

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

**RE:** The Appeal of J.L. Moore, Inc and Fred M Oglesbee  
110 College Street (Tax Map 3-122)  
Shepherdstown, West Virginia

**DECISION AND ORDER**

This matter came before the Board of Zoning Appeals at a public hearing on September 29, 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 a minimum lot width of 60 feet and a minimum house size of 1500 square feet. The bond for the appeal has been paid by the Appellant.

The Planning Commission considered the Appellant's application (Project Permit No. 25-12) on May 19, 2025 and voted to deny the Appellant's request for a project permit to construct a single-family dwelling on the vacant lot known as Tax Map 3-122 located at 110 College 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 at Tax Map 3-122 is 56 feet wide, which is less than the 60 feet width required by §9-508 of the Ordinance.<sup>1</sup>

The Planning Commission also considered the Appellant's application (Project Permit No. 25-12) in a special session on September 5, 2025 and voted again to deny the Appellant's request for a project permit to construct a single-family dwelling unit on the vacant lot known at 110 College Street. This adverse action of the Planning Commission was based upon its finding that the proposed new construction is one thousand three hundred two (1302) square feet, which is less than the one thousand five hundred (1500) square feet required by §9-503 of the Ordinance.<sup>2</sup>

The Appellants are Fred Oglebee, owner of the property, and J.L. Moore Inc, the company seeking to purchase and build on the property. 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

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<sup>1</sup> "Required lot area, lot width and yards in residential districts" (Amended February 13, 2007)

<sup>2</sup> "Uses permitted in the R-1 (low density) District" (Amended January 9, 1990)

- 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. One Appellant, J.L. Moore Inc, was represented by Michelle and Gary Shipley, who appeared in person. The other Appellant, Fred Oglebee, attended via phone. Neither appeared with counsel.

Michelle and Garry Shipley testified that J.C. Moore Inc is an experienced local construction company that would like to buy the lot at 110 College Street from Fred Oglesbee in order to build a two-story single-family home. Consistent with the plans submitted to the Planning Commission, Michelle Shipley stated that each floor of the home will be one thousand three hundred two (1302) square feet, with the main floor finished and the basement left unfinished but with roughed in rooms, electrical and plumbing. She stated that this approach is intended to make the home more affordable for future buyers. Upon inquiry by the Board, Garry Shipley stated that the lot at 110 College Street has been surveyed and that the current Tax Map inaccurately shows a building on the lot when there is not one. Fred Oglesbee did not make a statement.

Following the statement of the Appellant, the Chairperson opened the floor to others who wished to speak. Adam Holston, resident at 112 College Street, and Lanita Stevenson, daughter of the resident at 108 College Street, both requested to speak. Being neighbors of the property in question, they were deemed to be interested parties in the matter before the Board. Mr. Holston requested that a formal property survey be conducted to visibly establish the point at which his property ends and the 110 College Street lot begins. Ms. Stevenson asked several questions of J.L. Moore Inc to ascertain their motivations, construction plans, and knowledge of the history of the lot. She shared concerns about the condition of the lot as the prior dwelling on the site – which had a rudimentary basement but was not connected to Shepherdstown water or sewer -- was demolished but not removed. Ms. Stevenson also stated that there is a rock ledge that runs along College Street and that the homes at 108 and 112 College Street would be impacted if the rock ledge were disrupted by construction.

The Board posed several inquiries to Ms. Stevenson, Mr. Holston, Mr. Shipley and Mrs. Shipley to better ascertain facts and risks. Mr. and Mrs. Shipley discussed their construction experience, especially with the limestone in Shepherdstown, and how they would approach building at 110 College Street. Ms. Stevenson acknowledged that she had no concern about the width of the lot or the size of the house being proposed, but that she wanted to make sure the builders are prepared for difficult geological conditions and will mitigate any damage and disruption to neighboring properties. Mr. and Mrs. Shipley stated that they would do all they could to

minimize disruption to the neighbors during construction, and that they have comprehensive insurance coverage.

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 3-122 is zoned R-1 (low density residential).
3. The lot located at Tax Map 3-122 is 56 feet wide.
4. The proposed construction is of a single-family home with one thousand three hundred two (1302) square feet of finished living space and an additional one thousand three hundred two (1302) square feet of unfinished space in the basement for a total home size of two thousand six hundred four (2604) square feet.
5. The Planning Commission only denied Project Permit No. 25-12 due to specific lot width and house size requirements as found in Sections 9-508 and 9-503 of the Ordinance.
6. The lot at 110 College Street is larger than many of the lots on College Street.
7. The proposed structure would be consistent with the size and style of houses on College Street.
8. There previously was a two-story dwelling at 110 College Street.
9. The proposed construction design includes space for parking and setback distances from neighboring properties.

The requirement for granting a variance are set out in §9-1108 of the Ordinance. The Board reviewed the requirements, and after consideration, found that the appeal meets those requirements.

**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 9-503, 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, J.L. Moore Inc and Fred Oglesbee, 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 is granted. This decision is limited solely to the issues raised by the lot width requirement of 60 feet and the home size of 1500 square feet. Any additional considerations regarding the actual preparation of the site and construction of the dwelling are referred to the relevant local and state authorities.

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

Enter: December 2, 2025

  
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Jonathan Wertman, Chairperson