



# MORGANTOWN BOARD OF ZONING APPEALS

August 17, 2016  
 6:30 PM  
 City Council Chambers

**Board Members:**

- Bill Burton,  
Chair
- George Papandreas,  
Vice Chair
- Linda Herbst
- Jim Shaffer
- Colin Wattleworth

## STAFF REPORT

**CASE NO:** V16-23 / Vapor Hut, LLC / 250 Retail Circle Suite 201

**REQUEST and LOCATION:**

Request by William Watson, on behalf of Vapor Hut, LLC, for variance relief from Article 1369 concerning signage at 250 Retail Circle Suite 201.

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

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

**SURROUNDING ZONING:**

North, South, and West: B-5, Shopping Center District  
 East: Unincorporated areas of Monongalia County

**BACKGROUND and ANALYSIS:**

The petitioner has erected one (1) electronic scrolling message wall sign at the Vapor Hut location at 250 Retail Circle, Suite 201 prior to the issuance of a building permit. Addendum A of this report illustrates the location of the subject site.

The following table illustrates the subject sign along with the sign's area.

Proposed Sign (not illustrated to scale)	Proposed Area
	19.8 sq. ft.
<b>Total Proposed Area</b>	<b>19.8 sq. ft.</b>

**Development Services**

Christopher Fletcher, AICP  
 Director

John Whitmore, AICP  
 Planner III

389 Spruce Street  
 Morgantown, WV 26505  
 304.284.7431



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Article 1369.07(l)(1) provides a maximum area standard of six tenths (0.6) square foot for every one (1) foot of tenant building frontage in the B-5 Zoning District. The tenant's store frontage is eleven (11) linear feet +/-, which establishes a maximum wall sign area standard of 6.6 square feet. As such, variance relief of 13.2 square feet is required for the erected electronic scrolling message wall sign.

### **STAFF RECOMMENDATION:**

It is the duty of the Board of Zoning Appeals to 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 petitioner. If the Board disagrees with the petitioner's "Findings of Fact" and determines the proposed request does not meet the standard criteria for a variance, then the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject variance petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Addendum B of this report provides Staff recommended revisions to the Findings of Fact responses submitted by the petitioner. Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's responses (deleted matter struck through; new matter underlined).

As is customary with sign variance petitions, no recommendation is submitted by Staff concerning whether or not variance relief should be granted.

Enclosures: Application and accompanying exhibits

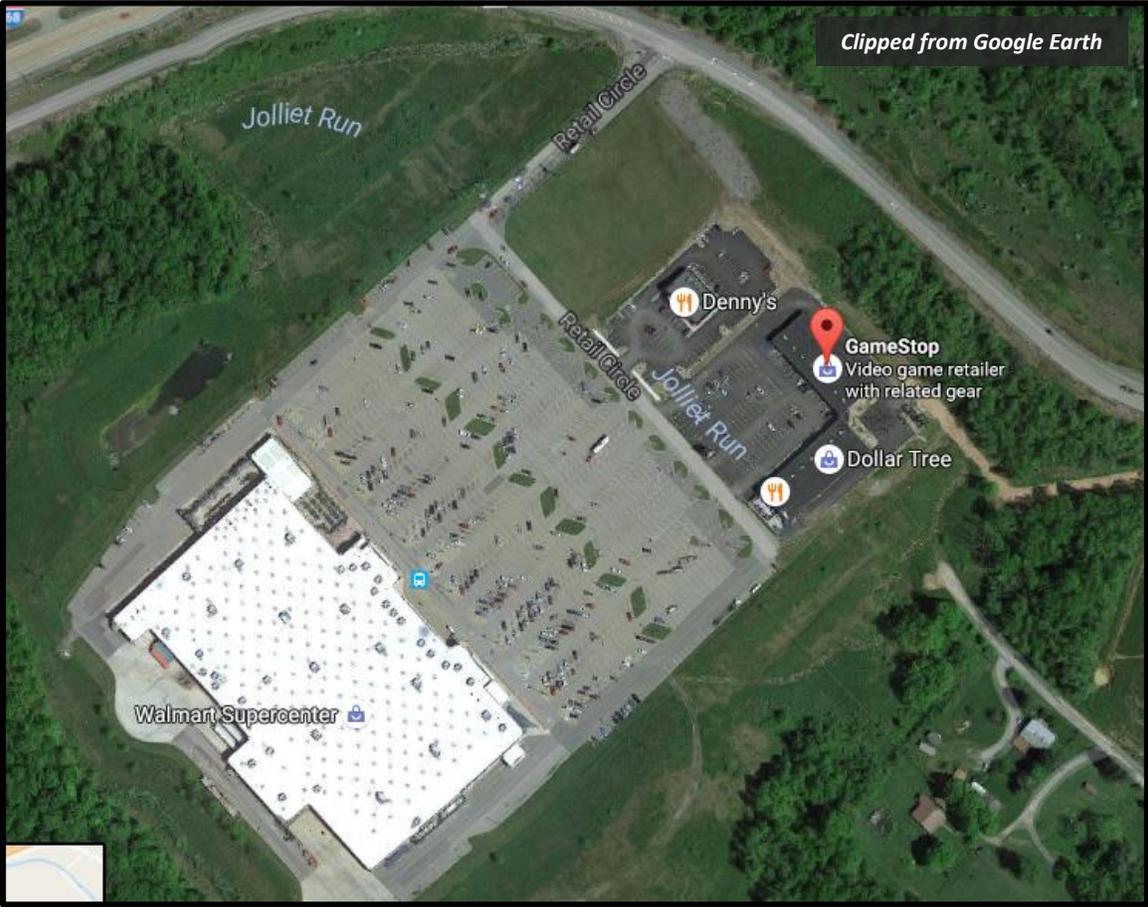
### **Development Services**

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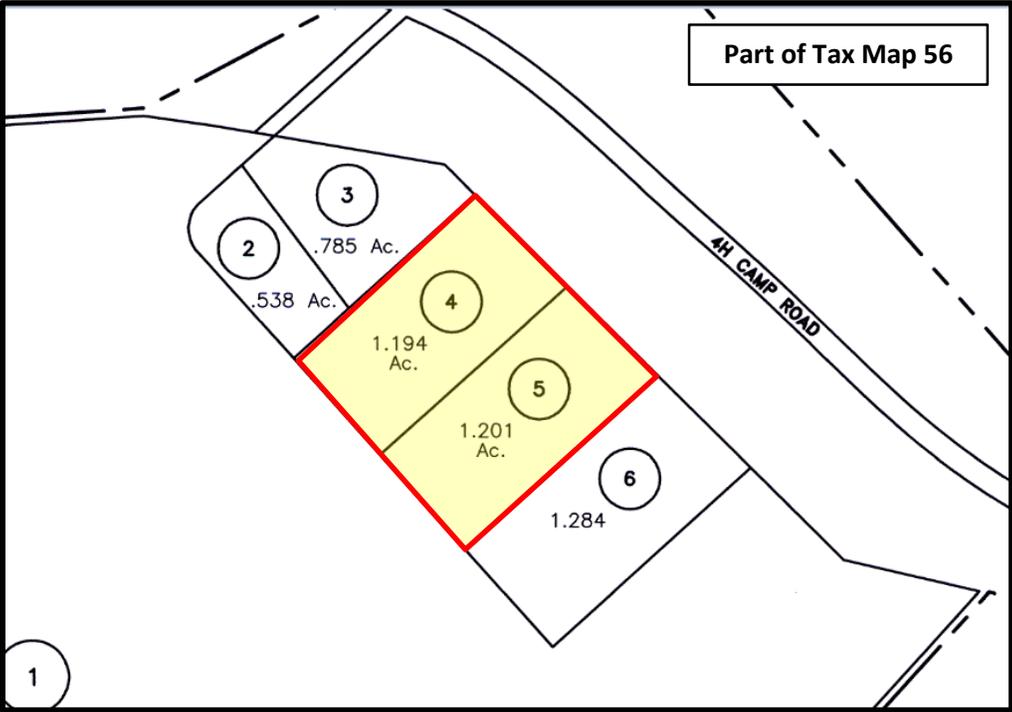
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**STAFF REPORT ADDENDUM A**  
**V16-23 / The Vapor Hut, LLC / 250 Retail Circle**



**STAFF REPORT ADDENDUM A**  
**V16-23 / The Vapor Hut, LLC / 250 Retail Circle**



## STAFF REPORT ADDENDUM B

### V16-23 / The Vapor Hut, LLC / 250 Retail Circle

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Staff recommends the following revisions to the petitioner's Findings of Fact responses (deleted matter struck through; new matter underlined). Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's responses

**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:

~~Our location is~~ The business is located in a retail park, where only similar businesses and shopping locations exist, with similarly or greater sized signage.

**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:

~~We are a smaller, locally owned company~~ The tenant is moving into an area where much larger businesses and companies already exist. The sign we seek to have approved is slightly larger than ordinance but will look better and more in place next to larger companies such as Dollar Tree, Wal-Mart, and Gamestop.

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

While the sign ~~we seek to have approved~~ is slightly larger than permitted, it would still be one of the smallest signs in the plaza, smaller even than some existing signs on suites of the same size. In addition to this, ~~our~~ the tenant's suite is the corner suite and has the least visibility from the road and parking lot.

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

The proposed sign will give ~~us~~ the tenant a better chance to attract customers and business, will better match the current aesthetic of the retail park, and still remain modestly sized in comparison to existing signs.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	Ville-23
RECEIVED:	

ell 2011

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

<b>I. APPLICANT</b>		Name:	The Vapor Hut, LLC			
Mailing Address:	Street	250 Retail Circle Suite 201			Phone:	304 292 4969
	City	Morgantown	State	WV	Zip	26508
					Mobile:	301 501 6598
					Email:	Owners@vaphut.net
<b>II. PROPERTY</b>		Street Address:				
Owner:	Michael Scarnio			Zoning:	B-5	
Mailing Address:	Street	16897 Pavilion Way			Tax Map No:	W4
	City	Delray Beach	State	FL	Zip	33446
					Parcel No:	001
					Phone:	
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).				
<p>Our request is to be permitted a sign for our business that is 4 sq feet larger than permitted by the ordinance code.</p>						
<b>V. ATTEST</b>						
<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 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.</p>						
William Watson					06/29/16	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent			Date	

PAID JUN 28 2016 PAID

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. V116-23 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)

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



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	Vile-23
RECEIVED:	

**VII. FINDINGS OF FACT**      COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

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. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Our location is in a retail park, where only similar businesses and shopping locations exist.

**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:**

We are a smaller, locally owned company moving into an area where much larger businesses and companies already exist. The sign we seek to have approved is slightly larger than ordinance but will look better and more in place next to larger companies such as Dollar Tree, Wal-Mart, and GameStop.



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V116-23
RECEIVED:	

**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:

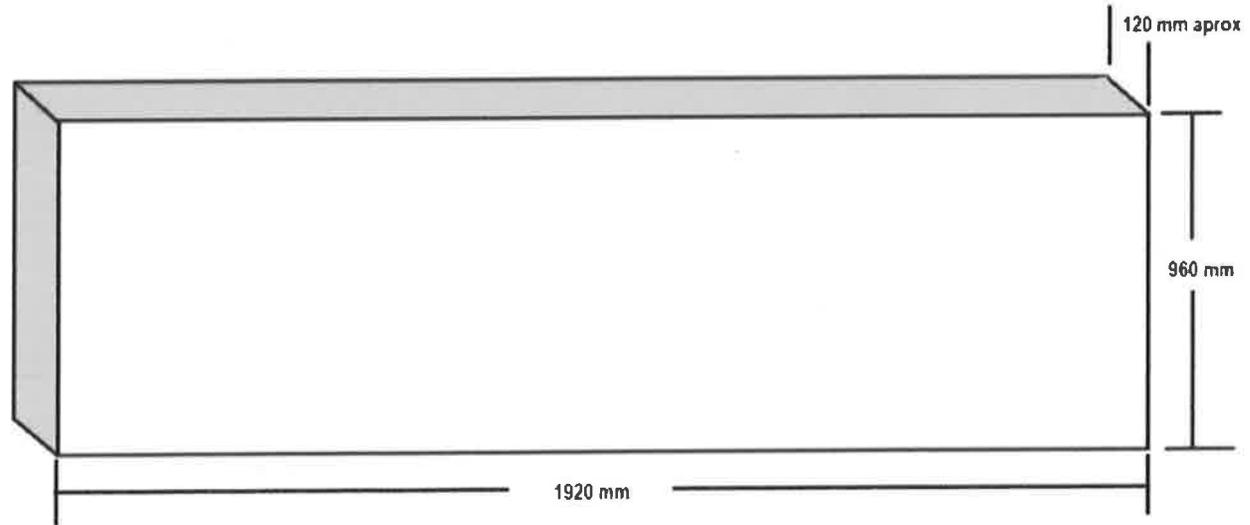
While the sign we seek to have approved is slightly larger than permitted, it would still be one of the smallest signs in the plaza, smaller even than some existing signs on suites of the same size. In addition to this, our suite is the corner suite and has the least visibility from the road and parking lot.

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

The proposed sign will give us a better chance to attract customers and business, will better match the current aesthetic of the retail park, and still remain modestly sized in comparison to existing signs.

V16-23

Dimensions



V16-23



