



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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June 19, 2014

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

**RE: V14-27 / Smitty's Kountry Kreme / 1137 Van Voorhis Road
Tax Map 6, Parcel 43**

Dear Mr. Smith,

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced variance petition for variance relief from Article 1369 as it relates to signage at 1137 Van Voorhis Road.

The decision is as follows:

Board of Zoning Appeals, June 18, 2014:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board approved Case No. V14-27 granting the following variance relief:
 - a. A twelve (12) square foot variance from the maximum area standard.
 - b. A ten (10) square foot variance from the maximum height standard.
 - c. To permit the use of a transparent polycarbonate sign face.
 - d. To permit internal illumination.
3. The following conditions were included in this approval:
 - a. That a changeable copy type sign may not be developed.
 - b. That copy on the sign for which variance relief is granted herein must be restricted to the name and logo of the *Smitty's Kountry Kreme* establishment.

This decision 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 approval is set to expire in twelve (12) months unless you can demonstrate that it has 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 sign and building permits must be obtained prior to the commencement of work for which variance relief was granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving your plans review and permitting needs.

Respectfully,



Stacy Hollar
Executive Secretary
Development Services Department

ADDENDUM A – Approved Findings of Fact

V14-27 / Smitty’s Kountry Kreme / 1137 Van Voorhis Road

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The former TCBY sign structure appears to have been in place for over 20 years and does not appear to have manifested harm to the public good or rights of property owners within the immediate area.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The special condition is the fact that the former TCBY sign structure has been in place for over 20 years. The petitioner simply seeks to remove a portion of the sign thereby reducing the extent of requisite variance relief and utilize the existing sign structure.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The age of the plaza and existing signs in the area reflect installation that took place before the present codes were put into place. Most businesses have existed 15 plus years. The former TCBY sign structure appears to have successfully messaged the location of a former ice cream / frozen yogurt establishment similar to the petitioner’s establishment. The petitioner has revised plans for the sign to reduce the extent of its nonconformity in an attempt to preserve the unique and long-standing sign structure.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The zoning classification for the subject site is B-1, Neighborhood Business District. The zoning classification for the majority of the Van Voorhis Road and Chestnut Ridge Road commercial corridor and flanking the petitioner’s site is B-2, Service Business District where internally illuminated and polycarbonate faced signs are permitted; where a number of ground signs exist that exceed design and performance standards; and, where variance relief has been granted for the height and area of ground signs.