



# MORGANTOWN BOARD OF ZONING APPEALS

May 21, 2014  
6:30 PM  
City Council Chambers

**Board Members:**

Bernie Bossio, Chair  
Leanne Cardoso, Vice-Chair  
Bill Burton  
George Papandreas  
Jim Shaffer

## **STAFF REPORT**

**CASE NO:** COMBINED REPORT  
V14-19, V14-20, and V14-21  
Kroger Fueling Station / 3100 University Avenue

**REQUEST and LOCATION:**

Request by Kurt Wallenborn, on behalf of Kroger Limited Partnership 1, for approvals of three (3) variance petitions relating to a proposed "Gas Station Mini-Mart" development at 3100 University Avenue.

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

Tax Map 7, Parcel 260; B-2, Service Business District

**SURROUNDING ZONING:**

North: PRO, Professional, Residential and Office District  
South: B-1, Neighborhood Business District and B-2, Service Business District  
East: B-2, Service Business District  
West: B-1, Neighborhood Business District

**BACKGROUND and ANALYSIS:**

The petitioner seeks to raze the existing Jordan's BP Gas Station and construct a new Kroger Fueling Station. The land use classification for the subject development is a "Gas Station Mini-Mart," which is permitted by-right in the B-2 District. Addendum A of this report illustrates the location of the subject.

Attached hereto is a Planning and Zoning Code Conformity Report dated 15 MAY 2014, which identifies and explains how the proposed site plan meets related zoning regulations and standards. The following variances are on the Board's 21 MAY 2014 agenda. Each case number is followed with a brief description.

Case No. V12-19 ..... Minimum Parking Requirement

The petitioner seeks variance relief to provide three (3) less parking spaces than the minimum parking requirement of 15 spaces for the proposed "Gas Station Mini-Mart" development.

It should be noted that the petitioner's narrative included in Section III of the subject variance application addresses site plan design elements and related requisite variance relief that have since been revised due to changes in the proposed site plan.

**Development Services**

Christopher Fletcher, AICP  
Director

**Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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Case No. V14-20 ..... Minimum Landscaping Requirements

Variance Case No. V14-20 was submitted and advertised for the Board’s 21 MAY 2014 hearing. However, the widths of the perimeter landscape buffer planting areas around the parking and fueling area have been increased as a result to changes in the proposed site plan.

The increase in width appears to have been created as a result of rotating the fueling stations 90 degrees and moving the principal kiosk building further into the property away from the Collins Ferry Road and University Avenue intersection.

Variance application Case No. V14-20 will be held until a preliminary Landscaping Plan is submitted to determine conformity based on proposed plant materials and planting locations. Should the Landscape Plan not conform to related provisions in Article 1367, variance approval will be required at a later point under Case No. V14-20. No action is presently required by the Board on this variance petition.

Case No. V14-21 ..... Minimum Front Setback Requirement

The petitioner seeks variance relief to encroach into the minimum front setback standard of 15 feet by 6 feet along the Collins Ferry Road frontage and by 5 feet along the University Avenue frontage.

It should be noted that the petitioner’s narrative included in Section III of the subject variance application addresses site plan design elements and related requisite variance relief that have since been revised due to changes in the proposed site plan.

Staff recommends that the Board, without objection from members of the Board, the petitioner, or the public, combine the public hearings for Case Nos. V14-19 and V14-21. However, each respective petition must be considered and acted upon by the Board separately. Again, no consideration or action is required by the Board for Case No. V14-20.

**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 petitioner. Addendum B of this report provides Staff recommended revisions to the petitioner’s findings of fact.

Staff reminds the Board that no action is required for Case No. V14-20 at this time and that Case Nos. V14-19 and V14-21 must be considered and acted upon separately.

Staff requests the Board to stress to the petitioner that the proposed development represents a tremendous opportunity to significantly improve the site’s contribution to the surrounding built environment. Specifically, the site terminates the street vista for vehicles traveling northbound on University Avenue. Special architectural care should be given so that façade design (e.g., height, texture, massing, etc.) creates a visual anchor for the community. This particular approach to the site should not result in an approach view of a sterile rear kiosk façade.

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Further, the subject site is deserving of the level of design care used by Kroger at its similar facility within the *Suncrest Towne Centre* development located outside the City of Morgantown such as the use of brick on the kiosk structure, earth tone colors, hipped roof fuel pump canopy with brick support columns, minimal signage, etc.

Staff recommends approval of V14-19 and V14-21 as requested.

Enclosures: Applications and accompanying exhibits

### **Development Services**

Christopher Fletcher, AICP  
Director

### **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

# STAFF REPORT ADDENDUM A

V14-19, V14-20, V14-21 / Kroger's Fueling Station / 3100 University Avenue





## STAFF REPORT ADDENDUM B

### V14-19, V14-20 and V14-21 / Kroger Fueling Station / 3100 University Avenue

Staff recommended revisions to petitioner's Findings of Fact (deleted matter struck through; new matter underlined).

**Case No. V12-19** ..... Minimum Parking Requirement

**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 property is bound by two streets and is a triangular parcel, which comes to a point at the intersection of University Avenue and Collins Ferry Road. This odd-shaped parcel creates a hardship since frontage setbacks are required on two sides of the parcel, which leaves minimal room for parking in front of the principal kiosk structure or in a manner that would not obstruct drive aisles in and around the proposed fuel pump 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:

Because of the small and triangular shape of the property, it ~~is hard~~ appears difficult to redevelop the subject site to meet current minimum parking requirements. The majority of visitors to the site are anticipated to utilize the parking spaces at the fuel pumps under the canopy rather than along the kiosk. ~~There are a couple of Sheetz gas stations in the surrounding area that have larger, more squared-off parcels which allows those properties more room for the gas station layout, parking, meeting setbacks and landscaping requirements, etc.~~

**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 use of the property will not change other than the fuel center will not provide servicing for vehicles. The proposed fuel center will be an improvement to the existing conditions based on the architectural upgrade and aesthetically appealing increase in both green space and landscaping.

**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:

Rezoning of this property to B-2 was recently granted. Granting ~~these variances~~ this variance will not diminish the market value of adjacent properties because the use is ~~the same~~ similar to the existing Jordan's BP Station. Closing curb cuts closest to the intersection will relieve congestion and make the ingress/egress safer thereby furthering best access management practices.

**Case No. V14-21** .....Minimum Front Setback Requirement

**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 property is bound by two streets and is a triangular parcel, which comes to a point at the intersection of University Avenue and Collins Ferry Road. The subject parcel is considered a “Through Lot” or “Double Frontage Lot”. As such, the minimum front setback standard is applied to both University Avenue and Collins Ferry Road frontages. This odd-shaped parcel creates a hardship since frontage setbacks are required on two sides of the parcel.

**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:

Because of the small and triangular shape of the property, it ~~is hard to redevelop~~ appears difficult to meet current front setback requirements. The proposed placement of the principal kiosk structure increases the distances between the proposed curb cuts and the University Avenue and Collins Ferry Road intersection thereby furthering best access management practices. ~~There are a couple of Sheetz gas stations in the surrounding area that have larger, more squared-off parcels which allows those properties more room for the gas station layout, parking, meeting setbacks and landscaping requirements, etc.~~

**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 use of the property will not change other than the fuel center will not provide servicing for vehicles. The proposed fuel center will be an improvement to the existing conditions based on the architectural upgrade and aesthetically appealing increase in both green space and landscaping.

**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:

Rezoning of this property to B2 was recently granted. Granting these variances will not diminish the market value of adjacent properties because the use is ~~the same~~ similar to the existing Jordan’s BP Station. Closing curb cuts closest to the intersection will relieve congestion and make the ingress/egress safer thereby furthering best access management practices.



# PLANNING AND ZONING CODE CONFORMITY REPORT

## Planning Division

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### Kroger's Gas Station Mini-Mart / 3100 University Avenue (Tax Map 7; Parcel 260)

#### Conformity Review of Site Plan submitted 07 MAY 2014

### SUMMARY OF CONTEMPLATED DEVELOPMENT PROGRAM AND INITIAL OBSERVATIONS

The following list generally summarizes the development program illustrated on the site plan submitted to this Office in hard copy on 07 MAY 2014.

- The existing use of the subject site is a “Gasoline Service Station” presently called “Jordan’s BP Service Station.”
- The zoning classification for the subject site is B-2, Service Business District. The zoning classification was changed from B-1, Neighborhood Business District to B-2, Service Business District by Ordinance enacted by City Council on 03SEP13 under Case File No. RZ3-02.
- A “Gasoline Service Station” is permitted by-right in the B-2 District.
- The contemplated development program reviewed herein is to raze all existing principal and accessory structures on the subject site to develop a “Gas Station Mini-Mart” operated by Kroger’s. The development program includes:
  - Four (4) banks of fueling stations with a total of eight (8) fueling pumps located closest to the adjoining *Huntington Bank* site.
  - An 858 sq. ft. “kiosk” located closest to the University Avenue and Collins Ferry Road intersection where customers can enter to pay for fuel and/or purchase various convenience-related retail products. Based on the photographs included in this Office’s 30 MAY 2013 conformity review, the extent of convenience-related retail product offerings meets the definition of a “Gas Station Mini-Mart” definition provided in Article 1329.02.
  - The contemplated site plan illustrates four (4) parking spaces along the “kiosk”, one (1) of which is an accessible space.

### SUMMARY OF CONFORMITY OBSERVATIONS

The following information identifies Planning and Zoning Code provisions related to the subject development program as illustrated on the site plan noted above. Also identified are whether or not the subject development meets standards identified herein; whether additional information is required; and/or, whether variance(s) and/or conditional use approval(s) are necessary. This information should not be construed as a complete and final conformity review as additional information is required as noted below.



# PLANNING AND ZONING CODE CONFORMITY REPORT

## Planning Division

Planning and Zoning Code Reference	
Conformity (Y, N, TBD)	Conformity review observations. Required approvals noted in <b>bold highlighted font</b> .

Article 1347.02 – Permitted Uses (B-2 District)	
Y	A “Gas Station Mini-Mart” use is permitted by-right in the B-2 District. Article 1331.06(8) provides that fuel dispensing pumps may not be located closer than twelve (12) feet from any property line, which appears to be observed in the site plan reviewed herein.

Article 1347.03 – Lot Provisions	
Y	(A) Minimum lot size – 6,000 square feet. The area of Parcel 260 is approximately 21,069 square feet, which exceeds the minimum size standard.
Y	(B) Minimum lot frontage – 60 feet. Tax Map 7 illustrates the Parcel 260 lot dimensions along University Avenue and Collins Ferry Road as 250 feet respectively, which exceeds the minimum frontage standard.
Y	(C) Minimum lot depth – 100 feet. Tax Map 7 illustrates the lot depth along the boundary shared with the adjoining Parcel 259.1 to be approximately 168.55 feet, which exceeds the minimum lot depth standard.
Y	(D) Maximum lot coverage – 60 percent. The combined area of the principal structure (kiosk) and accessory structure (fuel station canopy) appears to be approximately 4,906 sq. ft., which results in approximate lot coverage of 23.3% and is less than the maximum standard.

Article 1347.04 – Setbacks and Encroachments	
N	(A)(1) Minimum front setback – 15 feet. The subject parcel is considered a “Through Lot” or “Double Frontage Lot”. As such, the minimum front setback standard is applied to both University Avenue and Collins Ferry Road frontages. The contemplated front setbacks of the principal structure (kiosk) appear to be approximately 9 feet on the Collins Ferry Road side and approximately 10 feet on the University Avenue side, which will require <b>variance</b> relief.
Y	(A)(2) Maximum front setback – 30 feet.
Y	(A)(3) Minimum side setback – 20 feet. The contemplated setback of the principal structure (kiosk) appears to be approximately 145 feet from the parcel side shared with the adjoining Parcel 259.1.
N/A	(A)(4) Minimum rear setback – 40 feet.



# PLANNING AND ZONING CODE CONFORMITY REPORT

## Planning Division

<b>Article 1347.04 – Setbacks and Encroachments (cont.)</b>	
Y	(B) Minimum setback for accessory structures – 10 feet from rear property line and 10 feet from each side property line...AND...accessory structures are not permitted in the front yard. The setback of the contemplated accessory structure (fueling station canopy) appears to be approximately 23.5 feet from the side property line. Additionally, the accessory structure may not be located in the front yard, which is established based on the “Building Line” of the principal structure (kiosk). “Building Line” is defined in Article 1329.02 as, “The line, parallel to the street line, that passes through the point of the principal building nearest the front lot line.”
N/A	(C) Corner lot.

<b>Article 1347.05 – Building Height, Use and Size</b>	
Y	(A) Maximum height of a principal structure – 72 feet. Scaled elevations of the principal “kiosk” building were not submitted to determine conformity. However, the petitioner’s description of the one-story structure is expected to be less than 72 feet in height.
TBD	(B) Maximum height of an accessory structure – 20 feet. Scaled elevations of the accessory “fuel canopy” structure were not submitted to determine conformity.

<b>Article 1347.06 – Parking and Loading Standards</b>	
	(A) SEE OBSERVATIONS UNDER ARTICLE 1365 BELOW.
Y	(B) No parking spaces are permitted between the front façade of a building and any street right-of-way. Given the triangular shape of the subject “Double Frontage Lot”, the interpretation that will be applied here is that no parking spaces may be permitted between the front “Building Line” and the front lot lines of University Avenue and Collins Ferry Road. It appears that in the site plan submitted 07 MAY 2014 that parking spaces are no closer to the frontage streets than the principal kiosk structure’s front setbacks.

<b>Article 1347.07 – Performance Standards</b>	
TBD	(A) Desired design objective – Terminating Street Vistas. Additional information is required to determine whether or not desired design objectives are achieved.



# PLANNING AND ZONING CODE CONFORMITY REPORT

## Planning Division

Article 1347.07 – Performance Standards (cont.)	
TBD	(B) Desired design objective – Metal Paneling. Additional information is required to determine whether or not desired design objective is achieved.
TBD	(C) Desired design objective – Cladding Materials. Additional information is required to determine whether or not desired design objective is achieved.
TBD	(D) Desired design objective – Techniques. Additional information is required to determine whether or not desired design objective is achieved.
N/A	(E) Playground equipment.
TBD	(F) Sidewalks – Minimum 6 feet in width. Additional information is required to determine code conformity. The provision of sidewalks do not appear to have been addressed in the site plan reviewed herein.

Article 1347.08 – Landscaping	
	SEE OBSERVATIONS UNDER ARTICLE 1367 BELOW.

Article 1365 – Parking, Loading and Internal Roadways	
	1365.04 Determining Number of Spaces Required.
Y	(I) Maximum number of spaces.
N	(J) Minimum number of spaces. Table 1365.04.01 “Minimum Off-Street Parking Requirements” provides that the following standard for “Gas Station Mini-Mart” uses – 1.5 spaces per fuel nozzle plus 3 spaces per 1,000 sq. ft. of enclosed floor area plus 1 space per 2 service bays. Because the contemplated development program does not include a vehicle servicing function, the standard addressing service bays is not applicable. The minimum off-street parking requirement is therefore calculated as – $(1.5 \times 8) + (3 \times .858) = 15$ spaces. The contemplated site plan illustrates a total of 12 spaces; 8 spaces of which are located below the canopy at the fuel dispensing nozzles and 4 spaces located closest to the principal structure (kiosk). <b>Variance</b> relief will be required for the 3 spaces not provided.
	1365.04 Determining Number of Spaces Required.
N/A	(K) Company vehicles.
N/A	(N) Pedestrian circulation plan.
N/A	(O) B-1 District provisions.



# PLANNING AND ZONING CODE CONFORMITY REPORT

## Planning Division

<b>Article 1365 – Parking, Loading and Internal Roadways (cont.)</b>	
N/A	(P) B-4 District provisions.
N/A	1365.05 Drive-Through Stacking.
Y	1365.06 Accessible Parking Space. Table 1365.06.01 provides that at least 1 accessible parking space must be provided. The contemplated site plan illustrates 2 spaces, one of which is a van-accessible or universal-accessible space.
N/A	1365.07 Off-Site Parking Facilities.
N/A	1365.08 Parking and Storage of Certain Vehicles.
	1365.09 Parking Development Standards
Y	(A) Dimensions. The dimensions of the 5 parking spaces along the kiosk appear to meet minimum standards.
	(B) Layout and Design.
TBD	(1) Consultation with and approval by the West Virginia Division of Highways (WVDOH) is required for proposed driveway entrances.
TBD	(2) The proposed driveway entrances appear to be more than 5 feet from the adjoining property boundary. Both driveway entrances exceed 22 feet at their respective rights-of-way lines. The City Engineer advised this Office that consultation with and approval by WVDOH will be required, but she agreed that wider entrances appear necessary to accommodate fuel truck maneuvering. It should be noted that the contemplated site plan significantly reduces driveway widths of existing conditions and propose best access management practices.
N/A	(3) Connections between parking lots.
Y	(4) Pavement marking, slope, unobstructed, and buffering from building. It should be noted that wheel stops will be required for the 5 parking spaces along the kiosk to preserve the width of the sidewalk for accessibility.
N/A	(5) Parking structure.
	(6) Landscaping. See landscaping observations and comments under Article 1367 below.
TBD	(7) Parking area lighting facilities. A Preliminary Lighting Plan must be submitted to determine conformity. It should be noted that lighting below the canopy should be recessed and not exceed 20 footcandles.
	(C) Surface and Drainage.
Y	(1) Paving.
N/A	(2) Gravel surface for certain industrial uses.
TBD	(3) Stormwater management planning to be reviewed and approved by the Morgantown Utility Board (MUB) under City Code Article 929.



# PLANNING AND ZONING CODE CONFORMITY REPORT

## Planning Division

Article 1365 – Parking, Loading and Internal Roadways (cont.)	
N/A	(4) Alternate parking area surfacing materials/designs are not contemplated.
TBD	1365.10 Fuel delivery and truck maneuvering is illustrated on the contemplated site plan. Final review and approval to be determined by the City Engineer with consultation and approval by WVD0H.

Article 1367 – Landscaping and Screening	
TBD	Preliminary Landscaping Plan is required to determine conformity. However, there appears to be four- (4) to ten- (10) foot perimeter landscape buffer planting areas around the parking and fueling area in the plans reviewed herein. It should be noted that the width of planned landscape buffer planting areas has been increased from previously reviewed plans. The increase in width appears to have been created as a result of rotating the fueling stations 90 degrees and moving the principal kiosk building further into the property away from the Collins Ferry Road and University Avenue intersection. A related variance application has been submitted and will be held until a preliminary Landscaping Plan is submitted to determine conformity based on proposed plant materials and planting locations. Should the Landscape Plan not conform to related provisions in Article 1367, <b>variance</b> approval will be required.

Article 1369 – Signs	
TBD	A preliminary Master Signage Plan has not been provided for review. Sign locations illustrated on the site plan will be reviewed for conformity once a preliminary Master Signage Plan is submitted. Should the Master Signage Plan not conform to related provisions in Article 1369, <b>variance</b> approval will be required.

Article 1371 – Lighting	
TBD	A preliminary Lighting Plan has not been provided for review. It should be noted that lighting below the canopy should be recessed and not exceed 20 footcandles. Should the Lighting Plan not conform to related provisions in Article 1371, <b>variance</b> approval will be required.

