CITY OF CHARLES TOWN
BOARD OF ZONING APPEALS
AGENDA • APRIL 15, 2025

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 : Draft Minutes - February 19, 2025
Draft Minutes.pdf

IV. APPROVAL OF FINDINGS OF FACTS AND CONCLUSIONS OF LAW

IV.1 : BA2024-10 - 418 S. Samuel St - Variance Request
Findings of Fact.pdf

V. PUBLIC HEARINGS

V.1 : **BA2025-01** - 412 S. Lawrence St . -Mark Roper Variance Request
1. Staff Report.pdf
2. Application.pdf
3. Narrative.pdf
4. Proposal.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

SCHEDULED

Meeting: 04/15/25
Department: Board of Zoning Appeals
Category: Report
Initiator:

AGENDA ITEM (ID #)

Draft Minutes - February 19, 2025

ATTACHMENTS:

- Draft Minutes.pdf

CITY OF CHARLES TOWN

BOARD OF ZONING APPEALS

MINUTES • February 19, 2025

BZA Meeting **COUNCIL CHAMBERS** **7:04 PM**

101 East Washington Street, Charles Town, WV 25414

DRAFT

1. CALL TO ORDER

Present: Locke Wysong, Chair
Christopher Cox
Jim Thomas
Anita Finkelstein

Staff: James Newman, Zoning Administrator
Stephanie Grove, Attorney, Attending Virtually
Wendy Schutz, Permit Technician

2. DETERMINATION OF QUORUM

3. APPROVAL OF MINUTES

3.1: Minutes – December 17, 2024

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

4. APPROVAL OF FINDINGS OF FACTS AND CONCLUSIONS OF LAW

BA2024-08, 09 approved as a group

RESULT:	**Approved**
MOVER:	Cox
SECONDER:	Locke
AYES:	Cox, Thomas, Finkelstein, Wysong

5. PUBLIC HEARINGS

5.1: BA2024-10: 418 S. Samuel St. - Variance request from Mark Roper

Staff presentation

Applicants' consultant, Seth Rivard sworn in. Spoke regarding how the deck is currently higher than the proposed sunroom will be and how there will be a higher level of privacy; how the sunroom will be fire resistant and how the location is the only place to add a sunroom to the home. Spoke about the berm that the neighbor had created on the adjourning property to deal with water run-off and that until Mr. Roper received the letter from the neighbor, he had no knowledge of an issue.

Board discussion about privacy, the current deck height vs the height of the sunroom, the privacy fence and the issue of possible water run-off.

Mark Roper was sworn in.

Applicant Roper stated that he has only seen water on the property one time and that was from a huge rainstorm we had many years ago. He had no knowledge of any water run-off issues, and he has owned the house since 1995.

Board discussion about water run-off and how the gutters would run. Discussed the slope of the land and how water runs off the property towards the alley.

Chair Wysong opened the meeting to public comment.

A letter from Albert DeRonda was read into the record.

Chair Wysong closed the public comment.

Motion to enter deliberation at 7:23 pm

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

Motion to resume at 7:43 pm

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

Motion to approve the variance request with conditions as presented:

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

Condition: The five-foot setback is limited to the length of the proposed sunroom and all water run-off from that side of the house roof that goes down onto the sunroom must be diverted in a direction away from the neighbor at 412 S Samuel Street.

DRAFT

6. CONTINUED CASES

None

7. OTHER BUSINESS

7.1 Election of Officer: Chair of the Board

Chris Cox nominated Locke Wysong as Chair and Jim Thomas as Co-Chair.

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

James spoke regarding the re-write of the Zoning & Subdivision Ordinances and stated a member from the BZA would be nice to have on the committee. Chair Wysong stated he had been in discussions with Stephanie Grove regarding a possible conflict of interest due to the BZA being a quasi-judicial group. He further stated the board would be able to give an opinion on matters but not be on the direct committee that has the discussions and makes the decisions.

8. ADJOURNMENT

Adjournment at 7:49 pm

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

DRAFT

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

Meeting: 04/15/25
Department: Board of Zoning Appeals
Category: Report
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SCHEDULED

AGENDA ITEM (ID #)

BA2024-10 - 418 S. Samuel St - Variance Request

ATTACHMENTS:

- Findings of Fact.pdf

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

In re: Docket No. BA 2024-10 – Application for Variance by Mark Roper and Arthena Sewell

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 February 2025 for public hearing upon the application for a Variance filed by Mark Roper and Arthena Sewell (hereinafter the "Applicant"), who are also the owners of the subject property. Board members present were Chairman C. Locke Wysong, Jr., Christopher Cox, Jim Thomas, and Anita Finkelstein, being a quorum. Also present were the City's Zoning/Subdivision Administrator, James Newman, the City's Permit Technician, Wendy Schutz and the City's legal counsel, Stephanie F. Grove, via virtual attendance.

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 accordance with the Charles Town Zoning Ordinance.

The Applicant came before the Board requesting a Variance pursuant to **Sections 1321.11, OT-R and 1321.11(E) of the Zoning Ordinance** to reduce the setback variance from 10 feet to 5 feet and an increase in lot coverage from 70% to 72.5%. The subject real property consists of one (1) parcel with a single family dwelling, located in the Old Town Residential Zoning District, Tax Parcel 28 on Tax Map 3 of the 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 also 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 the Applicant is seeking a variance of the side setback and maximum lot coverage requirements to construct a sunroom on the property. Mr. Newman reviewed the purpose of the Old Town Residential district and recommended approval after review of each criteria applicable to the variance request.

The Applicant's representative, Seth Rivard, next was sworn and testified. Mr. Rivard explained that the current deck is higher than the proposed sunroom, and as a result, the construction of the sunroom will result in a greater degree of privacy for both the applicant and the neighbor. Additionally, Mr. Rivard explained that the sunroom could only be added in the proposed location due to the design of the home and would result in a greater degree of fire protection as the proposed sunroom will be constructed of fire resistant materials. Mr. Rivard also addressed the neighbor's letter concerning the proposed project, stating that the neighbor had created a berm to control the water run-off and that Mr. Roper had no knowledge of any issue with run-off until he received the letter from the neighbor in response to his variance request.

The applicant, Mr. Roper, was next sworn in and testified. Mr. Roper stated that he had only witnessed water on the property on one occasion which occurred during a significant rain event several years ago. He stated that he did not have any additional knowledge of run-off issues and that he had owned the property since 1995.

The Board asked questions about the water run-off and how the gutters on the proposed sunroom would be installed. Additionally, the Board discussed the slope of the land and how the water runs off the property towards the alley.

The Board then opened up the hearing for public comment. A letter from Albert DeRonda, owner of the neighboring property located at 412 S Samuel Street, was read into the record. Mr.

De Ronda's letter related to concerns about the water runoff from the property.

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 Thomas, 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, with conditions, 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. There is already an accessory structure closer than 5 ft to the property line, which is visible in the staff photographs and aerial image. A 6ft tall wooden privacy fence separates the proposed sunroom from the adjacent property. Currently a deck is in the location of the proposed sunroom. The deck is 30 inches above ground level, whereas the floor of the sunroom will be about a foot lower than grade. One of the purposes of setbacks is to act as a firebreak. The sunroom will have a metal roof, glass windows, and cement-style siding, making it more fire resistant than the current deck.

2. The need for the Variance arises from special conditions or attributes of the property. According to the applicant's testimony and written submissions, the request for the variance arises from the layout of the existing home. With the layout of the house, the only functional location to install the sunroom is in the proposed location. There is an existing deck attached to the home. A portion of that will be removed and replaced with the proposed sunroom.

To have a functionally useable space, in consideration of the existing home layout, the variance is requested. The requested setback reduction is specific and only for the proposed sunroom, not the entire home.

3. The Variance will eliminate an unnecessary hardship and permit a reasonable use of the land. The applicant states that their hardship is the layout of the house, necessitating the location of the sunroom in a specific area requiring variances. The lack of a sunroom is not a hardship, although it is a reasonable use of the land.

4. The Variance will allow the intent of the Zoning Ordinance to be observed and substantial justice done. The stated purpose of the Old Town Residential District is to "recognize existing and older residential neighborhoods within the City … that are characterized as having smaller Lots, smaller Setbacks... These provisions for the OT-R District are designed to protect the character of these residential neighborhoods while permitting their maintenance and improvement… it is important the scale and design of surrounding Buildings be taken into consideration when proposing additions and new Buildings." *City of Charles Town Zoning Ordinance,* Section 1322.11 (A). The proposed variances will allow for the construction of a common home addition, which, while closer to the neighboring property, is less obtrusive and more fire resistant than the current decking, and is in keeping with the residential character of the zoning district.

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, determined that the Applicant's requested Variance satisfies the requirements of Section 1321.11(E)(3) of the Zoning Ordinance and should be granted with conditions. The Board hereby certifies that the Variance granted is the minimum variance that will make possible the reasonable use of the subject real property.[1]

WHEREFORE, the Board hereby GRANTS the requested Variance to reduce the side setback to five feet and increase the maximum lot coverage to 72.5%, with the condition that the five-foot setback is limited to the length of the proposed sunroom and that all water run-off from the roof that goes down onto the sunroom must diverted in a direction away from the neighbor located at 412 S Samuel Street.

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: 04/15/25
Department: Board of Zoning Appeals
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

BA2025-01 - 412 S. Lawrence St . -Mark Roper Variance Request

ATTACHMENTS:

- 1. Staff Report.pdf
- 2. Application.pdf
- 3. Narrative.pdf
- 4. Proposal.pdf

Variance Request
BA-2025-01

Date: For the April 15, 2025 Board of Zoning Appeals meeting
Applicant: Mark Roper
Property Owner: ROPER MARK E
Report by: James Newman, City Planner, Zoning/Subdivision Administrator.
Location: 412 S. Lawrence St. (Tax District 3/Map 3/ Parcel 28)



OVERVIEW

The applicant is requesting variances from the side yard setback requirements for the construction of a single-family detached home on a vacant lot.

ZONING

The property is zoned Old Town – Residential.

