



MORGANTOWN BOARD OF ZONING APPEALS

August 20, 2014
 6:30 PM
 City Council Chambers

Board Members:

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

STAFF REPORT SUPPLEMENT

CASE NO: V14-31 / Dollar General / 228 High Street

REQUEST and LOCATION:

Request by Michelle Boyers of City Neon, on behalf of Nasey LLC, for variance relief from Article 1369 as it relates to signage at 228 High Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 26A, Parcel 137; B-4, General Business District

SURROUNDING ZONING:

B-4, General Business District

BACKGROUND and ANALYSIS:

During the Board's 16 JUL 2014 hearing, Case No. V14-31 was tabled so that the petitioner could explore alternative wall sign designs that better observed related B-4 District regulations in response to concerns raised during the hearing.

Mr. Rudy Hoffert, City Neon, submitted to the Planning Office an alternate design on 24 JUL 2014 and seeks the Board's consideration and approval. The following table illustrates a comparison of the two wall sign designs.

B-4 Wall Sign Standard	Original Design	Variance	Alternate Design	Variance
Max. Area – 24 sq. ft.	60 sq. ft.	Y – 45 sq. ft.	28 sq. ft.	Y – 4 sq. ft.
Opaque face	Transparent	Y	Opaque	N
May not be internally illuminated	Internally illuminated	Y	Reverse Halo Illuminated	N
Sign Material	Polycarbonate	Y	Painted aluminum faces and returns	N



Development Services
 Christopher Fletcher, AICP
 Director

Planning Division
 389 Spruce Street
 Morgantown, WV 26505
 304.284.7431



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The petitioner's alternate wall sign design was sent via email to the Downtown Design Review Committee members on 12 AUG 2014 for consultation. Comments received were:

- "The Dollar General sign must have back lighting. The sign looks as if it has lighting on the inside of the letters."
- "Certainly this is a better looking Dollar General sign. Thank you. I question the scale to the building, what would maximum viewing distance be from across the street, 30 to 40 feet?"
- "I appreciate the Dollar General sign."

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 A this Staff Report Supplement 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).

Typically, the Planning Division does not offer a recommendation to approve or deny variance petitions relating to signage. However, it appears that the petitioner has responded to concerns expressed during the Board's 16 JUL 2014 hearing by eliminating all design-related variances required for the original design and reducing the extent of requisite wall sign area variance relief from 45 square feet to 4 square feet.

Should the Board grant a four (4) square foot variance relief from the maximum wall sign area standard as requested, Staff recommends that the following conditions be included, which reflect the changes made by the petitioner in the alternate design:

1. That the sign face must be opaque so that sign illumination, if pursued, does not pass through the sign face or face returns.
2. That the material used for the sign must conform to sign material standards set forth in Article 1369.08(B)(3).
3. That the sign may not be internally illuminated. However, should illumination be pursued, it must be of down or up-lighting illumination techniques OR reverse halo illumination technique.
4. That each letter that comprises the sign must be affixed to the wall independently.

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Enclosures: Alternate sign design dated 21 JUL 2014; Design Review Committee comments noted above; and, 16 JUL 2014 Staff Report.

STAFF REPORT SUPPLEMENT ADDENDUM A

V14-31 / Dollar General / 228 High Street

Staff has taken the petitioner's Findings of Fact responses submitted with the old variance application, associated said responses to similar Findings of Facts of 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:

~~Only the sign faces will change not the structure or size of the sign which will not be harmful to the public. The sign will advertise the exact same business and is just an updated version of the sign.~~ The alternative design presented by the petitioner for which variance relief is granted herein significantly improves conformity with wall sign standards within the B-4 District as intended and desired to protect the quality and character of the central business district and its environs.

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:

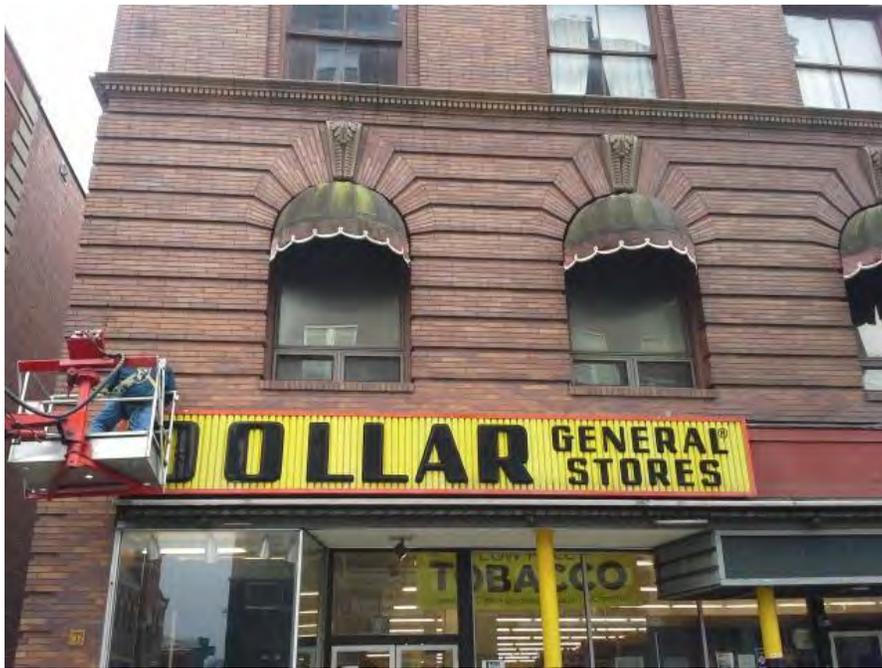
~~The existing sign cabinet will not be removed or replaced, the only changes being requested are to change the sign face to a new updated face with the same wording and size.~~ The alternative design presented by the petitioner for which variance relief is granted herein significantly improves conformity with wall sign standards within the B-4 District as intended and desired and appears to be proportionally acceptable given building's façade and the anchor-type retail.

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

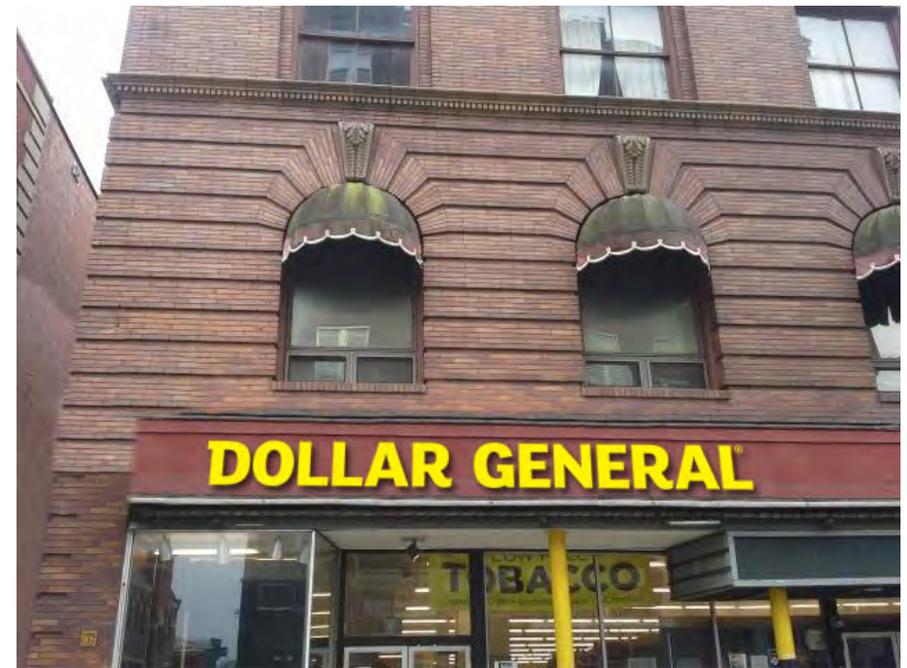
~~Other businesses in the area have large signs as well.~~ The alternative design presented by the petitioner for which variance relief is granted herein significantly improves conformity with wall sign standards within the B-4 District as intended and desired and appears to compliment other newer signs erected in the B-4 District over the past several years.

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

~~The sign will not lower market values of the adjoining property as it is an existing sign with the same store name and is just updated. It will not increase traffic and the land use will not change.~~ The alternative design presented by the petitioner for which variance relief is granted herein significantly improves conformity with wall sign standards within the B-4 District as intended and desired.



