

**AGENDA**  
**October 28, 2014**  
**David Springer and Julia Springer**  
**RE: Letter of Determination**  
**Dated September 11, 2014 Lot#204 West High Street**  
**BOARD OF APPEALS HEARING**  
**6:30 p.m.**

1. The hearing is called to order. We request all present for this hearing to sign in. Please indicate place of residence (street address, etc.) and interest.
2. The chair will note, for the record, members of the Board present and establish that a quorum is present. Members who have not been previously sworn in will be sworn in.
3. The Board will establish the standing of the appellant for the record.
4. Members of the audience who wish to testify are sworn in and interest in the matter is established for the record.
5. CONFLICT OF INTEREST: The chair will inquire, for the record, whether any board member has a conflict of interest in any of the matters before it.
6. THE NOTICE OF PUBLIC HEARING will be entered into the record.
7. The appeal by David Springer and Julia Springer regarding the Letter of Determination of September 11, 2014 as allowed by Section §9-1006 of the Shepherdstown Planning and Zoning Ordinance (Amended 02/11/14) regarding Lot# 204 West High Street to construct a new home on Lot#204 West High Street was determined to not meet the requirements of Title §9-508 and §9-503. The chair will note, for the record, whether the bond has been paid.
8. The chair will note for the record, whether the board members have visited the site.
9. GROUND RULES:
  - A. *The Board of Appeal's rules are standardized by Robert's Rules of Order.*
  - B. *The Appeals Board is guided by Title 9, Chapters 1-12 of the Town Code—the Zoning Ordinance – and the requirements and standard of Title 9 are the requirements and standards we abide by in making decisions. Most importantly, we are guided by Chapter 10, Section 9-1009. Copies of these sections are available for the members of the public here tonight if they so request.*

- C. The Chair will monitor the recording device.*
- D. The Board of Appeals may set time limits, as it deems necessary, for the applicant's responses, the responses of bona fide groups and of individuals.*
- E. The Board of Appeals will question applicants on proposed use, proposed additions, proposed building or structures, or proposed subdivisions.*
- F. The Board of Appeals will determine if and for what sections of the Zoning Ordinance a waiver is required.*
- G. Each person recognized by the chair will approach the table; give his or her name and street address, be sworn in if not previously sworn in, and present questions, comments or petitions loudly enough to be picked up by the tape recorder.*
- H. Actions, votes, findings of facts and conclusions of law shall not become final rulings until the minutes and/or the Decision and Order of the public hearing, or of the subsequent continued public hearing (s), are approved at a continued or adjourned meeting, called for the purpose of approving these documents by the Board of Appeals.*

#### 10. PRESENTATION OF EVIDENCE AND ARGUMENT

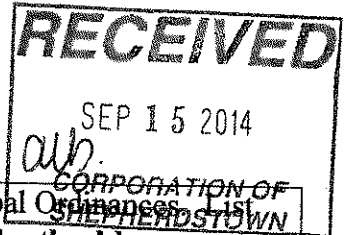
- A. The appellant presents arguments regarding: The refusal of the enforcement officer to issue a permit permitting a variance request from §9-508 (lot size and rear yard depth) and §9-503 (dwelling size) and how the requirements of Sections 9-1008 and 9-1009 are met for the purpose of constructing a new home on Lot#204 West High Street.
- B. Interested parties present questions regarding the applicant's evidence and argument.
- C. The appellant responds.
- D. The Board questions the appellant.
- E. Interested parties present evidence and argument.
- F. The appellant presents questions regarding the interested parties' evidence and argument.
- G. The interested parties respond.
- H. The Board questions the interested parties.

#### 11. Deliberations, Board of Appeals Members

- |   |        |      |
|---|--------|------|
| A. MOTION to close the public hearing     | SECOND | VOTE |
| B. MOTION to deliberate in closed session | SECOND | VOTE |
| C. MOTION to come out of closed session   | SECOND | VOTE |
| D. Continuation of hearing, if any        |        |      |

- |  |        |      |
|--|--------|------|
| 1. MOTION to continue  | SECOND | VOTE |
| 2. Set date for continued hearing  |        |      |
| 3. State reason for continued hearing  |        |      |
|  |        |      |
| E. MOTION(S) on Finding of Facts and<br>Conclusions of Law   | SECOND | VOTE |
| F. MOTION on Section 9-1008  | SECOND | VOTE |
| G. MOTION on Section 9-1009  | SECOND | VOTE |
|  |        |      |
| H. MOTION to grant a reversal/variance under Section §9-508<br>(lot size and rear yard depth) and any possible conditions. | SECOND | VOTE |
|  |        |      |
| I. MOTION to grant a reversal/variance under Section §9-503<br>(dwelling size) and any possible conditions.                | SECOND | VOTE |
|  |        |      |
| 12. MOTION to reconvene for the purpose of reading and approving the<br>minutes of this hearing and/or any orders.         | SECOND | VOTE |
|  |        |      |
| <i>Set date, time and place</i>  |        |      |
|  |        |      |
| 13. MOTION to conclude hearing of David Springer and Julia Springer  | SECOND | VOTE |
|  |        |      |
| 14. Old Business   |        |      |
|  |        |      |
| 15. Motion to adjourn  | SECOND | VOTE |

**Corporation of Shepherdstown  
Variance Request**



I/We request a variance from the provisions of the Shepherdstown Municipal Ordinance(s) number(s): **§9-508 [minimum lot size; minimum rear yard setback] §9-503(b) [minimum square footage for single family home]**

1. Property Owners: **David & Julia Springer (Justin Dahlin)**

2. Street Address: **213 W New Street**

3. City/State/Zip: **Shepherdstown, WV, 25443-1085**

4. Phone # (Home): **240-818-6688** | 5: Phone # (Business): **same**

6. Location of Property (List cross streets): **Lot # 204, West High Street**

7. Lot Size: **4,700 sq.ft.** | 8. Zoning District: **R1**

9. Tax Map Reference: MAP #: **2** | PARCEL #: **51**

10. Briefly describe (in your own words) the nature of your variance request.  
Please make specific reference to a sketch map:

**Applicants seek to build a single family, cottage-style residence having a footprint no smaller than 697 sq.ft. and a rear yard setback greater than 20 ft. Please see attached for further details including plat, contract and appeal summary. Definitive building plans will be developed and submitted for Planning Commission approval after a variance has been granted, since the purchase contract is contingent upon the applicants' successful appeal.**

11. On a separate sheet, please sketch the shape and location of the lot. Show the location of the intended construction or land use indicating building setbacks, size, and height. Identify existing buildings, structures, or land uses on the property. Sign and date the sketch.

12. Please note that variances must comply with Chapter 10, Title 9 of the Town Ordinances. To justify your variance request, please address the following questions:

A. Describe how this request is not contrary to the public interest.

**Lot # 204 is zoned R1, and as such is designated for (and has previously been used for) low density housing. Construction of a smaller-sized single family home, as intended, will be in keeping with the neighboring properties. The property will have adequate off-street parking, and has sufficient access (via side yards and a rear alley) for emergency services. Water and sewer access are already provided to this lot.**

B. Describe how the literal enforcement of this ordinance will cause an unnecessary hardship to the property owner(s).

**Literal enforcement of the ordinances will deny any possible use of the lot for residential purposes, despite the zoning of the lot as R1. Currently the applicants have the lot under contract, but the contract will be voided if such a variance cannot be obtained. This would also preclude the current owner, Justin Dahlin, from marketing the lot as a residential lot despite its use as such prior to purchase by Mr. Dahlin's father in 2006.**

C. Describe the exceptional or extraordinary circumstances that justify a variance.

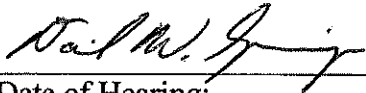
**A variance would be required to allow any residence to be built on this R1 (low density**

housing) lot due to its small size and unusual shape.

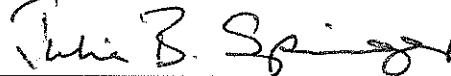
D. If the variance is granted, how will the spirit of this ordinance and substantial justice be done?

**Granting the variance will permit the lot to be used for its original residential purpose and allow the applicants to build a smaller cottage-style residence, in keeping with the majority of the residences in this neighborhood of the town.**

Signature of property owner



Signature of property owner



Date of Hearing:

Granted ☐ Yes ☐ No (attach findings of Board)

Signature of Board Chair

**Regarding Application for Special Exception:  
Lot 204 West High St., Shepherdstown, WV 25443**

**Applicants:** David W Springer and Julia B Springer

The applicants are contractual parties to a ratified purchase agreement (dated 1 August 2014) contingent only upon the issuance of a variance (special exception) allowing the construction of a residential dwelling on the 0.10 Acre Parcel.

*To-wit*, applicants are aware that variances would be required to allow such construction under the following sections of Title 9:

- **9-503 Uses permitted in the R-1 (low density) district (amended on January 9, 1990)**  
B - Single family, duplex dwellings, and/or single family dwellings of no less than one thousand five hundred (1,500) square feet with one (1) apartment of no less than one thousand (1,000) square feet, which apartment shall contain not more than three (3) additional persons not members of the family residing in the dwelling unit.
- **9-508 Required lot area, lot width, and yards \* in residential districts (amended February 13, 2007)**  
Min. Lot Area per Family Unit - 11,000 square feet  
One Rear Yard - Not less than 40 feet

As such, and having standing, the applicants hereby appeal to the Board of Appeals of the Corporation of Shepherdstown, as provided in Chapter 8A-8-10 of the West Virginia Code for such relief.

This lot, although currently vacant, was occupied by a single family dwelling prior to 2005, whilst owned by the Grantham family. The applicants desire to build a single-family dwelling of a similar size and in a complimentary style to the existing homes in this region of the Historic District. Although the intended cottage will be smaller than the minimum size stated for R-1 under Section 9-503B, we contend that the intended size (approximately 24 x 36 feet) is in keeping with surrounding properties.

This small, trapezoid lot has an area of 4,700 square feet (0.10 Acre). Whilst this is less than the 11,000 square feet specified as the minimum lot size for a single-family dwelling in R-1 under Section 9-508, the applicants submit that this area is similar to surrounding single-family lots in this neighborhood, and indeed is larger than several parcels including the adjacent lot currently occupied by Mrs Rosetta Brown.

The lot has a street frontage of 68.87 feet on High Street, and is thus in compliance with Section 9-211 Lot frontage [- all lots in the residential and residential commercial zones shall have the minimum lot width fronting on designated streets but not alleys] as further clarified under section 9-508 [- minimum lot width R-1 district single-family dwelling 60 feet].

The intended footprint of the proposed cottage is such that the front yard setback will be no closer than the established building line on the adjacent lot (Mrs Brown).

The lot is accessible from the rear via a public alley (Newton Alley), and one side yard will be in excess of 8 feet, in accordance with Section 9-508 [- side yard R-1 single-family dwelling - one side yard of at least 12 feet unless the lot is accessible from the rear via a public alley. If such access exists then the side yard may be a minimum of 8 feet].

The rear yard depth will be approximately 31 feet; this is less than the minimum rear yard specified under Section 9-508 [- not less than 40 feet] due to the size and unusual shape of the lot, but is greater than the adjacent properties.

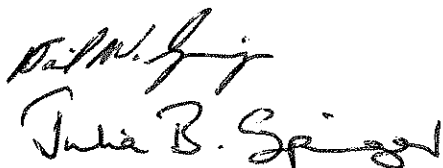
The recorded lot area is 4,700 square feet (0.10 Acre); the planned dwelling will have a footprint significantly less than 50% of that area (less than 1,000 square feet) - thereby complying with the Green Space requirement of Section 9-508 [Footprint of house (primary structure) and any accessory buildings cannot exceed 50% of lot area].

The proposed cottage is intended to be one and one-half stories, built on a raised basement, with an overall height less than the maximum height of 35 feet, as specified under Section 9-506 [Building height regulations in residential districts].

With the advantage of rear access from the public alley, at least one off-street parking space, no less than 9 feet by 20 feet, will be provided on the lot, in compliance with Section 9-207 [Off-street parking requirements].

Your prompt consideration of this matter would be greatly appreciated, both by the applicants and by the seller (Justin Dahlin).

Respectfully submitted,

The block contains two handwritten signatures in black ink. The first signature is 'David M. Springer' and the second is 'Julia B. Springer'. Both are written in a cursive, flowing style.

David and Julia Springer

Attachments:

1. Purchase agreement, dated 1 August 2014.
2. Plat of Resurvey.
3. Tentative house plan.

**Section 9-508 Required lot area, lot width, and yards \* in residential districts (Amended February 13, 2007)**

	Min. Lot Area Per Family Unit (square feet)	Min. Lot Width (feet)	One Front Yard Depth (feet)	Side Yard (feet)	One Rear Yard (feet)	Green Space
PR District.....	22,000	100	*	2-20	***	****
R-1 District Single-family dwelling.....	11,000	60	*	**	***	****
Duplex dwellings .....	11,000	30 per unit	*	2-12 end units only	***	****
Town- houses.....	5,000	25 per unit	*	2-12 end units only	***	****
R-2 District Single-family dwelling.....	11,000	60	*	**	***	****
Duplex dwellings .....	5,500	30	*	2-10 end units only	***	****
Two-family dwellings .....	5,500	30	*	**	***	****
Town- houses.....	3,000	25 per unit	*	2-10 end units only	***	****
Multi-family dwelling.....	2,000	100	25	12	30	****
Schools and churches .....			*	10	30	****

- \*Front yard No closer than established building line on adjacent lots. If no buildings exist then no closer than a building within two hundred (200) feet on the same side of the street.
- \*\*Side yard One side yard of at least twelve (12) feet unless the lot is accessible from the rear via a public alley. If such access exists then the side yard may be a minimum of eight (8) feet.
- \*\*\*Rear yard Not less than 40 feet.
- \*\*\*\* Green Space Footprint of house (primary structure) and any accessory buildings cannot exceed 50% of lot area.



**Section 9-503 Uses permitted in the R-1 (low density) District (amended on January 9, 1990)**

- (a) Any use permitted in the PR District.
- (b) Single family, duplex dwellings, and/or single family dwellings of no less than one thousand five hundred (1,500) square feet with one (1) apartment of no less than one thousand (1,000) square feet, which apartment shall contain not more than three (3) additional persons not members of the family residing in the dwelling unit.
- (c) Townhouses, each having its own lot and housing no more than one family.
- (d) Accessory uses and buildings.

**Section 9-504 Uses permitted in the R-2 (medium density) District (amended on January 9, 1990)**

- (a) Any use permitted in the R-1 District.
- (b) Two-family dwellings, or leasing of rooms to not more than five (5) persons not members of the family residing in the dwelling unit.
- (c) Multi-family dwellings.
- (d) Condominiums. (Added February 12, 2008)

**Section 9-505 Special exceptions (require Board of Appeals approval) in Residential district (amended January 9, 1990)**

- (a) PR—Subdivision of lots two (2) acres or more into lots no less than one (1) acre
- (b) R-1—Two-family dwellings with one (1) off-street parking space per dwelling unit.
- (c) R-2—Boarding and lodging homes not primarily for transients, and Bed-and-Breakfast establishments, provided off-street parking of one (1) space per rental unit is provided and provided yard requirements shall conform to those of a multi-family structure.
- (d) R-2—Nursery school or child care center, provided it contains an adequately sized play area, fully fenced and enclosed, and the main structure is no closer than twenty (20) feet from any adjacent district line or lot line.
- (e) R-2—Rest and nursing homes, provided one (1) off-street parking space is provided for each attendant or worker, for each three (3) patients to be cared for therein, and provided yard requirements shall conform to those of a multi-family structure.

## **CHAPTER 10 BOARD OF APPEALS**

### **Section 9-1001          Creation, appointment, removal and compensation**

As provided in Chapter 8A-8-1 of the West Virginia State Code, a Board of Appeals is hereby created. It shall consist of five (5) members, all of whom shall be taxpayers and residents of the town. The terms of office of the members of the Board shall be three (3) years. Members of the Board shall be appointed by the town council and shall be removable for cause, upon written charges, and after public hearing. Vacancies shall be filled by appointment for the unexpired term only. Members of the Board shall serve without compensation.

The initial appointments to the Board of Appeals shall be for terms of one (1) year for one member, two (2) years for two members and three (3) years for two members. Thereafter, reappointment shall be for three (3) years.

The terms of the Board shall not expire simultaneously.

### **Section 9-1002          Alternate member**

The council shall also appoint one (1) alternate member for the Board of Appeals to sit on the Board in the absence of any member of the Board, and when the alternate is absent, the town council may designate a temporary alternate.

Any member absent from three (3) consecutive meetings without sufficient cause shall be replaced by the council.

### **Section 9-1003          Rules, meetings, oaths, witnesses, records**

As provided in Chapter 8A-8-3 of the West Virginia State Code, the Board of Appeals shall adopt rules in accordance with the provisions of this chapter. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall make a transcript of all proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, which shall be immediately filed in the office of the Board and shall be a public record.

### **Section 9-1004          Chairman and other officers**

The members of the Board shall elect a chairman and such officers in addition as they determine. Such officers shall serve one (1) year and until their successors have been selected and qualified.

**Section 9-1005      Bond (Amended 02/11/14)**

In order to defray the costs, a fee of \$100.00 shall be paid by each applicant or person who files a notice of appeal to the Board of Appeals, which includes, but is not limited to, special exceptions including flood plain, variances including flood plain, and continuations of non-conforming use. Such fee will go in the general revenue fund and will not be refunded.

**Section 9-1006      Appeals to the Board of Appeals (Amended 02/11/14)**

As provided in Chapter 8A-8-10 of the West Virginia Code, appeals to the Board of Appeals may be made by any person, board, association, corporation, or official allegedly aggrieved by the grant or refusal of a building or use or occupancy permit, or by any other administrative decision based or claimed to be based, in whole or in part, upon any of these zoning ordinances or rules and regulations adopted pursuant thereto, as set forth in Title 9 of the Town Code, or the Zoning Map.

An appeal relating to a Variance shall be filed with the board only after refusal of issuance of a permit by an enforcement official or after the issuance of a permit in cases where it is alleged that said permit has been issued erroneously.

An application for a Special Exception may be made only by a person or persons with a financial, contractual basis, or proprietary interest in the property for which a Special Exception is requested.

An appeal may be taken only by filing a notice of appeal with the Town Clerk within 30 days of the date appearing on the written order, requirement, decision, notice of decision, or determination. An appellant's failure to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for the Board of Appeals to act as it considers appropriate, including, but not limited to, requesting additional information or dismissing the appeal.

The notice of appeal must: (1) provide the names, addresses, and telephone numbers of each party taking the appeal, (2) have attached to it a copy of the order, requirement, decision, notice of decision, or determination being appealed, and (3) contain a statement of the grounds for the appeal. The appealing party shall submit the notice of appeal on the application form obtained from the Town Clerk, attaching additional pages as necessary to complete the application.

Upon filing a notice of appeal, the appellant must pay the Town Clerk all required fees. The Town Clerk shall forward the completed notice of appeal and all attachments to the officer from which the appeal is taken, and the Board of Appeals. Upon receiving the notice of appeal, the officer from which the appeal is taken shall forthwith transmit to the Board all papers constitute the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from which the appeal is taken certifies to the Board of Appeals after notice of appeal shall have been filed, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a Court of Record with notice to the officer from which the appeal is taken

Once a completed notice of appeal has been filed and all applicable fees have been paid, the Board of Appeals shall fix a reasonable time, not to exceed forty-five (45) days, for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, or be represented by agent or attorney.

#### **Section 9-1007      General powers of Board of Appeals (Amended 02/11/14)**

The Board shall have the following powers:

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the by the officer in the enforcement of zoning ordinances or rules and regulations adopted pursuant thereto, or of the provisions of The West Virginia Code.
- (b) To hear and decide special exceptions to the terms of this title upon which such Board is required to pass hereunder.
- (c) To authorize upon appeal in specific cases a variance from the terms of zoning ordinances or rules and regulations adopted pursuant thereto.
- (d) In exercising the above-mentioned powers such Board may, in conformity with the provisions of said West Virginia Code and applicable ordinances, rules, or regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the enforcement officer from whom the appeal is taken.

#### **Section 9-1008      Variances**

- (a) Where by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property when zoning was adopted in Shepherdstown or by reason of

exceptional topographic conditions or other extraordinary situation or condition of such piece of property, the literal enforcement of the requirements of this ordinance would involve practical difficulty or would cause unnecessary hardship to carry out the spirit and purpose of this ordinance, the Board shall have power, upon appeal in specific cases, to authorize a variance from the terms of this ordinance so as to relieve such hardship, and so that the spirit and purpose of this title shall be observed and justice done. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest. In authorizing a variance, with attached conditions, the Board may require such guarantee as it may deem necessary that the conditions attached are being and will be complied with.

(b) No such variance in the provisions or requirements of this ordinance shall be authorized by the Board unless it finds, beyond reasonable doubt, that all the following facts and conditions exist:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or classes of uses in the same zoning district.

(2) That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.

(3) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this title or the public interest.

(4) That the condition or situation of the specific piece of property or the intended use of such property, for which variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation.

**Section 9-1009      Limitations, guides, and standards (Amended 02/11/14)**

Where, in this title, certain powers are conferred upon the Board it shall study the specific property involved and the neighborhood, cause the property to be posted in a conspicuous place, hold a public hearing, consider all testimony and data submitted, and hear any person for or against the issuance of the permit. However, the application shall not be approved where the Board finds the proposal would adversely affect the public health, safety, security, morals or general welfare or would result in dangerous traffic conditions or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall give consideration, among other things, to the following:

- (a) Decisions of the Circuit Court and the Supreme Court of Appeals.
- (b) The orderly growth of the neighborhood and community.
- (c) The most appropriate use of land and structure.

- (d) Facilities for sewers, water, trash and garbage collection and disposal and the ability of the Town or County to supply such services.
- (e) Availability of firefighting equipment.
- (f) The effect of such use upon the peace of people in their homes.
- (g) The number of people residing, working or studying in the immediate area.
- (h) The type and kind of structures in the vicinity where people are apt to gather in large numbers such as schools, churches, theatres, hospitals and the like.
- (i) Traffic conditions, including facilities for pedestrians, such as sidewalks and safety zones and parking facilities available and the access of cars off highways.
- (j) The preservation of cultural and historic landmarks.
- (k) The conservation of property values.
- (l) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the uses of surrounding properties.
- (m) The contribution, if any, such proposed use, building or addition would make toward the deterioration of areas and neighborhoods.
- (n) Any findings and recommendations of the Historic Landmark Commission.

**Section 9-1010 Public hearings and permits issued by the Board**  
**(amended January 11, 2000)**

The Board shall make no recommendation except in a specific case and after public hearing conducted by the Board. A notice of time and place of such public hearing shall be published in a paper of general circulation in the area at least once, at least thirty (30) days prior to the date set for the hearing. Such notice shall contain the address or location of the property for which the variance or other ruling by the Board is sought, as well as a brief description of the nature of the appeal, and specifications of the proposed variance.

- (a) Construction permitted by Board to be undertaken within one (1) year.

No order of the Board permitting the construction, alteration, reconstruction, moving or demolition of any structure shall be valid for a period longer than one (1) year unless a building permit for such construction, alteration, reconstruction, moving or demolition of any structure is started and proceeds to completion in accordance with the terms of such permit or extensions thereof obtained in accordance with Section 9-902 XII.

- (b) Use of a building permitted by Board to be established within one (1) year.

No order of the Board permitting a use of a building or premises shall be valid for a period longer than one (1) year, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the construction, alteration, reconstruction, moving or demolition of any structure, such order shall continue in force and effect if a building permit for said construction, alteration, reconstruction, moving or demolition of any structure is obtained within such period and the construction, alteration, reconstruction, moving or demolition of any structure is started and proceeds to completion in accordance with the terms of such permit or extensions thereof obtained in accordance with Section 9-902 XII.

#### **Section 9-1011      Temporary permits (Amended 02/11/14)**

A temporary special exception may be authorized by the Board of Appeals, after a public hearing, for a use which may be necessary for the proper development of the community. Such special exception shall be for a specified length of time not to exceed one (1) year and subject to agreement by the recipient to discontinue such use at the expiration of such special exception or to allow the municipal authorities to remove it without cost to the town.

### **CHAPTER 11 AMENDMENT**

#### **Section 9-1101      Amendment**

The town council may from time to time, on its own motion or on petition, amend, supplement, change, modify, or repeal by ordinance the boundaries of districts, regulations or restrictions herein established.

(a) Procedure - As provided in Chapter 8A-7-9 of the West Virginia State Code, no regulation, restriction, boundary or amendment thereto shall become effective until after at least one (1) public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in said town.

As provided in Chapter 8A-7-3 of the West Virginia State Code, where the purpose and effect of a proposed amendment is to change the zoning classification, the town council shall make findings of fact in each specific case including, but not limited to, the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendation of the Planning Commission, and the relationship of such proposed amendment to the town's plan; and may grant the amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification. A complete record of the hearing and the votes of all members of the council shall be kept.

An application for reclassification shall not be accepted for filing by the council if the application is for the reclassification of the whole or any part of land the reclassification of which has been denied by the council on the merits within twelve (12) months from the date of the council's decision.

**Section 9-1102      Approval of Planning Commission**

No amendment shall be considered or acted upon by the town council unless it is first submitted to and approved by the Planning Commission (except, however, failure of the Planning Commission to report within ninety (90) days shall be deemed approval), or disapproved by said Planning Commission.

A majority vote of the entire town council shall be required to take action different from that recommended by the Planning Commission.

**Section 9-1103      Fee (Amended on November 10, 1992)**

A filing fee of five hundred (500) dollars shall be charged for processing an application for a change in zoning.





## **CORPORATION OF SHEPHERDSTOWN**

104 NORTH KING STREET  
P.O. BOX 248  
SHEPHERDSTOWN, WEST VIRGINIA 25443-0248  
TEL: (304)876-2312  
FAX: (304) 876-1473

### **Letter of Determination**

Dave and Julia Springer

September 11, 2014

P.O. Box 1085

Shepherdstown, WV 25443

<b>Site Address:</b>	<b>Lot #204, West High Street</b>
<b>Zoning:</b>	<b>R1</b>
<b>Application #:</b>	<b>14-41</b>

Dear Mr. and Mrs. Springer:

This letter is in response to your request for a Building Permit to construct of a new home on Tax Map 2, Parcel 51, Pt Lt #204 High Street.

It is the determination of this office that the following apply:

**Pursuant to Title 9, §9-508, Required lot area, lot width, and yards in residential districts (Amended February 13, 2007), the following conditions exist:**

- 1. The minimum lot area per family unit in the R1 zoning district is 11,000 square feet. Tax Map 2, Parcel 51, Pt Lt #204 High Street is 4,700 square feet.**
- 2. The minimum rear yard depth in the R1 zoning district is 40 feet. The proposed rear yard will have a depth of 31 feet.**

**Pursuant to Title 9, §9-503(b), Uses permitted in the R-1 (low density) district (amended on January 9, 1990), the following condition exists:**

**"Single family, duplex dwellings, and/or single family dwellings of no less than one thousand five hundred (1,500) square feet with one (1) apartment of no less than one thousand (1,000) square feet, which apartment shall contain not more than three (3) additional persons not members of the family residing in the dwelling unit."**

**The proposed dwelling is six hundred and ninety seven (697) square feet.**

Per the conditions stated above, your application (#14-41) does not meet all the requirements set forth in Title 9, §9-503(b) and §9-508. Please be advised that in accordance with §9-1006, you have the right to appeal this determination with the Board of Zoning Appeals or, pursuant to §9-1008, you may apply for a variance with the Board of Zoning Appeals.

Thank you for your submittal and should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Andy Beall". The signature is fluid and stylized, with the first and last names being clearly legible.

Andy Beall, Zoning Officer



Application Number 14 - 41

## Application for Building Permit

### Corporation of Shepherdstown, West Virginia

Should you have any questions regarding this application, please contact:

Andy Beall (Phone 304-876-6858, E-Mail [abeall@shepherdstown.us](mailto:abeall@shepherdstown.us))  
Harvey Heyser (Phone 304-876-6858, E-Mail [hheyser@shepherdstown.us](mailto:hheyser@shepherdstown.us))

SEP - 2 2014

aw

PLEASE PRINT OR TYPE CLEARLY

Applicant's Name: DAVE + JULIA SPRINGER

Address: 213 W. NEW ST

Day Time Telephone Number: 240-818-6699

E-Maill Address: BAKER STREET HOMES @ GMAIL.COM

Property Owner's Name: SAME

Address: \_\_\_\_\_

Day Time Telephone Number: —

Street Address of Proposed Work: \_\_\_\_\_

Lot Number/Legal Description: LOT 204 W. HIGH ST

Current Zoning: R-1 Current Land Use: VACANT

Note: See zoning maps at Town Hall for correct zoning classification

Description of Work: SEE ATTACHED

Change of Use? Example- Residential to Commercial or Commercial to Residential

From: \_\_\_\_\_ To: \_\_\_\_\_

Cost Estimate: \_\_\_\_\_ Project Category (Descriptions on Next Page): \_\_\_\_\_

Contractor performing work: \_\_\_\_\_

Contractor's Business License #: \_\_\_\_\_



Application Number \_\_\_\_\_ - \_\_\_\_\_

**Application For Building Permit**  
**Corporation of Shepherdstown, West Virginia**  
**(Checklist of Required Information for Applications)**

Provide information required for appropriate category of work:

**Category I-** Minor Projects such as painting, awnings, porch railings, window boxes, air conditioner units, satellite dishes, propane tanks, window replacements, signs or other minor changes.  
\_\_\_\_\_  
**PHOTOGRAPHS OR DRAWN ELEVATION VIEWS OF THE PROPOSED WORK SITES** (clearly labeled), at reasonable scales, of the parts of the structure to be altered (again, clearly labeled in terms of which side of the structure, etc.) are needed.  
\_\_\_\_\_  
**MATERIAL AND COLOR SAMPLES** for exterior finishes

**Category II-** Accessory Buildings, sidewalks, driveways, decks, garages, storage buildings, or carports.  
**Category III-** Single Family Dwellings major changes excluding additions and non-profit tax exempt organizations.

**Category IV-** Commercial/Industrial, Multi-Family Residences and/or additions.

**(Categories II thru IV):**

\_\_\_\_\_  
**SITE PLAN** is required at common engineering (1" = 10' or 1" = 20', etc.) or architectural scales (1/4" = 1' or 1/8" = 1'). Specifically, these drawing shall include: North point, scale, date, property boundaries (lot lines), existing trees and/or significant planting (if work will disturb surroundings), street & parking lighting.

\_\_\_\_\_  
Proposed landscaping (height & type)

\_\_\_\_\_  
Gross & net land area of property

\_\_\_\_\_  
Setback from property boundaries

\_\_\_\_\_  
Existing & proposed topography (only if regrading of the property is required)

\_\_\_\_\_  
Existing & proposed accessory structures

\_\_\_\_\_  
Existing & proposed street right-of-way & entrance

\_\_\_\_\_  
Sidewalk, handicap access, Category IV only

\_\_\_\_\_  
Existing & proposed utility easements (location & widths)

\_\_\_\_\_  
**MATERIAL AND COLOR SAMPLES** for exterior finishes

\_\_\_\_\_  
**ELEVATIONS**, drawings indicating height of proposed structures, materials, and window and door arrangements

\_\_\_\_\_  
**ZONING INFORMATION** shall be defined in the application as required:

\_\_\_\_\_  
Dwelling density- net (residential application only)

\_\_\_\_\_  
Flood plain designation if any (mapping available in Town Hall)

\_\_\_\_\_  
Cost estimates and property appraisals for applications seeking exemptions from Chapter 12- Floodplain provisions

**Category V- Demolitions:**

\_\_\_\_\_  
Historic designation of structures to be demolished (documents available in Town Hall)

\_\_\_\_\_  
Complete description of structure(s) or part(s) of structure(s) to be demolished.



Application Number \_\_\_\_\_ - \_\_\_\_\_

**Section 9-905 Remedies and penalties**

The owner or agent of a building or premises in or upon which a violation of any provision of the Planning and Zoning Title has been committed or shall exist, or the leasee or tenant of an entire building or entire premise in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred (100) dollars. Each and every day that such violation continues may constitute a separate offense.

**Please read the following paragraph carefully and sign.**

Attach documents specified in the checklist on the back of this application. I hereby certify that all information herein provided is true and accurate. I hereby authorize the inspection of the above premises by authorized agents of the Shepherdstown Planning Commission at any reasonable time in order to determine compliance with the Commission's approval. Application must be signed by owner or his/her agent.

Date: \_\_\_\_\_

Applicant's Signature: Julia B. Springer | D.W. Springer

Print Name: JULIA B. SPRINGER | D.W. SPRINGER

If you are a tenant, you must obtain the owner's signature acknowledging and approving the proposed work. This must be done prior to submission of application.

Date: \_\_\_\_\_

Owner's Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Zoning Officer Comments:

Fee Paid 150.00 # 0974

Date Paid 9-2-14



Application Number \_\_\_\_\_ - \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 8 OF TITLE 9 OF THE CODE OF SHEPHERDSTOWN  
RELATING TO BUILDING PERMIT FEE SCHEDULE

**THE SHEPHERDSTOWN TOWN COUNCIL ORDAINS:**

Section 9-902 of Chapter 8 paragraph XIV be amended as follows:

**Category I:** Minor projects such as painting, awnings, porch railings, window boxes, air conditioner units, satellite dishes, propane tanks, window replacement, signs, or other minor changes

**\$20.00**

**Category II:** Accessory buildings, sidewalks, decks, fences, driveways, garages, storage buildings, carports

**\$35.00**

**Category III:** Single family dwelling major changes excluding additions, non-profit tax exempt organizations

**\$100.00**

(Plus \$1.00 per \$1,000.00 value over \$50,000.00)

**Category IV:** Additions, commercial-industrial, multi-family residences

**\$250.00**

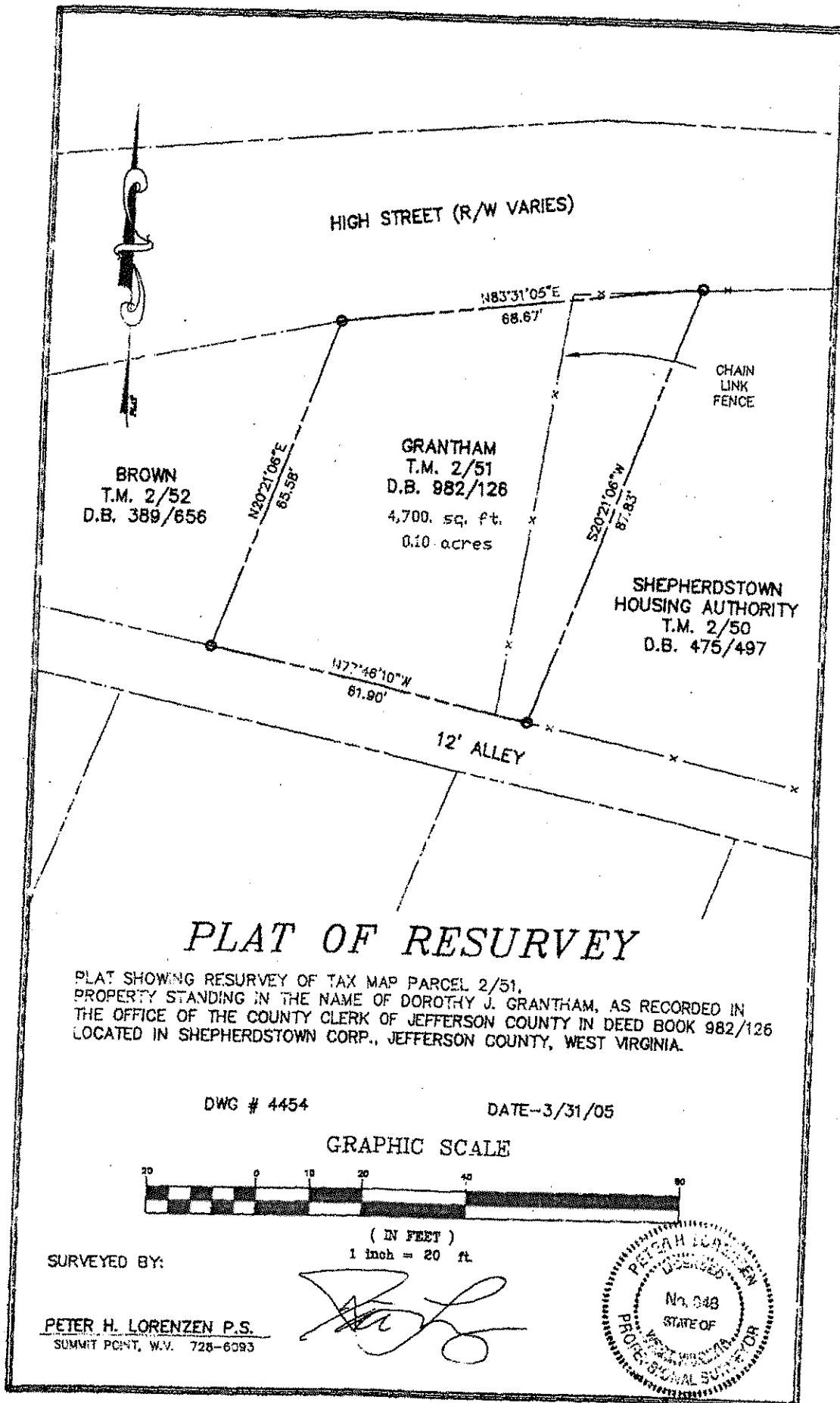
(Plus \$1.00 per \$1,000.00 value over \$50,000.00)

**Category V:** Demolition and permit extensions

**\$25.00**

The Planning Commission shall categorize any request not specifically listed in the above categories.

**Fees shall be paid to the Town Treasurer/Clerk and must accompany the application. If work begins without the required permit, double the cost of said permit would be charged.**



WITNESS the following signatures.

Justin E. Dahlin  
JUSTIN E. DAHLIN

David William Springer  
DAVID WILLIAM SPRINGER

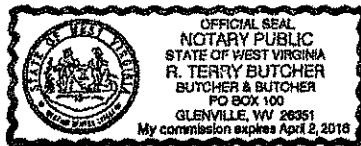
Julia Baker Springer  
JULIA BAKER SPRINGER

STATE OF WEST VIRGINIA,  
COUNTY OF GILMER, to-wit:

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of August, 2014,  
by Justin E. Dahlin.

My commission expires April 2, 2016.

(NOTARY SEAL)



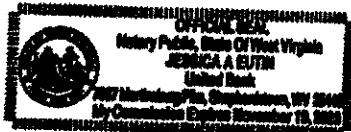
[Signature]  
Notary Public

STATE OF WEST VIRGINIA,  
COUNTY OF JEFFERSON, to-wit:

The foregoing instrument was acknowledged before me this 7 day of August, 2014,  
by David William Springer and Julia Baker Springer, his wife.

My commission expires: November 19, 2023.

(NOTARY SEAL)



[Signature]  
Notary Public

This Instrument Prepared By:

R. Terry Butcher, Esquire  
West Virginia Bar No. 564  
BUTCHER & BUTCHER  
Attorneys at Law  
218 East Main Street  
Post Office Box 100  
Glenville, West Virginia 26351

Z:/REPK,jed



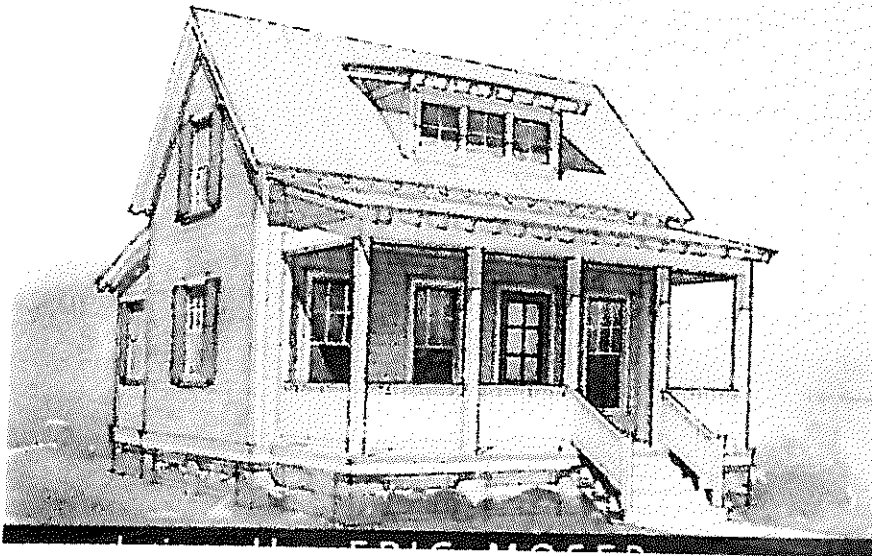


# HOUSEPLANS

Questions about this plan? Visit Houseplans today or call 1-800-913-2350

You can view this plan at [houseplans.com/p/514-10](http://houseplans.com/p/514-10)

## Plan #514-10



697 sq ft 2 beds 1.00 baths 24' wide 34' deep

### House Features

### Styles Classifications

Southern  
Beach

Cottage  
Traditional

### Pricing

#### Mirror Reversed Sets

Each Additional Set +\$0.00

#### Plan Set

5 Copy Set \$850.00

Reproducible Set \$950.00

#### Foundation

Pier +\$0.00

#### Additional Construction Sets

Each Additional Set +\$40.00

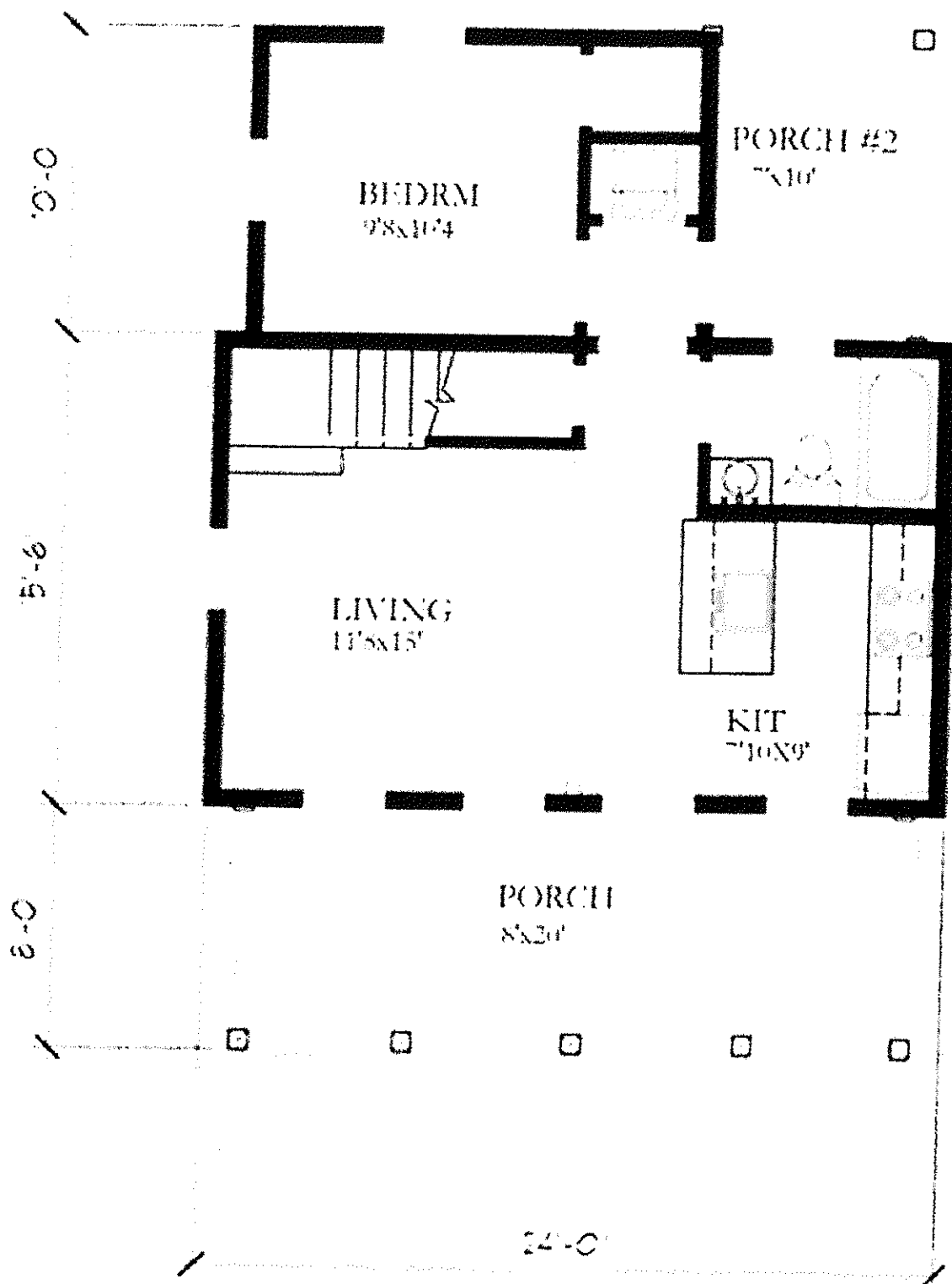
### Specifications

Main Floor Sq Ft	522 sq ft
Upper Floor Sq Ft	175 sq ft
Total Sq Ft	697 sq ft

Depth	34'
Width	24'

Primary Pitch	12:12
Secondary Pitch	3:12
Roof Framing	Truss

Main Ceiling Ft	8'
-----------------	----



**THIS REAL ESTATE PURCHASE AGREEMENT**, Made this 1<sup>st</sup> day of August, 2014, by and between **JUSTIN E. DAHLIN**, whose mailing address is 531 DuPont Street, Philadelphia, Pennsylvania 19128, party of the first part, sometimes hereinafter referred to as **SELLER**, and **DAVID WILLIAM SPRINGER** and **JULIA BAKER SPRINGER**, his wife, whose mailing address is Post Office Box 1085, Shepherdstown, West Virginia 25443-1085, parties of the second part, sometimes hereinafter referred to as **PURCHASERS**,

**WITNESSETH:** That for and in consideration of the sum of One Dollar (\$1.00) cash in hand paid by the parties hereto each to the other, the receipt whereof being hereby acknowledged, and other valuable consideration hereinafter set forth, Seller does hereby agree to sell and convey to Purchasers, and Purchasers do hereby agree to purchase and acquire from Seller, that certain lot, tract or parcel of real estate lying and being situate in the Town of Shepherdstown, Shepherdstown Corporation District, Jefferson County, West Virginia, which is more particularly described in Section 1, *infra*, and it is understood and agreed by and between all of the parties hereto that this Agreement shall be made and accepted subject to the following terms, covenants, and conditions, viz.:

1. **DESCRIPTION:** All that certain lot, tract or parcel of real estate, together with the improvements thereon and the appurtenances thereunto belonging, fronting 68.67 feet on the south side of High Street in the Town of Shepherdstown, Shepherdstown Corporation District, Jefferson County, West Virginia, which is more particularly described as follows, *to-wit:*

A lot, tract or parcel of real estate containing 4,700 square feet, or 0.10 of an acre, more or less, which is shown and described as *Grantham T.M. 2/51, DB 982/126* on a Plat of Resurvey (Drawing No. 4454) prepared by Peter H. Lorenzen, P.S., dated March 31, 2005 (hereinafter referred to as **0.10 Acre Parcel**), and which is attached to, recorded with and incorporated by reference in that certain deed dated November 20, 2006, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Deed Book No. 1030, at page 101, which names Dorothy J. Grantham as Grantor and Bruce H. Dahlin as Grantee.

The 0.10 Acre Parcel was conveyed to Bruce H. Dahlin by Dorothy J. Grantham by the above mentioned deed dated November 20, 2006, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Deed Book No. 1030, at page 101.

a resident of Jefferson County, West Virginia, seized and possessed of the 0.10 Acre Parcel, and by virtue of the Last Will and Testament of said decedent dated December 13, 2010, duly probated March 4, 2011, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Will Book No. 19, at page 713, the 0.10 Acre Parcel was devised to Justin Equinox Dahlin, who is also known as Justin E. Dahlin.

The 0.10 Acre Tract is carried on the 2014 Land Book for Jefferson County, West Virginia, in the Shepherdstown Corporation section thereof, against the name Justin E. Dahlin as follows, viz., Tax Map 2, Parcel 51, Pt Lt #204 High Street.

2. **PURCHASE PRICE:** The purchase price for the 0.10 Acre Parcel is [REDACTED], which shall be payable in full at closing.

3. **EARNEST MONEY:** Forthwith after this Agreement has been executed by the parties, Purchasers shall pay over to R. Terry Butcher, Attorney-at-Law, who is counsel for Seller, the sum of Five Thousand and No/100 Dollars (\$5,000.00) in earnest money, which shall be held by him in trust and applied toward the purchase price at closing until and unless such sum is refunded to Purchasers as provided in Section 4-b, *infra*.

4. **SALE CONTINGENCY:** Seller and Purchasers agree that the sale and purchase of the 0.10 Acre Parcel provided for in this Agreement expressly made subject to the following contingency, *to-wit*:

a. Purchasers shall be under no obligation to purchase the 0.10 Acre Parcel from Seller until and unless Purchasers have secured a variance from the Board of Appeals of the Town of Shepherdstown to construct a residential dwelling on the 0.10 Acre Parcel.

b. Seller shall be obligated to refund the earnest money deposit of Five Thousand and No/100 Dollars (\$5,000.00) to Purchasers, if, and only if, Purchasers are unable to obtain the variance referred to in Section 4-a, *supra*, on or before January 31, 2015.

c. Forthwith after this Agreement has been signed by the parties, Purchasers shall exercise their best efforts at their expense to secure the variance referred to in

5. **CASH TRANSACTION:** Purchasers covenant that they have no need to borrow money from a lender to finance their purchase of the 0.10 Acre Parcel and that they are or will be in a position to pay Seller the balance due at closing in cash.

6. **NO REALTORS, AGENTS OR COMMISSIONS:** Seller and Purchasers covenant to each other that they have not entered into any agreements with realtors, agents, or others relating to the sale and purchase of the 0.10 Acre Parcel that would result in the payment of commissions at closing.

7. **WARRANTIES OF SELLER:** Seller warrants that to the best of his knowledge, no defects in boundary or acreage, or other encroachments, adversely affect the 0.10 Acre Parcel.

8. **LIENS:** Seller shall provide Purchasers with good and marketable title to the 0.10 Acre Parcel, free and clear of all liens.

9. **ENCUMBRANCES:** Title to the 0.10 Acre Parcel shall be conveyed subject all reservations, exceptions, rights of way or easements, mineral leases, limitations and conditions, and other servitudes, if any, made, retained or otherwise created by deeds or other instruments constituting the record chain of title to the 0.10 Acre Parcel.

10. **GENERAL WARRANTY DEED:** Title to the 0.10 Acre Parcel shall be transferred and conveyed by Seller to Purchasers, as joint tenants with right of survivorship and not as tenants in common, at closing of this transaction by deed containing Covenants of General Warranty.

11. **INSPECTION AND CONDITION OF PREMISES:** Purchasers have personally inspected the 0.10 Acre Parcel as of the effective date of this Agreement, and they agree to acquire the 0.10 Acre Parcel in its condition as of said date.

12. **ALTERATION OF PREMISES:** Seller shall make no alterations of any kind or type whatsoever which would in any way, shape or form alter the condition or character of the 0.10 Acre Parcel from the condition the 0.10 Acre Parcel was on the effective date of this Agreement.

13. **TAXES AND ASSESSMENTS:** Real property taxes on the 0.10 Acre Parcel for 2014, or 2015, if applicable, shall be prorated on a calendar year basis between Seller and Purchasers as of the date of closing.

14. **MAINTENANCE AND IMPROVEMENTS:** Purchasers agree to assume the duty and expense of mowing the grass and cutting the weeds on the 0.10 Acre Tract during the pendency of this Agreement.
15. **POSSESSION:** Seller shall deliver possession of the 0.10 Acre Parcel to Purchasers at closing.
16. **EFFECTIVE DATE:** The effective date of this Agreement shall be August 1, 2014.
17. **TIME OF CLOSING:** The transaction contemplated by this Agreement shall be closed and the aforesaid general warranty deed delivered on or before the 31<sup>st</sup> day of January, 2015.
18. **TIME OF ESSENCE:** Time is of the essence insofar as the terms and provisions of this Agreement are concerned.
19. **CLOSING COSTS:** Seller shall pay all closing costs associated with closing except for the following which Purchasers shall pay, *to-wit:*
- a. Recording fee for the general warranty deed in the amount of Thirty Six and No/100 Dollars (\$36.00);
  - b. Prorated share of 2014 real property taxes, or 2015 real property taxes, if applicable, on the 0.10 Acre Parcel; and
  - c. If applicable, the fee charged by the lawyer employed to examine and certify title to the 0.10 Acre Parcel or otherwise assist with closing.
20. **RECORDING THIS AGREEMENT:** Purchasers shall pay for recording this Agreement if they deem it necessary to record the same.
21. **BINDING EFFECT:** This Agreement and all conditions, covenants, and provisions herein shall enure to and be binding on each of the parties hereto, their heirs, executors, administrators, devisees, agents, successors and assigns.
22. **GOVERNING LAW:** This Agreement shall be governed as to validity, interpretation, construction, effect, and in all other respects by the laws and decisions of the State of West Virginia.
23. **AGREEMENT MADE IN DUPLICATE:** This Agreement shall be executed in duplicate, each of which copies shall be considered for all purposes as an original.

### Legal Notice

Please take notice that the Shepherdstown Board of Appeals will hold a hearing on Tuesday, October 28, 2014 at 6:30 p.m. at The Town Hall 104 North King Street, Shepherdstown, West Virginia regarding the following:

Appellant: David W. Springer and Julia B. Baker

Address: Lot #204 West High Street  
Shepherdstown, West Virginia 25443

Request: David W. Springer and Julia B. Baker, appellants, were denied their request to construct a new home on Lot #204; Tax Map 2, parcel 51, as stated in its Letter of Determination of September 11, 2014 regarding Application for Building Permit Number 14-4. The Letter of Determination cited the applicability of Title 9, §9-508 Required lot area, lot width and yards in residential districts and §9-503(b) Uses permitted in R-1 (low density) district, as enumerated:

1. The minimum lot size for a single-family use is 11,000 square feet and lot #204 is 4,700 square feet.
2. A rear Yards in the R-1 district must be a minimum of 40 feet and the proposed rear yard is 31 feet.
3. A single family dwelling must be a minimum of 1,500 square feet and the proposed home would be 697 square feet.

It is from these requirements that the appellant seeks a variance for the purpose to build a home on Lot #204 West High Street in Shepherdstown, West Virginia.

Dawn M. Fye

For The Board of Appeals