



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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October 17, 2013

Sheetz, Inc.
c/o Robert Franks
5700 Sixth Avenue
Altoona, PA 16602

**RE: V13-42 through V13-47 and V13-53 / Sheetz, Inc. / 1012 University Avenue
Tax Map 28A, Parcel 7**

Dear Mr. Franks:

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 1012 University Avenue. The decisions are as follows:

Board of Zoning Appeals, October 16, 2013:

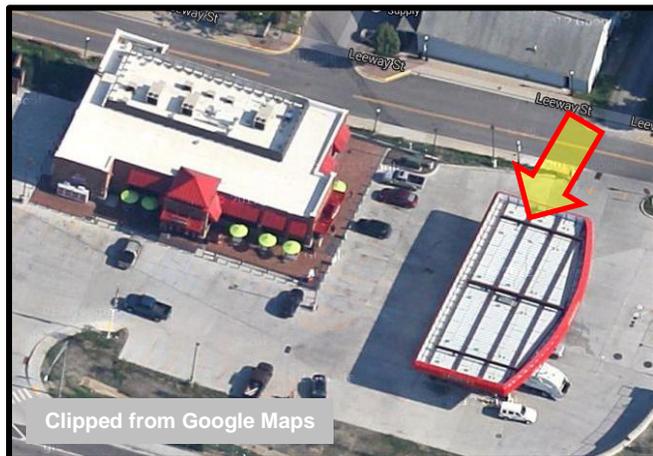
V13-42 – Variance petition concerning “Setbacks and Encroachments”

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved Case No. V13-42 to exceed the 20’ maximum setback standard from University Avenue and from Kirk Street as illustrated on the site plan dated 09 OCT 2013 without conditions.

V13-43 – Variance petition concerning “Accessory Structures”

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved Case No. V13-43 to permit the development of the proposed fuel canopy accessory structure between the principal structure and University Avenue as illustrated on the site plan dated 09 OCT 2013 with the following conditions:
 1. That all vertical structural supports below the fuel canopy accessory structure must be wrapped, from grade to at least four (4) feet in height, in masonry and/or masonry veneer brick and/or stone that integrates with and compliments the masonry and/or masonry veneer brick and/or stone cladding illustrated on principal structure elevation drawings dated 07 OCT 2013. Additionally, all vertical structural supports above the masonry or masonry veneer material must be a bronze or similar color as suggested by the petitioner.
 2. That, given the existing and preferred development pattern of multi-story buildings in the B-4 District and the fact that the elevation of the proposed fuel canopy structure is lower than surrounding buildings, the top of the proposed fuel canopy accessory structure must be covered by uniform white paint or similar treatment so that the horizontal structural members or structural skeleton of the canopy is camouflaged from higher elevations thereby protecting and preserving downtown viewsheds. The

aerial photo below illustrates a view of a similar fuel canopy that this condition is intended to mitigate.



3. That, to ensure glare does not interfere with the ability of motorists to safely see nearby roadways, pedestrians, and/or hazards on the roadway, the combination of lighting levels and shielded fixtures immediately below the fuel canopy accessory structure may not exceed twenty (20) footcandles.

V13-44 – Variance petition concerning “Parking”

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved Case No. V13-44 to permit the development of on-site surface parking between the building line of the principal structure and University Avenue, Kirk Street, and Chestnut Street as illustrated on the site plan dated 09 OCT 2013 without conditions.

V13-45 – Variance petition concerning “Design and Performance Standards”

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved Case No. V13-45 to permit, as illustrated on the site plan dated 09 OCT 2013, but with the exception noted below:
 1. The development of two (2) proposed parking spaces closest to the Kirk Street (east) driveway entrance that are closer than 20 feet from the public right-of-way crosswalk; and,
 2. The development of the proposed Kirk Street (east) driveway entrance that is closer than thirty-five (35) to the intersecting street right-of-way line of Chestnut Street and closer than thirty (30) feet to the end of the intersecting curb radius of Chestnut Street; and,
 3. The development of the proposed University Avenue and Kirk Street (west) driveway entrances greater than twenty-six (26) feet in width at the curb line and greater than twenty-two (22) feet in width at the street right-of-way line. Except, the Kirk Street (east) and Chestnut Street driveway entrances must meet the maximum twenty-two (22) feet in width standard at the street right-of-way line.

