



MORGANTOWN BOARD OF ZONING APPEALS

September 19, 2012
6:30 PM
City Council Chambers

Board Members:

Bernie Bossio, Chair
Leanne Cardoso, Vice-Chair
George Papandreas
Jim Shaffer
Tom Shamberger

STAFF REPORT

CASE NO: CU12-14 / Kappa Sigma / 200 Belmar Avenue

REQUEST and LOCATION:

Request by Cory Kourtsis of Commercial Builders, Inc., on behalf of Kappa Sigma Fraternity, for approval of a conditional temporary off-premise parking use at 200 Belmar Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 26, Parcels 167 and 168; R-2, Single- and Two-Family Residential District

SURROUNDING ZONING:

R-2, Single- and Two-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks conditional use approval under Article 1365.07 of the Planning and Zoning Code to temporarily meet minimum parking requirements on a site owned by West Virginia University and across Belmar Avenue from the Kappa Sigma Fraternity. Addendum A of this report illustrates the location of the subject site.

On January 21, 2012, the Board of Zoning Appeals approved variance petition V12-01 providing relief from the minimum parking requirement so that the petitioner could develop eleven (11) on-site parking spaces rather than the twenty-one space minimum standard calculated by Staff. The location of the permanent on-site parking lot was approved at the foot of the hill behind and below the fraternity house and accessed from North High Street and Glendon Street.

Staff understands that during the course of the petitioner's extensive remodeling of the long-standing vacant dilapidated fraternity house and the construction of a new assembly area addition, the Kappa Sigma Fraternity fund raising efforts fell short of its capital goal. As such, the Fraternity seeks to establish temporary parking for a period of twelve (12) months so that additional capital fund raising can be completed and the parking lot developed as originally approved.

The property on which the temporary parking is proposed is owned by West Virginia University and is less than 100 feet from the fraternity house. The site is currently used and managed by the WVU for parking and is therefore exempt from Article 1365.07(A)(2), which restricts off-site parking locations to zoning districts where commercial parking lots are permitted as a principal or conditional use.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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STAFF RECOMMENDATION:

The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a conditional use by reaching a positive determination for *each* of the "Findings of Fact" submitted by the petitioner. Addendum B of this report provides Staff recommended revisions to the petitioner's findings of fact (deleted matter struck through; new matter underlined).

Staff recommends that CU12-14 be approved as requested with the following conditions:

1. That the certificate of occupancy for the Kappa Sigma Fraternity house located at 200 Belmar Avenue be conditioned upon the fraternity's ability to maintain a lease or similar written executed agreement by and between the Kappa Sigma Fraternity and West Virginia University or its agent to utilize its property (Tax Map 26, Parcel 170) for the purpose of providing no less than eleven (11) parking spaces for the use and enjoyment of residents and visitors of the Kappa Sigma Fraternity.
2. That said lease or similar written executed agreement shall be filed with the Planning Division and made available for inspection at the request of the City.
3. That the certificate of occupancy for the Kappa Sigma Fraternity house located at 200 Belmar Avenue be conditioned upon final construction of the originally approved on-site parking lot and available for use to the satisfaction of the City Engineer no later than Sunday, January 5, 2014.

Enclosures: Application and accompanying exhibits

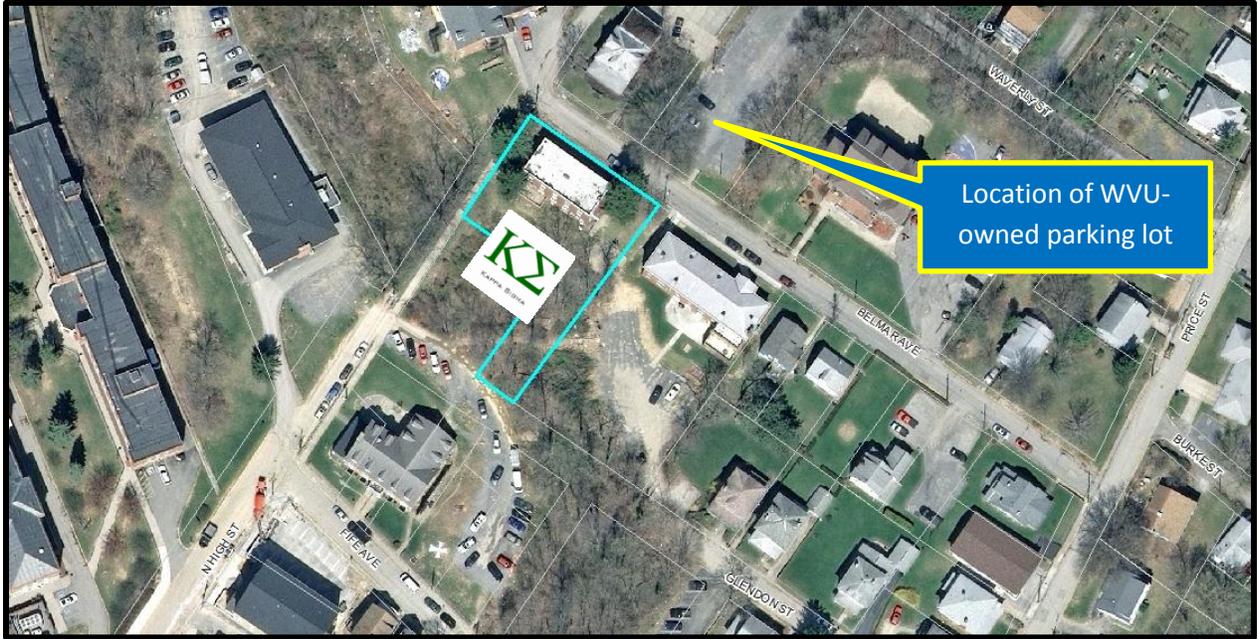
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STAFF REPORT ADDENDUM A
CU12-14 / Kappa Sigma / 200 Belmar Avenue



STAFF REPORT ADDENDUM B

CU12-14 / Kappa Sigma / 200 Belmar Avenue

Staff recommended revisions to petitioner's Findings of Fact (deleted matter struck through; new matter underlined)

Finding of Fact #1 – Congestion in the streets is not increased, in that:

~~All structures are within property boundaries and off street parking will be obtained from adjacent lot next door.~~ The establishment of parking for a fraternity use that has heretofore not secured adequate parking within an area where off-street parking is not readily provided or available should serve to aid in reducing parking congestion on the narrow street of Belmar Avenue.

Finding of Fact #2 – Safety from fire, panic, and other danger is not jeopardized, in that:

All codes have been adhered to during construction and minimum parking design standards will be observed.

Finding of Fact #3 – Provision of adequate light and air is not disturbed, in that:

~~The existing structure height remained the same and the new addition is at a lower height than the existing building.~~ The location of the proposed off-site parking lot is currently owned and used by West Virginia University as a parking lot and the conditional use granted herein should not affect existing light distribution and air flow patterns.

Finding of Fact #4 – Overcrowding of land does not result, in that:

~~There is a limited number of bedrooms and occupancy limits for common areas as set forth by the Mgtm Fire Dept.~~ The location of the proposed off-site parking lot is currently owned and used by West Virginia University as a parking lot and no structures are proposed or necessary to provide the off-site parking facility.

Finding of Fact #5 – Undue congestion of population is not created, in that:

~~Structures on the property amount to less than 50% of the SF.~~ The number of occupants of the fraternity house did not increase from its previous occupancy. The additional parking is necessary to given the time the fraternity house sat vacant and the construction of the assembly area addition.

Finding of Fact #6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

~~No other entity will be affected from Kappa Sigma parking locations.~~ The use of the existing parking lot owned and managed by West Virginia University should result in an increase in demand for public services, utilities, or facilities.

Finding of Fact #7 – Value of buildings will be conserved, in that:

If off street parking in adjacent lot is approved, building can be used for intended use. If parking waiver is not approved, building would remain vacant without a certificate of occupancy.

Finding of Fact #8 – The most appropriate use of land is encouraged, in that:

~~This building is now a great improvement to the area. It has been completely renovated from an eye sore to a wonderful living establishment. This conditional use needs to be approved in order for the building to be utilized as its intended use of a fraternal organization. The location of the proposed off-site parking facility is an existing parking lot owned and managed by West Virginia University, which is exempt from Article 1365.07(A)(2).~~



City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CV12-14
RECEIVED:	08/10/12
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT

Name:	Kappa Sigma Fraternity	Phone:	
Mailing Address:	1481 Woodland Drive	Mobile:	304-290-9043
	Street		
	Morgantown, WV	Zip	26505
	City	State	
		Email:	Ksmallison@yahoo.com

II. AGENT / CONTACT INFORMATION

Name:	Cory Kourtsiz C/O Commercial Builders Inc.	Phone:	304-292-7688
Mailing Address:	P.O. Box 516	Mobile:	304-826-0569
	Street		
	Morgantown, WV	Zip	26507
	City	State	
		Email:	cory@commercialbuilderswv.com

Mailings – Send all correspondence to (check one): Applicant OR Agent/Contact

III. PROPERTY

Owner:	Kappa Sigma House Association Inc.	Phone:	
Mailing Address:	200 Belmar Ave	Mobile:	N/A
	Street		
	Morgantown, WV	Zip	26505
	City	State	
		Email:	

IV. SITE

Street Address (if assigned):	200 Belmar Ave	Tax Map #:	26	Parcel #:	167	
Zoning:	R-2					
Lot Dimensions:	Width: ± 125 Ft.	Depth: ± 190 Ft.	Square Footage:	23,750	ft. ²	
Shape of Lot:	<input type="checkbox"/> Corner	<input checked="" type="checkbox"/> Interior	<input type="checkbox"/> Through	<input type="checkbox"/> Flag	<input type="checkbox"/> Irregular	<input type="checkbox"/> Non-conforming
Existing Use of Structure or Land:	Vacant					
Proposed Use of Structure of Land:	Fraternity Housing					

RS2 8/10/2012 201301364 CRYSTAL 15:34:22 SITE PLAN PAID

75.00 Finance Office Morgantown, WV 26505 (304) 284-7408

Handwritten signature/initials



APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CW12-14
RECEIVED:	08/10/12
COMPLETE:	

V. STRUCTURE

Proposed Setbacks: Front: ± 18 ft. Rear: ± 10 ft. Side A: ± 36 ft. Side B: ± 15 ft.
 Proposed Height of Structure: ± 24 ft No. of Proposed Off-Street Parking Spaces: 0
 No. of Dwelling Units (if applicable): N/A No. of Bedrooms: 13 No. of Employees: 0
 Square Footage of all Proposed Structures (please explain): Existing house is 7152 sf + new addition of 1792 sf = Total of 8944 sf.

VI. SITE PLAN

A Site Plan (8 copies), drawn to scale, that includes the following elements must accompany the application if not provided above in Sections IV and V:

- (a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a registered design professional licensed by the State of West Virginia.
- (b) The exact sizes and locations on the lot of existing structures, if any;
- (c) The location, square footage, and dimensions of the proposed structure or alteration;
- (d) The location of the lot with respect to adjacent rights-of-way;
- (e) The existing and proposed uses of the structure and land;
- (f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;
- (g) The location and dimensions of off-street parking and means of ingress and egress for such space;
- (h) Height of structure;
- (i) Setbacks;
- (j) Buffer yard and screening, if applicable;
- (k) Location of garbage collection area and screening;
- (l) Location of existing and/or proposed signs, if applicable;
- (m) Roadway typical detail for internal roadways, if applicable;
- (n) Location and size of stormwater management facilities; and,
- (o) Utility lines and easements, if applicable.



City of Morgantown, West Virginia

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VII. SUPPLEMENTAL PLANS AND EXHIBITS

Applicants **MUST** also submit the following plans and exhibits, unless waived by the Planning Director:

- (a) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer licensed by the State of West Virginia, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets.
- (b) If applicable, design of stormwater management facilities and drainage calculations that bear the name, address, and seal of a registered professional engineer licensed by the State of West Virginia that meet the requirements of the City Zoning Ordinance, the City Stormwater Management Ordinance, and all other applicable local, state and federal regulations.
- (c) Parking and Landscaping Plan
- (d) Sign Plan
- (e) Approved WV Division of Highways Access Permit, if applicable
- (f) Sediment and erosion control plan as approved by the West Virginia Department of Environment Protection and the City of Morgantown
- (g) Approved State of West Virginia NPDES General Permit for Storm Water Associated with Industrial (Construction) Activity, if applicable
- (h) A traffic impact study, if required by the City Engineer
- (i) The Planning Director may require the applicant to submit additional information concerning the lot or neighboring lots to determine conformance with, and provide for the enforcement of, the City Zoning Ordinance.
- (j) The Planning Director may require the applicant to submit, in the case of accessory structures or minor additions, dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey prepared a registered design professional licensed by the State of West Virginia.

Applicants submitting a conditional use application in accordance with Article 313.05 "Building Height and Use" within the B-4 General Business District **MUST** also submit the following analyses:

- (a) An air flow analysis conducted by a licensed architect or profession engineer, describing the estimated impact of the proposed building on existing patterns of air flow in the general vicinity; and how those impacts may affect existing properties with a 300 foot radius of the site.
- (b) An analysis of the impacts of the proposed building on sunlight distribution in the general vicinity, with special emphasis on predicting light blockage and shadow casting onto all properties with a 300 foot radius of the site. Such analysis shall be conducted by a licensed architect or professional engineer.
- (c) An analysis of the potential of "stepping back" upper floors as a technique to avoid negative impacts with respect to light and airflow, and to minimize the canyon effect of non-recess tall buildings. Such analysis shall be conducted by a licensed architect or professional engineer.
- (d) An infrastructure and traffic analysis predicting the impacts of the building on water, sewer, drainage, electrical and gas infrastructure, on transportation levels of service (including transit) for impacted streets, and on fire suppression capabilities of the city. Such analysis shall be conducted by a licensed architect or professional engineer.



APPLICATION FOR
TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	C/12-14
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COMPLETE:	

VIII. FINDINGS OF FACT

The Board of Zoning Appeals may grant the request only if each of the Conditional Use Findings of Fact Criteria is determined to be in the positive. Applicants must give their own responses to the criteria statements provided below.

This Conditional Use is within the fitting character of the surrounding area and is consistent with the spirit, purpose, and intent of the Zoning Ordinance, because,

1. Congestion in the streets is not increased, in that: All structures are within property boundaries & off street parking will be obtained from adjacent lot next door.
2. Safety from fire, panic, and other danger is not jeopardized, in that: All codes have been adhered to during construction
3. Provision of adequate light and air is not disturbed, in that: - The existing structure height remained the same & the new addition is at a lower height than the existing building.
4. Overcrowding of land does not result, in that: There is a limited number of bedrooms and occupancy limits for common areas as set forth by the Mtn Fire Dept.
5. Undue congestion of population is not created, in that: Structures on the property amount to less than 50% of the SF.



APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

OFFICE USE	
CASE NO.	CU/2-14
RECEIVED:	08/10/12
COMPLETE:	

VIII. FINDINGS OF FACT (cont.)

6. Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

No other entity will be affected from Kappa Sigma parking locations.

7. Value of buildings will be conserved, in that:

If pff street parking in adjacent lot is approved, building can be used for intended use. If parking waiver is not approved, building would remain vacant w/o a certificate of occupancy.

8. The most appropriate use of land is encouraged, in that:

This building is now a great improvement to the area. It has been completely renovated from an eyesore to a wonderful living establishment. This conditional use needs to be approved in order for the building to be utilized as its intended use of a fraternal organization.

IX. ATTEST

I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent and I agree to conform to all applicable laws of this jurisdiction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.

Cory L. Kourbis

[Signature]

8/10/12

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

- Conditional Use Petition Fee of \$75 must accompany application