



MORGANTOWN BOARD OF ZONING APPEALS

August 19, 2015
6:30 PM
City Council Chambers

Board Members:

- Leanne Cardoso, Chair
- Bill Burton, Vice-Chair
- Linda Herbst
- George Papandreas
- Jim Shaffer

STAFF REPORT

CASE NO: V15-52 / Atomic Grill / 125 Pleasant Street

REQUEST and LOCATION:

Request by Louis Giuliani, on behalf of Atomic Grill, for variance relief from Article 1369 as it relates to signage at 125 Pleasant Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 26A, Parcel 28; B-4, General Business District

SURROUNDING ZONING:

B-4, General Business District

BACKGROUND and ANALYSIS:

The petitioner seeks to erect a seven (7) square foot suspended sign for *Atomic Grill* located at 125 Pleasant Street. Addendum A of this report illustrates the location of the subject site.

The following table identifies the specific variance relief required for the proposed suspended sign.

Standard	Proposed	Requisite Variance
1369.07(G)(1) Maximum area – 6 sq. ft.	7 sq. ft.	Relief to permit sign 1 sq. ft. larger in area than maximum standard
1369.07(G)(2) Sign may not be separately illuminated	Internally illuminated	Relief to permit illumination
1369.08(B)(1) Sign face must be opaque	Portion of sign face is transparent	Relief to permit portion of sign face to be transparent
1369.08(B)(2) Sign may not be internally illuminated	Portion of sign face is internally illuminated	Relief to permit internal illumination.
1369.08(B)(3) Sign materials may only be made of wood; sculpted “sign foam”; ornamental metals such as bronze, brass, copper, etc.; painted aluminum panels, stone or masonry	Portion of sign face include transparent polymer material	Relief to permit the use of polymer material(s)

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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The petitioner's proposed sign plan was sent via email to the Downtown Design Review Committee members on 31 JUL 2015 for consultation. All comments received were in the affirmative and are attached hereto for the Board's record.

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).

As is typically performed for sign variance petitions, no recommendation is submitted by Staff concerning whether or not variance relief should be granted. However, should the Board decide to grant variance relief, Staff does not recommend conditions be included with variance approval.

Enclosures: Application and accompanying exhibits

Development Services

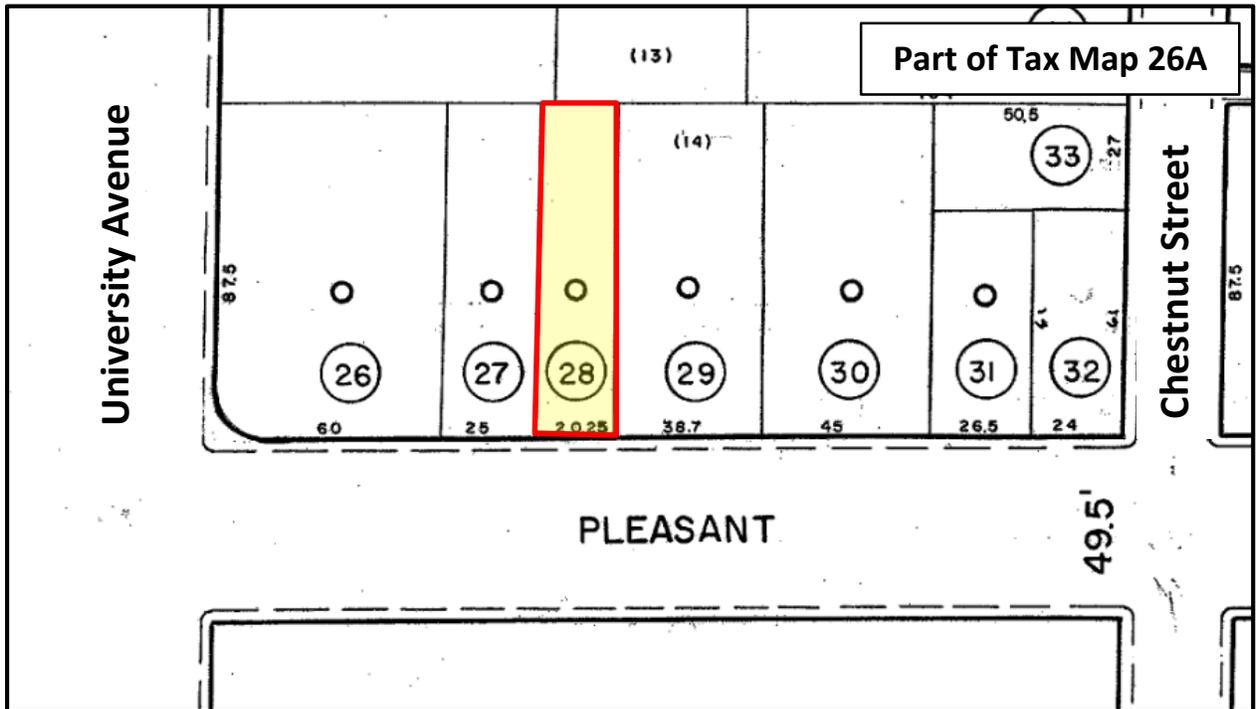
Christopher Fletcher, AICP
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STAFF REPORT ADDENDUM A
V15-52 / Atomic Grill / 125 Pleasant Street





STAFF REPORT ADDENDUM B

V15-52 / Atomic Grill / 125 Pleasant Street

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).

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 nature of the variance requested by the petitioner does not appear to harm public health, safety or welfare nor does it appear to present a detriment to the rights of adjacent properties. Similar suspended signs exist within the B-4 District, some of which of similar variance relief from the Board. The sign will only appears to compliment the extensive improvements that have already been made on this Pleasant Street block.

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 sign is a pre-existing sign being repurposed for use at the subject location. The sign appears to fits the theme of the business and is unique but appears to fits with the art deco ~~motif~~ design of building architecture, which members of the Downtown Design Review Committee did not object to.

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

According to the petitioner, the sign is being repurposed, which appears to fits with the character of the streetscape and the businesses that exist on this Pleasant Street block.

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

Similar variance relief has been granted for a number of suspended signs within the B-4 District since January 2006 when the present sign regulates were enacted.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V15-52
RECEIVED:	
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

DK 9925

PAID BY JUL 17 2015

I. APPLICANT		Name:	123 / Atomic -	
Mailing Address:	Street	123 Pleasant St	Phone:	304-288-3308
	City	Mgtn WV 26505	Mobile:	
	State		Zip	
		Email:	123pleasantstreet@gmail.com	

II. PROPERTY		Street Address:	125 Pleasant St	
Owner:	Berick Row LLC / Louis Giuliani		Zoning:	
Mailing Address:	Street	125 Pleasant St	Tax Map No:	
	City	Mgtn WV 26505	Parcel No:	
	State		Zip	
		Phone:	304 288 3308	

III. NARRATIVE	Please describe the nature and extent of your variance request(s).
<p>Applicant is requesting use of of existing sign. Sign is to be hung on 125 pleasant st. Sign is slightly larger than what is permitted what is permitted and is internally lit. Applicant is requesting variances for said sign.</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>		
Louis Giuliani		7/15/15
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.	V15-52
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 sign is a pre-existing sign being repurposed for use at location. The sign fits the theme of business and is unique but fits with Act Deed Motiff of Building Architecture.

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:

1) size of sign is slightly larger than written code.
2) interior illumination
3) materials

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 sign will only compliment the extensive improvements that have already been made ~~to~~^{on} this Pleasant St. block.

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 fits with the character of the street and the businesses that exist on this block



APPLICATION FOR ZONING VARIANCE

OFFICE USE
CASE NO. V15-52
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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: 1 Gross floor area of each building:
Estimated number of employees: 6 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.

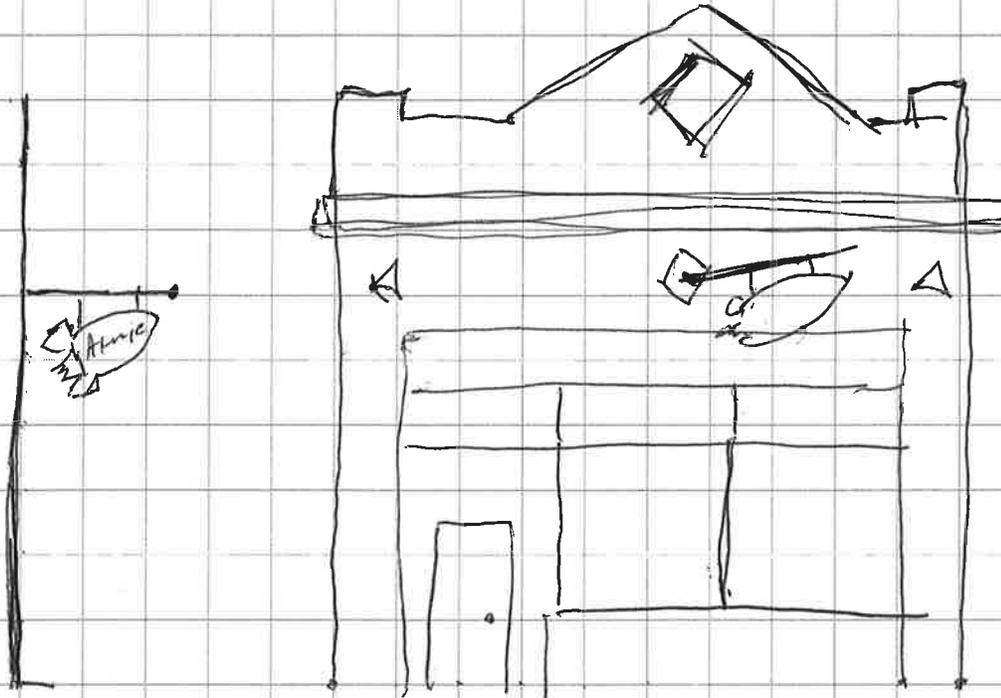
V15-52

RECEIVED:

COMPLETE:

Suggested Scale: 1 square = 5'

□ = 2ft



City of Morgantown Application for Sign Permit

P

A separate application must be completed for EACH proposed Sign

Application Date <u>7/1/15</u>	Type of Sign: <input type="checkbox"/> Awning <input type="checkbox"/> Changeable Copy <input type="checkbox"/> Construction <input type="checkbox"/> Directional <input type="checkbox"/> Directory <input type="checkbox"/> Marquee <input type="checkbox"/> Menu Board <input type="checkbox"/> Monument <input type="checkbox"/> Portable <input type="checkbox"/> Post & Panel <input type="checkbox"/> Projecting <input type="checkbox"/> Pylon/Pole <input type="checkbox"/> Roof <input type="checkbox"/> Sandwich Board <input type="checkbox"/> Scrolling Message <input type="checkbox"/> Suspended <input type="checkbox"/> Wall <input type="checkbox"/> Window <input type="checkbox"/> Other	Is Applicant Owner? <input type="checkbox"/> Yes <input type="checkbox"/> No
Office Use Case # _____ Received _____ Complete _____	Sign to Advertise: _____	

PROPERTY INFORMATION:

Street address: 125 Pleasant St Map# 26A Parcel# 28 Ward 3 Zoning B-4

PROPERTY OWNER INFORMATION:

Name: Louis Giuliani Business name: 123 Pleasant St
 Address: 123 Pleasant St Phone: 304.208.3308
 Email: 123pleasantstreet@gmail.com property owner contractor

CONTRACTOR INFORMATION:

TYPE:	Contractors Business Name	City License Number
General Contractor	ASDA	
Sign Contractor		
Excavation		
Concrete		
Carpentry		
Electrical		
Roofing		
Masonry		

Est. value of building \$ 500⁰⁰

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the code official or the code official's authorized representative shall have the authority to enter areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to this permit.

SIGNATURE OF APPLICANT: [Signature] ADDRESS OF APPLICANT: 56 Magn Lake Rd PHONE: 304-208-3308
 PRINT NAME: Louis Giuliani

In consideration of the premises and the advertising that will accrue to the undersigned owner of said property, on behalf of myself, heirs, and assigns, I do hereby agree to save the City of Morgantown harmless from any and all damages which may arise from or grow out of the erection and maintenance of said sign or structure.

SIGNATURE OF PROPERTY OWNER: [Signature] ADDRESS OF APPLICANT: --- PHONE: 304-208-3308
 PRINT NAME: _____

Detailed Description of Work to be Done:

• Installing Sign to front of building
Sign Approx. 2' x 4' - Shadow box design. ^{Approx} 25 lbs

Detailed Description of Materials to be Used:

- Ladder, Refurbish hanging hardware

ILLUMINATION:

Internally Externally None

PLEASE DESCRIBE: Shadow Box

SIGN DIMENSIONS:

Height 2 ft Width 3.5 ft Area 7 sq ft

STRUCTURE DIMENSIONS:

Height _____ ft Width _____ ft

DISTANCE from BUILDING (if applicable): 2ft ft

HEIGHT above SIDEWALK (if applicable): 15ft ft

*The following information must be submitted with this application:

- Photographic illustration of existing conditions
- Rendering of the sign showing the dimensions
- Photographic illustration of proposed conditions
- Site Plan drawn to scale, if sign is not affixed to existing building
- A copy of the applicant's liability insurance naming the City as coinsured

OFFICE USE ONLY

APPROVALS:

Engineering Department Approval Notes:

Signature of person reviewing: _____

DATE

Planning Department Approval Notes:

Signature of person reviewing: _____

DATE

Code Enforcement Approval Notes:

Signature of person reviewing: _____

DATE

Fire Department Approval Notes:

Signature of person reviewing: _____

VALIDATION:

Permit Number: REP/REM RES-201500000861	Fee \$35.00
Electrical:	Fee
Sign:	Fee 17.00
Grading:	Fee
Stop Work Order:	Fee

Application Accepted and Processed By: _____

Total Fee	
-----------	--

Approved By: _____

DATE

Signature of Person Picking Up Building Permit: _____

DATE

Print Name of Person Picking up Permit: _____

ATOMIC

Stacy Hollar

From: Bill <wm_a_kawecki@comcast.net>
Sent: Friday, July 31, 2015 6:55 PM
To: Stacy Hollar
Cc: Carubia, Bob; Merandi, Coni; Mills, Michael; morgantowncellar@yahoo.com; Anderson, Tom; William Kawecki (C.C. Ward 2)
Subject: Re: Atomic Grill Sign - Please review

I have no objection to the design and kudos for the well considered development of those Pleasant Street properties. "Slightly larger " is how much larger? I trust that the sign will not interfere with pedestrian or vehicular traffic.

From: "Stacy Hollar" <shollar@morgantownwv.gov>
To: bobcard33@gmail.com, conianfranc@hotmail.com, mmills@millsgroup.biz, morgantowncellar@yahoo.com, tom@alleghenyrestoration.com, "William Kawecki (C.C. Ward 2)" <wkawecki@morgantownwv.gov>
Sent: Friday, July 31, 2015 10:27:59 AM
Subject: Atomic Grill Sign - Please review

Good morning,

Please see the attached application for a suspended sign proposed for Atomic Grill at 125 Pleasant Street. Please provide any comments and/or suggestions you may have.

Thank you.

*Stacy Hollar
Executive Secretary
Development Services Department
304-284-7431*

Stacy Hollar

From: connie merandi <coniandfranc@hotmail.com>
Sent: Saturday, August 01, 2015 3:25 PM
To: Stacy Hollar; bob carubia; Michael Mills; morgantowncellar@yahoo.com; tom sign facade committee; William Kawecki (C.C. Ward 2)
Subject: RE: Atomic Grill Sign - Please review

Hello All,

I think it is a great sign with character and compliments the property and the street scapes.

Connie

From: shollar@morgantownwv.gov
To: bobcard33@gmail.com; coniandfranc@hotmail.com; mmills@millsgroup.biz; morgantowncellar@yahoo.com; tom@alleghenyrestoration.com; wkawecki@morgantownwv.gov
Subject: Atomic Grill Sign - Please review
Date: Fri, 31 Jul 2015 14:27:59 +0000

Good morning,

Please see the attached application for a suspended sign proposed for Atomic Grill at 125 Pleasant Street. Please provide any comments and/or suggestions you may have.

Thank you.

Stacy Hollar
Executive Secretary
Development Services Department
304-284-7431

Stacy Hollar

From: Michael Mills <mmills@millsgrouponline.com>
Sent: Saturday, August 01, 2015 5:31 PM
To: connie merandi; Stacy Hollar; bob carubia; morgantowncellar@yahoo.com; tom sign facade committee; William Kawecki (C.C. Ward 2)
Subject: RE: Atomic Grill Sign - Please review

All:
I am fine with the proposal.

Michael

From: connie merandi [mailto:coniandfranc@hotmail.com]
Sent: Saturday, August 01, 2015 3:25 PM
To: Stacy Hollar; bob carubia; Michael Mills; morgantowncellar@yahoo.com; tom sign facade committee; William Kawecki C.C. Ward 2
Subject: RE: Atomic Grill Sign - Please review

Hello All,

I think it is a great sign with character and compliments the property and the street scapes.

Connie

From: shollar@morgantownwv.gov
To: bobcard33@gmail.com; coniandfranc@hotmail.com; mmills@millsgroup.biz;
morgantowncellar@yahoo.com; tom@allegHENYrestoration.com; wkawecki@morgantownwv.gov
Subject: Atomic Grill Sign - Please review
Date: Fri, 31 Jul 2015 14:27:59 +0000

Good morning,

Please see the attached application for a suspended sign proposed for Atomic Grill at 125 Pleasant Street. Please provide any comments and/or suggestions you may have.

Thank you.

Stacy Hollar
Executive Secretary
Development Services Department
304-284-7431

Stacy Hollar

From: Cellar <morgantowncellar@yahoo.com>
Sent: Wednesday, August 05, 2015 1:07 PM
To: Stacy Hollar
Subject: Re: Atomic Grill Sign - Please review

I'm fine with it

Sent from my iPhone

On Jul 31, 2015, at 10:27 AM, Stacy Hollar <shollar@morgantownwv.gov> wrote:

Good morning,

Please see the attached application for a suspended sign proposed for Atomic Grill at 125 Pleasant Street. Please provide any comments and/or suggestions you may have.

Thank you.

*Stacy Hollar
Executive Secretary
Development Services Department
304-284-7431*

<V15-52_Scanned-Application.pdf>