



MORGANTOWN BOARD OF ZONING APPEALS

December 14, 2016
6:30 PM
City Council Chambers

Board Members:

Bill Burton,
Chair

George Papandreas,
Vice Chair

Linda Herbst

Jim Shaffer

Colin Wattleworth

COMBINED STAFF REPORT

CASE NO: V16-43 / MGA Enterprises, LLC / 1505 Earl Core Road
V16-44 / MGA Enterprises, LLC / 1397 Greenbag Road

REQUEST and LOCATION:

Request by Garrett Richard of MGA Enterprises, LLC, on behalf of Sabraton Sudz, for variance relief from Article 1369 concerning signage at two adjacent Sabraton Sudz locations at 1505 Earl Core Road and 1397 Greenbag Road.

TAX MAP NUMBER(s) and ZONING DESIGNATION:

1505 Earl Core Road: Tax Map 31, Parcel 106; B-5, Shopping Center District
1397 Greenbag Road: Tax Map 31, Parcel 101.9; B-2, Service Business District

SURROUNDING ZONING:

North and West: B-5, Shopping Center District and B-2, Service Business District
East: B-2, Service Business District
South: I-1, Industrial District.

BACKGROUND and ANALYSIS:

The petitioner operates two (2) separate *Sabraton Sudz* facilities, that are in close proximity to one another, with one accessed from Earl Core Road and the other accessed from Greenbag Road. The two (2) subject sites are separated by Decker's Creek Trail with no vehicular access between the sites. Addendum A of this report illustrates the locations of the subject sites.

The petitioner seeks to change signage on both sites to coincide with equipment, cleaning solutions, and service upgrades at both locations. Each location has two (2) automatic "touchless" wash bays. Monument signs, with dimensions of 8-foot tall by 4-foot wide, are proposed at each of the wash bays, which are designed to communicate to users of each wash bay.

Article 1369.07(E)(1) provides a maximum height of six (6) feet for monument signs. The proposed signs are eight (8) feet in height, which requires a two (2) foot height variance for each monument sign at both sites.

Additionally, Article 1369.07(E)(3) provides a maximum of one (1) monument sign per principal entrance to a single-occupant property. As such, variance relief is required to permit more than one monument sign at both single-occupant site.

Because the subject sites are situated on separate parcels, Staff required two (2) separate variance application submissions:

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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- Case No. V16-43 – 1505 Earl Core Road location [Tax Map 31, Parcel 106].
- Case No. V16-44 – 1397 Greenbag Road location [Tax Map 31, Parcel 101.9].

Staff recommends that the Board, without objection from members of the Board, the petitioner, or the public, combine the public hearings for the two (2) variance petitions addressed herein. However, each respective petition must be considered and acted upon by the Board separately.

STAFF RECOMMENDATION:

It is the duty of the Board of Zoning Appeals to determine whether the proposed requests meet 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 one or both of the proposed requests 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 one or both of the subject variance petitions. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Again, each variance petition must be considered and acted upon by the Board separately. Addendum B of this report provides 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.

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
Director

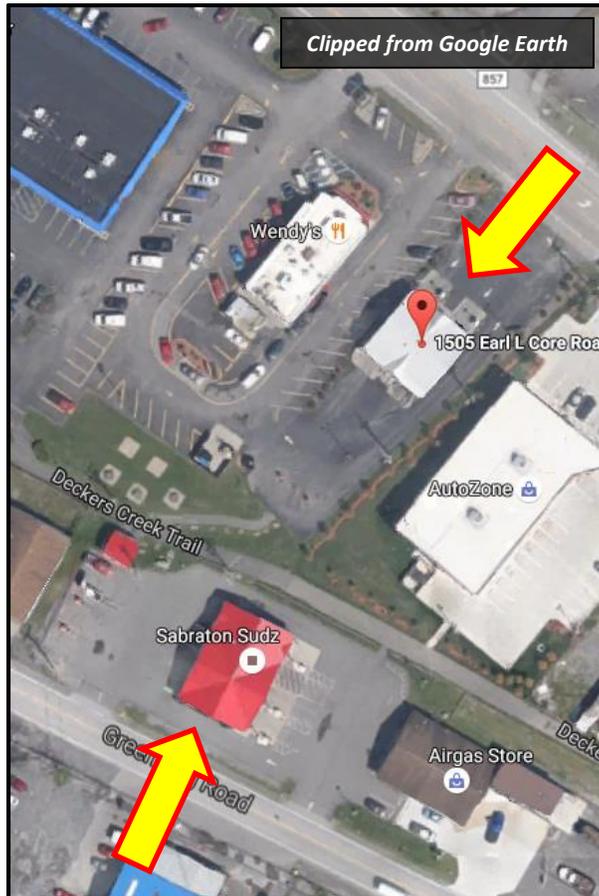
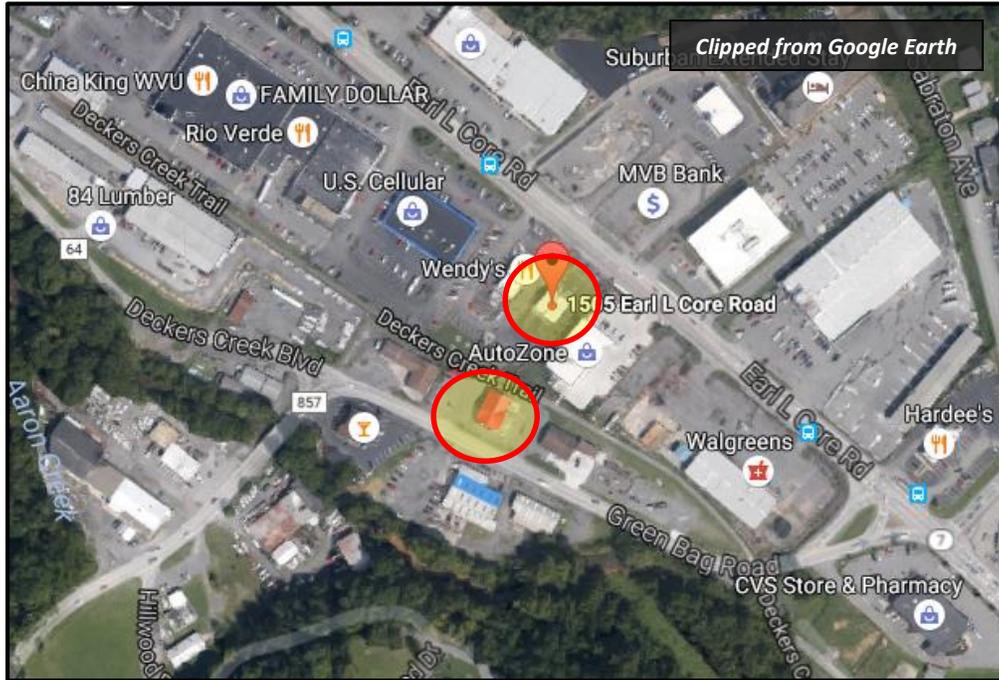
John Whitmore, AICP
Planner III

