



MORGANTOWN BOARD OF ZONING APPEALS

June 19, 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: V13-16 / Joe Mama's / 345 High Street

REQUEST and LOCATION:

Request by Michelle Boyers of City Neon, Inc., on behalf of Joe Mama's, for variance relief from Article 1369.07(G) as it relates to suspended signs at 345 High Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 26A, Parcel 105; B-4, General Business District

SURROUNDING ZONING:

B-4, General Business District

BACKGROUND and ANALYSIS:

The petitioner seeks to erect a 12.5 square foot double sided neon suspended sign for the *Joe Mama's* establishment located at 345 High Street. Addendum A of this report illustrates the location of the subject site.

Article 1369.07(G)(1) provides that the maximum suspended sign area may not exceed 6 square feet. As such, variance relief of 6.5 square feet must be approved by the Board of Zoning Appeals.

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. Staff recommends that the following conditions be included should the Board grant variance relief:

1. That any and all nonconforming signs relating to the *petitioner's* establishment at the subject site must be removed prior to the erection of the subject suspended sign for which variance relief is granted herein.
2. That no additional signage, including wall signage, may be erected at the subject site relating to the petitioner's establishment.

Development Services

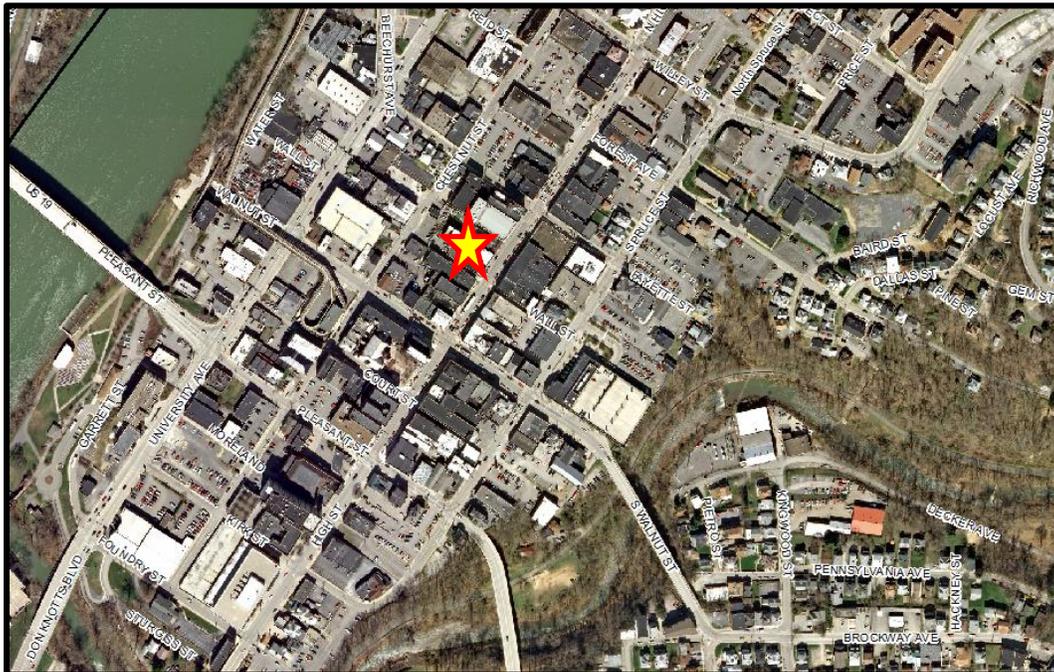
Christopher Fletcher, AICP
Director

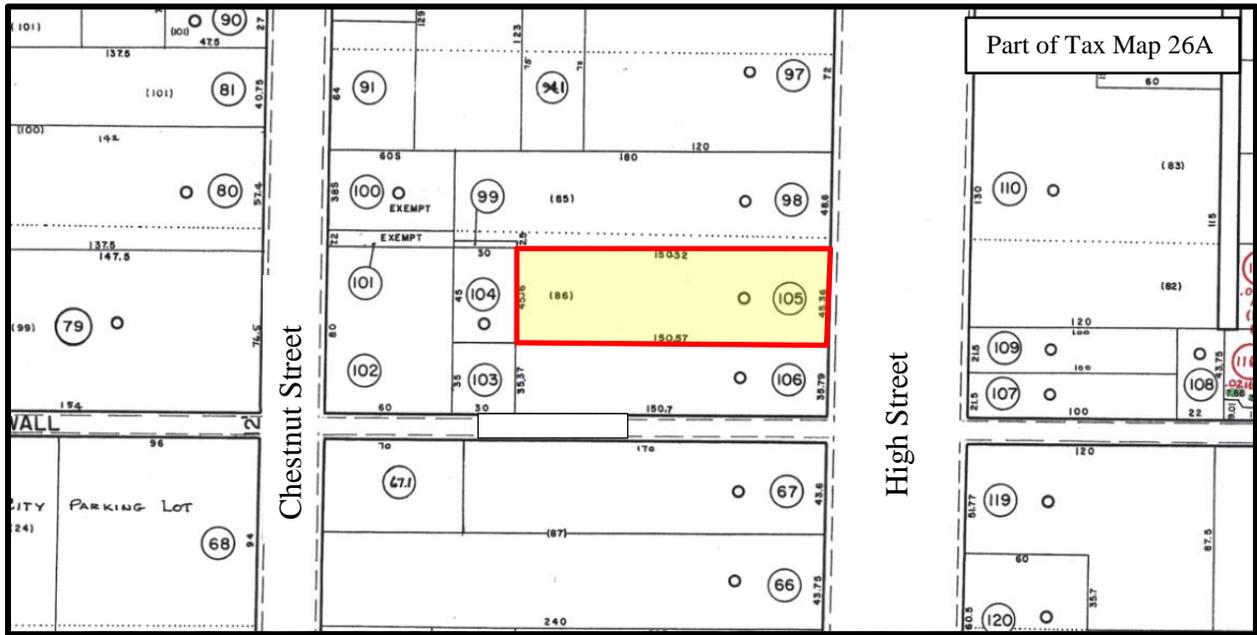
Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

Enclosures: Application and accompanying exhibits

STAFF REPORT ADDENDUM A
V13-16 / Joe Mama's / 345 High Street





STAFF REPORT ADDENDUM B

V13-16 / Joe Mama's / 345 High Street

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 building is three (3) stories tall and all three stories are occupied by the same business eliminating the need for any additional tenant signage on the subject building, which is a unique land use characteristic in the downtown. ~~and~~ The proposed suspended sign is appears to be in fitting scale to the size of the building and neighboring suspended signage. and is larger than the existing signage. The previous "De Lazy Lizard" establishment located at the subject site enjoyed a suspended sign that was 12'H X 1'W for an area of 12 square foot. The Board's condition restricting any additional signage at the subject site relating to the petitioner's establishment serves to reduce excessive signage on the subject building.

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:

~~To be consistent with the building size.~~ The "WCLG" suspended sign on the adjoining building is approximately 15'H X 3'W for an approximate area of 45 square feet, which is approximately 32.5 square feet larger than the proposed "Joe Mama's" suspended sign. For contextual purposes, the neighboring City's banner signs are approximately 8'H X 2.5'W for an area of 20 square feet. There appears to be a number of non-conforming wall and suspended signs along High Street that exceed maximum area standards. Additionally, the Board has granted relief from maximum sign area standards along High Street.



Finding of Fact No. 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 9.5 ft. off the ground from the sidewalk.~~ The proposed suspended sign appears to be consistent with the adjoining “WCLG” suspended sign and the nearby City banner signs, which do not appear to appear to be a detriment.

Finding of Fact No. 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 be located 9.5 ft. off the ground from the sidewalk.~~ The nature of the variance relief requested cannot contribute to nor mitigate existing traffic congestion and will not alter the existing land use characteristics of the commercial building or downtown commercial district.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V13-16
RECEIVED:	05/02/13
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	CITY NEON, INC		
Mailing Address:	PO BOX 40		Phone:	304-599-1852	
	Street	Morgantown,	WV	2650	Mobile:
	City	State	Zip		Email:
II. PROPERTY		Street Address:	345 High Street (Joe Mama's)		
Owner:	Justin Byers		Zoning:	B4	
Mailing Address:	314 Scott Ave.		Tax Map No:	26A	
	Street	Morgantown	Wv	26508	Parcel No:
	City	State	Zip		Phone:
III. NARRATIVE		Please describe the nature and extent of your variance request(s).			
Sign larger than allowed square footage					
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.			
City Neon, Inc.				04/25/2013	
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.



APPLICATION FOR ZONING VARIANCE

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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)

suspended sign

Structure Characteristics (complete only those that apply)

N/A 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):

sign rendering attached

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'

N/A
See attached rendering of sign.



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ZONING VARIANCE**

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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 building is 3 stories tall and the sign is fitting to the size of the building and is larger than the existing signage

- 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:**

To be consistent with the building size

- 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 9.5ft off the ground from the sidewalk

- 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 be located 9.5ft off the ground from the sidewalk

V13-11e



428 Industrial Avenue
Morgantown, WV 26505
Phone: 304-599-1854
Fax: 304-599-5852

PO Box 40
Morgantown, WV 26507
304-225-2056

INFORMATION SHOWN IN THIS
DRAWING IS PROPRIETARY AND
SOLE PROPERTY OF
CITY NEON INC. AND
IS NOT TO BE REPRODUCED,
DISCLOSED OR TRANSMITTED
TO OTHERS FOR ANY
PURPOSE NOT AUTHORIZED
BY CITY NEON INC.

CLIENT/PROJECT
**Joe
Mama's**
Morgantown, WV

CUSTOMER APPROVAL

FILE NAME:
Joe_Mamas02.plt

DRAWING NO.
JM.CUST_2.5x5

SCALE
N/A

DRAWN BY:
Rudy

DATE:
7/13/12

SALESMAN

REVISIONS

REV.1:

REV.2:

Joe P. 7/25/12

Custom 2'-6" x 5'-0" double sided neon sign

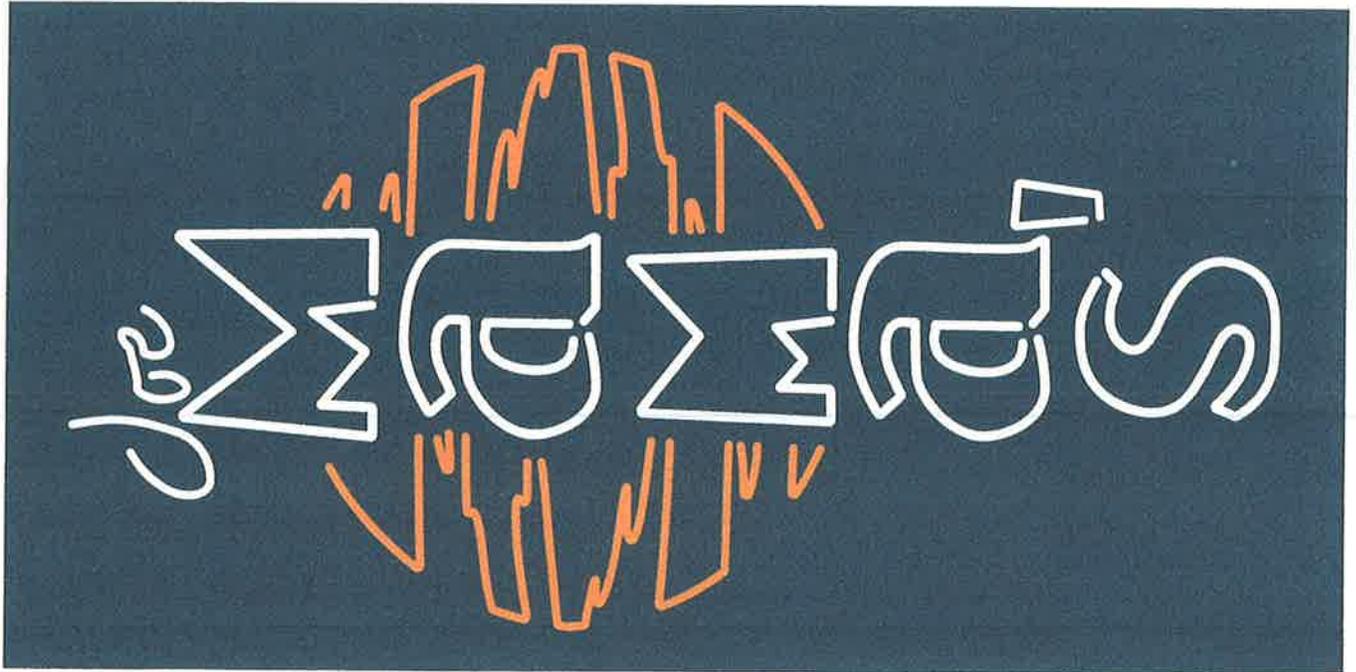
Black custom aluminum sign cabinet

10mm white neon: Joe

12mm white neon" MAMA'S

10mm orange neon: sun

Clear polycarbonate protective cover





City of Morgantown, West Virginia

APPLICATION FOR SIGN PERMIT

OFFICE USE	
CASE NO.:	
RECEIVED:	05/02/13
COMPLETE:	

A separate application must be completed for each proposed sign. (PLEASE TYPE OR PRINT IN BLACK INK)

Sign Application Fee - \$17

I. APPLICANT			
Name:	City Neon, inc.	Phone:	304-599-1852
Mailing Address:	PO Box 40	Mobile:	
	Street Morgantown WV 26507	Email:	rudy@cityneon.com
	City State Zip		
II. PROPERTY			
Owner:	Justin Byers	Phone:	304-685-3048
Mailing Address:	314 Scott Ave	Mobile:	
	Street Morgantown WV 26508	Email:	jbyers@dixtonland.com
	City State Zip		
Street Address (if assigned):		Tax Map #(s):	
Zoning:		Parcel #(s):	
III. SIGN			
Sign to Advertise:			
Type of Sign:	Mark all that apply to this particular sign.		
	<input type="checkbox"/> Awning	<input type="checkbox"/> Marquee	<input checked="" type="checkbox"/> Projecting
	<input type="checkbox"/> Changeable Copy	<input type="checkbox"/> Menu Board	<input type="checkbox"/> Pylon/Pole
	<input type="checkbox"/> Construction	<input type="checkbox"/> Monument	<input type="checkbox"/> Roof
	<input type="checkbox"/> Directional	<input type="checkbox"/> Portable	<input type="checkbox"/> Sandwich Board
	<input type="checkbox"/> Directory	<input type="checkbox"/> Post & Panel	<input type="checkbox"/> Scrolling Message
			<input type="checkbox"/> Suspended
			<input checked="" type="checkbox"/> Wall
			<input type="checkbox"/> Window
			<input type="checkbox"/> OTHER
Sign Dimensions	Height: 5' ft.	Width: 2'-6" ft.	Area: 12.5 sq. ft.
Structure Dimensions	Height: 5' ft.	Width: 2'-6" ft.	
Distance from building (if applicable):	ft.	Height above sidewalk (if applicable):	ft.
Description of construction materials (i.e. wood, plastic, metal, glass, etc.):			
Double sided neon sign, black aluminum sign cabinet with clear poly carbonate protective cover. Sign will be affixed with steel lags + bolts.			



City of Morgantown, West Virginia

APPLICATION FOR SIGN PERMIT

OFFICE USE	
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COMPLETE:	

III. SIGN (cont.)

Illumination: Internally Externally None please describe below:

Exposed Neon

Estimated Cost: \$ 3014

Firm Erecting Sign: City Neon, inc.

Phone: 304-599-1852

Address: 428 Industrial Avenue, Morgantown, WV 26505

IV. SUPPLEMENTAL INFORMATION

The following information must be submitted with this application:

- Photographic illustration of existing conditions
- Rendering of the sign showing the dimensions
- Photographic illustration of proposed conditions
- Site Plan drawn to scale, if sign is not affixed to existing building.
- A copy of the applicant's liability insurance naming the City as coinsured.

V. ATTEST

I hereby certify that I have read and examined this document and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit 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.

Michelle L Bayers

Michelle L Bayers

4/25/13

Type/Print Name of Applicant

Signature of Applicant

Date

In consideration of the premises and the advantages that will accrue to the undersigned owner of said property, on behalf of myself, my vendees, heirs, and assigns, I do hereby agree to save the City of Morgantown harmless from any and all damages which may arise from or grow out of the erection and maintenance of said sign or structure.

Justin Bayers

Justin Bayers

4/24/13

Type/Print Name of Property Owner

Signature of Property Owner

Date

Approved Denied

Requires: Variance

Conditional Use

Planning Department Official

Date