

BOARD OF ADJUSTMENT

PETITIONER INFORMATION SHEET

(Must be read and signed by petitioner)

There are three types of requests, which may be put before the Board of Adjustment, they are:

1. An appeal to any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this Ordinance where it is alleged there is an error in such decision.
2. Requests for variance from the literal provisions of the Zoning Ordinance because such interpretation would cause undue hardship due to circumstances unique to the individual property under consideration.
3. A request for the following specific exceptions to or variances from the Planning & Zoning Ordinance.
 - a. To permit the extension of a district where the boundary line thereof divides an lot of record held in a single ownership at the time of adoption of the Ordinance.
 - b. To interpret the provision of the Ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the Zoning District map where the street layout on the ground varies from the street layout as shown on this map.
 - c. To permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, Act of God, or public enemy to the extent of less than seventy-five percent (75%) of its fair market value when the Board shall find some compelling use, but in no case where the primary function is to continue a monopoly.
 - d. To vary the yard regulations where there is an exceptional or unusual physical condition of a lot, not generally prevalent to the yard regulations of the Ordinance, that would prevent a reasonable or sensible arrangement of buildings on the lot.
 - e. To vary the parking regulations where it can be shown conclusively that the specific use of a building would make necessary the parking spaces otherwise required by the Ordinance, or where it can be shown conclusively that adequate off-street parking to serve particular use have been provided by or is controlled by the municipality.

There are different considerations, which the Board of Adjustment must review in making determinations. For example:

APPEAL CONSIDERATIONS

1. What action was taken by the City Official?
2. What specific section of the zoning ordinance did the official use as a basis for taking this action?
3. What interpretation is the City Official making of this specific section in the zoning ordinance as pertains to action taken?
4. What interpretation is being made by petitioner?

The situation requiring an appeal to the Board of Adjustment normally rises when the City Official refuses to issue a certificated of occupancy or a building permit or when the City Official has issued a particular permit which the petitioner feels was in error.

VARIANCE CONSIDERATIONS

1. If the petitioner complied with the provisions of the order (doesn't get the Variance he is requesting) will he/she not be able to get a reasonable return from, or make reasonable use of the property.

It is not enough to show that greater profits could be secured if the variance were granted-this could probably be true of anyone, but would be at the expense of his neighbors.

Ordinarily, some physical problem preventing development of the property in an authorized manner should be shown.

2. Does the hardship result from the application of the regulation?

Deed restrictions, the charter of a corporate property owner, or some similar factor limiting the use of the property will not be considered by the Board.

The hardship must be created by operation of zoning.

3. Is the hardship suffered by the property in question?

The fact that there is no grocery store in the neighborhood might create hardships for the homeowners, but it does not create hardship bearing directly on the property of the person seeking to erect such a store.

4. Is hardship the result of the applicant's own actions?

If the property owner has knowingly or unknowingly, violated the regulations by erecting a forbidden type of building, he cannot cite his expenses as hardship which he will suffer if he is not permitted to continue otherwise no one would ever comply with zoning.

If the property owner bought the property, knowing of zoning restrictions, which prohibit the use he wants to make of it, he cannot be said to suffer hardship if those restrictions are enforced; such hardship would be self-imposed.

5. Is the hardship peculiar to the applicant's property?

If the conditions cited as hardship are neighborhood wide, the proper remedy is not a variance, but rather an amendment and the Courts have held that the Board is not authorized to grant a variance in such a situation.

6. Is the variance requested in harmony with the general purpose and intent of the zoning regulations and does it preserve their spirit?

The request should be denied if:

- a. The applicant is attempting to extend a legal "non-conforming use", or to make it more permanent.
- b. The request is for a "use variance" (i.e. a variance authorizing the property to be used in a way prohibited by the regulations).

7. If the variance is granted, will the public safety and welfare have been assured and will substantial justice have been done?

IN MAKING THIS FINDING, THE BOARD MUST DETERMINE:

- a. That the interests of the community as a whole have been preserved.
- b. That granting the variance will not result in greater hardship upon the neighbors than benefit to the applicant.

PETITION FOR VARIANCE OR RELIEF FROM INTERPRETATION

Petition (to be completed in black ink) must contain the following: (place X if complete)

- Petition fee of \$75.00 and Petitioner informed of additional fees due
- 3" x 3" Locational Map (not to scale)
- Typed legal description of property
- Names and addresses of property owners/residents within 200' feet of the property being petitioned.

1. Read and sign "Petitioner Information Sheet" X
(mark X if completed)

2. Action Requested (mark X in appropriate box)

Appeal from interpretation by City Official of the zoning regulations. (If this box is checked, skip questions 5, A thru I)

Request to grant a variance in the dimensional. If this box is checked, skip question 6, A thru C, of this questionnaire)

3. Address, present use (i.e. vacant, etc.) and zoning classification of property:

Address: 3915 Valley View Dr

Present Use: R-2 Single Family

Zoning Classification: Residential 1/2 acre

3. Data on Petitioner and Owner:

Name of Applicant/s: Jeffrey & Carolann Marker

Address of Applicant/s: 3915 Valley View Dr.

Property interest of Applicant (Owner, etc) owner

Name of Owner/s: Jeffrey & Carolann Marker

5. Reasons for Request for Variation

Please note the following questions must be answered complete. If additional space is needed, attach extra pages to application.

- a. What characteristics of your property prevent its being used For any of the uses permitted in your zone?

Too narrow ___ Elevation ___ Soil ___ Subsurface ___
Too small ___ Slope Shape ___ Too shallow ___
Other _____
(specify)

- b. Describe the items checked, give dimensions where appropriate: The property around the house is steeply sloped and would not provide an area to put the garage 20' on either side of the house
The property drops sharply

- c. How do the above site conditions prevent any reasonable use of your land under the terms of the Zoning Ordinance?
see above.

- d. To the best of your knowledge, can you affirm that the hardship described above was not created by an action of anyone having property interests in the land after the Zoning Ordinance or applicable part thereof became law? Yes No ___ . If 'No' explain why the hardship should not be regarded as self-imposed (self imposed hardships are not entitled to variations). _____

- e. Are the conditions on your property the result of other man-made changes? (such as the relocation of a road or highway)? NO . If so, describe _____

- f. Which of the following types of modifications will allow you a reasonable use of your land?
Change in set back requirement? ___ Change in lot

requirement? ___ Change in side yard restriction? ___
Change in area requirement? Change in landscape
Dimensions? ___ Change in building height? ___ Change
in building dimension requirements for the number of
parking spaces provided? ___ Change in building dimension
requirement for the number of off-street loading spaces
required? ___ Change in sign dimensions? ___ Change in
dimension for requirements for parking on residential
lots? ___

- g. State what is a Variation requested, giving dimensions (be specific). We are looking to place the garage "in front" of our house.
- h. Are the conditions of hardship for which you request a variation true only of your property? Yes If not, how many other properties are similarly affected? _____
- i. Will the granting of a Variation in the form requested be in harmony with the neighborhood and not contrary to the intent and purpose of the Zoning Ordinance? Elaborate Yes, our property is set back far enough from the street where the garage would not appear to be out of place

6. Reasons for request for appeal

Please note that the following questions must be answered completely. If additional space is needed, attach extra pages to application:


- a. What action has been taken by the City Official to which you are requesting an appeal? (Be exact and complete) _____

- b. What is your interpretation of action should have been taken (or not taken)? (Be exact and complete). _____

Sec 400.12D

c. What specific section of the zoning ordinance are you using as a basis for your interpretation? (be exact, number and section). R-2 single family
9-A- NO Accessory building is permitted within
the Front yard AREA

Date Filed 3/24/17

Submitted by Jeff Marker


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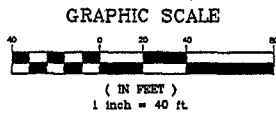
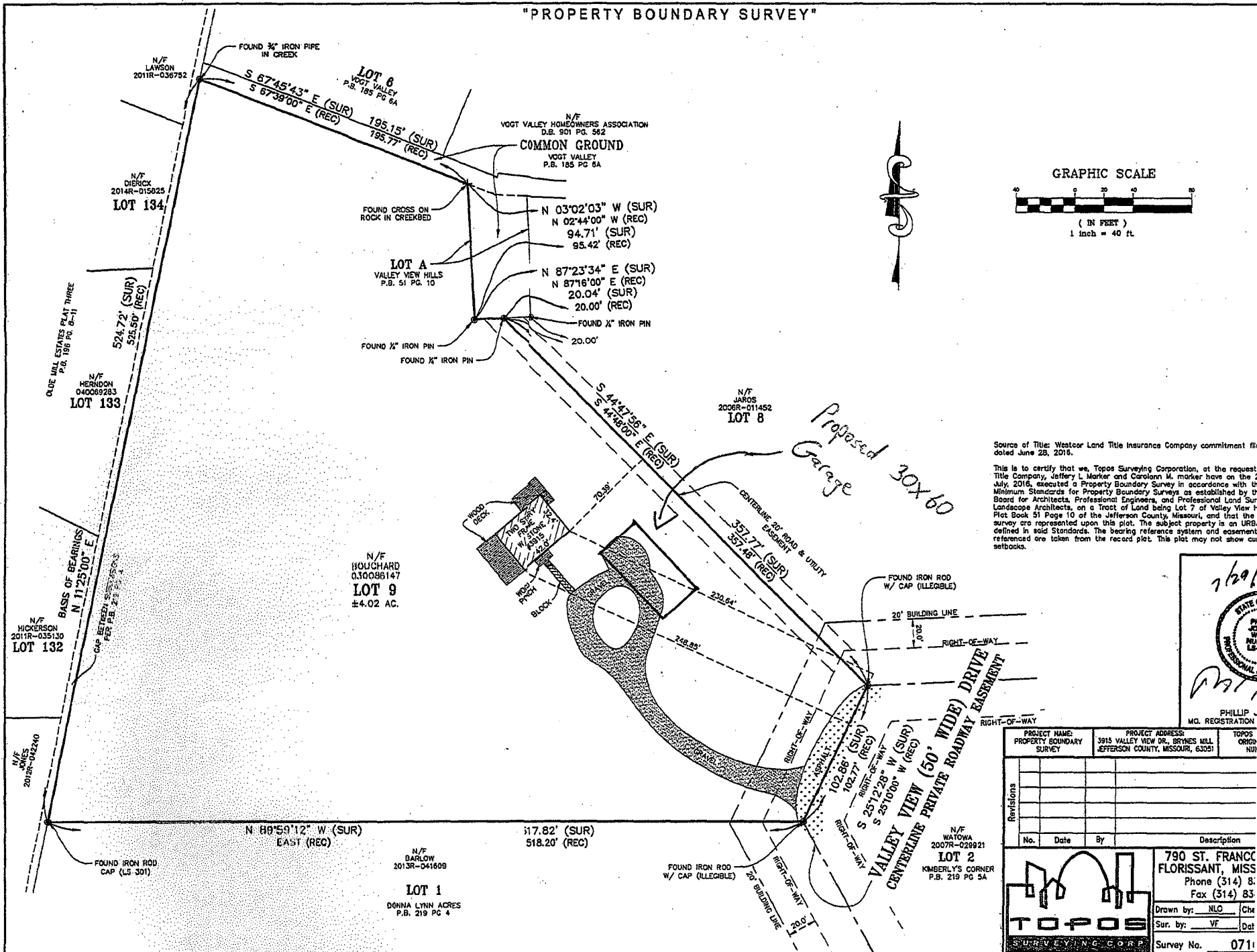
Date of Hearing 5-2-2017

Amount of Additional Fee _____

Date Notified of fee _____

Date Additional Fee Received _____

"PROPERTY BOUNDARY SURVEY"



Source of Title: Westcor Land Title Insurance Company commitment file dated June 28, 2018.

This is to certify that we, Topos Surveying Corporation, at the request of Title Company, Jeffery L. Marker and Carolann M. marker have on the 2 July, 2016, executed a Property Boundary Survey in accordance with the Minimum Standards for Property Boundary Surveys as established by the Board for Architects, Professional Engineers, and Professional Land Surveyors, on a Tract of Land being Lot 7 of Valley View H Plat Book 51 Page 10 of the Jefferson County, Missouri, and that the survey are represented upon this plot. The subject property is an URS/ defined in said Standards. The bearing reference system and easement referenced are taken from the record plot. This plot may not show cur setbacks.



| | | | | |
|---|------|---|---|----------------------|
| PROJECT NAME: PROPERTY BOUNDARY SURVEY | | PROJECT ADDRESS: 3915 VALLEY VIEW DR., BRYNES HILL JEFFERSON COUNTY, MISSOURI, 63051 | | TOPOS ORIGIN: NLI |
| Revisions | | | | |
| No. | Date | By | Description | |
| | | | | |
| | | | 790 ST. FRANCIS FLORISSANT, MISSOURI Phone (314) 833-XXXX Fax (314) 833-XXXX Drawn by: NLO Sur. by: VF Survey No. 0711 | |

Proposed Garage 30x60

Valley View (50' Wide) Drive
Centerline Private Roadway Easement

City of Byrnes Mill, MO
Monday, April 10, 2017

Chapter 400. Zoning Regulations

Article V. "R-1" Single-Family Residential District

Section 400.120. Permitted Uses.

[R.O. 2011 §400.120; Ord. No. 054-87 §V, 10-21-1987; Ord. No. 113-88 §1, 12-7-1988; Ord. No. 617-06 §1, 1-4-2006]

- A. A building or premises shall be used only for the following purposes:
1. Detached single-family dwelling (but not including mobile homes).
 2. *Group homes.* No group home shall be located within two thousand five hundred (2,500) feet of another group home. The exterior appearance of the home and property shall be in reasonable conformance with the general neighborhood standards. Group homes shall be eleemosynary or not-for-profit in nature.
 3. Church or temple.
 4. Public schools, and private educational institutions having a curriculum the same or ordinarily given in public schools, and having no rooms regularly used for housing and sleeping rooms.
 5. Publicly owned or operated parks, playgrounds, libraries, or art galleries, and public facilities necessary for the furnishing of adequate service to the area, but not including a garage, general office, outdoor storage yard or warehouse.
 6. Golf courses, except miniature golf courses and driving ranges operated for commercial purposes.
 7. Temporary buildings, the uses of which are incidental to construction operations or sales of lots during development on the same or adjoining tract or subdivision and which shall be removed, upon completion or abandonment of such construction, or upon the expiration of a period of two (2) years from the time of erection of such temporary buildings, whichever is sooner.
 8. Attached buildings or structures shall be considered as a part of the principal or main building and conform to all regulations applicable to said principal building.
[Ord. No. 830-14 §1, 6-4-2014]
 9. Accessory buildings (see definition under Section **400.020**) are permitted with the following provisions and requirements.
[Ord. No. 830-14 §1, 6-4-2014]
 - a. No accessory building is permitted within the front yard area.
[Ord. No. 837-14 §1, 11-5-2014]

No accessory building shall be constructed on a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on a lot is completed and used. Also, no accessory shall be used for dwelling purposes.

10. Lots, upon which accessory buildings have been constructed pursuant to this provision of the Code shall be ineligible for lot split/minor subdivision of said lot unless granted such relief by the Board of Aldermen as set forth in the procedures and standards established in Article **XXII** of this Chapter.
[Ord. No. 830-14 §I, 6-4-2014]
11. *Bulletin boards and signs.* See Article **XIX**, Sign Regulations.
[Ord. No. 830-14 §I, 6-4-2014]

City of Byrnes Mill, MO
Tuesday, April 11, 2017

Chapter 400. Zoning Regulations

Article V. "R-1" Single-Family Residential District

Section 400.110. Regulations.

[R.O. 2011 §400.110; Ord. No. 054-87 §V, 10-21-1987]

The regulations set forth in this Article, or set forth elsewhere in this Chapter when referred to in this Article, are the regulations of the "R-1" Single-Family Residential District.

Section 400.120. Permitted Uses.

[R.O. 2011 §400.120; Ord. No. 054-87 §V, 10-21-1987; Ord. No. 113-88 §1, 12-7-1988; Ord. No. 617-06 §1, 1-4-2006]

- A. A building or premises shall be used only for the following purposes:
1. Detached single-family dwelling (but not including mobile homes).
 2. *Group homes*. No group home shall be located within two thousand five hundred (2,500) feet of another group home. The exterior appearance of the home and property shall be in reasonable conformance with the general neighborhood standards. Group homes shall be eleemosynary or not-for-profit in nature.
 3. Church or temple.
 4. Public schools, and private educational institutions having a curriculum the same or ordinarily given in public schools, and having no rooms regularly used for housing and sleeping rooms.
 5. Publicly owned or operated parks, playgrounds, libraries, or art galleries, and public facilities necessary for the furnishing of adequate service to the area, but not including a garage, general office, outdoor storage yard or warehouse.
 6. Golf courses, except miniature golf courses and driving ranges operated for commercial purposes.
 7. Temporary buildings, the uses of which are incidental to construction operations or sales of lots during development on the same or adjoining tract or subdivision and which shall be removed, upon completion or abandonment of such construction, or upon the expiration of a period of two (2) years from the time of erection of such temporary buildings, whichever is sooner.
 8. Attached buildings or structures shall be considered as a part of the principal or main building and conform to all regulations applicable to said principal building.
[Ord. No. 830-14 §1, 6-4-2014]

9. Accessory buildings (see definition under Section **400.020**) are permitted with the following provisions and requirements.
[Ord. No. 830-14 §I, 6-4-2014]
- a. No accessory building is permitted within the front yard area.
[Ord. No. 837-14 §I, 11-5-2014]
 - b. No accessory building shall be located within or partially within a designated utility easement.
 - c. No accessory building shall be used, under any circumstance, for commercial purposes.
 - d. The combined square footage of all accessory buildings on one (1) lot shall not exceed the maximum square footage allowed under Section **400.120 (A)(9)(g)**.
 - e. (Reserved)
 - f. For any accessory building the maximum wall height is fourteen (14) feet measured from the finished concrete floor of the building to the top of the wall.
 - g. *Accessory building sizes and back setbacks.* Accessory building sizes and back setbacks are as follows:
[Ord. No. 863-16 §§1 — 2, 2-3-2016]
 - (1) For lots that are less than or equal to one (1) acre, the ground floor area of an accessory building may not occupy more than seven hundred twenty (720) square feet. The minimum distance from the back property line shall be ten (10) feet.
 - (2) For lots that are greater than one (1) acre and less than three (3) acres, the accessory building cannot be greater than one thousand two hundred (1,200) square feet. The minimum distance from the back property line shall be thirty (30) feet.
 - (3) For lots that are greater than or equal to three (3) acres, the accessory building cannot be greater than two thousand four hundred (2,400) square feet. The minimum distance from the back property line shall be thirty (30) feet.
 - h. *Accessory building side setbacks.* Accessory building side setbacks are as follows:
 - (1) For buildings whose ground floor area is less than or equal to seven hundred twenty (720) square feet, the side setback shall be ten (10) feet.
 - (2) For accessory buildings whose ground floor area is greater than seven hundred twenty (720) square feet but less than one thousand (1,000) square feet, the side setback shall be twenty (20) feet.
 - (3) For accessory buildings whose ground floor area is greater than one thousand (1,000) square feet but less than one thousand four hundred (1,400) square feet, the side setback shall be twenty-five (25) feet.
 - (4) For accessory buildings whose ground floor area is greater than one thousand four hundred (1,400) square feet, the side setback shall be thirty (30) feet.
 - (5) No accessory building shall be erected within ten (10) feet of another building.
 - i. *Exterior design.* The exterior design for accessory buildings should be similar in design, appearance, and color scheme of the principal building.

- j. Accessory buildings that exceed seven hundred twenty (720) square feet must have gutters and downspouts.
 - k. Accessory buildings that are one hundred fifty (150) square feet or less do not require a building permit.
 - l. No accessory building shall be constructed on a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on a lot is completed and used. Also, no accessory shall be used for dwelling purposes.
10. Lots, upon which accessory buildings have been constructed pursuant to this provision of the Code shall be ineligible for lot split/minor subdivision of said lot unless granted such relief by the Board of Aldermen as set forth in the procedures and standards established in Article **XXII** of this Chapter.
[Ord. No. 830-14 §1, 6-4-2014]
11. *Bulletin boards and signs.* See Article **XIX**, Sign Regulations.
[Ord. No. 830-14 §1, 6-4-2014]