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

V16-43 / MGA Enterprises, LLC / 1505 Earl Core Road

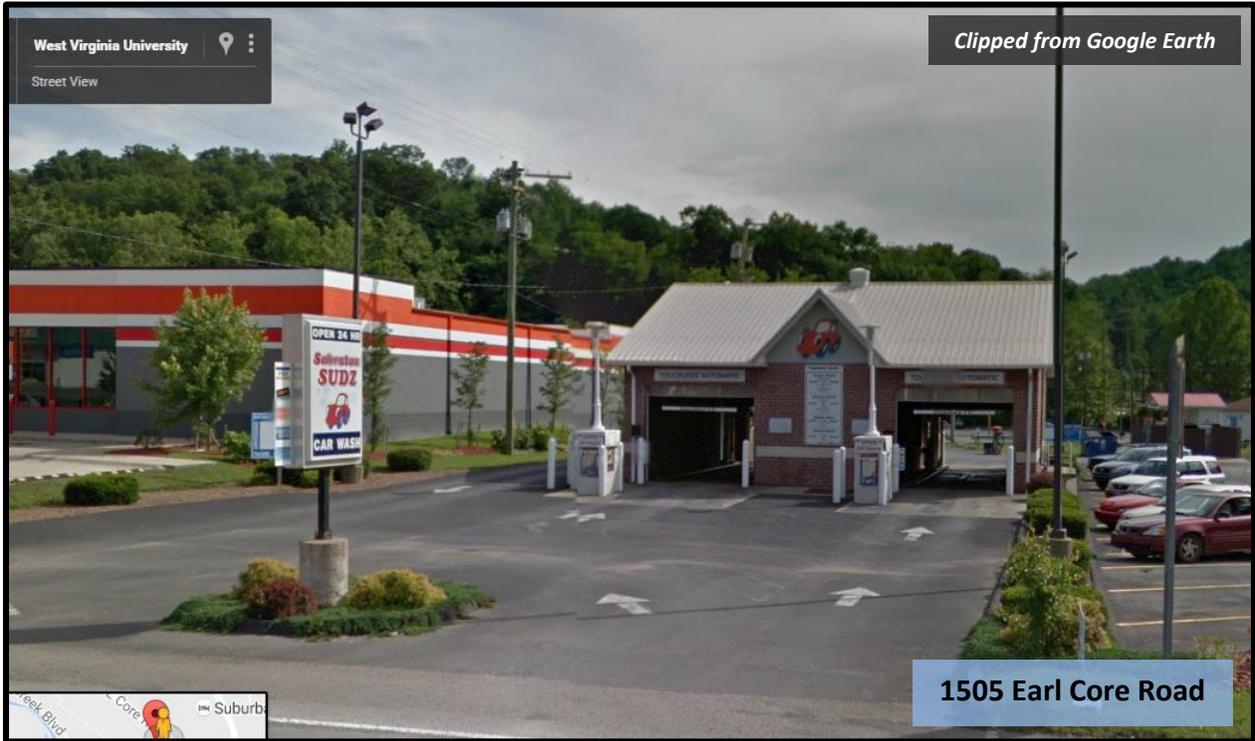
V16-44 / MGA Enterprises, LLC / 1397 Greenbag Road



STAFF REPORT ADDENDUM A

V16-43 / MGA Enterprises, LLC / 1505 Earl Core Road

V16-44 / MGA Enterprises, LLC / 1397 Greenbag Road



STAFF REPORT ADDENDUM B

V16-43 & V16-44 / MGA Enterprises, LLC

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.

V16-43 Signage – 1505 Earl Core Road [Tax Map 31, Parcel 106]

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 applicant wishes to improve the display for new products at their existing business. The applicant's signs ~~would~~ will not impede the clear vision triangle. ~~Their~~ The (2) signs ~~would~~ will display the same message, keeping a uniform appearance. The signs would not exceed the permitted 32 square feet, only the height limitation of six feet. Similar signs communicating to individual wash bays for such uses do not appear to harm public wellbeing or neighboring property rights.

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 established business has separate lanes of traffic and service, requiring individual monument product signs. The applicant would not be able to ~~visualize~~ communicate products effectively to customers on a signal sign, as pay stations are oriented appropriately and most conveniently on the left hand side of each vehicle. The additional two (2) feet of sign height appears to be appropriated displayed given sign purpose and vehicle proximity.

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

Carwash ~~customers of the applicant~~ will be able to easily read the product options once they are in line at the establishment. ~~If not~~ Without adequate signage, the operator ~~would~~ could lose business because of poor ability to most effectively and efficiently communicate with customers. Effective customer communication will help facilitate traffic flow from the street by reducing wait times and a reduction to stacking traffic. Signs adjacent to each lane's applicable pay station allow the customer to efficiently choose product options and pay, all while maintaining awareness of the customer's immediate surroundings, without exiting the vehicle or straining to see signage elsewhere and at appropriately displayed heights.

