



MEMORANDUM

Date: Wednesday, January 20, 2016
To: Board of Zoning Appeals
RE: CU15-02 and V15-10 / Stan Corp / Evans Street
Tax Map 15, Parcels 86, 87, 88, 89, 90, 82.1 and 93
Request for Six-Month Extension of Approvals

On 18 FEB 2015, the Board granted conditional use approval under Case No. CU15-02 for a "Multi-Family Dwelling" use in the OI, Office and Institutional District to construct 49 one-bedroom apartments. Additionally, the Board granted variance relief under Case No. V15-10 from minimum setback requirements for the subject development.

Article 1379.05 "Expiration" of the Planning and Zoning Code provides (emphasis added):

"In the case where a **Conditional Use Permit** has not been used within twelve (12) months after the granting thereof, then without further action it shall be null and void. This may be extended to eighteen (18) months upon prior written request of the Board. The word 'used' shall mean that the approved Conditional Use Permit has been activated as evidenced by permits, construction, or require licenses."

Additionally, Article 1381.05 "Expiration" provides (emphasis added):

"In the case where a **variance** has not been used within twelve (12) months after the granting thereof, then without further action it shall be null and void. This may be extended to eighteen (18) months upon prior written request of the Board. The word 'used' shall mean that the approved variance has been activated as evidenced by permits, construction, or required licenses."

The petitioner submitted a letter dated 02 DEC 2015 requesting to be included on the Board's 20 JAN 2016 agenda to seek approval of six-month extensions for said conditional and variance approvals. Additionally, the petitioner or representative will be in attendance to present the merits of the extension request and address any questions the Board may have.

Staff recommends the Board grant six-month extensions for Case Nos. CU15-02 and Case No. V15-10 so that the expirations of same are extended from 18 FEB 2016 to 18 AUG 2016.



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7431 TDD (304) 284-7512
www.morgantownwv.gov

February 19, 2015

Stan Corp Properties
c/o David Robertson
160 Miner Hickory Road
Grantsville, MD 21536

**RE: CU15-02 and V15-10 / Stan Corp / Evans Street
Tax Map 15, Parcels 86, 87, 88, 89, 90, 92.1 and 93**

Dear Mr. Robertson:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced conditional use and variance petitions relating to the subject development on Evans Street. The decisions are as follows:

Board of Zoning Appeals, February 18, 2015:

CU15-02 – Conditional “Multi-Family Dwelling” use in the OI District.

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board approved conditional use petition CU15-02 as requested with the following conditions:
 - a. That Case No. S15-02-III and Case No. MNS15-02 be approved by the Planning Commission and all related conditions therein observed and/or addressed accordingly.
 - b. That widening and geometry improvements to Evans Street must be completed to the satisfaction of the City Engineer including securing related performance bond.
 - c. That the final Landscape Plan and Erosion Control Plan must be submitted with the building permit application for review and approval. Variance approval must be obtained should said plans not conform to the related performance standards set forth in the City’s Planning and Zoning Code.
 - d. That a Sign Plan must be submitted and reviewed under the standard building permit application process. Variance approval must be obtained should the Sign Plan not conform to related performance standards set forth in the City’s Planning and Zoning Code.
 - e. That the development must meet all applicable federal Fair Housing and Americans with Disabilities Act standards to the satisfaction of the City’s Chief Building Code Official.

V15-10 – Variance petition concerning “Setbacks and Encroachments”.

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted the following variance relief without conditions:
 - a. A five (5) foot variance was granted from the minimum front setback standard [Article 1343.04(A)(1)] as requested.
 - b. A twenty (20) foot variance was granted from the minimum west side setback standard [Article 1343.04(A)(3)] with the condition that a ten (10) foot wide bufferyard must be planned and landscaped along the west side of the proposed structure as required under Article 1367.07.
 - c. The request of a two (2) foot encroachment into the minimum ten (10) foot landscape bufferyard setback along the west side of the proposed structure was denied [Article 1367.07] based on the fact that two (2) feet can be gained by moving the building eastward by a like amount without adversely impacting vehicular or emergency access to the rear of the proposed structure.

These decisions may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note that building permits must be issued prior to the commencement of work for which the conditional use and variance approvals were granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development’s planning and permitting needs.

Respectfully,



Stacy Hollar
Executive Secretary
Development Services Department
shollar@cityofmorgantown.org

ADDENDUM A

Approved Findings of Fact

Case No. CU15-02 Multi-Family Dwelling use in OI District

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

Significant improvements to Evans Street will be required and completed to support the proposed development including roadway widening and the softening of roadway geometry and grades. The subject site is less than 300 feet of walking distance from the University Avenue corridor, which is well served by public transit and is within walking and biking distance of the Evansdale and Downtown campuses. Convenient linkages to alternate modes of transport reduces auto dependency by the proposed development's residents and serves to mitigate increased traffic congestion created by commuting traffic from higher density residential development outside the City of Morgantown.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

Requisite roadway improvements will serve to improve access to the subject site and the immediate area by emergency responders. Requisite waterline and fire hydrant improvements will improve utility service capacity within the immediate area. The building will be required to meet all applicable life and safety standards within the Fire and Building Codes.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

The proposed development appears to follow the residential density, massing, and scale of other multi-family developments within the immediate area.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

The proposed development conforms to maximum building height standards and is approximately 55% of the by-right maximum lot coverage. A bufferyard on the west side of the proposed structure can and should be planned and improved as required.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

The number of planned parking spaces exceeds minimum requirements. Requisite roadway improvements will serve to improve access to the subject site and the immediate area by emergency responders.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

Significant improvements to Evans Street will be required and completed to support the proposed development including roadway widening and the softening of roadway geometry and grades. Capacity levels for water, sanitary sewer, and stormwater facilities are either adequate or will be upgraded as determined by the Morgantown Utility Board to serve the needs of the proposed development. Given overwhelming majority of university-aged residents within the immediate area, the proposed development is not anticipated to contribute to overcrowding of public schools.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

The proposed development will remove three (3) single-family houses that are not permitted in the OI District, which is in concurrence with the Comprehensive Plan's principal of, "Infill development and redevelopment of underutilized and/or deteriorating sites takes priority over development in green field locations at the city's edge." The development site is nearly surrounded by multi-family developments of varying scales. The development of multi-family housing on the subject site should serve to increase the market value of neighboring buildings and properties as is customary to new construction.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

The development site is within a neighborhood that has experienced a significant transition from single-family dwellings to multi-family dwellings primarily for college-aged student housing over the past several decades and is linked to the multi-modal University Avenue corridor connecting the Evansdale

and Downtown campuses. The subject site is nearly surrounded by multi-family developments of varying scales and ages. The proposed development appears to follow the residential density, massing, and scale of other multi-family developments within the immediate area.

Case No. V15-10 Setback Encroachments

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 proposed development appears to follow the residential density, massing, scale, and setbacks of other multi-family developments within the immediate area, which do not appear to adversely impact public welfare or harm public improvements or private property within the immediate area. Additionally, the Board's condition to plan and improve the requisite ten (10) foot wide bufferyard on the west side of the proposed structure ensures desired transitional yards between single- and two-family uses and multi-family developments.

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:

The development site consists of several parcels that have been assembled creating an unusual outer boundary configuration that is peculiar to the site. The depth of the development site varies between 110 feet to 210 feet. Additionally, the site has an elevation change of approximately 56 feet.

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

An encroachment into the front setback permits safe and efficient vehicular and emergency access to the rear of the proposed building. Although Article 1343.07(F) provides that residential construction in the OI District must following the building height and performance standards of the R-3 District, setback requirements remain OI District standards, which reduces the buildable width of the site by 60 feet (30-foot setbacks on each side). The proposed development observes the side setback standard on the east side, but encroaches into the west side setback standard.

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

The proposed structure appears to best utilize the land for a permitted use within the zoning ordinance and the Comprehensive Plan. This project, in its entirety, should be of benefit to the surrounding neighborhood with the new water lines, improvement of the intersection from University Avenue onto Evans Street and widening of Evans Street to allow for better traffic flow and access of fire equipment needed for surrounding properties.

STAN CORP

Date: December 2, 2015

To: Board of Zoning Appeals
City of Morgantown
Morgantown, WV 26508

Re: Evans Street project
Conditional Use Petition - Case No. CU15-02 approved 02-18-2015
Variance Petition - Case No. V15-10 approved 02-18-2015

Stan Corp is requesting to be included on the agenda for your January 20, 2016, meeting with the following items:

In accordance with Article 1379.05, Stan Corp is requesting an extension of the approval of the above referenced Conditional Use from twelve (12) months to eighteen (18) months.

In accordance with Article 1381.05, Stan Corp is requesting an extension of the approval of the above referenced Variance from twelve (12) months to eighteen (18) months.

Stan Corp will plan to have a representative present at your January 20, 2016, meeting to address any questions that might arise.



Marlin L. Stanczyk Sr.
President

PHYSICAL ADDRESS: 109 MAIN STREET, GRANTSVILLE, MD 21536
MAILING ADDRESS: 160 MINER HICKORY ROAD, GRANTSVILLE, MD 21536
PHONE 301.895.8064 FAX 301.895.8050
STANCZYK16@GMAIL.COM