

# BOARD OF ZONING APPEALS

## MINUTES

6:30 PM

December 17, 2014

City Council Chambers

**MEMBERS PRESENT:** Leanne Cardoso, George Papandreas, Jim Shaffer and Bill Burton

**MEMBERS ABSENT:** Bernie Bossio

**STAFF:** Christopher Fletcher, AICP

I. **CALL TO ORDER AND ROLL CALL:** Cardoso called the meeting to order at 6:30 PM and read the standard explanation of the how the Board conducts business and rules for public comments.

II. **MATTERS OF BUSINESS:**

A. **Minutes for the October 15, 2014 Hearing:** POSTPONED

B. **Minutes for the November 19, 2014 hearing:** Burton moved to approve as presented; seconded by Papandreas. Motion carried 3-1 with Shaffer abstaining due to his absence.

III. **UNFINISHED BUSINESS:** None

IV. **NEW BUSINESS:**

A. **V14-55 / Ntelos / 200 Hornbeck Road:** Request by Rudy Hoffert of City Neon, on behalf of Ntelos, for variance relief from Article 1369 as it relates to signage at 200 Hornbeck Road; Tax Map 64, Parcel 1; B-5, Shopping Center District.

Fletcher presented the Staff Report.

Cardoso recognized the petitioner's representative, Samantha Wade of City Neon, who stated a larger sign is needed in order for the logo to be visible to the public.

Burton asked if other variances had been granted in the surrounding area. Fletcher stated there have been one or two variances granted previously in the surrounding area.

There being no further comments or questions by the Board, Cardoso asked if anyone was present to speak in favor of or in opposition to the request. There being none, Cardoso declared the public hearing closed and asked for Staff's recommendations.

Fletcher read the Staff recommendations.

Papandreas expressed the proposed sign is scaled to fit the building and is in favor of the sign.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V14-55 as amended by Staff; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Other business establishments in the shopping plaza and Morgantown have existing signs that are similar in size and style, which provides the type of visibility to the public for which the petitioner seeks to emulate and enjoy. The size of the proposed sign appears to be comparable in size to other but wider storefronts within the development, which do not appear to adversely impact public health, safety or welfare or property rights within the immediate area.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

It appears that the petitioner's storefront is one of the more narrow storefront widths within the subject development, which appears to place the tenant space at a commercial messaging and customer wayfinding disadvantage given the fact that maximum wall sign standards are based on storefront width rather than the architectural context of the development as a whole, the conditions of which were not created by the petitioner.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The sign appears to be relatively consistent with other businesses in the shopping plaza and other shopping locations throughout Morgantown.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The sign should help to promote business for the tenant and the community within the context and wall sign development pattern within the subject development.

Shaffer moved to approve V14-55 without conditions; seconded by Papandreas and carried unanimously.

Cardoso reminded Ms. Wade that the Board's decision can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

- B. V14-56 / Altered Ego Boutique / 1225B University Avenue:** Request by Christina DeAntonis, on behalf of Altered Ego Boutique, for variance relief from Article 1369 as it relates to signage at 1225B University Avenue; Tax Map 26A, Parcel 21; B-4, General Business District.

Fletcher presented the Staff Report.

Cardoso recognized the petitioner Christina DeAntonis of 1225B University Avenue, who stated the sign would be relocated from her previous business location and the make and materials of the sign represent her store. The location of her new store is not easily visible to clients as it is

in the back of a parking lot that faces Westover Bridge. The sign would help clients to find the new location.

Cardoso asked if the sign was the same exact sign that was approved at the previous location. DeAntonis confirmed and stated the sign was approved three years ago by the BZA and would be relocated to the new store.

There being no further comments or questions by the Board, Cardoso asked if anyone was present to speak in favor of or in opposition to the request. There being no public comments, Cardoso declared the public hearing closed and asked for Staff's recommendation.

Fletcher read the Staff recommendations.

Cardoso noted she remembers the Board approving the previous sign and doesn't feel the size or materials of the sign would be a problem in the new location.

Shaffer asked how DeAntonis plans on attracting customers from the front of the road. DeAntonis stated she had an A-Frame sign that could be used from the front if the Board would allow and explained she doesnot have a lot of walks-ins rather her business is based on established clientele.

Cardoso noted the Findings of Facts need to be more complete as the answers do not address the questions. Therefore it was decided to review each question individually.

Papandreas made a motion to find in the affirmative for Finding of Fact 1 as presented by the petitioner; seconded by Burton. Motion carried unanimously.

**Finding of Fact No. 1** – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents because: The sign is aesthetically pleasing and will help the public to better locate my (hidden from the main roads) location.

Papandreas made a motion to find in the affirmative for Finding of Fact 2 as presented by the petitioner; seconded by Burton. Motion carried 3-1 with Cardoso voting nay.

**Finding of Fact No. 2** – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because: My new location will be difficult for people to find.

After some discussion concerning wording, Papandreas made a motion to find in the affirmative for Finding of Fact 3 as revised by Staff; seconded by Shaffer. Motion carried unanimously.

**Finding of Fact No. 3** – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because: The location of the petitioner's storefront is not visible from University Avenue and the proposed sign will only be visible to East bound vehicles traveling across the Westover Bridge.

After some discussion concerning wording, Shaffer made a motion to find in the affirmative for Finding of Fact 4 as revised by Staff; seconded by Papandreas. Motion carried unanimously.

**Finding of Fact No. 4** – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because: I need a large sign in order for the public to find me at my somewhat hidden location.

Shaffer moved to approve V14-56 without conditions; seconded by Papandreas and carried unanimously.

Cardoso reminded Ms. DeAntonis that the Board's decision can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

**V. ANNOUNCEMENTS:**

Fletcher informed the Board that the Planning and Zoning Code has been updated and hard copies are being distributed to Board members.

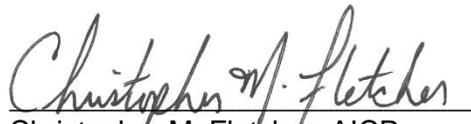
Cardoso reminded Board members that Mr. Bossio's term ended on December 31<sup>st</sup> and that he did not seek to be reappointed. Cardoso advised the Board that a plaque will be given to Mr. Bossio in appreciation of his service.

**VI. ADJOURNMENT: 7:52 PM**

MINUTES APPROVED:

January 21, 2015

BOARD SECRETARY:

  
Christopher M. Fletcher, AICP