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

~~The applicant's variance request is in compliance with the code for Monument Signs, subject to this variance request. The code contemplates properties with multiple entrances, such as subject property, having more than one product board. Akin to a restaurant with multiple customers at two drive lanes making independent decisions, the subject property has two service lanes that allow for customers independent wash bays. The proposed signage promotes the intent of the zoning ordinance and substantial justice, because~~ Customers at two different wash bays will be able to focus independently on making a product/service selection, paying, and entering the applicable wash bay, all while maintaining awareness of the customer's immediate surroundings without exiting the vehicle or straining to see signage elsewhere and at appropriately displayed heights.

V16-44 Signage – 1397 Greenbag Road [Tax Map 31, Parcel 101.9]

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 applicant wishes to improve the display for new products at their existing business. The applicant's signs ~~would~~ will not impede the clear vision triangle. ~~Their~~ The (2) signs ~~would~~ will display the same message, keeping a uniform appearance. The signs would not exceed the permitted 32 square feet, only the height limitation of six feet. Similar signs communicating to individual wash bays for such uses do not appear to harm public wellbeing or neighboring property rights.

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 established business has separate lanes of traffic and service, requiring individual monument product signs. The applicant would not be able to ~~visualize~~ communicate products effectively to customers on a signal sign, as pay stations are oriented appropriately and most conveniently on the left hand side of each vehicle. The additional two (2) feet of sign height appears to be appropriated displayed given sign purpose and vehicle proximity.

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

Carwash customers ~~of the applicant~~ will be able to easily read the product options once they are in line at the establishment. ~~If not~~ Without adequate signage, the operator ~~would~~ could lose business because of poor ability to most effectively and efficiently communicate with customers. Effective customer communication will help facilitate traffic flow from the street by reducing wait times and a reduction to stacking traffic. Signs adjacent to each lane's applicable pay station allow the customer to efficiently choose product options and pay, all while maintaining awareness of the customer's immediate surroundings, without exiting the vehicle or straining to see signage elsewhere and at appropriately displayed heights.

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

~~The applicant's variance request is in compliance with the code for Monument Signs, subject to this variance request. The code contemplates properties with multiple entrances, such as subject property, having more than one product board. Akin to a restaurant with multiple customers at two drive lanes making independent decisions, the subject property has two service lanes that allow for customers independent wash bays. The proposed signage promotes the intent of the zoning ordinance and substantial justice, because~~ Customers at two different wash bays will be able to focus independently on making a product/service selection, paying, and entering the applicable wash bay, all while maintaining awareness of the customer's immediate surroundings without exiting the vehicle or straining to see signage elsewhere and at appropriately displayed heights.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V16-43
RECEIVED:	04 NOV 16

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	MGA Enterprises LLC (Garrett Richards)		
Mailing Address:	1399 Stewartstown Road Suite 200		Phone:	304-599-3369	
	Street	Morgantown WV 26505	Mobile:	304-290-3141	
	City	State Zip	Email:	GRichards@glenmarkholding.com	
II. PROPERTY		Street Address:	1505 Earl Core Road		
Owner:	MGA Enterprises LLC		Zoning:	B-5	
Mailing Address:	1399 Stewartstown Road Suite 200		Tax Map No:	31	
	Street	Morgantown WV 26505	Parcel No:	106	
	City	State Zip	Phone:	304-599-3369	
III. NARRATIVE		Please describe the nature and extent of your variance request(s).			
<p>The variance request is for (2) monument style product boards, to serve two separate car wash bays/lanes. The site is being upgraded with new equipment and cleaning solutions. A single existing location for the product board would not be visible for both lanes under the new format. (1) monument sign per property would make distinguishing the options by customers difficult, as the new sign is an icon/picture format, not text. The new monument signs would be 4'x8' single sided.</p> <p style="text-align: center;"><i>1369.07(E)(1) and (3) @ff</i></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 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>					
Garrett Richards		<i>Garrett Richards</i>		<i>11/3/16</i>	
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.

paid 11/4/2016 \$75



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE table with CASE NO. V16-43 and RECEIVED: 04 NOV 16

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

pd 11/4/16



City of Morgantown, West Virginia

APPLICATION FOR
VARIANCE PETITION

OFFICE USE	
CASE NO.	V16-43
RECEIVED:	04 NOV 16

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
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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 applicant wishes to improve the display for new products at their existing business. The applicant's signs would not impede the Clear Vision Triangle. Their (2) signs would display the same message, keeping a uniform appearance. The signs would not exceed the permitted 32 square feet, only the height limitation of six feet.

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 established business has separate lanes of traffic and service, requiring individual product signs. The applicant would not be able to visualize products effectively to customers on a single sign, as pay stations are oriented appropriately and most conveniently on the left hand side of each vehicle.

pd.
 11/4/16



City of Morgantown, West Virginia

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CASE NO.	V16-43
RECEIVED:	04 NOV 16

VII. FINDINGS OF FACT

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

Customers of the applicant will be able to easily read the product options once they are in line at the establishment. If not the operator would lose business because of poor ability to most effectively and efficiently communicate with customers. Effective customer communication will help facilitate traffic flow from the street by reducing wait times and a reduction to stacking traffic. Signs adjacent to each lane's applicable pay station allow the customer to efficiently choose product options and pay, all while maintaining awareness of the customer's immediate surroundings, without exiting the vehicle or straining to see signage elsewhere.

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

The applicants variance request is in compliance with the code for Monument Signs, subject to this variance request. The code contemplates properties with multiple entrances, such as the subject property, having more than one product board. Akin to a restaurant with multiple customers at two drive lanes making independent decisions, the subject property has two service lanes that allow for customers independent wash bays. The proposed signage promotes the intent of the zoning ordinance and substantial justice, because customers at two different wash bays will be able to focus independently on making a product/service selection, paying, and entering the applicable wash bay, all while maintaining awareness of the customers immediate surroundings without exiting the vehicle or straining to see signage elsewhere.

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11/4/16



Google Earth

feet
meters



V16-43



Google Earth



V16-43



v16-43



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

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RECEIVED:	04 NOV 16

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

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	Street	Morgantown WV 26505	Mobile: 304-290-3141
	City	State Zip	Email: GRichards@glenmarkholding.com
II. PROPERTY		Street Address: 1397 Greenbag Road	
Owner:	MGA Enterprises LLC		Zoning: B-5
Mailing Address:	1399 Stewartstown Road Suite 200		Tax Map No: 31
	Street	Morgantown WV 26505	Parcel No: 101.9
	City	State Zip	Phone: 304-599-3369
III. NARRATIVE		Please describe the nature and extent of your variance request(s).	
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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 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>			
Garrett Richards		<i>Garrett Richards</i>	11/3/16
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paid 11/4/16 \$75.00



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

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- Non-Residential or Mixed (please explain)

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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

pd 11/4/16



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V16-44
RECEIVED:	09 Nov 16

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
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City of Morgantown, West Virginia

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CASE NO.	V16-44
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VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
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<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>The applicants variance request is in compliance with the code for Monument Signs, subject to this variance request. The code contemplates properties with multiple entrances, such as the subject property, having more than one product board. Akin to a restaurant with multiple customers at two drive lanes making independent decisions, the subject property has two service lanes that allow for customers independent wash bays. The proposed signage promotes the intent of the zoning ordinance and substantial justice, because customers at two different wash bays will be able to focus independently on making a product/service selection, paying, and entering the applicable wash bay, all while maintaining awareness of the customers immediate surroundings without exiting the vehicle or straining to see signage elsewhere.</p>	

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11/4/16



Google Earth

feet
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V16-44



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