### SUMMARY OF REQUIRED APPROVALS

Required Board of Zoning Appeals approvals:

1. Article 1347.04(A)(1) – Minimum Front Setback. Variance relief is required to encroach into the minimum front setback standard of 15 feet by 6 feet along Collins Ferry Road and by 5 feet along University Avenue. Case No. V14-21 is scheduled for the BZA’s 21 MAY 2014 hearing.



## PLANNING AND ZONING CODE CONFORMITY REPORT

### Planning Division

2. Article 1365.04(J) – Minimum Parking Requirement. Variance relief is required to provide three (3) less parking spaces than the minimum parking requirement. Case No. V14-19 is scheduled for the BZA's 21 MAY 2014 hearing.
3. Article 1367 – Minimum Landscaping Requirements. Variance application V14-20 has been submitted and advertised for the BZA's 21 MAY 2014 hearing. However, the site plan reviewed herein illustrates conformity with the minimum width standard for perimeter landscape buffering (see related discussion above). Variance application 14-20 will be held until a preliminary Landscaping Plan is submitted to determine conformity based on proposed plant materials and planting locations. Should the Landscape Plan not conform to related provisions in Article 1367, variance approval will be required at a later point.

### GENERAL OBSERVATIONS

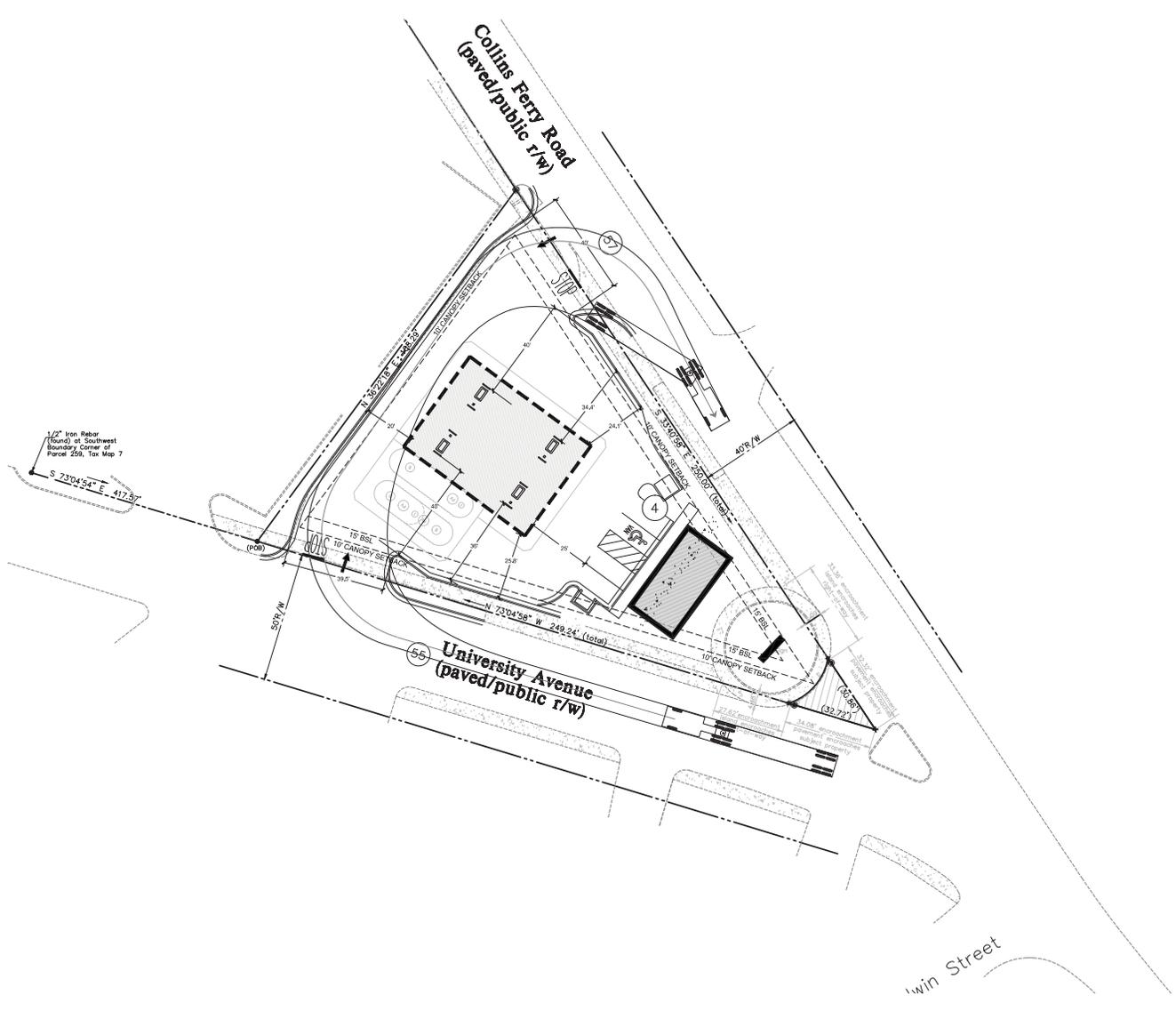
- As noted in this Office's 30 MAY 2013 conformity review report, the University Avenue / Collins Ferry Road intersection has been prioritized by the Morgantown-Monongalia Metropolitan Planning Organization (MMMPO) in its Long-Range Transportation Plan and the District Office of the West Virginia Division of Highways (WVDOH) for significant intersection improvements. Improvements may include realignment, reconstruction, construction of a roundabout, and/or property acquisition. Continued consultation with the MMMPO and WVDOH should be a critical part of the developer's due diligence. This Office understands that WVDOH is actively moving this project through the planning and preliminary design phases.
- Dumpster Enclosure. The dumpster enclosure facility should be located in a less visible place respecting the value and importance of the development's relationship to the built environment. This Office continues to respectfully request that an alternate location be identified or an alternative trash management strategy be investigated.
- Because the site terminates the street vista for vehicles traveling northbound on University Avenue, special architectural care should be given so that façade design (e.g., height, texture, massing, etc.) creates a visual anchor for the community. This particular approach to the site should not result in an approach view of a sterile rear kiosk façade.

Please contact the undersigned with any additional questions or further clarification of the information provided in this report. We look forward to serving your plans review and approval needs.

Prepared by:

Christopher M. Fletcher, AICP  
Director of Development Services  
304-284-7431  
cfletcher@cityofmorgantown.org

 Digitally signed by Christopher M. Fletcher, AICP  
Date: 2014.05.16 10:12:55 -04'00'



1/2" Iron Rebar  
found at Southwest  
Boundary Corner of  
Parcel 259, Tax Map 7

$S 73^{\circ}04'54" E 417.57'$

**Collins Ferry Road  
(paved/public r/w)**

**University Avenue  
(paved/public r/w)**

**Twin Street**



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V14-19
RECEIVED:	4/14/14
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

<b>I. APPLICANT</b>		Name:	Kurt Wallenborn	
Mailing Address:	3631 Peters Creek Road		Phone:	(540) 561-3348
	Street	Roanoke, VA 24019	Mobile:	
	City	State	Zip	
		Email:	kurt.wallenborn@kroger.com	
<b>II. PROPERTY</b>		Street Address:	3100 University Avenue	
Owner:	Mr. Fred Jordan		Zoning:	B2
Mailing Address:	3100 University Avenue		Tax Map No:	7
	Street	Morgantown, WV 26505	Parcel No:	260
	City	State	Zip	
		Phone:	(304) 598-0567	
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).		
<p>Parking Variance Request 1 - No parking spaces are permitted between the front facade of a building and any street right-of-way. Given the triangular shape of the subject "Double Frontage Lot", the interpretation that will be applied to this site is that no parking spaces may be permitted between the front "Building Line" and the front lines of University Avenue and Collins Ferry Road. One of the parking stalls closest to Collins Ferry Road in front of the proposed kiosk encroaches into the "Building Line" and will require variance relief.</p> <p>Parking Variance Request 2 - The minimum on-site parking requirements for the proposed development is calculated as (1.5 x 8 pumps) + (3 x .858 sf) = 15 spaces. The proposed number of spaces is 13, which requires variance relief of two (2) spaces. The proposed plan shows five proposed spaces at the kiosk and eight spaces at the pumps; however, there is adequate que stacking at the pumps for two cars at each pump, or an additional 16 stacking spaces. This provision allows a room for an additional 18 cars more than required, or an additional 16 stacking spaces. This provision allows room for an additional 18 cars more than required.</p>				
<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.		
Kurt Wallenborn		<i>Kurt J. Wallenborn</i>		4-2-2014
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.	V14-19
RECEIVED:	4/4/14
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)
- B2 Zoning

- Structure Characteristics (complete only those that apply)
- Total number of buildings: 1      Gross floor area of each building: 858 SF
- Estimated number of employees: 1      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.	<u>114-19</u>
RECEIVED:	_____
COMPLETE:	_____

Suggested Scale: 1 square = 5'

**SEE  
ATTACHMENT  
C.M.F.**



**APPLICATION FOR  
ZONING VARIANCE**

OFFICE USE	
CASE NO.	V14-19
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:**

The property is bound by two streets and is a triangular parcel, which comes to a point at the intersection of University Avenue and Collins Ferry Road. This odd-shaped parcel creates a hardship since frontage setbacks are required on two sides of the parcel, which leaves minimal room for parking in front of the kiosk.

**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:**

Because of the small and triangular shape of the property, it is hard to redevelop to meet current requirements. There are a couple of Sheetz gas stations in the surrounding area that have larger, more squared-off parcels which allows those properties more room for the gas station layout, parking, meeting setbacks & landscaping requirements, etc.

**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 use of the property will not change other than the fuel center will not provide servicing for vehicles. The proposed fuel center will be an improvement to the existing conditions based on the architectural upgrade and aesthetically appealing increase in both green space and landscaping.

**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:**

Rezoning of this property to B2 was recently granted. Granting these variances will not diminish the market value of adjacent properties because the use is the same. Closing curb cuts closest to the intersection will relieve congestion and make the ingress/egress safer.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	114-21
RECEIVED:	4/4/14
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

<b>I. APPLICANT</b>		Name: Kurt Wallenborn	
Mailing Address:	3631 Peters Creek Road		Phone: (540) 561-3348
	Street Roanoke, VA 24019		Mobile:
	City	State	Zip
		Email: kurt.wallenborn@kroger.com	
<b>II. PROPERTY</b>		Street Address: 3100 University Avenue	
Owner:	Mr. Fred Jordan		Zoning: B2
Mailing Address:	3100 University Avenue		Tax Map No: 7
	Street Morgantown, WV 26505		Parcel No: 260
	City	State	Zip
		Phone: 304-598-0567	
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Setback Variance Request - The subject parcel is considered a "Through Lot" or "Double Frontage Lot". As such, the minimum front setback standard is applied to both University Avenue and Collins Ferry Road frontages. The minimum front setback standard in the B-2 District is 15 feet. The proposed setback of the kiosk building from Collins Ferry Road frontage is approximately 6 feet and the proposed setback from the University Avenue frontage is approximately 7 feet; therefore, setback variance relief is requested.</p>			
<b>V. ATTEST</b>			
<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>			
Kurt Wallenborn		<i>Kurt L. Wallenborn</i>	4-2-2014
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.



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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)

B2 Zoning

Structure Characteristics (complete only those that apply)

Total number of buildings: 1      Gross floor area of each building: 858 SF

Estimated number of employees: 1      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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