BEFORE



AFTER



DISCLAIMER: Renderings are for graphic purposes only and not intended for actual construction dimensions. For windload requirements, actual dimensions and mounting detail, please refer to engineering specifications and install drawings. These drawings and designs are the exclusive property of Everbrite LLC Use of, or duplication in any manner without express written permission of Everbrite LLC is prohibited.

Customer: Dollar General	
Project No: 312842-2	Scale: 3/8"=1'-0"
Date: 7/18/14	Drawn By: RB
Location & Site No: 228 High St. Morgantown, WV Site: DG02955	

Description: 18" Illuminated Reverse Channel Letter Set
Revised: 7/21/14
Revised:

Customer Approval: Graphics and colors on file will be used unless otherwise specified by customer. Please review drawing carefully. By signing below, you agree to graphics as shown above, and to location of sign as shown. Please return signed copy back to Everbrite.	
CUSTOMER SIGNATURE _____	DATE _____
LANDLORD SIGNATURE _____	DATE _____



MORGANTOWN BOARD OF ZONING APPEALS

July 16, 2014
6:30 PM
City Council Chambers

Board Members:

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STAFF REPORT

CASE NO: V14-31 / Dollar General / 228 High Street

REQUEST and LOCATION:

Request by Michelle Boyers of City Neon, on behalf of Nasey LLC, for variance relief from Article 1369 as it relates to signage at 228 High Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 26A, Parcel 137; B-4, General Business District

SURROUNDING ZONING:

B-4, General Business District

BACKGROUND and ANALYSIS:

The petitioner seeks to replace the existing 69 square foot sign face for *Dollar General* located at 228 High Street. Addendum A of this report illustrates the location of the subject site.

Article 1369.07(I)(1) provides that the maximum wall sign area in the B-4 District is determined by multiplying the linear width of the storefront feet by 0.4. The storefront width of *Dollar General* is approximately 60 feet. The maximum area for the subject wall sign is calculated to be 24 square feet. As such, the proposed sign requires a 45 square foot variance.

Article 1369.08(B) provides that permitted signs in the B-4 District shall comply with the following:

- (1) Sign faces shall be opaque:
- (2) Signs may not be internally illuminated, except for neon signs; and,
- (3) Signs shall 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).

The petitioner seeks to utilize the existing sign cabinet that provides internal illumination behind a new transparent polycarbonate sign face as illustrated in the following graphic.



Development Services

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Director

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Article 1373.05 "Nonconforming Signs" provides the following:

- (B)(4) Change of Copy. No change of copy shall be permitted (except on a changeable copy sign) without bring the sign into full conformance with this Ordinance.

The petitioner's proposed wall sign plan was sent via email to the Downtown Design Review Committee members on 03 JUL 2014 for consultation. Comments received were (see attached emails):

- "Are they within the guidelines of the existing ordinance? Even though it is an ugly sign it seems to be the exact same color, size and look of the existing sign. I could only hope that it could be a more attractive submission."
- "For the last 2 years, I have been in direct contact with the store district manager. I have been aware that they are doing a major interior renovation this summer, but we did not discuss the signage. I do know that *Dollar General* (when required – shall and not should) does have corporate signage that is very attractive."
- "*Dollar General* needs to conform to Morgantown Main Street standards as they have done in other cities."
- "The sign may reflect their corporate identity but it is overbearing at this location. A smaller sign would serve as well and be more tasteful."
- "Looks ok to me."
- "[The] Sign must have back lighting."

A summary of requisite variance relief as requested is:

- To exceed the maximum area standard by 45 square 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).

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Typically, the Planning Division does not offer a recommendation to approve or deny variance petitions relating to signage. However, Staff concurs with concerns raised by the Design Review Committee pertaining to size, materials, and lighting.

The following graphic was found on the internet for the *Dollar General* Store No. 12859 located at 215 W Front Street, Plainfield, New Jersey and illustrates a *Dollar General* sign that appears to better conform to requisite B-4 District wall sign design standards.



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<http://ptoday.blogspot.com/2011/10/new-kind-of-dollar-store-opens-in.html>

The above *Dollar General* sign appears to be approximately 14 feet to 16 feet in width, depending on the width of brick used in the stretcher course or rowlock course. The sign is illuminated by down-lighting, which is permitted in the B-4 District. The sign material is not discernible but could easily be metal or sign foam, which are permitted in the B-4 District.

Additionally, there is a much wider public realm and an intersection at the Plainfield location that the 228 High Street location is not challenged by in terms of messaging.



Development Services

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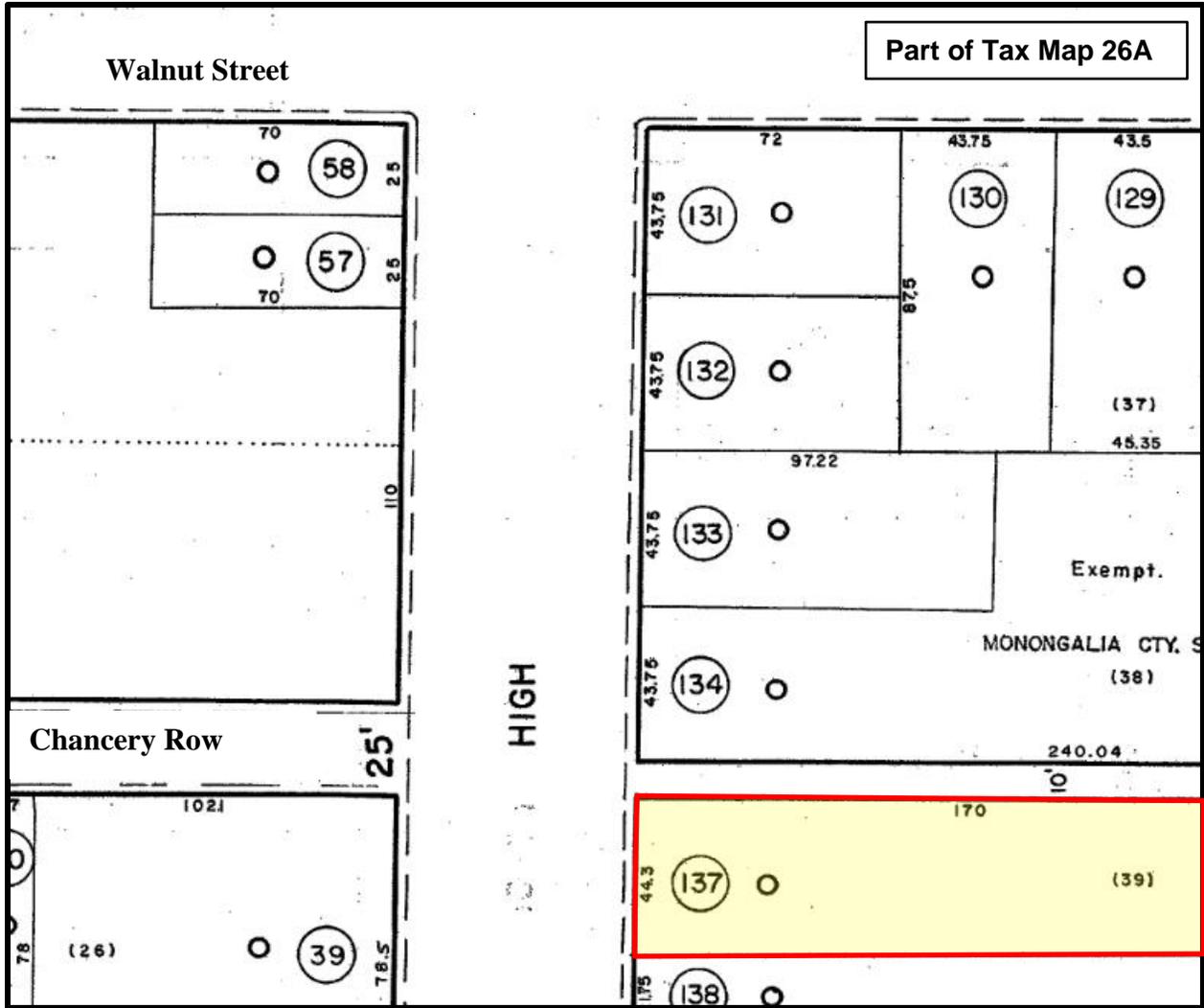
389 Spruce Street
Morgantown, WV 26505
304.284.7431

Staff recommends that the Board either deny variance petition V14-31 as requested OR table the matter to a future meeting so that the petitioner may return with a revised sign plan that better conforms to requisite B-4 District wall sign design standards.

Enclosures: Application and accompanying exhibits

STAFF REPORT ADDENDUM A
V14-31 / Dollar General / 228 High Street





STAFF REPORT ADDENDUM B

V14-31 / Dollar General / 228 High Street

Staff has taken the petitioner's Findings of Fact responses submitted with the old variance application, associated said responses to similar Findings of Facts of 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:

~~Only the sign faces will change not the structure or size of the sign which will not be harmful to the public. The sign will advertise the exact same business and is just an updated version of the sign.~~

ALTERNATE NEGATIVE FINDING: The variance WILL adversely affect the rights of adjacent property owners who have been denied or not permitted to pursue oversized, internally illuminated, and/or nonconforming sign material variance relief by the Board in the B-4 District.

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 existing sign cabinet will not be removed or replaced, the only changes being requested are to change the sign face to a new updated face with the same wording and size.~~

ALTERNATE NEGATIVE FINDING: The variance does not arise from special conditions or attributes which pertain to the subject property because the petitioner only seeks to continue the use of an oversized, nonconforming internally illumination sign cabinet rather than endeavor to bring the establishment's wall sign into better conformity to B-4 District wall sign design standards.

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

~~Other businesses in the area have large signs as well.~~

ALTERNATE NEGATIVE FINDING: The removal of the nonconforming, oversized, internal illuminated wall sign cabinet and the erection of a new wall sign that better conforms to B-4 District wall sign design standards does not appear to be unnecessary hardship in this case and granting variance relief as requested will undermine the reasonable erection and use of wall signs that are expected and required by the Board for other establishments in the B-4 District.

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

~~The sign will not lower market values of the adjoining property as it is an existing sign with the same store name and is just updated. It will not increase traffic and the land use will not change.~~

ALTERNATIVE NEGATIVE FINDING: The extent of the requested variance WILL NOT allow the intent of the zoning ordinance to be observed and substantial justice done nor will it fairly enforce related B-4 sign regulations that have been expected and required by the Board for other establishments in the B-4 District.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE

CASE NO. V14-31
RECEIVED:
COMPLETE:

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT: Name: Dollar General - City Neon; Mailing Address: PO Box 40, Morgantown WV 26507; Phone: 304-599-1852; Email: michelle@cityneon.com
II. PROPERTY: Street Address: 228 High Street; Owner: Nasey LLC; Mailing Address: PO Box 818, Morgantown WV 26507; Zoning: B-4; Tax Map No: 37; Parcel No: 106; Phone: 304-296-7480
III. NARRATIVE: DOLLAR GENERAL IS ASKING FOR A VARIANCE TO REPLACE AN EXISTING SIGN FACE WITH A NEW UPDATED SIGN FACE. THE EXISTING SIGN CABINET WILL NOT BE REMOVED FROM THE STRUCTURE.
V. ATTEST: I hereby certify that I am the owner of record of the named property... Michelle L. Boyers (Signature) 5-27-14 (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.	V14-31
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.

V14-31

RECEIVED:

COMPLETE:

Suggested Scale: 1 square = 5'

SEE ATTACHED



APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V14-31
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 EXISTING SIGN CABINET WILL NOT BE REMOVED OR REPLACED, THE ONLY CHANGES BEING REQUESTED ARE TO CHANGE THE SIGN FACE TO A NEW UPDATED FACE WITH THE SAME WORDING AND SIZE.

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:

OTHER BUSINESSES IN THE AREA HAVE LARGE SIGNS AS WELL

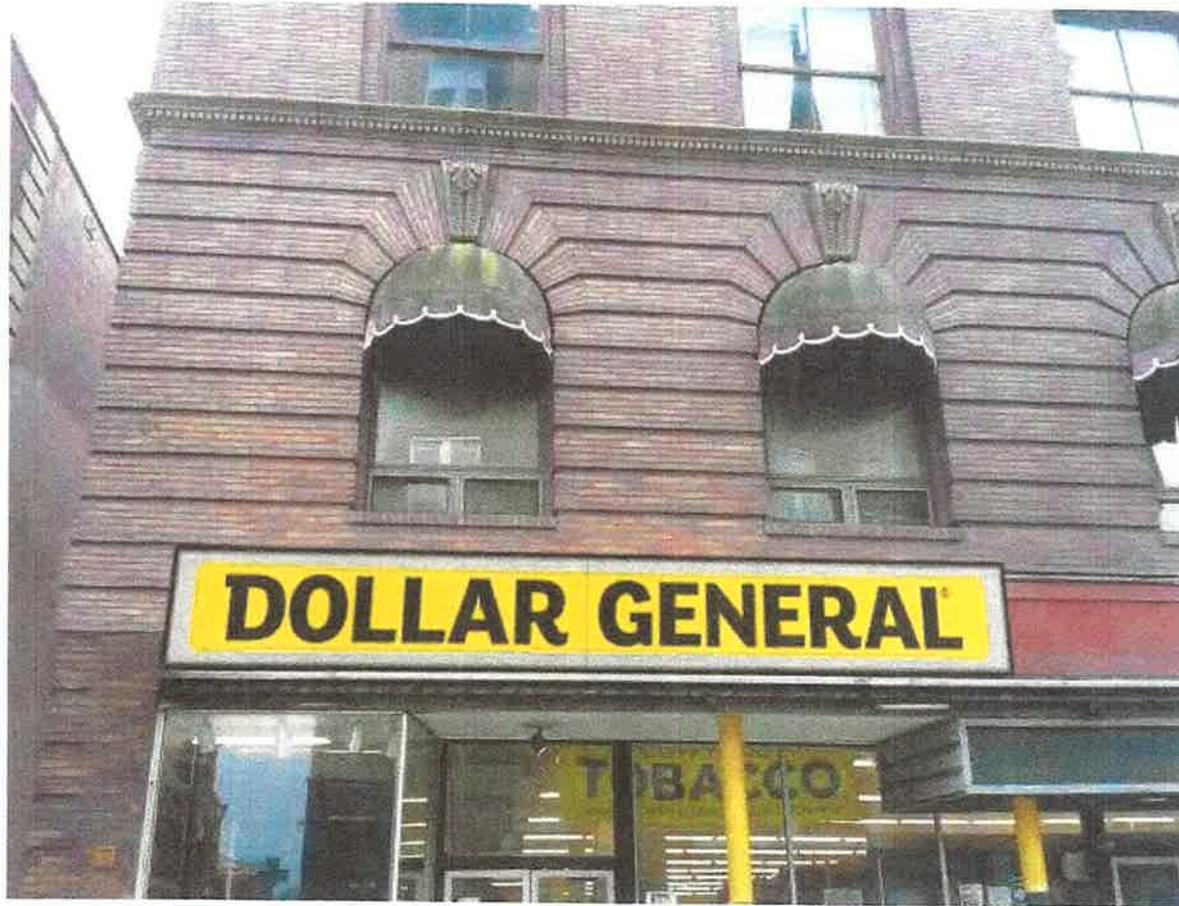
3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

ONLY THE SIGN FACES WILL CHANGE NOT THE STRUCTURE OR SIZE OF THE SIGN WHICH WILL NOT BE HARMFUL TO THE PUBLIC. THE SIGN WILL ADVERTISE THE EXACT SAME BUSINESS AND IS JUST AN UPDATED VERSION OF THE SIGN.

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 WILL NOT LOWER MARKET VALUES OF THE ADJOINING PROPERTY AS IT IS AN EXISTING SIGN WITH THE SAME STORE NAME AND IS JUST UPDATED. IT WILL NOT INCREASE TRAFFIC AND THE LAND USE WILL NOT CHANGE.

V14-31



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Customer: Dollar General

Project No: 312842

Scale: 1/4"=1'-0"

Description:
Face Replacement

Customer Approval: Graphics and colors on file will be used unless otherwise specified by customer. Please review drawing carefully. By signing below, you agree to graphics as shown above, and to location of sign as shown. Please return signed copy back to Everbrite.

Date: 5/15/14

Drawn By: RB

Location & Site No: 228 High St.

Morgantown, WV

Site: DG02955

Revised:

Revised:

CUSTOMER SIGNATURE

LANDLORD SIGNATURE

DATE

DATE

5/21/14