



# MORGANTOWN BOARD OF ZONING APPEALS

July 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:** V13-17 / Perks / 1899 Earl Core Road

### **REQUEST and LOCATION:**

Request by Michelle Boyers of City Neon, Inc., on behalf of the Morgantown Development, LLC (d/b/a Perks), for variance relief from 1369.07(I) as it relates to wall signs at 1899 Earl Core Road.

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

Tax Map 33, Parcel 52; B-2, Service Business District

### **SURROUNDING ZONING:**

B-2, Service Business District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to erect a 28 square foot neon wall sign for *Perks* located at 1899 Earl Core 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 *Perks* is approximately 20 feet, which results in a maximum area standard of twelve (12) square feet. As such, the proposed sign requires a sixteen (16) square foot variance.

### **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

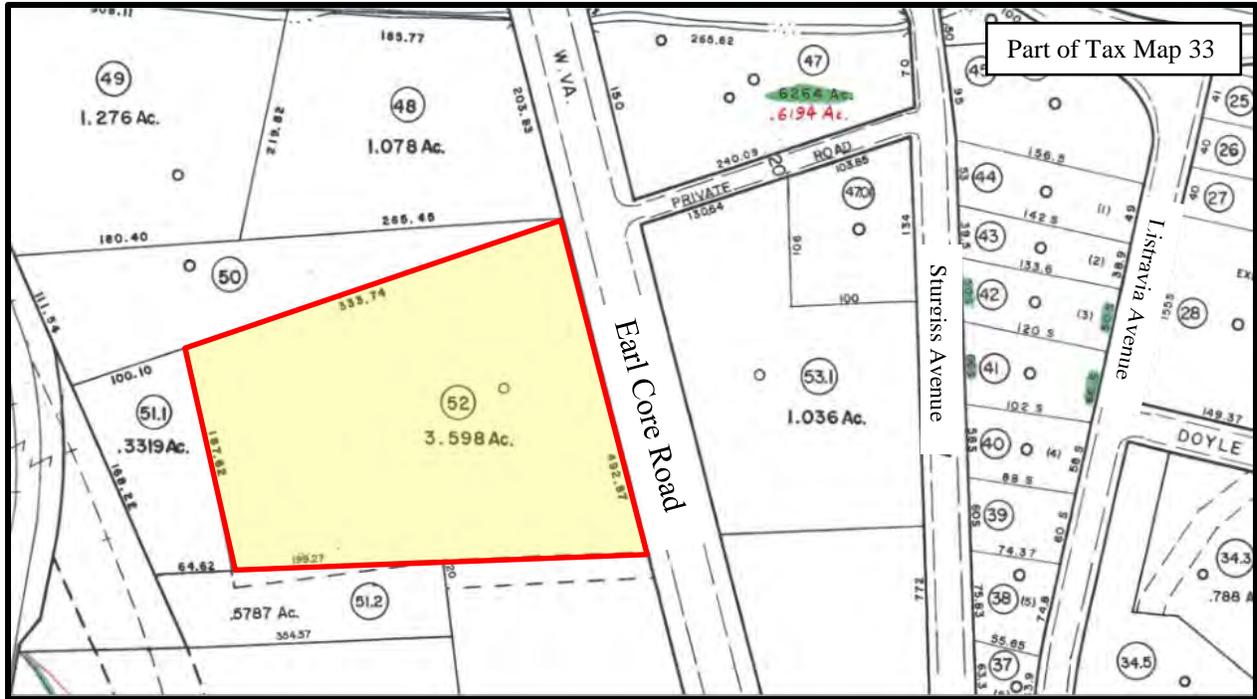
## **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

# STAFF REPORT ADDENDUM A

## V13-24 / Perks / 1899 Earl Core Road





## STAFF REPORT ADDENDUM B

### V13-24 / Perks / 1899 Earl Core 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:

~~Owner changing size of sign. New sign will be smaller. Sign size is consistent with building front.~~ The petitioner has removed the existing nonconforming sign and will be replacing same with a new sign that will be smaller in area. The width of the subject storefront is approximately 20 feet and the distance between the storefront and the adjoining curb line of Earl Core Road is approximately 120 feet from, which appears to merit a sign larger in area than otherwise permitted by-right.

**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:

~~It will be consistent with other signage in the area.~~ There are a number of wall signs within the Earl Core Road commercial corridor that exceed the maximum wall sign area standard, many of which have been granted variance relief including for the Walgreens, Goodwill, Southern States, J.D. Byrider, and AutoZone establishments.

**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 proposed sign will appear to be consistent with other signage in the area within the immediate commercial corridor.

**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 smaller than the sign currently installed. Size is consistent with other signage in the area.~~ 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 commercial area; and, will continue a commercial signage messaging characteristic that appears to be prevalent within the commercial corridor.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V13-24
RECEIVED:	6/6/13
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

<b>I. APPLICANT</b>		Name:	CITY NEON, INC.		
Mailing Address:	PO BOX 40		Phone:	304-599-1852	
	Street	MORGANTOWN	WV	26507	Mobile:
	City	State	Zip		Email:
<b>II. PROPERTY</b>		Street Address:	1899 EARL CORE ROAD		
Owner:	JOE DEFAZIO		Zoning:	B-2	
Mailing Address:	PO BOX 9143		Tax Map No:	33	
	Street	MORGANTOWN	WV	26555-9143	Parcel No:
	City	State	Zip		Phone:
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).			
OWNER CHANGING SIZE OF SIGN. NEW SIGN WILL BE SMALLER. SIGN SIZE IS CONSISTANT WITH BUILDING FRONT.					
<b>V. ATTEST</b>					
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.					
MICHELLE L. BOYERS				 	
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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CASE NO.	V13-24
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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*)  
 COMMERCIAL

**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

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Suggested Scale: 1 square = 5'

**\*\*SEE ATTACHED DRAWINGS**



**APPLICATION FOR  
ZONING VARIANCE**

<b>OFFICE USE</b>	
CASE NO.	V13-24
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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:**

OWNER CHANGING SIZE OF SIGN. NEW SIGN WILL BE SMALLER. SIGN SIZE IS CONSISTANT WITH BUILDING FRONT.

- 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 WILL BE CONSISTANT WITH OTHER SIGNAGE IN THE AREA.

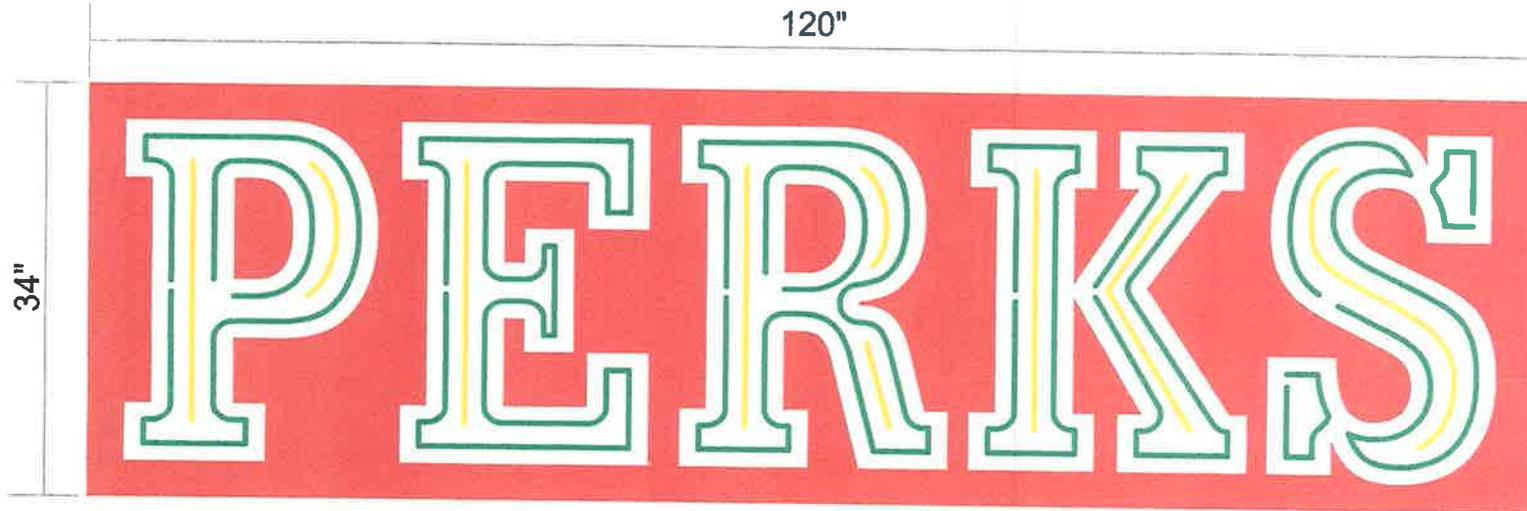
- 3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:**

THE SIGN WILL BE CONSISTANT WITH OTHER SIGNAGE IN THE AREA.

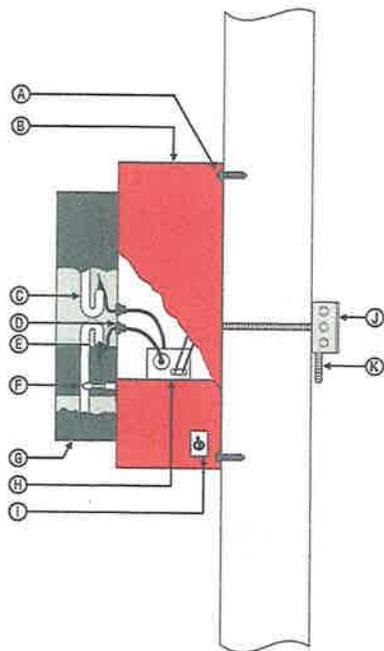
- 4. The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:**

THE SIGN WILL BE SMALLER THAN THE SIGN CURRENTLY INSTALLED. SIZE IS CONSISTANT WITH OTHER SIGNAGE IN THE AREA.

V13-24



2'-10" X 10' NEON SIGN  
 RED BACKGROUND WITH WHITE LETTERS  
 GREEN AND YELLOW NEON



OPEN FACED NEON CHANNEL LETTERS  
 ON CUSTOM RACEWAY

A	3/8" GALVANIZED LAGS
B	ALUMINUM RACEWAY
C	NEON TUBING
D	CERAMIC BUSHINGS
E	SILIFLEX GTO
F	GLASS NEON TUBE SUPPORT
G	.040 ALUM. RETURNS - 5" DEEP
H	NEON TRANSFORMER
I	DISCONNECT SWITCH
J	JUNCTION BOX
K	PRIMARY ELECTRIC SOURCE



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

**Perks**

Morgantown, WV

CUSTOMER APPROVAL

FILE NAME:  
 Perks04-1.plt

DRAWING NO.  
 PERK.210X120NEON

SCALE  
 N/A

DRAWN BY:  
 Rudy

DATE:  
 4/22/13

SALESMAN

REVISIONS

REV.1:

REV.2:

V13-24



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

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

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CLIENT/PROJECT  
  
Perks  
  
Morgantown, WV

CUSTOMER APPROVAL

FILE NAME:  
Perks04-1.plt

DRAWING NO.  
PERK.210X120NEON

SCALE  
N/A

DRAWN BY:  
Rudy

DATE:  
4/22/13

SALESMAN

REVISIONS  
REV.1:  
  
REV.2:



2'-10" X 10' NEON SIGN  
RED BACKGROUND WITH WHITE LETTERS  
GREEN AND YELLOW NEON