OLD TOWN RESIDENTIAL ZONING DISTRICT

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

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.*

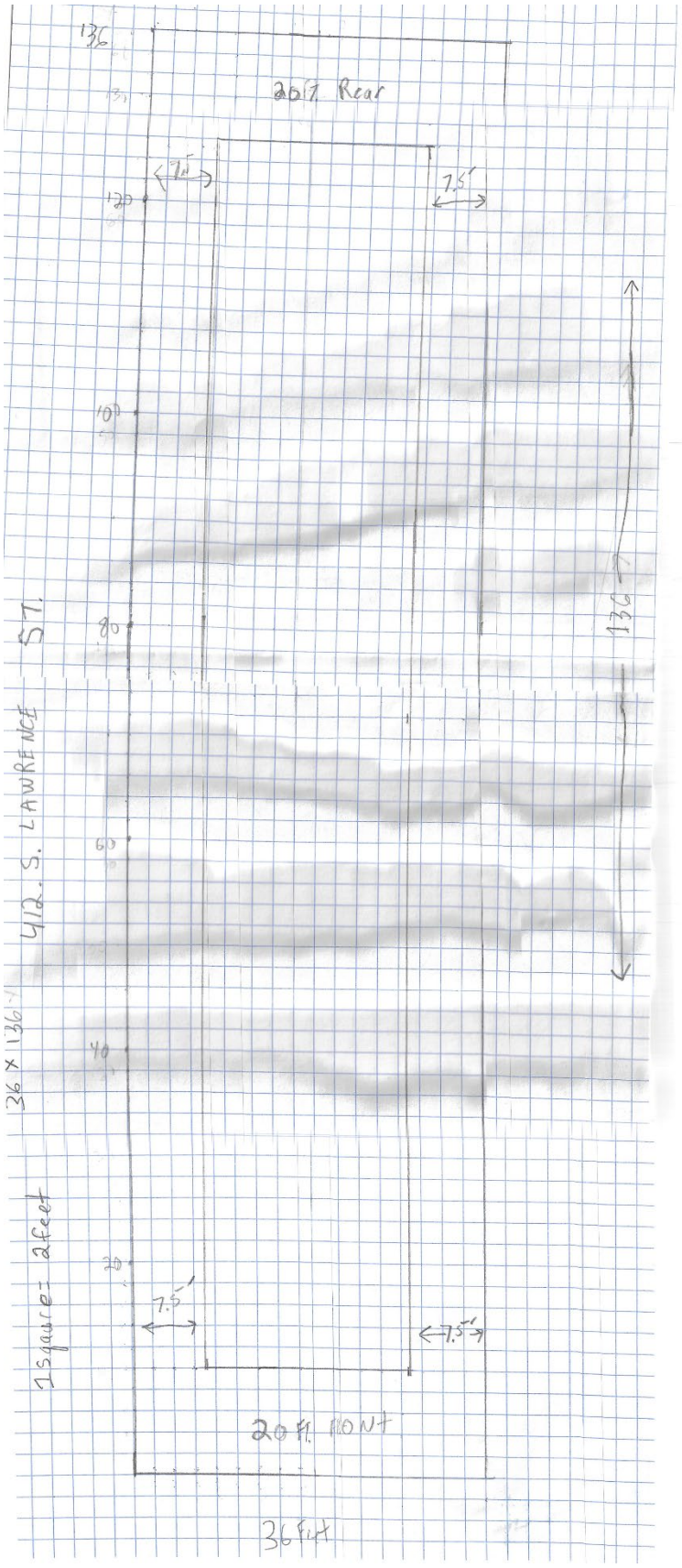
The OT-R District also promotes interaction among activities located within the entire Old Town District area, which includes both the OT-R and Old Town Mixed Use Commercial District. The purpose of such interaction is to further enhance business vitality, reduce vehicular traffic, increase access to 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;

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)

PROPOSED LOT LAYOUT



REQUESTED VARIANCES:
Side yard setback: Reduction from 10 ft. to 7.5 ft.

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;*

The proposed variances will not adversely affect the public nor adjacent property owners, the reduction in side yard setbacks is 2.5 feet on each side yard.

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;*

The lot is 36 feet wide. If the required setbacks of 10 ft were used, only 16 ft. will available for building width. The variance will allow a building width of 21 ft while still maintaining a respectable setback distance.

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

The narrowness of the lot prohibits development to a home which is 16 feet wide. The livable space for such a dwelling would be less, considering this 16ft also includes wall, siding, and insulation.

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

The purpose of the OT-R District is to

"recognize existing and older residential neighborhoods within the City … that are characterized as having smaller Lots, smaller Setbacks... These provisions for the OT-R District are designed to protect the character of these residential neighborhoods while permitting their maintenance and improvement… it is important the scale and design of surrounding Buildings be taken into consideration when proposing additions and new Buildings."

The proposed variances will allow for reasonable construction of single family detached house

CONCLUSION

The applicant is seeking the following variances:

	Required	Requested	Variance
Side setback	10 ft.	7.5 ft.	2.5 ft.

RECOMMENDATION

Approval

Roper - 412 Lawrence

BZA Variance No. BA-2025-01

RECEIVED
FEB 03 2025
BY: KP

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 January 24, 20 25

2. APPLICANT'S NAME* Mark Roper

   Address: 418 S. Samuel Street

   Telephone Number (304)724-8877 Fax Number ( )

   Email Address mrconstructionwv@gmail.com

3. PROPERTY OWNER'S NAME Same as above.

   Address: _____

   Telephone Number ( ) Fax Number ( )

   Email Address _____

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

   Property Address: Vacant - 412 S. Lawrence St.

   Tax Map # and Parcel(s): Map 4 Parcel 86

   Deed Book and Page #: _____

   Property Area in Square Feet or Acres: 3,486 sq. ft.

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

   Existing property is vacant. Zoning is Old Town Residential.

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.)

   Single Family Home

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

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

   See attached.

8. DESCRIPTION OF THE VARIANCE REQUEST:

   See attached.

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

   See attached.

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

    See attached.

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

    See attached.

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:

See attached.

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

See attached.

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

See attached.

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)
Con

Application No.	Project Name and Phase	Status	Approval Date
N/A			

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
See attached.		

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 2-3-25

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

_____ Date _____

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:_____

_____

_____

_____

_____

412 S. Lawrence Street Variance Request

7. DESCRIPTION OF ANY PROPOSED WORK TO BE DONE TO THE PROPERTY:

Proposed activity is:

- Construction of a single-family detached home.
- The existing lot is approximately 36 feet wide and 138 feet deep.

8. DESCRIPTION OF THE VARIANCE REQUEST:

- Applicant is requesting a setback variance to:
  - 7.5 feet side yard setback on both sides of the lot, which is a reduction of the required 10-foot side yard setback for the Old Town Residential District.

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

Standards found in Table 1322.11, OT-R District Bulk and Area Regulations, variance of the minimum side yard setback of 10 feet.

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

The purpose and intent of the zoning ordinance is to have reasonable separation of uses and activity. The granting of the variance will maintain and achieve that purpose and intent.

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

The variance will not impact the public health, safety, welfare and the rights of adjacent property owners and residents. The variance will allow for the construction of one (1) single-family detached home. It will result in the elimination of a vacant lot and add to the value and housing stock within the neighborhood. Granting the waiver will have no net change or impact upon the adjacent property owners, citizens, and residents.

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:

The uniqueness of this request is based on the narrowness of the lot that is preexisting and not the result of the applicant.

The existing lot is narrow and with setbacks of 10 feet on each side of the lot, only a 16-foot-wide home could be built on the site. A variance of the setbacks would allow for a 20-foot-wide home that is more compatible with the neighborhood and would allow for a more functional home layout and space on the interior. As such, a request to allow the setbacks to be reduced from the required 10 feet to 7.5 feet on each side would provide reasonable relief to the applicant. This is a modest relief from the required setbacks.

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

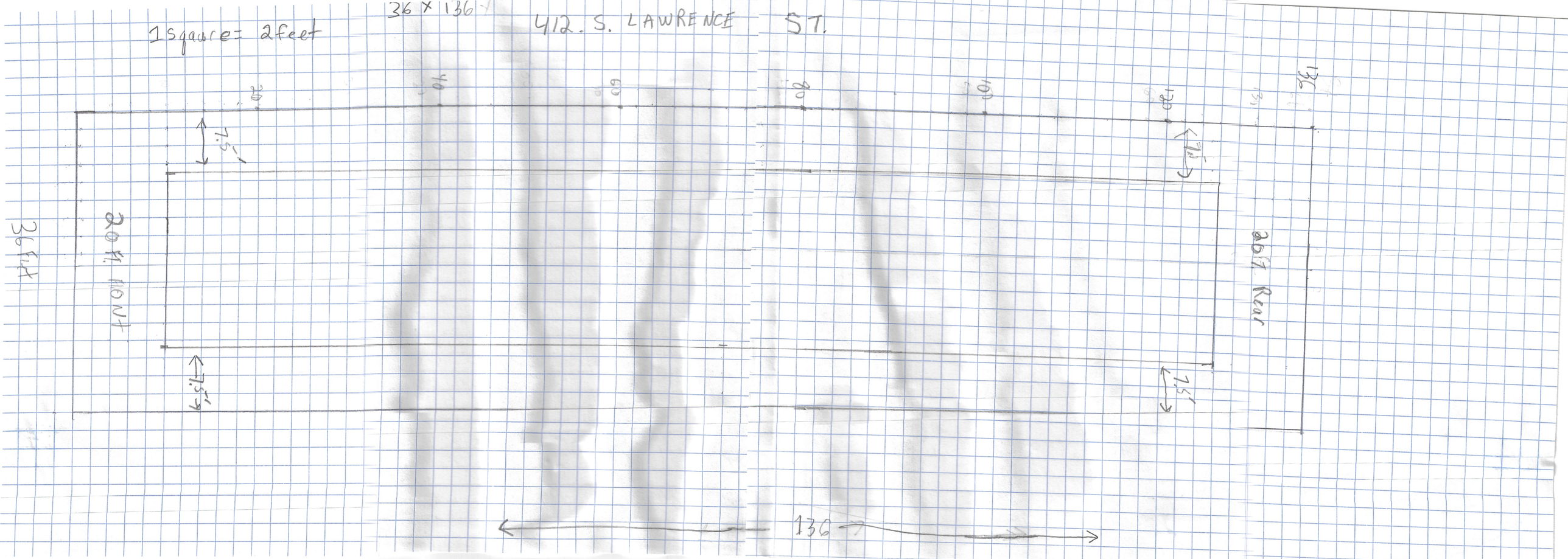
The variance would eliminate an unnecessary hardship and allow for reasonable use of the land. As noted above, this is based on the uniqueness of the lot due to its narrowness and the nature of the one-story homes that are characteristics of the neighborhood.

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

Yes. The intent of the ordinance is to allow reasonable separation of uses and activity and the ability to build on an existing lot of record. Granting this variance would fulfill the intent of the Zoning Ordinance. Substantial justice would be achieved since the applicant's requested variances are the minimum possible to make use of the lot. Further, the goals detailed in the Comprehensive Plan is to support infill development in the existing residential neighborhood districts. Also, the goal of the city is to reduce vacant structures and vacant lots and put those uses into productive use. This request addresses multiple public policy goals.

17. INTERESED PARTY ADDRESSES, FOR PUBLIC NOTICE

Owner	# and Street	City, State, Zip
FORD DANA M	410S LAWRENCE ST	CHARLES TOWN, WV 25414
NAWAZ RAHIL & ANN C	PO BOX 219	RANSON, WV 25438
PANNELL SHARON L & DIANAH M ROY	400S LAWRENCE ST	CHARLES TOWN, WV 25414
TOLBERT SHIRLEY P	PO BOX 651	CHARLES TOWN, WV 25414
CARR ROBERT & CORNELIA T	313W ACADEMY ST	CHARLES TOWN, WV 25414
TOLBERT STEPHEN P	17511 DRIFTWOOD PRAIRIE LN	HOUSTON, TX 77095
MILLER GARY W	321W ACADEMY ST	CHARLES TOWN, WV 25414
ORR CAROL S	120 MORDINGTON CIR	CHARLES TOWN, WV 25414
COOK MARY E	426S LAWRENCE ST	CHARLES TOWN, WV 25414
PRICE ROBERT E SR & THERESA M	418S LAWRENCE ST	CHARLES TOWN, WV 25414
CLINTON CARNELLA	416S LAWRENCE ST	CHARLES TOWN, WV 25414


36 x 136
412. S. LAWRENCE ST.
1 square = 2 feet
20
40
60
80
100
120
136
7.5'
7.5'
7.5'
7.5'
36 Feet
20 ft. Front
20 ft. Rear
136