



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: V13-17 / Chillberry's / 361 High Street

REQUEST and LOCATION:

Request by Rajagopal Sundaram for variance relief from Article 1369.07(I) as it relates to wall signs at 361 High Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 26A, Parcel 98; B-4, General Business District

SURROUNDING ZONING:

B-4, General Business District

BACKGROUND and ANALYSIS:

The petitioner seeks to erect a 13 square foot wall sign for *Chillberry* located at 361 High Street. 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-4 District is determined by multiplying the storefront width in feet by 0.4. The storefront width of *Chillberry* is approximately 10 feet and the maximum area for the subject wall sign is calculated to be four (4) square feet. As such, the proposed sign requires a nine (9) square foot variance.

Article 1369.08(C) provides that permitted signs shall be restricted to the name and logo of the business establishment. Therefore, a variance is necessary to include the copy "Pati-Yo" and "Premium Frozen Yogurt".

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).

Development Services

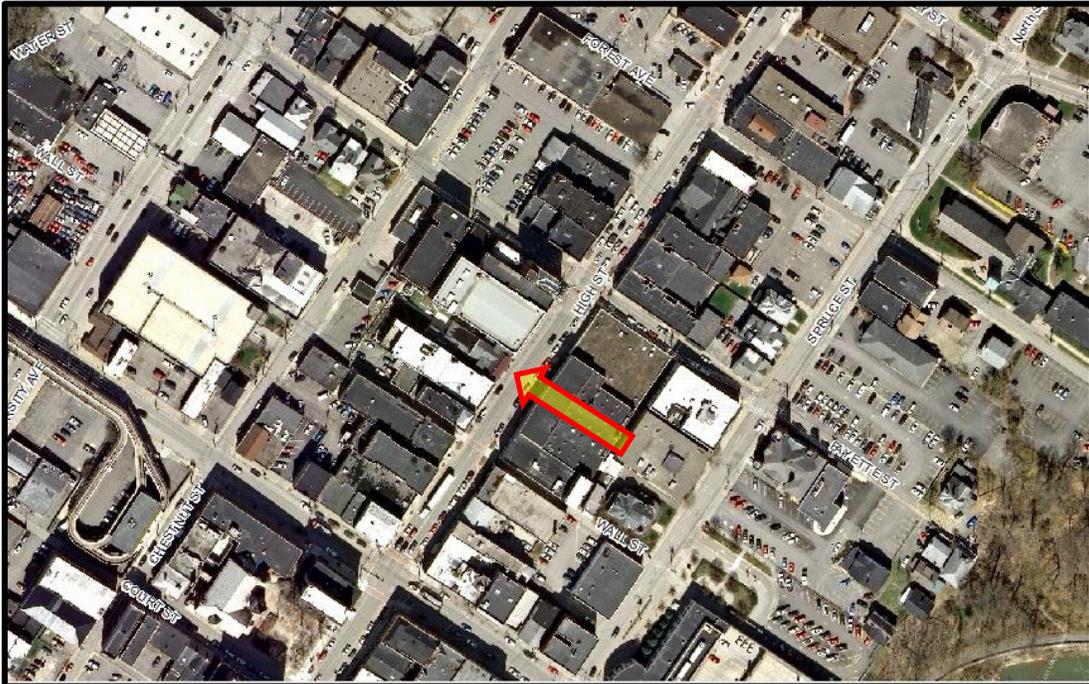
Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

Enclosures: Application and accompanying exhibits

STAFF REPORT ADDENDUM A
V13-17 / Chillberry / 361 High Street



STAFF REPORT ADDENDUM B

V13-17 / Chillberry's / 361 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 width of the subject storefront is approximately ten feet, which is overshadowed by the 40-foot width of the restaurant storefront on one side and the 70-foot width of the Met Theater on the other side. The maximum wall sign standard of four feet is less than the maximum area permitted for a suspended sign and would not be recognized or legible by vehicular or pedestrian passersby.

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:

~~Of the limited allowed square footage for signage.~~ Other businesses on High Street have similar, larger wall signs on their store fronts. Some examples of those businesses are Cold Stone, Tanner's Alley, and Elegant Alley Cat.

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 appropriately scaled sign should aid in promoting the sustainability of the stand-alone business in one of the narrowest storefronts along High Street; the continued success of which should contribute to the economic activity, viability, and offerings within the central business district.

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 be mounted against the wall at least 10' above the ground which will make it completely out of the way of vehicular and pedestrian traffic. The sign will only extend 2", at most, from the wall which will pose no traffic hazards. The nature of the variance will not contribute to nor mitigate existing traffic congestion. The proposed area of the sign will not alter the existing land use of the subject storefront or neighboring commercial storefronts.~~
The appropriately scaled sign should aid in promoting the sustainability of the stand-alone business in one of the narrowest storefronts along High Street.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V13-17
RECEIVED:	5/8/2013
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	Rajagopal Sundaram		
Mailing Address:	361 High Street			P hone:	571-606-6532
	Street	Morgantown	WV	26505	Mobile:
	City	State	Zip		
		E mail: rajwip2001@yahoo.com			
II. PROPERTY		Street Address:	361 High Street		
Owner:	George Papandreas			Zoning:	B4
Mailing Address:	426 Jefferson Street			Tax Map No:	26A
	Street	Morgantown	WV	26505	Parcel No:
	City	State	Zip		98
		P hone: 304-282-3909			
III. NARRATIVE		Please describe the nature and extent of your variance request(s).			
Permission to place a 12.95 square foot wall sign on storefront similar to other businesses on High Street. The wall sign would be constructed of HDU(sign foam).					
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.					
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date	
RAJAGOPAL SUNDARAM		<i>Rajagopal Sundaram</i>		6/7/13	

(8A)

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

OFFICE USE	
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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)

- 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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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:
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:
of the limited allowed square footage for signage. Other businesses on High Street have similar, larger wall signs on their store fronts. Some examples of those businesses are Cold Stone, Tanner's Alley, and Elegant Alley Cat.
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:
The sign will be mounted against the wall at least 10' above the ground which will make it completely out of the way of vehicular and pedestrian traffic. The sign will only extend 2", at most, from the wall which will pose no traffic hazards.



67.6 in
ChillBerry
Pati-YO
Premium Frozen Yogurt

Cuisine



OPEN

Business Hours
Mon - Fri 11am - 8pm
Sat - Sun 10am - 7pm



4



CEN...Y HOUSE
46
LANGOTH
706
GEOR...D MARY BETH
DREAS



OPEN

363
HIGH STREET



122.04 in

119 in