STATE OF WEST VIRGINIA, COUNTY OF UPSHUR, CITY OF BUCKHANNON, TO WIT:

A meeting of the Buckhannon Zoning Board of Appeals was held on Wednesday, January 13, 2025, at 5:30 pm in City Hall. The following were in attendance (GTM – GoToMeeting):

Board Member/Chair Board Member/Vice-Chair Board Member Board Member Board Member City Recorder Zoning Enforcement Officer City Attorney Virginia "Gini" Jeran Timothy Reese, OD Natalie Feola Corey Rozelle Dean Everett Randy Sanders Vincent Smith Thomas O'Neill Present Present Present Present Present Present Absent

Guests: Robert Barbor

Notice & Meeting Agenda:

City of Buckhannon NOTICE OF APPEAL TO ZONING BOARD OF APPEALS

Notice is hereby given that Robert J. Barbor has filed with the Zoning Board of Appeals an appeal to construct a 32'x 80' Quadplex located on the rear lot of 117 Pocahontas Street in the City of Buckhannon. Mr. Barbor has been denied a permit, since the application fails to meet Zoning Ordinance 244, Section 502C-5a which states in part, " Side yards requirement- Twenty feet (20') total; Eight feet (8') minimum per side. Any lot platted prior to the enactment of these Standards which is less than sixty feet (60') wide may reduce the two (2) side yards by nine inches (9") for each foot of difference to the total width not less than fourteen feet (14'). Under such circumstances, the width of the narrower of the two (2) side yards shall not be less than five feet (5')," and Zoning Ordinance 244, Section 502C-6a which states in part, "Rear yard requirement-Principalforty feet (40')."

A Public Hearing of the Buckhannon Zoning Board of Appeals will be held on **Monday, January 13, 2025 at 5:30 p.m**. The meeting will be held in the City Council Chambers at City Hall, 70 East Main Street, Buckhannon WV. This is an open meeting (per WV code § 6-9A-3) and all interested parties may appear and be heard.

Zoning Board of Appeals

Publish Dates: 12/4/24, 12/11/24

City of Buckhannon Zoning Board of Appeals Meeting Notice for Wednesday, January 13, 2025, at 5:30 pm in Council Chambers

Agenda - A Public Hearing of the Buckhannon Zoning Board of Appeals will be held on Monday, January 13, 2025, at 5:30 p.m. The meeting will be held in the City Council Chambers at City Hall, 70 East Main St., Buckhannon, WV. This is an open meeting (per WV code § 6-9A-3), and all interested parties may appear and be heard.

A. Call to Order

- A.1 Moment of Silence
- A.2 Pledge to the Flag of the United States of America

B. Recognized Guests

C. Strategic Issues for Discussion and/or Vote

C.1 To Elect Chairman & Vice Chairman of the Zoning Board of Appeals for FY 2024/2025 C.2 Vote RE: Appeal Pocahontas Street-Construct a 32'x 80' Quadplex-Side & Rear Yards Requirements

D. Adjournment

POSTED 12/02/2024

A. Call to Order:

A.1 & A.2: Chairperson Jeran called the meeting to order, asking for a Moment of Silence, followed by the Pledge to the Flag of the United States of America.

B. Recognized Guests - The Chair asked the Board and guest(s) to introduce themselves.

C. Strategic Issues for Discussion and/or Vote

C.1 To Elect Chairman & Vice Chairman of the Zoning Board of Appeals for FY 2024/2025

Chairperson Jeran opened the floor for nominations for the office of Chairman of the City of Buckhannon Zoning Board of Appeals for FY 2024/2025.

Reese/Everett motioned to elect Virginia Jeran, Chairman of the City of Buckhannon Zoning Board of Appeals, for FY 2024/2025. No other motions were made, so the nominations were closed. The motion carried unanimously.

Chairperson Jeran opened the floor for nominations for the office of Vice-Chairman of the City of Buckhannon Zoning Board of Appeals for FY 2024/2025.

Everett/Rozelle motioned to elect Timothy Reese, OD, Vice-Chairman of the City of Buckhannon Zoning Board of Appeals, for FY 2024/2025. No other motions were made, so the nominations were closed. The motion carried unanimously.

C.2 Vote RE: Appeal Pocahontas Street - Construct a 32'x 80' Quadplex-Side & Rear Yards

Requirements – The Chair noted the reason for this meeting was explained in the packet. The following was reviewed and discussed: Robert J. Barbor has filed with the Zoning Board of Appeals an appeal to construct a 32'x 80' Quadplex located on the rear lot of 117 Pocahontas Street in the City of Buckhannon. Mr. Barbor has been denied a permit since the application fails to meet Zoning Ordinance 244, Section 502C-5a, which states in part, " Side yards requirement- Twenty feet (20') total; Eight feet (8') minimum per side. Any lot platted prior to the enactment of these Standards which is less than sixty feet (60') wide may reduce the two (2) side yards by nine inches (9") for each foot of difference to the total width not less than fourteen feet (14'). Under such circumstances, the width of the narrower of the two (2) side yards shall not be less than five feet (5')," and Zoning Ordinance 244, Section 502C-6a, which states in part, "Rear yard requirement-Principal- forty feet (40')."

Chairperson Jeran recognized Mr. Barbor and asked him to provide his reasons for the Board to consider approving a variance. This was followed by a Q&A with Mr. Barbor and the Board members. After the discussion, Chairperson Jeran opened the floor for a motion.

Reese/Everett motioned to grant the requested variance as presented. The motion carried unanimously.

Addressing - Jerry Arnold City of Buckhannon **Zoning Permit Application** 70 Éast Main Street Buckhannon, WV 26201 (304) 472-1651 Phone 10-16-24 Robert J Barbor 304-614-3056 10416 Porahontasst Identification City State 7in Buckhannon, WV 26201 651a19 Scott Hardy Hardy Costruction cense No Spaces Lot Size 57X120 NO52711 St. Buckhan W26201 304-642-5758 64 Oakwa quired: COMMERCIAL Proposed Use: Estim Permits Re Im Value rov Building # new building □ single family Building \$200K Electrical multi-family \$ 22 K new addition Electrical Plumbing 4 meters 🗆 more than 500 sqft \$ 26 K □ garage/carport Water Tap Heating replacement □ fence \$ 13K Sanitary Tap □ razing □ hotel/motel 🗆 Grease Tap # \$ 134 * not connecting-runoff Storm Sewer Tap □ relocation □ rental property A/C commercial \$ 126K □ sign(s) Drainage permit Other Labor other (identify) C other (identify) □ Asbestos # Total Dollar Value (4 Plex) 81×80 \$400,000 □ Fire Sprinkler Tap # 1stry (grand entry) State Fire Marshal
nercial and Industrial property requires a full set of sealed plans be ed to the WV State Fire Marshal's Office for code approval. Drainage equired before any surface disturbance or construction activity is need. Failure to comply may delay permit approvals. Elevation Certificate # Cor □ FEMA – Appurtenant Structures permit required be commenced. Failu Trash Containment Type of Business/Description_4-Plex New Costruction □ Health Department City License Required _ □ Backflow Prevention Ord 326 Board of Barbers & Cosmetologists Electrical Compliance Inspection □ Other the owner of record and that I have been authorized agent and as such agree to conform to all applicable I hereby certify that the proposed work is authorized by the by the owner to make this application as an authorized age Certification vs of the City of Buckhannon and the State of West Virginia regarding this proposed project. nature Address 92 SHII Run Rd. Buckheum, WV 26201 Reason for denial rear yard (502,66) requirements, 304 414 3054 and Validation Zoning Offic Date

City of Buckhannon 70 East Main Street

Zoning Variance Application

Date

Initials

Buckhannon, WV 26201		(304) 472-1651		
tion	Owner/Lessee Robert J Barbor	Phone 3076173056	Variance Receipt	Date 10-16-9 %
Identification	Street Address 4-Ocahon tes St		Zoning District	Flood Zone
	City State Zip Buck hannen, WV 26201		District/Map/Parolel	

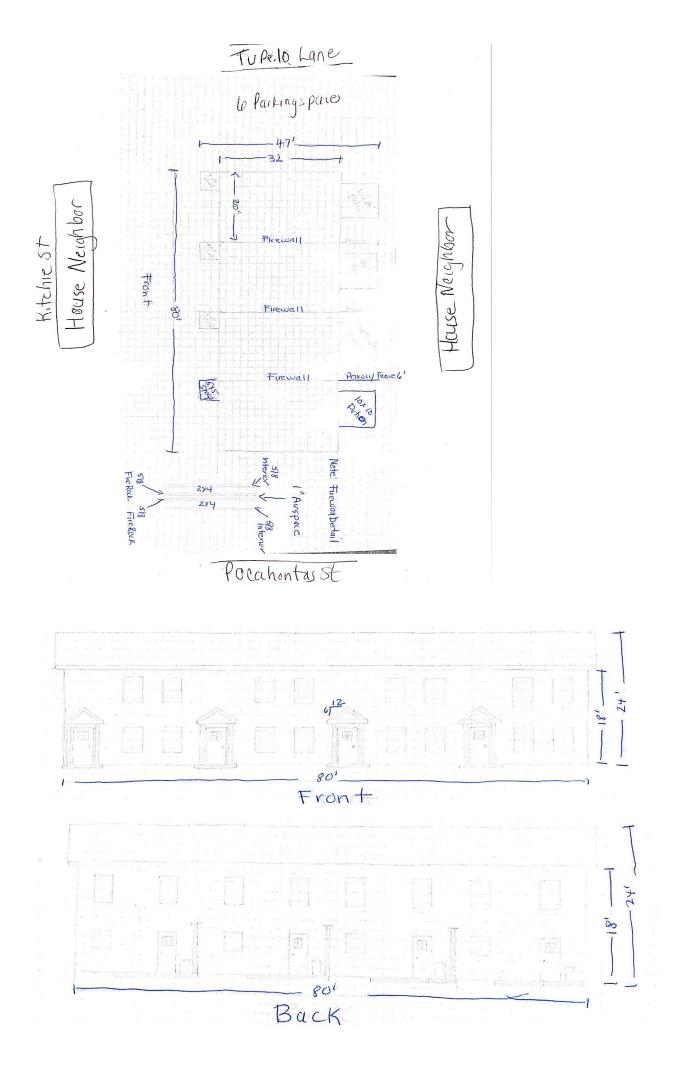
Instructions: An appeal for a variance from the City of Buckhannon Zoning Code requires the completion of this application within 90 days of the denial of your zoning request plus a fee of \$30. The fee is to offset the cost of legal advertisements, notification of area residents, and the processing of your appeal for a public hearing. Zoning appeals are held in the Council Chambers at City Hall. The actual date of the hearing is determined by state law and you will be notified in writing of the scheduled hearing. You or someone representing you should appear at the hearing to explain your request and to be available for possible questions by the members of the Zoning Board of Appeals. Please understand that multiple appeals may be heard on the same evening. Typically the Zoning Board of Appeals reaches a decision at the meeting and you will be aware of the decision.

Reason for the request of a zoning variance:

truction.
+ lot.

Certification	I hereby certify that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as an authorized agent and as such agree to conform to all applicable laws of the City of Buckhannon and the State of West Virginia regarding this proposed project.			
	Signature	Address	Date	
	Abor Ben	92 Still Run Rod, Beckhonen	10/16/24	





Notice of the Public Hearing for the Zoning Variance was sent to the area property owners:

VARIANCE – List of Property Owners Pocahontas Street

- 112 Fayette St
- 116 Fayette St
- 118 Fayette St
- 117 Pocahontas St

- 119 Pocahontas St
- 118 Pocahontas St
- 116 Pocahontas St
- 114 Pocahontas St
- 113 Pocahontas St
- 112 Pocahontas St
- 111 Pocahontas St
- 110 Pocahontas St
- 117 Ritchie Street

One comment was received from area property owner:

December 27, 2024

Zoning Board:

We have no real issues with the Zoning Board granting the appeal for Mr. Barbour to construct a Quadplex on his property as long as it doesn't impinge <u>inappropriately</u> on the adjacent properties involved.

Building ordinances are important to maintain fairness to all, but there should be reasonable allowances granted when necessary.

Living in the area, we see that on-street parking is becoming limited. We do have concern regarding parking for the additional minimum of 4 cars belonging to residents living in the Quadplex. Does this planned construction application include space for off-street parking on this property? That would be more of a concern rather than the new building being over the current zoning requirements.

Another zoning concern:

What progress and action is being taken to make residents abide by the existing ordinance 361.07, regarding abandoned vehicles, legally inoperative, parked in the yard surrounding a house? This has been an on going situation over MANY years without any resolution. It certainly detracts from the value of surrounding properties. We like to think of ourselves as good neighbors and try not to cause hate and make enemies. And I'm sure it would be a hardship and financial effort to either license or remove the vehicles or pay the fines, but if citizens do not abide by the rules, and city government is not enforcing those ordinances, then why have them?

Steve and Mary Alice Andrews 116 Pocahontas Street 304 472-9472

Addressing/Mapping Verification:

Zoning Officer Smith stated the addressing will be on the Pocahontas Street side due to the front of and rear yard setbacks. Also the sidewalk extension will be from the parking area to Pocahontas Street. The Public Works Director will assign the addressing for the quadplex.

D. Adjournment: Chairperson Jeran declared the meeting adjourned at 5:48 PM.

Chairperson Virginia Jeran

City Recorder Randall H. Sanders

BEFORE THE ZONING BOARD OF APPEALS OF THE CITY OF BUCKHANNON, WEST VIRGINIA

IN RE: 117 POCAHONTAS STREET BUCKHANNON, WEST VIRGINIA ROBERT J. BARBOR APPEAL OF DENIAL OF ZONING PERMIT APPLICATION 1061687

MEMORANDUM DECISION - VARIANCE RECEIPT No. 1061687

On January 13, 2025, Applicant Robert J. Barbor, of 117 Pocahontas Street in the City of Buckhannon, appeared in person before the Zoning Board of Appeals of the City of Buckhannon, West Virginia ("Board") on hearing of her Application for the Zoning Variance under Ordinance No. 244 of the City of Buckhannon (hereafter "Zoning Ordinance"). Following a full hearing of its application, and due consideration of the facts of the case and applicable law, the Zoning Board of Appeals GRANTS the requested variance.

Factual Background

The property located at 117 Pocahontas Street is within the municipal boundaries of the City of Buckhannon, is within the R-2 – General Residential District A zone established by the City's Zoning Ordinance and is owned by the Applicant. The Applicant seeks to locate a building closer to the side and rear lot lines than is permissible under the Ordinance, which require side yards in that district of a minimum of 8 feet on each side and a total of 20 feet, and 40 feet for the rear yard.

The City's Zoning Officer denied the zoning application based upon the requirements of the ordinance; the Applicant has applied to the Zoning Board of Appeals for a setback variance.

No other person appeared before the Zoning Board of Appeals hearing on this matter to enter an objection; an adjoining property owner did submit a written statement, stating that reasonable variances were appropriate in certain circumstances, however they wanted to ensure that the property owner would remain obligated to provide the same amount of off-street parking. The zoning officer and applicant confirmed that the proposed construction would include the required amount of off-street parking for the residents of the dwelling.

Legal Analysis

The activities and decisions of the City's Zoning Officer and Zoning Board of Appeals are primarily governed by the City of Buckhannon's Ordinance No. 244. This ordinance establishes

the City's zoning districts and establishes the rules under which property owners may improve property within the individual zones. The Zoning Ordinance has the force of law within the City of Buckhannon, and the Zoning Board of Appeals is the final municipal administrative authority in the enforcement of the Zoning Ordinance, subject only to such changes to the ordinance as may be enacted by the City Council of the City of Buckhannon.

Sections 502(C) of the Zoning Ordinance establishes side and rear setback requirements for structures within the R-2 Zone. Setback requirements establish the minimum distance a structure must be placed from the lot lines. In the case of the R-2 Zone, those setback rules establish that accessory uses to the rear of the principal structure must be at least eight feet from interior lot lines, with the combined setback on each side totaling at least twenty feet combined. In addition, the structure must be set back from the rear lot line by at least 40 feet. In this case, the proposed structure does not comply with those setback requirements.

The Zoning Board of Appeals does possess the authority to grant variances to the strict setback requirements of the Ordinance, when doing so does not frustrate the overall purposes of the Ordinance and when it has good cause to do so. The Board agrees that such cause exists in this case.

Conclusion

It is the opinion of this Zoning Board of Appeals that sufficient justification for the granting of a zoning variance exists in this case. The Application for Variance is GRANTED.

Interested parties are notified of their right to appeal the decision of this Board to the Circuit Court of Upshur County within 30 days of the date below.

Entered this 28th day of January, 2025

ZONING BOARD OF APPEALS OF THE CITY OF BUCKHANNON

BY: