



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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March 20, 2014

VIA CERTIFIED MAIL

Smitty's Kountry Kreme, LLC
c/o William Smith
1137 Van Voorhis Road, Suite 10
Morgantown, WV 26505

**RE: V14-15 / Smitty's Kountry Kreme, LLC / 1137 Van Voorhis Road
Tax Map 6, Parcel 43.1; B-1 Neighborhood Business District**

Dear Mr. Smith:

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced petition seeking variance relief from Article 1369 as it relates to signage in the B-1, Neighborhood Service District.

The decision is as follows:

Board of Zoning Appeals, March 19, 2014:

1. Findings of Fact 1 and 2 were found in the negative as stated in Addendum A of this letter.
2. The Board **denied** the subject variance relief petition based on the negative findings and conclusions stated in Addendum A of this letter.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days.

As you are aware, the subject former *TCBY* ground sign structure is in violation of Article 1373.05 of the City's Planning and Zoning Code as it is considered an abandoned nonconforming sign. This Office will contact property owner Cleve Biller of ECB International Trust again to initiate removal and/or enforcement action.

Should you have any questions or require further clarification, please contact the undersigned.

Respectfully,

Christopher M. Fletcher, AICP
Director of Development Services

ADDENDUM A – Approved Findings of Fact
V14-15 / Smitty’s Kountry Kreme, LLC / 1137 Van Voorhis Road

Finding of Fact No. 1 – There are NOT 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 majority of the business establishments located within the Chelsea Square development have similar challenges to visibility from Van Voorhis Road as the petitioner’s establishment.

Finding of Fact No. 2 – The variance is NOT 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:

There does not appear to be a permanent single-tenant ground sign similar to the petitioner’s proposed sign within the immediate area.

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:

No harm will be brought and the sign will be put back to its original 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 sign has served the same purpose for 20+ years.