



# MORGANTOWN BOARD OF ZONING APPEALS

November 16, 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:** V16-37 / Maverick's, LLC / 275 Don Knotts Boulevard

### **REQUEST and LOCATION:**

Request by Crystal Miller of City Neon, on behalf of Maverick's Hot Spot No. 1, for variance relief from Article 1369 concerning signage at 275 Don Knotts Boulevard.

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

Tax Map 39, Parcel 41.1; I-1, Industrial District

### **SURROUNDING ZONING:**

North, South, and West: I-1, Industrial District  
East: R-1A, Single-Family Residential District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to erect one (1) wall sign for the *Mavericks* tenant located at 275 Don Knotts Boulevard. Addendum A of this report illustrates the location of the subject site.

The following table provides an illustration clipped from the petitioner's application documents along with the respective sign area. The dimensions illustrated below are the measurements corrected by the petitioner.

Proposed Sign	Proposed Area
	26.96 sq. ft.
<b>Total Proposed Wall Sign Area</b>	<b>26.96 sq. ft.</b>

Article 1369.09(D)(2) provides a maximum area standard of six tenths (0.6) square foot for every one (1) foot of tenant building frontage in the I-1 Zoning District. The linear width of the tenant's frontage is twenty-five (25) linear feet +/-, which establishes a maximum wall sign area standard of fifteen (15) square feet. **As such, variance relief of 11.96 square feet is required for the wall sign as proposed.**

While similar nonconforming signage is currently on site, this application is being processed out of an abundance of caution due to the type of existing nonconformities (roof top "Mavericks" signage) with the subject establishment.

### **Development Services**

Christopher Fletcher, AICP  
Director

John Whitmore, AICP  
Planner III

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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### **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 (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.

Please note the applicant included in the variance application narrative a request for relief to provide internal illumination for the proposed sign. Article 1369.08(A)(1) permits internally illuminated signs by-right in the I-1 District. As such, variance relief concerning internal illumination is not required. Findings of Fact responses relating to illumination have been struck in Addendum B.

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**

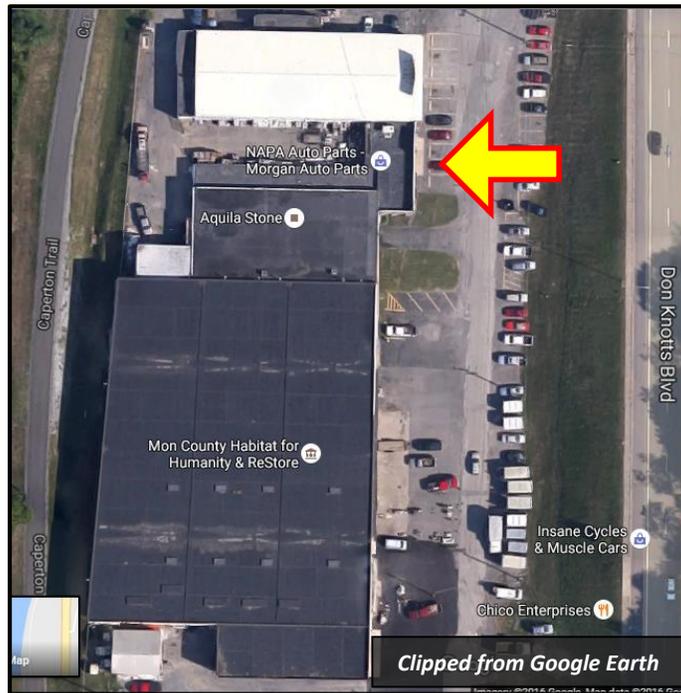
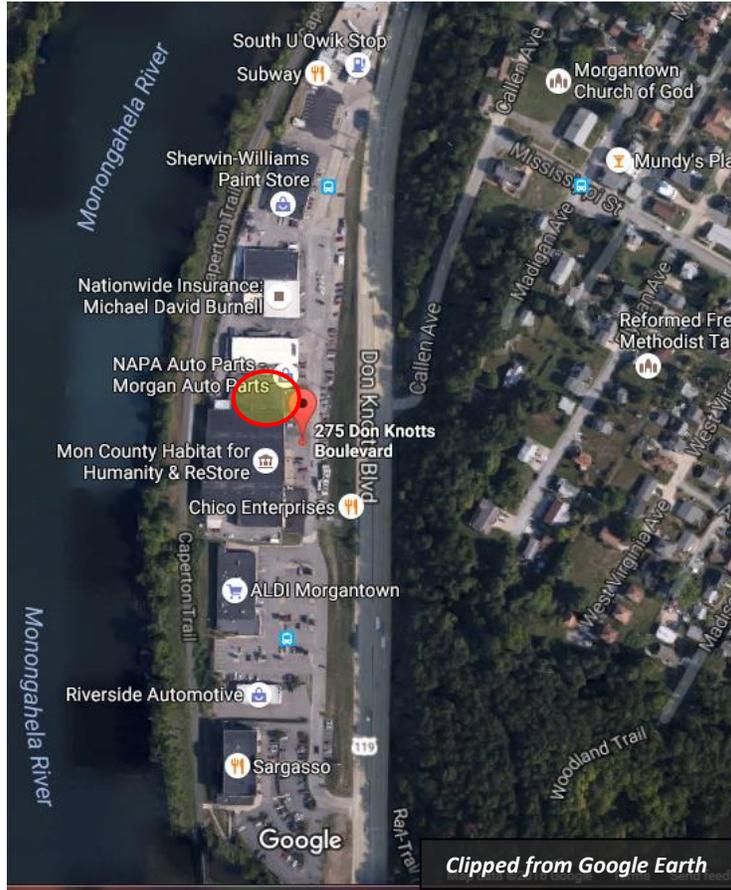
Christopher Fletcher, AICP  
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# STAFF REPORT ADDENDUM A

