

Morgantown Board of Zoning Appeals



MEETING PACKET

**Wednesday,
January 15, 2020
6:30 p.m.**

City Council Chambers

Board Members:

Harrison Case, Chair

Kevin Meehan, Vice Chair

Chris Benison

Heidi Cook

Garrett Tomblin

Development Services Department

Christopher M. Fletcher, AICP, Director

John Whitmore, AICP, Senior Planner

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BZA Pre-Meeting Announcement read by the Chairperson

Good evening and welcome to the regular/special meeting of the **City of Morgantown Board of Zoning Appeals**. Please turn off all cell phones or other devices that may disrupt these proceedings. It is the duty of this Board to consider requests for relief from the requirements of the City's zoning regulations; to consider conditional use permit requests; and, to hear administrative appeals.

The Board conducts business in the following order:

- Review, amend, and approve minutes of a previous meeting.
- Unfinished Business
- New Business
- Announcements from Staff

Each request is heard in the order that it appears on the agenda. For each Conditional Use and Variance request, the following is done:

- I will introduce the agenda item and the Planning Division will present a Staff Report, which may or may not offer a recommendation.
- The applicant/agent will be asked to present their justification for their request, which may include questions by members of the Board.
- I will then open a **PUBLIC HEARING** to hear testimony in support of, or in opposition to, the request. Rules regarding public testimony are as follows:
 - Anyone wishing to testify during the public hearing may do so once recognized by me or may, in lieu of oral testimony, submit written testimony to the Chair. All recognized speakers must approach the podium, state their name and address for the record, and speak clearly into the microphone.
 - All comments must be addressed to the Board, should be relevant to the application, and may not be of a personal nature or personal attacks.
 - All speakers will be limited to **FIVE (5) MINUTES**. If members of the Board have any questions of the speaker, that time will not be counted toward his/her five (5) minutes.
 - If there is a large number of speakers, including many who are part of groups or organizations, I may, to avoid repetitive comments, elect to ask for a representative to speak on behalf of the group or organization.

- Speakers are notified that irrelevant comments or comments of a personal nature or personal attacks may result in the speaker forfeiting his/her opportunity to participate in the public hearing.
- I may elect to recognize the applicant/agent at the end of the public hearing to provide rebuttal or additional comments, which will be limited to five (5) minutes. If members of the Board have any questions of the applicant/agent, that time will not be counted toward his/her five (5) minutes.
- After all testimony is heard, I will declare the **PUBLIC HEARING CLOSED** and no further public comment will be permitted.
- Uncivil, unruly, and/or disruptive behavior at any time during this meeting is prohibited and will result in removal from this public meeting.
- State law requires the Board to consider findings of fact for each conditional use and variance request. The request cannot be granted unless a majority of the quorum present finds in the positive of **ALL** of the findings of fact. The Board may elect to continue the hearing to another date if it needs additional information.
- Applicants and requesting parties will be notified in writing by the Planning Division of the Board's findings and conclusions. Regardless of whether a request is approved or denied, decisions of the Board can be appealed to the Circuit Court of Monongalia County within thirty (30) days upon receipt of the written notification. Any work done relating to decisions rendered by this Board during this thirty-day period is at the sole financial risk of the applicant.

Thank you for your consideration and respect for these proceedings and the opinions of all meeting participants.

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MORGANTOWN BOARD OF ZONING APPEALS

January 15, 2020
6:30 p.m.
Council Chambers

Board of Zoning Appeals

Chris Benison
Harrison Case
Heidi Cook
Kevin Meehan
Garrett Tomblin

AGENDA

- I. **CALL TO ORDER AND ROLL CALL**
- II. **2020 LEADERSHIP ELECTION: Chair and Vice-Chair**
- III. **MATTERS OF BUSINESS:**
 - A. Minutes for the December 18, 2019 hearing
- IV. **UNFINISHED BUSINESS:** None.
- V. **NEW BUSINESS:**
 - A. **CU20-01 / LM Morgantown, LLC / 419 High Street:** Request by Brandon Mathess of LM Morgantown, LLC for approval of a conditional "Restaurant, Private Club" use; Third Ward Tax District, Tax Map 26, Parcel 80; B-4, General Business District.
 - B. **V20-01 / Little General / 600 Willey Street:** Request by Jackson Gardner of Triad Engineering, Inc., on behalf of Little General, for variance relief from Article 1347 concerning setbacks; Third Ward Tax District, Tax Map 26, Parcel 299; B-2, Service Business District.
 - C. **V20-02 / Chase Bank / 461 High Street:** Request by Crystal Miller of City Neon, on behalf of Chase Bank, for variance relief from Article 1369 concerning signage; Third Ward Tax District, Tax Map 26, Parcels 75 and 76; B-4, General Business District.
 - D. **V20-03 / Automax / 525 Don Knotts Boulevard:** Request by Crystal Miller of City Neon, on behalf of Automax, for variance relief from Article 1369 concerning signage; First Ward Tax District, Tax Map 37, Parcel 5.1; B-4, General Business District.
- VI. **ANNOUNCEMENTS**
- VII. **ADJOURNMENT**

If you need an accommodation, please contact us at 304-284-7431.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

John Whitmore, AICP
Senior Planner

389 Spruce Street
Morgantown, WV 26505
304.284.7431

BOARD OF ZONING APPEALS

MINUTES

6:30 p.m.

December 12, 2019

Council Chambers

MEMBERS PRESENT: Harrison Case, Chris Benison, Heidi Cook and Kevin Meehan

MEMBERS ABSENT: Garrett Tomblin

STAFF: John Whitmore

I. CALL TO ORDER AND ROLL CALL: Case called the meeting to order and read the standard explanation of the how the Board conducts business and rules for public comments.

II. MATTERS OF BUSINESS:

- A. Minutes for the September 18, 2019 hearing were reviewed and approved.
- B. Minutes for the October 16, 2019 hearing were reviewed and approved.
- C. Minutes for the November 20, 2019 hearing were reviewed and approved.

III. UNFINISHED BUSINESS: None.

IV. NEW BUSINESS:

- A. **V19-40 / Blue Sky Realty / 311 Beverly Avenue:** Request by Jim Craig of Blue-Sky Realty for variance relief from Article 1339.05 concerning a setback encroachment at 311 Beverly Avenue. Fourth Ward Tax District, Tax Map 20, Parcel 10; R-3, Multi-Family Residential District & SSOD, Sunnyside South Overlay District.

Whitmore presented the Staff Report for V19-40 and noted the petitioner is present.

Case recognized James Craig, the applicant. Craig explained that he was there seeking relief to allow to replace the existing deck which is rotted and has pulled away from the house as the house was built about 40 years ago. The railing has rotted and pulled away from the deck, and the deck is pulling away from the house. The deck extended out into the City right of way. Craig noted he is proposing to build a new deck using pressure treated lumber, a new railing using vinyl clad aluminum, and to replace the wooden fence with a vinyl clad chain link fence. There is an 8-foot retaining wall built around the deck and this would prevent people from falling over. Craig also expressed desire to put a roof on the feature at some point in the future.

There being no questions or comments by the Board, Case asked if anyone was present to speak in favor of or in opposition to the petition. There being none, Case declared the public hearing closed. Whitmore read the staff recommendations as follows:

1. Board of Zoning Appeals to grant variance relief of three (3) feet so that the deck without a roof may extend to the front property boundary with the following conditions:
 - a. No portion of the deck may encroach into the public right of way.
 - b. The deck must be constructed within twelve months of granting variance relief.
2. Board of Zoning Appeals to grant variance relief of 2.5 feet so that the roof above the deck may extend to the front property boundary with the following conditions.
 - a. No portion of the roof, eave, gutter etc. may encroach into the public right of way.
 - b. The open and unenclosed front porch created by the roof improvement may not be subsequently enclosed.
 - c. The roof above the deck must be constructed within 12 months of granting variance relief.

Case summarized that the deck has reached the end of its useful and safe life and is failing. The proposal is a replacement deck that does not encroach into the City right of way but does require a variance. The second request is to perhaps put a roof over the deck, which would also require a variance. Reviewing Addendum B, this causes no noticeable harm to either the public or private properties that are near it. The second condition notes that as far as special conditions, a lot of these houses were built right up to the property line. This appears to compliment recent streetscape improvements. Finding of fact #3, this would allow the property owner to have a similar feature to other properties on the street have. Finally, with regarding finding number 4, as restated, the setback of the proposed deck and porch improvement appears to be in harmony with the predominant development patten on this block of Beverly Avenue.

Cook made a motion to accept the four findings of facts as stated. Benison seconded. The motion carried unanimously.

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:

Front deck and front porch features of adjacent structures appear to encroach into the minimum front setback standard without noticeable harm to the public realm or private properties.

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 predominant design of the three-hundred block of Beverly Avenue includes structures built at or near the front property boundary, with front porch or deck features. This design has traditionally been used to allow for pedestrian-scaled development patterns and resident privacy in urban built environments. The front deck or porch improvement at the petitioner's site appears to complement recent streetscape improvements. Although the Sunnyside Overlay District incentive to develop with front setbacks closer than the R-3 District standard, the requirement does not appear to reflect the predominant setback pattern in this block of Beverly Avenue.

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

The setback of the proposed front deck and porch improvement appears to provide a similar pedestrian and streetscape environment as enjoyed by neighboring properties along this block of Beverly Avenue.

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

The setback of the proposed front deck and porch improvement appears to be in harmony with the predominant development pattern along this block of Beverly Avenue.

Cook made a motion to approve the variance V19-40 as presented with the Staff Recommendations/conditions listed above; seconded by Benison. Motion carried unanimously.

Case advised Craig that the Board's decisions can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

B. V19-41 / Scholar Hotel / 341 Chestnut Street: Request by Shanna Biser of Scholar Hotel for variance relief from Article 1331.06 concerning Full-Service Hotel use requirements in the B-4 District at 341 Chestnut Street. Third Ward Tax District, Tax Map 26A, Parcel 79; B-4, General Business District.

Whitmore presented the Staff Report for V19-41 and noted the petitioner is present.

Shana Biser, with Scholar Hotel stated that the hotel is seeking variance to provide large groups and others that come into town which they currently cannot do in house and that being the only hotel in the downtown district, they are hoping that we can provide additional services.

Harrison discussed the business model for Starport Arcade and Pub, in addition to serving guests in the hotel, asked if the proposal would change access or remain as public. Biser states that the space would be open to the public and someone can take kids there, enjoy a nice evening with dinner and a drink. Biser also states that Starport Arcade and Pub would be occupying the entire ground floor of 341 Chestnut Street. Biser discussed hours and deferred to Starport Arcade representative Nicholas Marccisin. Marccisin noted that Starport Arcade does a lot of charity events, sponsor several sports teams.

Harrison asked if they foresee a change in the overall business model of the arcade when Startport moves to the new space. Marccisin noted the hours would be changed with the space closing at 1 a.m.

Harrison asked whose liquor license would be in use for the 21 and over late-night crowd. Marccisin noted they would be using the Scholar Hotel's license, but they are trying to get their own.

There being no questions or comments by the Board, Case asked if anyone was present to speak in favor of or in opposition to the petition and opened the public hearing.

Timothy Metz, Burroughs Street, Morgantown, WV and owner of Fallout Shelter. Metz asked if the question is really why do hotels have rules like this that they must follow and why does a restaurant bar connected to the hotel have to follow these rules as well. Metz noted that the use was not good for the city.. Metz noted that the use will make the general area more unsafe for pedestrians. Metz also noted that he was concerned that a hard liquor club frequented by students was going to be in that area.

Metz noted that Starport has a long history of nuisances, claiming they broke city code by doing their construction for months in the dead of night without a permit. That Starport immediately got cited because they were doing all the remodeling at night and didn't file for a permit. That their license is an A-2 1-2 private club by the WV ABCA, which means they are only supposed to have guests 21 and over, where 18 and over is ok with a guardian, and that there are frequently unattended child present on-site. That Starport Arcade has an event called "slip n booze" that they basically compete, drinking game with pinball and that WV ABCA made them stop that and that Starport Arcade have an event called called "porni-oquie" where they are showing video pornography in their place of business.

Harrison noted that Mr. Metz time has expired.

Case asked If anyone else present in favor or in opposition to this request wished to speak.

Holly Roberts an employee of Scholar Hotel spooke about her experience with the hotel us and the current Starport Arcade location. Roberts noted the staff report imaging does show the awning where JW's is and you can see the alley is next to the parking garage. There are three other clubs right there that let out. Roberts noted that she has worked overnights, and has seen the bars closing at 3+ a.m. Roberts stated that the Starport Arcade space will be closing at 1:00 a.m. and that the area is very well lit and very well policed.

No further public comment was received. The petitioner was provided 5 minutes of rebuttal time.

Biser spoke and said she wanted to touch on one thing, safety. All of the clubs close to the hotel let out at 3:30 in the morning. If that's not a concern, I'm not sure what a new place shutting down at 1:00 a.m. would have any change.

Marccisin states all our staff members have taking the TIPS training, that the side door is not for direct access to the space, and that private events are held on site with limited access as warranted.

There being no further rebuttal, the Public Hearing was closed.

Whitmore provided the Staff Recommendation Staff recommends approval of the variance as requested without conditions.

Whitmore also explained that the use was approved in a gray area as a full-service hotel. The only variances on the dais are allowing for access to the arcade portion from the exterior and allowing that to be open to the general public during all hours of operation rather than just after 9:00.

Case asked if members of the board have questions or concerns.

Cook mentioned that Starport Arcade and Pub is not asking for conditional use. Cook asked Whitmore if it is true that the code only allows certain bars to not have minors and they are asking for minors to be in during use and operation and if the city has looked into pedestrian/traffic issues?

Case stated that it sounds like our code does not contemplate a business of the type that Starport is. Whitmore allowed that is accurate. The issue that Staff had when this initially came before the Planning Division, is that we recognize the revenue 60-40 for restaurant private clubs. The problem is that the revenue split is very narrow in that it does not include other activities of a business. In this case, it does not include merchandise or amusements, only food and drink. That required revenue practice is not uncommon for alcohol sales, but in the case of this specific business, that is something that has come up. Additionally, Staff cannot speak to the issue of minors in a private club, as that is not something the planning and zoning code covers.

Case explained that he had been to the existing Starport Arcade location and you have the challenge of using it for different populations at different times of day.

Benison asked if that represents fundamental incompatibility between the utilization of the hotel and arcade, and if there is an issue with when minors are permitted in certain spaces, but that is within the WV ABCA, not our code. Case asked if by moving it down the street, does the Board create any different issues that are not already in existence with this business.

Case states that if there are concerns about the way this business is operated, they may be beyond the scope of this hearing. I do think in terms of Mr. Metz, some of the representatives, discussed the access issue and crossing back and forth of the alley. If I'm reading this correctly, this board has already granted at restaurant/private club license with that some exterior entrance at least once before if not twice.

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 relates to an existing storefront entrance and permitted times of public access, which advances the expansion of the hotel as a "Full-Service Hotel" use. The existing built area will continue as previously established with a more holistic experience related to the hotel with accompanying food, beverage, and entertainment offerings without harm to the public realm and 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 subject property contains a covered drive lane to the parking garage that is adjacent to the Scholar Hotel guest rooms and on top of the proposed location for Starport Arcade. Guests of the Scholar Hotel can exit the hotel through a side door located in this drive lane and enter into the proposed Starport location through another door located in this drive lane without ever existing the property or walking onto a sidewalk. The ground floor tenant space having a front door of its own should not prohibit the property from being able to operate as a full-service hotel with a restaurant as the restaurant portion of the property can be accessed from an internal part of the building. Utilization of the existing front entrance and offering goods and services during all hours of *Starport Arcade and Pub* operation should serve to enliven economic activity within the immediate area beyond nighttime operations.

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

Having an occupant serving food and alcohol in the space at 341 Chestnut Street will allow the Scholar Hotel to meet the requirements of a full-service hotel. Furthermore, removing the pre 9 p.m. public access limitation would permit the Scholar Hotel to offer lunch and dinner, including alcohol throughout the day. Permitting the public to enter the ground floor tenant space through the existing storefront door will assist with wayfinding and ease of access for patrons not staying at the hotel.

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

It recognizes the physical design and practical use of the existing storefront entrance for the subject ground floor tenant space. It also expands hours of operation to allow for patron diversification by permitting the public to access a unique dining and entertainment experience throughout the day rather than just late evening hours.

Meehan motioned in favor of the four findings and facts as revised under Addendum B in the Staff Report. Seconded by Case to approve the four findings of fact. Motion passes with 3-1, with Cook voting in the negative.

Case asked if there is a motion to approve the variance in V19-41 Scholar Hotel for use relief concerning the full-service hotel use? Meehan motioned in favor of granting the variance without conditions, seconded by Case. Motion passes with 3-1, with Cook voting in the negative.

Case advised Biser that the Board's decisions can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

C: V19-42 / Papyrus Remodeling / 712 Madison Avenue: Request by William Neat of Papyrus Remodeling for variance relief from Article 1335.04 concerning a setback encroachment at 712 Madison Avenue. First Ward Tax District, Tax Map 40, Parcel 282; R-1A, Single-Family Residential District.

Whitmore presented the Staff Report for V19-42 and noted the petitioner is present.

William Neat, 829 Augusta Avenue explained that he was contacted to try to figure out how to get an attached garage onto this home. Through many designs, this is the one that seemed to be able to fit in the space without any encroachments, apart from the one I am seeking a variance for. Neat explained that from the setback that the developer is seeking 8 extra feet.

Whitmore stated that this would require a building permit and that would be reviewed by Engineering. Additionally, there would be no ability to park on the driveway as it is 12-feet in length so it is too short to actually park a vehicle completely on the property..

There being no further questions or comments by the Board, Case opened the public hearing and asked if anyone was present to speak in favor of or in opposition to the petition .

Todd Queen, 711 West Virginia Avenue, explained that he owns the property directly behind the lot in question and that there is a 9.5 foot wide alley between the parcels. Todd Queen questioned the ability to safely pull in and back out of said driveway and that recently MUB went through and cleaned the ditches on my side of the property. MUB installed two culverts in the adjacent lots to 711 West Virginia Avenue and that run off is a big problem. If a vehicle is unable to back out completely into the alley way and end up going into the ditch, the drainage is going to be an issue. There is also the issue a very large mature pine tree that is growing in the ditch. It is further down from the proposed driveway, however, mature pine trees have root systems of 35-75 feet. Construction could potentially cause damage to the root system and cause the tree to die and fall. Todd Queen also expressed concern with Article 1335.03 Section C. The dimensions of the existing house were not referenced and that Article states that maximum lot coverage can not exceed 50%, which looking at the house itself and picturing a garage added to that would be in excess of the maximum lot coverage standard.

Susan Queen, 711 West Virginia Avenue. reiterated that the Queens are not opposed to the neighbor building an addition and having a garage, but that there was concern for the issues identified by Todd.

No further public comment was received. The petitioner was provided 5 minutes of rebuttal time.

Neat explained that the location of the tree did not appear to be on the property or affected by development and that the house would be below the maximum lot coverage standard.

Harrison asked. Neat to speak regarding the ditches and drainage in the alley. Neat stated there would a cement driveway going from the opening of the garage to the alley way. There really is no culvert on the client's side, it is just a slope going down to the back of the house. Harrison asked if the cement was sloping toward the garage causing additional run off. Neat stated it would be crowned so that the water would not run across the alley way. Talking with subcontractors in terms of doing something that will address this issue. Whitmore stated this would be handled in the permit process. Whitmore also stated that regarding the public hearing, all of these questions need to be presented in the permit process.

Cook brought up the length of the structure, as it looks to like there is just enough room for a car and a stairwell to fit in and that it didn't seem from the drawing to be any area to reduce the length of it. Neat confirmed that there is not really any way to shorten the addition.

There being no further rebuttal, the Public Hearing was closed.

Whitmore provided the Staff Recommendation and stated he is available to discuss the building permit approval process if desired.

Case asked about the process, if this variance were approved, that the applicant would have to go through to build this garage. Whitmore stated the applicant would be filing a building permit application. The application would include a narrative description of the work to be completed. Including construction schematics and materials to be used. That information is used to actually assess the value of permit. In addition, a review would be conducted by Code Enforcement for physical building construction and the City Engineers office would review the design. The City Engineers office then forwards that information to the Morgantown Utility Board (MUB) for determinations on storm water management. The Planning Division will do a review based on the compliance with zoning code, which this would be that final check. Whitmore explained that

regarding the MUB review, they will be looking at Federal provisions for MS4 communities. MUB is charged with ensuring that the first inch of rain water is accounted for, on-site. Case asked if there was a specific permit to tie into the alleyway or is that part of the building permit. Whitmore states that Engineering would require a right of way access agreement. The public right of way also gets reviewed.

Case reviewed setbacks. Front is 8 feet minimum, maximum 20 feet. Side 5 feet. Minimum rear setback that we are dealing with today is 20 feet. Case questioned why the minimum rear setback is 20 feet. Mr. Whitmore states that it is 20 feet because the Planning Commission has established that is the standard for R-1A, Single Family Residential Zoning District; 20 feet is for R-1A and R-1 is 25 feet. The setback provides a rear yard that is usable. It was mentioned that other properties on this street have not followed this ruling in the past.

Case stated that the only thing that was brought up during the hearing was an item the Board of Zoning Appeals don't really know anything about, the tree that is not on the site. Case mentioned that with a building permit application the city should evaluate this. The concern of the root system is in question. Whitmore states that Engineering has raised concerns regarding on-site trees for different reasons. Regarding construction, Whitmore noted that off-site damage done to a tree is not something that the city would necessarily be involved in unless, during construction something happened to the tree directly. Case noted that he does not feel there is enough evidence concerning the tree to deny the request.

Case requested a motion to the findings of fact. Meehan moved to accept the findings of fact for Case Number V19-42 case as amended. Cook seconded. Motion to approve is unanimous.

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 proposed structure falls well within the property lines and does not inhibit the coming and going of vehicle or foot-traffic to any of the adjacent properties. The rear setback appears sufficient to ensure safe and functional ingress and egress from the alley to the garage addition. The proposed garage addition addresses the lack of onsite parking within an area experiencing on-street parking congestion.

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:

There is a grade transition from the alley down to the house that requires an interior stairwell to access the finished grade at the rear of the house.

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

This single-car-garage will provide off-street parking. It will also allow easier access to and from the home having neither to traverse the slope from the alley to the back door, nor having to at times, walk down the block when parking on the street. The proposed design addresses the change in site slope between the finished floors of the house and the garage addition.

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

The variance would provide a means of improving the homeowner's property and quality of life. By helping to address the impact of traffic and parking, it improves the value and quality of the neighborhood it is a part of as well. This variance can achieve these things without impeding upon the rights or quality of life of this neighborhood's inhabitants.

Cook moved to grant the variance for Case number V19-42 without conditions. Meehan seconded the motion. Motion to approve is unanimous.

Case advised Neat that the Board's decisions can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

3. **ANNOUNCEMENTS:** None

ADJOURNMENT: 8:18 p.m.

MINUTES APPROVED:

BOARD SECRETARY:

Christopher M. Fletcher, AICP

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MORGANTOWN BOARD OF ZONING APPEALS

January 15, 2020
6:30 p.m.
City Council Chambers

Board Members:

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Garrett Tomblin

STAFF REPORT

CASE NO: CU20-01/ LM Morgantown, LLC / 419 High Street

REQUEST and LOCATION:

Request by Brandon Mathess, on behalf of LM Morgantown, LLC, for conditional use approval of a "Restaurant, Private Club" at 419 High Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Third Ward Tax District, Tax Map 26, Parcel 80; B-4, General Business District.

SURROUNDING ZONING:

B-4, General Business District.

BACKGROUND and ANALYSIS:

Representatives of LM Morgantown, LLC, doing business as *Lotsa Stone Fired Pizza*, a current "Restaurant, Private Wine" use, seek conditional use approval for a "Restaurant, Private Club." Addendum A of this report illustrates the location of the subject establishment.

The sale of liquor in the B-4 District requires conditional "Restaurant, Private Club" use approval by the Board of Zoning Appeals (BZA). Addendum B of this report contains excerpts from Article 1331.06(27) of the Planning and Zoning Code pertaining to "Restaurant, Private Club" uses in the B-4 District. Development Services Department staff and members of the BZA conducted a field visit on 07 JAN 2020. Field notes from the field visit are included in Addendum C of this report.

Bona Fide Restaurant

Article 1331.06(27)(c) prohibits applicants from seeking conditional "Restaurant, Private Club" use approval in the B-4 District unless the establishment has been in operation for at least one (1) year as a bona fide restaurant. The BZA is also provided discretion in waiving the one-year operations requirement when the applicant has provided materials that clearly demonstrate that the establishment will meet the requisite approval criteria.

Per the West Virginia Secretary of State's business entity database, LM Morgantown, LLC has been doing business as *Lotsa Stone Fired Pizza* since 23 May 2017, with previous operations doing business as *Lotsa*. Staff research indicates that this establishment has been operational since at least 28 OCT 2016, as evidenced by social media postings showing activity in the restaurant space. Accordingly, this one (1) year bona fide restaurant provision appears to have been met.

Seating

Section 1331.06(27)(f) requires "Restaurant, Private Club" uses in the B-4 District to provide seating capacity for at least 50 persons and that seats at a bar may not be

Development Services

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



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counted as meeting the minimum seating capacity. Staff observed on 30 DEC 2019 within the establishment a total of 77 non-bar seats using the following configurations:

- 12 stool seats not oriented towards a serving area/bar.
- 1 high top table providing 7 seats;
- 19 two-top tables with mixed booth and chair seating providing 38 seats; and,
- 5 four-top tables with chair seating providing 20 seats.

Licensure as a Private Club

In reviewing the proposed conditional “Restaurant, Private-Club” use petition in the B-4 District, elements of licensure that the West Virginia Alcohol Beverage Control Administration (WVABCA) or West Virginia Legislature establishes are not considered under the Planning and Zoning Code. In particular, West Virginia Code §11-16-8(a)(5) includes a provision prohibiting licensure to businesses that sell beer that have a 300-foot linear distance from the front door of the business to the front door of a school or church. Staff is aware that there *may* be an issue with this location’s proximity to *the Foundry Church* located at 432 High Street (across the street).

In seeking a conditional “Restaurant, Private Club” use approval, the petitioner will be required to obtain a license from the WVABCA to allow for the sale of liquor for on-premise consumption. The establishment currently has a license with WVABCA for the sale and on-premise consumption of beer and wine. License information is provided on Page 2 of Addendum C of this report. The current A-021 Private Wine Restaurant License (31-A-021-019768) does not require conditional use approval by the BZA as “Restaurant, Private Wine” uses are permitted in the B-4 District by-right. Given the uniqueness of state alcoholic beverage sales laws and customs, Staff believes the BZA should review the request on its own merits without weighing the feasibility of a specific WVABCA license condition for approval, in and of itself. Specifically, denying the proposed conditional use petition based on State Code and/or regulations for the sale of liquor would be beyond the BZA’s scope of authority.

STAFF RECOMMENDATION:

Addendum D 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 or the subject petition.

Staff recommends conditional “Restaurant, Private Club” use approval be granted under Case No. CU20-01 for LM Morgantown, LLC doing business as *Lotsa Stone Fired Pizza* as requested with the following conditions:

1. That the petitioner must maintain compliance with all supplemental regulations set forth in Section 1331.06(27) of the Planning and Zoning Code.
2. That the petitioner must maintain permitting from the Monongalia County Health Department as a “restaurant” under the Monongalia County Clean Indoor Air Regulations.

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN BOARD OF ZONING APPEALS

January 15, 2020
6:30 p.m.
City Council Chambers

Board Members:

Chris Benison
Harrison Case
Heidi Cook
Kevin Meehan
Garrett Tomblin

3. That, to sustain the establishment's obligation to remain a bona fide restaurant, *Lotsa Stone Fired Pizza* must be open no later than 11:00 a.m. at least (5) days a week for the purpose of serving lunch.
4. That *Lotsa Stone Fired Pizza* maintain a seating capacity of at least 50 persons and that seats at a bar may not be counted as meeting the minimum seating capacity.
5. That the petitioner shall voluntarily submit all necessary financial information to the City for the subject establishment following its first twelve (12) months of operation as a "Restaurant, Private Club" use to ensure compliance with Article 1331.06 (27) (e) provisions, which requires the sale of food and non-alcoholic beverages to comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.
6. That the beneficiary of this conditional use approval is specific to LM Morgantown, LLC (DBA *Lotsa Stone Fired Pizza*). Said beneficiary may not be transferred without prior approval of the Board of Zoning Appeals.

Attachments: Application and exhibits

Development Services

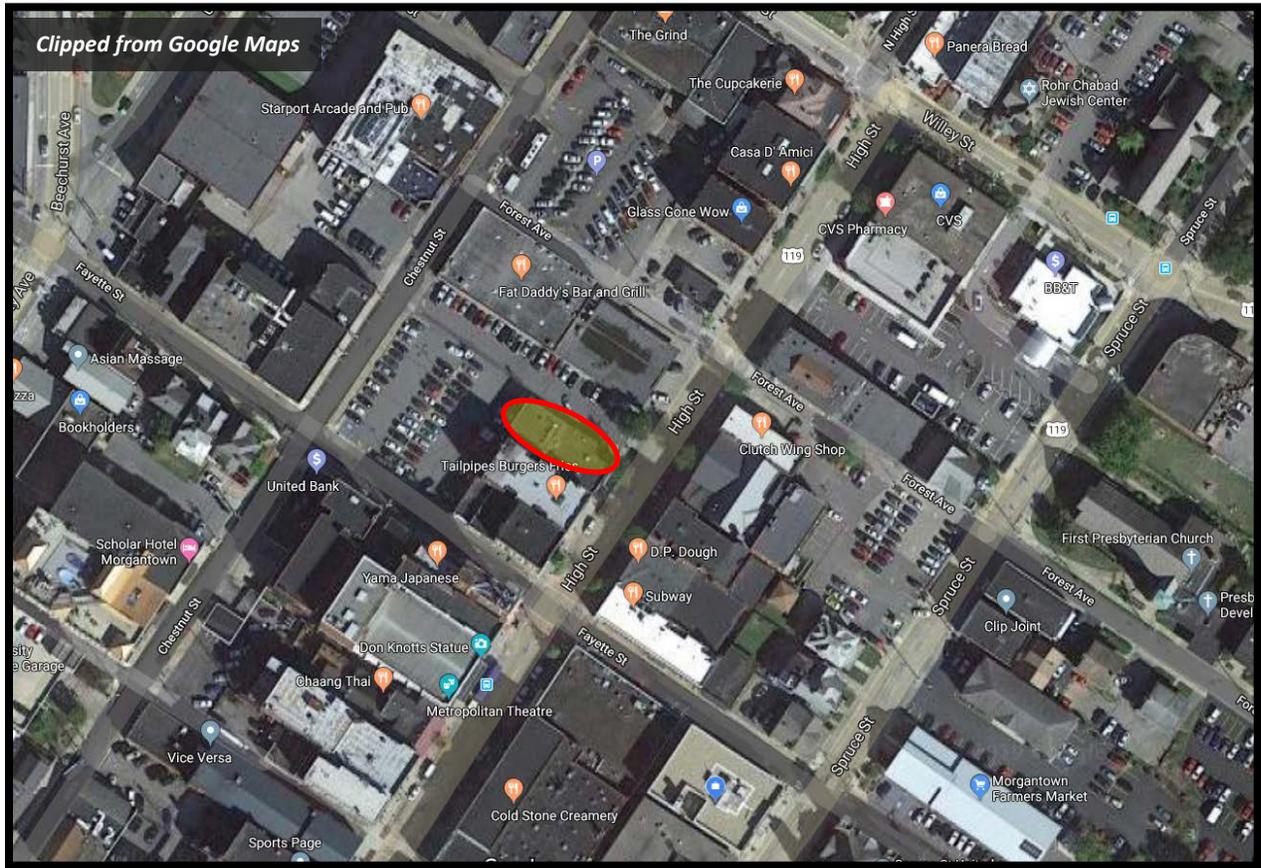
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

CU20-01 / LM Morgantown, LLC / 419 High Street



STAFF REPORT ADDENDUM A
CU20-01 / LM Morgantown, LLC / 419 High Street



STAFF REPORT ADDENDUM B
CU20-01 / LM Morgantown, LLC / 419 High Street

Article 1331.06 (27) of the Planning and Zoning Code, Supplemental Regulation Pertaining to Permitted Land Use Table provides the following applicable performance standards:

- (a) Such private club shall have as its principal purpose the business of serving meals on its premises to its patrons and to members of such club and their quests. For the purposes of this section, the term "meal" shall be consistent with that of the State of West Virginia as defined in its Legislative Rules and Regulations pertaining to Private Club License and shall not include packaged potato chips and similar products; packaged crackers; packaged nuts; packages desserts (fruit pies, cakes, cookies, etc.); and bar sausages and similar products.
- (b) Such private club with a bar shall post a sign not smaller than three (3) square feet in a prominent location near the bar that states the following: "It is a violation of City Ordinance to serve wine or liquor beverages after 1:00 a.m." (Amended by Ord. 06-14, Passed 06-06-2006.)
- (c) No such applicant may be licensed as a private club under this conditional use that has not been in operation for at least one year as a bona fide restaurant before making application for a license under this conditional use. However, when an applicant owns another bona fide restaurant the same as the one being proposed, the Board of Zoning Appeals may consider the proposed restaurant application on the basis of the existing restaurant which has been in operation for at least one year. In the B-4 district the Board of Zoning Appeals may waive the requirement, to be in business for one year as a bona fide restaurant, when the applicant's written description of the business operations, plus floor plans, demonstrate clearly that the establishment will meet the criteria in this subsection.
- (d) NOT APPLICABLE
- (e) Food and non-alcoholic beverages shall comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.
- (f) Such private club shall provide a seating capacity for at least fifty (50) persons, at a table or counter maintained for the principal purpose of serving meals. Seats at a bar, which is primarily for the serving of alcoholic beverages, shall not be counted as meeting the minimum seating capacity of the establishment. Liquor or wine may be served either at seats intended primarily for dining, or at any bar area within the restaurant, with or without an accompanying meal.
- (g) Liquor or wine shall not be served later than 1:00 a.m., except on New Year's Eve.
- (h) The private club shall, at the time of each sale or at the time of payment, record the amount of revenue derived from the sale of liquor and wine beverages separately from the amount of revenue derived from the sale of food and non-alcoholic beverages.
- (i) During each calendar month, the private club shall maintain and preserve accurate and adequate records including those required by paragraphs (e) and (h) above, to prove compliance to the City's Finance Director, and shall make all such records available for review and audit promptly upon request by the Finance Director. The records for each month shall be preserved for not less than twenty-four (24) months next following.
- (j) Quarterly, the private club shall send to the City Finance Director summaries showing the amount of revenue derived from liquor and wine beverages versus the amount derived from the sale of food and non-alcoholic beverages.
- (k) NOT APPLICABLE

STAFF REPORT ADDENDUM C

CU20-01 / LM Morgantown, LLC / 419 High Street

Field Notes

Purpose: Restaurant, Private Club in B-4 District

Date: 07 JAN 2020

Time: 6:30 p.m.

Weather: N/A (indoors)

General:

419 High Street / Lotsa Stone Fired Pizza – “Restaurant, Private Club” Conditional Use Petition

3 staff members on-site during the field visit

Notes:

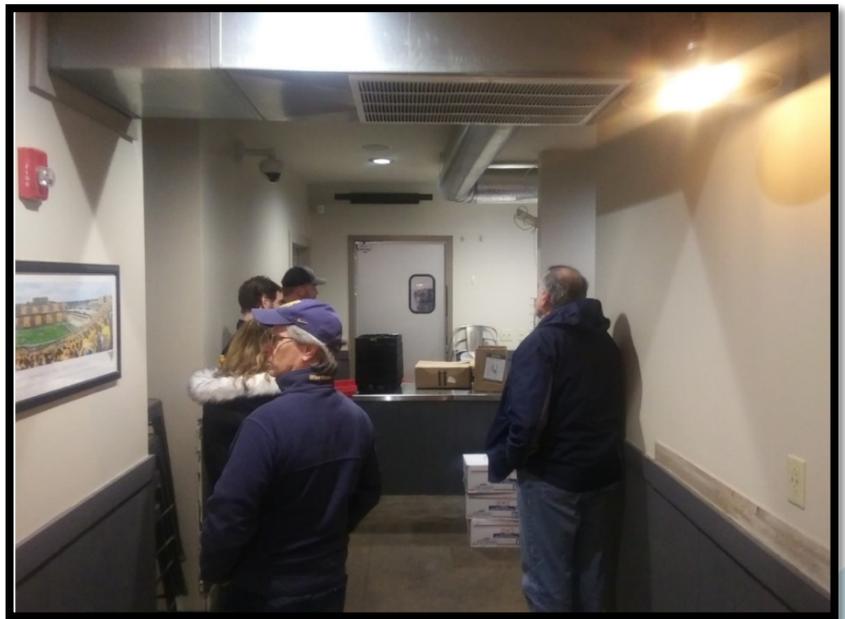
BZA members in attendance: Chris Benison, Harrison, Case, Heidi Cook, and Kevin Meehan

Staff in attendance: John Whitmore

Petitioner in attendance: Brandon Mathess

Author’s Notes:

- Beer sales already occur on site (WV ABCA license information is attached on page 2 of this addendum). Beer sales end at midnight while food sales continue until 4:00 a.m.
- Food Delivery services are provided by Grubhub, DoorDash, and Uber Eats.
- There are more than 50-seats in the establishment.
- Revenue from liquor beverage sales should not exceed 6% of total gross sales.
- There is no “bar area” planned and no interior renovations are anticipated at this time. The liquor beverage transactions will occur at the rear of the Restaurant as shown in the image taken during the field visit on 07 JAN 2020 at 6:42:56 p.m. to the right.



STAFF REPORT ADDENDUM C

CU20-01 / LM Morgantown, LLC / 419 High Street

LOTSAS STONE FIRED PIZZA

31-A-021-019768

419 HIGH ST.
Physical Address

2480 ROUTE 97 STE 12, MD, GLENWOOD 21738
Mailing Address

(304) 581-8000
Business Phone

A-021 Private Wine Restaurant License
License Type

Limited Liability Entity
Business Type

Active
Status

7/1/2019
Issue Date

6/30/2020
Expiration Date

Partner Information

LAST NAME	FIRST NAME	TITLE	STATE	% OWNERSHIP
MCFALLS	JAMIE	0	WV	Manager
DIGANGI	ANTHONY	0	MD	Member

OKAY

STAFF REPORT ADDENDUM D
CU20-01 / LM Morgantown, LLC / 419 High Street

The following revisions are recommended 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 or the subject conditional use petition.

