



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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October 17, 2013

GCF Properties, LLC
c/o Lisa Mardis
246 and 248 Fife Street
Morgantown, WV 26505

**RE: V13-37, V13-38, V13-48 / GCF Properties, LLC / 246 & 248 Fife Street
Tax Map 26, Parcels 156 and 157**

Dear Ms. Mardis:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced variance petitions relating to the proposed development at 246 and 248 Fife Street. The decisions are as follows:

Board of Zoning Appeals, October 16, 2013:

V13-37 – Variance petition concerning “Maximum Front Setbacks”

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved variance petition V13-37 as requested without conditions.

V13-38 – Variance petition concerning “Minimum Rear Setbacks”

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved variance petition V13-38 as requested without conditions.

V13-48 – Variance petition concerning “Curb Cuts”

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved variance petition V13-48 as requested with the following condition:
 - 1. That the existing curbs and sidewalk along the subject property’s frontage be removed and replaced with a concrete sidewalk of no less than six feet in width; designed to the satisfaction of the City Engineer; and, that said sidewalk improvement begin at the property’s northwest most frontage with Fife Street thence to the east edge of the abutting public right-of-way (alley). These decisions may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note that building permits must be issued prior to the commencement of work for which the variance approvals were granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development's planning and permitting needs.

Respectfully,

Stacy Hollar
Executive Secretary
shollar@cityofmorgantown.org

ADDENDUM A

Approved Findings of Fact

V13-37 – Maximum Front Setbacks

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:

Based on consultation with the Morgantown Utility Board, the development of stormwater management facilities at the rear of the property is physically not possible given the location of existing infrastructure. This challenge necessitated parking to be developed to the front of the property rather than the rear and a shed roof design directing rain water towards Fife Street, resulting in a proposed setback that exceeds the maximum related front setback standard.

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:

Although the current structures have non-conforming front setbacks that encroach into the minimum front set back requirement, the proposed structure is located further back more than twenty (20) feet. It appears that other structures have similar non-conforming front setbacks that were built under the previous zoning code in which there was not a maximum front set back requirement. The fraternity house located across Fife Street appears to setback further than twenty (20) feet from the property line. The adjacent TKE House, although fronting on High Street, has definite presence on Fife Street due to their parking area. Therefore, the proposed front setback will not be out of character with the built environment.

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 redevelopment of this parcel will result in the removal of two structures with nonconforming front setbacks which appears at one point to encroach into the City's right-of-way. A front side setback variance will keep with the established building line of adjacent properties, in particular the side of the TKE house, and will not harm this property or vicinity improvements. No significant grading will be necessary that would harm the adjoining property, public rights-of-way, or existing utilities. The variance should not affect emergency or service vehicle access to adjacent properties.

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 redevelopment should enhance the value of the area and accordingly contribute to the market value of neighboring structures. Granting this variance cannot improve nor mitigate traffic congestion that is already present within the neighborhood. Likewise, the approval of this variance would have no impact on the land-use characteristics of the vicinity or zoning district.

V13-38 – Minimum Rear Setbacks

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:

Based on consultation with the Morgantown Utility Board, the development of stormwater management facilities at the rear of the property is physically not possible given the location of existing infrastructure. This challenge necessitated parking to be developed to the front of the property rather than the rear and a shed roof design directing rain water towards Fife Street, resulting in a proposed setback that encroaches into the related minimum rear setback standard.

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:

Located in a medium to high density area with an array of parcel configurations, it is sometimes difficult to adequately tell one property boundary from the next. It appears that there are an abundance of structures that do not meet the required rear setback set forth in the zoning code, especially on smaller parcels with a high degree of lot coverage. The applicant seeks to abide by the intent of the ordinance by providing both adequate sidewalk and green space around the structure.

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 redevelopment of this parcel will result in the removal of two structures with nonconforming front setbacks which appears at one point to encroach into the City's right-of-way. A front side setback variance will keep with the established building line of adjacent properties, in particular the side of the TKE house, and will not harm this property or vicinity improvements. No significant grading will be necessary that would harm the adjoining property, public rights-of-way, or existing utilities. The variance should not affect emergency or service vehicle access to adjacent properties.

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 proposed development should enhance the market value of adjacent properties while maintaining the residential aspect of the vicinity. Granting this variance will in no way diminish or increase congestion on public streets, but incorporate a design that is fitting with the area.

V13-48 – Curb Cuts

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 Design Professionals have worked diligently to creatively utilize the uniquely shaped parcel and topography to maximize the proposed building footprint and related parking while maintaining adequate open space as well as adhering to requirements of the Morgantown Utility Board. The building had to be pushed to the rear of the property in order to bring storm water, sanitary sewer, and water to Fife Street. The Design Professionals have also

included a shed-style roof that will direct water to Fife Street. Therefore, the parking had to be placed in front of the 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:

It appears that there has not been new development in the immediate area and in the same zoning ordinance that would have to adhere to this requirement. It also appears that there are curb cuts that exceed the twenty-two foot standard as evidenced in photographs submitted by the petitioner.

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 building was pushed back to the rear of the property and parking located in front due to requirements of storm, sanitary sewer, and water. The Parking Authority may have to remove 2-3 parking spaces located on the opposite side of Fife Street for safety reasons; however, it appears that the Parking Authority may have installed the subject meters as a means to control on-street storage parking by adjacent uses. No significant grading will be necessary that would harm the adjoining property, public rights-of-way, or existing utilities. The variance should not affect emergency or service vehicle access to adjacent properties.

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 redevelopment should enhance the value of the area and accordingly contribute to the market value of neighboring structures. Granting this variance cannot improve nor mitigate traffic congestion that is already present within the neighborhood. Likewise, the approval of this variance would have no impact on the land-use characteristics of the vicinity or zoning district.