V16-37 / Maverick's Hot Spot No. 1 / 275 Don Knotts Blvd.

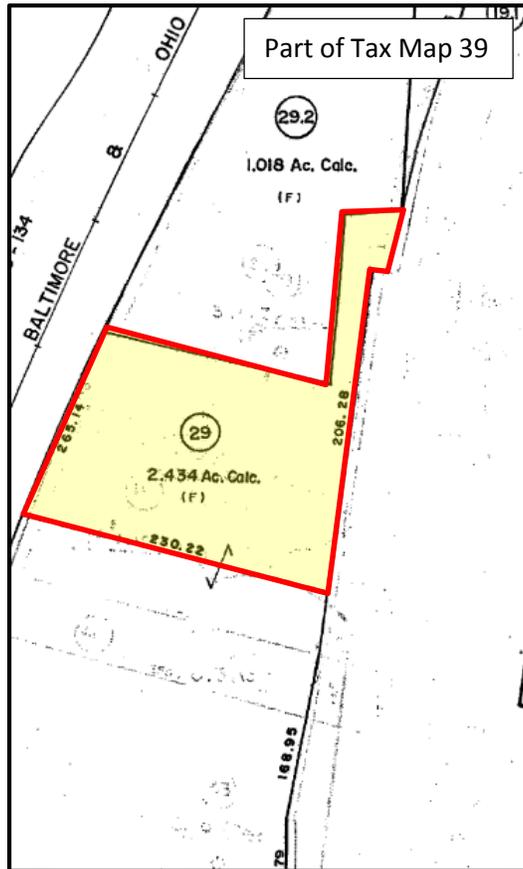


# STAFF REPORT ADDENDUM A

V16-37 / Maverick's Hot Spot No. 1 / 275 Don Knotts Blvd.



Clipped from Google Earth



## STAFF REPORT ADDENDUM B

### V16-37 / Maverick's Hot Spot No. 1 / 275 Don Knotts Blvd.

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

The outlying area is located in the Industrial District of Morgantown located on Don Knotts Blvd/US 119. It is tucked away from nearby residential districts. The proposed signage will not encroach upon any other property or have any harmful effect on residents of Morgantown.

**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 property sits below the height of the roadway. This makes it difficult to spot the business when traveling at a speed of 50mph. With traffic in the southbound lanes, it is nearly "invisible" from the northbound lanes. ~~This stretch of roadway tends to be very dark so having the tenant sign, located at the entrance of the plaza, illuminated will help draw in customers during night hours.~~

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

With larger signage, potential customers will be able to see the business. ~~In terms of the tenant sign, illumination will guide them to the entrance of the plaza and to the business.~~

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

The business will continue to prosper with new signage that reflects the new ownership and management of the establishment.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V116-37
RECEIVED:	06 OCT 16

(PLEASE TYPE OR PRINT IN BLACK INK)