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

Prior to this application, the business has been in operation without appreciable negative effect. A restaurant, private club use should not have ~~an effect~~ influence on street congestion as the offering of additional alcoholic beverages should not alter traffic around the site.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

The building meets or exceeds all current local and state required safety standards ~~and has the approval of the local and state fire marshals.~~

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

The existing building does not change any light or air flow patterns as no modifications are being requested.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

No physical changes to the existing building will result in the granting of this application.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

The proposed conditional restaurant, private club use should have no effect on the congestion of population.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

~~This request would not alter the provision of transportation, water, sewage, schools, parks, or other public requirements~~ The additional alcoholic beverages to the menu will not result in additional demand on existing infrastructure than current requirements.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

This request would not alter the physical characteristics of this site or any other site.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

Granting the conditional restaurant, private club application would not broaden the current business's customer service capabilities.



THE CITY OF
MORGANTOWN
WEST VIRGINIA

OFFICE USE
CASE NO. CU20-01

CR# 11992

APPLICATION FOR CONDITIONAL USE

(PLEASE TYPE OR PRINT IN INK)

Fee: \$150.00 [Z-CU]

I. APPLICANT/AGENT							
Name:	LM Morgantown, LLC d/b/a LOTSA				Phone:	410-489-0004	
Mailing Address:	P.O. Box 116				Mobile:	443-602-4759	
	Street Glenwood		MD	21738	Email:	support@lotsa.com	
	City	State	Zip				
II. PROPERTY							
Owner:	Blue Sky Realty, LLC				Phone:	304-292-7990	
Mailing Address:	1221 Chalfant Lane				Mobile:	304-216-6363	
	Street Morgantown		WV	26505	Email:	jecraig15@comcast.net	
	City	State	Zip				
III. CONDITIONAL USE DESCRIPTION							
Street Address (if assigned):		<u>419 HIGH STREET</u>					
Zoning:	B-4	Tax Map #:	26	Parcel #:	80	Parcel Area:	5,250 sq. ft.
Existing Use of the Site, including total building area per building on site:		Currently a fully operational restaurant.					
Proposed Use of the Site, including total building area per building on site:		The proposal is to use the existing site as a private club, serving liquor for on-site consumption in compliance with the regulations set for in Morgantown City Code 1331.06(27). <i>RESTAURANT conf.</i>					



APPLICATION FOR CONDITIONAL USE

IV. CONDITIONAL USE DESCRIPTION (cont.)							
On-Site Parking Spaces		Existing:			Proposed:		
IF RESIDENTIAL		Total No. of Dwelling Units:			Total Gross Floor Area: sq. ft.		
Bedroom Composition:	No. of 1BD:	No. of 2BD:	No. of 3BD:	No. of 4+BD:			
IF NONRESIDENTIAL		Location within the building:		Main Floor; street level		GFA to be occupied:	3,899 sq. ft.
Projected days and hours of business operation:		11:00 a.m. - 3:30 a.m. Thursday, Friday, and Saturday. 11:00 a.m. - 11:00 p.m. all other days. No liquor will be served after 1:00 a.m.					
Projected number of clients per day:		200		Projected number of employees present during busiest shift:		10	
<ul style="list-style-type: none"> This application may be supplemented by submitted additional information deemed helpful by the applicant to explain the nature of the proposed conditional use. Likewise, the Planning Division, if it determines necessary, may require additional information. 							
V. PHYSICAL CHANGE INFORMATION							
For conditional use applications providing for physical change including, but not limited to, construction, reconstruction or alteration, and/or site modification or improvements, the following information must be attached.							
<p>(1) Vicinity map showing all adjacent properties and nearby streets within a 300-foot radius around the project site, drawn at an appropriate scale.</p> <p>(2) <u>Site Plan</u>. A site plan (3 copies) drawn to scale at a minimum 1" = 50' and a maximum of 1" = 10' and include the following:</p> <ul style="list-style-type: none"> (a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law. (b) The exact sizes and locations on the lot of existing structures, if any. (c) The location(s), square footage(s), and dimensions of all proposed principal, accessory and/or temporary structure(s), and/or alteration(s). (d) The location of the lot with respect to adjacent rights-of-way. (e) <u>Parking Plan</u>. The location and dimensions of off-street parking and means of ingress and egress for such space. (f) Required and proposed setbacks. 							

APPLICATION FOR CONDITIONAL USE

- (g) Buffer yard location and landscaping and screening plan, if applicable. Landscaping Plan should be a separate drawing based on the site plan.
 - (h) Location of garbage collection area and screening.
 - (i) Location of existing and/or proposed signage, if applicable.
 - (j) Roadway typical detail for internal roadways, if applicable.
- (3) Building Elevations. All preliminary building elevations shall be drawn at a scale of 1/8" = 1'0" or larger and identify:
- (a) Height of all principal buildings and/or accessory structures. If applicable, measured in feet as provided in the definition of "BUILDING HEIGHT IN FEET" provided in Section 1329.02.
 - (b) All exterior materials and colors to be used including roofing, cladding, and windows.
 - (c) Show any improvements made to the property that have been approved but not yet constructed and label the area as such.
 - (d) Photographic or similar representation showing the building height in relationship to surrounding buildings.
- (4) Floor Plans. All preliminary floor plans shall be drawn to a scale of 1/8" = 1'-0" or larger and identify:
- (a) Both existing and proposed floor layouts with square footage indicated.
 - (b) Label the use of all rooms on the plans, with the dimensions of the room(s) and the overall dimensions of the building.
 - (c) Show any improvements made to the property that have been approved but not yet constructed and label the area as such.
 - (d) Photographic or similar representation showing the practice of the use, to include but not be limited to, seating arrangements, appliance/equipment layout, time-series analysis, etc.
- (5) Traffic Impact Study. A traffic impact study shall be submitted, if required by the City Engineer. Approved WV Division of Highways Permit and/or Agreement, if applicable, is not required for Board of Zoning Appeals conditional use review, but shall be required prior to issuance of a building permit. In the event a traffic analysis or traffic impact study is required and the review of same involves WV Division of Highways, written/electronic correspondence from WV Division of Highways documenting its approval of the traffic analysis or traffic impact study must be presented to the Board of Zoning Appeals by the applicant prior to conditional use permit approval.



APPLICATION FOR CONDITIONAL USE

VI. FINDINGS OF FACT

The Board of Zoning Appeals may grant the request only if each of the Conditional Use Findings of Fact criteria is determined to be in the positive. Applicants must give their own responses to the criteria statements provided below.

This Conditional Use is within the fitting character of the surrounding area and is consistent with the spirit, purpose, and intent of the Zoning Ordinance, because:

1. Congestion in the streets will not be increased, in that:

Prior to this application, the business has been operational without negative affect. A private club use should not have an effect on street congestion.

2. Safety from fire, panic, and other danger will not be jeopardized, in that:

The building meets or exceeds all current local and state required safety standards and has the approval of the local and state fire marshals.

3. Provision of adequate light and air will not be disturbed, in that:

The existing building does not change any light or air flow patterns as no modifications are being requested.

4. Overcrowding of land will not result, in that:

No physical changes to the existing building will result in the granting of this application.

5. Undue congestion of population will not be created, in that:

The proposed conditional private club use should have no effect on the congestion of population.



APPLICATION FOR CONDITIONAL USE

VI. FINDINGS OF FACT (cont.)

6. Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

This request would not alter the provision of transportation, water, sewage, schools, parks, or other public requirements.

7. Value of buildings will be conserved, in that:

This request would not alter the physical characteristics of this site or any other site.

8. The most appropriate use of land is encouraged, in that:

Granting the conditional private club application would broaden the current business's customer service capabilities.

VII. CONDITIONAL USE APPROVAL OBJECTIVES

Section 1379.03 of the Planning and Zoning Code provides that the Board of Zoning Appeals should consider the following when evaluating each conditional use application. Applicants are encouraged to attach a supplemental narrative addressing the following evaluation objectives and/or be prepared to address these objectives during the Board of Zoning Appeals' hearing.

1. The proposed conditional use is compatible with the goals of the adopted comprehensive plan.
2. The proposed conditional use is compatible with the appropriate and orderly development of the district, taking into consideration the location and size of the use, the nature and intensity of the operations involved in or conducted in connection with such use, the size of the site in relation to the use, the assembly of persons in connection with the use, and the location of the site with respect to streets giving access to the site.
3. The proposed site development, if applicable, is such that the proposed conditional use will not hinder nor discourage the appropriate development and use of adjacent land and buildings, taking into consideration the location, nature and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site.

APPLICATION FOR CONDITIONAL USE

4. Neighborhood character and surrounding property values are reasonably safeguarded.

5. Operations in connection with the proposed conditional use are not offensive, dangerous, destructive of property values and basic environmental characteristics, or detrimental to the public interest of the community. The proposed conditional use is not more objectionable to nearby properties by reason of fumes, noise, vibration, flashing of or glare from lights, and similar nuisance conditions than the operations of any permitted use not requiring a conditional use permit in the district.

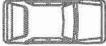
6. The character and appearance of the proposed conditional use, buildings, structures, and/or outdoor signs should be in general harmony or better, with the character and appearance of the surrounding neighborhood.

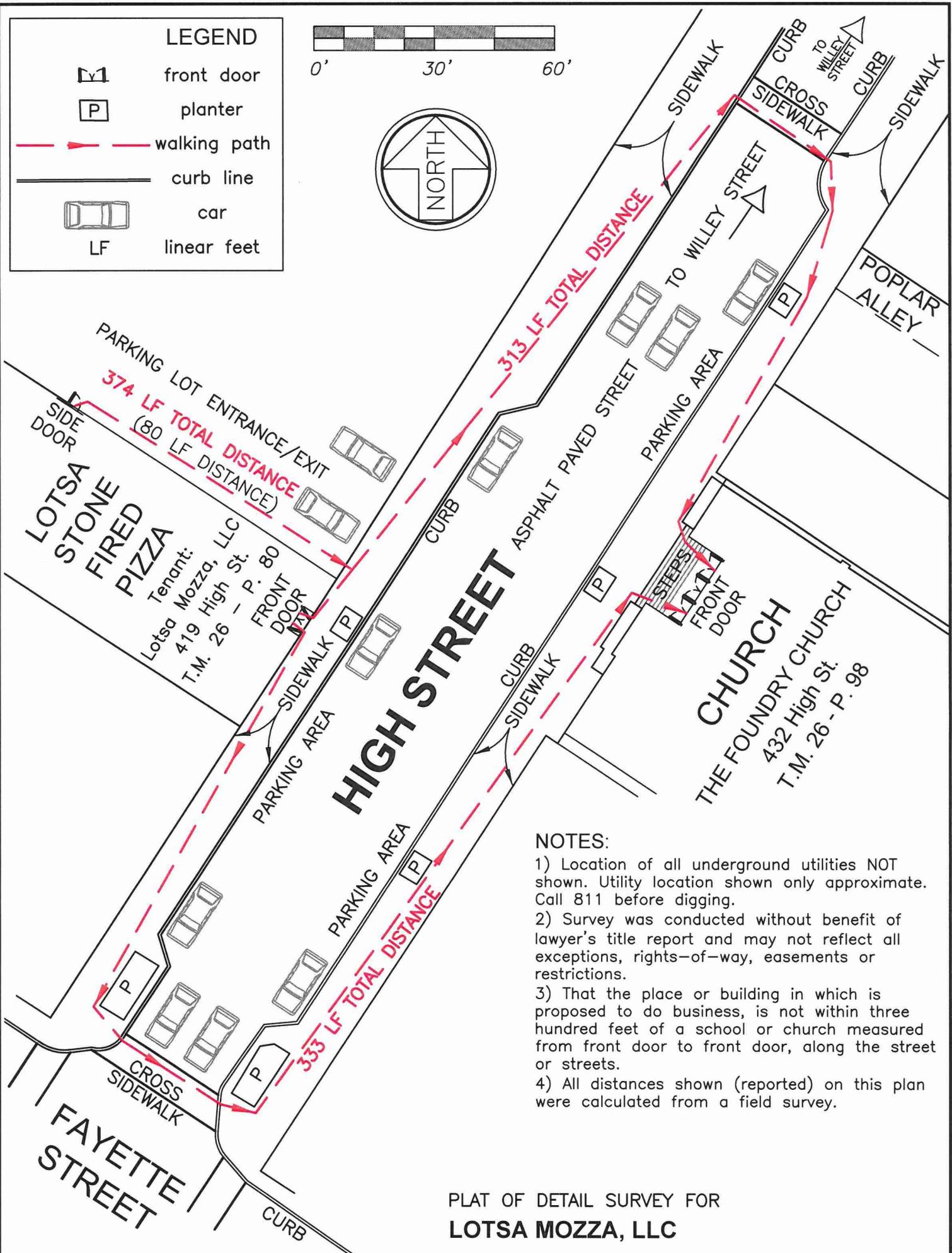
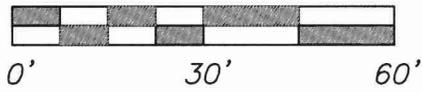
VIII. ATTEST

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 and I agree to conform to all applicable laws of this jurisdiction. 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>Brandon Mathess</i>		12-11-2019
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date

LEGEND

-  front door
-  planter
-  walking path
-  curb line
-  car
- LF linear feet



NOTES:

- 1) Location of all underground utilities NOT shown. Utility location shown only approximate. Call 811 before digging.
- 2) Survey was conducted without benefit of lawyer's title report and may not reflect all exceptions, rights-of-way, easements or restrictions.
- 3) That the place or building in which is proposed to do business, is not within three hundred feet of a school or church measured from front door to front door, along the street or streets.
- 4) All distances shown (reported) on this plan were calculated from a field survey.

**PLAT OF DETAIL SURVEY FOR
LOTSA MOZZA, LLC**

Description: Part of Morgans Town Plan

Addition ref.: D.B. OS 9, at Pg. 605

Subject Parcels:

Tax Map No. 26, Parcel 80

Tax Map No. 26, Parcel 98

Third Ward of the City of Morgantown,
Morgan District of Monongalia County, West Virginia.

Address: 419 High Street, Morgantown, WV.

Scale 1" = 30' date: January 8, 2020



**GREENLEAF SURVEYING
COMPANY**

1215 GREENBAG ROAD
MORGANTOWN, WEST VIRGINIA 26508
304 / 291-1264



ALLAN J. WITSCHI, P.S. NO. 587

file number 004-20

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MORGANTOWN BOARD OF ZONING APPEALS

January 15, 2020
6:30 p.m.
City Council Chambers

STAFF REPORT

Board Members:

Chris Benison
Harrison Case
Heidi Cook
Kevin Meehan
Garrett Tomblin

CASE NO: V20-01 / Little General / 600 Willey Street

REQUEST and LOCATION:

Request by Jackson Gardner of Triad Engineering, on behalf of *Little General*, for variance relief from Article 1347 concerning side yard setbacks at 600 Willey Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Third Ward Tax District, Tax Map 26, Parcel 299; B-2, Service Business District.

SURROUNDING ZONING:

B-2, Service Business District.

BACKGROUND:

The petitioner seeks to build a 210 square foot addition to the front of the *Little General*, "Neighborhood Convenience Store" use located at 600 Willey Street, requiring variance relief from the B-2 District side setback standard. Addendum A of this report illustrates the location of the subject site.

On 10 July 2019, Larry Goff of Trulargo, LLC applied for a building permit (Building Permit Application 2019-00001040) for improvements associated with an addition to the *Little General*. Planning Division and City Engineering staff met with Mr. Goff on-site on 12 July 2019 to review the proposed project. At that meeting, a development review and approval process was established to include obtaining Type II Site Plan approval and variance relief to allow for the proposed addition to be located 3.84 feet from the side parcel boundary. Additionally, state level coordination associated with an on-site DEP monitoring well was requested.

On 26 NOV 2019, Jackson Gardner or Triad Engineering, submitted the Type II Site Plan under case number S19-06-II. A Technical Review Team meeting with representatives from Code Enforcement, City Fire Marshal's office, City Engineer's office, Morgantown Utility Board, and Development Services staff was held on 10 DEC 2019. That meeting established conditional approval of the site plan and parameters for approval of the building permit application. Those parameters included the establishment of bollards or other vertical physical separation from the parking lot and the addition, landscaped island review by the City Engineer's office regarding access to an on-site gas meter, and additional building permit review and coordination with the City Engineer's office, as warranted. Background materials associated with the building permit application and the 26 NOV 2019 site plan are attached hereto directly after the applicant's variance petition application.

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN BOARD OF ZONING APPEALS

January 15, 2020
6:30 p.m.
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Board Members:

- Chris Benison
- Harrison Case
- Heidi Cook
- Kevin Meehan
- Garrett Tomblin

ANALYSIS:

The proposed addition is a 210 square foot room projecting 14 feet from the principal façade of the structure with a width of 15 feet. The proposed addition will be located 3.82 feet from the side parcel boundary. Setbacks for the B-2 District as provided in Section 1347.04(A) of the Planning and Zoning Code are shown below:

1347.04 SETBACKS AND ENCROACHMENTS.

(A) The following setbacks shall be required for all principal structures, except as otherwise provided in Section 1363.02(B) Yard, Building Setbacks and Open Space

Exceptions:

- (1) Minimum Front setback:..... 15 feet
- (2) Maximum Front setback:..... 30 feet
- (3) Minimum Side setback:..... 5 feet on one side and 20 feet on the side where any access drives are located.
- (4) Minimum Rear setback: 40 feet.

Section 1347.04(A)(3) of the Planning and Zoning Code provides a five (5) foot side setback on one side and a 20-foot setback on sides where access drives are located. At this site, the access drive is located on the northern side of the parcel, necessitating a 5-foot side yard setback from the southern side parcel boundary. The proposed addition will have a 3.82-foot southern side yard setback, establishing a 1.18-foot side yard setback encroachment.

The *Little General* structure is a legal, pre-existing nonconforming structure as the principal structure has a zero-foot side yard setback from the southern side parcel boundary, in addition to other front and rear setback nonconformities. Section 1373.06 (B)(2) provides that improvements to nonconforming structures that increase the extent of the structure’s nonconformity require variance relief to be obtained from the Board of Zoning Appeals, as shown below:

1373.06 NONCONFORMING STRUCTURES.

The following provisions shall apply to all structures and buildings meeting the definition of NONCONFORMING STRUCTURE:

- (A) Continuation. Any legally established nonconforming structure may be continued until abandoned as prescribed in subsection (C) of this section.
- (B) Expansion. Structure may be expanded, provided:
 - (1) A nonconforming structure may be enlarged, extended or structurally altered, provided the enlargement or alteration complies with the setback, height, lot coverage, and other site development requirements of the zoning district in which the structure is located.
 - (2) A nonconforming structure may not be enlarged, extended or structurally altered in such a manner that increases the extent of its nonconformity unless a variance from the terms of this article is obtained from the Board of Zoning Appeals.



Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

Planning Division

389 Spruce Street
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MORGANTOWN BOARD OF ZONING APPEALS

January 15, 2020
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Board Members:

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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 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 or the subject petition.

Staff provides no recommendation regarding variance relief for the setback encroachment. In the event the Board of Zoning Appeals does grant variance relief as requested, staff recommends that said approval include the following conditions:

1. That Building Permit Application No. 2019-00001040 must be revised to include requisite Type II Site Plan application information and materials;
2. That, to the satisfaction of the Planning Division, requisite vertical physical separation of the proposed addition from the adjoining parking spaces shall be installed in accordance with Section 1365.09(B)(4)(d) of the City of Morgantown Planning and Zoning Code; and
3. That, to the satisfaction of the Planning Division, landscape island improvements identified in the 26 NOV 2019 draft of the Type II Site Plan for Case No. S19-06-II shall be designed and installed to ensure proper access to the on-site gas meter, as determined by the Engineering Department.

Attachments: Application and accompanying materials

Development Services

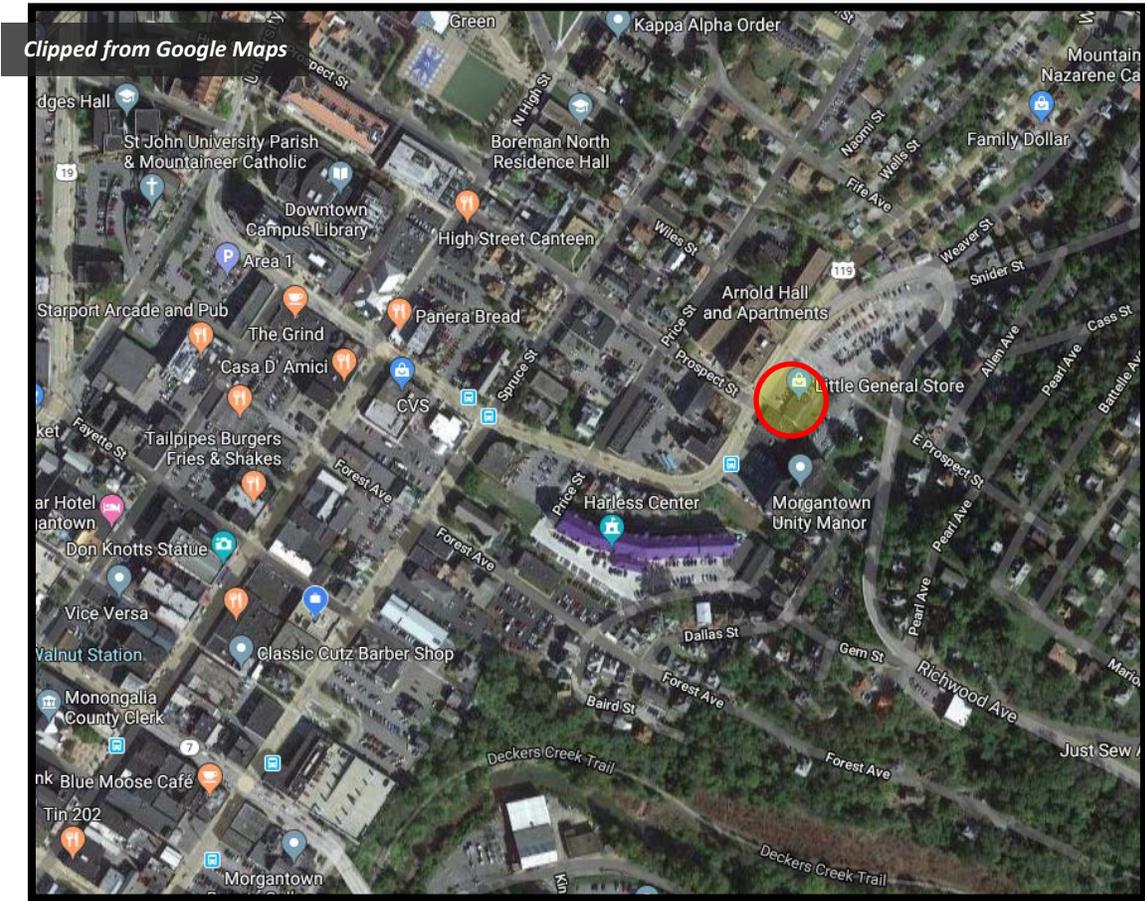
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

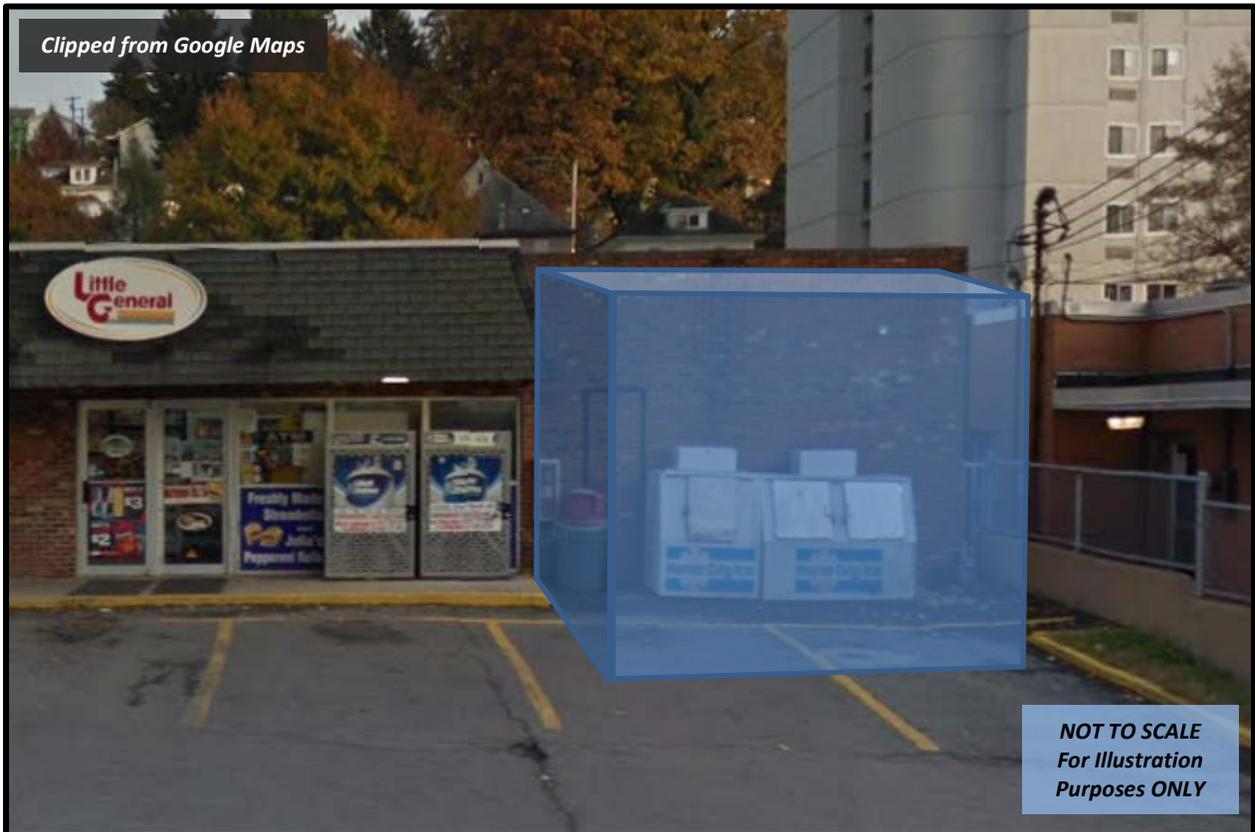
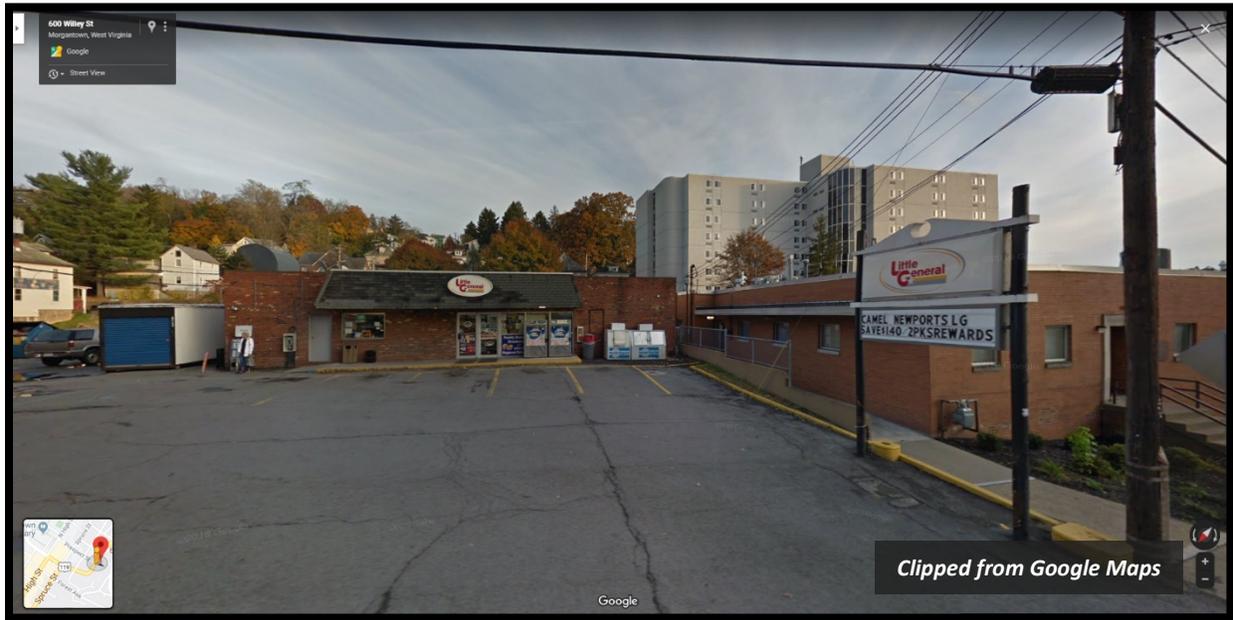
Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V20-01 / Little General / 600 Willey Street



STAFF REPORT ADDENDUM A
V20-01 / Little General / 600 Willey Street



STAFF REPORT ADDENDUM B

V20-01 / Little General / 600 Willey Street

The following revisions are recommended 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 or the subject variance petition.

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 proposed addition will have a greater side yard setback than the existing building to ~~which the addition is being constructed on.~~
- The proposed work does not allow unwanted access to the side of the building between parcels 300 and 299.
- Construction will create an aesthetically pleasing vegetated screen/side yard buffer from the adjacent property.
- Proposed work provides greater protection from vehicular traffic to the neighboring church property.
- ~~Installation of permanent concrete wheel stops will provide vehicular protection, per the city ordinance, to Little General.~~
- Proposed façade will best match the existing buildings masonry preventing an unappealing view from the surrounding area.

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 existing building to which the addition will be constructed too has an existing side yard setback of 0.82' (4.18 encroachment). The structure directly to the south of the Little General property is also a nonconforming structure as it has a .82' setback from the Little General structure's parcel.~~
- ~~The proposed addition will have a side yard setback of 3.82' (1.18' encroachment) on the same side as stated above.~~
- The location of the addition is necessary to accommodate the current configuration of the building (customer space, employee space, ingress/egress, storage space, etc.).

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

- The proposed location prevents a redesign of the entire inside layout of the store and property.
- ~~There will be no reduction to the current number of parking spaces while still providing adequate drive aisle space and stall size.~~

- Proposed work increases the aesthetics of the property by providing landscape and a matching façade to the existing building.

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

- Though it is requested to have a 1.18' encroachment, proposed condition will adhere to the 6' side yard landscaped buffer per ordinance 1367.08(C)(2).
- Side yard buffer will have an evergreen vegetated screen to the adjacent property.
- Proposed façade will match, to the best of its ability, the existing building to which the addition will be constructed too.
- ~~There will be permanent concrete wheel stops along the entirety of the building frontage providing vehicular protection.~~
- ~~Proposed parking layout will better adhere to the current ordinance for stall size and ADA accessibility that was it currently provided.~~

APPLICATION FOR VARIANCE

You or a representative MUST be in attendance at the scheduled hearing to present this request and answer questions. Failure to appear at the hearing will result in your variance petition being tabled and potential delay of your project.

V. SITE PLAN

This application must be accompanied by a site plan illustrating the following information, unless otherwise stipulated by the Planning Division or Board of Zoning Appeals.

- Vicinity map showing all adjacent properties and nearby streets within a 300-foot radius around the project site, drawn or illustrated at an appropriate scale.
- A site plan (3 copies) drawn to scale at a minimum 1" = 50' and a maximum of 1" = 10' and include the following:
 - The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law.
The exact sizes and locations on the lot of existing structures, if any.
 - The location(s), square footage(s), and dimensions of all proposed principal, accessory and/or temporary structure(s), and/or alteration(s).
 - The location of the lot with respect to adjacent rights-of-way.
 - Parking Plan. The location and dimensions of off-street parking and means of ingress and egress for such space.
 - Required and proposed setbacks.
 - Buffer yard location and landscaping and screening plan, if applicable. Landscaping Plan should be a separate drawing based on the site plan.
 - Location of garbage collection area and screening.
 - Location of existing and/or proposed signage, if applicable.
 - Roadway typical detail for internal roadways, if applicable.
- Additional information that may be required by the Planning Division or the Board of Zoning Appeals includes building elevations/renderings, floor plans, traffic impact study, existing and proposed grading plans, erosion and sediment control plan, stormwater management plan, etc.

VI. FINDINGS OF FACT

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria are determined to be in the positive. Applicants must give their own responses to the following finding of fact statements.

APPLICATION FOR VARIANCE

VI. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</p> <ul style="list-style-type: none"> - The proposed addition will have a greater side yard setback than the existing building to which the addition is being constructed on. - The proposed work does not allow unwanted access to the side of the building between parcels 300 and 299. - Construction will create an aesthetically pleasing vegetated screen/side yard buffer from the adjacent property. - Proposed work provides greater protection from vehicular traffic to the neighboring church property. - Installation of permanent concrete wheel stops will provide vehicular protection, per the city ordinance, to Little General. - Proposed facade will best match the existing buildings masonry preventing an unappealing view from the surrounding area. 	<p>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:</p> <ul style="list-style-type: none"> - The existing building to which the addition will be constructed too has an existing side yard setback of 0.82' (4.18' encroachment). - The proposed addition will have a side yard setback of 3.82' (1.18' encroachment) on the same side as stated above. - The location of the addition is necessary to accommodate the current configuration of the building (customer space, employee space, ingress/egress, storage space, etc..).

APPLICATION FOR VARIANCE

VI. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <ul style="list-style-type: none"> - The proposed location prevents a redesign of the entire inside layout of the store. - There will be no reduction to the current number of parking spaces while still providing adequate drive aisle space and stall size. - Proposed work increases the aesthetics of the property by providing landscape and a matching facade to the existing building. 	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <ul style="list-style-type: none"> - Though it is requested to have a 1.18' encroachment, proposed condition will adhere to the 6' side yard landscaped buffer per ordinance 1367.08(C)(2). - Side yard buffer will have an evergreen vegetated screen to the adjacent property. - Proposed facade will match, to the best of its ability, the existing building to which the addition will be constructed too. - There will be permanent concrete wheel stops along the entirety of the building frontage providing vehicular protection. - Proposed parking layout will better adhere to the current ordinance for stall size and ADA accessibility than was it currently provided. 	

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MORGANTOWN BOARD OF ZONING APPEALS

January 15, 2020
6:30 p.m.
City Council Chambers

Board Members:

Chris Benison
Harrison Case
Heidi Cook
Kevin Meehan
Garrett Tomblin

STAFF REPORT

CASE NO: V20-02 / Chase Bank / 461 High Street

REQUEST and LOCATION:

Request by Crystal Miller of City Neon, on behalf of Chase Bank, for variance relief from Article 1369 concerning signage at 461 High Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Third Ward Tax District, Tax Map 26, Parcels 75 and 76; B-4, General Business District.

SURROUNDING ZONING:

B-4, General Business District.

BACKGROUND and ANALYSIS:

Representatives of *City Neon* have been in contact with Planning Division staff regarding signage for a new “financial services establishment” use (*Chase Bank*) to be located at 461 High Street, Suite 3 in a recently constructed mixed-use building. Addendum A of this report illustrates the location of the subject site.

This tenant previously received variance relief under Case No. V19-16 Section 1369.07(l)(1) regarding wall sign area (total variance in the amount of 38.61 square feet) and Sections 1369.08(B)(1) and 1369.08(B)(3) regarding translucent material. Addendum B of this report includes materials for Case No. V19-16. The applicant now seeks variance relief from Section 1369.08(B)(2) to permit internal illumination of the proposed wall and suspended signs.

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 C 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 or the subject petition. As is customary with sign variance petitions, no recommendation is submitted by Staff concerning whether variance relief should be granted as requested.

Attachments: Application and accompanying materials

Development Services

Christopher Fletcher, AICP
Director

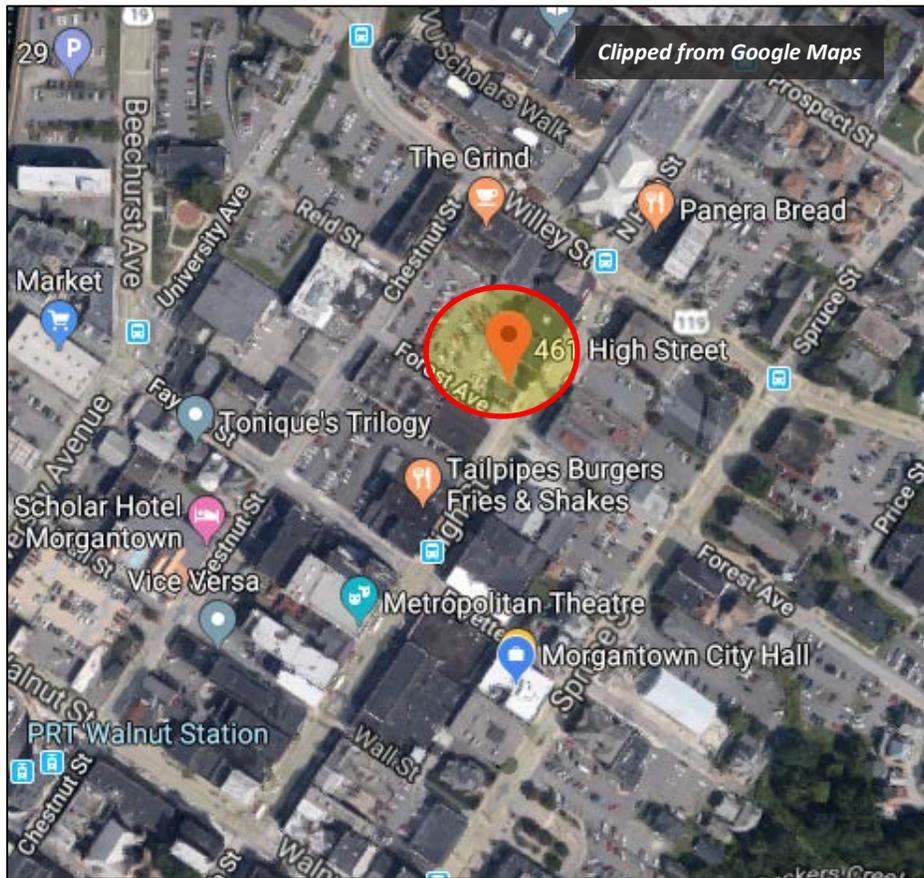
John Whitmore, AICP
Senior Planner

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

V20-02 / Chase Bank / 461 High Street



STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street

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V19-16 Approval letter	Page 14 of 15

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street



MORGANTOWN BOARD OF ZONING APPEALS

May 15, 2019
6:30 p.m.
City Council Chambers

Board Members:

Harrison Case, Chair
Kevin Meehan, Vice-Chair
Christopher Benison
Heidi Cook
Garrett Tomblin

STAFF REPORT

CASE NO: V19-16 / Chase Bank / 461 High Street

REQUEST and LOCATION:

Request by Crystal Miller of *City Neon*, on behalf of *Chase Bank*, for variance relief from Article 1369 concerning signage at 461 High Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Third Ward Tax District, Tax Map 26, Parcels 75 and 76; B-4, Service Business District

SURROUNDING ZONING:

B-4, General Business District

BACKGROUND and ANALYSIS:

Representatives of *City Neon* have been in contact with Planning Division staff regarding signage for a new "financial services" establishment, *Chase Bank*, to be located at 461 High Street, Suite 3, a mixed-use building currently under construction. Addendum A of this report illustrates the location of the subject site. The following graphic is clipped from the architectural plans for the building currently under construction to illustrate the location of the subject tenant space.

Wall Signs

Section 1369.07(I)(1) of the Planning and Zoning Code provides a maximum wall sign area standard of four tenths (0.4) square feet for every-one (1) foot of tenant building frontage in the B-4 District. The linear width of the tenant's frontage is 31 feet and 11 inches, which establishes a maximum wall sign area standard of 12.77 square feet. As such, variance relief of 38.61 square feet is required for the wall signs as proposed and further illustrated in the table below.

Development Services
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

Planning Division
389 Spruce Street
Morgantown, WV 26505
304.284.7431

Wall Sign	Sign Area
	25.69 sf X 2 (51.38 sf total)
Total Permitted Sign Standards	12.77 sf
Total Requested Variance	38.61 sf

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street



MORGANTOWN BOARD OF ZONING APPEALS

May 15, 2019
6:30 p.m.
City Council Chambers

Board Members:

Harrison Case, Chair
Kevin Meehan, Vice-Chair
Christopher Benison
Heidi Cook
Garrett Tomblin

It should be noted, the side building wall sign is permitted per Article 1369.07(I)(4), as shown below:

- (4) On a multi-occupancy building, each occupant with an outside entrance serving the general public may have a separate wall sign. Corner tenants with a door or window on their side walls and tenants with a separate outside entrance serving the general public where such entrance is in a different exterior wall from any other entrance for which such tenant shall be allowed one additional wall sign;

Additionally, the proposed wall signs and suspended sign requires variance relief from the following provisions relating to the octagon shaped logo illustrated to the right.

- To permit translucent sign logos..... Section 1369.08(B)(1)
- To permit prohibited sign materials..... Section 1369.08(B)(3)



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 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 or the subject petition.

As is customary with sign variance petitions, no recommendation is submitted by Staff concerning whether variance relief should be granted as requested.

Development Services
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

Planning Division
389 Spruce Street
Morgantown, WV 26505
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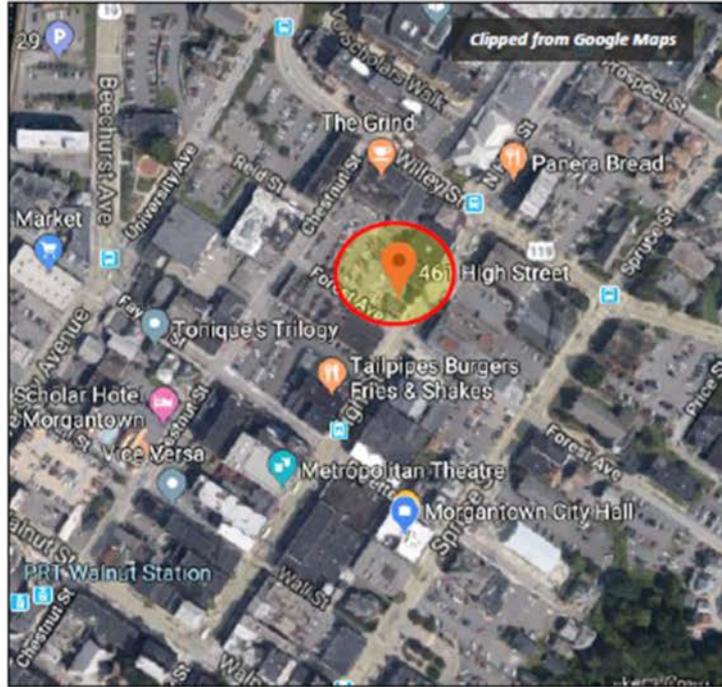
Attachments: Application and accompanying materials

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street

STAFF REPORT ADDENDUM A

V19-16 / Chase Bank / 461 High Street



V19-16 Staff Report
Addendum A

Page 1 of 1

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street

STAFF REPORT ADDENDUM B

V19-16 / Chase Bank / 461 High Street

The following revisions are recommended 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 or the subject variance petition.

V19-16 Sign Area

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 proposed square footage of signage requested will be divided onto two faces of the building. Each face that will have signage faces a street; High Street on the front of the building and Forest Avenue that connects High Street to the parking lot at the rear of the building. The proposed signage is non-illuminated and will pose not threat, harm, or injustice to the residents or surrounding property owners.

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 wall signage will serve as advertising and wayfinding along a bustling downtown setting. ~~The client is trying to keep as much of their corporate styling that they have used at branches across the nation while adhering to Morgantown's code as much as possible. The dimensional letters are non-illuminated and made of aluminum. The signage appears to complement existing signage in the area and will permit day-time natural visual glow by the use of translucent materials.~~

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

The small downtown lot does not allow the room for more traditional ground signage that could be used for way finding purposes. The client tenant will utilize the front signage for pedestrians and motorists traveling High Street, and the Forest Avenue sign to attract pedestrian traffic from further down High Street.

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

The client tenant will be able to keep the signage on par with their corporate styling across the nation and provide adequate commercial advertising in keeping with the design of the structure. And their patrons will be able to identify the business readily. The signage design will function to promote the individual business use and appears strengthen downtown's overall commercial corridor.

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street



THE CITY OF
MORGANTOWN
WEST VIRGINIA

OFFICE USE
CASE NO. V19-16

APPLICATION FOR VARIANCE

CK33228

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: **\$150.00 [Z-V]**

I. APPLICANT/AGENT		Name: City Neon, Inc. - Crystal Miller	
Mailing Address:	1095 Chaplin Road		Phone: 304-599-1854
	Street	Morgantown WV 26501	Mobile:
	City State Zip		Email: crystal@cityneon.com
II. PROPERTY		Street Address: 461 High Street - Chase Bank	
Owner:	Bossio Enterprises	Zoning:	B4
Mailing Address:	PO Box 120		Tax Map No: 26
	Street	Morgantown WV 26507	Parcel No: 75/76
	City State Zip		Phone:
III. NARRATIVE		Describe the specific use and the standard for which the variance is sought.	
<p>The client's building front measures 31'-11" and by code would be allowed 12.8 sq. ft. of wall signage. The client is requesting two signs measuring 25.6 sq. ft each for a grand total of 51.2 sq. ft. of wall signage. We would like to receive 38.4 sq. ft of relief from the city code.</p>			
IV. 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>			
Crystal Miller		<i>Crystal Miller</i>	4/5/19
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	Date

2019-00003234
Samantha Baldwin
4/5/2019 8:02:06 AM
Var/Variance Application Fee
City of Morgantown

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street



OFFICE USE CASE NO. <u>V19-16</u>

APPLICATION FOR VARIANCE

VI. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</p> <p>The proposed square footage of signage requested will be divided onto two faces of the building. Each face that will have signage faces a street; High Street on the front of the building and Forest Avenue that connects High Street to the parking lot at the rear of the building. The proposed signage is non-illuminated and will pose no threat, harm, or injustice to the residents or surrounding property owners.</p>	
<p>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:</p> <p>The wall signage will serve as advertising and wayfinding along a bustling downtown setting. The client is trying to keep as much of their corporate styling that they have used at branches across the nation while adhering to Morgantown's code as much as possible. The dimensional letters are non-illuminated and made of aluminum.</p>	

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street



OFFICE USE
CASE NO. V19-16

APPLICATION FOR VARIANCE

VI. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <p>The small downtown lot does not allow the room for more traditional ground signage that could be used for way finding purposes. The client will utilize the front signage for motorists traveling High Street, and the Forest Avenue sign to attract pedestrian traffic from further down High Street.</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>The client will be able to keep the signage on par with their corporate styling across the nation. And their patrons will be able to identify the business readily.</p>	

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street

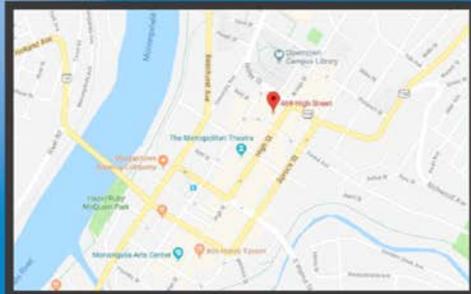




Signtech
4444 Federal Blvd., San Diego, CA 92132
Phone: (619) 527-4100 / Fax: (619) 527-4111
signtech.com

#38100P312779
West Virginia Univ at Morgantown
469 High Street
Morgantown, WV 26505

Initial Date: 12/22/18
Salesperson: Arthur Navamp
Coordinator: Tracey Fisham
Designer: Andrew Sans
Scale: As noted



CUSTOMER APPROVAL

Customer Signature: _____ Date: _____

COPY, COLORS & SIZES

Signtech does NOT provide primary identification to sign location - **RESPONSIBILITY OF OTHERS!**

Customer Signature: _____ Date: _____

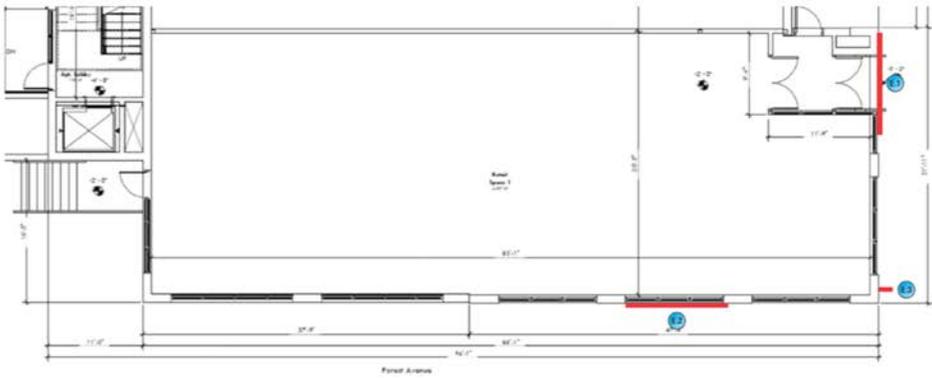
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Drawing Number: P38100P312779-1
Project ID: CHASE_38100P312779_1

Page No. 1 **DRC Page 1**

EXTERIOR SIGN LEGEND - ALLOWED

Elevation	Sign No.	Sign Type	Description	Sq Ft
East	E-1	LINC-BLK-20	20" Back Dimensional Letters and Logo - Gloss Lighting	25.6
South	E-2	LINC-BLK-20	20" Back Dimensional Letters and Logo - Gloss Lighting	25.6
	E-3	CUSTOM BLADE SIGN	Custom Tavern Style Blade Sign	6
Total Proposed Sq Ft				57.2
Total Allowable Sq Ft				-
Difference				-



FOREST AVENUE

SITE PLAN SCALE: 1/8" = 1'-0"



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4444 Federal Blvd., San Diego, CA 92132
Phone: (619) 527-4100 / Fax: (619) 527-4111
signtech.com

JP Morgan Chase Bank
#38100P312779
West Virginia Univ at Morgantown
469 High Street
Morgantown, WV 26505

Initial Date: 12/22/18
Salesperson: Arthur Navamp
Coordinator: Tracey Fisham
Designer: Andrew Sans
Scale: As noted

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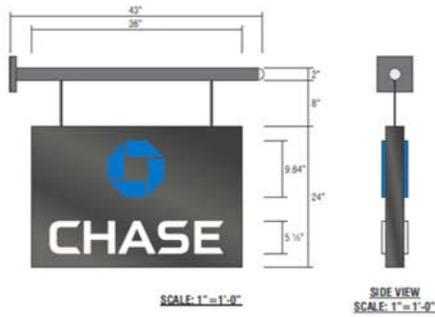
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Drawing Number: P38100P312779-1
Project ID: CHASE_38100P312779_1

Page No. 2 **DRC Page 1**

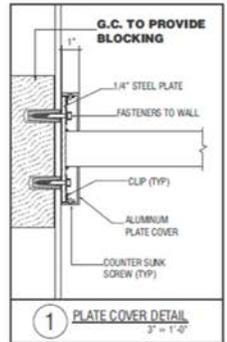
STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street



E.3 SIGN TYPE CUSTOM BLADE SIGN-M

MANUFACTURE AND INSTALL ONE (1) NON-ILLUMINATED TAVERN BLADE SIGN
BLADE: .125" FABRICATED 3" DEEP ALUMINUM PAINTED MATTHEWS DARK NICKEL # MP-18248
CHASE COPY: TO BE 1/4" THICK CLEAR PLEX PUSH THRU COPY WITH FIRST SURFACE 3M # 3632-20 TRANSLUCENT WHITE VINYL & SECOND SURFACE 3M ENVISION #3735-50 DIFFUSER FILM.
OCTAGON LOGO: TO BE 1/4" THICK CLEAR PLEX PUSH-THRU WITH SECOND SURFACE #3632-127 BLUE VINYL OVERLAY NO KEYLINE.
INSTALLATION: BOLT MOUNT THRU 1/4" THK PLATE INTO COATED EXTERIOR WALL. MOUNTINGS TO BE CONCEALED w/ .125" BRAKE-FORMED ALUMINUM COVER PLATE, PAINT DARK NICKEL TO MATCH BLADE SIGN.



4444 Federal Blvd. San Diego, CA 92102
 Phone: (619) 527-4100 / Fax: (619) 527-4111
 signtech.com

WUSA, FOX 35, FOX 31, FOX 32, FOX 33, FOX 34, FOX 35, FOX 36, FOX 37, FOX 38, FOX 39, FOX 40, FOX 41, FOX 42, FOX 43, FOX 44, FOX 45, FOX 46, FOX 47, FOX 48, FOX 49, FOX 50

JP Morgan Chase Bank
 #38100P312779

West Virginia Univ at Morgantown
 469 High Street
 Morgantown, WV 26505

Initial Date: 12/22/18
 Subproject: Arthur Sweeney
 Coordinator: Tracey Pichler
 Designer: Andreea Sara
 Scale: As noted

CUSTOMER APPROVAL

Customer Signature: _____ Date: _____
 COPY, COLORS & SIZES

Signtech does NOT provide primary electrical to sign location.
RESPONSIBILITY OF OTHERS:

Customer Signature: _____ Date: _____
 This design is the exclusive property of Signtech and cannot be reproduced or altered in any way without prior written approval.

Drawing Number: PERM
 Project ID: CHASE_38100P312779

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street

On-street parking along Lyndhurst Street is restricted by yellow curb and permit parking. The development of off-street parking, particularly garage storage, appears to advance reductions to on-street parking congestion, while recognizing site constraints of the petitioner's property.

Cook moved to approve Case No. V19-15 with the Staff recommended condition; seconded by Benison. Motion carried unanimously.

Case reminded Mr. Langdon that the Board's decisions can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

- **V19-16 / Chase Bank / 461 High Street:** Request by Crystal Miller of City Neon, Inc., on behalf of Chase Bank, for variance relief from Article 1369 concerning signage; Third Ward Tax District, Tax Map 26, Parcels 75 and 76; B-4, General Business District.

Whitmore presented the Staff Report.

Case recognized Crystal Miller of City Neon, on behalf of Chase Bank, who provided further explanation of the proposed sign.

Case asked if there will be three (3) commercial tenants planned for the building and if there would be a master sign plan for those tenants. Miller stated they have had discussions with the owner on what the code allows for signage on that building.

Whitmore referred to the Staff Report to provide further explanation on the placement of the tenants and stated additional variances may be possible in the future with this building.

Case asked if the signs would be illuminated. Miller stated they will not be internally illuminated but will include external down lighting.

Whitmore provided further explanation on the proposed signage and stated the lighting is permitted as proposed.

There being no further questions or comments by the Board, Case asked if anyone would like to speak in favor of or in opposition to the variance petition. There being none, Case declared the public hearing closed and asked for Staff recommendations, which were read by Whitmore.

Meehan made a motion to find in the affirmative for all of the Finding of Facts for V19-16 as revised; seconded by Tomblin. Motion carried unanimously.

NOTE: The following findings were included in the motion.

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 proposed square footage of signage requested will be divided onto two faces of the building. Each face that will have signage faces a street; High Street on the front of the building and Forest Avenue that connects High Street to the parking lot at the rear of the building. The proposed signage is non-illuminated and will pose not threat, harm, or injustice to the residents or surrounding property owners.

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street

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 signage appears to complement existing signage in the area and will permit day-time natural visual glow by the use of translucent materials.

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

The small downtown lot does not allow the room for more traditional ground signage that could be used for way finding purposes. The tenant will utilize the front signage for pedestrians and motorists traveling High Street, and the Forest Avenue sign to attract pedestrian traffic from further down High Street.

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

The tenant will be able to keep the signage on par with their corporate styling across the nation and provide adequate commercial advertising in keeping with the design of the structure. The signage design will function to promote the individual business use and appears strengthen downtown's overall commercial corridor.

Meehan moved to approve Case No. V19-16 without conditions; seconded by Cook. Motion carried unanimously.

Case reminded Ms. Miller that the Board's decisions can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

- V19-03 / ALDI, Inc. / 1351 Earl L. Core Road: Request by Rory Garr, on behalf of ALDI, Inc., Saxonburg Division, for variance relief from Section 1347.04 regarding building setbacks; Sixth Ward Tax District, Tax Map 31, Parcels 101.2 and 101.5; B-2, Service Business District and B-5, Shopping Center District, respectively.

Whitmore presented a combined Staff Report for V19-03 and V19-04.

Case recognized Stephanie Albright of APD Engineering and Architecture, on behalf of ALDI, Inc., who provided a presentation of the proposed project and further explanation of the variances requested. Albright further explained the intersection and access points along with landscaping placement.

Case asked if they are working with WVDOH to replace the intersection. Albright confirmed.

Whitmore noted there are conditions listed with the Planning Commission approval and stated they are working on the intersection with WVDOH.

Case referred to the parking variance petition and noted that a lot of businesses in that corridor have parking in between Earl L Core Road and the business. Whitmore confirmed and stated *Popeyes Louisiana Kitchen* recently received a similar variance.

Case asked if there were any objections to combining the public hearing for V19-03 and V19-04. No objections were noted.

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street



DEVELOPMENT
SERVICES
DEPARTMENT

The City of Morgantown

389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7431 TDD (304) 284-7512
FAX (304) 284-7534 www.morgantownwv.gov

May 16, 2019

Chase Bank
C/O Crystal Miller
City Neon
1095 Chaplin Road
Morgantown, WV 26501

RE: V19-16 / Chase Bank / 461 High Street
Tax Map 26, Parcels 75 and 76

Dear Ms. Miller,

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced variance petition for variance relief from Article 1369 as it relates to signage at 461 High Street.

The decision is as follows:

Board of Zoning Appeals, May 15, 2019:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted 38.61-square foot variance maximum wall sign area standards and a variance from sign material and translucency standards without conditions.

This decision may be appealed to the Circuit Court of Monongalia County within thirty (30) days. Any work done relating to decisions rendered by the Board of Zoning Appeals during this thirty-day period is at the sole financial risk of the petitioner.

The above referenced approval is set to expire in twelve (12) months unless you can demonstrate that it has been activated as evidenced by permits, construction, or required licenses. This expiration deadline may be extended to eighteen (18) months upon prior written request of the Board.

Please note sign permits must be obtained prior to the commencement of work for which variance relief was granted herein.

Should you have any questions or require further clarification, please contact the undersigned. We look forward to serving your plans review and permitting needs.

