

**BEFORE THE BOARD OF ZONING APPEALS
OF THE TOWN OF SHEPHERDSTOWN**

RE: The Appeal of Jamie Disterhaupt and Modern Renovations
103 Ray Street (Tax Map 3-125)
Shepherdstown, West Virginia

DECISION AND ORDER

This matter came before the Board of Zoning Appeals at a public hearing on November 13, 2025 at Town Hall, 104 King Street, Shepherdstown, West Virginia. Notice of the hearing was duly published and a copy was read into the record.

This was a first hearing and an appeal from the Planning Commission. The type of relief sought is a request for a variance to the R1 zoning regulation stipulating one side yard of at least 12 feet if the lot is not accessible by a rear public alley. The bond for the appeal has been paid by the Appellant.

The Planning Commission considered the Appellant's application (Project Permit No. 25-16) on August 18, 2025 and voted to deny the Appellant's request for a project permit to construct an addition on the back of an existing single-family home on the lot known as Tax Map 3-125 located at 103 Ray Street. The lot is zoned R-1 (Low Density Residential). The adverse action of the Planning Commission was based upon its finding that the lot does not meet minimum requirements per Section 9-508 of the Ordinance, "Required Lot Area, Lot Width, and Yards in Residential Districts."

2

The Appellants are Jamie Disterhaupt, owner of the property, and Modern Renovations, the company contracted to construct the addition. The notice of appeal to the Board and the decisions of the Planning Commission were shared with the Board and are incorporated herein, along with all exhibits and other documents filed with the Board in support of the appeal.

Present and participating were the following Board members:

- Jonathan Wertman, Chairperson
- Carolyn Rodis
- Nancy Stewart
- Jack Childers
- Ashleigh Sanders

A quorum being present, the Board of Zoning Appeals proceeded to make inquiry into whether the Appellant is an aggrieved person or persons entitled to pursue the appeal in accord with the Rules of the Board of Zoning Appeals. Upon inquiry, and there being no objection, the Board determined that the Appellant has standing to proceed with the appeal.

Upon inquiry by the Chairperson, and the polling of all present Board members, no Board member has any known conflict of interest. Upon inquiry by the Chairperson, and the polling of Board members, all Board members have visited the site in question.

The Board then proceeded to public hearing. All present were duly sworn. Modern Renovations was represented by Shawn Wolford, James Knipe and Larry DeMarco, who all appeared in person. The other Appellant, Jamie Disterhaupt, also appeared in person. Neither Appellant appeared with counsel.

James Knipe testified that the planned addition will be narrower than the existing home on the lot, and that the width of the existing home will not be changing. Mr. Knipe could not speak to the specific measurements of the side yard setbacks or the width of the existing home. Upon inquiry by the Board, Mr. Knipe stated that he could not verify the setback distances provided to the Board in a hand drawing of the lot with the existing home and planned addition. Jamie Disterhaupt testified that she is the owner of the property and acknowledged that the side yard on the right side of the property is very narrow.

Following the statements of the Appellants, the Chairperson opened the floor to others who wished to speak. Edith Thompson, resident at 407 E. German Street, and Margaret Osborne, resident at 110 Ray Street, both expressed support for renovating the property at 103 Ray Street as a step towards revitalizing the neighborhood and making it attractive for families. Ms. Thompson also testified that she estimated there to be less than 3 feet between the existing home on 103 Ray Street and the garage of the neighbor at 105 Ray Street. She also testified that the home at 103 Ray Street required renovations to be livable. Larry DeMarco of Modern Renovations testified that the existing home at 103 Ray Street does not meet the side yard requirements of Section 9-508 of the Ordinance, and that the new addition, by being narrower than the existing home, will be farther from the side lot line.

Thereupon a motion was made and seconded to close the public hearing. The motion passed unanimously, and the Board proceeded to deliberate and to discuss Findings of Fact and Conclusions of Law in open session.

After consideration of the foregoing, the Board makes the following Findings of Fact:

I. FINDINGS OF FACT

1. The Appellants have standing, and their request was denied by the Shepherdstown Planning Commission.
2. The lot located at Tax Map 3-125 is zoned R-1 (low density residential).
3. The lot located at Tax Map 3-125 is 44 feet (528 inches) wide according to the West Virginia Property Viewer Tool.
4. The existing home on the lot located at Tax Map 3-125 was built in 1900 and measures 290 inches wide by 197 inches deep. The proposed addition to the back of that home is 190 inches wide by 106 inches deep.

5. The position of the existing home on the lot located at Tax Map 3-125 has resulted in side yards that are less than 12 feet wide.
6. The lot located at Tax Map 3-125 is not accessible by a rear public alley.
7. The Planning Commission only denied Project Permit No. 25-16 due to specific side yard requirements as found in Section 9-508 of the Ordinance.
8. The lot at 103 Ray Street is similar in size to other lots on Ray Street.
9. The proposed addition would be consistent with the style of the current home and would positively contribute to the revitalization of the neighborhood.
- 10.

The requirements for granting a variance are set out in Section 9-1008 of the Ordinance. The Board reviewed the requirements, and after consideration, found that the appeal meets those requirements beyond a reasonable doubt. Specifically:

- There is an extraordinary circumstance of the existing home being over 100 years old and positioned on a lot that is only 44 feet wide.
- The variance is necessary for the preservation of substantial property rights possessed by other properties in the vicinity of 103 Ray Street.
- Authorizing a variance will not be of substantial detriment to adjacent property and will not materially impair the public interest.
- The specific circumstances of this variance are not of a general and recurrent nature.

II. CONCLUSIONS OF LAW

1. An "Aggrieved" or "Aggrieved Person" means a person who:
 - i. Is denied by the planning commission, in whole or in part, the relief sought in any application or appeal; or
 - ii. Has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the municipality may suffer. Article VII (B) Board of Zoning Appeals Rules.
2. There being no opposition and it appearing that the Appellant is an aggrieved person, the Appellant has standing to proceed with the Appellants' appeal.
3. The applicable standard of proof is beyond a reasonable doubt as per the Ordinance.
4. The Ordinance Sections involved in this appeal are Sections 9-508, 9-1008 and 9-1009. These sections have been reviewed and considered in their entirety by the Board in reaching its decision.

5. The Board finds that the Appellants, Jamie Disterhaupt and Modern Renovations, have demonstrated beyond a reasonable doubt that the requirements of the Shepherdstown Ordinance pertaining to variances have been met, and that the appeal of the Appellant should be granted.

III. RULING

The appeal for a variance is granted without restrictions or conditions.

The Appellant shall be immediately given notice of this decision and shall be provided with a copy thereof.

Enter: _____

Jonathan Wertman, Chairperson