



# MORGANTOWN BOARD OF ZONING APPEALS

December 17, 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:** V14-55 / Ntelos / 200 Hornbeck Road

### **REQUEST and LOCATION:**

Request by Rudy Hoffert of City Neon, on behalf of Ntelos, for variance relief from Article 1369 as it relates to signage at 200 Hornbeck Road.

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

Tax Map 64, Parcel 1; B-5, Shopping Center District

### **SURROUNDING ZONING:**

B-5, Shopping Center District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to erect a 37.6 square foot wall sign for *Ntelos* located at 200 Hornbeck Road. 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-5 District is determined by multiplying the storefront width in feet by 0.6. The storefront width of *Ntelos* is approximately 24 feet and the maximum area for the subject wall sign is calculated to be 14.4 square feet. As such, the proposed sign requires a 23.2 foot variance.

### **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 and 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.

Enclosures: Application and accompanying exhibits

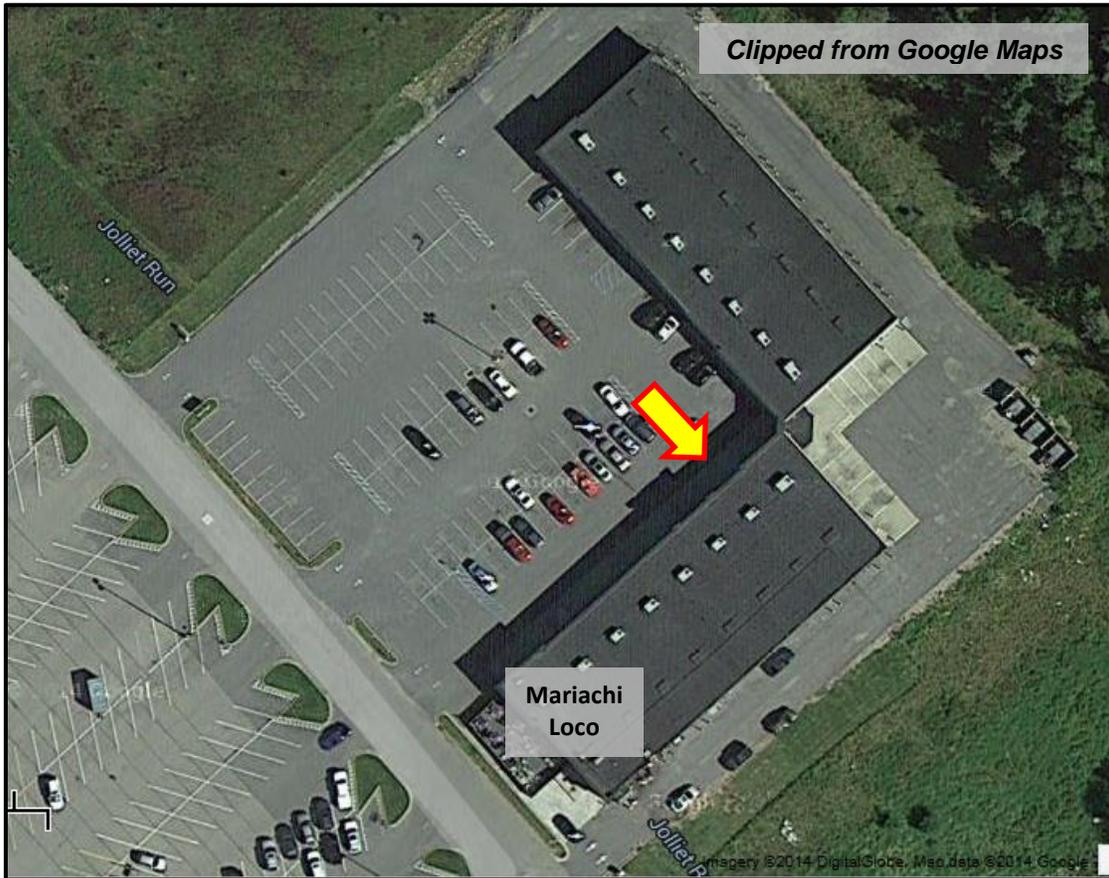
## **Development Services**

Christopher Fletcher, AICP  
Director

## **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

**STAFF REPORT ADDENDUM A**  
**V14-55 / Ntelos / 200 Hornbeck Road**



## STAFF REPORT ADDENDUM B

### V14-55 / Ntelos / 200 Hornbeck Road

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Staff recommended revisions to the petitioner's Findings of Fact responses (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:

Other business establishments in the shopping plaza and Morgantown have existing signs that are similar in size and style, which provides the type of visibility to the public for which the petitioner seeks to emulate and enjoy. The size of the proposed sign appears to be comparable in size to other but wider storefronts within the development, which do not appear to adversely impact public health, safety or welfare or property rights 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:

~~It appears that the majority of commercial signs in the shopping plaza and in the Morgantown area are nonconforming as most do not meet maximum area standards set forth in the Planning and Zoning Code.~~ It appears that the petitioner's storefront is one of the more narrow storefront widths within the subject development, which appears to place the tenant space at a commercial messaging and customer wayfinding disadvantage given the fact that maximum wall sign standards are based on storefront width rather than the architectural context of the development as a whole, the conditions of which were not created by the petitioner.

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

The sign appears to be relatively consistent with other businesses in the shopping plaza and other shopping locations throughout Morgantown.

**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 should help to promote business for the tenant and the community within the context and wall sign development pattern within the subject development.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V14-55
RECEIVED:	

OK 11/7/14

Fee: \$75

(PLEASE TYPE OR PRINT IN BLACK INK)

<b>I. APPLICANT</b>		Name:	City Neon Inc	
Mailing Address:	1095 Chaplin Road		Phone:	304-599-1852
	Street	Morgantown, WV 26501		Mobile:
	City	State	Zip	Email: signs@cityneon.com
<b>II. PROPERTY</b>		Street Address:	100 Hornbeck Road	
Owner:	1400 Weatherly Place Realty Trust		Zoning:	
Mailing Address:	49 Lexington Street, Suite 5		Tax Map No:	64
	Street	Newton, MA 02465		Parcel No:
	City	State	Zip	Phone: 617-512-7452
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).		
The variance is necessary to allow a channel letter set that will be visible from the plaza entrance.				
<b>V. ATTEST</b>		BY: _____		
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 Development Services 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.				
Rudy Hoffert				11/07/2014
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 VARIANCE PETITION

OFFICE USE table with CASE NO. 114-55 and RECEIVED:

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)

Shopping plaza

Structure Characteristics (complete only those that apply)

Total number of buildings: 1 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.



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VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>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.</p>	
<p><b>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</b></p> <p>Other business establishments in the shopping plaza and Morgantown have existing signs that are similar in size and style, which provides the type of visibility to the public for which the petitioner seeks to emulate and enjoy.</p>	
<p><b>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:</b></p> <p>It appears that the majority of commercial signs in the shopping plaza and in the Morgantown area are nonconforming as most do not meet maximum area standards set forth in the Planning and Zoning Code.</p>	



City of Morgantown, West Virginia

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**VII. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

**3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:**

The sign appears to be relatively consistent with other businesses in the shopping plaza and other shopping locations throughout Morgantown.

**4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:**

The sign should help to promote business for the tenant and the community.

V14-55

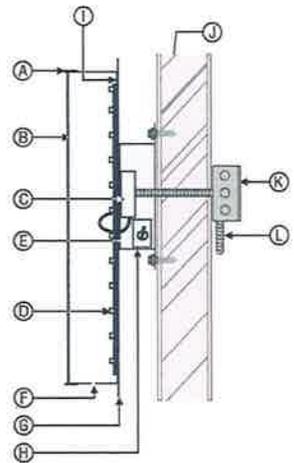
37.62 SQ. FT.



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.



A	1" TRIM CAP
B	3/16" ACRYLIC
C	12V LED POWER SUPPLY
D	WHITE LEDs
E	DISCONNECT SWITCH
F	WEEP HOLE
G	POLY-METAL BACK PANEL
H	ALUMINUM RACEWAY
I	.040 ALUM. RETURNS - 5" DEEP
J	3/8" GALVANIZED HARDWARE
K	JUNCTION BOX
L	PRIMARY ELECTRIC SOURCE



CLIENT/PROJECT  
**nTelos wireless**  
Morgantown, WV

CUSTOMER APPROVAL

FILE NAME:  
nTelos07.plt

DRAWING NO.

SCALE  
N/A

DRAWN BY:  
Rudy

DATE:  
4/21/14

SALESMAN

REVISIONS  
REV.1:  
REV.2: