



**DEVELOPMENT  
SERVICES  
DEPARTMENT**

# The City of Morgantown

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October 16, 2014

John Rice  
966 Valley View Avenue  
Morgantown, WV 26505

**RE: V14-44 through V14-49 / Highland Park Square / 502 Stewart Street  
Tax Map 14, Parcels 450 and 451**

Dear Mr. Rice:

This letter is to notify you of the decisions made by the Board of Zoning Appeals concerning the above referenced variance petitions relating to the proposed development at 502 Stewart Street. The decisions are as follows:

**Board of Zoning Appeals, October 15, 2014:**

**V14-44** – Variance relief relating to the proposed location of parking spaces

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted variance relief from Article 1345.06(C) without conditions so that parallel parking spaces may be developed between the building and Junction Street as proposed and that portions of the row of parking labeled 15 through 20 may be closer to Stewart Street than the building as illustrated on the site plan reviewed.

**V14-45** – Variance relief relating to landscaping, screening and buffering.

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted variance relief from Article 1367.07(A) and 1367.08(C)(1) to provide a bufferyard less than (10) feet along the property boundary shared with the adjoining two-family dwelling and along the length of the parking areas on Junction Street and Stewart Street with the condition that the minimum landscaping materials and planting location standards be observed to the greatest extent practicable given any site visibility and/or overhead and underground utility restrictions.
- C. The Board granted variance relief from Article 1367.08(D)(2) from developing terminal islands on the south side of the parking space labeled 14 and on the west side of the parking space labeled 15.

**V14-46** – Variance relief as it relates to “Overstore Dwelling” uses.

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted variance relief from Article 1331.06(20)(c) without conditions so that an “Over-store Dwelling” use may be developed on Level 2 at or approximate to the grade of Junction Street.

**V14-47** – Variance petition as it relates to dumpster enclosure

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted variance relief from Article 1367.06(E) to develop the dumpster coral on the adjoining realty with the condition that access easements, covenants, and maintenance obligations for the dumpster coral facility must be recorded with the Monongalia County Clerk prior to building permit issuance and that said recorded instrument run with all affected lands. Further, that a certified recorded copy of said instrument must be filed with the Planning Division.

**V14-48** – Variance relief as it relates to minimum width of sidewalks along Willowdale Road.

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted variance relief from Article 1345.07(F)(1) with the condition that the sidewalk along Willowdale be improved to a width of four (4) feet or a width compliant with accessibility standards guided by the Federal American's with Disabilities Act, whichever is greater.

**V14-49** – Variance relief as it relates to performance standards for cladding, configuration of cladding materials, and minimum fenestration ratio.

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted variance relief without conditions from Article 1345.07(C)(1) so that cementitious board and/or imitation stacked stone may be used as a part of the developed cladding material; from Article 1345.07(D)(1) so that the arrangement of cladding materials may be developed in a manner other than the required horizontal configuration; and, from Article 1345.07(D)(5) to develop a front façade with a fenestration ratio of 15.8% rather than 60 %.

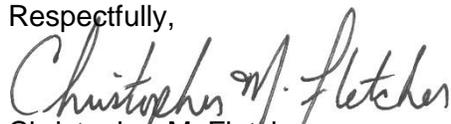
These decisions may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approvals are set to expire in twelve (12) months unless it can be demonstrated that they have 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 building permits must be issued prior to the commencement of work for which the variance approvals were granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving the development's planning and permitting needs.

Respectfully,



Christopher M. Fletcher  
Director of Development Services

## ADDENDUM A

### Approved Findings of Fact

Case No. V14-44 Variance relief as it relates to the proposed location of parking spaces.

**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 proposed parking layout plan appears to significantly improve public safety by eliminating the existing continuous curb cut along and back-out movements onto Stewart Street with a managed two-way driveway access and providing parallel spaces 10 to 12 feet away from the edge of pavement for Junction Street.

**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 development site is bound on three sides by public rights-of-way including Willowdale Road, Stewart Street, and Junction Street. Additionally, the elevation of the site drops 28 feet from Junction Street to Stewart Street. These conditions appear to significantly reduce site design options for developing requisite parking spaces with access to two streets in a manner that will not encroach into the area between the building line and adjoining street right-of-way. No parking spaces are provided between the front of the building and Willowdale Road. Additionally, the parking spaces along Stewart Street only encroach by less than one (1) foot, which cannot be remedied without sacrificing the proper design width of the internal drive aisle.

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

This multi-use building contributes to a positive urban infill due to the placement of it within a walkable community. This area is currently pedestrian friendly with sidewalks that connect two well-populated areas of Morgantown. A new sidewalk shall be incorporated along Stewart Street. The existing sidewalk along Willowdale Road will be maintained. The current parking count of 12 will be increased to 27. The parking area off Stewart St. will have a controlled entrance drive and eliminated the existing mountable curb and condition of patron backing directly into the street. The parking areas on Stewart Street and Junction Street offer direct and easy access for pedestrians from the car to the building, as well as coherent circulation routes. An efficient means of layout has been planned to leave a 10' buffer for landscaping on Stewart Street, which increases aesthetics and will lessen runoff water.

The proposed parking layout is designed for the site that is challenged with three bordering public rights-of-way and elevation changes while significantly improving public safety by eliminating back-out movements onto Stewart Street, separating pedestrian and vehicular flow, and incorporating best access management practices. Additionally, the location of the parallel spaces along Junction Street provides for an accessible route to the Level 2 nonresidential tenant spaces and the accessible dwelling unit.

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

The encroachment of the parking spaces beyond the building line along Stewart Street is less than one (1) foot, which cannot be remedied without sacrificing the proper design width of the internal drive aisle. The site has been designed to maximize best access management practices with parking spaces for more frequent trip generating uses accessing Stewart Street. The five (5) parallel spaces along Junction Street will serve as storage parking for the residential uses on the upper floors of the proposed building and resulting in less frequent trip generation along the narrow street that primarily serves neighboring residential uses. Finally, the location of the parallel parking spaces along Junction Street provides an accessible route to Level 2 nonresidential tenant spaces and the accessible dwelling unit.

Case No. V14-45 Variance relief as it relates to landscaping, screening and buffering.

**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 parking areas on Stewart Street and Junction Street offer direct and easy access for pedestrians from the car to the building, as well as coherent circulation routes. An efficient means of layout has been planned to leave a functioning 10' buffer for landscaping and a sidewalk on Stewart Street, which increases aesthetics and will lessen runoff water. This arrangement greatly improves the current condition. Additional landscaping will be provided between the proposed building and the adjacent residential building in addition to the preservation of existing vegetation. Shared access to the new dumpster area will be provided to the adjacent property owner in the place that a 10' buffer would prohibit.

**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 size and placement required to establish good site flow and attractive rentable space requires the 10' buffer to be located against the street, and incorporate the sidewalk along Stewart St. Layout of the Junction Street parking spaces allows separation from the lower retail level for the residential dwellings. This parking lot is also located at an appropriate height to allow Level 2 occupants an accessible means of access.

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

This area is currently pedestrian friendly with sidewalks that connect two well-populated areas of Morgantown. The existing sidewalk along Willowdale will be protected. One new sidewalk will improve pedestrian flow along Stewart St., and will be incorporated into a 10' buffer between Stewart St. and the building which increases aesthetics and will lessen runoff water. An accessible route will be granted to Level 1 and Level 2 occupants. Two properties will have access to one dumpster. Ease of use between the parking lot and the building will be provided with walkways in lieu of landscaped termination islands. Vehicular turning radius will be improved with the use of hardscape instead of planting bed near parking space number 15.

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

With parking spaces arranged 10'-0" from Stewart St., and those along Junction, the parking number required by the uses in the building will be upheld. Additional landscape will be provided as a buffer, though not one designed for the entire length of the property division. Termination islands are near other landscape buffers that have been proposed to adhere to city code standards.

Case No. V14-46 Variance relief as it relates to "Overstore Dwelling" uses.

**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:

Providing an accessible route to the accessible dwelling unit on Level 2, which is located at or near to the grade of Junction Street, furthers fair housing choice and opportunities.

**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 proposed building will have seven (7) one-bedroom dwellings. Six of these units will be located on

Level 3. One of these units shall be accessible per Building Code and Fair Housing Act. Without the use of an elevator, this requirement may be achieved by locating it on the second level, at or near the grade with Junction Street.

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

Providing an accessible route to the accessible dwelling unit on Level 2, which is located at or near to the grade of Junction Street, furthers fair housing choice and opportunities.

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

Six one-bedroom dwellings will be located on the third level, completely above grade. One unit will be located at Level 2, near the existing grade at Junction St. This location allows for one residential dwelling to be accessible without the otherwise unreasonable expense of an elevator.

Case No. V14-47      Variance relief as it relates to dumpster enclosure.

**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:

Access to dumpster is provided at the first level, that of retail. Adjacent property owner is willing to allow the location of the dumpster on his property to encourage a good circulation pattern for the proposed project because it is considered an improvement to the neighborhood. Letter of agreement between property owners has been submitted.

**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:

Location of the dumpster in this location will promote ease of circulation within the proposed parking lot, and allow best access for waste authority vehicles and eliminates the adjoining property owner's dumpster location that appears to partially encroach into the public right-of-way of Junction Street and the petitioner's property.

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

The proposed building size, and number of parking spaces have been defined by the best use and subsequent required need of this building in this location. Tenants will appreciate a dumpster located at the level of retail business and easily accessed by residential units. The proposed location appears to enhance efficiency and safety for waste authority vehicles.

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

The adjacent owner is in agreement. Letter of Agreement between property owners has been submitted. The Board's condition that access easements, covenants, and maintenance obligations run with the affected lands and recorded with the Monongalia County Clerk ensures the longevity of the design solution.

Case No. V14-48 Variance relief as it relates to minimum width of sidewalks along Willowdale 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 sidewalk will remain as-is with the exception of the integrated truncated dome pavers at each intersection.

**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:

Improvements to the site did not include the requirement to alter the existing sidewalk.

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

The existing sidewalk will remain.

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

Additional sidewalks at the required width will be incorporated along Stewart Street frontage of the project.

Case No. V14-49 Variance relief as it relates to performance standards for cladding, configuration of cladding materials, and minimum fenestration ratio.

**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 building is located between three streets; Junction Street, Willowdale Road, and Stewart Street. The front is considered to be the elevation along Willowdale Road as per the B-1 district. The layout of the building with the required parking aligns best if the façade along Stewart Street is considered the front, which offers the best access between the parking lot and retail spaces. With this layout, the façade at the first level along Willowdale Rd. is considered the back wall. Windows have been provided to allow for maximum consideration to this variance. At levels 2 and 3 windows have been provided at a maximum to serve the interior occupants in the best capacity. Consideration of this façade as one that is facing west has also been examined to assure heat gain affecting the interior occupants is not a future problem to the owner. The proposed building facades maintain similar materials used in nearby properties.

**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 variance is in effect of multiple considerations with how to site, and access the building for best circulation in this neighborhood. Grade at this façade transitions from access at building Level 1 and Level 2, as one moves from Stewart St. to Junction St. The facades perpendicular to this side offer ease of access to the building at multiple levels, and have storefronts with double-door openings that offer increased fenestration percentages than the front façade. The proposed project contributes to a positive urban infill due to the placement of it within a walkable community, and the proposed manufactured stone on the tower elements are prominent and aesthetically pleasing.

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

Maximum fenestration at the front façade is not desirable. Due to the location of the building on site,

afternoon sun may contribute to unnecessary heat gain. At level 1, this façade is the rear retail wall. Level 2 and Level 3 offer more windows than Level 1. Manufactured stone provides easier installation and eliminated the need for special footings and support. Hardie board is low maintenance, rot resistant, insect-resistant, and highly fire-resistant.

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

While this front façade has a fenestration percentage below the requirement. Other facades at the building offer higher percentages of glazing. The building offers a combination of materials that are aesthetically pleasing, and resistant to natural conditions such as high and freezing temperatures, rain and insects.