



# MORGANTOWN BOARD OF ZONING APPEALS

April 17, 2013  
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:** V13-10 / Nationwide Wireless / 749 Chestnut Ridge Road

### **REQUEST and LOCATION:**

Request by Josh Montgomery, on behalf of Nationwide Wireless, for variance relief from Article 1369.09 as it relates to wall signage at 749 Chestnut Ridge Road.

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

Tax Map 56, Part of Parcel 4; B-2, Service Business District

### **SURROUNDING ZONING:**

B-2, Service Business District and R-1, Single-Family Residential District (WVU)

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to erect a 24 square foot, internally illuminated wall sign for *Nationwide Wireless* located within the Suburban Plaza on Chestnut Ridge Road. Addendum A of this report illustrates the location of the subject site.

Article 1369.07(I)(1) provides that the maximum wall sign area in the B-2 District is determined by multiplying the storefront width in feet by 0.6. The storefront width of *Nationwide Wireless* is approximately 15 feet. Therefore, the maximum area for the subject wall sign is 9 square feet.

On February 15, 2011, the Board granted variance relief to erect a 24 square foot sign for *Altered Ego* under Case No. V12-02, which is located two storefronts away from the petitioner's location within the Suburban Plaza.

### **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 applicant.

Addendum B of this report provides Staff recommended revisions to the petitioner's findings of fact (deleted matter struck through; new matter underlined).

Enclosures: Application and accompanying exhibits

## **Development Services**

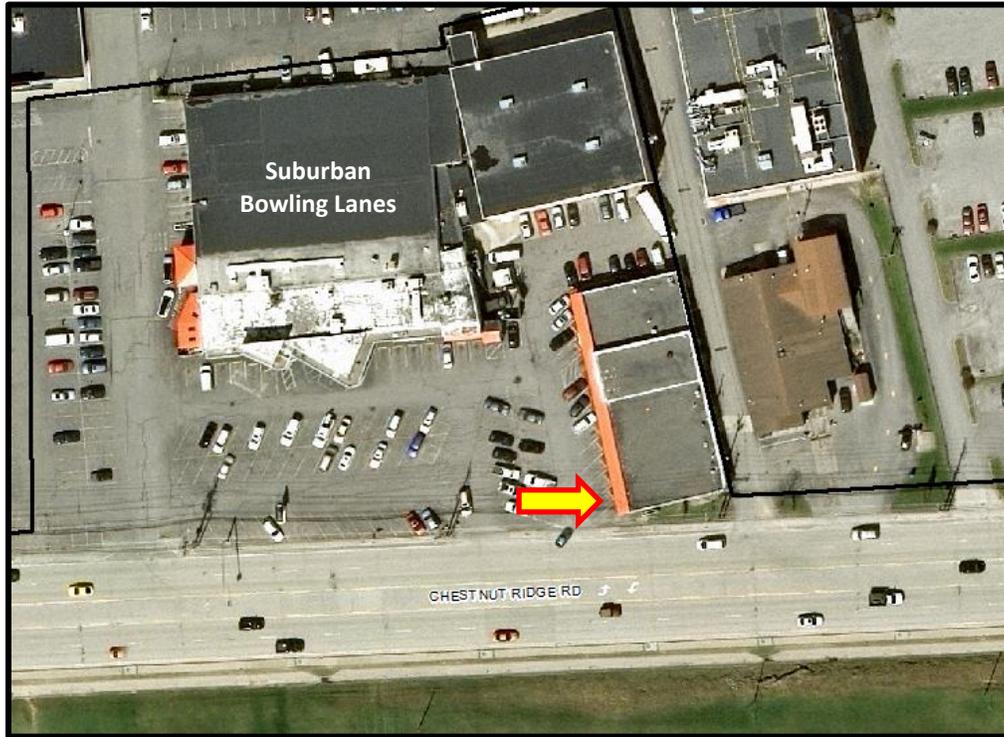
Christopher Fletcher, AICP  
Director

## **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

# STAFF REPORT ADDENDUM A

V13-10 / Nationwide Wireless / 749 Chestnut Ridge Road



## STAFF REPORT ADDENDUM B

### V13-10 / Nationwide Wireless / 749 Chestnut Ridge Road

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

**Finding of Fact No. 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 other tenants in the shopping plaza have larger and ample signage. A few examples are: The Shoe Story, Tutto Gelatto, Altered Ego, and Nails 2. We are not asking to exceed what they have, but are asking to match what they have or in some cases, be smaller.~~ Visibility of the petitioner's storefront appears to be challenged as the other five storefronts in the subject building are by not facing the heavily traveled Chestnut Ridge Road. A sign area as proposed appears necessary in order for the general public to see it.

**Finding of Fact No. 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:

~~Several other businesses within the shopping plaza have large signs. We are not asking to exceed what they have, but are asking to match what they have or in some cases, be smaller. The other businesses in the plaza appear to have signs larger than what the sign ordinance permits. Therefore a larger size appears to be consistent with the prevalent commercial signage messaging characteristics within the immediate area. Additionally, the Board granted variance relief to erect a 24 square foot sign for Altered Ego under Case No. V12-02, which is located two storefronts away from the petitioner's location within the Suburban Plaza.~~ The other businesses in the plaza appear to have signs larger than what the sign ordinance permits. Therefore a larger size appears to be consistent with the prevalent commercial signage messaging characteristics within the immediate area. Additionally, the Board granted variance relief to erect a 24 square foot sign for Altered Ego under Case No. V12-02, which is located two storefronts away from the petitioner's location within the Suburban Plaza.

**Finding of Fact No. 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 sign will be located in the location of the previous sign. The sign will not harm the property since it will be placed in the allocated space for all tenant signage within the plaza. The proposed sign appears to be consistent with the prevalent commercial signage messaging characteristics within the immediate area.~~ The proposed sign appears to be consistent with the prevalent commercial signage messaging characteristics within the immediate area.

**Finding of Fact No. 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 sign will not alter any form of the land used. The nature of the variance relief requested cannot contribute to nor mitigate existing traffic congestion; will not alter the existing land use characteristics within the immediate mixed-commercial area; and, will continue a commercial signage messaging characteristic that appears to be prevalent within the subject commercial plaza.~~ The nature of the variance relief requested cannot contribute to nor mitigate existing traffic congestion; will not alter the existing land use characteristics within the immediate mixed-commercial area; and, will continue a commercial signage messaging characteristic that appears to be prevalent within the subject commercial plaza.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V13-10
RECEIVED:	3/15/13
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

<b>I. APPLICANT</b>		Name: Josh Montgomery - Nationwide Wireless	
Mailing Address:	196 Buckhannon Pike		Phone: 304-326-2355
	Street	City	State
	Clarksburg	WV	26301
	City	State	Zip
			Mobile: 304-319-3010
			Email: nationwidew@gmail.com
<b>II. PROPERTY</b>		Street Address: 749 Chestnut Ridge Rd.	
Owner:	Jerry Lorenze - Suburban Plaza		Zoning: B2
Mailing Address:	749 Chestnut Ridge Rd.		Tax Map No: 56
	Street	City	State
	Morgantown	WV	26505
	City	State	Zip
			Parcel No: P10 4
			Phone: 304-826-0328
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>The variance is to request a larger sign to be in scale with the other existing signs in the shopping plaza.</p> <p><i>3' x 8' proposed sign (24 sq. ft.)</i></p> <p><i>Storefront width ≈ 15'</i></p> <p><i>15 x 0.6 = 9 sq. ft max</i></p> <p><i>Requires 15 sq. ft. variance</i></p> <p><i>C.M.F. 04/11/13</i></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>			
Josh Montgomery - Nationwide Wireless		<i>[Signature]</i>	
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	RS2 3/15/2013 201311391	CRYSTAL 03/15/2013 11:21:32 SITE PLAN 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)

Shopping Plaza

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:

Additional Information (as required by Staff):

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.



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COMPLETE:	_____

Suggested Scale: 1 square = 5'

SEE  
ATTACHED

site plan  
not pertinent  
CWF 04/11/13



City of Morgantown, West Virginia

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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:**

The other tenants in the shopping plaza have larger and ample signage. A few examples are: The Shoe Story, Tutto Gelatto, Altered Ego, and Nails 2.

- 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:**

Several other businesses within the shopping plaza have large signs. We are not asking to exceed what they have, but are asking to match what they have or in some cases, be smaller.

- 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 sign will be located in the location of the previous sign. The sign will not harm the property since it will be placed in the allocated space for all tenant signage within the plaza.

- 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 sign will not alter any form of the land used.



V13-10



V13-10



V12-02  
10.8 sq ft  
Variance approved  
15-FEB-2011  
Total sign area  
24 sq ft  
C. J. P.  
04/11/13

V13-10



V13-10



3' x 8' single sided sign V13-10

*24 sq. ft. sign*

*storefront  $\approx$  15'*

*craft 04/11/13*