

Jefferson County
Board of
Zoning Appeals

Thursday,
October 20, 2011

JEFFERSON COUNTY, WEST VIRGINIA

Department of Planning and Zoning

116 East Washington Street, 2nd Floor

P.O. Box 338

Charles Town, West Virginia 25414

Phone: (304) 728-3228

Fax: (304) 728-8126

Email: zoning@jeffersoncountywv.org

MEMORANDUM

TO: JEFFERSON COUNTY BOARD OF ZONING APPEALS

FROM: JENNILEE HARTMAN, ZONING CLERK

DATE: OCTOBER 14, 2011

SUBJECT: OCTOBER 20, 2011 BOARD of ZONING APPEALS MEETING

Please find enclosed a copy of the Advanced Agenda for the upcoming Board of Zoning Appeals meeting to be held on Thursday, October 20, 2011. Also for your review, you will find corresponding information regarding said Meeting. When applicable, I will include copies submitted to this office that pertain to items of new business. If you have any questions, or will not be able to attend an upcoming meeting, please do not hesitate to contact me.

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MEMORANDUM

TO: Board of Zoning Appeals Members

CC: Engineering & Building Permits Departments
Capital Planning & Management Department

FROM: Steve Barney, Zoning Administrator

DATE: October 14, 2011

SUBJECT: October Monthly Report of Department Activities

Issued Zoning Certificates

#ZC11-25 Thomas Lake

Issue Date: September 16, 2011
Proposed Use: Retail: Sporting Goods Store
Physical Location: 832 East Washington Street; Charles Town, West Virginia
Zone: Residential-Light Industrial-Commercial

Pending Zoning Certificates

#ZC11-11 ERIC and ANNA SOKEL, OWNERS

Issue Date: TBD
Proposed Use: Food Stand – Seasonal Use: May-October
Physical Location: 164 Allstadts Hill Road; Harpers Ferry, West Virginia
Zone: Residential-Light Industrial-Commercial

#ZC11-27 RECREATIONAL ADVENTURES CAMPGROUNDS, LLC
J. ALAN JOHNSON, CONTACT

Issue Date: TBD
Proposed Use: Harpers Ferry KOA
Physical Location: 343 Campground Road; Harpers Ferry, West Virginia
Zone: Residential-Light Industrial-Commercial

AGENDA
Jefferson County Board of Zoning Appeals
Thursday, October 20, 2011, 3:00 p.m.

1. Approval of the minutes from the September 15, 2011 meeting.
2. Variance request by property owner, Hawthorn Associates, LLC, c/o Harry F. Byrd III, from Section 4.10 of the Zoning and Land Development Ordinance to waive the requirement of a site plan for improvements associated with a Bed and Breakfast facility with up to 30 receptions per year. Property location: 629 Hawthorn Avenue, Summit Point, West Virginia. District: Kabletown; Map: 16; Parcel: 13; Size: 230.7 acres; Zoned: Rural; File: #ZV11-29.
3. Variance request by property owner, Richard T. Potter, from Section 9.7 of the Zoning and Land Development Ordinance, to reduce the side setback distance from 8' to 42" to allow for a 24' x 30' addition onto an existing house. Property location: 659 Jefferson Avenue; Charles Town, West Virginia. District: Charles Town; Map: 10B; Parcel: 21; Size: 7500 sq. ft.; Zoned: Residential-Growth; File: #ZV11-30.
4. Director's Report.
5. Legal Update.
6. Vote on written decisions from prior Board of Zoning Appeals meetings.
7. Correspondence.

Draft Minutes

Jefferson County Board of Zoning Appeals
Thursday, September 15, 2011

The Jefferson County Board of Zoning Appeals met on Thursday, September 15, 2011. The meeting was held in the Charles Town Library meeting room located at 200 East Washington Street, at the side entrance on Samuel Street in Charles Town, West Virginia. Board members Jeff Bresee, Chairman, Christy Huddle and Jon Brusco were present. Staff members present were: Steve Barney, Zoning Administrator; Steve Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

Tiffany Hine, Ed Kelly and Tyler Quynn were absent with notification.

Ms. Huddle motioned to commence the meeting. Mr. Brusco seconded the motion, which carried unanimously. Mr. Bresee called the meeting to order at 3:00 p.m.

Ms. Hartman swore in individuals who indicated they would be giving testimony.

1. Approval of the Minutes from the August 18, 2011 meeting.

Ms. Huddle motioned to approve the August 18, 2011 minutes with the following corrections noted by staff:

- a. Page 1, Item 1, second paragraph, third line, add quotations around “Ms. Hine” and delete the words “as used.”
- b. Page 2, Item 3, first paragraph, first line change “or” to “of.”
- c. Page 2, Item 5, first paragraph, third line, change the semicolon to a comma.
- d. Page 2, Item 5, second paragraph, beginning at line 5, delete the words “in order.”
- e. Page 2, Item 5, second paragraph, eighth paragraph, change the sentence so it reads, “She stated that, Had they built the barn...”

Mr. Brusco seconded the motion to approve the minutes as corrected. The motion carried unanimously.

2. Variance request by property owner, Douglas A. Carter, from Section 5.4(b) for a reduction of the side and rear setback distances to allow for the continued placement of an existing shed. Property location: Demory Farm Subdivision, 75 Victoria Lane, Charles Town, West Virginia. (District: Charles Town – 02; Map 9B; Parcel 46; Size: 0.20 acres; Zoned: Residential Growth; File: #ZV11-27).

Mr. Carter was present to address the Board. Mr. Carter stated he was not aware he needed a building permit to construct the shed; however, when the issue was brought to his attention he immediately applied for a permit, upon which he found out he was in violation of the setback requirements. Mr. Carter stated that as a requirement of his Homeowners Association’s building committee that he was required to obtain his neighbors’ signatures of support in order to build the shed. Staff had no additional comments. Mr. Bresee called for public comment. There was no public comment.

3. Variance request by property owner, David P. McCloskey, from Section 5.7(b) for a reduction of the side and rear setback distances to allow for the continued placement of an existing pool and

pool deck, and the proposed construction of a 42' x 30' x 22' detached garage. Property location: 3081 Engle Molders Road, Harpers Ferry, West Virginia. (District: Shepherdstown – 09; Map: 18; Parcel: 36; Size: 2.0 acres; Zoned: Rural; File: #ZV11-28).

Mr. McCloskey was present to address the Board. Mr. McCloskey explained that he had applied for a building permit for the pool and the pool deck and had been issued permits for each in their current locations. Mr. McCloskey answered questions from the Board regarding the necessity of the garage. Mr. McCloskey stated he had letters of support signed by his neighbors. Staff explained that the pool and pool deck permits were issued in error, stating that the permits may have been issued using the standard setback for the district as opposed to the setback required on the subdivision plat. Mr. Bresee called for public comment. There was no public comment.

Ms. Huddle motioned to go into deliberative session at 3:12 p.m. Mr. Brusco seconded the motion, which carried unanimously.

Mr. Brusco motioned to come out of deliberative session 3:16 p.m. Ms. Huddle seconded the motion, which carried unanimously.

Board of Zoning Appeals Rulings

2. Variance request by property owner, Douglas A. Carter, from Section 5.4(b) for a reduction of the side and rear setback distances to allow for the continued placement of an existing shed.

Mr. Brusco motioned to approve the above referenced request with the placement of the shed being 8' 3" from the side property line and 8' 1" from the rear property line. Ms. Huddle seconded the motion, which carried unanimously.

3. Variance request by property owner, David P. McCloskey, from Section 5.7(b) for a reduction of the side and rear setback distances to allow for the continued placement of an existing pool and pool deck, and the proposed construction of a 42' x 30' x 22' detached garage.

Ms. Huddle motioned to approve the above referenced request to allow a proposed garage to be 33' instead of the required 50' rear yard setback and 12' instead of the required 15' side yard setback; and to allow the existing pool to be 15' instead of the required 50' rear yard setback; and to allow the existing pool deck to be 27' instead of the required 50' rear yard setback with the condition that there cannot be access to the non-exclusive right-of-way adjoining the property unless the owner provides documentation to the Planning and Zoning Department that this lot has the legal right to access the easement. Mr. Brusco seconded the motion, which carried unanimously.

4. Director's Report. Mr. Barney spoke on Ms. Brockman's behalf and informed the Board of the status of the upcoming text amendments to the Zoning Ordinance.
5. Legal Update. None.

6. Vote on written decisions from prior Board of Zoning Appeals meetings.
 - a. Findings of Fact and Conclusions of Law for the variance request by property owner, Glenn S. Cogle, from Section 8.2 to allow a seventy year old barn, rebuilt without permit, to remain sited on the original foundation. Mr. Bresee signed the Findings with one correction.
 - b. Findings of Fact and Conclusions of Law for the variance request by property owner, John D. Lowe, III ET AL from Section 9.5(b) to retain a 10' high deer fence within a required yard. Mr. Bresee signed the Findings with one correction.
7. Correspondence. None.

Mr. Brusco announced that he would be resigning as a Board of Zoning Appeals member because he would be moving to Colorado. Mr. Brusco stated this would be his last meeting. Mr. Bresee, on behalf of the Board, expressed appreciation for Mr. Brusco's excellent service to the Board over the years.

Mr. Brusco motioned to adjourn the meeting at 3:53 p.m. Ms. Huddle seconded the motion, which carried unanimously.

An audio transcript of this meeting can be found at the Department of Zoning and on the Department's website at www.jeffersoncountywv.org. These minutes were prepared by Jennilee Hartman, Zoning Clerk.

Jefferson County Board of Zoning Appeals Consideration of a Variance

Article 3, Section 3.4 of the Jefferson County Zoning and Land Development Ordinance amended by the County Commission on July 7, 2011, states the following:

Section 3.4 Boards and Commissions²³


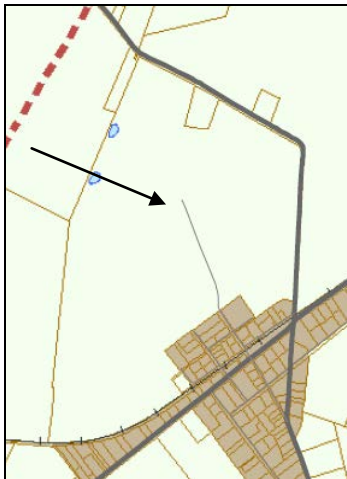
A. Board of Zoning Appeals

4. The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.²³
 - a. The Board shall approve a variance request if the Board finds that a variance:
 - i. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
 - ii. 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;
 - iii. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
 - iv. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.^{17, 21}
 - b. The owner or authorized representative of the owner of the property which is the subject of a variance request shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The variance request shall be filed with the Board at offices of the Departments of Planning and Zoning.
 - c. Notification for a variance must be conducted according to the requirements of Section 3.4A(3)(b).
 - d. A public hearing must be conducted according to the requirements of Section 3.4A(3)(c) and such hearing may be continued according to the requirements of Section 3.4A(3)(d).

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 October 20, 2011

Hawthorn Associates, LLC Request (#ZV11-29)

Item #2 Variance request by property owner, Hawthorn Associates, LLC, c/o Harry F. Byrd III, from Section 4.10 of the Zoning and Land Development Ordinance to waive the requirement of a site plan for improvements associated with a Bed and Breakfast facility with up to 30 receptions per year.

APPLICANT:	Hawthorn Associates, LLC, c/o Harry F. Byrd III
OWNER :	Same as above
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	9 Hawthorn Avenue, Summit Point, WV 25446
LEGAL DESCRIPTION:	<p style="text-align: center;">District: Kabletown; Map: 16; Parcel: 13</p> 
ZONING DISTRICT:	<p style="text-align: center;">Zoning Map Designation: Rural</p> 

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 October 20, 2011

Hawthorn Associates, LLC Request (#ZV11-29)

SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Village <i>East:</i> Rural <i>West:</i> Rural
LOT AREA:	230.7 acres
PRIOR CASES:	01/12/99: PC approved minor subdivision (#98-29). 09/11/01: Office approved lot line adjustment of 1.303 acres.
VARIANCE(S):	10/06/04: BZA approved request to increase the number of bedrooms permitted for a Bed and Breakfast from two to seven (ZV04-14). 10/06/04: BZA granted an exception for a Bed and Breakfast pursuant to Section 9.8 (ZV04-15). 12/16/04: BZA denied request to allow 28 invitation only special events on the property (ZV04-37). 05/19/11: BZA approved request to allow 30 receptions per year with no more than 3 tents per reception (ZV11-07).
APPROVED ACTIVITY:	Bed and Breakfast consisting of seven bedrooms with 30 receptions per year with no more than 3 tents per reception.

RELEVANT INFORMATION:

1. Overview of Request

Hawthorn Associates seeks a variance from Section 4.10, to waive the requirement of a site plan. A site plan is required as a result of the additional parking required for receptions.

2. Previous Case History

On October 6, 2004, the Board of Zoning Appeals approved the use of the Hawthorn property as a 7-bedroom Bed and Breakfast.

Recently, representatives of Hawthorn sought a variance from Sec. 5.7 to allow 30 receptions per year associated with a Bed and Breakfast, with no more than 3 tents per reception. The Board of Zoning Appeals approved the variance with the condition that the staff approve a parking plan.

In email correspondence to staff following the May 19, 2011 BZA approval, the applicant's architect proposed the following scenario for parking:

“[T]he Owners would like to take the more environmentally sensitive solution with regard to parking by making use of three fields to alternatively rotate between them for each event in order to preserve the grasses and stability of the soil. Parking for events would be on a ‘valet’ basis in order to prevent people from having to hike a long distance in formal dress attire and also to maintain an efficient parking configuration.”

Planning and Zoning Department staff met with the Engineering Department to evaluate this alternative proposal. The Departments concluded that the County's adopted regulations do not permit grass parking. Accordingly, the applicant's options were:

Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 20, 2011

Hawthorn Associates, LLC Request (#ZV11-29)

- a. Submit a site plan meeting standards for parking and other requirements;
- b. Apply to the Planning Commission for waiver of parking standards and other technical standards; or
- c. Apply to the Board of Zoning Appeals to request waiver of the requirement to process a site plan.

3. Applicant's Justification of Request

In the application submitted for the variance request, the applicant has provided the following responses to the four criteria for a variance:

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*

The application states, "The variance will . . . [reduce] the impact on groundwater and the visual environment. It promotes less ground disturbing and is more in keeping with the character of the landscape."

- 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 application states, "Bed and Breakfast Inns are seldom on acreage of this size (230 acres)."

- c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*

The application states, "The variance would allow decreased impervious surfaces, landscaping suitable to the character of the site, and greater infiltration of groundwater."

- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

The application states, "The intent of the ordinance is to reduce the impact from development. This variance will do that, whereas to deny it would increase land disturbance, visual impact, and reduce the historic character of the property."

4. Staff Evaluation of Request

A site plan would be required for the Hawthorn Bed and Breakfast because additional parking is required for the receptions. Per the Subdivision and Land Development Regulations, if a land use requires additional parking, a site plan is also required.

Typically, the required parking for a Bed and Breakfast facility is 1 space per bedroom and 1 space per employee. Staff has not traditionally required additional parking for receptions, because only 4 receptions are permitted per year and this small number indicates that receptions are a minor, incidental component of the land use. However, in the case of Hawthorn, the applicant has secured approval to conduct up to 30 receptions per year. As such, staff determined the receptions are a significant component of the land use, and that additional parking for the land use is therefore needed. The Zoning Ordinance provides staff with discretion in determining parking requirements for land uses not listed in Article 11.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 20, 2011

Hawthorn Associates, LLC Request (#ZV11-29)

Site plan requirements would include the following standards of the Subdivision and Land Development Regulations:

- The parking must meet the technical standards of the Subdivision Regulations. Because the property is located in the Rural District, a gravel parking surface is permitted. However, the Regulations require that an engineered base underlie the gravel surface.
- The entrance from the property to Summit Point would need to be expanded to 24’.
- The existing internal site driveway would need to be expanded to 22’ for two-way access.
- The additional paving and/or graveled areas would require stormwater management. Low-Impact Development techniques may be used to satisfy stormwater requirements.

The applicant also has the option of seeking Planning Commission waivers for individual standards.

It should also be noted that the applicant has stated an intention to construct gravel access driveways from the house entrance to the fields proposed as parking areas. If the construction of the access driveways were to entail the disturbance of more than 3,000 square feet of land area, these driveways would also trigger a site plan.

Staff acknowledges that there are existing land uses located in the County, such as the County Fairgrounds, where significant numbers of cars are parked on grass surfaces for a short duration. However, neither the Zoning Ordinance nor the Subdivision Regulations provide staff the flexibility to approve this type of parking surface.



Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 20, 2011

Hawthorn Associates, LLC Request (#ZV11-29)

5. Possible Conditions of Approval

Should the Board choose to approve this variance with conditions, possible conditions of approval include:

- a. At least one van-accessible parking space meeting ADA standards must be installed.
- b. An accessible route meeting ADA standards must connect the accessible parking space and any buildings intended for public access.
- c. The unpaved parking area is permitted subject to annual staff inspection for the two years following approval of the variance. If staff determines that the condition of the parking area is inadequate, the applicant will be required to submit a site plan for parking.
- d. The Health Department must approve septic and water for the property prior to initiation of the land use.
- e. Valet parking must be provided for all reception guests.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 4.10 Site Plan Requirements

- A. A site plan shall be submitted for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.²³

ZV11-29

**JEFFERSON COUNTY BOARD OF ZONING APPEALS
VARIANCE REQUEST**

I/We request a variance from the provisions of the Jefferson County Zoning and Development Review Ordinance.

Property Owner(s): Hawthorn Associates

Address: % Harry Byrd; PO Box 472
Berryville, VA 22611

Phone Number: 540-955-1384

Location of Property: End of Hawthorne Avenue, in the unincorporated
community of Summitt Point, Jefferson County, WV

Lot Size: 230.7 acres

Deed Book Reference: Deed Book Number 534 Page Number 698

Tax Map Reference: District 6 Map 16 Parcel 13

Zoning District: Rural

Section of Ordinance: Section 4.10 Site Plan Requirements

Sketch on a separate 8 1/2" X 11" sheet of paper the shape and location of the lot indicating all roads, rights of ways, and easements. Show the location of the intended construction or land use indicating building setbacks (distance structure is from all boundary lines) size and height. Identify all existing buildings, structures or land uses on the property. Sign and date the sketch.

Briefly describe in your own words the nature of the variance request.

Request a variance from Section 4.10 - the requirement to file
a site plan and prepare site plan documents in accord with the
Jefferson County Zoning and Development Review Ordinance and
Section 20.203 Minor Site Development under the Jefferson County
Subdivision and Land Development Regulation.

Please note variances to the Zoning Ordinance must comply with Article §8A-7-11 of the WV State Code.

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.

RECEIVED
SEP 14 2011
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Please provide an answer for each of the numbered items below using separate sheets of paper if necessary.

The board of zoning appeals shall grant a variance to the zoning ordinance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

See attached sheet

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:

See attached sheet

3. Would eliminate an unnecessary hardship and permit a reasonable use of the land:

See attached sheet

4. Will allow the intent of the zoning ordinance to be observed and substantial justice done (2004, c.153.):

See attached sheet

Han Thom Associates LLC
Signature of Property Owner
62 HZB, Inc. Operating Partner

Print Name

Date

FOR OFFICAL USE ONLY (APPLICATION)	
Fees Paid: <u>OR.#1376</u> (7.28.11)	Date Application / Fees Received: <u>SEPTEMBER 12, 2011</u>
Date of meeting / Public Hearing: <u>THURSDAY, OCTOBER 20, 2011 AT 3:00 P.M.</u>	
Official Administrative Body: <u>Jefferson County Board of Zoning Appeals</u>	
Posting Requirements: <u>15</u> Number of Days Prior to Scheduled Hearing	
Advertising Dates: <u>WEDNESDAY, OCTOBER 5, 2011</u>	
Official Action of Board: _____	
Official Signature and Seal: _____	

Hawthorn Bed and Breakfast Inn

Request for Variance from the Jefferson County Zoning Ordinance

September 12, 2011

Response to page 2 of the Application for a Variance to the Jefferson County Zoning Ordinance and Development Regulations:

The Board of Zoning Appeals shall grant a variance to the zoning ordinance if it finds that the variance:

1. Will not adversely affect the public health, safety, and welfare, or the rights of adjacent property owners or residents:
The variance will reduce the impact on public health, safety, and welfare because it will allow a use that will increase tax revenue while lowering the impact on groundwater and the visual environment. It promotes less ground disturbance and is more in keeping with the character of the landscape.
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:
Bed and Breakfast Inns are seldom on acreage of this size (230 acres). The ordinance emphasizes trying to accommodate a more intense use of the land. This project seeks to reduce its impact by not intensifying its foot print for accommodating approved events that occur during 8% of the year.
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land:
The variance would allow decreased impervious surfaces, landscaping suitable to the character of the site, and greater infiltration of groundwater.
4. Will allow the intent of the zoning ordinance to be observed and substantial justice done:
The intent of the ordinance is to reduce the impact from development. This variance will do that, whereas to deny it would increase land disturbance, visual impact, and reduce the historic character of the property.



Leetown Rd

Lot C - 176 spaces

1000' to Northern Neighbor

550' to Leetown Road

Steptoe (on property)

Event Tents

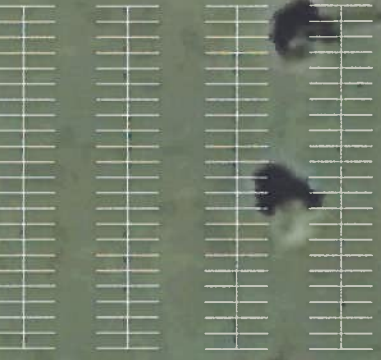
New gravel road to parking areas

Existing gravel road and parking areas

Hawthorn

New gravel road to parking areas

Lot B - 176 spaces



Lot A - 176 spaces

2500' to Hawthorne Avenue

Hawthorne Ave

Image USDA Farm Service Agency
© 2011 Google
© 2011 Europa Technologies



©2009 Google

39°15'27.09" N 77°57'45.51" W elev 189 m

Eye alt 602 m

Hawthorn Associates LLC

0 100 150 200 250 300 FT
Grove & Dall'Olfo Architects pllc 030811

Hawthorn Bed and Breakfast Inn

Request for Variance from the Jefferson County Zoning Ordinance

September 12, 2011

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Leetown Rd

Lot C - 176 spaces

1000' to Northern Neighbor

550' to Leetown Road

Steptoe (on property)

Event Tents

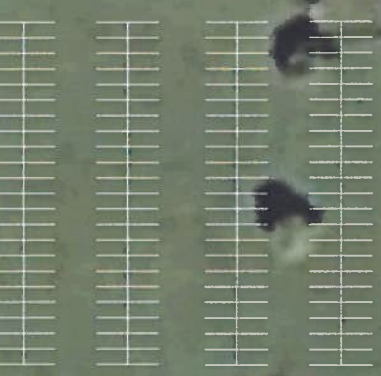
New gravel road to parking areas

Existing gravel road and parking areas

Hawthorn

New gravel road to parking areas

Lot B - 176 spaces



Lot A - 176 spaces

2500' to Hawthorne Avenue

Hawthorne Ave

Image USDA Farm Service Agency
© 2011 Google
© 2011 Europa Technologies



©2009 Google

39°15'27.09" N 77°57'45.51" W elev 189 m

Eye alt 602 m

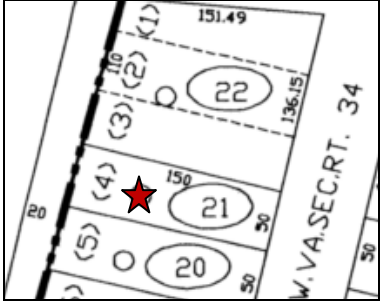

Hawthorn Associates LLC



Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 October 20, 2011

Richard T. Potter Request (#ZV11-30)

Item #3 Variance request by property owner, Richard T. Potter, from Section 9.7 of the Zoning and Land Development Ordinance, to reduce the side setback distance from 8' to 42" to allow for a 24' x 30' addition onto an existing house.

APPLICANT:	Richard T. Potter
OWNER :	Same as above
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	659 Jefferson Avenue, Charles Town, West Virginia
LEGAL DESCRIPTION:	District: Charles Town; Map: 10B; Parcel: 21 
ZONING DISTRICT:	Zoning Map Designation: Residential-Growth (RG) 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> RG <i>South:</i> RG <i>East:</i> RG <i>West:</i> City of Charles Town
LOT AREA:	7,500 square feet
PRIOR CASES:	None
VARIANCE(S):	None
APPROVED ACTIVITY:	Residential

Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 20, 2011

Richard T. Potter Request (#ZV11-30)

RELEVANT INFORMATION:

1. Overview of Request

The applicant is requesting a variance from the side yard setback requirement of Section 9.7, to reduce the required distance from 8' to 3.5' (or 42"), to construct a rear addition to an existing home.

2. Previous Case History

There is no previous case history for this property.

3. Applicant's Justification of Request

In the application submitted for the variance request, the applicant has provided the following responses to the four criteria for a variance:

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*

The application states, "No, there is only land beside my property, a vacant lot between my neighbor and my house."

- 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 application states, "Adding on to original house, house was already in its place."

- c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*

The application states, "My family is growing, need more room have 2 children and a wife, need the room, planning to build a garage later on other side of property."

- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

The application states, "Will be applying for building permits and following all codes."

The application also indicates that the property owner seeks to maintain the same alignment as the existing house (i.e. 42" from the property line).

4. Staff Evaluation of Request

The existing structure, which was built prior to the adoption of current regulations, is considered nonconforming because it does not conform to the required 8' side yard setback. Section 4.3 of the Zoning Ordinance allows an applicant to expand a nonconforming structure by up to 35% without seeking BZA approval. In this case, the applicant is seeking to expand an 802 square foot structure by an additional 720 square feet, or an expansion of 90%.

The subject property is more narrow (50' in width) than other properties within the same block, which are an average of approximately 75'-100' in width. Other properties located across Jefferson Avenue are more comparable in size to the subject property.

The lot adjacent to the side yard for which the variance is requested currently has a substantial rear yard, although a future owner of the adjacent property could choose to build in this area.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 20, 2011

Richard T. Potter Request (#ZV11-30)



View of northern (side) lot line, facing south



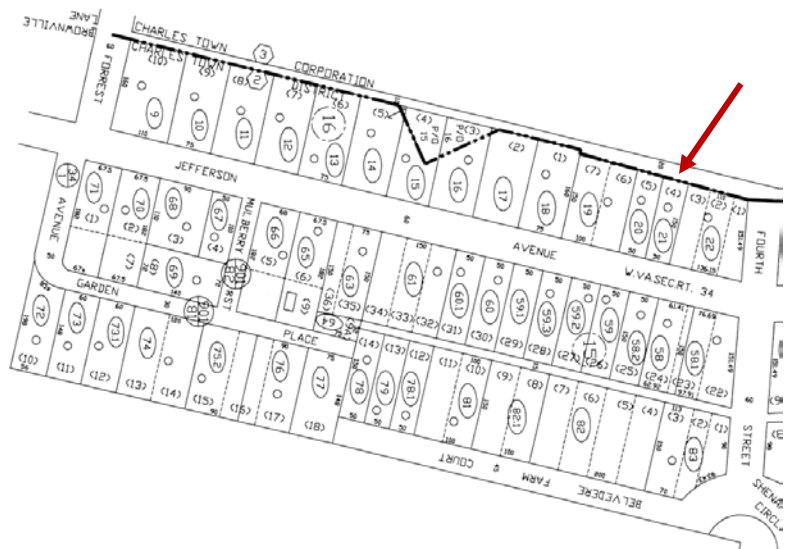
View of northern (side) lot line, facing west



View of southern (side) lot line, facing west



View of southern (side) lot line, facing west



5. Possible Conditions of Approval

Should the Board choose to approve the request with conditions, possible conditions of approval include:

- a. The variance is only applicable to the northern lot line and is exclusively for the purpose of a building addition.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 20, 2011

Richard T. Potter Request (#ZV11-30)

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 9.7 Other Exceptions³

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:²³

Residential Growth District²³

Single family residences --

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

JEFFERSON COUNTY BOARD OF ZONING APPEALS
VARIANCE REQUEST

I/We request a variance from the provisions of the Jefferson County Zoning and Development Review Ordinance.

Property Owner(s): Richard T. Potter

Address: 659 Jefferson Ave Charlestown WV 25414

Phone Number: 304-886-8999

Location of Property: 02-Charlestown Jefferson Ave Jefferson County
Blk 16 #4 Jefferson Ave

Lot Size: 7500 sq ft

Deed Book Reference: Deed Book Number 1038 Page Number 537

Tax Map Reference: District 02 Map 10B Parcel 0021

Zoning District: R.G.

Section of Ordinance: 9.7

Sketch on a separate 8 1/2" X 11" sheet of paper the shape and location of the lot indicating all roads, rights of ways, and easements. Show the location of the intended construction or land use indicating building setbacks (distance structure is from all boundary lines) size and height. Identify all existing buildings, structures or land uses on the property. Sign and date the sketch.

Briefly describe in your own words the nature of the variance request.

Building on to my house now want to keep same line as the house
now need more room because my family has gotten bigger
with new children. My house now sets 42" of prop line talk
to neighbor he is fine with me building on. it only makes his
property look better

Please note variances to the Zoning Ordinance must comply with Article §8A-7-11 of the WV State Code.

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.

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JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Please provide an answer for each of the numbered items below using separate sheets of paper if necessary.

The board of zoning appeals shall grant a variance to the zoning ordinance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

NO, there is only land beside my property line. a vacant lot between my neighbor and my house

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:

Adding on to original house, house was already in place

3. Would eliminate an unnecessary hardship and permit a reasonable use of the land:

My family is growing, need more space here 2 children and a wife need the room, plans to build a garage later on other side of property

4. Will allow the intent of the zoning ordinance to be observed and substantial justice done (2004, c.153.):

Will be applying for building permits and following all codes

[Signature]
Signature of Property Owner

Richard Potter
Print Name

09-09-11
Date

CK # 303

Fees Paid: \$100.00

FOR OFFICIAL USE ONLY

Date Application / Fees Received: September 22, 2011

Date of meeting / Public Hearing: Thursday, October 20, 2011 at 3:00pm

Official Administrative Body: Jefferson County Board of Zoning Appeals

Posting Requirements: 15 Number of Days Prior to Scheduled Hearing

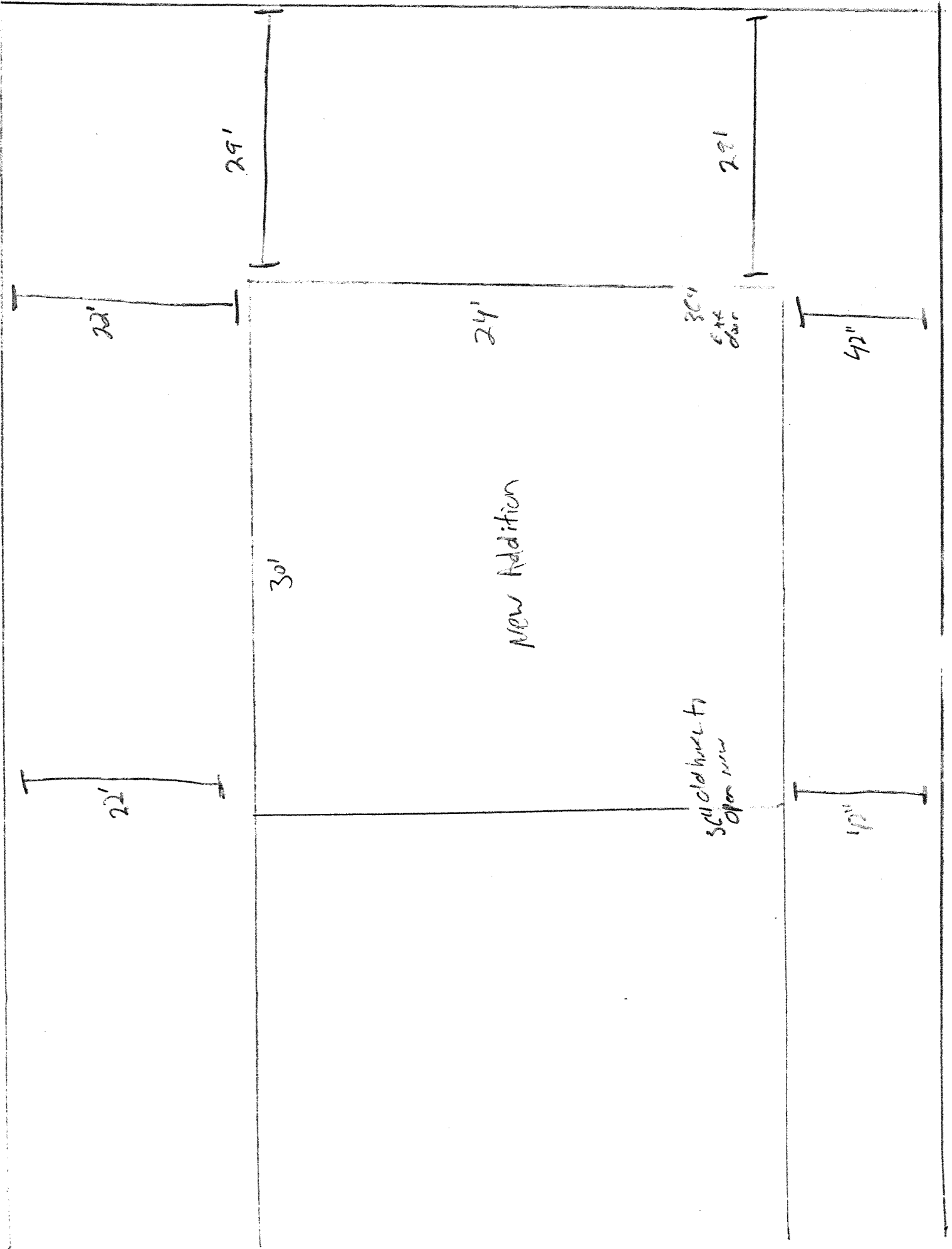
Advertising Dates: Wednesday, October 5, 2011

Official Action of Board: _____

Official Signature and Seal: _____

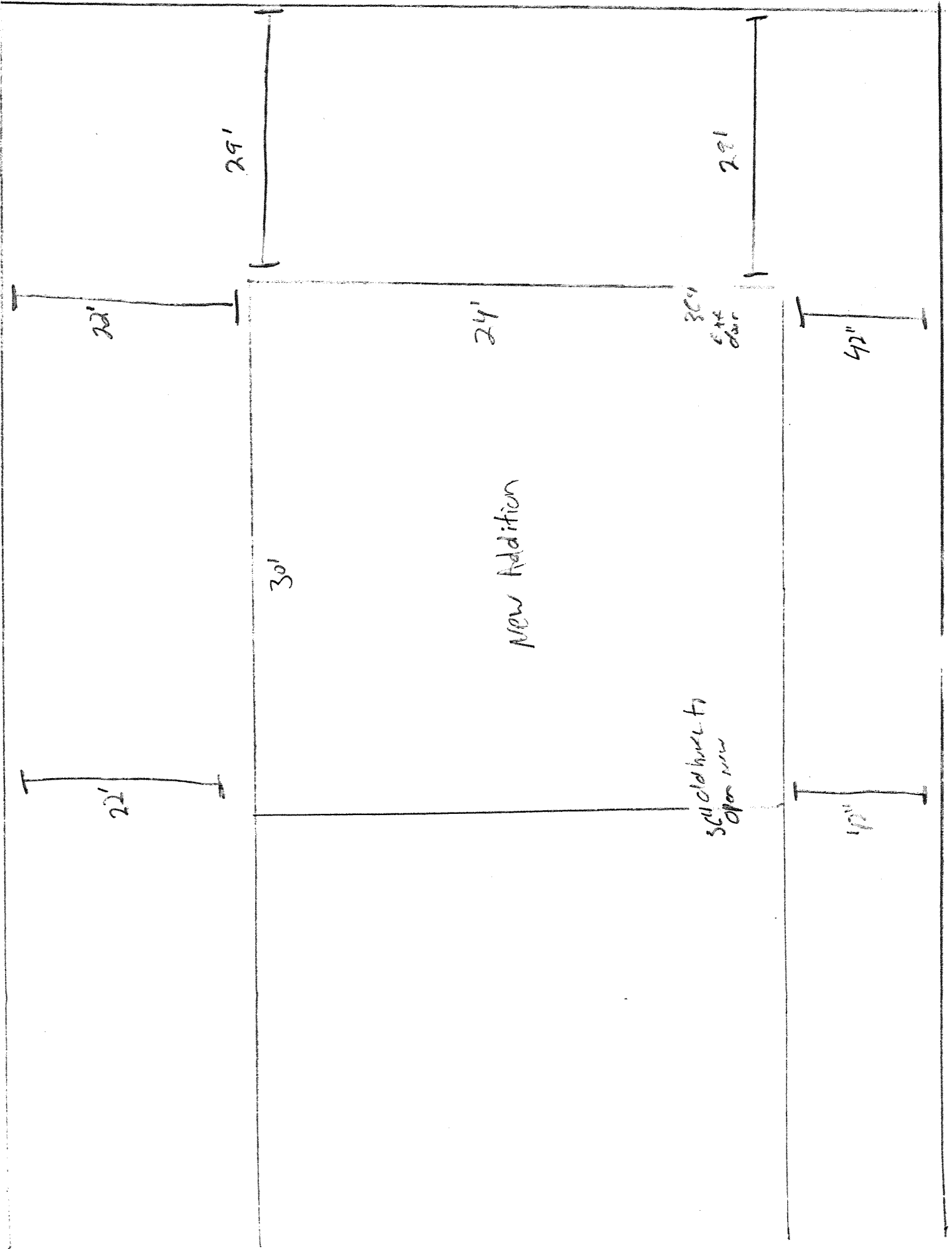
R. Line

P. Line



R. Line

P. Line



22'

29'

28'

42'

24'

30'
6" x 6"
door

New Addition

30'

22'

30' schedule to
open new

12'