V13-46 – Variance petition concerning “Maximum Parking Standards”

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved Case No. V13-46 to exceed the maximum parking standard so that 41 on-site parking spaces can be developed as illustrated on the site plan dated 09 OCT 2013 without conditions.

V13-47 – Variance petition concerning “Landscaping”

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved Case No. V13-47 to permit the development of landscape buffer areas for the proposed rows of parking abutting University Avenue that are less than the minimum 10-foot standard as illustrated on the site plan dated 09 OCT 2013 with the following condition:
 - 1. That, given the insufficient width of landscape buffer area provided for the row of five (5) parking stalls along University Avenue closest to the Foundry Street intersection, a vertical hardscape design solution must be incorporated to the satisfaction of the Planning Division.

V13-53 – Variance petition concerning “Minimum Building Height”

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board approved Case No. V13-53 to permit the development of a one-story principal structure, rather than the minimum two-story building height standard, as illustrated on the elevation drawing dated 07 OCT 2013.

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

V13-42To exceed the 20' maximum setback standard from University Avenue and from Kirk Street.

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:

This property is bounded on all four sides by public rights-of-way. Given the proposed “Gas Station Mini-Mart” single use of the subject site, constructing a building that is within twenty feet of all four abutting rights-of-way impedes the development of a by-right use in the B-4 District that requires automobile maneuvering to access fueling stations.

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:

The principal structure of the existing “Gas Station Mini-Mart” use located in the B-4 District at 1345 University Avenue exceeds the maximum twenty-foot setback standard to enable automobile maneuvering and fueling station access.

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 site appears to have been designed to maximize automobile and delivery truck access and maneuvering given topographic elevation changes between University Avenue and Chestnut Street and to mitigation traffic impact to adjoining roadways and neighboring properties.

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 increased setback from the two streets provides necessary maneuvering room and parking to serve the facility. The nature of the requested variance cannot contribute to or mitigate existing congestion on neighboring streets.

V13-43.....To permit the development of the proposed fuel canopy accessory structure between the principal structure and University Avenue.

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:

This property is bounded on all four sides by public rights-of-way and any accessory structure would be required to be placed between the principal building and a street right-of-way.

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:

The existing “Gas Station Mini-Mart” use located in the B-4 District at 1345 University Avenue includes an accessory fueling station canopy between the principal structure and University Avenue.

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 Board’s conditions to advance the architectural design and lighting provisions of the proposed accessory fueling station canopy structure serve to integrate with and compliment the architectural design of the principal building, protect viewsheds, and mitigate unnecessary glare thereby contributing to properties and improvements within the immediate area.

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:

Accessory fueling station canopy structures at “Gas Station Mini-Mart” uses, which are permitted by-right in the B-4 District, are common development facilities that are intended to provide customers cover, relief from inclement weather, and convenience. The develop appears to have worked with the City Engineer and West Virginia Division of Highways to maximize traffic impact mitigation given the proposed location of the accessory fueling station canopy structure by restricting access from University Avenue and Foundry Street as illustrated on the site plan dated 09 OCT 2013.

V13-44.....To permit the development of on-site surface parking between the building line of the principal structure and University Avenue, Kirk Street, and Chestnut Street.

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:

This property is bounded on all four sides by public right-of-way and any surfacing on-site parking spaces would be required to be placed between the principal building and a street right of way.

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:

The existing “Gas Station Mini-Mart” use located in the B-4 District at 1345 University Avenue includes an parking spaces between the principal structure and University Avenue.

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:

There appears to be sufficient landscape and hardscape areas that will be developed to buffer parking areas from view of adjoining public rights-of-way.

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:

There appears to be sufficient landscape and hardscape area that will be developed to significantly improve parking area buffering over the previous “Automotive Sales” use and the existing “Gas Station Mini-Mart” use located at 1345 University Avenue.

V13-45To permit:

1. The development of two (2) proposed parking spaces closest to the Kirk Street (east) driveway entrance that are closer than 20 feet from the public right-of-way crosswalk; and,
2. The development of the proposed Kirk Street (east) driveway entrance that is closer than thirty-five (35) to the intersecting street right-of-way line of Chestnut Street and closer than thirty (30) feet to the end of the intersecting curb radius of Chestnut Street; and,
3. The development of the proposed University Avenue, Kirk Street (west), Kirk Street (east), and Chestnut Street driveway entrances that are greater than twenty-six (26) feet in width at the curb line and greater than twenty-two (22) feet in width at the street right-of-way line.

NOTE: Given the extensive site design revisions made since the variance applications were submitted as the result of the City's collaborative traffic impact review with West Virginia Division of Highways, Staff recommends the following findings instead of the petitioner's responses.

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:

Given the fact that the site is bound on all sides by public right-of-way, topographic changes between University Avenue and Chestnut Street, and existing traffic congestion along University Avenue during peak travel periods, the location and design of proposed driveway entrances, as illustrated on the site plan dated 09 OCT 2013, observe all City and West Virginia Division of Highways requested and required site plan modifications.

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:

The location and design of proposed driveway entrances, as illustrated on the site plan dated 09 OCT 2013, observe best access management design and performance practices as requested and required by the City and West Virginia Division of Highways given the proposed "Gas Station Mini-Mart" use, congestion patterns along adjoining City and State roadways, and topographic changes between University Avenue and Chestnut Street; all of which appear to enhance conditions that existed for the previous "Automotive Sales" use.

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 location and design of proposed driveway entrances, as illustrated on the site plan dated 09 OCT 2013, observe all City and West Virginia Division of Highways requested and required site plan modifications; all of which were intended to mitigate adverse impacts on neighboring properties and improvements given the proposed “Gas Station Mini-Mart” use.

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 location and design of proposed driveway entrances, as illustrated on the site plan dated 09 OCT 2013, observe all City and West Virginia Division of Highways requested and required site plan modifications; all of which were intended to maximize adverse impact mitigation to public safety, and welfare and on City and State roadway system operations given the proposed “Gas Station Mini-Mart” use.

V13-46To exceed the maximum parking standard by two (2) spaces.

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 parking calculation utilized is for the “Gasoline Service Station with Mini-Mart”. The intended use does have these characteristics; however, it also provides a restaurant component that exceeds typical “mini-mart” customer demand. The additional parking is intended to ensure that the use does not negatively impact surrounding street infrastructure by customers.

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:

The variance will allow this property and the intended use to provide safe and adequate parking for potential customers, as is currently enjoyed by other properties in the vicinity and zoning district.

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:

Additional parking will aid in providing adequate parking on-site and reducing the potential for the need to park “off-site”.

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 parking proposed is consistent with the surrounding areas by providing adequate parking for the proposed use “on-site”.

V13-47To permit the development of landscape buffer areas for the proposed rows of parking abutting University Avenue that are less than the minimum 10-foot standard.

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:

Given turning and maneuvering constraints on ingress, egress, and on the site for delivery vehicles, compliance with the 10-foot landscape buffer would otherwise eliminate the two rows of parking along University Avenue flanking the proposed mid-block driveway entrance.

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:

With only a couple exceptions, the overwhelming majority of surface parking lots in the B-4 District, including private, City, and WVU lots, do not appear to comply with the ten-foot buffer standard.

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:

There appears to be sufficient landscape and hardscape areas that will be developed to buffer parking areas from view of adjoining public rights-of-way advancing regulatory intent and improving development over existing conditions of the site and the B-4 District.

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:

There appears to be sufficient landscape and hardscape areas that will be developed to buffer parking areas from view of adjoining public rights-of-way advancing regulatory intent and improving development over existing conditions of the site and in the B-4 District. The nature of the variance cannot contribute to or mitigate traffic congestion.

V13-53.....To permit the development of a one-story principal structure rather than the minimum requirement of two stories in the B-4 District.

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:

“Gas Station Mini-Mart” development appears to be predominantly one-story and single use rather than multi-story and mixed-use. A more urban design has been proposed to emulate a two-story 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:

The principal structure of the existing “Gas Station Mini-Mart” use located in the B-4 District at 1345 University Avenue is one-story.

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:

A more urban design has been proposed to emulate a two-story building thereby advancing the regulatory intent of more intense development patterns in the B-4 District.

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 proposed building will appear to be a two story facility from the exterior. The nature of the variance cannot contribute to or mitigate traffic congestion.