CK 24568  
Fee: \$75

<b>I. APPLICANT</b>		Name: City Neon, Inc. - Crystal Miller	
Mailing Address:	PO Box 40		Phone: 304-599-1854
	Street	Morgantown, WV 26507	Mobile: 304-322-7057
	City	State Zip	Email: crystal@cityneon.com
<b>II. PROPERTY</b>		Street Address: Mavericks - 275 Don Knotts Blvd <i>Mavericks Hot Spot No. 1</i>	
Owner:	August Realty, LLC. - Sam Chico III		Zoning: IND
Mailing Address:	281 Don Knotts Blvd		Tax Map No: 39
	Street	Morgantown, WV 26501	Parcel No: 29
	City	State Zip	Phone: 304-292-5480
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).	
<p>Mavericks is seeking relief from the current city code for its wall signage. City Code allows 15 sq. ft. for this section of building which is 25 ft. in length. The new owner is asking for 57.4 sq. ft. of relief. Proposed wall signage is 72.4 sq. ft.</p> <p>The new owner of the establishment would also like relief from the City Code for the tenant sign to have an illuminated panel because there are several buildings in the plaza many of the businesses do not have evening hours as this one does.</p>			
<p><i>Variance not requested for illuminated sign permitted in I-1 District</i></p>			
<b>V. ATTEST</b>		PAID PAID PAID OCT 06 2016	
<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>			
Crystal Miller		<i>Crystal Miller</i>	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	
		Date	
		10/5/16	

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

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## 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**

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**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:**

The outlying area is located in the Industrial district of Morgantown located on Don Knotts Blvd/US 119. It is tucked away from nearby residential districts. The proposed signage will not encroach upon any other property or have any harmful effect on the residents of Morgantown.

**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 property sits below the height of the roadway. This makes it difficult to spot the business when traveling at a speed of 50mph. With traffic in the southbound lanes, it is nearly "invisible" from the northbound lanes.

This stretch of roadway tends to be very dark so having the tenant sign, located at the entrance of the plaza, illuminated will help draw in customers during night hours.



**APPLICATION FOR  
VARIANCE PETITION**

OFFICE USE	
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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:**

With larger signage, potential customers will be able to see the business.

In terms of the tenant sign, illumination will guide them to the entrance of the plaza and to the business.

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

The business will continue to prosper with new signage that reflects the new ownership and management of the establishment.

V16-37

Aerial view of the Site



Imagery ©2016 Google, Map data ©2016 Google 50 ft

Red box is Mavericks

Blue Box is the Plaza Tenant Sign

V16-37

View from the southbound lanes.



Image capture: Sep 2012 © 2016 Google

View from the northbound lanes (without traffic).



Image capture: Nov 2012 © 2016 Google

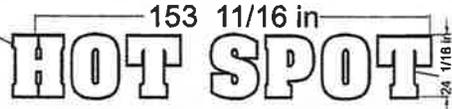
SIGNAGE

The total cost of the artwork used in the preparation of this estimate by our professional graphic arts department is included in the cost of this project based upon the artwork as shown below. Any changes or edits made in this artwork at customer's request will result in additional charges.

V16-37

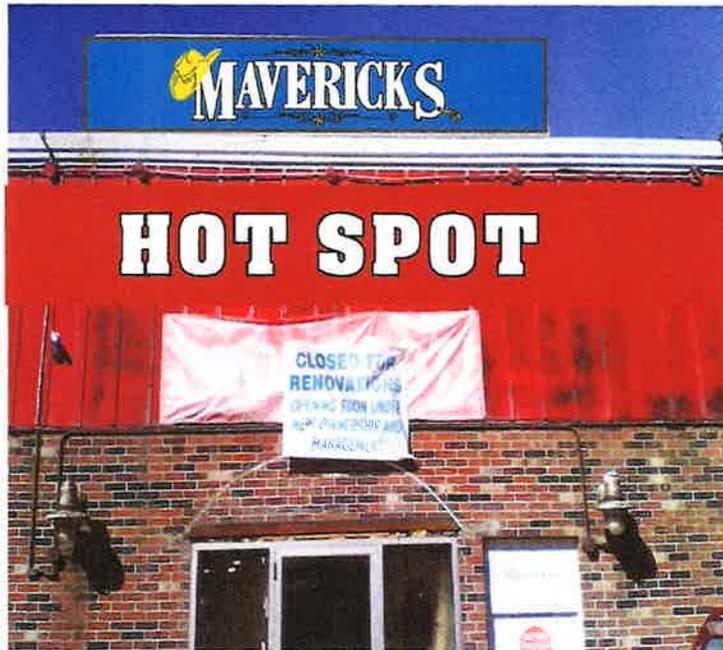


LETTERS TO BE FLUSHMOUNTED TO EXISTING FACADE OR MOUNTED ON ALL THREADS WITH STANDOFFS TO SHOW DIMENSIONALITY (WHATEVER CLIENT REQUESTS)

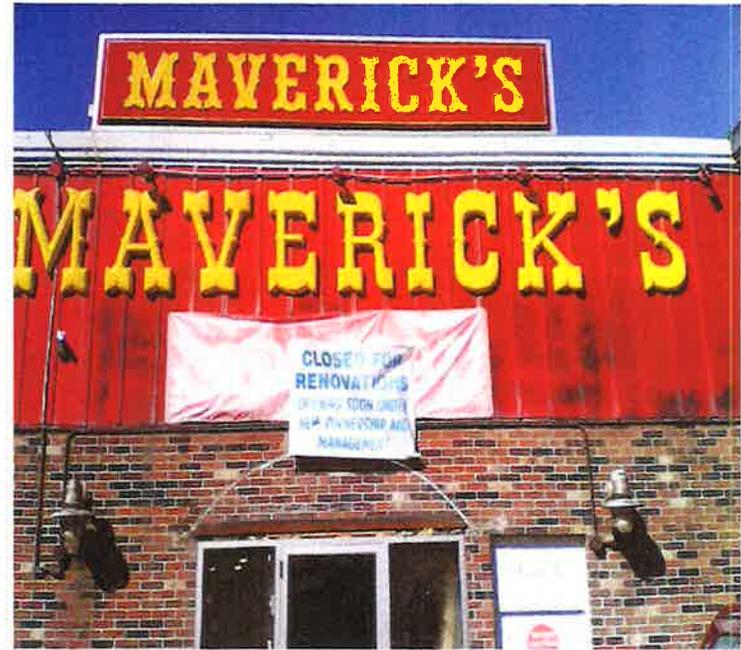


CHANGEOVER TO CABINET FROM FLOURESCENT TO LED

24" GEMINI PLASTIC FORM LETTERS TO REPLACE EXISTING 36" PLASTIC FORM LETTERS ON THE BUILDINGS FACADE



**Proposed Signage**



**Current Signage**



1095 Chapin Hill Road  
Morgantown, WV 26501  
Phone: 304-699-1854  
Fax: 304-699-6852

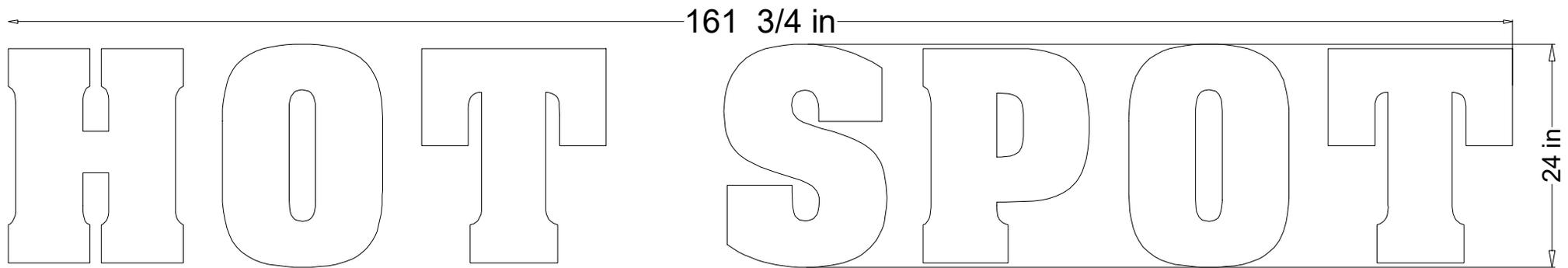
PROJECT

**MAVERICKS**

PRODUCTION WILL NOT BEGIN UNTIL SIGNED APPROVAL IS RECEIVED

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ELEMENT: **signage changeover** LOCATION: **Donn Knotts, Morgantown WV** DATE: **9/24/2016** APPROVAL:



DONN KNOTTS GEMINI LETTERS 24" TALL