



MORGANTOWN BOARD OF ZONING APPEALS

June 18, 2014
6:30 PM
City Council Chambers

Board Members:

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

STAFF REPORT

CASE NO: V14-27 / Smitty's Kountry Kreme, LLC / 1137 Van Voorhis Road

REQUEST and LOCATION:

Request by William Smith, on behalf of Smitty's Kountry Kreme, LLC, for variance relief from Article 1369 as it relates to signage at 1137 Van Voorhis Road.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 6, Parcel 43.1; B-1, Neighborhood Business District

SURROUNDING ZONING:

North, East, and West: B-1, Neighborhood Business District

South: B-2, Service Business District.

BACKGROUND and ANALYSIS:

The petitioner seeks to utilize the ground sign structure once used by the former *TCBY* establishment. According to the petitioner, the subject sign has been in place for 20+ years. The petitioner recently opened *Smitty's Kountry Kreme* in the Chelsea Square development and would like to use the existing structure because the product lines between the former and new establishments are similar in terms of marketing and clientele. Addendum A of this report illustrates the location of the subject site.

On 19 MAR 2014, the Board denied the petitioner's request for variance relief concerning the subject ground sign structure under Case No. V14-15. Attached hereto are the Staff Report for Case No. V14-15 and the Board's related action letter.

Article 1381.03(J) provides the following standard for instances when the Board has previously reviewed and denied a variance (emphasis added).

"If the request for a variance is denied by the Board of Zoning Appeals, the applicant shall not re-submit the same request for a period of one (1) year unless the Planning Director determines that there have been significant changes in conditions in the area proximate to the parcel in question."

It is the opinion of the Planning Division that the petitioner's present variance application is not the same request that was reviewed and denied by the Board on 19 MAR 2014. The following table illustrates the changes that have been made to the proposed ground sign design.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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Standard	V14-15 Sign Design	V14-27 Sign Design	Change
Maximum Area – 32 sq. ft.	88.3 sq. ft.	44 sq. ft.	- 44.3 sq. ft.
Maximum Height – 6 ft.	approx. 24 ft.	approx. 16 ft.	- 8 ft.
Restricted Design Elements			
Use of a transparent polycarbonate sign face.	Yes	Yes	no change
Internal illumination.	Yes	Yes	no change
Copy in addition to name and logo of business establishment.	Yes	No	no change
Changeable copy.	Yes	No	no change

As noted in the 19 MAR 2014 Staff Report, the subject sign structure was related to a business that ceased to exist or operate for a continuous period of 90 days, its nonconforming protections have lapsed. Specifically, Article 1373.05 provides the following:

Abandonment. Any sign, including its frame and support structures, related to a use or business that ceases to exist or operate for a continuous period of 90 days shall be considered nonconforming and shall not be reused for sign purposes unless and until it is in full conformity with the provision of this Ordinance, subject to issuance of a new sign permit. This requirement shall apply whether the property owner has been specifically informed of the 90 day laps, or not.

Following the Board's 19 MAR 2014 denial of V14-15, Staff sent the property owner a second certified letter notice of violation and order to remove the subject sign structure within thirty (30) days. The petitioner contacted Staff advising that a second variance petition would be submitted. As such, Staff has delayed enforcement and prosecution of the violation until the Board decides on the present variance petition.

The subject sign structure exceeds the maximum area standard of 32 square feet for post-and-panel type and monument type signs. According to the plans prepared by City Neon, the area of the proposed name and logo panel, which includes the removal of the upper frame, is 44 square feet, which requires variance relief of 12 square feet.

The subject sign structure exceeds the maximum height standard of 6 feet for post-and-panel type and monument type signs. It appears that the height of the sign structure is approximately 16 feet, which requires variance relief of approximately 10 feet.

Article 1369.08(B) provides that signs in the B-1 District must comply with the following:

- Sign faces must be opaque.
- Signs may not be internally illuminated except for neon signs.
- Signs must be made of wood; sculpted "sign foam"; ornamental metals such as bronze, brass, copper, etc.; painted aluminum panels, stone or masonry (with concrete blocks being covered with stucco).

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The petitioner seeks to re-establish the changeable copy portion of the former TCBY sign. "Changeable Copy Signs" are only permitted as a part of "Menu Board Signs" and "Marquee Signs" for movie or performance theater uses.

Article 1381.03(K) provides that (emphasis added):

"Variance from the use of a parcel or building, and variances from the type of sign permitted on any given parcel, shall not be permitted under any circumstances."

Because the former nonconforming TCBY sign has been abandoned, the proposed sign should be considered by the Board as a "new" sign. As such, the Board may not grant variance relief to permit the development of a changeable copy sign. Staff should have raised this restriction in its 19 MAR 2014 Staff Report.

A summary of requisite variance relief as requested and permitted to be considered by the Board for the petitioner's revised sign design is:

- To exceed the maximum area standard by 12 square feet.
- To exceed the maximum height standard by 10 feet.
- To permit the use of a transparent polycarbonate sign face.
- To permit internal illumination.

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 applicant.

Addendum B of this report provides Staff recommended revisions to the petitioner's findings of fact. Please note that Staff has taken the petitioner's Findings of Fact responses submitted with the old variance application, associated said responses to similar Findings of Fact provided in the new variance application, and included recommended revisions (deleted matter struck through; new matter underlined).

No recommendation is submitted by Staff concerning whether or not variance relief should be granted. However, should the Board to grant variance relief, Staff recommends that conditions be included that the proposed changeable copy sign may not be developed and that copy on that sign for which variance relief is granted must be restricted to the name and logo of the Smitty's Kountry Kreme establishment as required under Article 1369.08(C) in the B-1 District.

Development Services

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Director

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STAFF REPORT ADDENDUM A

V14-27 / Smitty's Kountry Kreme LLC/ 1137 Van Voorhis



STAFF REPORT ADDENDUM B

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

Staff has taken the petitioner's Findings of Fact responses submitted with the old variance application, associated said responses to similar Findings of Fact provided in the new variance application, and included recommended revisions (deleted matter struck through; new matter underlined).

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:

~~No changes will be required and Smitty's will be following in the tradition of selling ice cream as the previous business, TCBY, did for 20+ years.~~ 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 goal of Smitty's is to be a high volume. The granting of the variances requested will enhance our visibility, attract more customers to us and the other businesses and make use of a sign that has been an icon for 20+ years.~~ 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.

ALTERNATE NEGATIVE FINDING: The variance WILL NOT eliminate an unnecessary hardship and permit a reasonable use of the land, 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. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

~~We are B-1 and were not made aware of grandfather clauses that may have been used before.~~ 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.

ALTERNATE NEGATIVE FINDING: The variance WILL NOT allow the intent of the zoning ordinance to be observed and substantial justice done, because: It is the clear intent and objective of the Planning and Zoning Code that the signs, sign frames, and support structures of nonconforming signs that have been abandoned be removed. The purpose of this appears to further the public interest of commercial messaging that conforms to related design and performance standards. Maintaining and potentially increasing the number of nonconforming ground signs for the commercial tenants within the multi-tenant Chelsea Square development does not appear to be the solution to commercial messaging as doing so only furthers visual clutter within the immediate area. The petitioner and other tenants within the Chelsea Square development should instead work with the property owner to improve the appearance, visibility, and effectiveness of existing multi-tenant signage on the site.



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March 19, 2014

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City Council Chambers

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STAFF REPORT

CASE NO: V14-15 / Smitty's Kountry Kreme, LLC / 1137 Van Voorhis Road

REQUEST and LOCATION:

Request by William Smith, on behalf of Smitty's Kountry Kreme, LLC, for variance relief from Article 1369 as it relates to signage at 1137 Van Voorhis Road.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 6, Parcel 43.1; B-1, Neighborhood Business District

SURROUNDING ZONING:

North, East, and West: B-1, Neighborhood Business District

South: B-2, Service Business District.

BACKGROUND and ANALYSIS:

The petitioner seeks to utilize the ground sign structure once used by the former *TCBY* establishment. According to the petitioner, the subject sign has been in place for 20+ years. The petitioner recently opened *Smitty's Kountry Kreme* in the Chelsea Square development and would like to use the existing structure because the product lines between the former and new establishments are similar in terms of marketing and clientele. Addendum A of this report illustrates the location of the subject site.

Because the subject sign structure was related to a business that ceased to exist or operate for a continuous period of 90 days, its nonconforming protections have lapsed. Specifically, Article 1373.05 provides the following:

Abandonment. Any sign, including its frame and support structures, related to a use or business that ceases to exist or operate for a continuous period of 90 days shall be considered nonconforming and shall not be reused for sign purposes unless and until it is in full conformity with the provision of this Ordinance, subject to issuance of a new sign permit. This requirement shall apply whether the property owner has been specifically informed of the 90 day laps, or not.

The subject sign structure exceeds the maximum area standard of 32 square feet for post-and-panel type and monument type signs. According to the plans prepared by City Neon, the combined area for the top of the cone and the changeable copy portion is 88.3 square feet, which requires variance relief of 56.3 square feet.

The subject sign structure exceeds the maximum height standard of 6 feet for post-and-panel type and monument type signs. It appears that the height of the sign structure is approximately 24 feet, which requires variance relief of 18 feet.

Development Services

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The petitioner seeks to reestablish the changeable copy portion of the sign once utilized by the *TCBY* establishment (see illustration below). Because changeable copy signs are only permitted on marquee signs for theaters sandwich board signs.



Article 1369.08(B) provides that signs in the B-1 District must comply with the following:

- Sign faces must be opaque.
- Signs may not be internally illuminated except for neon signs.
- Signs must be made of wood; sculpted "sign foam"; ornamental metals such as bronze, brass, copper, etc.; painted aluminum panels, stone or masonry (with concrete blocks being covered with stucco).

Article 1369.08(C) provides that signs in the B-1 District are restricted to the name and logo of the business establishment and may not contain any additional copy.

Summary of requisite variance relief as requested:

- To exceed the maximum area standard by 56.3 square feet.
- To exceed the maximum height standard by 18 feet.
- To permit the use of a transparent polycarbonate sign face, which is a prohibited material.
- To permit internal illumination.
- To permit copy on the sign that is not restricted to the name and logo of the subject business establishment.
- To permit changeable copy.

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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 applicant.

Addendum B of this report provides Staff recommended revisions to the petitioner's findings of fact (deleted matter struck through; new matter underlined).

No recommendation is submitted by Staff concerning whether or not variance relief should be granted nor are conditions recommended.

Development Services

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Director

Planning Division

389 Spruce Street
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STAFF REPORT ADDENDUM A

V14-15 / Smitty's Kountry Kreme LLC/ 1137 Van Voorhis



STAFF REPORT ADDENDUM B

V14-15 / Smitty's Kountry Kreme / 1137 Van Voorhis Road

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

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 majority of the commercial establishments located within the plaza (Chelsea Square) is are not clearly visible from the street. The subject sign structure appears to have been utilized by a similar eatery establishment for a number of years. Given existing driveway entrance alignments, signage clutter within the immediate area, and traffic volumes and speeds, erecting an effective ground sign that meets that maximum height and maximum area standards at the subject location does not appear practicable or achievable.

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 Renewing of the sign will the use of long standing ground sign should enhance its appearance and bring additional customers to the plaza. The zoning classification for the majority of the Van Voorhis commercial corridor is B-2, where internally illuminated and polycarbonate faced signs are permitted and restrictions to name and logo only is not applicable. There are a number of changeable copy signs within the Van Voorhis, Patteson, and 705 commercial corridors both inside and outside the City's corporate boundaries. Additionally, there appears to be a number of ground signs within the immediate area that exceed the maximum area and maximum height standards.

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.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V14-15
RECEIVED:	2/10/14
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	Smitty's Kountry Kreme 2 (Go William Smith)	
Mailing Address:	Street	1137 Van Voorhis Rd Suite 10	Phone:	304 598 2663
	City	Morgantown WV	State	26505
	Zip		Mobile:	304 216 9315
			Email:	smitty3kkl1ca@yahoo.com
II. PROPERTY		Street Address:	1137 Van Voorhis Rd Morgantown 26505	
Owner:	Cleve Biller		Zoning:	
Mailing Address:	Street	Flatts Rentals	Tax Map No:	6
	City	729 Bakers Ridge Rd	Parcel No:	43.1
	State	Morgantown WV	Zip	26508
			Phone:	
III. NARRATIVE		Please describe the nature and extent of your variance request(s).		
<p>Would like permission to apply new faces to existing ice cream cone that is on property. The sign was used for 20+ years.</p>				
V. ATTEST				
<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>				
<p>William L Smith Jr</p>				<p>2/10/2014 201405808 KRISTEN 5:28:33 SITE 2-6-14</p>
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.	V14-15
RECEIVED:	_____
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)*

Structure Characteristics (complete only those that apply)

Total number of buildings: _____ Gross floor area of each building: _____

Estimated number of employees: _____ 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.

V14-15

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Suggested Scale: 1 square = 5'

See attachment



**APPLICATION FOR
ZONING VARIANCE**

OFFICE USE

CASE NO. 114-15

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 plaza (Chelsea square) is not clearly visible from the street.

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 renewing of the sign will enhance its appearance and bring additional customers to the plaza.

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:

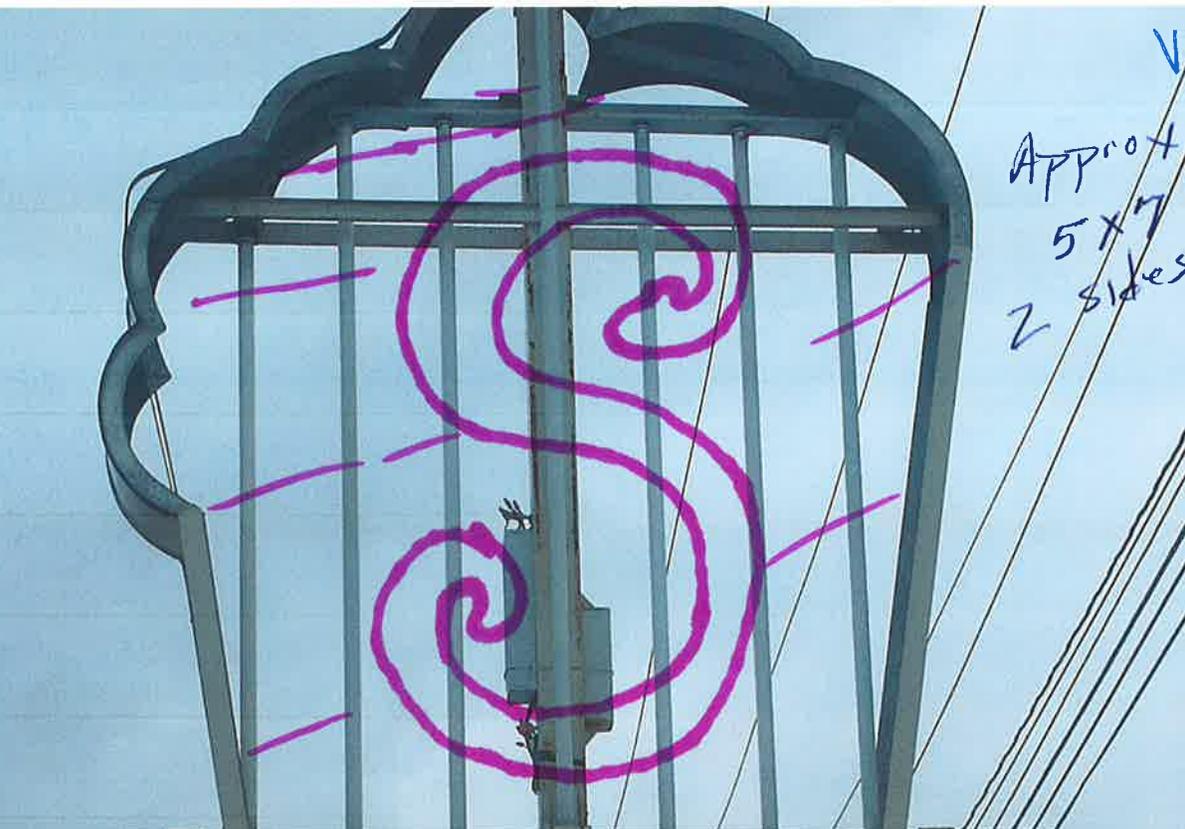
No harm will be brought and the sign will be put back to its original use.

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

V14-15

Approx
5' x 7'
2 sides



7' x 7.6'

2 sides



Smitty's

Letter board

Country Krome

DAIRY & FOODS

Unleaded



JANE JEWELERS

1095 Chaplin Hill Road
Morgantown, WV 26501
Phone: 304-599-1854
Fax: 304-599-5852

PO Box 40
Morgantown, WV 26507
304-225-2056

INFORMATION SHOWN IN THIS
DRAWING IS PROPRIETARY AND
SOLE PROPERTY OF
CITY NEON INC. AND
IS NOT TO BE REPRODUCED,
DISCLOSED OR TRANSMITTED
TO OTHERS FOR ANY
PURPOSE NOT AUTHORIZED
BY CITY NEON INC.

CLIENT/PROJECT

Smitty's
Kountry Kreme
Morgantown, WV

CUSTOMER APPROVAL

FILE NAME:

Smittys_Pole_Sign03.plt

DRAWING NO.

SCALE

N/A

DRAWN BY:

Sam

DATE:

3/7/14

SALESMAN

REVISIONS

REV.1:

REV.2:

NEW FLAT PANELS WITH FULL COLOR
DIGITAL PRINTS FOR TOP OF EXISTING
CONE: 88" TALL X 73" WIDE

NEW FLAT PANELS WITH NAME
AND CHANGEABLE COPY BOARD
FOR CENTER SECTION OF EXISTING
CONE: 72" TALL X 88" WIDE











**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7431 TDD (304) 284-7512
www.morgantownwv.gov

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.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V14-27
RECEIVED:	5/2/14
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	Smitty's Kountry Kreme 2	
Mailing Address:	Street	1137 Van Voorhis Rd	Phone:	304-598-2663
	City	Morgantown, WV 26505	Mobile:	304-216-9315
			Email:	smittyskkl1c@yahoo
II. PROPERTY		Street Address:	1137 Van Voorhis Rd Suite 10	
Owner:	1137 Van V	William L Smith Jr	Zoning:	B-1
Mailing Address:	Street	1137 Van Voorhis Rd 26505	Tax Map No:	6
	City	Morgantown WV 26505	Parcel No:	43.1
			Phone:	304 598 2663
III. NARRATIVE		Please describe the nature and extent of your variance request(s).		
<p>Smitty's is requesting approval to modify the existing sign and place it more in line with existing guidelines. We propose removing the top of the sign and reducing the height to approximately 16 ft., installing new panels with logo where changeable sign exists and continuing to use backlighting. The panel area will require variance of approx. 12 square</p>				
V. ATTEST				
<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>				
William L Smith Jr		[Signature]		5-1-14
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.

III

feet. ~~Changeable panels will not be used but~~
~~instead be replaced with~~ The overall height
will require variance of 10 ft but will still
be shorter than existing signs on 705,
Van Voorhis and Patterson drive. The
variance for backlighting will also be in line
with existing signs in the plaza and
the surrounding Avenues.



APPLICATION FOR ZONING VARIANCE

OFFICE USE
CASE NO. V14-27
RECEIVED:
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)

- Structure Characteristics (complete only those that apply)
Total number of buildings: Gross floor area of each building:
Estimated number of employees: 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.	V14-27
RECEIVED:	_____
COMPLETE:	_____

Suggested Scale: 1 square = 5'



APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V14-27
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 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 been existed 15+ years

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: We are B-1 and were not made aware of grandfather clauses that may have been used before.

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 goal of Smitty's is to be a high volume. The granting of the variances requested will enhance our visibility, attract more customers to us and the other businesses and make use of a sign that has been an icon for 20+ years.

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: No changes will be required and Smitty's will be following in the tradition of selling ice cream as the previous business, TCBY, did for 20+ years.

V14-27

NEW FLAT PANELS WITH NAME
AND CHANGEABLE COPY BOARD
FOR CENTER SECTION OF EXISTING
CONE: 72" TALL X 88" WIDE



1095 Chaplin Hill Road
Morgantown, WV 26501
Phone: 304-599-1854
Fax: 304-599-5852

PO Box 40
Morgantown, WV 26507
304-225-2056

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PURPOSE NOT AUTHORIZED
BY CITY NEON INC.

CLIENT/PROJECT

Smitty's
Kountry Kreme
Morgantown, WV

CUSTOMER APPROVAL

FILE NAME:
Smittys_Pole_Sign04.plt

DRAWING NO.

SCALE
N/A

DRAWN BY:
Rudy

DATE:
4/8/14

SALESMAN

REVISIONS
REV 1:

REV.2: