



# 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

## **STAFF REPORT**

**CASE NO:** V16-45 / Two and a Fry, LLC / 2991 University Avenue

**REQUEST and LOCATION:**

Request by James Pelissero, on behalf of Two and a Fry, LLC, for variance relief from Article 1369 concerning signage at 2991 University Avenue.

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

Tax Map 11, Parcel 8, Service Business District

**SURROUNDING ZONING:**

North, East, and West: B-2, Service Business District

South: PRO, Professional, Residential, and Office District

**BACKGROUND and ANALYSIS:**

The petitioner seeks to make permanent three (3) wall signs for the *Two and a Fry* restaurant establishment located at 2991 University Avenue. A Building Permit was approved by the Planning Division to erect the subject signs as temporary signs until such time as the Board considered requisite variance relief. 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.

Existing Signage to be Continued	Area
	40 sq. ft.

**Development Services**

Christopher Fletcher, AICP  
Director

John Whitmore, AICP  
Planner III

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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Existing Signage to be Continued		Area
		12 sq. ft. X 2 (24 sq. ft. total)
<b>Total Wall Sign Area</b>		<b>64 sq. ft.</b>

Article 1369.07(I)(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-2 Zoning District. The linear width of the tenant’s building frontage is twenty (20) linear feet +/-, which establishes a maximum wall sign area standard of twelve (12) square feet. As such, variance relief of **52 square feet** is required for the wall sign as proposed.

**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.

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

**Development Services**

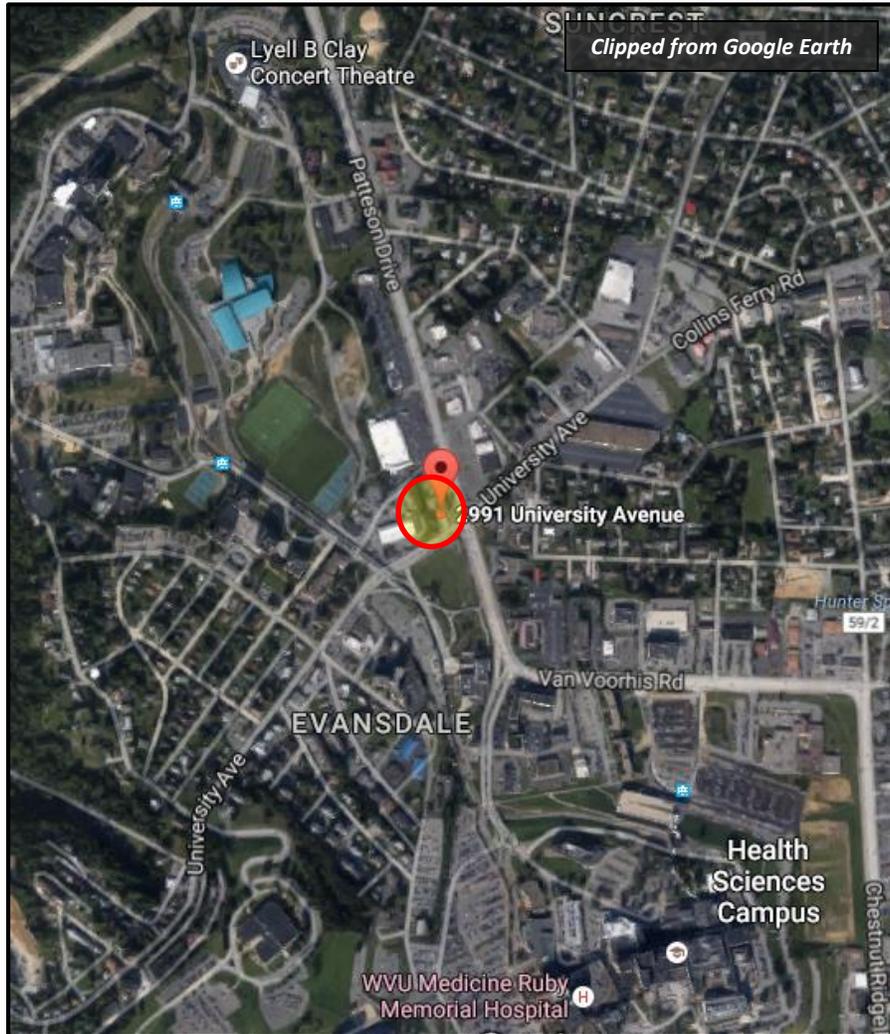
Christopher Fletcher, AICP  
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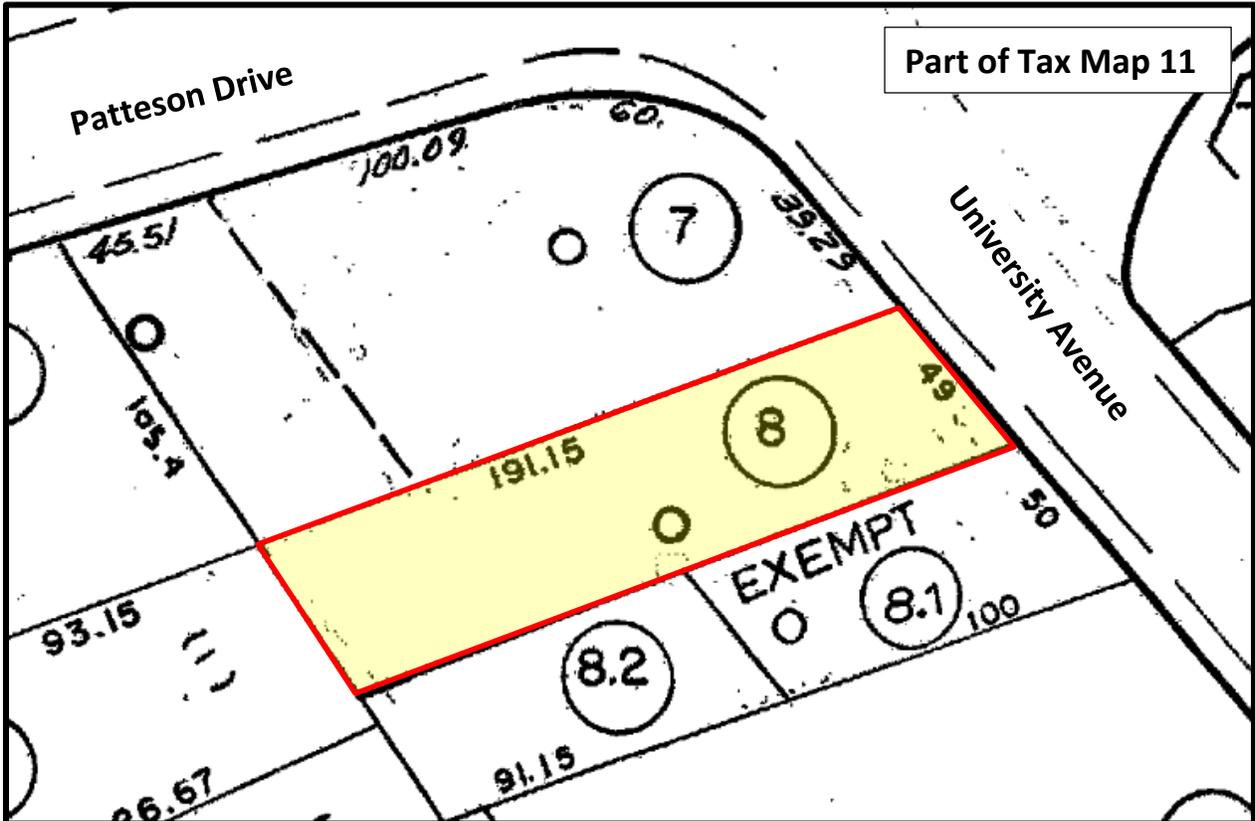
389 Spruce Street  
 Morgantown, WV 26505  
 304.284.7431

Enclosures: Application and accompanying exhibits

**STAFF REPORT ADDENDUM A**  
**V16-45 / Two & Fry / 2991 University Avenue**



**STAFF REPORT ADDENDUM A**  
**V16-45 / Two & Fry / 2991 University Avenue**



**STAFF REPORT ADDENDUM B**  
**V16-45 / Two & Fry / 2991 University Avenue**

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The following restates 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:

~~They are also commercial use also. No neighbors on left side of building, neighbors business faces Patteson Drive.~~ Adjoining uses are commercial in nature and have similarly sized signage, which 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:

~~Needed for the business.~~ Similarly sized wall signage appears necessary for any business use at this location, due to the unusually narrow storefront width on which the maximum area standard is determined; the lack of space to erect ground-based signage closer to University Avenue given existing driveway entrance design and vehicular site access needs; the subject building's setback from University Avenue; and, vehicle speeds, particularly southbound, on University Avenue.

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

~~This will suit the need of the business use.~~ Permitted signage area for the subject storefront does not appear to permit the land's current structure to effectively communicate its presence in the corridor or commercial copy to motoring traffic on University Avenue.

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

<response left blank> The viability of the commercial use should be enhanced as a result of the proposed sign area.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V16-45
RECEIVED:	05 Nov 16

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

Handwritten notes: "OK" and "12/17" in red ink.

<b>I. APPLICANT</b>		Name:	two & Fry		
Mailing Address:	Street	James Pelissiere		Phone:	412-389-6080
	City	State	Zip	Mobile:	
	Morgantown Wv		15063	Email:	
<b>II. PROPERTY</b>		Street Address:	2991 University Ave		
Owner:	James Pelissiere		Zoning:		
Mailing Address:	Street	2991 University Ave		Tax Map No:	11
	City	State	Zip	Parcel No:	08
	Morgantown Wv		26505	Phone:	
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).			
<p>Extend sign on front of Building 60" FOR <del>new</del> sign completion</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>					
James Pelissiere				11-4-16	
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.

Handwritten note: "Paid 11/5/16 \$75.00"



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V16 45
RECEIVED:	05 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)

Commercial

Structure Characteristics (complete only those that apply)

Total number of buildings: 1      Gross floor area of each building: 560 sq ft

Estimated number of employees: 2      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.	V16-45
RECEIVED:	05 NOV 16

<b>VII. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
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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:

They are also commercial use also no neighbors on left side of building, neighbors business faces Patterson Dr.

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:

needed for the business

pd  
11/5/16



City of Morgantown, West Virginia

**APPLICATION FOR  
VARIANCE PETITION**

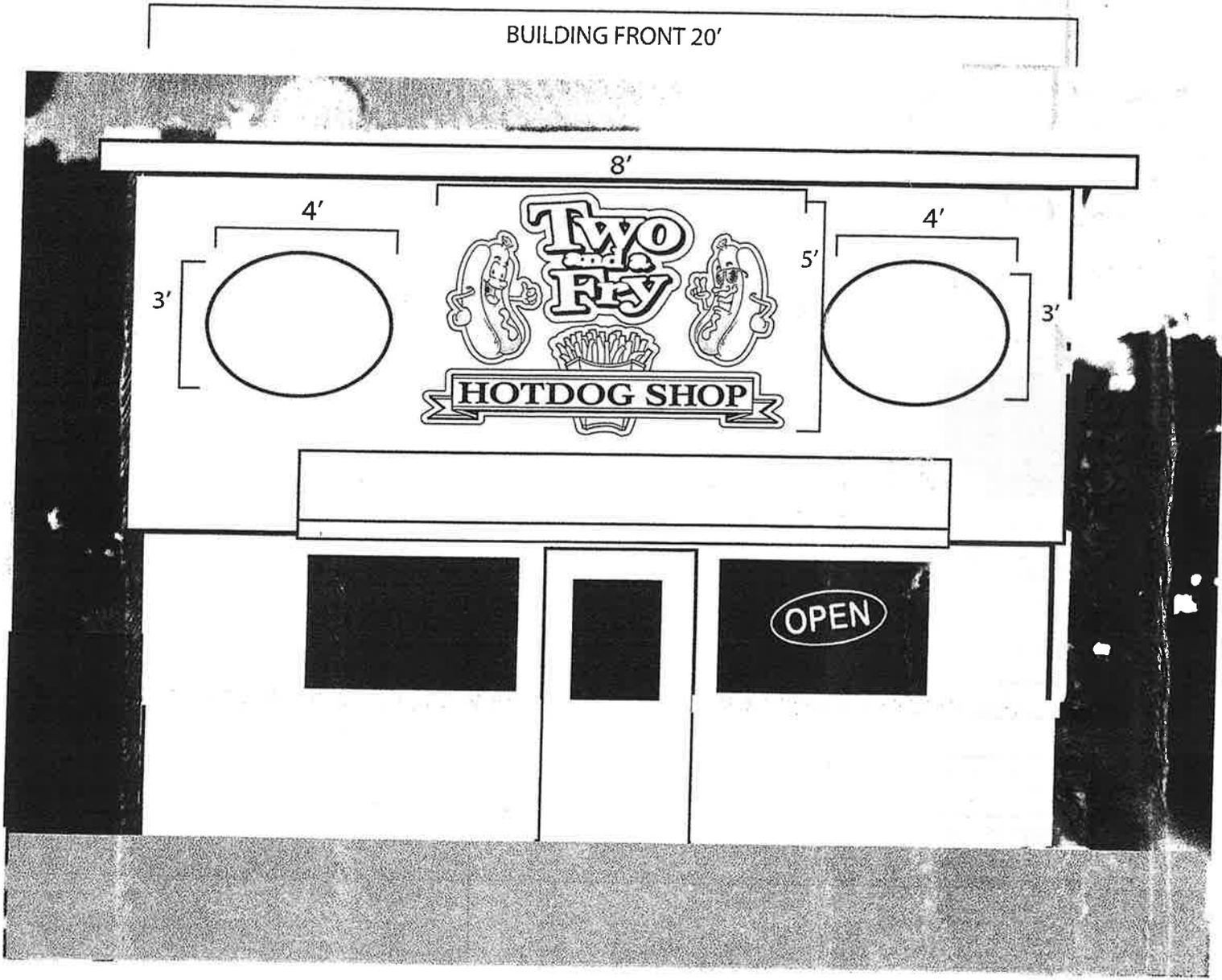
OFFICE USE	
CASE NO.	V10-45
RECEIVED:	05 Nov 16

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:	<p>This will suit the need of the Business use</p>
4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:	

V16-45

TOTAL SPACE THE CHANNEL LETTERING TAKES UP IS 8' SIDE TO SIDE BY 5'TALL

SIDE PANELS ARE 4' WIDE BY 3'TALL



COULD NOT PRINT  
IN COLOR SORRY



# City of Morgantown Application for Sign Permit

V16-45  
P

A separate application must be completed for EACH proposed Sign

<b>Application Date</b> <u>8/18/16</u>	<b>Type of Sign:</b> <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 checked="" type="checkbox"/> Wall <input type="checkbox"/> Window <input type="checkbox"/> Other	<b>Is Applicant Owner?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Office Use</b> Case # _____ Received _____ Complete _____	<b>Sign to Advertise:</b> <u>two AND A Fry</u>	

### PROPERTY INFORMATION:

Street address: 2991 UNIVERSITY AVE Map# \_\_\_\_\_ Parcel# \_\_\_\_\_ Ward \_\_\_\_\_ Zoning \_\_\_\_\_

### PROPERTY OWNER INFORMATION:

Name: James Pelissaro Business name: TWO AND A FRY  
Address: \_\_\_\_\_ Phone: 412-389-6080  
Email: \_\_\_\_\_ property owner contractor

### CONTRACTOR INFORMATION:

TYPE:	Contractors Business Name	City License Number
General Contractor	<u>Jim Pelissaro</u>	
Sign Contractor	<u>Jim Pelissaro</u>	
Excavation		
Concrete		
Carpentry		
Electrical		
Roofing		
Masonry		

Est. value of project \$ \_\_\_\_\_

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.

412-389-6080

James Pelissaro 1115 W MAIN ST Morgantown Pa 15063  
SIGNATURE OF APPLICANT ADDRESS OF APPLICANT PHONE

PRINT NAME: James Pelissaro

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.

Leonard George Old Lake P.O. Box 4114 Star City  
SIGNATURE OF PROPERTY OWNER ADDRESS OF APPLICANT PHONE

PRINT NAME: Leonard George

Detailed Description of Work to be Done:

V16-45

Channel Letters  
Bolt Sign 3 Anchor Bolts  
BLOCK-split face 5ft. Divit concrete board  
metal box  
12ft off ground

Detailed Description of Materials to be Used:

Aluminum Fiberglass

ILLUMINATION:

Internally  Externally  None

PLEASE DESCRIBE: Led Lights

SIGN DIMENSIONS:

Height 5 ft Width 16 ft Area 130 sq ft

STRUCTURE DIMENSIONS:

Height 5 ft Width 16 ft

DISTANCE from BUILDING (if applicable): \_\_\_\_\_ ft

HEIGHT above SIDEWALK (if applicable): 11' 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:

V16-45

Engineering Department Approval Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_

DATE

Planning Department Approval Notes:

Conditions: SEE ATTACHMENT  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_

8/18/16  
DATE

Code Enforcement Approval Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_

DATE

Fire Department Approval Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_

VALIDATION:

Permit Number: <u>Sign-2010-00001177</u>	Fee
Electrical:	Fee
Sign:	Fee <b>17.00</b>
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: \_\_\_\_\_

V16-45

**PLANNING DIVISION  
BUILDING PERMIT REVIEW ADDENDUM**

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Building Permit: Sign-2016-00001177

Applicant: Jim Pelissero

Property Address: 2991 University Avenue

Tax Map: 11

Parcel(s): 08

Zoning District: B-2

Overlay District: NA

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**CONDITIONS:**

1. The Planning Division assumes a linear frontage of the business at approximately 20 feet.
2. 54 square foot wall sign area, as presented in the application for sign permit dated 8/18/16, is permitted as a temporary sign, with a use period of 30 days from the date of approval.
3. The use of the signage may be extended for a total of two, 30-day periods, not to exceed a total temporary use period of 90 days.
4. The applicant is required to contact the Planning Division in writing (through mail or email) to request an extension of the temporary sign permit.
5. The applicant will be required to receive Board of Zoning Appeals variance approval related to wall sign area, and the use of polycarbonate materials, to have the sign changed from a temporary sign to a permanent sign.