



# MORGANTOWN BOARD OF ZONING APPEALS

December 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:** V12-39 / R.E. Michel / Hunters Way

### **REQUEST and LOCATION:**

Request by Lisa Mardis of Project Management Services, on behalf of R.E. Michel, for variance relief from Article 1347.04 as it relates to setbacks and encroachments at a development site along Hunters Way on the former Sterling Faucet site.

### **TAX MAP NUMBER(s) and ZONING DESCRIPTION:**

Tax Map 44, part of Parcel 34; B-2, Service Business District

### **SURROUNDING ZONING:**

East: R-1A, Single Family Residential District  
North, South, West: B-2 Service Business District

### **BACKGROUND and ANALYSIS:**

As a result of the forthcoming Mileground Road improvements by the West Virginia Division of Highways and the related roundabout facility, R.E. Michel has elected to stay within the City of Morgantown corporate limits by relocating to the subject site. Addendum A of this report illustrates the location of the subject site.

The following highlights the petitioner's development program:

- The land use classification for the R.E. Michel establishment is a "Building Materials Supplier".
- The building will be one-story and include 14,604 square feet; 2,099 square feet of which is designed for retail sales space and 12,505 is designed for product storage.
- With the exception of the maximum front setback standard, the proposed site plan observes all related setback, parking, and performance requirements.

The maximum front setback standard in the B-2 District is 30 feet. The proposed setback is 51 feet, which requires a 21-foot variance.

Due to the depth of the site, the petitioner's facility space needs, and to ensure that delivery trucks would not obstruct Hunters Way (private road), the building was moved deeper into the site than the Planning and Zoning Code permits. Additionally, the petitioner's design professional was advised during the November 11, 2012 pre-application meeting with the Technical Review Team that every effort would be required to accommodate access and maneuvering of fire trucks in the front portion of the site.

## **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 variance 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 approval as requested without conditions.

Enclosures: Application and accompanying exhibits

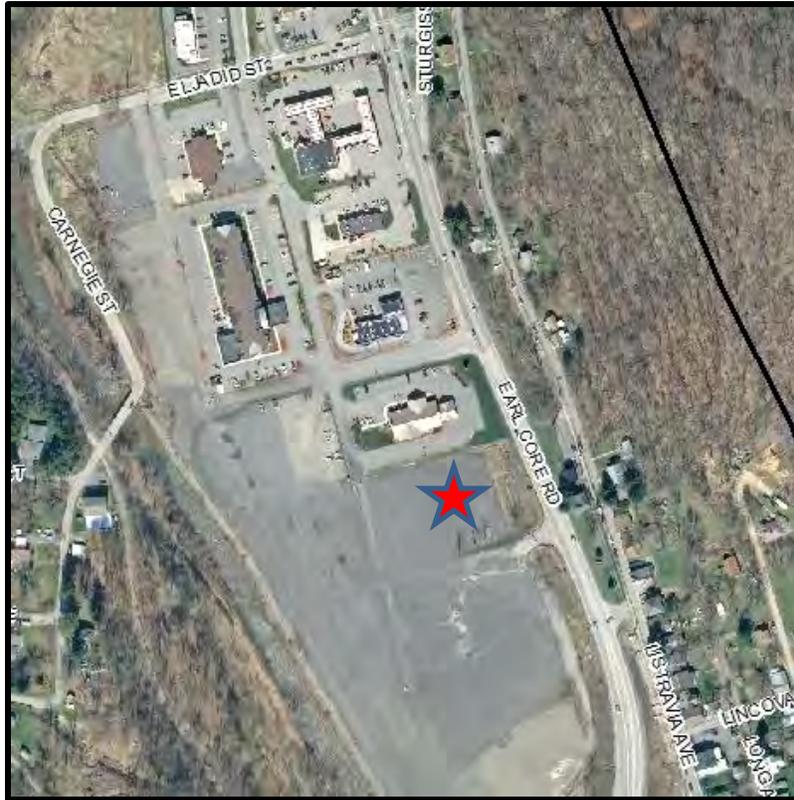
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**STAFF REPORT ADDENDUM A**  
**V12-39 / R.E. Michel / Hunters Way**



## STAFF REPORT ADDENDUM B

### V12-39 / R.E. Michel / Hunters Way

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

**Finding of Fact #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:

The ~~lot of record~~ development site has frontage on three streets: Hunters Way, an un-named street, and Earl Core Road. The rear of the parcel, on Earl Core Road, ~~is steep and unusable causing~~ includes a slope along with its narrow depth appear to require the loading area bays to be placed on the building's Hunters Way frontage. To keep the delivery trailers from encroaching into the private right-of-way on Hunters Way, the building has been pushed back toward Earl Core Road. The increased front setback will also give the Fire Department sufficient area for a ~~tower~~ fire truck to the ~~loading dock area~~ building and adequate area for a fire engine to navigate the perimeter.

**Finding of Fact #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:

~~It appears that that the building will be in line with the existing commercial buildings on Hunter's Way, such as My Bank, Burger King, and Arby's. The proposed building is also similar to the buildings on the opposite side of Hunter's way such as Goodwill, Dancer's Closet and Springhill Suites. The predominant development pattern on the former Sterling Faucet site and within the Earl Core Road commercial corridor does not appear to conform to the Planning and Zoning Code's desire to establish and preserve a discernible building line as intended with maximum front setback standards. Additionally, similar variance relief has been granted within the Earl Core Road commercial corridor including V10-26 / Auto Zone, V11-01 / Big-Pong, V11-31 / Walgreens, etc.~~

**Finding of Fact #3** – The granting of this variance 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:

The proposed setback appears to be consistent with the front setbacks afforded to the other commercial developments within the former Sterling Faucet Site and Earl Core Road commercial corridor. The development pattern for this area should not be detrimental to the public welfare nor impede upon adjoining property or improvements. By pushing the building towards Earl Core Road, delivery trucks will not encroach into the private access road. No significant grading will be necessary that ~~would~~ should harm the adjoining property, the private access road, or existing utilities. The variance should not affect emergency or service vehicle access to adjacent properties. The increased front setback ~~will also~~ appears to give the Fire Department sufficient area for a ~~tower~~ fire truck to access the ~~loading dock area~~ building and adequate area for a fire engine to navigate the perimeter.

**Finding of Fact #4** – The granting of this variance 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:

The development of the vacant parcel should enhance the value of the area and accordingly contribute to the market value of adjacent structures. Granting this variance cannot improve nor mitigate traffic congestion that is already present within the area. Likewise, the approval of this variance ~~would have no~~ should not adversely impact ~~on the~~ land-use characteristics of the vicinity or zoning district.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V12-39
RECEIVED:	11/16/2012
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

<b>I. APPLICANT</b>		Name: Project Management Services	
Mailing Address:	160 Fayette Suite 101		Phone: 304-212-5256
	Street	Morgantown WV 26505	Mobile: 3014-692-7116
	City	State Zip	Email: lisa.k.mardis@gmail.com
<b>II. PROPERTY</b>		Street Address: 1959 Hunter's Way	
Owner:	RE Michel		Zoning: B-2
Mailing Address:	1 RE Michel Drive		Tax Map No:
	Street	Glen Burnie MD 21060-6495	Parcel No:
	City	State Zip	Phone:
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Variance relief from the Planning and Zoning Code, Article 1347.04 Setbacks and Encroachments as it relates to the maximum front yard setback.</p>			
<b>V. ATTEST</b>			
<p>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.</p>			
<p><i>Lisa Mardis</i></p>		<p><i>Lisa Mardis</i></p>	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	
		<p>PAID 75.00</p> <p>11/16/2012 10:01:09 SITE PLAN</p>	
		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.



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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)

Structure Characteristics (complete only those that apply)

Total number of buildings: 1      Gross floor area of each building: 14,604

Estimated number of employees: 5      No. of dwelling units: 0      No. of bedrooms: 0

Additional structure-related details:

Additional Information (as required by Staff): retail area: 2099

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

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Suggested Scale: 1 square = 5'

All attachment  
C. H.



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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:

*see attachments  
C.M.F.*

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:

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:

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:

*submitted by petitioner's representatives*  
*eff.*

**FINDINGS OF FACT  
RE Michel / 1959 Hunter's Way**

*V12-39*

~~Variance relief from the Planning and Zoning Code, Article 1339.04 as it relates to the minimum side setback on corner lots in the R-3 District.~~

**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:**

The lot of record has frontage on three streets: Hunter's Way, an un-named street, and Earl Core Road. The rear of the parcel, on Earl Core Road, is steep and unusable causing the loading area to be placed on the buildings frontage. To keep the delivery trailers from encroaching into the private right-of-way on Hunter's Way the building has been pushed back toward Earl Core Road. The increased front setback will also give the Fire Department sufficient area for a tower truck to the loading dock area and adequate area for a fire engine to navigate the perimeter.

**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:**

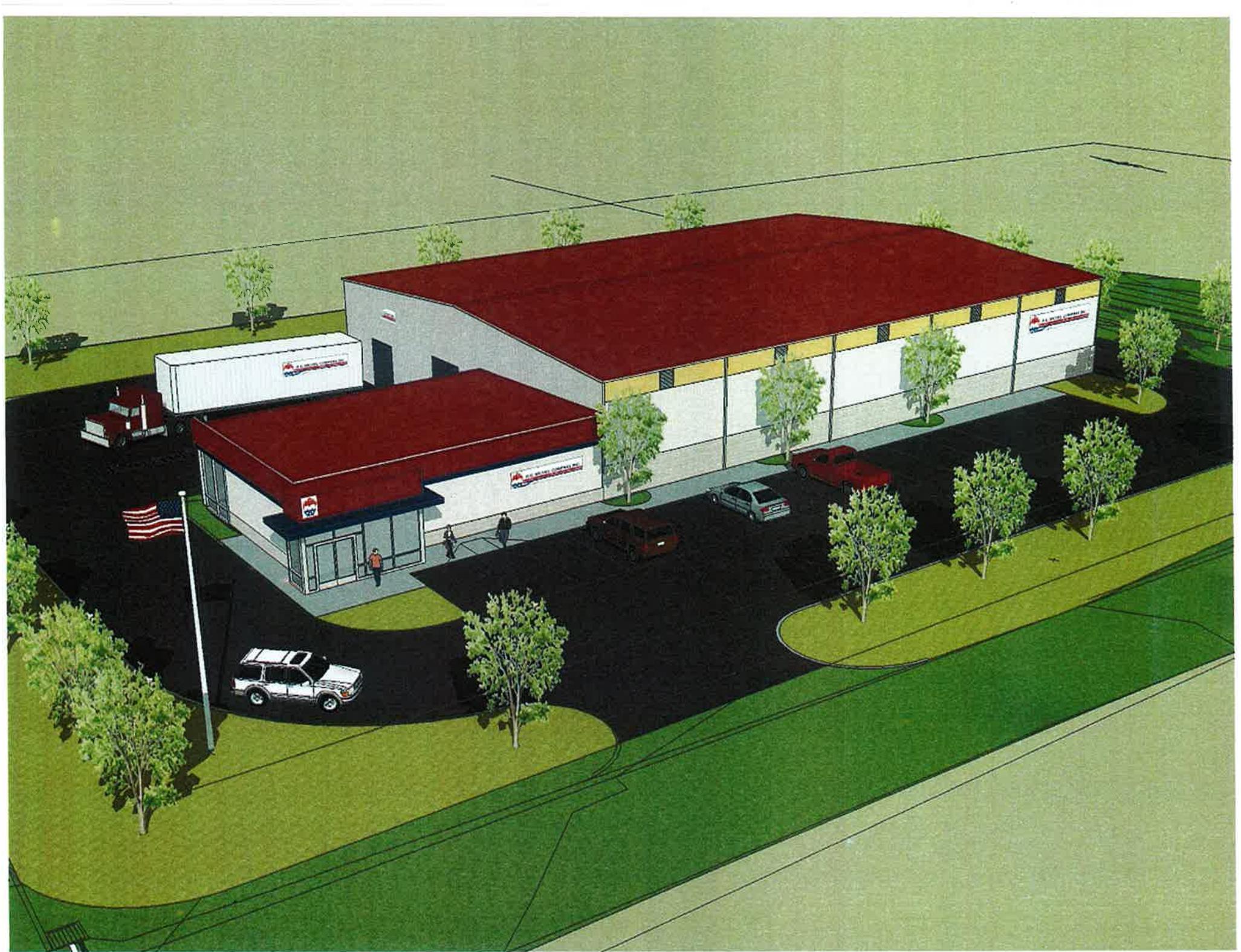
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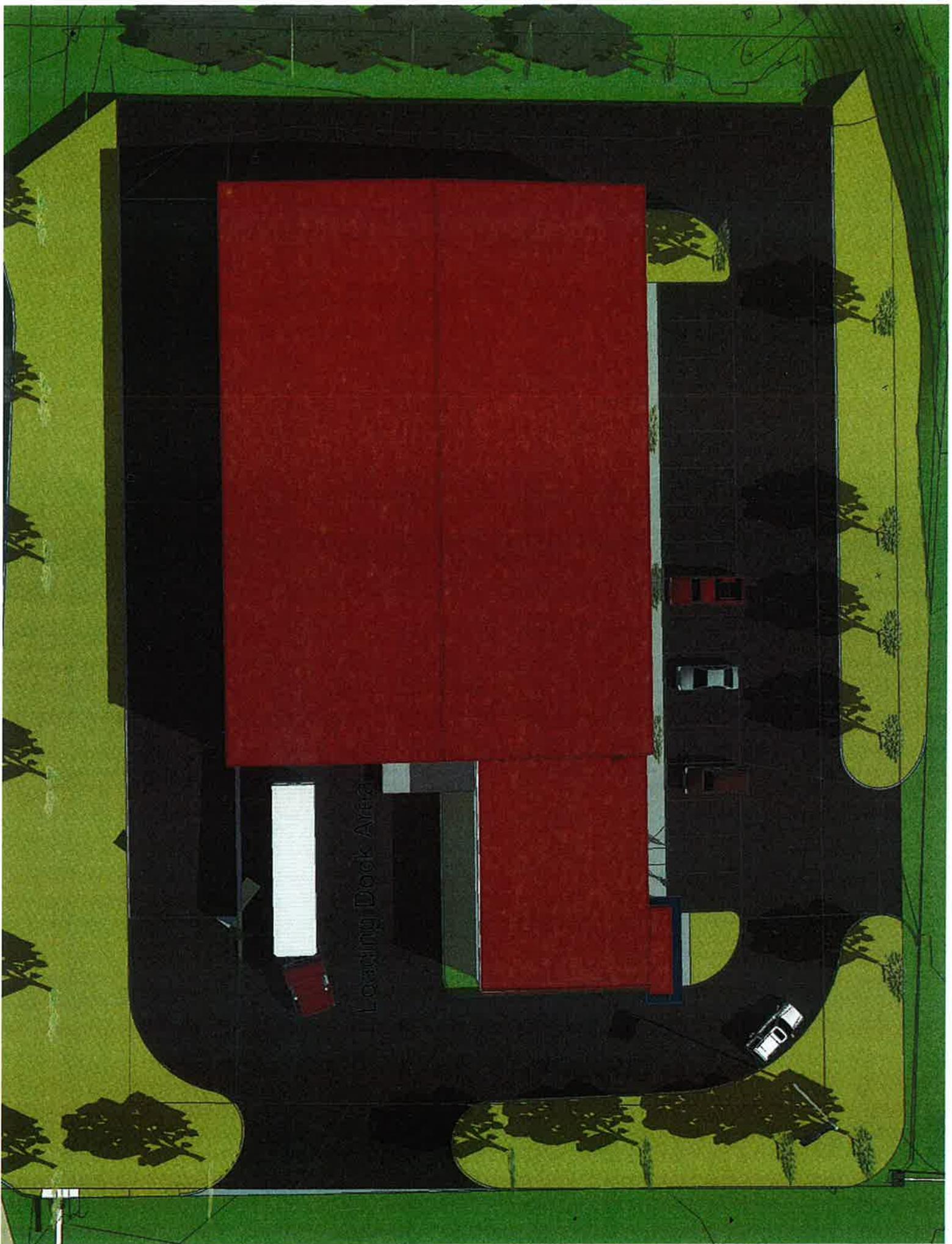
**3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:**

The proposed setback appears to be consistent with the front setbacks afforded to the other commercial developments within the former Sterling Faucet Site. The development pattern for this area should not be detrimental to the public welfare nor impede upon adjoining property or improvements. By pushing the building towards Earl Core Road, delivery trucks will not encroach in to the private access road. No significant grading will be necessary that would harm the adjoining property, the private access road, or existing utilities. The variance should not affect emergency or service vehicle access to adjacent properties. The increased front setback will also give the Fire Department sufficient area for a tower truck to the loading dock area and adequate area for a fire engine to navigate the perimeter.

**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:**

The development of the vacant parcel should enhance the value of the area and accordingly contribute to the market value of adjacent structures. Granting this variance cannot improve nor mitigate traffic congestion that is already present within the area. Likewise, the approval of this variance would have no impact on the land-use characteristics of the vicinity or zoning district.





Loading Dock Area

