closes public hearing.

Salgado, Applicant – Understand neighbors valid concerns. Alley goes past my apartments, and I can navigate a 12 ft long vehicle and trailer. Willing to accept potential variance conditions that require WV DOH approval of driveway prior to subdivision off lot. Working with CTUB on water line issues.

Motion to enter deliberation at 8:49 pm.

RESULT:	**Approved**
MOVER:	Cox
SECONDER:	Kratovil
AYES:	Wysong, Thomas, Kratovil, Cox

Motion to restore session at 9:21 pm.

RESULT:	**Approved**
MOVER:	Kratovil
SECONDER:	Thomas
AYES:	Wysong, Thomas, Kratovil, Cox

Motion to deny BA2024-03: Alex Salgado – Variances on Baylor Street due to the following:

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1. Adversely affects public and adjacent property owners.
2. No access to proposed new lot.
3. No hardship.

RESULT:	**Denied**
MOVER:	Cox
SECONDER:	Kratovil
AYES:	Wysong, Thomas, Kratovil, Cox

6. CONTINUED CASES

None.

7. OTHER BUSINESS

None.

8. ADJOURNMENT

RESULT:	**Approved**
MOVER:	Thomas
SECONDER:	Kratovil
AYES:	Wysong, Thomas, Kratovil, Cox

Meeting adjourned at 9:23 pm.

DRAFT

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/18/24
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

BA2024-01 - Wall Street variances

ATTACHMENTS:

- BZA Findings & Conclusions 2024-01.pdf

BEFORE THE BOARD OF ZONING APPEALS
OF THE CITY OF CHARLES TOWN, WEST VIRGINIA

In re: Docket No. BA 2024-01 – Application for Variance by Mark Roper

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

This matter came before the Board of Zoning Appeals at its general meeting held on the 19th day of March, 2024, for public hearing upon the application for a Variance filed by Mark Roper (the "Applicant"). The subject real property is owned by the Applicant. Board members present were Chairman C. Locke Wysong, Jr., James Thomas, Jr., Christopher Cox, and Patrick Kratovil, being a quorum. Also present were the City's Zoning/Subdivision Administrator, James Newman, the City's Permit Technician, and the City's legal counsel, Michael Funk.

From a review of the record and confirmation by staff upon request, the Board found that proper notice was given of this hearing by publication and posting of the subject real property in accord with the Charles Town Zoning Ordinance.

The Applicant, Mark Roper, came before the Board requesting a Variance pursuant to **Sections 1321.10(D)(4) and 1321.11(E) of the Zoning Ordinance** with respect to the Minimum Building Height of 24 feet or 1.5 stories, specified in **Section 1322.11, Old Town Residential (OT-R) District**, and **Table 1322.11, OT-R District Bulk and Area Regulations, of the Zoning Ordinance**. The subject real property consists of four (4) vacant parcels located in the Old Town Residential (OT-R) District on the southeastern side of East Wall Street between South Samual Street and South Beckwith Street, which parcels resulted from the recent subdivision of two (2) parcels formerly designated as Tax Parcels 45 and 45.1 on Tax Map 6 in Charles Town Corporation.

The Board first heard the presentation of the City's Zoning/Subdivision Administrator, James Newman, who reviewed the contents of the written report of the City's staff, a copy of which is contained in the Agenda Packet for the meeting and made part of the record in this matter, and explained the basis of staff's determination that the Variance sought by the Applicant satisfies the requirements of Section 1322.11(E)(3) of the Zoning Ordinance. Mr. Newman noted that: (i) the Applicant desires to construct houses on each of the four (4) parcels that constitute the subject real property; (ii) the Board previously approved variances from minimum lot size and frontage requirements to permit subdivision of the two (2) previously existing parcels into four (4) parcels on October 17, 2023, in Docket No. BA 2023-05; (iii) the Applicant's application requests a reduction in the Minimum Building Height of 24 feet or 1.5 stories to 14 feet; (iv) the requested building height is not unprecedented for the neighborhood, which contains ten (10) other homes which are one story and of similar height to that proposed; and (v) adjacent homes on Samuel Street are more likely to be two stories but homes on Beckwith Street and East Wall Street are more likely to be one story.

The Board had no questions for Mr. Newman.

The Applicant's representative, Seth Rivard, next was sworn and testified. Mr. Rivard stated that: (i) the request for the Variance comes down to an issue of compatibility with the existing neighborhood, and that the proposed Variance should have no adverse impact on the neighborhood and be more compatible with it; (ii) the properties will be graded in a terrace-like fashion so the new houses will not loom over other homes in the neighborhood; (iii) the building height of 14 feet requested by the Variance is intended to maintain compatibility with the neighborhood; and (iv) the Applicant believes the intent and spirit of the Zoning Ordinance is met be providing adequate compatibility of spacing, separation, light, air, etc.

The Board next presented questions to Mr. Rivard. Board member Cox asked whether

the referenced ten other homes in the neighborhood are approximately 14 feet in height and one story and Mr. Rivard confirmed that. Board member Cox then asked whether the houses would have a sub-level and Mr. Rivard answered that they likely would have crawl spaces. Mr. Rivard also stated that the houses, being one-story, will be beneficial to people with mobility issues. Board member Wysong then asked whether the floor plans and size of the houses are consistent with those of the homes across the street and Mr. Rivard confirmed that. The Board had no further questions.

No members of the public or aggrieved parties submitted comment to staff or appeared to make public comment.

Upon completion of the taking of testimony and argument, the Board closed the public hearing and adjourned into executive session for deliberation.

After completing its deliberation and returning to open session, by motion duly made by Board member Cox and seconded by Board member Kratovil, the Board determined, by a vote of four (4) in favor and zero (0) opposed, that, in accordance with Section 1321.11(E)(3) of the Zoning Ordinance, the requested Variance should be granted, as presented, for the reasons set forth below.

FINDINGS OF FACT

The Board hereby finds as follows:

1. The Variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents. The Variance is for reduction of the Minimum Building Height of 24 feet or 1.5 stories to 14 feet, which reduced building height is consistent with the height of numerous other structures in the neighborhood. In particular, homes on Beckwith Street and E. Wall Street are frequently one-story structures.

2. The Variance arises from special conditions or attributes which pertain to the subject real property and which were not created by the Applicant. The Applicant has not created the special conditions that the requested Variances address. The Variance is requested because the Applicant seeks to construct houses of a height that is consistent with the predominant pattern of the neighborhood.

3. The Variance will eliminate an unnecessary hardship and permit a reasonable use of the land. The Variance will allow for small single-family detached houses to be built on small lots in an existing neighborhood.

4. The Variance will allow the intent of the Zoning Ordinance to be observed and substantial justice done. As set forth in **Section 1322.11, Old Town Residential (OT-R) District, of the Zoning Ordinance**, the "purpose of the OT-R District is to recognize existing and older residential neighborhoods within the City of Charles Town that are characterized as having smaller Lots, smaller Setbacks, traditional grid Street pattern and access by Street or alley. These provisions for the OT-R District are designed to protect the character of these residential neighborhoods while permitting their maintenance and improvement. These standards also seek to encourage sensitively designed infill in keeping with the existing character of the OT-R District." The Variance is in accordance with the intent of the Zoning Ordinance to provide sensitively designed infill in a residential neighborhood.

5. The written report of Staff methodically details precise reasons why the Variance should be granted in accord with the requirements of 1321.11(E)(3) of the Zoning Ordinance, which written report has been carefully reviewed and considered by the Board, and the Board hereby adopts such reasons in their entirety and incorporates the same herein.

CONCLUSIONS OF LAW

Based upon the foregoing findings and for the reasons stated herein and based upon staff's recommendations, testimony presented, information contained in the Agenda Packet, and the discussion on the record, the Board, by a vote of four (4) in favor and zero (0) opposed, determines that Applicant's requested Variance satisfies the requirements of Section 1321.11(E)(3) of the Zoning Ordinance and should be granted. The Board hereby certifies that the Variance granted is the minimum variance that will make possible the reasonable use of the subject real property.

WHEREFORE, the Board hereby GRANTS the requested Variance, as presented and contemplated in the application, the public hearing, and herein, to reduce the Minimum Building Height of 24 feet or 1.5 stories to 14 feet upon the subject real property.[1]

This Decision is entered as of the date set forth below. Any person adversely affected by this Order may appeal same by Petition to the Circuit Court of Jefferson County within thirty (30) days of receipt hereof.

Entered

C. Locke Wysong, Jr., Chairman

1 In reviewing an application, the Board considers as true and accurate the representations of factual circumstances contained in the application and supporting documentation (the "Application Packet"). No action or decision of the Board shall be deemed its verification of any such representation or its approval of any conditions that actually exist but are not accurately represented in the Application Packet.

Except as expressly provided otherwise herein, the Board's actions and decision are (i) premised and conditioned upon the truth and accuracy of the representations contained in the Application Packet and (ii) strictly limited to the uses, structures, and undertakings proposed for the subject real property in the Application Packet.

The Applicant/Owner is responsible for ascertaining all relevant facts prior to undertaking activities upon the subject real property. In the event of uncertainty, the Applicant/Owner is advised to obtain an accurate survey of the subject real property, seek legal advice, or take other action, as appropriate, to resolve the uncertainty before undertaking activities upon the subject real property. Failure to do so is at the risk of the Applicant/Owner.

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/18/24
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

BA2024-02 - Opera House Variance

ATTACHMENTS:

- BZA Findings & Conclusions 2024-02.pdf

BEFORE THE BOARD OF ZONING APPEALS
OF THE CITY OF CHARLES TOWN, WEST VIRGINIA

In re: Docket No. BA 2024-02 – Application for Variances by Old Opera House Theatre Co., Inc.

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

This matter came before the Board of Zoning Appeals at its general meeting held on the 19th day of March, 2024, for public hearing upon the application for two (2) Variances filed by Old Opera House Theatre Co., Inc. (the "Applicant"). The subject real property is owned by the Applicant. Board members present were Chairman C. Locke Wysong, Jr., James Thomas, Jr., Christopher Cox, and Patrick Kratovil, being a quorum. Also present were the City's Zoning/Subdivision Administrator, James Newman, and the City's legal counsel, Michael Funk.

From a review of the record and confirmation by staff upon request, the Board found that proper notice was given of this hearing by publication and posting of the subject real property in accord with the Charles Town Zoning Ordinance.

The Applicant, Old Opera House Theatre Co., Inc., came before the Board requesting two (2) Variances pursuant to **Sections 1321.10(D)(4) and 1321.11(E) of the Zoning Ordinance** with respect to: (i) the Maximum Sign Area for a Projecting Sign of 6 square feet; and (ii) the required Sign Location for a Projecting Sign, being a maximum projection of 5 feet from the building wall, both as specified in **Section 1324.06(D), Signs Requiring a Permit – Projecting or Suspended Signs**, and **Table 1324.06B, Standards for Permanent Signs in the NC and OT-MUC Zoning Districts, of the Zoning Ordinance**. The subject real property consists of a parcel located in the Old Town Mixed Use Commercial (OT-MUC) District located at 204 N.

George Street and designated as Tax Parcel 2 on Tax Map 2A in Charles Town Corporation.

The Board first heard the presentation of the City's Zoning/Subdivision Administrator, James Newman, who reviewed the contents of the written report of the City's staff, a copy of which is contained in the Agenda Packet for the meeting and made part of the record in this matter, and explained the basis of staff's determination that the two (2) Variances sought by the Applicant satisfy the requirements of Section 1322.11(E)(3) of the Zoning Ordinance. Mr. Newman noted that: (i) the Applicant is seeking to install a projecting sign on the George Street/Liberty Street corner of the existing building on the subject real property; (ii) the Applicant's application requests an increase in the Maximum Sign Area of 6 square feet to 70 square feet; (iii) the application requests a variance in the required Sign Location, being an increase in the maximum projection from the building of 5 feet to 6.6 feet; (iv) the Applicant previously sought approval of the proposed signage from the Historic Landmarks Commission, which, on February 12, 2024, approved the same subject to the conditions that: (A) all required variances be granted; (B) sign lighting be static and not subject to motion, blinking, or similar changes; and (C) the sign be modified or removed if required or requested by the WV DOT due to traffic hazard; (v) the proposed sign shall be constructed of an aluminum frame with a plastic skin and sheet metal as necessary, with a height of 14 feet, width of 5 feet, and depth of 1 foot, and projection from the building of 18 inches or less, resulting in a maximum projection from the building of 6.6 feet; (vi) as a condition of a Sign Permit for a projecting sign, Section 1324.06(D)(3) of the Zoning Ordinance requires liability insurance coverage of no less than $500,000 per occurrence, and the Applicant's insurance agent has confirmed such coverage is in place; (vii) WV DOH provided to the Applicant a letter advising that: (A) WV DOH's understanding is that the proposed sign is to be placed on the side of the building parallel to Liberty Street, which is not a DOH-maintained right-of-way, such that the sign would not

encroach into the DOH-maintained right-of-way; (B) the proposed sign appears to be an acceptable static sign, and the sign cannot display flashing or moving images; (C) care should be taken to ensure the proposed sign does not interfere with visibility of the pedestrian crossing indicator; (D) it appears the proposed sign will not interfere with ant traffic signal-mounted detection systems; and (E) provided the above comments are considered, WV DOH has no objection to installation of the proposed sign; (viii) the proposed sign is a commercial sign within the commercial downtown; (ix) the proposed sign will be suspended 11.5 feet above ground level and will not block the sidewalk, block line-of-sight for traffic, or present a danger; (x) the building on the subject real property was built in 1912 and served as a movie theatre and is now used for stage performances; (xi) the proposed sign is a "marquee" type of sign traditionally attached to a theatre and brightly lit and visible to the public, and the sign has been approved by the Historic Landmarks Commission; and (xii) the proposed sign is not a standard business sign and it is instead a unique sign for a unique use. Staff recommended approval of the requested two (2) Variances subject to the conditions that: (i) sign lighting be static and not subject to motion, blinking, or similar changes; and (ii) the sign be modified or removed if required or requested by the WV DOT due to traffic hazard.

The Board next presented questions to Mr. Newman. Board member Kratovil asked for clarification that the prohibition on moving lights is also a DOH regulation. Mr. Newman confirmed the same and that the proposed sign will not involve moving lights. Board member Thomas requested details regarding the lighting of the sign and Mr. Rivard advised that the Applicant would address such details. Board member Cox asked for confirmation that the Historic Landmarks Commission also conditioned its approval on the absence of moving lights and Mr. Newman so confirmed.

The Applicant's Managing Director, Steven Brewer, next was sworn and testified. Mr.

Brewer presented a letter from the President of the Applicant's Board. Mr. Brewer explained that: (i) the Old Opera House's charm is largely on the inside and people do not notice the outside; (ii) the proposed sign, which is a type iconic to theatres, is an effort to change that situation and identify and differentiate the Old Opera House as a theatre; and (iii) he believes that the sign can be a source of great pride for Charles Town.

A representative from the Applicant's sign company, Mr. John Rouse, next appeared to address technical questions and was sworn. Board member Kratovil asked what lighting would be involved. Mr. Rouse explained that: (i) the goal is to marry a variety of lighting in the sign; (ii) the sign will be illuminated internally and not from outside sources shining upon it; and (iii) that all the lighting will be dimmable to allow for adjustment between day and night conditions. Board member Thomas requested confirmation that the actual sign will be approximately twice the size of a model sign presented to the meeting. Mr. Rouse confirmed that, but that the sign would be 11.5 feet above the ground on a two-story building. Board member Wysong inquired whether the sign was to be mounted on the Liberty Street side of the building or on the corner of the building. Mr. Rouse confirmed that it is to be mounted on the corner on a 45-degree angle so as to be visible from both streets. Board member Wysong also inquired whether the sign would be illuminated at all times or only at certain times, and at what time the latest theatre performances conclude. Mr. Rouse explained the sign will be fully controllable. Mr. Brewer stated that the sign would be on a timer, with greater illumination during performances and lesser illumination at other times, and that the latest performances conclude at 10:30 pm.

The Board had no further questions for the Applicant's representatives.

The Board next opened the meeting for public comment.

Micheal George appeared and was sworn. Mr. George stated that: (i) he is a Charles Town resident and involved with the Old Opera House; and (ii) he sees the sign more as a sign of

the City and, in an otherwise darker area, a welcoming to the City and advertisement of an important jewel of the City.

Rikki Twyford next appeared and was sworn. Ms. Twyford stated that: (i) she is a City Council member and on the board of the Old Opera House; (ii) she believes the sign is a fantastic idea that will bring great attention to the Old Opera House and Charles Town in general; and (iii) the City Council's Ordinance Committee is looking at signage guidelines to provide a better and more cohesive process.

Kevin Tester next appeared and was sworn. Mr. Tester stated that: (i) he is a member of City Council, but appears as a citizen and former Board member and President of the Applicant; (ii) the Old Opera House is a gem in the City and celebrated its 50th anniversary last year; (iii) the sign will mean the world to the Old Opera House and the City and bring uniqueness to a building that desperately needs it; (iv) the hope is that the sign will bring people to the theatre and downtown in general to visit restaurants and shop; and (v) the City and Old Opera House are historic and the proposed sign's design well represents the historic nature of the building.

Seth Rivard next appeared and was sworn. Mr. Rivard spoke to the hardship element, and stated that: (i) the intent of the Zoning Ordinance size limitations, in general, is to reduce clutter and those limitations works well; (ii) the Old Opera House is a different type of entity and business and a business that historically had signage similar to that proposed; and (iii) while legitimate questions concerning lighting may exist, downtowns are supposed to be active, bright spots in a community and there are benefits to that.

Julie Philabaum next appeared and was sworn. Ms. Philabaum stated that: (i) she is a member of City Council and the manager of Bushel & Peck and is in favor of the sign; (ii) visitors to Bushel & Peck often ask for directions and don't know where the Old Opera House is when it is referenced; and (iii) the Old Opera House truly is a gem in the City, but that gem

needs a little pizzazz and sparkle.

Jane Snyder next appeared and was sworn. Ms. Snyder stated that: (i) she moved to Jefferson County in 2004 and recently moved to Charles Town; (ii) despite living in Jefferson County for twenty years, she was unaware of the existence of the Old Opera House until neighbors informed her of it; and (iii) she is fully in favor of the sign.

No other members of the public appeared.

The City's legal counsel, Michael Funk, inquired whether the proposed sign will overhang the curb such that a vehicle making a turn at the corner might clip the sign and whether that possibility might be eliminated by raising the sign. Board member Wysong stated his belief that a stop light pole is on that corner and nearer the roadway such that the stoplight pole would be the first thing to be clipped. That information resolved Mr. Funk's concern.

Mr. Cox expressed a concern that the WV DOH's letter reflects an understanding that the sign is to be mounted on the Liberty Street side of the building, but the information presented shows the sign is to be mounted on the corner at a 45-degree angle. Mr. Tester explained that: (i) DOH's letter was received after a significant time and only after the Applicant requested that Delegate Clark become involved in communicating with WV DOH; (ii) Mr. Tester had the same concern when reviewing the DOH letter and he asked Delegate Clark whether DOH understood the intended location; and (iii) he was assured by Delegate Clark that DOH understood the intent that the sign be mounted on the corner diagonally.

Mr. Brewer next provided his final summation. Mr. Brewer stated that the Board had heard from several members of the public regarding their feelings for the Old Opera House and how the proposed sign will enhance the downtown area, thanked the Board for its consideration, and stated the Applicant thoroughly believes the sign will make a positive difference in the City.

Upon completion of the taking of testimony and argument, the Board closed the public

hearing and adjourned into executive session for deliberation.

After completing its deliberation and returning to open session, by motion duly made by Board member Kratovil and seconded by Board member Cox, the Board determined, by a vote of four (4) in favor and zero (0) opposed, that, in accordance with Section 1321.11(E)(3) of the Zoning Ordinance, the requested two (2) Variances should be granted, as presented, for the reasons set forth below.

FINDINGS OF FACT

The Board hereby finds as follows:

1. The two (2) Variances will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents. The proposed sign is a commercial sign within the commercial downtown, will be suspended 11.5 feet above ground level, and will not block the sidewalk, block line-of-sight for traffic, or present a danger.

2. The two (2) Variances arise from special conditions or attributes which pertain to the subject real property and which were not created by the Applicant. The Applicant has not created the special conditions that the requested Variances address. The building on the subject real property was built in 1912 and served as a movie theatre and is now used for stage performances.

3. The two (2) Variances will eliminate an unnecessary hardship and permit a reasonable use of the land. The proposed sign is a "marquee" type of sign that is traditionally attached to a theatre and brightly lit and visible to the public. The sign has been approved by the Historic Landmarks Commission. The proposed sign is not a standard business sign. It is a unique sign for a unique use.

4. The two (2) Variances will allow the intent of the Zoning Ordinance to be

observed and substantial justice done. As set forth in **Section 1322.12, Old Town Mixed Use Commercial (OT-MUC) District, of the Zoning Ordinance**, the "purpose of the OT-MUC District is to recognize the diversity of existing Uses and provide for a wide range of Uses in a manner that strengthens Charles Town's urban core, contributes to its historic character, minimizes impacts on adjacent land Uses, and provides connections to annexed properties. . . . The intent is also to encourage interaction among activities located within the OT-MUC District, to enhance business vitality, reduce vehicular traffic, increase access to and the use of transit services, provide employment opportunities for residents close to home, ensure the compatibility with each of the Commercial and residential Uses, ensure that the appearance and effects of Buildings and Uses are harmonious with the character of the area in which they are located by: . . . (2) Preserving and restoring the overall character of the OT-MUC District; . . . (4) Promoting the opportunity for people to work, interact, shop, dine, and utilize business and public services in the vicinity of their residences; . . . (7) Promoting a positive pedestrian environment in the OT-MUC District; . . . (9) Promoting a high level of design quality; . . . ." The requested two (2) Variances are in accordance with said purpose and intent of the Zoning Ordinance and will allow for a marquee sign that is business-enhancing, visually striking, and historically accurate.

5. The written report of Staff methodically details precise reasons why the Variance should be granted in accord with the requirements of 1321.11(E)(3) of the Zoning Ordinance, which written report has been carefully reviewed and considered by the Board, and the Board hereby adopts such reasons in their entirety and incorporates the same herein.

CONCLUSIONS OF LAW

Based upon the foregoing findings and for the reasons stated herein and based upon staff's recommendations, testimony presented, information contained in the Agenda Packet, and

the discussion on the record, the Board, by a vote of four (4) in favor and zero (0) opposed, determines that Applicant's requested two (2) Variances satisfy the requirements of Section 1321.11(E)(3) of the Zoning Ordinance and should be granted. The Board hereby certifies that the two (2) Variances granted are the minimum variances that will make possible the reasonable use of the subject real property.

WHEREFORE, the Board hereby GRANTS the requested two (2) Variances upon the subject real property, as presented and contemplated in the application, the public hearing, and herein, to: (i) increase the Maximum Sign Area for a Projecting Sign from 6 square feet to 70 square feet; and (ii) increase the maximum projection from the building wall for a Projecting Sign from 5 feet to 6.6 feet, subject in each case to the conditions that (A) sign lighting be static and not subject to motion, blinking, or similar changes; and (B) the sign be modified or removed if required or requested by the WV DOT due to traffic hazard.[1]

This Decision is entered as of the date set forth below. Any person adversely affected by this Order may appeal same by Petition to the Circuit Court of Jefferson County within thirty (30) days of receipt hereof.

Entered

C. Locke Wysong, Jr., Chairman

1 In reviewing an application, the Board considers as true and accurate the representations of factual circumstances contained in the application and supporting documentation (the "Application Packet"). No action or decision of the Board shall be deemed its verification of any such representation or its approval of any conditions that actually exist but are not accurately represented in the Application Packet.

Except as expressly provided otherwise herein, the Board's actions and decision are (i) premised and conditioned upon the truth and accuracy of the representations contained in the Application Packet and (ii) strictly limited to the uses, structures, and undertakings proposed for the subject real property in the Application Packet.

The Applicant/Owner is responsible for ascertaining all relevant facts prior to undertaking activities upon the subject real property. In the event of uncertainty, the Applicant/Owner is advised to obtain an accurate survey of the subject real property, seek legal advice, or take other action, as appropriate, to resolve the uncertainty before undertaking activities upon the subject real property. Failure to do so is at the risk of the Applicant/Owner.

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/18/24
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

BA2024-03 - Baylor Street Variances

ATTACHMENTS:

- BZA Findings & Conclusions 2024-03.pdf

BEFORE THE BOARD OF ZONING APPEALS
OF THE CITY OF CHARLES TOWN, WEST VIRGINIA

In re: Docket No. BA 2024-03 – Application for Variances by Alexander Salgado

FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

This matter came before the Board of Zoning Appeals at its general meeting held on the 19th day of March, 2024, for public hearing upon the application for three (3) Variances filed by Alexander Salgado (the "Applicant"). The subject real property is owned by the Applicant. Board members present were Chairman C. Locke Wysong, Jr., James Thomas, Jr., Christopher Cox, and Patrick Kratovil, being a quorum. Also present were the City's Zoning/Subdivision Administrator, James Newman, and the City's legal counsel, Michael Funk.

From a review of the record and confirmation by staff upon request, the Board found that proper notice was given of this hearing by publication and posting of the subject real property in accord with the Charles Town Zoning Ordinance.

The Applicant, Alexander Salgado, came before the Board requesting three (3) Variances pursuant to **Sections 1321.10(D)(4) and 1321.11(E) of the Zoning Ordinance** with respect to: (i) the Minimum Lot Size for Single-Family Detached Dwellings of 10,000 square feet; (ii) the Minimum Front Yard Setback of 20 feet; and (iii) the Minimum Rear Yard Setback of 20 feet, all as specified in **Section 1322.11, Old Town Residential (OT-R) District**, and **Table 1322.11, OT-R District Bulk and Area Regulations, of the Zoning Ordinance**. The subject real property consists of a parcel located in the Old Town Residential (OT-R) District on West Washington Street and designated as Tax Parcel 45 on Tax Map 1 in Charles Town Corporation.

The Board first heard the presentation of the City's Zoning/Subdivision Administrator,

James Newman, who reviewed the contents of the written report of the City's staff, a copy of which is contained in the Agenda Packet for the meeting and made part of the record in this matter. Mr. Newman noted that: (i) the Applicant is seeking to subdivide the existing parcel into two (2) buildable parcels upon each of which a single-family house could be developed; (ii) the Applicant's application requests a reduction in the Minimum Lot Size for Single-Family Detached Dwellings of 10,000 square feet to 5,152 square feet for the parcel to the northwest resulting from the subdivision and 5,257 square feet for the parcel to the southeast resulting from the subdivision; (iii) the application requests a reduction in the Minimum Front Yard Setback of 20 feet to 5 feet for the northwestern parcel; (iv) the application requests a reduction in the Minimum Rear Yard Setback of 20 feet to 5 feet for the northwestern parcel; (v) a plat recorded in the Office of the Clerk of Jefferson County, West Virginia, in Deed Book 165, at page 27, shows Baylor Street (labeled "Street"), with an alley running off Baylor Street to the southwest and what appears to be an alley running off Baylor Street to the northeast to the subject real property; (vi) a deed recorded in the aforesaid Clerk's office at Deed Book 1251, at page 297, for the parcel adjoining the southwest side of the subject real property references an alley on the rear line of said parcel; (vii) the desired subdivision of the subject real property would result in the northwestern parcel having ingress and egress by the alley and the southeastern parcel having frontage upon West Washington Street by means of a driveway, which would require WV DOH approval; (viii) a lot must have road frontage for development and subdivision purposes, which frontage is to be 70 feet in the OT-R District; (ix) because the front of the northwestern parcel would be its southwestern line that adjoins the alley, the resulting depth of the parcel of approximately 50 feet is insufficient to provide the required 20-foot Minimum Front Yard Setback and 20-foot Minimum Rear Yard Setback, thus requiring the desired setback Variances; and (x) the Applicant could develop the subject real property with one single-family house, while

the requested Variances would permit a small single-family house on each of the two parcels that would result from subdivision of the subject real property.

The Board next presented questions to Mr. Newman. Board member Cox asked for the City's position regarding Baylor Street and where it ends. Mr. Newman did not have that information. Board member Kratovil asked, regarding the requirement for WV DOH approval of a driveway for the southeastern parcel, whether it was known if WV DOH would approve the same. Mr. Rivard confirmed that WV DOH's position cannot be known until an application is submitted and WV DOH takes action.

The Applicant, Alexander Salgado, next was sworn and testified. Mr. Salgado explained that he had owned the subject real property for several years and, while he had intended to put a small rancher on the parcel, it occurred to him to explore a Variance to allow for development of two houses.

The Board had no questions for Mr. Salgado.

The Board next opened the meeting for public comment.

Shirley Tolbert appeared and was sworn. Ms. Tolbert stated that: (i) she owns the property at the corner of Washington Street and Baylor Street, at which her son, Michael, now lives; (ii) she is concerned that her children not need to resolve any title issues to her land; (iii) she is concerned about fire equipment access down the alley; and (iv) the alley has never been maintained by the City or the County.

Michael Tolbert next appeared and was sworn. Mr. Tolbert stated that: (i) the subject end of town has very complex issues; (ii) the alley is an unpaved, unnamed alley that sits in both the City and the County and is 20 feet wide, and that it is not Baylor Street, which runs off West Washington Street and is 30 feet wide; (iii) he believes the practice for subdivision is to have each lot have access off of a main street; (iv) the size of the existing parcel is not unreasonable

for a single home; and (v) he and his mother are not opposed to the Applicant building on the front of the subject real property but they are opposed to its subdivision into two lots.

Sherri Hutton next appeared and was sworn. Ms. Hutton stated that: (i) she owns the property that backs up to the subject real property; (ii) she opposes the proposed 5-foot setback and wants the required setback from her property maintained; (iii) her understanding is that the owner of the apartment building is responsible for paving the alley; and (iv) her understanding is that Baylor Steet stops at the end of the Tolbert parcel.

Robert Ryan next appeared and was sworn. Mr. Ryan stated that: (i) he appears on behalf of Lena, the owner of the adjacent property; (ii) they have no objection to building on property but have concerns with water line and facilities on the subject real property that serve Lena's and other properties; and (iii) the retaining wall on West Washington affects multiple parcels, including Lena's property.

No other members of the public appeared.

Mr. Salgado next provided his final summation. Mr. Salgado stated that: (i) he acknowledges the public's concerns are valid; (ii) he believes there is no issue with fire and similar vehicles accessing the property; (iii) WV DOH will have to approve driveway on Washington Street; and (iv) he has reached out to City regarding relocation of water facilities.

Upon completion of the taking of testimony and argument, the Board closed the public hearing and adjourned into executive session for deliberation.

After completing its deliberation and returning to open session, by motion duly made by Board member Cox and seconded by Board member Kratovil, the Board determined, by a vote of four (4) in favor and zero (0) opposed, that the requested three (3) Variances should be denied, as presented, for the reasons set forth below.

FINDINGS OF FACT

The Board hereby finds as follows:

1. The three (3) Variances would, if granted, adversely affect the public health, safety and welfare, and the rights of adjacent property owners or residents. Reduction of the Minimum Lot Size would facilitate subdivision of the subject real property, which is not appropriate because there would be no clear ingress or egress to and from the resulting northwestern parcel. The only possible access to that parcel would be from an alleyway that is narrow, unpaved, and uncertain of access by emergency vehicles, that may or may not legally exist, and for which no governmental entity has apparent responsibility. That alleyway runs into the subject real property but provides no true road frontage, let alone the 70-foot frontage required in the OT-R District. Reduction of the front and rear setbacks to 5 feet, or even 10 feet, is excessive, not consistent with the intent of the Zoning Ordinance, and would adversely impact adjoining owners – particularly when such setbacks are upon a parcel surrounded by other lots where no prevailing pattern applies.

2. The three (3) Variances would not eliminate an unnecessary hardship because no unnecessary hardship is present in the current situation. The subject real property can be developed with one single-family residence as it currently exists and without the requested variances. This is clearly shown by the fact that the Applicant recently developed the adjacent lot, which is of similar size and shape.

CONCLUSIONS OF LAW

Based upon the foregoing findings and for the reasons stated herein and based upon testimony presented, information contained in the Agenda Packet, and the discussion on the record, the Board, by a vote of four (4) in favor and zero (0) opposed, determines that Applicant's requested three (3) Variances do not satisfy the requirements of Section

1321.11(E)(3) of the Zoning Ordinance and should be denied.

WHEREFORE, the Board hereby DENIES the requested three (3) Variances, as presented and contemplated in the application, the public hearing, and herein.[1]

This Decision is entered as of the date set forth below. Any person adversely affected by this Order may appeal same by Petition to the Circuit Court of Jefferson County within thirty (30) days of receipt hereof.

Entered

C. Locke Wysong, Jr., Chairman

1 In reviewing an application, the Board considers as true and accurate the representations of factual circumstances contained in the application and supporting documentation (the "Application Packet"). No action or decision of the Board shall be deemed its verification of any such representation or its approval of any conditions that actually exist but are not accurately represented in the Application Packet.

Except as expressly provided otherwise herein, the Board's actions and decision are (i) premised and conditioned upon the truth and accuracy of the representations contained in the Application Packet and (ii) strictly limited to the uses, structures, and undertakings proposed for the subject real property in the Application Packet.

The Applicant/Owner is responsible for ascertaining all relevant facts prior to undertaking activities upon the subject real property. In the event of uncertainty, the Applicant/Owner is advised to obtain an accurate survey of the subject real property, seek legal advice, or take other action, as appropriate, to resolve the uncertainty before undertaking activities upon the subject real property. Failure to do so is at the risk of the Applicant/Owner.

Board of Zoning Appeals
101 East Washington Street
Charles Town, WV 25414

Meeting: 06/18/24
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

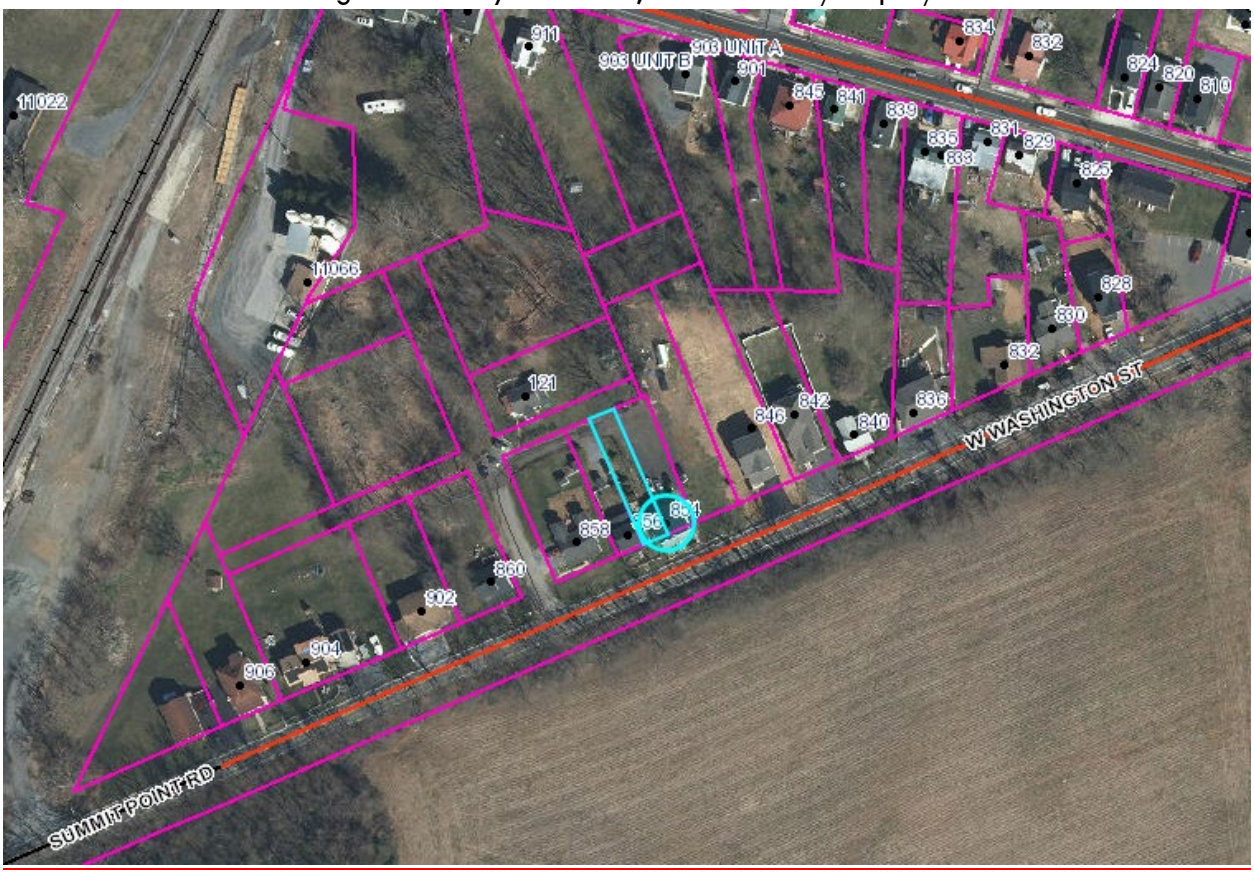
BA2024-04: Variance request for 854 W. Washington St.

ATTACHMENTS:

- 1. Staff Report.pdf
- 2. Application.pdf
- 3. Survey.pdf
- 4. Deeds.pdf

Public Hearing – Variance Request
BA-2024-04

Date: For the June 18, 2024 Board of Zoning Appeals meeting
Applicant: Alexander Salgado
Property Owner: Alexander Salgado
Report by: James Newman, City Planner, Zoning/Subdivision Administrator.
Location: 854 W. Washington and Baylor Streets, Tax District 3/Map 1/Parcel 43



OVERVIEW

The applicant is seeking to adjust the property line with the adjacent property at 856 W. Washington St, which would result in a smaller lot for 854 with reduced side yard setbacks and reduced lot size.

Applicant request variances to:

1. Reduce the side yard setback from the required 10 ft. to 3.9 ft.
2. Reduce the minimum lot size from the required 10,000 sq. ft. to 2,312 sq. ft.

OLD TOWN RESIDENTIAL ZONING DISTRICT

The Zoning Ordinance describes the Old Town Residential (OT-R) District as:

Purpose. The purpose of the OT-R District is to ***recognize existing and older residential neighborhoods*** *within the City of Charles Town that are characterized as having* ***smaller Lots***, ***smaller Setbacks***,

traditional grid Street pattern and access by Street or alley. These provisions for the OT-R District are designed to ***protect the character*** *of these residential neighborhoods while* ***permitting their maintenance and improvement****. These standards also seek to encourage* ***sensitively designed infill*** *in keeping with the existing character of the OT-R District.*

To maintain the scale and design of Buildings currently existing in OT- R District, it is important the ***scale and design*** *of* ***surrounding Buildings*** *be* ***taken into consideration when proposing*** *additions and* ***new Buildings****. The OT-R District also promotes interaction among activities located within the entire Old Town District area, which includes both the OT-R and Old Town Mixed Use Commercial District.*

The purpose of such interaction is to further enhance business vitality, reduce vehicular traffic, increase access to and the use of transit services, provide employment opportunities for residents close to home, ensure the compatibility among and between residential and downtown Commercial Uses, and ensure the appearance and effects of Buildings and Uses are harmonious with the character of the area in which they are located by:

1. *Preserving and restoring the overall character of the Zoning District;*
2. *Promoting a balance of land Uses;*
3. *Promoting the opportunity for people to work, interact, shop, dine, and utilize business and public services in the vicinity of their residences;*
4. *Promoting a positive pedestrian environment in the Zoning District;*
5. *Facilitating integrated physical design;*
6. *Promoting a high level of design quality; and*
7. *Facilitating development proposals responsive to current and future market conditions*

The table on the next page shows the regulations for development in the OTR zoning district.

Table 1322.11, OT-R District Bulk and Area Regulations

Maximum Density	
Minimum Lot Size	
Existing Lot of Record	No Minimum Lot Size
For Newly Created Lots the Following Standards Shall Apply:	
Single-Family Detached Dwelling	10,000 square feet
Duplex Dwelling	6,000 square feet
Multi-Family Dwelling	20,000 square feet
Townhouse Dwelling	2,000 square feet
Group Home	10,000 square feet
All Other	20,000 square feet
Minimum Lot Width	
Existing Lot of Record	No Minimum Lot Width[3]
Single-Family Detached Dwelling	70 feet
Two-Family Dwelling	80 feet
Duplex Dwelling	40 feet
Multi-Family Dwelling	100 feet
Townhouse Dwelling	18 feet
Group Home	70 feet
All Other	100 feet
Minimum Front Yard Setback	20 feet or Front Setbacks shall vary no more than 10% from the average Setbacks of the three Adjacent Properties to each side.[5]
Minimum Side Yard Setback	10 feet[1]
Minimum Rear Yard Setback	20 feet
Maximum Lot Coverage	70 percent
Minimum Building Height	Minimum = 24 feet or 1.5 stories
Maximum Building Height	35 feet (55 feet for Multi-Family)[2]
Maximum Stories	3 stories (4 stories for Multi-Family)

VARIANCES

A variance is a relaxation of the terms of the Zoning Ordinance where the Board of Zoning Appeals makes the findings specified in Zoning Ordinance Section 1321.11; a deviation from the minimum standards of the Zoning Ordinance and shall not involve permitting land Uses that are otherwise prohibited in the Zoning District nor shall it involve changing the Zoning District classification of a parcel of land. W.Va. Code Chapter 8A-7-11.

REVIEW CRITERIA

In order to issue a Variance, the Board must make the following written findings regarding the following:

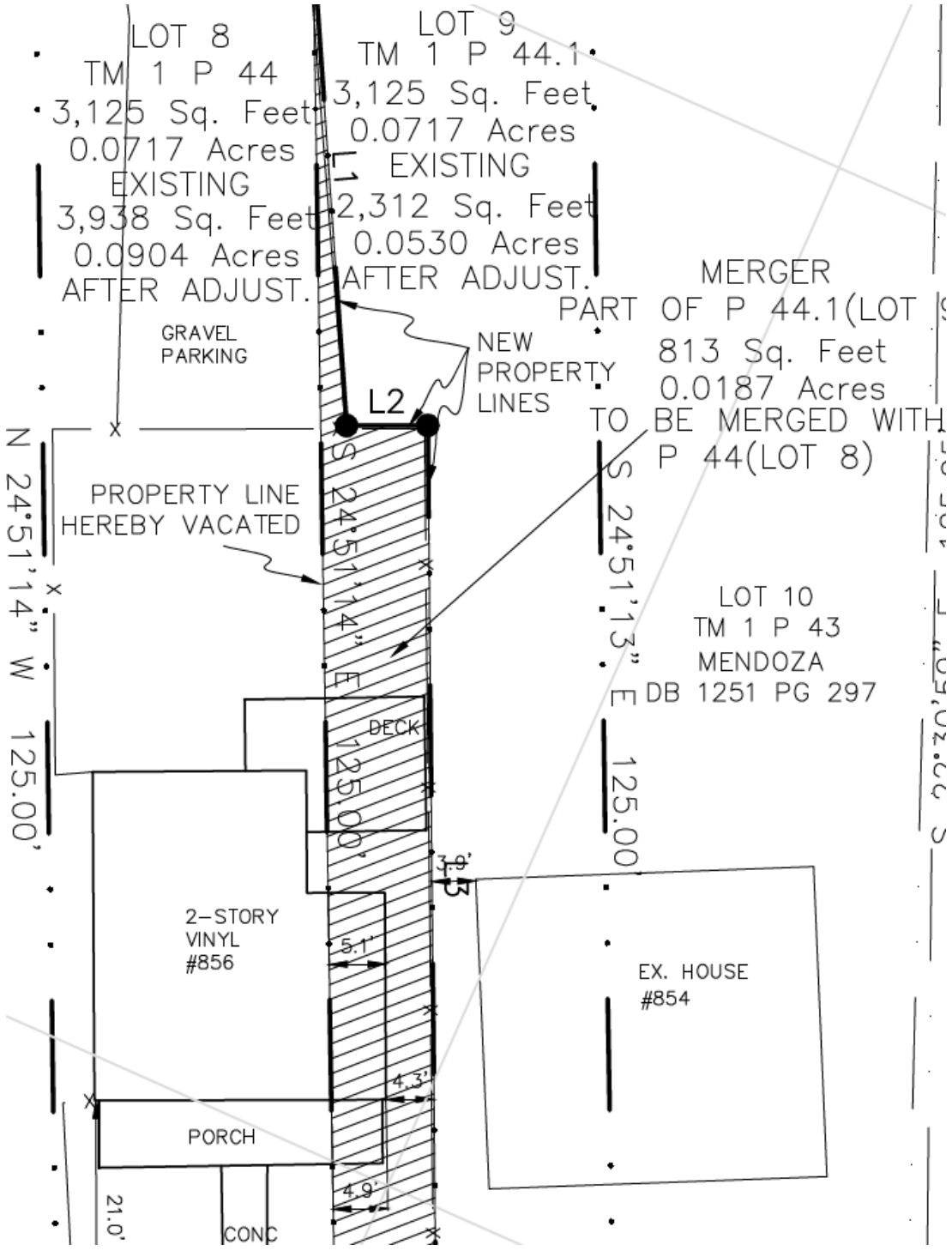
A. *Will not adversely affect the public health, safety or welfare, or the rights of Adjacent Property Owners or residents;*

Minimum lot size and reduced setbacks – joint response.

The house at 854 W. Washington St. is located on two parcels: Tax District 3/Map 1/Pacel 44.1 and Tax District 3/Map 1/Pacel 43. The adjacent property at 856 W. Washington is located on Tax District 3/Map 1/Pacel 44. The parcel subject to the request is highlighted in blue in the image below:



The applicant seeks to adjust the property lines so that a deck and other features on the 856 property are entirely on that property and do not spill encroach onto parcel 44.1. To that end, the applicant proposes to adjust the boundary lines and merge 813 sq. ft. of parcel 44.1 with 856 W. Washington St. See below:



As a result of the proposed merger, parcel 44.1 will be reduced in size from 3,125 s. ft. to 2,312 sq. ft. While there is no minimum lot size requirement for existing lots, the minimum lot size for a single family home is 10,000 sq. ft.

The required side yard setback is 10 ft; the existing setback is approximately 8.2 ft. In order to facilitate the boundary line adjustment and ensure the deck at 856 W. Washington is entirely within the adjusted property lines, the requested side yard setback is 3.9 ft.

The proposed changes will ensure that each house and its accessory structures (such as decks) will remain on parcels with separate ownership rather than crossing onto multiple properties.

B. *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;*

Minimum lot size and reduced setbacks – joint response.

The deck was built crossing the property line from 856 to 854 W. Washington Street. When the current owner of 856 purchased the property (after the deck was installed), they had a survey done and found the issue. The owner of 854 W. Washington has agreed to this boundary line adjustment, subject to approval of the variance requests.

C. *Would eliminate an Unnecessary Hardship and permit a reasonable Use of the land;*

Minimum lot size and reduced setbacks – joint response.

The variances will remove the hardship of having the physical development of one parcel encroaching onto a different parcel.

D. *Will allow the intent of the Zoning Ordinance to be observed and substantial justice done.*

Minimum lot size and reduced setbacks – joint response.

Per the OT-R *Purpose* statement:

"*The purpose of the OT-R District is to* ***recognize existing and older residential neighborhoods*** *within the City of Charles Town that are characterized as having* ***smaller Lots, smaller Setbacks****, traditional grid Street pattern and* ***access by Street or alley****.*

These provisions for the OT-R District are designed to ***protect the character*** *of these residential neighborhoods while* ***permitting their maintenance and improvement****. These standards also seek to encourage* ***sensitively designed infill*** *in keeping with the existing character…*"

The applicant's requested variance is in accordance with the intent of the Zoning Ordinance to provide for small lot size with a residential character.

CONCLUSION

The applicant is seeking the following variances:

	Required	Proposed	Variance
Minimum lot size	10,000	2,312	7,688 sq. ft
Side Setback	10 ft.	3.9 ft.	7.3 ft.

RECOMMENDATION

Approval.

BZA Variance No. _____

RECEIVED
MAY 01 2024
BY: VB

Lot 9 only

Board of Zoning Appeals

Application for Variance

To assist staff in the review of a variance application to the Board of Zoning Appeals (BZA), the applicant must supply all of the information contained in this application form. This application must be signed by **all owners** of the real estate which is the subject of the application. The owners may designate one or more professional agents to represent them in the application process using the spaces provided on this form.

Incomplete applications will be subject to scheduling delay. Applicants are encouraged to meet with staff prior to filing. A public hearing will be scheduled within 45 days of the receipt of a completed application.

Approval of a variance by the BZA does not relieve the applicant from other requirements including, but not limited to, signs, building, zoning and use permits or site plans.

As part of this application, the following must be provided:

1. $150.00 Application Fee.
2. A plat or building location survey of the subject property drawn to scale (see requirements below on Page 3).
3. As applicable, Building Permit, Zoning Permit, and Sign Permit Applications. Site plans (where applicable) may be submitted after the BZA application has been approved at the public hearing.

It is the **applicant's responsibility** to make a good-faith effort to provide the Zoning Administrator, as applicable, with a current list containing the accurate names and mailing addresses of all interested parties. For purposes of this provision, "interested parties" shall mean Landowners of Adjacent Property. The applicant shall provide the addresses in order to comply with Section 1321.10.G of the Zoning Ordinance.

Legal Notices

The following shall occur at least 15 days prior to the Public Hearing: notice of the hearing shall be advertised by the Board of Zoning Appeals as a Class I legal advertisement in the local newspaper, posting of a sign upon the property, and letters to adjacent and confronting land owners within 100 feet of the subject property.

Definition of a Variance

A variance is a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land.

The Charles Town Zoning Ordinance

A relaxation of the terms of the Zoning Ordinance where the Board of Zoning Appeals makes the findings specified in Section 1321.11(E)(3); a deviation from the minimum standards of the Zoning Ordinance and shall not involve permitting land Uses that are otherwise prohibited in the Zoning District nor shall it involve changing the Zoning District classification of a parcel of land. W.Va. Code Chapter 8A-7-11.

The West Virginia State Code

Section 8A-7-11 of the Code of West Virginia further provides that:

The Board of Zoning Appeals shall grant a variance to the Zoning Ordinance if it finds that **all** of the following can be met and the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. 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;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; **and**
4. Will allow the intent of the zoning ordinance to be observed and substantial justice done.

Plat Requirements

A plat or building location survey must contain the following information in order for the property to be thoroughly evaluated for conformance with all City Ordinances:

1. Plat must be drawn to scale.
2. Name of Engineer, Surveyor, or Architect who prepared plat.
3. Signature and Seal of Engineer, Surveyor, or Architect.
4. Date of plat and dates of any revisions.
5. Legend/Table on plat listing the following:
   a. Zoning of Subject Parcel
   b. Zoning of Subject Parcel
   c. Tax Map and Parcel Number
   d. Parcel Address
   e. Owner/Applicant's name and address
   f. Scale
6. North Arrow.
7. Parcel boundaries showing bearings and distances.
8. Size of parcel.
9. Location and dimensions of all existing and/or proposed buildings including accessory structures and additions.
10. Height and number of stories for all structures, if applicable.
11. Location of existing and/or proposed easements and well and septic where applicable.
12. Location of Floodplain where applicable.
13. Parking spaces/parking lots with calculations showing what is required and proposed, if applicable.
14. All setbacks in table format and drawn on the plat including what is required versus what is existing/proposed.
15. Landscaping as required in the Zoning Ordinance, if applicable.
16. Names of adjacent streets.
17. Tax Map/Parcel numbers and uses for all adjacent parcels, including those across the street/road.
18. List with any documentation of any previously approved variances, special exceptions, appeals, court decisions, conditions, proffers, or waivers granted for the subject property.
19. Any additional items deemed necessary by the Zoning Administrator.

BZA Variance No. _____

1. DATE April 25, 2024

2. APPLICANT'S NAME* Alexander Salgado Mendoza + Christina M. Salgado

   Address: 601 Eagle Ave, Charles Town WV 25414

   Telephone Number (703) 675-6193 Fax Number (___) _____

   Email Address KimHall@Brielpc.com

3. PROPERTY OWNER'S NAME SAME AS Above

   Address: _____

   Telephone Number (___) _____ Fax Number (___) _____

   Email Address Alexsalgado@gmail.com

4. LEGAL DESCRIPTION OF THE SUBJECT PROPERTY (List all parcels that apply)

   Property Address: 854 West Washington St., Charles Town

   Tax Map # and Parcel(s): 1 | 00044 0001 (Lot 9)

   Deed Book and Page #: 1251 @ 297

   Property Area in Square Feet or Acres: 0.0530 (After boundary line Adjustment)

5. DESCRIPTION OF THE EXISTING (OR FORMER) USE(S) OF THE PROPERTY AND CURRENT ZONING:

   Residential - Single family home

6. DESCRIPTION OF THE PROPOSED USE(S) OF THE PROPERTY: (Include the hours of operation and the activities to be conducted on the site. Be as specific about your proposed use as possible.)

   Residential - Single family home

*Applicants include: Property owner(s), Engineer(s), Surveyor(s), or Consultant(s)

BZA Variance No. _____

7. DESCRIPTION OF ANY PROPOSED WORK TO BE DONE TO THE PROPERTY: (i.e. – building additions, ADA compliance, etc.)

No proposed work - house already exists

8. DESCRIPTION OF THE VARIANCE REQUEST:

Side setback VARIANCE due to home on Lot 8 built 1970 encroches on Lot 9

9. LIST THE APPLICABLE SECTION(S) OF THE ZONING ORDINANCE FROM WHICH THE VARIANCE IS REQUESTED:

1322.11, OTR District Bulk + Area Regulation Minimum sideyard set back of 10 ft.
1322.11 B 2 A

10. IS THIS REQUEST CONSISTENT WITH THE PURPOSE AND INTENT OF THE CITY OF CHARLES TOWN ZONING ORDINANCE? Why or why not?

This will correct an error creating in 1970 when house was built.

11. IN YOUR OPINION, WOULD THE VARIANCE ADVERSELY AFFECT THE PULIC HEALTH, SAFETY OR WELFARE, OR THE RIGHTS OF ADJACENT PROPERTY OWNERS OR RESIDENTS?

NO

BZA Variance No. _____

12. IN YOUR OPINION, EXPLAIN HOW THE VARIANCE REQUEST 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:

House on Lot 8 was built approx 1970 and creates the encroachment into Lot 9

13. IN YOUR OPINION, HOW WOULD GRANTING THE VARIANCE ELIMINATE AN UNNECESSARY HARDSHIP AND PERMIT A REASONABLE USE OF THE LAND?

Correct the encroachment creates when Lot 8 house was built

14. IN YOUR OPINION, WOULD THE VARIANCE ALLOW THE INTENT OF THE ZONING ORDINANCE TO BE OBSERVED AND SUBSTANTIAL JUSTICE DONE?

Yes

15. HAS THE PROPERTY BEEN THE SUBJECT OF ANY COURT ACTION?

☐ Yes (Please specify nature of all proceedings and current status and attach any documents showing court decisions, etc.)

☒ No

16. PARCEL HISTORY (List all pending or previously approved applications on the subject parcels inventoried above, including previous site plan applications if this application is a site plan amendment) N/A

Application No.	Project Name and Phase	Status	Approval Date

17. INTERESTED PARTY ADDRESSES, FOR PUBLIC NOTICE (including across street) (Interested parties are defined as adjacent properties within 100 feet).

Owner	# and Street	City, State, Zip
Tumbleweed Tank LLC	856 W. Washington St.	Charles Town, WV 25414

BZA Variance No. _____

APPLICANT CERTIFICATION

I certify that, to the best of my knowledge, the submitted information and statements are true and correct. I also certify that I have received and read Article 1321 and relevant provisions of the Charles Town Zoning Ordinance outlining the City's Board of Zoning Appeals application and approval procedures.

Signature of Applicant

_____ Date 4/29/24

Signature of Owner(s) (If different than Applicant)

_____ Date 4/29/24

Please submit an original completed petition to the following:

Zoning Administrator
City of Charles Town
101 E. Washington Street
Charles Town, WV 25414

FOR CITY USE ONLY

Application Number:_____ Date Application Received:_____

Zoning District: _____

Fee: $_____ Check No._____ Receipt No._____

BZA Hearing Date:_____ Decision:_____

Comments:_____

_____

_____

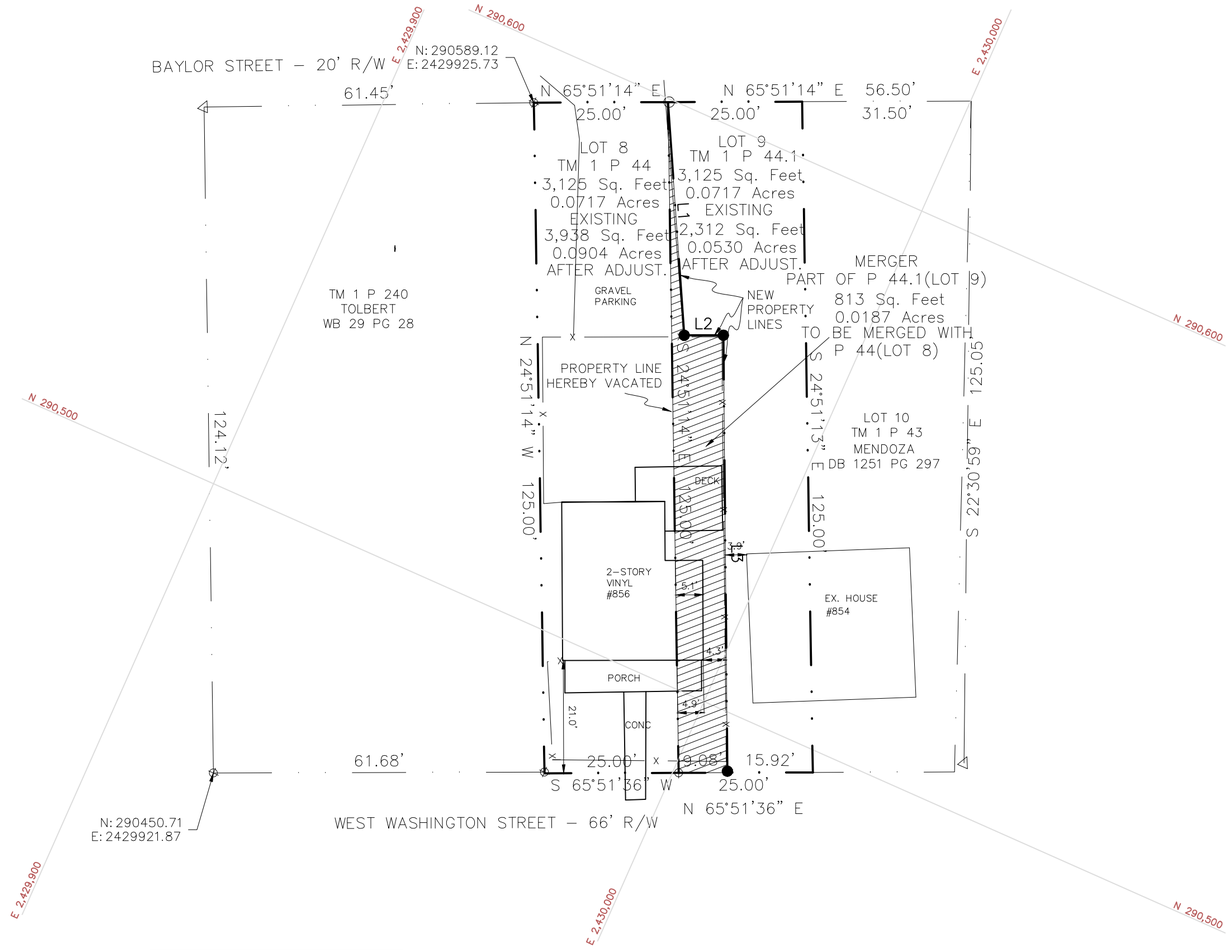
_____

_____

LEGEND:
- ⊗ FOUND IRON PIPE
- ○ FOUND 5/8" REBAR
- ◎ FOUND CAPPED REBAR
- ◁ FOUND STEEL PIN
- ● SET 5/8" REBAR & CAP

0 20 40 60

WEST VIRGINIA STATE GRID NORTH ZONE



LINE	BEARING	DISTANCE
L1	S 27°55'24" E	43.54'
L2	N 65°59'53" E	7.29'
L3	S 24°28'09" E	81.53'



VICINITY MAP
SCALE: 1" = 100'

NOTES:
1. BUILDING SETBACK REQUIREMENTS:
   20' FRONT
   10' SIDES, 0' ON PARTY WALL
   20' REAR
2. ZONING: OT-R (OLD TOWN RESIDENTIAL)
3. THIS PROPERTY IS NOT IN AN AREA DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, AS SHOWN ON FIRM COMMUNITY MAP/PANEL NUMBER 54037C0136E EFFECTIVE DATE DECEMBER 18, 2009.

THE PLATTING OR DEDICATION OF THE FOLLOWING DESCRIBED LAND BEING LOT 8 AND LOT 9, BLOCK 43, CHARLES TOWN MINING, MANUFACTURING AND IMPROVEMENT COMPANY PLAT RECORDED IN DEED BOOK X AT PAGE 1 IS WITH FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

LOT 8:

TUMBLEWEED JANE, LLC

LOT 9:

ALEXANDER S. MENDOZA

CHRISTINA M. SALAGO

SURVEYOR'S CERTIFICATE:
I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS A TRUE AND CORRECT SURVEY TO THE ACCURACY REQUIRED BY THE CITY OF CHARLES TOWN AND THAT THE MONUMENTS HAVE BEEN PLACED AS SHOWN HEREON

EDWARD L. JOHNSON JR.
PROFESSIONAL SURVEYOR #866

PLAT SHOWING A BOUNDARY LINE ADJUSTMENT
LOTS 8 & 9, BLOCK 43, CHARLES TOWN MINING, MANUFACTURING & IMPROVEMENT COMPANY
DEED BOOK X PAGE 1
THE PROPERTIES OF
TUMBLEWEED JANE, LLC
DEED BOOK 1316 PAGE 211 TAX MAP 1 PARCEL 44
AND
ALEXANDER SALGADO MENDOZA AND CHRISTINA M. SALGADO
DEED BOOK 1251 PAGE 297 TAX MAP 1 PARCEL 44.1
CHARLES TOWN CORPORATION, JEFFERSON COUNTY WEST VIRGINIA
SCALE: 1" = 20' APRIL 24, 2024

OWNERS/DEVELOPERS
TUMBLEWEED JANE, LLC
4028 NOVA LANE
NAPLES, FL 34119

ALEXANDER MENDOZA & CHRISTINA SALGADO
854 WEST WASHINGTON ST.
CHARLES TOWN, WV 25414

REVISIONS:

SHEET 1 OF 1

ED JOHNSON AND ASSOCIATES, INC.
LAND SURVEYORS
674 ACORN CIRCLE
HARPERS FERRY, WEST VIRGINIA 25414
(304)725-6060

ALAMO TITLE COLLEYVILLE - 6200 COLLEY
6200 COLLEYVILLE BLVD
COLLEYVILLE TX 76034-6223

Jefferson County
Jacqueline C Shadle, Clerk
Instrument 202400000389
01/09/2024 @ 12:43:49 PM
DEED
Book 1316 @ Page 211
Pages Recorded 4
Recording Cost $ 52.00
Transfer Tax $ 747.25
Farm Land Tax $ 335.50
E-Recorded

BOOK 1316 PAGE 211

After Recording Return To:
Voxtur
5404 Cypress Center Drive, Suite 150
Tampa, FL 33609

This Instrument Prepared By:
National Deed Network, Inc.
36181 East Lake Road #382
Palm Harbor, FL 34685

ALAMO TITLE COMPANY
GF 6000152301079-813

SPECIAL WARRANTY DEED

New Owner/ Property Being Conveyed
TumbleWeed Jane, LLC
856 W Washington Street
Charles Town, WV 25414

Send Tax Bills To:
TumbleWeed Jane, LLC
4028 Nova Lane, Naples, FL 34119

Map & Parcel: 19-03-0001-0044-0000

File #: AWV23-67616.02
Consideration Amount: $152,250.00

This deed, made the 25th day of October, in the year 2023 by and between LAKEVIEW LOAN SERVICING, LLC, of c/o Nationstar Mortgage, LLC, 8950 Cypress Waters Blvd, Coppell, TX 75019, as Grantor, and TUMBLEWEED JANE, LLC, as Grantee, whose mailing address is 4028 Nova Lane, Naples, FL 34119, all right title and interest that we may have in and to the following described real property located in the County of Jefferson, West Virginia, to wit:

SEE LEGAL DESCRIPTION ATTACHED AS EXHIBIT "A"

Property Address: 856 W Washington Street, Charles Town, WV 25414

Seller to convey the title by special warranty deed without any other covenants of the title or the equivalent for the state the property is located. Seller makes no representations or warranties, of any kind or nature whatsoever, whether expressed, implied, implied by law, or otherwise, concerning the condition of the property.

IN WITNESS HEREOF, Grantor has hereunto set their hand and seal the day and year first above written.

LAKEVIEW LOAN SERVICING, LLC, By Albertelli Law as Attorney in Fact for Nationstar Mortgage, LLC, as Attorney in Fact

By: _____

Title: Authorized Signer

Printed Name: Jaclyn Palazzolo

STATE OF Florida }

COUNTY OF Hillsborough }

Personally appeared before me, the undersigned Notary Public in and for said County and State, the within named Jaclyn Palazzolo its Authorized Signer of Albertelli Law as Attorney in Fact for Nationstar Mortgage, LLC as Attorney in Fact for LAKEVIEW LOAN SERVICING, LLC, the Grantor, with whom I am personally acquainted (or who has/have proven to me on the basis of satisfactory evidence), and who has/have acknowledged that he/she/they executed the within Special Warranty Deed for the purposes therein contained.

Witness my hand and official seal this the 25th day of October, 2023.

STEPHANIE CRANFORD
Commission # HH 241279
Expires March 16, 2026

_____
Notary Public
My Commission expires:

DECLARATION OF CONSIDERATION OR VALUE: The undersigned hereby declares that the total consideration paid for the property herein conveyed is ONE HUNDRED FIFTY TWO THOUSAND TWO HUNDRED FIFTY and 00/100 Dollars ($152,250.00).

LAKEVIEW LOAN SERVICING, LLC By Albertelli Law as Attorney in Fact for Nationstar Mortgage, LLC, as Attorney in Fact

By: _____

Title: Authorized Signer

Printed Name: Jaclyn Palazzolo

EXHIBIT "A"

ALL THAT CERTAIN lot or parcel of real estate, with the improvements thereon and the appurtenances thereunto belonging, situate in Charles Town [now Charles Town Corporation] District, Jefferson County, West Virginia, being more particularly bounded and described as follows:

All that certain parcel of land, improved by a dwelling house, situate in the City of Charles Town, Jefferson County, West Virginia, more particularly designated and described as Lot 8, in Block No. 43 on the plat of the land of the Charles Town Mining, Manufacturing and Improvement Company, which plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Deed Book X at Page 1, said lot fronting 25 feet on the north side of West Washington Street and extending back northwardly between parallel lines 125 feet to an alley in the rear.

STC 12:39

STATE TAX COMMISSIONER OF WEST VIRGINIA
SALES LISTING FORM

The Instrument May Not Be Recorded If This Form Is Not Completed In Its Entirety

West Virginia Code §§11-22-6, 11A-3-2 & 11A-3-3 (Amended 3-11-95) Revised 8/12

County: Jefferson Taxing District: 03-Charles Town Corp
Tax Map No.(s): 1 Parcel(s): 03-01-0044-0000
Tax Map No.(s): Parcel(s):
Account #: 00007419
Mineral ID #:
Grantor's Name: Lakeview Loan Servicing, LLC, c/o Nationstar Mortgage LLC Phone No. (813) 454 - 0300
Grantee's Name: Tumbleweed Jane LLC Phone No. (267) 481 - 0937
Mailing Address of New Owner: 4028 Nova Lane Naples, FL 34119
Mailing Address for Tax Statements: 4028 Nova Lane Naples, FL 34119
Most Recent Previous Deed Book No.: 1230 Page No.: 251
Grantor's Source of Title: Foreclosure Company
(If not by "Previous Deed" referenced above.)

	(a) Real Estate:	(b) Other Valuable Goods/Services: (If Applicable)
Consideration/Value:	$ 152,250.00	$

Lot Size or Acreage Involved: 0.072
Estate(s) Transferred:
(Examples: Fee, Surface, Mineral, Coal, etc.)

(1) Was this transaction on the open market?	Yes / No	(Circle One)
(2) Does this transaction involve more than one parcel?	Yes / No	(Circle One)
(3) Was this sale between related individuals or related corporations?	Yes / No	(Circle One)
(4) Was this a liquidation, foreclosure or other "Forced" sale?	Yes / No	(Circle One)
(5) Is this transaction pursuant to a land contract or owner financing?	Yes / No	(Circle One)
(6) Does this transaction include personal property?	Yes / No	(Circle One)
(7) Does this transaction include minerals and/or timber?	Yes / No	(Circle One)
(8) Any other financing arrangements materially affecting consideration?	Yes / No	(Circle One)
(9) Is this a mineral sale only?	Yes / No	(Circle One)

If "No" to Question 1 or "Yes" to Questions 2 - 8 above, please explain below:
Explanation: Foreclosure Sale

Printed Name Corsha Smith Signature Corsha Smith Phone Number 817-428-6996
Filed By (check one): ☐ Buyer ☐ Seller ☐ Agent/Attorney ☒ Other Escrow Assistant

LIENHOLDER INFORMATION (OPTIONAL) ☐ Check if change of name or address
Name:
Address for Notice:

INTEREST IN PROPERTY

_____ Surface Owner's Rights
_____ Fiduciary Interest
_____ Lienholder
_____ Other

Deed Book: _____ Page No.: _____
Relationship to Owner: _____
Trust Deed Book No.: _____ Page No.: _____

To Be Completed By County Clerk:	
Stamp Fee Paid:	$ 747.25 $
Date Recorded:	01/09/2024
New Deed Book No.:	
New Deed Book Page No.:	1316
Date of Transaction:	211

Sheriff's Use Only	
Date Received:	
Effective Dates of Lien:	
Date Entered:	
Entered By:	
Tax Ticket No.:	

10/25/2023 **RELEASE OF LIEN**
COMPLETE THIS SECTION IF YOU ARE RELEASING THIS LIEN

Date Lien Is Released:
Signature of Lienholder:

COPIES: (1) ASSESSOR (2) SHERIFF (3) TAX COMMISSIONER

ALEXANDER SALGADO MENDOZA
CHRISTINA SALGADO
854 WEST WASHINGTON STREET
CHARLES TOWN WV 25414-1770

Jefferson County
Jacqueline C Shadle, Clerk
Instrument 202000014947
11/04/2020 @ 12:17:46 PM
DEED
Book 1251 @ Page 297
Pages Recorded 4
Recording Cost $ 46.00
Transfer Tax $ 1004.50
Farm Land Tax $ 451.00

This document was prepared by:

Tasha Keller Catrow, Esq.
Catrow Law PLLC
300 Foxcroft Avenue, Suite 200
Martinsburg, WV 25401

After recording please return to:
Alexander Salgado Mendoza and Christina M. Salgado
854 West Washington St
Charles Town, WV 25414

THIS DEED, made and entered into this 30th day of October, 2020, by and between **George Street LLC,** a West Virginia limited liability company, hereinafter party of the first part, and **Alexander Salgado Mendoza and Christina M. Salgado,** hereinafter parties of the second part.

WITNESSETH: That for and in consideration of payment of $205,000.00, the receipt of which is hereby acknowledged, the party of the first part does hereby grant, bargain, sell and convey, and by these presents has granted, bargained, sold and conveyed, to and unto the said parties of the second part, as joint tenants with rights of survivorship and not as tenants in common, in fee simple, with covenants of general warranty, all of that certain lot or parcel of real estate, with the improvements thereon and the appurtenances thereunto belonging, situate, lying and being in Charles Town Corp, Jefferson County, West Virginia, and more particularly described as follows:

First Parcel: Lots Nos. 9 and 10, Block 43, as more particularly bounded and described according to a plat of survey of the Charles Town Mining, Manufacturing, and Improvement Company dated and recorded in the Office of the Clerk of the County Council of Jefferson County, West Virginia, in Deed Book X, at Page 1, the said lots fronting about 51.4 feet on the north side od (West) Washington Street and extending back northwardly about 125 feet to an alley in the rear upon which they from about 56.5 feet, and being known for postal purposes as: 854 W. Washington Street, Charles Town, West Virginia.

District: 03-Charles Town Corp; Tax Map 1, Parcels 0044 0001 (Lot 9) and 0043 0000 (Lot 10).

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Martinsburg, WV 25401
304-579-1211

Second Parcel: A lot fronting about 60 feet on the north side of West Washington Street adjoining Lot No. 10 aforesaid on the east, and extending back northwardly 65 or 70 feet.

District: 03- Charles Town Corp; Tax Map 1, Parcel 0045 0000 0000.

Third Parcel: A lot fronting about 28 feet on the north side of West Washington Street, east of the Second Parcel aforesaid (from which it is separated by a 12-foot strip), and extending back northwardly about 50 feet.

District: 03- Charles Town Corp; Tax Map 1, Parcel 0046 0000 0000.

Fourth Parcel: A lot fronting back about 12 feet on the north side of West Washington Street between and Second parcel and the Third Parcel and extending back northwardly 215 or 235 feet, widening in the rear so as to encompass all the land in the rear of the Second and Third Parcels between the western boundary of the former extended and the eastern boundary of the later extended.

District: 03- Charles Town Corp; Tax Map 1, Parcel 0042 0000 0000.

Fifth Parcel: All of Lot Number 844 on West Washington Street, fronting on the West side of Washington Street 4 feet, CONTAINING one-fifth of an acre, more or less, being the same real estate which was conveyed to Aldridge H. Young, now deceased, and his wife, Katherine Young (now Katherine Young Carter, a widow) by deed dated December 1, 1954, by Pleasant Scott, et ux., of record in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Deed Book No. 202, at Page 300 to which said deed reference is made for further description of said real estate.

District: 03- Charles Town Corp; Tax Map 1, Parcel 0047 0000 0000.

CURRENT PROPERTY ADDRESS: 854 West Washington St, Charles Town, WV 25414

And being the same real estate conveyed to George Street LLC by Deed dated June 11th, 2015 from John Mao and recorded in the Office of the Clerk of the County Council of Jefferson County, West Virginia in Deed Book 1158 at Page 374.

THIS CONVEYANCE IS SUBJECT TO and TOGETHER WITH the following: all covenants, restrictions, conditions, easements, reservations, rights-of-way; public

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Martinsburg, WV 25401
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utility easements, and other matters of record or in existence, to the extent valid, subsisting, and enforceable, including but not limited to those plat matters of record in the aforementioned Clerk's office in Plat Book X at Page 1; those covenants, conditions, and restrictions of record in the aforementioned Clerk's Office; and those easements or rights-of-way of record in the aforementioned Clerk's office; any lien of taxes for the current year and subsequent years, accrued but not yet payable; matters that would be shown by an accurate survey and inspection of the property; zoning requirements, statutes, rules, orders, restrictions, regulations, and ordinances of governmental agencies or their instrumentalities relating to the property, the buildings located thereon, their construction and uses, in force on the date hereof (if any such exist); and, all roads and legal highways.

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Martinsburg, WV 25401
304-579-1211

DECLARATION OF CONSIDERATION OR VALUE

Under the penalties of fine and imprisonment as provided by law, the undersigned party of the first part does hereby declare that the total consideration of the property transferred by the document to which this declaration is appended is Two Hundred Five Thousand Dollars and 00/100 Cents ($205,000.00).

The party of the first part further hereby does certify that, under the penalties of perjury, this transaction is not subject to the Withholding Tax on West Virginia Source Income of Non-Residents, as the Grantor is a resident of the State of West Virginia, or, alternatively, the property herein conveyed was the principal residence of the Grantor as defined in IRC §121.

WITNESS the following signature and seal:

George Street LLC

Jeffrey C. Haymaker, sole member

STATE OF WEST VIRGINIA,

COUNTY OF BERKELEY, TO-WIT:

I, Kerri S Smith, a notary public in and for the County and State aforesaid, do certify that Jeffrey C. Haymaker, sole member of George Street LLC, a limited liability company, on behalf of the limited liability company, whose name is signed to the writing hereto annexed, dated this 30th day of October, 2020, has this day acknowledged the same before me in my said County.

Given under my hand this 30th day of October, 2020.

Notary Public

My commission expires: May 9 2022

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
KERRI S. SMITH
CATROW LAW, PLLC
300 FOXCROFT AVENUE, SUITE 200
MARTINSBURG, WV 25401
My commission expires May 9, 2022

201018

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