



MORGANTOWN BOARD OF ZONING APPEALS

August 15, 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: V12-25 / Adams / 219 Wall Street

REQUEST and LOCATION:

Request by Bilal Adams, on behalf of *Classic Cutz*, for variance relief from Article 1369 as it relates to sandwich board signage at 219 Wall Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 26A, Parcel 116; B-4, General Business District

SURROUNDING ZONING:

B-4, General Business District

BACKGROUND and ANALYSIS:

The petitioner seeks to place a three (3) foot by two (2) foot sandwich board sign at the intersection of High Street and Wall Street. Addendum A of this report illustrates the location of the subject site.

Article 1369.07(J) of the Planning and Zoning Code states:

- (1) A single sandwich board sign shall be permitted to be placed on a private sidewalk or on a public sidewalk, ***for each business that is adjacent to such a sidewalk***, provided that Section 905.02 of the City Code is adhered to;
- (2) Such sign shall not be higher than 4 feet and 2 feet wide;
- (3) Artwork, lettering and color of such sign should be consistent with the shopfront's architectural character; and,
- (4) Such sign must not present a risk to public safety; must be removed from the street outside trading hours; and must be removed in adverse weather conditions.

emphasis added

Article 905.02 of the Morgantown City Code states:

- (a) No person shall place any merchandise, sign or obstruction of any kind upon any street or sidewalk within the City for the purpose of advertising, display or sale except as provided and authorized by this article, and the Zoning Ordinance of the City.
- (b) Wherever a business is conducted and maintained, on property adjacent to any public sidewalk, street or alley, no owner of any such property or business or agent thereof shall set or place any goods, wares or merchandise by way of exposing them for sale, in any street or alley, or on the sidewalks of any such street or alley, to project more than two feet from the wall or front of the place of business in questions. This shall also apply to approved movable signs. ***A five-foot wide clear passage for pedestrians on any sidewalk shall be maintained at all times.***

emphasis added

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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Classic Cutz seeks variance relief from Article 1369.07(J)(1) to allow the subject sandwich board to be placed approximately 155 feet from its Wall Street storefront along the High Street sidewalk. The petitioner's basis of this request is the unique location of the establishment in relation to significantly higher vehicular and pedestrian traffic volumes along High Street.



It should be noted that Staff has observed a positive change in the character, interest, and commercial activity along Wall Street between High Street and Spruce Street since the opening of *Classic Cutz*. Staff also understands that the petitioner is currently renovating additional space within the storefront to offer retail sales of shoes and apparel.

Additionally, *Maxwells*, a restaurant located on Wall Street between High Street and Chestnut Street, has placed a similar sandwich board sign along the High Street sidewalk for a number of years, which has been considered a grandfathered, non-conforming sign.

STAFF RECOMMENDATION:

One of the stated purposes within the Planning and Zoning Code for sign regulations is to:

“...encourage the effective use of signs as a means of communication in the City, to maintain and enhance the pleasing look of the City, which attracts to the City continued economic investment; to preserve Morgantown as a community that is attractive to business, to residents and to visitors...” [Article 1369.01(A)]

Size and locational restrictions are two of several means to accomplish this policy objective.

The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the “Findings of Fact” submitted by the applicant.

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Staff normally does not offer a recommendation for sign variance petitions. However, in this instance, Staff concurs with the petitioner's findings of fact and recommends approval as requested with the following conditions:

1. That *Classic Cutz*, or any establishments located at 219 Wall Street, may place only one (1) sandwich board sign that complies with the size restrictions set forth in Article 1369.07(J)(2) of the Planning and Zoning Code on the public sidewalk at either the 219 Wall Street storefront as permitted by-right or at the intersection of High Street and Wall Street but not at both locations at the same time.
2. That said sandwich board sign may not be placed at the intersection of Spruce Street and Wall Street due to the fact that said portion of Wall Street is open to vehicular access to the adjacent parking lot behind the *Morgantown Health Right Clinic* and due to the narrowness of the sidewalk along Spruce Street.
3. That said sandwich board may be placed on the public sidewalk only during the hours *Classic Cutz*, or any establishments at 219 Wall Street, is open for business.
4. That *Classic Cutz*, or any establishments located at 219 Wall Street, shall maintain at all times a five-foot wide clear passage around its sandwich board sign to ensure clear and safe pedestrian movement.

Attachments: Application and accompanying exhibits

Development Services

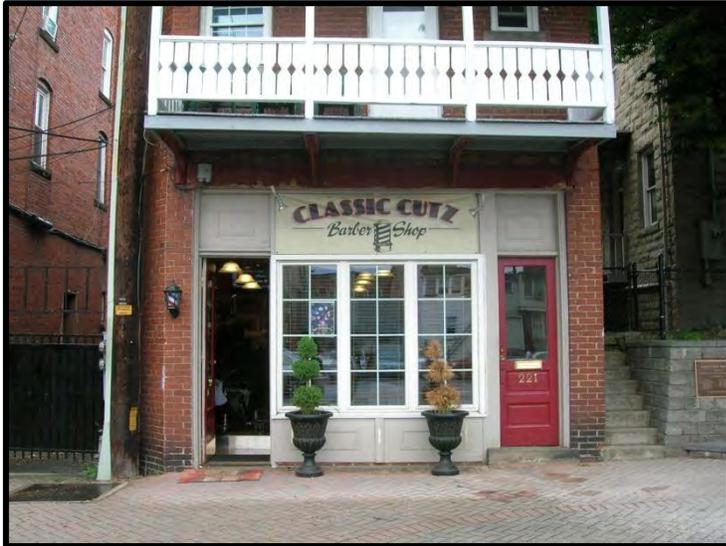
Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

V12-25 / Adams / 219 Wall Street





City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V12-25
RECEIVED:	7/5/12
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

ck 344

I. APPLICANT		Name:	Bilal Adams		
Mailing Address:	372 Frontier Avenue			Phone:	
	Street	Morgantown	WV	26505	Mobile: (304)-444-5771
	City	State	Zip		Email:
II. PROPERTY		Street Address:	Classic Cutz - 219 Wall Street Morgantown, WV 26505		
Owner:	Bilal Adams		Zoning:	B-4	
Mailing Address:	219 Wall Street			Tax Map No:	24 A
	Street	Morgantown	WV	26505	Parcel No: 116
	City	State	Zip		Phone: (304)- 444-5771
III. NARRATIVE		Please describe the nature and extent of your variance request(s).			
<p>Classic Cutz is a "Barber Shop", an establishment where the practicing of barbering and/or cosmetology is offered on a regular basis for compensation, as defined under Part 13 of the Morgantown City Code, Planning and Zoning Code. Specifically, Classic Cutz is a men's barber shop. Classic Cutz requests a zoning variance to allow for a three (3) foot by two (2) foot Sandwich Board Sign to be placed on the sidewalk at the intersection of Wall and High Streets to alert potential customers of its location. Due to the unique character of Classic Cutz' shopfront location, a side street with no automobile traffic and limited pedestrian traffic, Classic Cutz requests a zoning variance from the requirement that a single sandwich board sign must be located on the sidewalk adjacent to the shopfront pursuant to Article 1369.07(J)(1) of the Morgantown Planning and Zoning Code. Without a zoning variance, Classic Cutz will suffer undue hardship in alerting potential customers to its location. Furthermore, the variance requested will not decrease neighboring property values.</p>					
V. 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. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. 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. I hereby authorize the Planning Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.			
BILAL ADAMS		 RS2 7/05/2012 201211507		KRISTEN 10:47:35 SITE PLAN 312	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date	

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.

75.00
Morgantown, WV 26505
(304) 284-7400



APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V12-25
RECEIVED:	7/5/12
COMPLETE:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

- Land Use Characteristics (complete only those that apply)
 - Residential Single-Family Dwelling Townhouse Dwelling
 - Two-Family Dwelling Multi-Family Dwelling
 - Non-Residential or Mixed (please explain)

BARBERSHOP

- Structure Characteristics (complete only those that apply)

Total number of buildings: _____ Gross floor area of each building: _____

Estimated number of employees: _____ No. of dwelling units: _____ No. of bedrooms: _____

Additional structure-related details:

N/A

- Additional Information (as required by Staff):

N/A

- Site Plan A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required

For simple variance requests (as determined by Staff), please use the graph area on the following page to illustrate applicable features listed above.

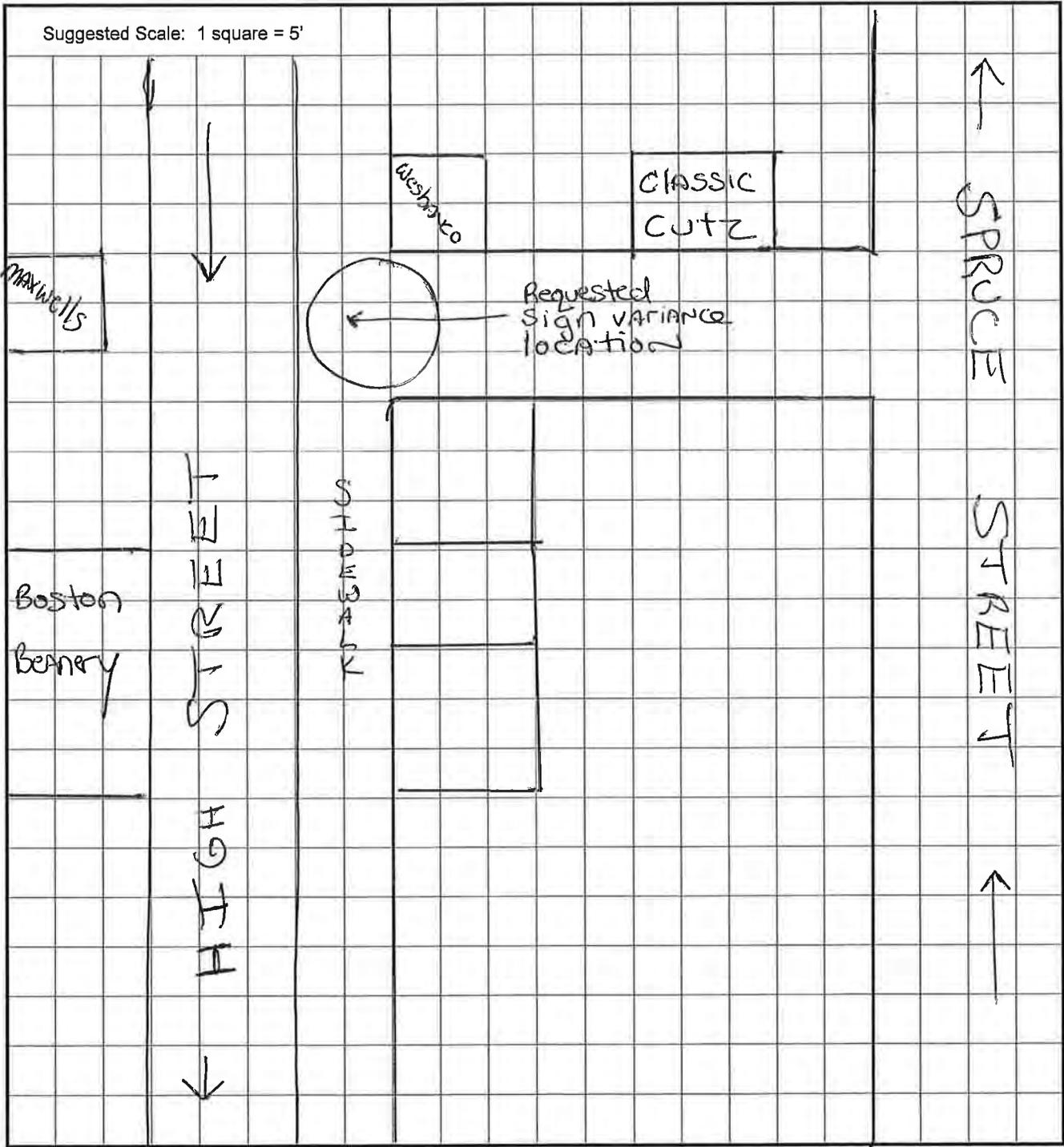


City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE

CASE NO. V12-25
 RECEIVED: 7/5/12
 COMPLETE: _____





APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	112-25
RECEIVED:	7/5/12
COMPLETE:	

VII. FINDINGS OF FACT

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

1. There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

Classic Cutz is uniquely located on Wall Street, a side street between High and Spruce Streets with no automobile traffic and limited pedestrian traffic. A sandwich board sign placed on the sidewalk adjacent to Classic Cutz's shopfront as a way to alert potential customers would be futile. As a result, the current zoning creates an undue hardship for Classic Cutz. Classic Cutz's uniquely located shopfront, on a non-automobile traffic and limited pedestrian traffic side street, is an exceptional and extraordinary circumstances that generally does not apply to other businesses and thus justifies a zoning variance.

2. The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

Although businesses located on High Street and Spruce Street can reap the substantial economic benefits of placing a sandwich board sign on the sidewalk adjacent to their shopfronts (allowing for the advertisement of their business in a high traffic area), the effectiveness of a sandwich board sign adjacent to Classic Cutz's shopfront on Wall Street does not allow for the same opportunity (again Wall Street is a side street with limited pedestrian traffic). Not allowing Classic Cutz the same opportunity to alert potential customers of its shopfront as other businesses on High Street and Spruce Street deprives Classic Cutz the preservation and enjoyment of a substantial property right and thus justifies a zoning variance.

3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

There appears to be other nonconforming signs within the immediate area, none of which seem to be harmful to the public welfare nor have had the effect of harming property or improvements in the vicinity. Specifically, Maxwells, a restaurant located at 1 Wall Street Morgantown, WV 26505, displays a sandwich board style menu sign on High Street, rather than adjacent to its shopfront on Wall Street. Maxwell's sign has been on High Street for many years without harming the public welfare or property in the area (in fact it may have had the opposite effect- increasing property values). Similarly, Classic Cutz sandwich board sign will not harm the public welfare or harm neighboring property. Instead, Classic Cutz sign should enhance the pleasing look of the neighborhood's vibrant commercial area and contribute to the public and private investment that has been realized by businesses along High Street and thus justifies a zoning variance.

4. The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

Classic Cutz's 3 foot by 2 foot sandwich board sign complies with all other provisions under Article 1369.07 of the Morgantown Planning and Zoning Code. As stated above, there appears to be other nonconforming signs within the immediate area which are not harmful to the public welfare, do not diminishing property values of adjacent properties in the vicinity and do not increase traffic congestion. The stated purposes within the Planning & Zoning Code for sign regulations is (1) to encourage use of signs as a means of communication in the city, (2) to maintain and enhance the pleasing look of the City, which attracts to the City continued economic investment; and (3) to preserve Morgantown as a community that is attractive to business, to residents and to visitors. If granted, Classic Cutz request for a zoning variance allowing for a sandwich board sign to be placed at the intersection of Wall and High Streets will advance all three of these goals.