



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: V13-21 / Mutt's Place / 263 Beechurst Avenue

REQUEST and LOCATION:

Request by George Vrooman for variance relief from Table 1365.04.01 as it relates to minimum parking requirements at 263 Beechurst Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 19, Parcel 22.1; B-2, Service Business District

SURROUNDING ZONING:

B-2, Service Business District

BACKGROUND and ANALYSIS:

On 02-May-2013, the Board approved the petitioner's conditional use petition for a "Private Club" use in the B-2 District at 263 Beechurst Avenue under Case No. CU13-05. Addendum A of this report illustrates the subject site.

The following condition was included in the Board's approval:

"That the conditional use granted herein [CU13-05] is conditioned upon the Board's approval of a variance relief from the minimum parking requirements AND/OR the approval of a conditional use petition for off-premise parking. Said variance relief and/or conditional off-premise parking use must be granted before any certificate of occupancy can be issued."

Table 1365.04.01 "Minimum Off-Street Parking Requirements" does not provide a minimum parking standard for "Private Club" uses. Article 1365.04(L) provides the following guidance in these instances:

"For uses not specified in this section, or in such instance when the requirement for an adequate number of spaces is unclear or not specified in another part of this section for Conditional Uses, Shopping Center Plan, etc., the number of parking spaces shall be determined by the Planning Director on the basis of similar requirements, the number of persons served or employed, and the capability of adequately serving the visiting public."

Although a minimum parking standard for a "Restaurant, Private Club" use is provided in Table 1365.04.01, the provision of serving food is not necessarily required or expected within a "Private Club" use. Further, the minimum parking standard for a "Restaurant, Private Club" use is based, in part, on the area utilized for eating. As such, Staff applied the minimum parking standard for a "Tavern" use in calculating the petitioner's minimum on-site parking obligation.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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The gross floor area of the petitioner's 263 Beechurst Avenue storefront is 1,134 square feet. The petitioner has stated to the Planning Division that there were five (5) employees present during the busiest shift at the Mutt's Place previous 2129 University Avenue location, which was very similar in gross floor area to the 263 Beechurst Avenue location.

The minimum parking requirement for a "Tavern" use is one (1) space per 100 square feet of gross floor area (GFA) plus one (1) space per employee, which results in a minimum on-site parking obligation of 16 parking stalls for the subject "Private Club."

As discussed at length during the Board's consideration of the petitioner's related conditional use petition, there is no area on the subject parcel to develop surface on-site parking. The petitioner therefore seeks relief from having to provide 16 on-site parking spaces. The petitioner purports that he has made efforts to secure off-site parking agreements to no avail.

The Board should consider the deliberations and record of its 02-May-2013 decision for Case No. CU13-05 as a part of the record for the present variance petition.

Additionally, it should be noted that Mr. Don Corwin has filed a writ of certiorari appeal of the Board's 02-May-2013 decision for Case No. CU13-05. City Attorney Stephen Fanok advised Staff that the Board should proceed in considering and deciding the present variance petition without delay.

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.

Staff does not submit recommendations concerning the petitioner's findings of fact nor does it submit a recommendation to approve or deny.

Enclosures: Application and accompanying exhibits

Development Services

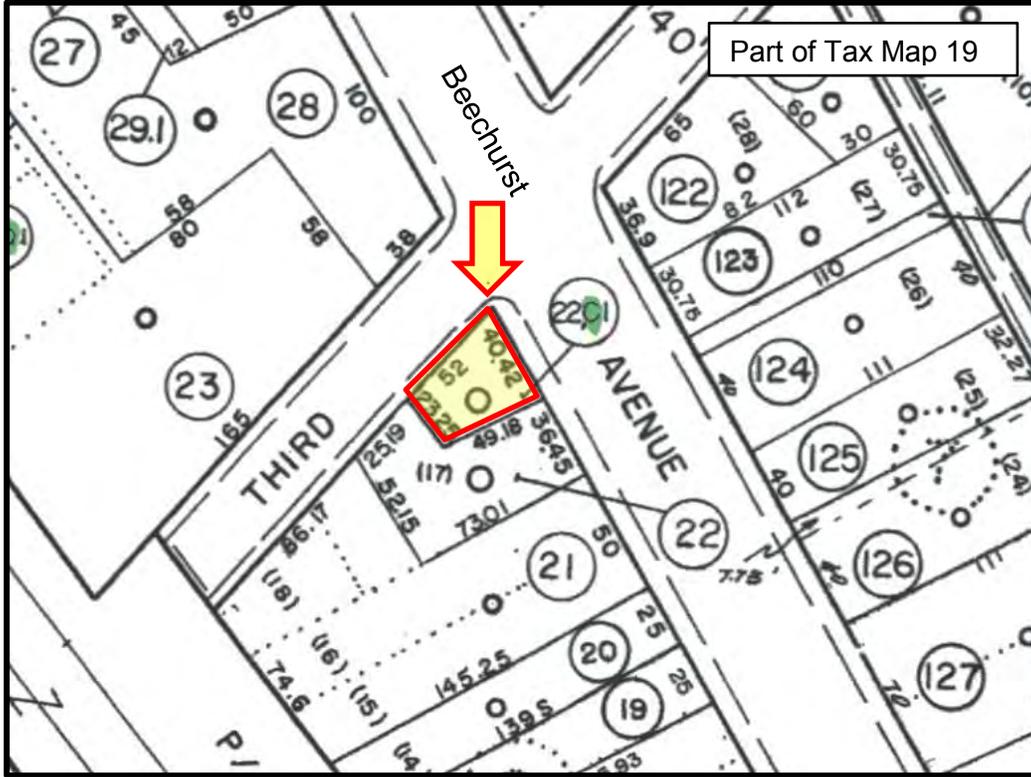
Christopher Fletcher, AICP
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STAFF REPORT ADDENDUM A

V13-21 / G. Vrooman – Mutts Place / 263 Beechurst Avenue







City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE

CASE NO.

W3-21

RECEIVED:

5/10/2013

COMPLETE:

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name: <u>George Vrooman (Mutt's Place)</u>	
Mailing Address:	<u>P.O. Box 865</u>		Phone: <u>304.685.9550</u>
	<small>Street</small> <u>Morgantown WV</u>	<u>26507-0865</u>	Mobile:
	<small>City</small>	<small>State</small>	<small>Zip</small>
		Email:	
II. PROPERTY		Street Address:	
Owner:			Zoning: <u>B-2</u>
Mailing Address:	<u>263 Beechurst Ave</u>		Tax Map No: <u>19</u>
	<small>Street</small> <u>Morgantown WV</u>	<u>26505</u>	Parcel No: <u>22.1</u>
	<small>City</small>	<small>State</small>	<small>Zip</small>
		Phone:	
III. NARRATIVE		Please describe the nature and extent of your variance request(s).	
<u>Variance relief from Table 1365.04.01 as it relates to private clubs.</u>			
V. ATTEST			
<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>			
<u>TAYLOR RICHMOND</u>	<u>[Signature]</u>	<u>5/10/2013</u>	<u>6/5/13</u>
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

OFFICE USE	
CASE NO.	V13-21
RECEIVED:	_____
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)

- | | | |
|--------------------------------------|---|--|
| <input type="checkbox"/> Residential | <input type="checkbox"/> Single-Family Dwelling | <input type="checkbox"/> Townhouse Dwelling |
| | <input type="checkbox"/> Two-Family Dwelling | <input type="checkbox"/> 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.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE

CASE NO. V13-21
RECEIVED: _____
COMPLETE: _____

Suggested Scale: 1 square = 5'



**APPLICATION FOR
ZONING VARIANCE**

OFFICE USE	
CASE NO.	V13-21
RECEIVED:	_____
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:

Please see attached.

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:

Please see attached.

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:

Please see attached.

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:

Please see attached.

FINDINGS OF FACT
Mutt's Place, Inc. / 263 Beechurst Avenue

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 development of successful mixed-use establishments along the Beechurst Corridor presents many issues regarding the availability of parking in a historically diverse area of Morgantown.

A Court Ruling from November 26, 1980, Pavone v. Board of Zoning Appeals, found that the Sunnyside area has traditionally provided little parking for its customers, as businesses in the area have traditionally relied upon pedestrian traffic.

As the Beechurst Corridor continues to grow, it is reasonable to expect that pedestrian traffic will increase. Businesses which move into the mixed-use districts of the City of Morgantown should be afforded the flexibility they need to flourish and encourage continued development, while providing as much parking as may be possible given the restrictions of the built-environment.

The property located at 263 Beechurst Avenue is a small lot of record that currently only has two on-site parking spaces. The applicant has worked diligently to acquire a contract for off-site parking to no avail. It appears that parking is at a premium in the area and property/business owners do not wish to dedicate (sign or otherwise) their business parking. Redevelopment in this area presents many challenges with regards to required parking due to small lots, as well as being sandwiched between the Rail Trail and Beechurst Avenue.

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:

The objective of the City of Morgantown should be to encourage and promote mixed-use development within the B-2 Service Business District and where applicable on primary streets in the Sunnyside Overlay Districts. In order to achieve the goal of providing efficient and attractive land use resources which strengthen the quality, character, and upkeep of the built environment while balancing redevelopment and strategic expansion with open space preservation, a parking variance is warranted.

It appears that property along the Beechurst Corridor contains many businesses which do not have the required number of on-site parking spaces. It is reasonable to believe that adjacent business, such as the Lavender Café, do not have the required amount of parking for the establishment.

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 Beechurst Corridor benefits from high volumes of pedestrian traffic. The granting of this variance will not be harmful as the built environment and land-use characteristics will not be altered. Neighboring Beech View, as part of their approval, will have to provide safety measures across

Beechurst Avenue, such as a crosswalk. The use will be in an existing building with no modifications to the existing footprint.

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 Beechurst Corridor already benefits from high volumes of pedestrian traffic. Land-use characteristics will not be altered as the built environment will not actually be changed. By encouraging mixed-use development which encourages pedestrian traffic, there is a potential to improve pedestrian safety by providing new crosswalks, improved sidewalks, etc. pursuant to smart growth principals.

V13-21

Possible Locations for Off-Site Parking:

1. Ashebrooke Liquor Outlet, 300 Beechurst Ave
2. Beech View Place, 331 Beechurst Ave
3. Public Parking, Third Street
4. Lot owned by Don Corwin

Other Parking (distance greater than 300 feet):

5. WVU Lot, Beechurst Ave & Campus Dr
6. WVU Lot 7, Stansbury Hall,
Free Parking after 5 p.m.