Respectfully,

John Whitmore
Planner III

Digitally signed by John
Whitmore, AICP

Date: 2019.05.16
08:37:17 -04'00'

Page 1 of 2

STAFF REPORT ADDENDUM B

V20-02 / Chase Bank / 461 High Street

APPROVED FINDINGS OF FACT

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 proposed square footage of signage requested will be divided onto two faces of the building. Each face that will have signage faces a street; High Street on the front of the building and Forest Avenue that connects High Street to the parking lot at the rear of the building. The proposed signage is non-illuminated and will pose not threat, harm, or injustice to the residents or surrounding property owners.

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 signage appears to complement existing signage in the area and will permit day-time natural visual glow by the use of translucent materials.

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

The small downtown lot does not allow the room for more traditional ground signage that could be used for way finding purposes. The tenant will utilize the front signage for pedestrians and motorists traveling High Street, and the Forest Avenue sign to attract pedestrian traffic from further down High Street.

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

The tenant will be able to keep the signage on par with their corporate styling across the nation and provide adequate commercial advertising in keeping with the design of the structure. The signage design will function to promote the individual business use and appears strengthen downtown's overall commercial corridor.

STAFF REPORT ADDENDUM C

V20-02 / Chase Bank / 461 High Street

The following revisions are recommended 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 or the subject variance petition.

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 newly proposed signage plan is the standard package offered by the Corporate Office. The channel letters are similar to other signs in the downtown area such as Jimmy John's and Panera of which have seemingly imposes no ill effects to other property owners in the area. The signage requested will be divided onto two faces of the building. Each face that will have signage faces a street; High Street on the front of the building and Forest Avenue that connects High Street to the parking lot at the rear of the building. The proposed signage will complement other tenants and downtown business establishments providing commercial messaging to pedestrian oriented traffic and illumination will be in keeping with the districts existing commercial 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:

~~After a review of the signgagage of downtown business community, Chase's Corporate Office would like to keep this site's sign package in the guidelines of its other branches nationwide. In doing so, they must request relief for internal illumination and materials (acrylic face) in addition to the previously granted variance of sign area. The signage is in keeping with existing signage in the area including internal illumination that is found on other downtown business establishments' wall signage. Illumination of the signage should be provided to allow for downtown tenant equity in commercial advertising.~~

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

~~The tenant will be able to adhere to Corporate guidelines while streamlining the building's aesthetic with out the use of gooseneck lighting. The small downtown lot does not allow the room for more traditional ground signage that could be used for way finding purposes. The tenant will utilize the front signage for pedestrians and motorists traveling High Street, and the Forest Avenue sign to attract pedestrian traffic from further down High Street. Illumination and increased area will allow adequate advertising for the pedestrian scaled "financial services" use.~~

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

~~The client will be able to keep the signage on par with their corporate styling across the nation. Patrons and customers will be able to identify the business readily, and provide adequate commercial advertising throughout the day and evening as appropriate, in keeping with the design of the structure. The signage design will function to promote the individual business use and appears strengthen downtown's overall commercial business corridor.~~



OFFICE USE
CASE NO. *V20-02*

APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: **\$150.00** [Z-V]

Ad check# 35150

I. APPLICANT/AGENT		Name: City Neon, Inc. - Crystal Miller	
Mailing Address:	PO Box 40		Phone: 304-599-1854
	Street	Morgantown WV 26507	Mobile:
	City	State Zip	Email: crystal@cityneon.com

II. PROPERTY		Street Address: 461 High Street - Chase Bank	
Owner:	Bossio Enterprises		Zoning: B-4
Mailing Address:	PO Box 120		Tax Map No: 26
	Street	Morgantown WV 26507	Parcel No: 75/76
	City	State Zip	Phone:

III. NARRATIVE	Describe the specific use and the standard for which the variance is sought.
<p>The tenant was previously granted approval from the BZA for an increase of sign area. They would now like to request relief from the code for materials and internal illumination of the wall signs and the blade sign.</p>	

IV. 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>	
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\$150.00
 Z-V
 2020-00010673
 Breanna Brown
 12/6/2019 4:40:43 PM
 Variance Application
 For Deposit to City
 City of Morgantown

Crystal Miller	<i>Crystal Miller</i>	12/06/2019
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date

APPLICATION FOR VARIANCE

You or a representative MUST be in attendance at the scheduled hearing to present this request and answer questions. Failure to appear at the hearing will result in your variance petition being tabled and potential delay of your project.

V. SITE PLAN

This application must be accompanied by a site plan illustrating the following information, unless otherwise stipulated by the Planning Division or Board of Zoning Appeals.

- Vicinity map showing all adjacent properties and nearby streets within a 300-foot radius around the project site, drawn or illustrated at an appropriate scale.
- A site plan (3 copies) drawn to scale at a minimum 1" = 50' and a maximum of 1" = 10' and include the following:
 - The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law.
The exact sizes and locations on the lot of existing structures, if any.
 - The location(s), square footage(s), and dimensions of all proposed principal, accessory and/or temporary structure(s), and/or alteration(s).
 - The location of the lot with respect to adjacent rights-of-way.
 - Parking Plan. The location and dimensions of off-street parking and means of ingress and egress for such space.
 - Required and proposed setbacks.
 - Buffer yard location and landscaping and screening plan, if applicable. Landscaping Plan should be a separate drawing based on the site plan.
 - Location of garbage collection area and screening.
 - Location of existing and/or proposed signage, if applicable.
 - Roadway typical detail for internal roadways, if applicable.
- Additional information that may be required by the Planning Division or the Board of Zoning Appeals includes building elevations/renderings, floor plans, traffic impact study, existing and proposed grading plans, erosion and sediment control plan, stormwater management plan, etc.

VI. FINDINGS OF FACT

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria are determined to be in the positive. Applicants must give their own responses to the following finding of fact statements.



OFFICE USE
CASE NO. <u>V20-07</u>

APPLICATION FOR VARIANCE

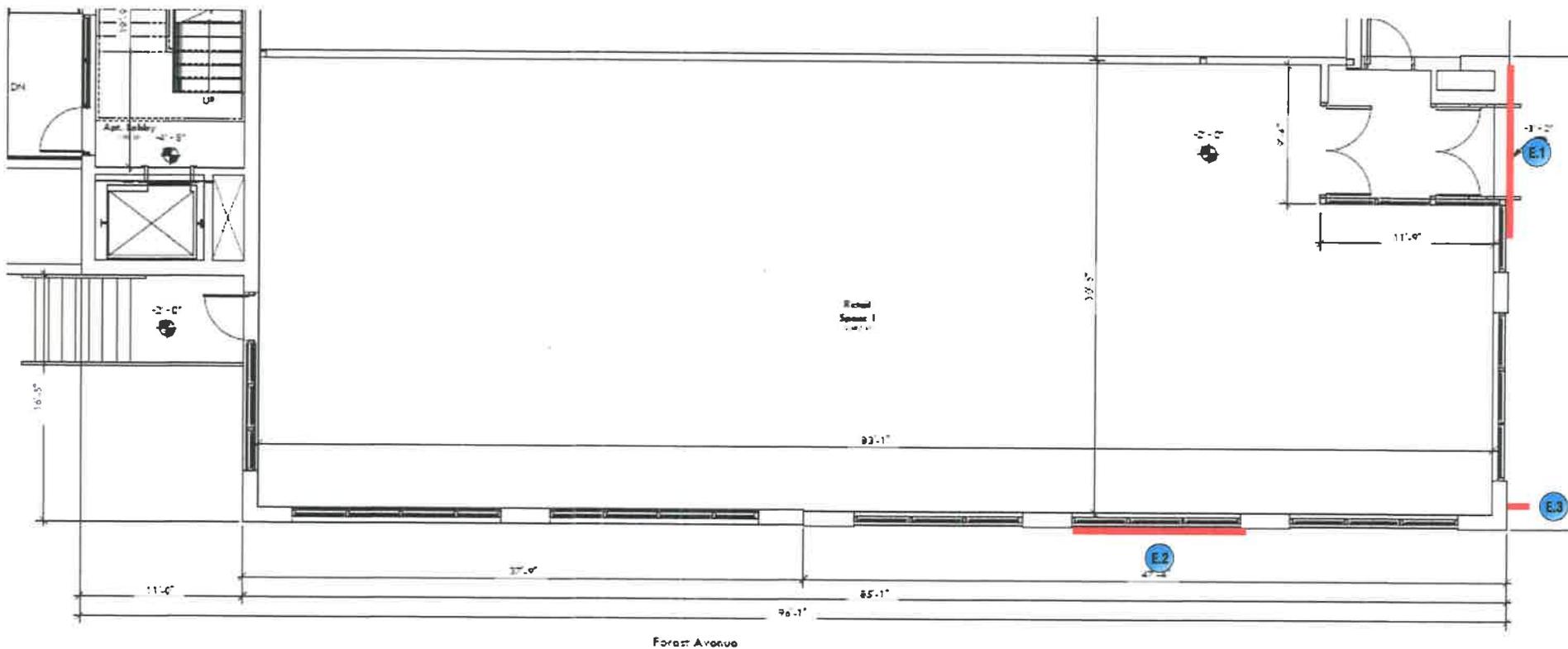
VI. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</p> <p>The newly proposed signage plan is the standard package offered by the Corporate office. The channel letters are similar to other signs in the downtown area such as Jimmy John's and Panera of which have seemingly imposed no ill effects to other property owners in the area.</p>	
<p>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:</p> <p>After a review of the signage of downtown business community, Chase's Corporate Office would like to keep this site's sign package in the guidelines of its other branches nationwide. In doing so, they must request relief for internal illumination and materials (acrylic face) in addition to the previously granted variance of sign area.</p>	

APPLICATION FOR VARIANCE

VI. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
	<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <p>The tenant will be able to adhere to Corporate guidelines while streamlining the building's aesthetic with out the use of gooseneck lighting.</p>
	<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>The client will be able to keep the signage on par with their corporate styling across the nation. Patrons and customers will be able to identify the business readily.</p>

EXTERIOR SIGN LEGEND

Elevation	Sign No.	Sign Type	Description	Sq.Ft.
East	E.1	LNIC-BLK-20	20" Non-Illum. Black Channel Letters and Logo (w/ Straight-Arm Lighting)	25.6
South	E.2	LNIC-BLK-20	20" Non-Illum. Black Channel Letters and Logo (w/ Straight-Arm Lighting)	25.6
East	E.3	CUSTOM TAV-6	Non-Illum. Tavern-Style D/F Blade Sign (w/ Straight-Arm Lighting)	6
Total Proposed Sq Ft				57.2
Total Allowable Sq Ft				-
Difference				-



FOREST AVENUE

SITE PLAN

SCALE: 1/8" = 1'-0"



V20-02

January 15, 2020

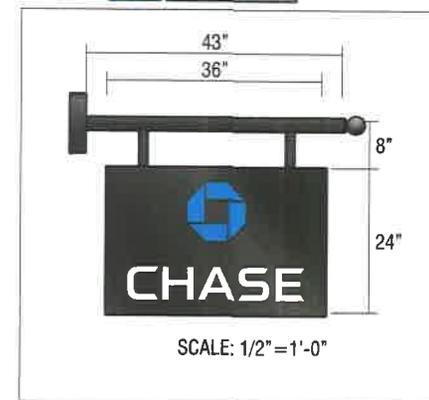
SIGNAGE OVERVIEW



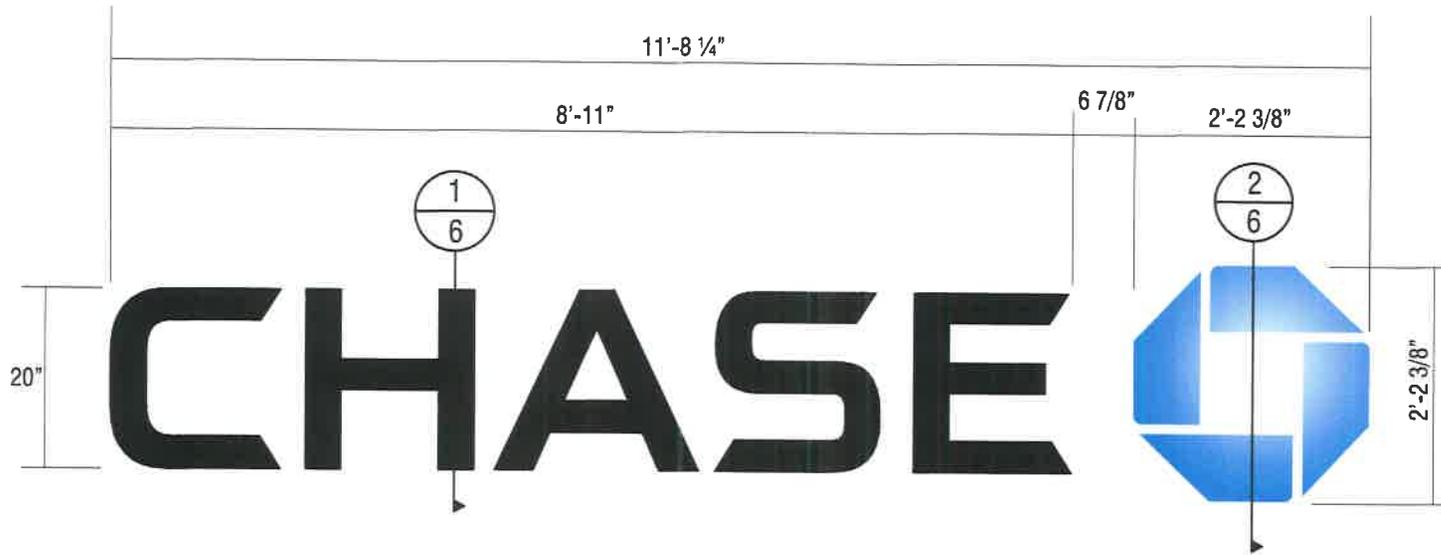
SOUTH ELEVATION SCALE: 1/16" = 1'-0"



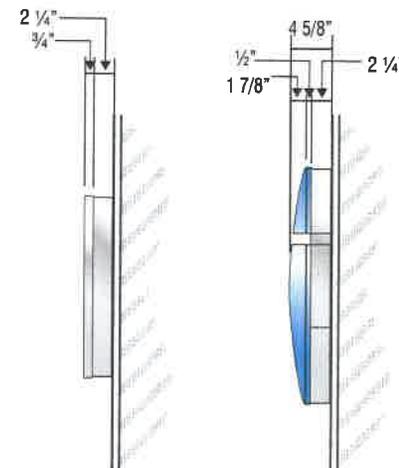
EAST ELEVATION SCALE: 1/16" = 1'-0"



V20-02



FRONT VIEW SCALE : 3/4" = 1'-0"



ENDVIEW OF LETTER
SCALE: 3/4" = 1'-0"

ENDVIEW OF LOGO
SCALE: 3/4" = 1'-0"

E.1 **E.2**
SIGN TYPE LIF-BLK-20

MANUFACTURE AND INSTALL ONE (1) SET OF INTERNALLY-ILLUMINATED CHANNEL LETTERS

LETTERS:

FACE: .177" P-95 CLEAR ACRYLIC WITH 3M #3635-222 BLACK PERFORATED VINYL ON 1ST SURFACE AND (1) LAYER OF #3735-50 DIFFUSER VINYL ON 2ND SURFACE.

TRIMCAP: 1" METALLIC SILVER JEWELITE

RETURNS: .040" x 3" DEEP PRE-PAINTED ALUM COIL.

BACKS: .050" PRE-PAINTED ALUM.

PAINT: IF NOT PRE-PAINTED, PAINT EXTERIOR MATTHEWS MP-#18101 "CHASE NICKEL", GLOSS (85-90 UNITS), INTERIOR PAINTED SPRAY-LAT STAR BRITE WHITE LIGHT ENHANCEMENT PAINT.

ILLUMINATION: SLOAN PRISM 7100K STANDARD #701269 7WSJ1-MB WHITE LEDs AND SLOAN POWER SUPPLY AS REQUIRED FOR PROPER EVEN ILLUMINATION

LOGO:

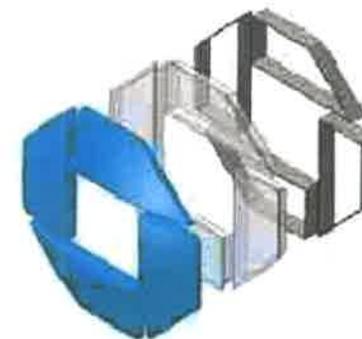
BACKS & RETURNS: .080" ALUM. BACK WITH STACK WELDED 080" ALUM. RETURNS, 3" DEEP

LOGO CAN FACE: .080" ALUM. BRIDGE ELEMENTS WELDED TO INSIDE & OUTSIDE RETURNS

PLEX FACE: .118" THERMO-FORMED ARISTECH #6046 BLUE ACRYLIC LOGO ELEMENTS CHEM WELDED TO 3/4" CLEAR PLEX 2ND SURFACE FACES.

ILLUMINATION: SLOAN PRISM #701269 BLSJ1-MB BLUE LEDs AND SLOAN POWER SUPPLY AS REQUIRED FOR PROPER EVEN ILLUMINATION

INSTALL: LETTERS TO BE FLUSH MOUNTED ON FLAT SURFACES, INSTALLER TO SUPPLY SPACERS AS REQUIRED FOR UNEVEN SURFACES.

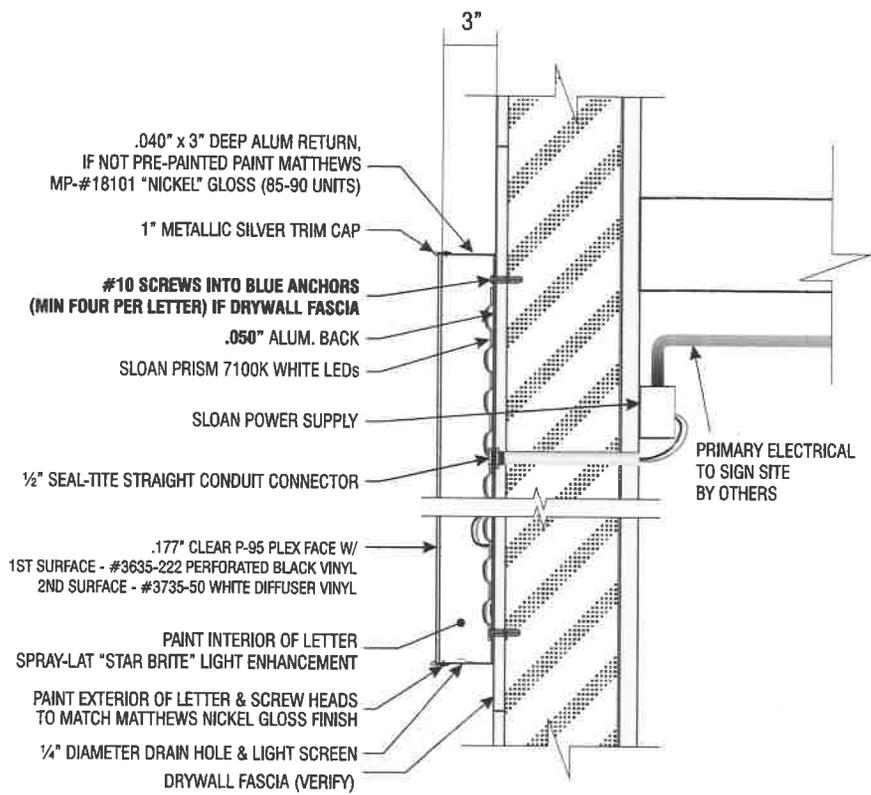


3D VIEW OF OCTAGON

ELECTRICAL REQUIREMENTS FOR LED ILLUMINATION
As required by standard #2161, Signtech Electrical Advertising, Inc., exclusively uses secondary Ground fault-Interrupted (GFI) transformers.
Each Sign MUST have: - A dedicated branch circuit
- Three wires : Line, Ground, and Neutral.
- Wire Size : Min 12 GA THHN Copper Wire.
NOTE: The gauge of the wire is dictated by the length of the run & amperage as per NEC Article 600.
- The ground wire must be continuous & go from the sign to the panelboard ground bus.

V20-02

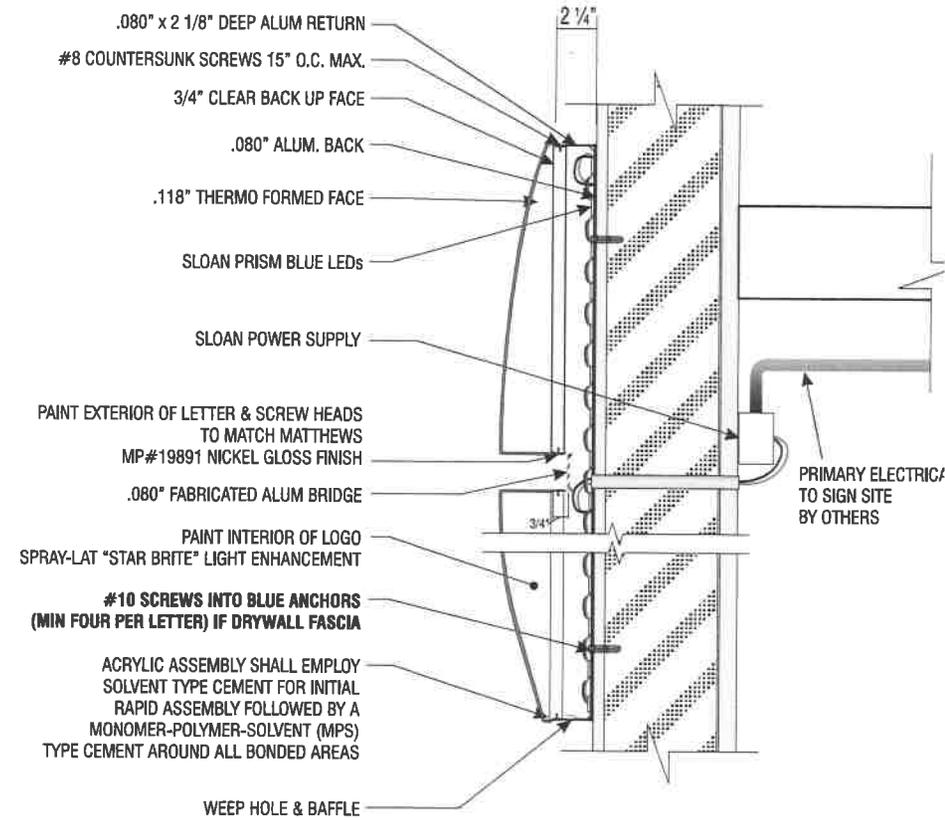
**ATTACHMENT METHOD TO BE VERIFIED BY INSTALLER
AT THE FIELD DEPENDING ON WALL TYPE AND ACCESS.**



- .040" x 3" DEEP ALUM RETURN,
IF NOT PRE-PAINTED PAINT MATTHEWS
MP-#18101 "NICKEL" GLOSS (85-90 UNITS)
- 1" METALLIC SILVER TRIM CAP
- #10 SCREWS INTO BLUE ANCHORS
(MIN FOUR PER LETTER) IF DRYWALL FASCIA
- .050" ALUM. BACK
- SLOAN PRISM 7100K WHITE LEDs
- SLOAN POWER SUPPLY
- 1/2" SEAL-TITE STRAIGHT CONDUIT CONNECTOR
- .177" CLEAR P-95 PLEX FACE W/
1ST SURFACE - #3635-222 PERFORATED BLACK VINYL
2ND SURFACE - #3735-50 WHITE DIFFUSER VINYL
- PAINT INTERIOR OF LETTER
SPRAY-LAT "STAR BRITE" LIGHT ENHANCEMENT
- PAINT EXTERIOR OF LETTER & SCREW HEADS
TO MATCH MATTHEWS NICKEL GLOSS FINISH
- 1/4" DIAMETER DRAIN HOLE & LIGHT SCREEN
- DRYWALL FASCIA (VERIFY)

PRIMARY ELECTRICAL
TO SIGN SITE
BY OTHERS

1
6 **LETTER SECTION DETAIL** **SCALE: 1 1/2" = 1'-0"**
ANCHORS DETAIL FOR DRYWALL WITH REMOTE TRANSFORMER

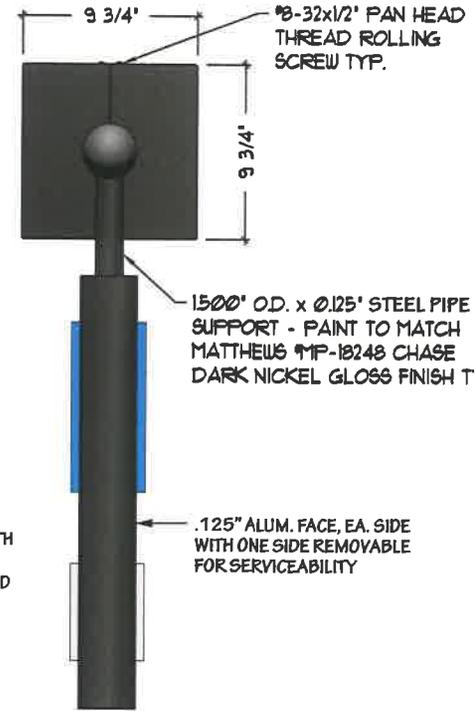
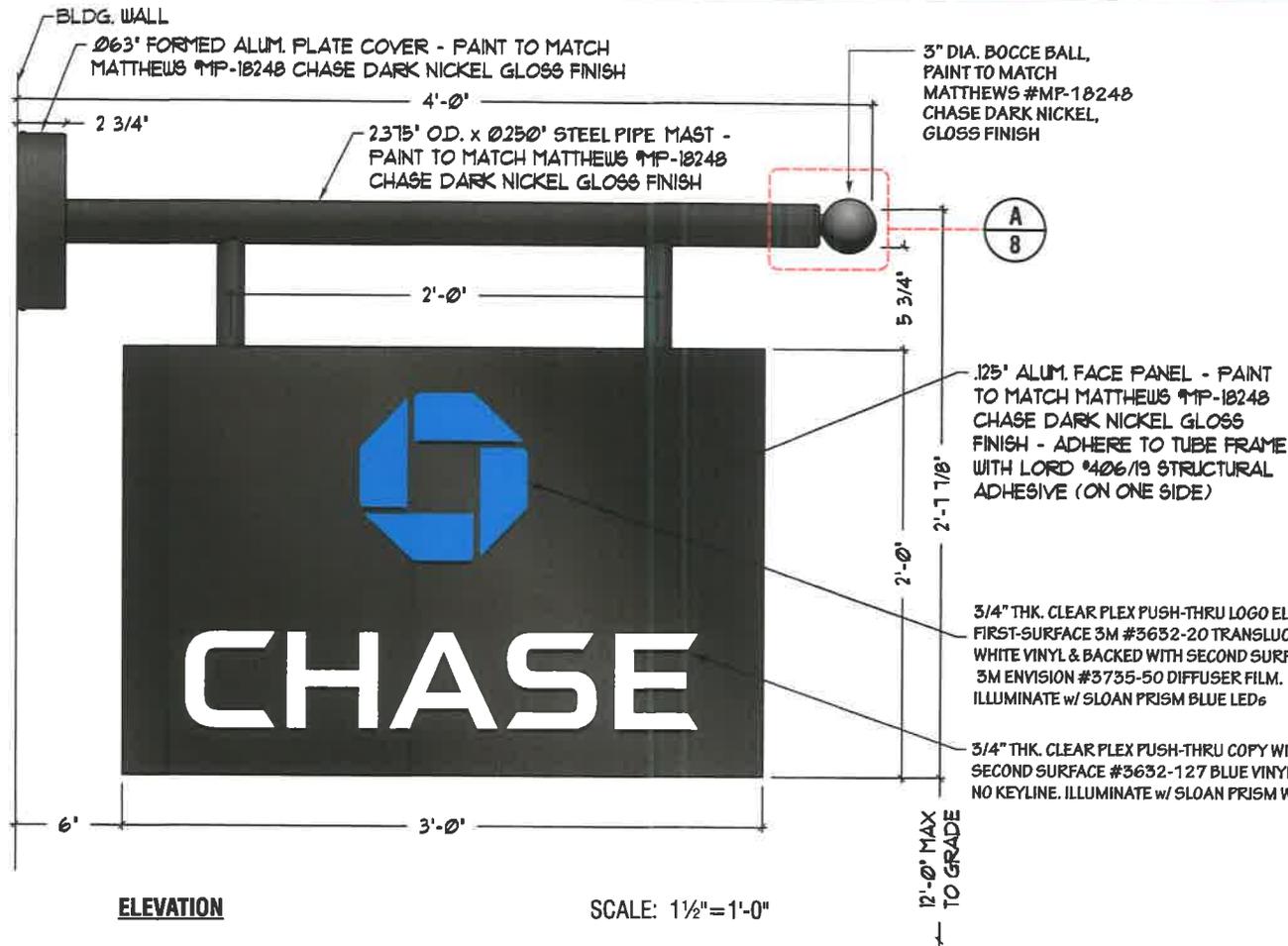


- .080" x 2 1/8" DEEP ALUM RETURN
- #8 COUNTERSUNK SCREWS 15" O.C. MAX.
- 3/4" CLEAR BACK UP FACE
- .080" ALUM. BACK
- .118" THERMO FORMED FACE
- SLOAN PRISM BLUE LEDs
- SLOAN POWER SUPPLY
- PAINT EXTERIOR OF LETTER & SCREW HEADS
TO MATCH MATTHEWS
MP-#19891 NICKEL GLOSS FINISH
- .080" FABRICATED ALUM BRIDGE
- PAINT INTERIOR OF LOGO
SPRAY-LAT "STAR BRITE" LIGHT ENHANCEMENT
- #10 SCREWS INTO BLUE ANCHORS
(MIN FOUR PER LETTER) IF DRYWALL FASCIA
- ACRYLIC ASSEMBLY SHALL EMPLOY
SOLVENT TYPE CEMENT FOR INITIAL
RAPID ASSEMBLY FOLLOWED BY A
MONOMER-POLYMER-SOLVENT (MPS)
TYPE CEMENT AROUND ALL BONDED AREAS
- WEEP HOLE & BAFFLE

PRIMARY ELECTRICAL
TO SIGN SITE
BY OTHERS

2
6 **LOGO SECTION DETAIL** **SCALE: 1 1/2" = 1'-0"**
ANCHORS DETAIL FOR DRYWALL WITH REMOTE TRANSFORMER

V26-02



E.3 SIGN TYPE CUSTOM TAV-6 PUSH-THRU ILLUMINATED GRAPHICS

MANUFACTURE AND INSTALL ONE (1) INTERNALLY-ILLUMINATED HANGING BLADE SIGN

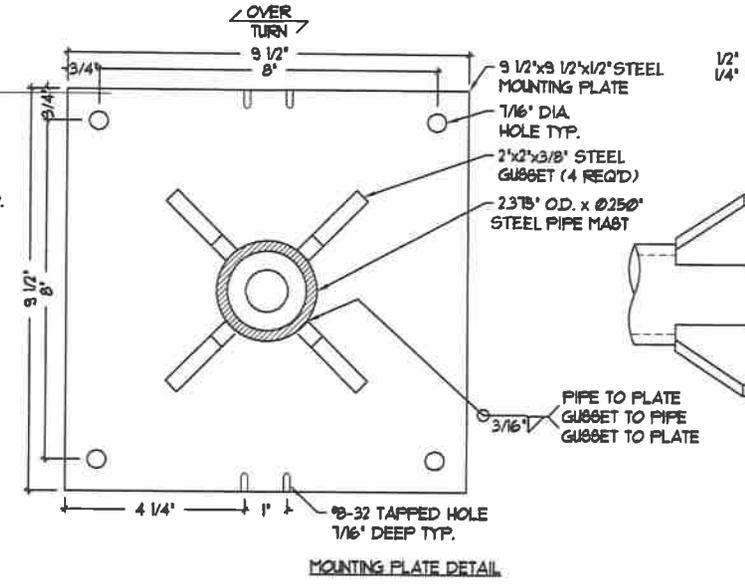
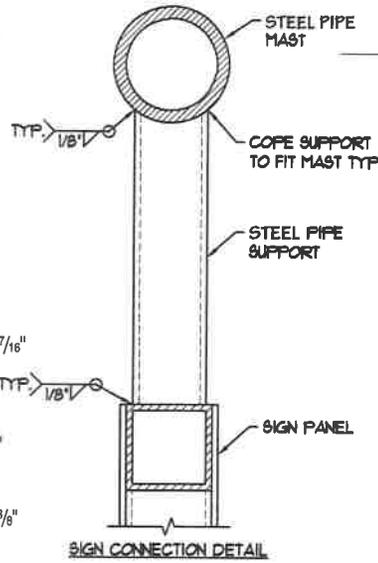
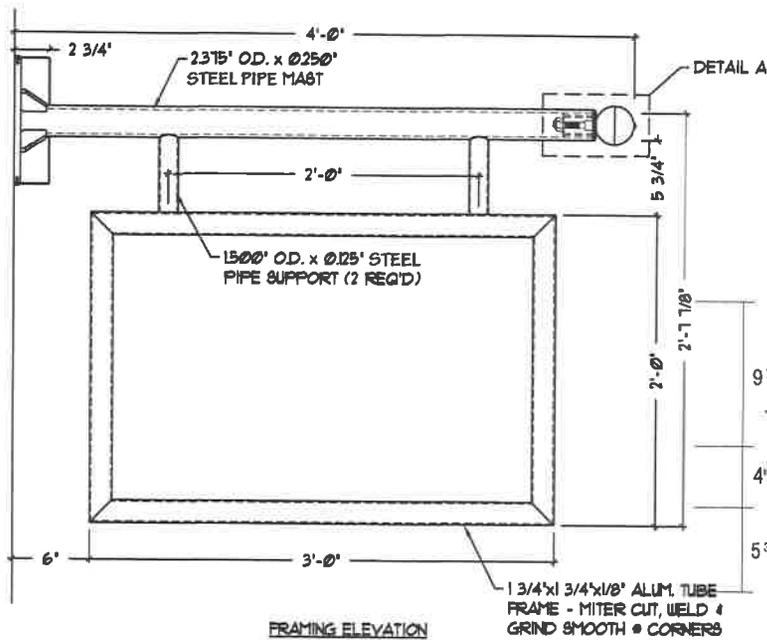
ALL EXPOSED FASTENER HEADS SHALL BE PAINTED TO MATCH THE EXTERIOR CABINET FINISH

ALL EXPOSED PAINTED SURFACES SHALL BE COATED WITH MATTHEWS #282-2085P VOC GLOSS CLEAR, WITH MINIMUM 2 MILS DRY FILM THICKNESS (DFT) PER MATTHEWS APPLICATION SPECIFICATIONS.

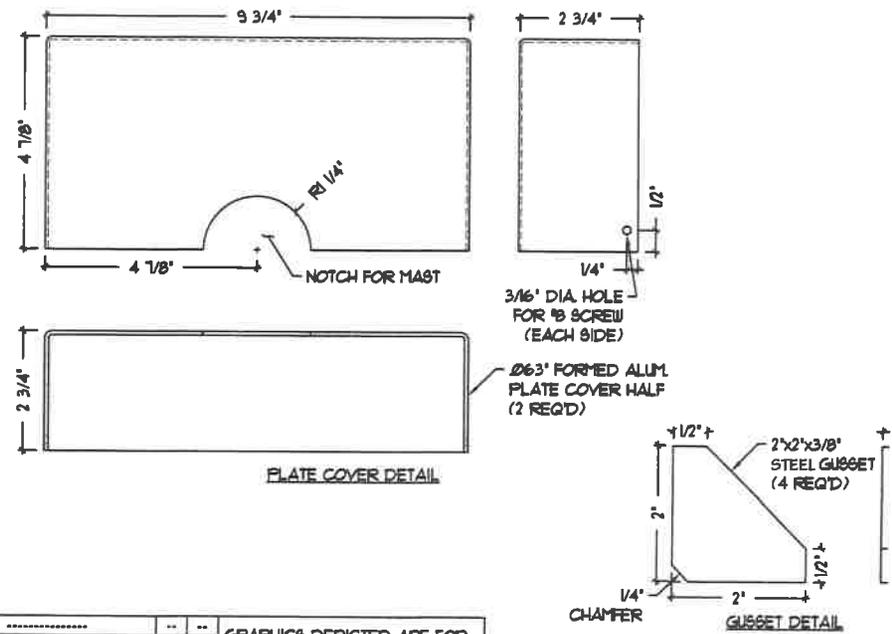
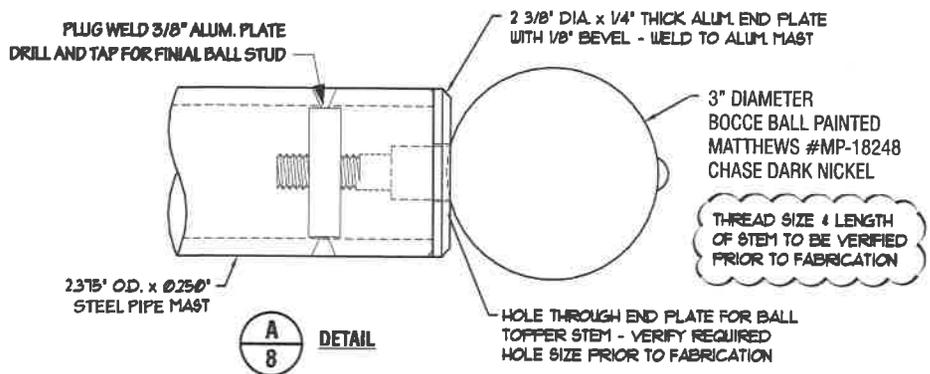
General Notes:

1. Design is based on a 15 mph 3 second gust wind design per IBC 201 (ASCE 1-10), Category II, Exposure C.
2. Additional wind catching surfaces are added to the building structure. The customer's building engineer is to determine the adequacy of the supporting structure.
3. Extruded aluminum shapes shall be 6061-T6 alloy. Aluminum sheet shall be 3003-H14 alloy. Aluminum plate shall be 5052-H34 alloy.
4. All welds shall be made using 5356 filler for aluminum by persons qual in accordance with AWS standards within the past two years.
5. All fasteners shall be stainless steel or zinc coated to prevent corro.
6. All wall penetrations shall be sealed to prevent water penetration.
7. J.P. Morgan Chase will not be responsible for the safety on this job before, during or after installation of this structure. It is the responsibility of the contractors and installers to ensure that the installation and erection of this structure is performed using methods that are in full compliance with OSHA regulations.
8. Any deviation from this design or from any part of this drawing, include the General Notes, without prior written consent from J.P. Morgan Chase voids this drawing in its entirety.
9. The structure designed on this drawing is prototypical and should not be used for site specific applications unless deemed suitable by a Competent Professional Engineer.

V20-02



NOTE: ROUTED PARTS ARE GENERIC HOLE SIZES TO BE MODIFIED BY FABRICATION (NO SPEC'S AVAILABLE)

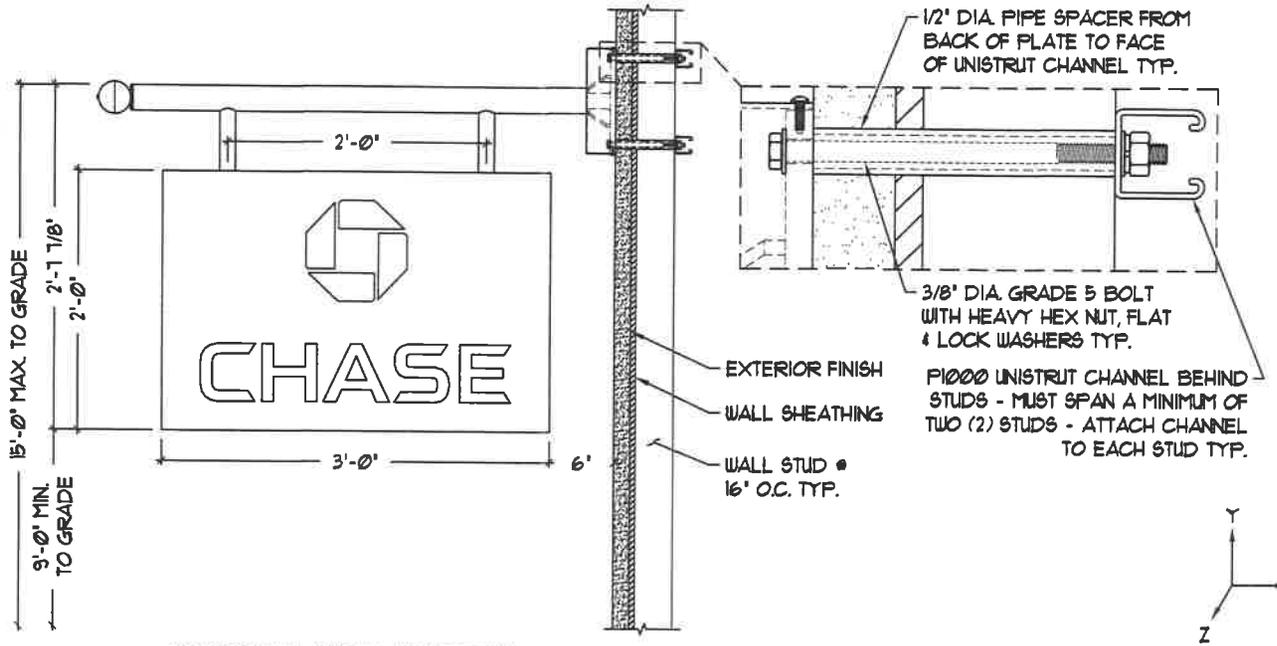


These documents represent prototypical design drawings created specifically for use by J.P. Morgan Chase. Use of this unpublished work for any purpose other than the intended application is strongly discouraged. Disclosure or reproduction of any of the information contained within these documents without the written consent of the owner is strictly prohibited.

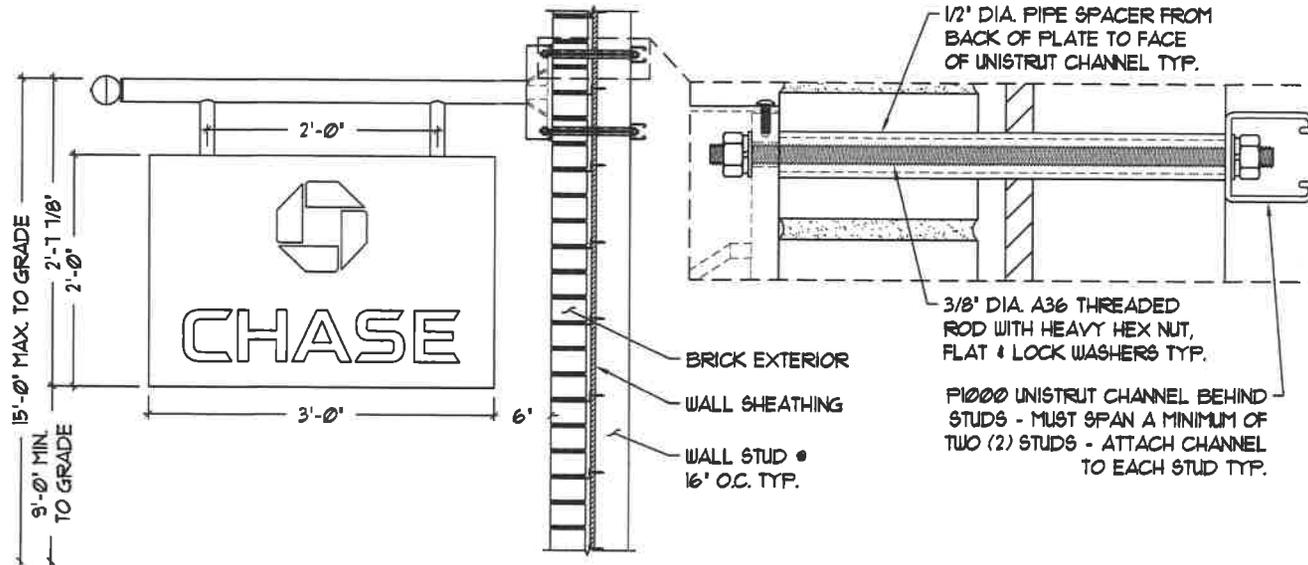
SHT.	2	BT:	TRR	Project No.	08-1218	REV.	DATE	DESCRIPTION	BY:	APP:
OF	3	DATE:	4/9/19	Drawing No.	B244B81					

GRAPHICS DEPICTED ARE FOR ILLUSTRATIVE PURPOSES ONLY! USE ONLY APPROVED ARTWORK FOR PRODUCTION.

DESIGNATION: TAV-6
January 15, 2020



FRAMED WALL INSTALLATION DETAIL



BRICK WALL INSTALLATION DETAIL



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SHT.
3
OF
3

BY:
TRR
DATE:
4/9/19

Project No.
08-1218
Drawing No.
B244E01

REV.	DATE	DESCRIPTION	BY:	APP.
-/-	-/-	-----	--	--
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GRAPHICS DEPICTED ARE FOR ILLUSTRATIVE PURPOSES ONLY! USE ONLY APPROVED ARTWORK FOR PRODUCTION.

DESIGNATION:
TAV-6

January 15, 2020

V20-02

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MORGANTOWN BOARD OF ZONING APPEALS

January 15, 2020
6:30 p.m.
City Council Chambers

STAFF REPORT

Board Members:

Chris Benison
Harrison Case
Heidi Cook
Kevin Meehan
Garrett Tomblin

CASE NO: V20-03 / Automax / 525 Don Knotts Boulevard

REQUEST and LOCATION:

Request by Crystal Miller of City Neon, on behalf of *Automax*, for variance relief from Article 1369 concerning signage at 525 Don Knotts Boulevard.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

First Ward Tax District, Tax Map 37, Parcel 5.1; B-4, General Business District.

SURROUNDING ZONING:

B-4, General Business District.

BACKGROUND and ANALYSIS:

The petitioner seeks to install wall signage at 525 Don Knotts Boulevard, requiring variance relief from Article 1369 of the Planning and Zoning Code. Addendum A of this report illustrates the location of the subject site.

Section 1369.07(l) provides a maximum wall sign area standard of 0.4 square feet for every one foot of tenant building frontage in B-4 District. The linear width of the tenant's frontage is approximately 95 feet, which establishes a maximum wall sign area standard of 38 square feet.

The petitioner's proposed signage plan includes two (2) new signs identifying *Automax* and two (2) existing signs that will remain identifying *Waterfront*. The total wall sign area is 184.6 square feet requiring variance relief of 146.6 square feet. The table below identifies the area of each sign as represented in the variance application.

Sign location	Sign Logo	Sign Area
Front / Sales Entrance	Waterfront	30.6 square feet
Front / Sales Entrance	Automax	31.8 square feet
Rear / Service Entrance	Waterfront	48.1 square feet
Rear / Service Entrance	Automax	74.1 square feet

The petitioner has included a rendering of the proposed signage as it would appear on the building which is attached hereto following the completed variance application.

In addition to the sign area variance, Section 1369.08(B) provides additional design standards for signs located in the B-4 District. The petitioner seeks to install signs that will include a translucent plastic sign faces to allow for internal illumination. As such, the sign

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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will require variance relief from all B-4 District lighting and design standards set forth in Section 1369.08(B) as shown in the following graphic.

(B) Permitted signs in the B-1, B-4, PRO, OI and residential districts shall comply with the following:

- (1) Sign faces shall be opaque;
- (2) Signs may not be internally illuminated, except for neon signs; and,
- (3) Signs shall be made of wood; sculpted "sign foam"; ornamental metals such as bronze, brass, copper, etc.; painted aluminum panels, stone or masonry (with concrete blocks being covered with stucco); and have painted or vinyl letters attached to windows and doors.

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 revisions to the petitioners Findings of Fact responses. Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner's responses or the subject variance petition.

As is customary with sign variance petitions, no recommendation is submitted by Staff concerning whether variance relief should be granted as requested.

Attachments: Application and accompanying materials

Development Services

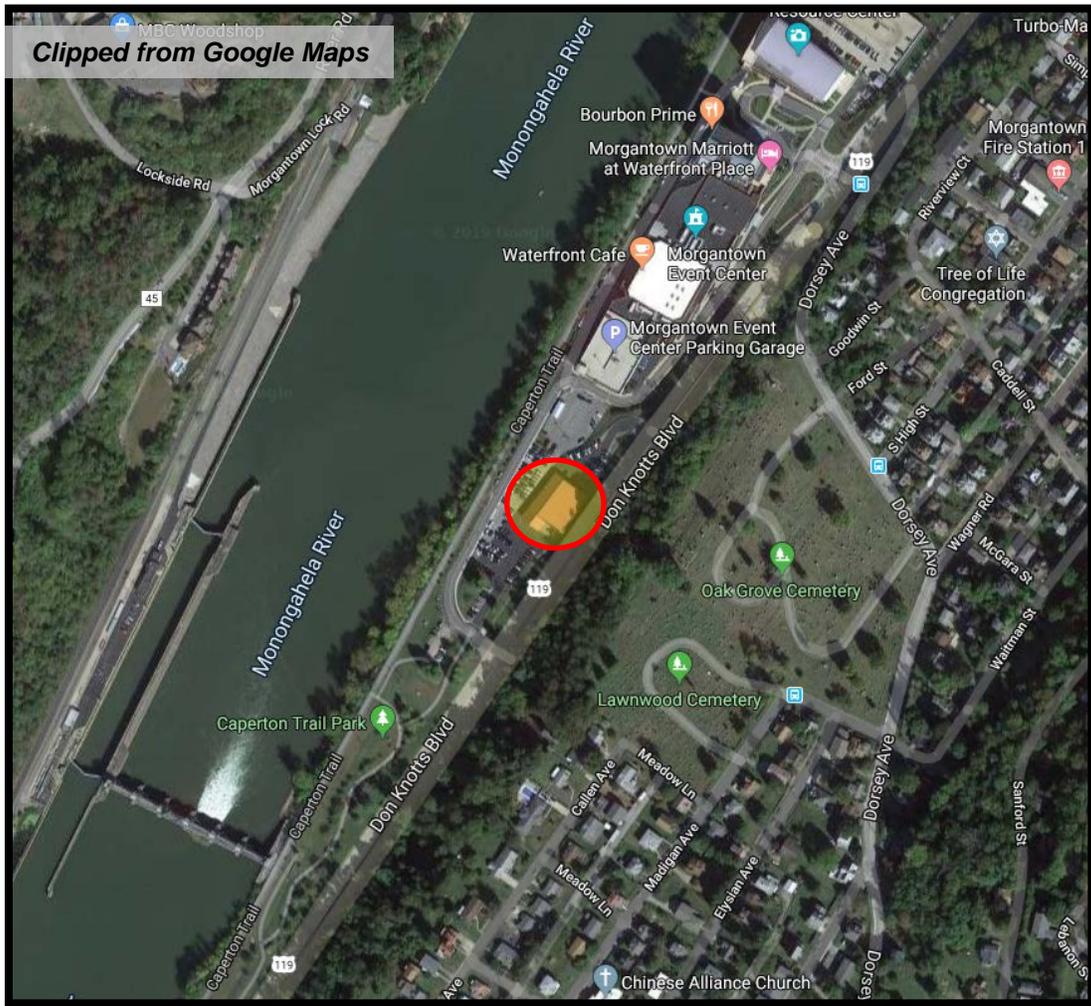
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STAFF REPORT ADDENDUM A
V20-03 / Automax / 525 Don Knotts Boulevard



STAFF REPORT ADDENDUM A

V20-03 / Automax / 525 Don Knotts Boulevard



STAFF REPORT ADDENDUM B

V20-03 / Automax / 525 Don Knotts Boulevard

The following revisions are recommended 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 or the subject variance petition.

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 tenant would like to install new signage in place of previous signage as well as keep existing signage. This existing signage, from the previous tenant that designated this building as part of the Waterfront development area, is an internally illuminated channel letter set. ~~This must have been obtained through a prior variance as the area, illumination, and materials are beyond the scope of the City Code for the B-4 Zone.~~ The existing previous signage has did not make any negative impact on adjacent property owners throughout the years, and the change of sign copy associated with the new signage would not be anticipated to have any meaningful negative externality to the community.

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 site has two entrances into the lot: Sales and Service located on opposite sides of the building. This particular stretch of Don Knotts Blvd is a 50-mph divided four lane road and is highly traveled. The building is nestled into the hillside of Don Knotts as a effective use of land space, but forced the signage and entrances to be placed onto the smaller side of the building creating as smaller sign allowance. ~~Ground signs can not be placed at either entrance into the lot as the land is owned by WVDOT, which puts all the focus for branding, identification, and communication of the business onto the wall signage.~~

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

~~The tenant will be able to keep the existing Waterfront signage as well as install their branding onto the building.~~ Site topography in combination with sign area restrictions in the B-4, General Business District limit the practical commercial use of this location. Variance relief as requested would permit the continuation of a legal, pre-existing nonconforming land-use, that provides practical benefit to the residents of the City of Morgantown in its physical location.

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

While the site is zoned B-4, General Business District, it is not located in the downtown and is at the terminus of the Wharf District. Access to the site is primarily achieved via a 50-mph roadway that requires commercial messaging that is not scaled to pedestrian foot traffic as is the focus of the area computation for the B-4, District. The tenant will be able to effectively advertise along a very busy stretch of Don Knotts Blvd with variance relief as requested.



OFFICE USE
CASE NO. 120-03

APPLICATION FOR VARIANCE

pd check # 35156

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: **\$150.00** [Z-V]

I. APPLICANT/AGENT		Name:	City Neon, Inc. - Crystal Miller		
Mailing Address:	PO Box 40	Phone:	304-599-1854		
	Street Morgantown	WV	26507	Mobile:	
	City	State	Zip	Email: crystal@cityneon.com	
II. PROPERTY		Street Address:	525 Don Knotts Boulevard - Auto Max		
Owner:	Grandeotto, Inc. - Joseph Folio		Zoning:	B-4	
Mailing Address:	PO Box 2328	Tax Map No:	37		
	Street Clarksburg	WV	26302	Parcel No:	5.1
	City	State	Zip	Phone:	304-626-0572
III. NARRATIVE		Describe the specific use and the standard for which the variance is sought.			
<p>The new tenant is seeking relief from code for signage area, illumination, and materials. The site has existing signage in which the tenant wishes to keep in addition to adding their own branding. Building width is 95' (entrances). Existing signage: 78.7 sq ft (2'x15.3'=30.6 main sales entrance) and (2.6'x18.5' sq ft service entrance) "Waterfront" Proposed signage: 105.9 sq ft (2.5'x12.7'=31.8 sq ft main sales entrance) and (3.8'x19.5'=105.9 service entrance "Auto Max w/logo"</p> <p>Total of entire Sign Plan: 184 sq ft Allowance by Code: 38 sq ft Relief requested: 146 sq ft</p>					
IV. ATTEST		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.			
Crystal Miller		<i>Crystal Miller</i>		12/06/2019	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date	

\$150.00
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 2020-00010678
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 12/6/2019 4:40:43 PM
 VERIFIED APPLICATION
 FOR DEPOSIT ONLY
 CITY OF MORGANTOWN

APPLICATION FOR VARIANCE

You or a representative MUST be in attendance at the scheduled hearing to present this request and answer questions. Failure to appear at the hearing will result in your variance petition being tabled and potential delay of your project.

V. SITE PLAN

This application must be accompanied by a site plan illustrating the following information, unless otherwise stipulated by the Planning Division or Board of Zoning Appeals.

- Vicinity map showing all adjacent properties and nearby streets within a 300-foot radius around the project site, drawn or illustrated at an appropriate scale.
- A site plan (3 copies) drawn to scale at a minimum 1" = 50' and a maximum of 1" = 10' and include the following:
 - The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law.
 - The exact sizes and locations on the lot of existing structures, if any.
 - The location(s), square footage(s), and dimensions of all proposed principal, accessory and/or temporary structure(s), and/or alteration(s).
 - The location of the lot with respect to adjacent rights-of-way.
 - Parking Plan. The location and dimensions of off-street parking and means of ingress and egress for such space.
 - Required and proposed setbacks.
 - Buffer yard location and landscaping and screening plan, if applicable. Landscaping Plan should be a separate drawing based on the site plan.
 - Location of garbage collection area and screening.
 - Location of existing and/or proposed signage, if applicable.
 - Roadway typical detail for internal roadways, if applicable.
- Additional information that may be required by the Planning Division or the Board of Zoning Appeals includes building elevations/renderings, floor plans, traffic impact study, existing and proposed grading plans, erosion and sediment control plan, stormwater management plan, etc.

VI. FINDINGS OF FACT

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria are determined to be in the positive. Applicants must give their own responses to the following finding of fact statements.

APPLICATION FOR VARIANCE

VI. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</p> <p>The tenant would like to install new signage as well as keep existing signage. This existing signage, from the previous tenant that designated this building as part of the Waterfront development area, is an internally illuminated channel letter set. This must have been obtained through a prior variance as the area, illumination, and materials are beyond the scope of the City Code for the B-4 Zone. The existing signage has not made any negative impact on adjacent property owners throughout the years.</p>	
<p>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:</p> <p>The site has two entrances into the lot: Sales and Service located on opposite sides of the building. This particular stretch of Don Knotts Blvd is a 50mph four lane road and is highly traveled. The building is nestled into the hillside of Don Knotts as an effective use of land space, but forces the signage and entrances to be placed onto the smaller side of the building creating a smaller sign allowance. Ground signs can not be placed at either entrance into the lot as the land is owned by WV DOT, which puts all the focus for branding, identification, and communication of the business onto the wall signage.</p>	



APPLICATION FOR VARIANCE

VI. 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:

The tenant will be able to keep the existing Waterfront signage as well as install their branding onto the building.

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

The tenant will be able to effectively advertise along a very busy stretch of Don Knotts Blvd.

V20-03

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 the artwork at customer's request will result in additional charges.



PRODUCTION WILL NOT BEGIN UNTIL SIGNED APPROVAL IS RECEIVED



1095 Chaubun Hill Road
Morgantown, WV 26501
Phone: 304-599-1854
Fax: 304-529-5832

PROJECT



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ELEMENT: ILLUMINATED CHANNEL LETTER SET

LOCATION: MORGANTOWN, WV

DATE: 12/3/19

APPROVAL: