

Morgantown Board of Zoning Appeals



MEETING PACKET

Wednesday, July 15, 2020

6:30 p.m.

By Electronic Means

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

BZA Electronic Means Meeting Announcement

Confirming Member Access:

As a preliminary matter, this is **Morgantown Board of Zoning Appeals Chair Harrison Case**. Permit me to confirm that all members and persons anticipated on the agenda are present and can hear me.

- Members, when I call your name, please respond in the affirmative.

State each members' name.

- Board Vice-Chair Kevin Meehan
- Board Member Chris Benison
- Board Member Heidi Cook
- Board Member Garrett Tomblin

- Staff, when I call your name, please respond in the affirmative.

State each staff members' name.

- John Whitmore, Senior Planner

Introduction to Remote Meeting:

Good Evening. This meeting of the **Morgantown Board of Zoning Appeals** is being conducted remotely by electronic means consistent with the West Virginia Open Governmental Proceedings Act and the guidance of the West Virginia Ethics Commission due to the current State of Emergency given the outbreak of the novel coronavirus.

In order to mitigate the transmission of the virus and reduce risk of COVID-19 illness, we have been advised and directed to suspend public gatherings. In keeping with that direction, and the authority provided by the Open Governmental Proceedings Act and the Ethics Commission guidance allowing the conduct of public meetings by electronic means so long as the public is able to

BZA Electronic Means Meeting Announcement

observe the meeting, this meeting is being conducted by remote electronic participation and in-person attendance by the public is not permitted.

Public meetings do not always require the opportunity for the public to participate by offering public comments, but this meeting will include public comment portions for each of the cases listing on this evening's agenda. Members of the public will be permitted to comment during these portions by submitting comments in writing or by speaking during their designated time, if they have signed up to do so prior to the start of the meeting. Even if members of the public do not provide comment, participants are advised that people may be listening who do not provide comment, and those persons are not required to identify themselves.

For this meeting, **the Board of Zoning Appeals** is convening by **Cisco Webex video and telephone conference** as posted on the City's Website identifying how the public may join.

Please note that this meeting is being recorded, and that some attendees are participating by video conference.

Accordingly, please be aware that other people may be able to see you and your video feed, and that you take care not to "screen share" your computer. Anything that you broadcast may be captured by the recording.

All supporting materials that have been provided members of this body are available on the City's website with the Board of Zoning Appeals meeting packet unless otherwise noted. The public is encouraged to follow along using the posted agenda.

BZA Electronic Means Meeting Announcement

Meeting Business Ground Rules

Before we turn to the first item on the agenda, permit me to cover some ground rules for effective and clear conduct of our business and to ensure accurate meeting minutes.

- Please remember to mute your phone or computer when you are not speaking.
- Please remember to wait to be recognized by the Chair before speaking and to speak clearly and in a way that helps generate accurate minutes.
- For any response, please wait until the Chair yields the floor to you and state your name before speaking.
- If Board Members wish to engage in colloquy with other members, please do so through the Chair, taking care to identify yourself.

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.

BZA Electronic Means Meeting Announcement

- I will then open a **public hearing** to hear testimony in support of, or in opposition to, the request. The meeting Chair will proceed with public testimony as follows:
 - The Chair will first read, or have read, all written comments submitted, and will then review the list of public commenters who have signed up by the meeting start time.
 - Once the Chair has a list of all public commentators, I will call on each by name. 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. Public speakers must state their name and address for the record.
 - 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.
 - 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.

BZA Electronic Means Meeting Announcement

- 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.
- Finally, because this public meeting is being conducted by remote electronic participation and to ensure accurate meeting minutes each vote taken during this meeting will be conducted by roll call vote.
- 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.

Intentional Blank Page



MORGANTOWN BOARD OF ZONING APPEALS

July 15, 2020

6:30 p.m.

By Electronic Means

Board of Zoning Appeals

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

City buildings remain closed to the public to protect public health during the COVID-19 pandemic. Personal attendance at the meeting will not be permitted. The public may participate in the public portion using the following Cisco Webex videoconference access options:

Web link: <https://cityofmorgantown.my.webex.com/meet/cityofmorgantown>

Meeting Number: 793 734 477

Phone: 408-418-9388

Access Code: 793 734 477

All members of the public may view the meeting on Channel 15 and by streaming hosted on the City's website at www.morgantownwv.gov. If you do not wish to speak at the meeting, please view it by these methods to conserve capacity on the videoconference.

Any person who wishes to speak at the meeting may complete the form at: <http://morgantownwv.gov/FormCenter/Public-Comment-Sign-Up-Sheet-14/Public-Comment-Morgantown-Board-of-Zonin-64> or provide their name, phone number they will use to participate, and the specific Case Number listed on the BZA's agenda on which they would like to speak by texting 304-906-7843 or calling 304-685-7813. You may sign up to speak at any time until the meeting begins. Additionally, the public may submit written comments for the public hearing portions of the meeting by sending written comments via email to the Development Services Department at bmcdonald@morgantownwv.gov. In the email, please use the subject line "Public Comment BZA 04/15/2020" and indicate in the body of the email the specific Case Number you wish to address and if you would like your comment to be read aloud during the public hearing portion for that case.

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

AGENDA

I. CALL TO ORDER AND ROLL CALL

II. MATTERS OF BUSINESS:

- A. Minutes for the April 15, 2020 hearing.
- B. Minutes for the May 20, 2020 hearing.

III. UNFINISHED BUSINESS: None.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

John Whitmore, AICP
Senior Planner

389 Spruce Street
Morgantown, WV 26505
304.284.7431



MORGANTOWN BOARD OF ZONING APPEALS

July 15, 2020
6:30 p.m.
By Electronic Means

Board of Zoning Appeals

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

IV. NEW BUSINESS:

- A. CU20-03 / Rappmundt / 817 Willowdale Road:** Request by Brian Rappmundt for approval of a conditional accessory "Class 2 Home Occupation" use; Fourth Ward Tax District, Tax Map 12, Parcel 10; R-1A, Single-Family Residential District.

V. ANNOUNCEMENTS

VI. 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

Intentional Blank Page

BOARD OF ZONING APPEALS

MINUTES

6:30 p.m.

April 15, 2020

Virtual/Electronic Meeting

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

MEMBERS ABSENT: None

STAFF: John Whitmore, Senior Planner

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

A. MATTERS OF BUSINESS:

Minutes for the January 15, 2020 hearing were reviewed and unanimously approved.

Planning commission's 2019 Annual Report to City Council.

Whitmore stated that this was included for information purpose only, per State Cold 8A-2-11, the Planning Commission is to make an annual report to the governing bodies concerning the operation of the Planning Commission.

B. UNFINISHED BUSINESS: None.

C. NEW BUSINESS:

1. **CU20-02 / Harshbarger / 1009 Vandalia Road:** Request by Colleen Harshbarger for approval of a conditional accessory "Home Occupation" use; Second Ward Tax District, Tax Map 35, Parcel 156; R-1, Single-Family Residential District.

Whitmore presented the Staff Report for CU20-02 and noted the petitioner is present.

Tomblin moved recuse himself from this case. Case asked Whitmore to clarify the protocol. He was asked to log out of the meeting. Whitmore will email when the case is concluded so that he may rejoin. Case noted that there was still a quorum present.

Mrs. Colleen Harshbarger, 1009 Vandalia Road, Morgantown WV 26501. Harshbarger stated that up until 2005 that she operated a business as described from my home in the same space. I am looking to come back to teaching yoga classes from my home studio. Would be teaching no more than four yoga classes per week with no more than eight people per class. I anticipate the classes being at 8:30 or 9 in the morning and 5:30 in the evening. I do have a sizeable driveway and many of the people that take my classes are neighbors and live within walking distance, requested that I move my classes to this location because of proximity.

Case opened the public hearing and with no one present for the hearing, declared the public hearing closed.

Whitmore provided the Staff Recommendation in favor of the petition with the following conditions:

1. That, to the greatest extent practicable, there must be at least 30 minutes between the end of one yoga session and the start of the next session to mitigate traffic congestion and ensure sufficient parking is available for visitors between sessions.
2. That clients visiting the petitioner's Class 2 Home Occupation use must first park their vehicles on the petitioner's property in the existing off-street parking area. Visitors using the portions of the Vandalia Road right-of-way may not obstruct traffic or access to neighboring properties.
3. The adherence with and monitoring of conditions 1 thru 3 above shall rely upon the review, suspension, and revocation provisions provided in Section 1331.06(2)(d)(i) of the Planning and Zoning Code.
4. That the conditional use approval granted herein is specific to the petitioner and may not be transferred without prior approval by the Board of Zoning Appeals.
5. If the petitioner, as the sole beneficiary of this conditional use approval, wishes to make changes in the conduct of the business that departs from the description in the application or from any conditions or restrictions imposed by the Board of Zoning Appeals, the holder must obtain prior approval of the Board. Changes include, but are not limited to, days and/or hours of operation, number of clients seen per day, etc.
6. The use may only be offered at the petitioner's Class 2 Home Occupation between 8:30 a.m. and 2 p.m. Monday thru Friday and 4 p.m. to 8 p.m. Monday thru Friday, during Monongalia County Schools days of instruction, to avoid excessive street congestion during times of school bussing. All other days of operation may be from 8:00 a.m. to 6:00 p.m.

Case reviewed the conditions with the applicant, she had no objections. Case had a question about the last condition regarding. To clarify, it appears it would prohibit the applicant having any classes after 6:00 p.m. Is that the intent? Whitmore confirmed that is correct. Case proposed changing the end time to 8:00 p.m. to be able to accommodate the applicant.

Case moved to approve in the affirmative for all the findings of fact in this case as set forth in the Staff Report. The motion was seconded by Cook. The motion to approve the findings of fact passed unanimously.

Finding of Fact No. 1 – The home occupation will be compatible with residential uses of the dwelling, in that:

Classes are only held a few times per week, typically when neighbors are at work, and the use is communal in nature.

Finding of Fact No. 2 – The home occupation will not change the residential character of the dwelling, in that:

The non-intensive use will occupy approximately 450 square feet of existing studio space above an attached garage. No interior improvements are necessary to support the home-based business. No external changes to the single-family dwelling will be made.

Finding of Fact No. 3 – The home occupation will not detract from the residential character of the neighborhood, in that:

The proposed yoga studio allows for neighbors to interact with one another and would predominantly occur during day light hours.

Finding of Fact No. 4 – Congestion in the streets will not be increased, in that:

The majority of the clients will park on-site, and hours of operation are scheduled to occur during non-peak travel times when community members are more likely to be in the neighborhood.

Case moved to grant the conditional use application with the five conditions set forth by Staff, and with the sixth condition set forth by Staff with the modification to strike 6:00 p.m. and replace 8:00 p.m. Seconded by Cook. Motion passed unanimously.

V20-04 / Callen / 3435 Collins Ferry Road: Request by Michael Callen for variance relief from Article 1333 concerning setbacks; Seventh Ward Tax District, Tax Map 53, Parcels 127 and 128; R-1, Single-Family Residential District.

Whitmore presented the Staff Report for V20-01 and noted that the petitioner was present and muted.

Mike Callen, 182 Greenville School Road, Bruceton Mills, WV 26525. Mr. Callen clarified exactly what he was asking. He is going to use the smallest lot dimensions for example and that would be lots B and C. The lot dimension is 80 x 108 ft. deep. Because of the 25-foot roadway that runs through the bottom section of the lot, by R1 standards the house is to be built on the 25-foot setback and would be on the curve of the road. That is the whole issue. The variance he is requesting is not to build a bigger house, the existing setbacks are plenty big enough. The current buildable footprint with setbacks is 60 by 60. I only need 50 x 40. Would like to have a nicer front and rear yard. Side note, private developments are appraised separately. They are appraised by houses in the development or similar developments nearby. Within ½ mile of the development I am doing, there are four similar developments. The sister development to this one has a front and rear setback of 20 which is what I am requesting.

Case asked Board members if they had any questions. There were none. Public hearing was opened. Whitmore stated there were no members of the public and Case closed the public hearing. Whitmore read the Staff recommendation to approve the petition with the condition that development of Lot A as indicated on the Survey Plat associated with MNS 19-08 / Bossio / 3431 and 3435 Collins Ferry Road, meet side yard setbacks in accordance with Section 1333.04(B) as they relate to corner lots (minimum of 15-foot side setback standard for corner lots).

Case asked Mr. Callen to confirm that he had no objections which he confirmed.

Cook motioned to adopt the findings of fact. Case seconded that motion. The motion passed 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:

This is a private development completely surrounded by a privacy fence with its own private entrance. This variance does not affect the private road nor does it affect the development's grading. The reason for the variance is to improve the development as well as all houses in the surrounding area. By approving this variance houses will be arranged to resemble the traditional low density single-family residential district specifications.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought, and which were not created by the person seeking the variance, because:

The property line of all the houses is on the left side of the new development's private road. By following the R-1 zoning front and rear setbacks, the house would sit on the curb of the 25-foot wide private road limiting pedestrian infrastructure and neighborhood amenities. The variance would allow for a front yard and driveway which would closely resemble the traditional R-1 district setbacks.

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

Granting the variance would allow the houses to sit 20 feet from the road instead of right on the road. By having the houses sit 20 feet from the private road it will look like all the other houses in the R-1 zoning district and surrounding neighborhood. Having 20 feet from the private road and having 20 feet from the private privacy fence allows the house to sit comfortably in the lot with equal spacing all around. It does not change the size or shape of the house, it only improves the developments overall look.

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

Site characteristics limit where houses be built to resemble the R-1 zoning. The variance will not change anything or affect the single-family dwelling concept or existing residential neighborhood.

Cook moved that to grant the variance with conditions stated in the staff report. Case seconded. The variance was approved unanimously.

V20-05 / Vision Homes / 1994 Marvin Street: Request by Ross Slovak on behalf of *Vision Homes*, for variance relief from Article 1335 concerning single-family dwelling street orientation at 1994 Marvin Street.

Whitmore presented the Staff Report and noted that the petitioner was present.

Vision Homes is representing Mr. Slovak, 28 Grafton Road, Morgantown WV 26508. The applicant had a home at this location several years ago that was lost due to fire. That house faced the opposite direction, which is what we are trying to do. Trying to get the

best setting for this new home. Hoping to replace the house back to the way it originally was on the lot for the fifty years prior to this.

Case opened Public hearing was opened. Whitmore stated there were two individuals on the call who may want to participate in the hearing.

Traci Aberegg of 1933 Carnegie Street indicated that the new structure was designed to be oriented as the former house had been located.

Ross Slovak of 1994 Marvin Street indicated that he agreed with previous testimony.

There being no further comment, Case closed the public hearing

Meehan motioned to approve the findings of fact. Cook seconded.

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 property has been in use with brief interruption since 1901 and the adjoining neighbors have not changed in over 50 years. The requested variance would permit the new single-family dwelling to be oriented toward Marvin Street as the previous house was developed over a 100 years ago.

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:

Ross is requesting a variance to place his new home in the same direction facing Marvin Street as previous structure. The city would not approve his permit that Vision Homes applied for. Changing the design of the home and frontage will bear extreme costs for the buyer who has a loan in place to build. The topography of this neighborhood combined with previous development patterns present a practical opportunity to construct a single-family dwelling. The variance is minor in that it will preserve the traditional block layout while reestablishing the parcel to the R-1A, Single-Family dwelling preferred use.

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

The layout of the land and the design of the home would conform to the lot, changing the direction would not be appealing or allow practical use of the parcel.

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 will allow for a single-family home to be developed at the site and allow the placement of house to fit on the lot parcel.

The Findings of Fact were initially approved minus Benison who was unable to vote due to technical difficulties. The motion passed 5-0 with Benison able to participate after rejoining the call.

Meehan motioned to approve the variance, seconded by Cook. The variance was approved unanimously.

V20-06 / Stead / 2885 University Avenue : Request by Traci Stead for variance relief from Article 1369 concerning signage; Seventh Ward Tax District, Tax Map 11, Parcels 240 and 240.2; PRO, Professional, Residential, and Office District.

Whitmore presented the Staff Report and noted the petitioner is present.

Traci Stead, 2885 University Avenue Suite B. Ms. Stead gave details of her signage request stating that the business in the back of the building and the signage cannot be seen from the road. Ms. Stead explained that the business is a tea and coffee shop, offering to go and an indoor seating area. She stated that it is a community based business. Waiting on inspections before they are officially open.

Case asked the board if there were any questions. Meehan noted that the business is on the lower level and that is why the signage is needed. Whitmore noted that if the variance does not pass, the allowable signage area would be zero.

Whitmore noted that no members of the public messaged to say they would be attending but that there is someone on the video feed.

Case opened the public hearing.

Matt Stead stated that he is Traci's husband. They are opening the business together. He noted that the sign positioning has been adjusted to be able to see around it and not obstruct traffic.

Case closed the public hearing.

Whitmore presented the Staff Recommendation.

Case asked the board regarding questions or concerns. Cook questioned the wood on the legs of the sign and being in conformity. Case reiterated that the legs would be covered in a plastic sheath and that they would conform. Stead confirmed.

Case motioned to adopt the findings of fact. Benison seconded. Unanimously approved.

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 variance allows for safe signage permitting the flow of traffic to continue. The variance does not interfere with current signage or tenants. The signage will be 13 feet from the road creating an ample field of vision for motorists.

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 lower level was built long ago with rear entrance. There is not an entrance from the upper level. The "Office Building" use includes basement/garden level tenants that warrant advertising. The proposal would place this signage away from residentially zoned neighboring properties and in proximity to the University Avenue roadway and other commercial establishments.

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

It will easily direct/notify customers and traffic of the location. The basement/garden level nature of this location and its being directly behind the common pedestrian and motor traffic way limit proper messaging for the 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 physical location of the building and the proximity of the tenant to other wayfinding signage does not appear readily available. The sign's variances will allow for the permitted use in the "Office Building" to function and reasonably enable the continued use of a permitted PRO District structure.

Case moved to grant the variance. Benison seconded. Unanimously approved.

V20-07 / Almost Heaven / 374 High Street: Request by Crystal Miller of City Neon, on behalf of Almost Heaven, for variance relief from Article 1369 concerning signage; Third Ward Tax District, Tax Map 26A, Parcel 111; B-4, General Business District.

Whitmore presented the Staff Report and noted the petitioner and a member of the public were present to speak.

Crystal Miller, City Neon, 1095 Chaplin Road on behalf of Almost Heaven Bar and Grill regarding the signage. The owners were going to drop the bar and grill portion of the sign to save space, but the Almost Heaven name is too popular in the area and it needed to stay.

Case opened the public hearing.

Barbara Watkins, Executive Director of Main Street Morgantown, 201 High Street. She stated that she is in support of this signage.

As there were no more members of the public present, Case deemed the public hearing closed.

Whitmore presented the staff recommendation including information regarding the use of the awning for signage.

Case opened the floor for questions. Discussions were held regarding the signage and the variance. Whitmore reviewed some alternative options for the signage. Ms. Miller spoke again in favor of the proposed signage and explained the options they had and why they would not work. Ms. Cook asked about the Staff Recommendation. Whitmore explained that this would be the largest sign on this section of High Street. Staff has advised using the awning or a vertical sign with different lettering. Miller referred to the packet with the pictures of the signage on the awning. They have a sign by the storefront on the building and a sign on the building.

Case motioned to find in the affirmative the four findings of fact. Meehan seconded. Cook expressed interest in tabling the issue. Voting ensued and the motion passed 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:

The tenant is seeking signage that is cohesive to the architectural elements of the building's previous renovations. There are several signs in the downtown, B-4 district that contain elements of the signage we are proposing without negative impact upon 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 tenant is asking for a design that will be visible both during day and night time business hours. The building's architectural elements leave the uppermost section of the building for signage. A design was chosen to allow for visibility during daylight hours against a very dark background that would work well with illumination during evening and night business hours as well.

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 effectively advertise and attract customers throughout all business hours with signage similar to other businesses in the downtown community.

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 can utilize commercial advertising throughout the day and evening as appropriate. And can continue to grow and prosper in the downtown district.

The Chair moved to approve the variance as requested. Meehan seconded. The vote was unanimous.

V20-08 / 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

Whitmore presented the Staff Report and noted the petitioner is present.

Crystal Miller, City Neon, 1095 Chaplin Road. Requesting further signage. The previous variance was approved, we realized there had been a mistake on their part and had filed for the wrong size of sign on the front side of the building.

Case asked if there were questions or concerns. Meehan asked about the change in sign size. Cook stated she had no problem with the size.

Case opened the public hearing. As there was no one present to speak to the item, the public hearing was closed.

Whitmore presented the Staff Recommendation.

Meehan motioned to approve the findings of fact. Cook seconded. Vote was 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 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 designates this building as part of the Waterfront development area, is an internally illuminated channel letter set. The previous signage did not make any negative impact on the 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 effects 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 in the lot Sales and Service located on opposite sides of the building. This particular stretch of Don Knotts Boulevard is a 50-mph divided four lane road and is highly traveled. The building is nestled in the hillside of Don Knotts as an effective use of land space but has forced the signage and entrances to be placed onto the smaller side of the building creating a smaller signage allowance.

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

Site topography in combination with sign area restrictions 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 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, it is not located in the downtown area and is at the end 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 majority of the B-4 District. The tenant will be able to effectively advertise along a very busy stretch of Don Knotts Boulevard with variance relief as requested.

Tomblin motioned to approve the variance, seconded by the Chair. Vote was unanimous.

V20-10 and V20-11/ Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road: Request by Gloria Scotchel, on behalf of Mini Mountaineer Early Learning Center, LLC, for variance relief from Section 1365.09 regarding parking aisles; Seventh Ward Tax District, Tax Map 53, Parcels 219 and 220; B-1, Neighborhood Business District.

Whitmore presented the Staff Report and noted the petitioner is present.

Case asked if there was any issue with combining the public hearings. There were no objections.

Mike Lutman, 4131 Coakley Drive, Morgantown WV speaking on behalf of Gloria Scotchel, the owner of the facility. Our previous variance expired. We are not changing anything

since the last time. We have addressed the parking issue and the landscaping. The owners are operating other facilities in different counties and she just got a little strapped, which is why this was not started last year. She is ready to move on at this time.

Case opened the public hearing. As there was no one present to speak to the item, the public hearing was closed.

Whitmore presented the Staff Recommendation.

Case No. V20-10 – Landscape Buffer

Staff recommends variance relief from Section 1367.08(C) be granted to eliminate landscaping required between the Martin Street right-of-way and the 90-degree parking spaces with the following condition.

1. That the row of parking spaces in the rear most portion of the development site and running nearly parallel with Martin Street may not be located closer than 10 feet from side parcel boundary and must be landscaped in accordance with Section 1367.08(C) Planning and Zoning Code. Specifically, the area between the row of parking spaces and the side property boundary must include one (1) tree at least 2-inch caliper in size and flanked by three (3) shrubs (total of 6 shrubs) at least three (3) gallons in size. Landscaping material should be selected based on their appropriateness within a floodplain. A Landscaping Plan, in accordance with Section 1367.04 of the Planning and Zoning Code must be submitted to and reviewed and approved by the Planning Division prior to planting.

Case No. V20-11 – Parking Development Standards

Staff provides no recommendation whether variance relief from Section 1365.09(A)(4) of the Planning and Zoning Code should be granted to permit the Martin Street right-of-way to be used as the aisle serving the 90-degree parking spaces illustrated on the parking layout plan. However, should the Board decide to grant variance relief, Staff recommends the following conditions be included:

1. That no more than 16 parking spaces may be created on the development site, unless variance relief is granted to exceed the maximum parking standard.
2. That all parking spaces shall be improved, surfaced, and marked/striped to the satisfaction of the City Engineer.
3. That a Lighting Plan under Article 1371 of the Planning and Zoning Code must be submitted to and reviewed and approved by the Planning Division under a proper Building Permit Application prior to installation of exterior lighting fixtures to ensure light trespass and glare are properly mitigated and to prevent floodplain encroachment review by the City Engineer.

Meehan motioned to approve the findings of fact as outlined in Addendum C for V20-10. Cook seconded. Unanimously passed.

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:

This variance request pertains to the City Code, Section 1367.08 (C), “Landscape Buffer”. Site conditions relating to the existing building, support areas, parking scheme and watercourse (Burroughs run) which bisects a portion of Parcel 219 make it very difficult and impractical to comply with the requirements of this Section of the Code (See attached “Site Plan”).

There is not ample space to achieve the required parking spaces (15-18) as stipulated by Code to accommodate the day care facility (City Code, Section 1365.09(A)(3), “Parking Aisles”. Attempting to comply with this Section of the Code would negate the majority of the required parking. Several “buffer areas” are proposed in an attempt to comply with the Code (See attached Site Plan). The landscaping plan for the proposed identified areas will be in accordance with Article 1367 of the Planning and Zoning Code for Type II Site Plan Approval.

Previous business operations at this property established parking directly off Martin Street. Martin Street is not a main thoroughfare and serves primarily the residents that live in this area. Residents have become accustomed to this parking arrangement and traffic condition. It is important to note that site distance is more than adequate for vehicular travel on Martin Street in the vicinity of the daycare facility.

This request for variance is based on the above discussion of existing conditions and prior use of the building and parking scheme which in our opinion will not cause hazard or risk the safety of the neighboring residents or the customers and employees of the daycare facility.

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:

As indicated in Item “No. 1” above, this variance emerges as a result of the parking requirements dictated by the City Code (See attached site plan). Note “existing conditions” depicted in Item No. 1 referring to the existing building, support areas and the parking scheme established by prior businesses at this location.

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

This variance will permit the reasonable use of the existing facility to the fullest extent with minor improvements (incorporate additional parking with landscaping buffer areas as indicated on the Landscape Plan and establish a playground area with fencing) and facilitate the intended use to serve as a daycare establishment and comply with the City Code requirements. Proposed additional parking areas will be stabilized with asphalt paving, a tar and chip application or other recognized material to prevent mud or gravel from being transported onto the public streets.

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

The approval of the identified improvements will serve the intended use of the facility as a daycare and comply with the existing zoning ordinance and will avoid an unreasonable economic burden on the owner to justify the needs in order to operate a safe and healthy establishment.

It should be noted that there is a relative significant amount of area on the east side of Burroughs Run that is not being developed and is to remain as “green” area (See attached Landscape Plan).

Meehan motioned to grant the variance for V20-10. Seconded by Tomblin. The vote was unanimous in favor.

Case asked for a motion to adopt the findings of fact for case V20-11. Cook motioned, seconded by Meehan. Unanimously passed.

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:

This variance request pertains to the City Code, Section 1365.09(A)(3), “Parking Aisles”. Site conditions relating to the existing building, support areas, parking scheme and watercourse (Burroughs Run) which bisects a portion of Parcel 219 make it very difficult to comply with the requirements of this Section of the Code (See attached “Site Plan”).

There is not ample space to achieve the required parking spaces (15-18) as stipulated by Code to accommodate the daycare facility (City Code, Section 1367.08 (C), “Landscaping”. Previous business operations at this property established parking directly off Martin Street. Martin Street is not a main thoroughfare and serves primarily the residents that live in this area. Residents have become accustomed to this parking arrangement and traffic condition. It is important to note that site distance is more than adequate for vehicular travel on Martin Street in the vicinity of the daycare facility.

The request for variance is based on the above discussion of existing conditions and prior use of the building and parking scheme which in our opinion will no cause a hazard or risk the safety of the neighboring residents or the customers and employees of the daycare facility.

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:

As indicated in Item “No. 1” above, this variance emerges as a result of the parking requirements dictated by the City Code (see attached Site Plan). Note “existing conditions” depicted in Item No. 1 referring to the existing building, support areas and the parking scheme established by prior businesses at this location.

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

This variance will permit the reasonable use of the existing facility to the fullest extent with minor improvements (incorporate additional parking and establish a playground area with fencing) and facilitate the intended use to serve as a daycare establishment and comply with City Code requirements. Proposed additional parking areas will be stabilized with asphalt paving, a tar and chip application or other recognized material to prevent mud or gravel from being transported onto the public streets.

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

The approval of the identified improvements will serve the intended use of the facility as a daycare and comply with the existing zoning ordinance and will avoid an unreasonable economic burden on the owner to justify the needs in order to operate a safe and healthy establishment.

Cook moved to grant the variance, seconded by Benison. The vote was unanimous in favor.

ANNOUNCEMENTS: Whitmore updated on the Restaurant, Private Club. Stated that there were some inconsistencies with the Restaurant Private Clubs in the downtown B-4, General Business

District. Staff investigated this issue in February and March of 2020. Staff found that two of the restaurant/private clubs were not in compliance with their conditional use. After consultation with the Development Services Director staff will hold off on enforcement given the current COVID-19 pandemic. Case agreed with this not being our top priority right now but appreciated the update. Case also appreciates all members of the Board, Whitmore, Fletcher and Andrew for all you are doing to make this meeting possible.

ADJOURNMENT: 10:00 p.m.

MINUTES APPROVED:

BOARD SECRETARY:

Christopher M. Fletcher, AICP

Intentional Blank Page

BOARD OF ZONING APPEALS

MINUTES

6:30 p.m.

May 20, 2020

Virtual/Electronic Meeting

MEMBERS PRESENT: Chris Benison, Garrett Tomblin, Heidi Cook and Kevin Meehan

MEMBERS ABSENT: Harrison Case

STAFF: John Whitmore, City of Morgantown

A. CALL TO ORDER AND ROLL CALL: Mr. Case was absent, and Mr. Meehan, who is Vice Chair, called the virtual meeting to order and read the explanation of how the Board remotely conducts business and rules for public comments.

B. MATTERS OF BUSINESS:

Minutes for the April 15, 2020 hearing were postponed.

C. UNFINISHED BUSINESS: None.

D. NEW BUSINESS:

A. V20-12 / WinCor Properties LLC / 215 Beechurst Avenue: Request by Don Corwin on behalf of WinCor Properties LLC or variance relief from Section 1347.04 of the Planning and Zoning Code regarding side yard setbacks for a rear porch/deck feature.

Whitmore presented the Staff Report and noted the petitioner is present.

Don Corwin stated that 215 Beechurst Avenue property is a house that is approximately 100 years old. This property is right on Beechurst close to the intersection of Beechurst and Campus Drive. The lot is a parallelogram, the way the house sits makes the lot askew resulting in the house being a non-conforming structure as many houses are within the city limits. At the rear of the house an enclosure was added not long after the house was built. The structure on the rear of the house was an aluminum sided structure. In the course of remodeling the property we made the determination that was not usable space as it was not stable and had to remove it. The proposal is to replace using the same footprint with a multi-level deck. Therefore, we are here today to request approval.

Meehan asked the Board if there were any questions or concerns. There were no questions. Meehan opened the public hearing.

Whitmore stated that he had received an email on May 18 at 11:36 a.m. Craig Corwin, Corwin properties, stated they were in favor of granting Win Cor Properties a variance for the unit located at 215 Beechurst Avenue. They have no doubt that the variance

would be used to increase the value of their property as well as all our properties in the neighborhood.

Meehan deemed the public hearing closed.

Whitmore presented the staff recommendation.

Benison asked Mr. Whitmore to explain the difference between residential districts and B2 service district with regard to the setback encroachment allowances in zoning regulations. Whitmore stated that all of the residential districts that permit single family residential dwellings appear to allow for these encroachments to occur. Whitmore explained higher level uses, especially in the B-2, District, there are a lot of different business uses than these higher density residential. This is request for 3 feet away from property line would be different than a car wash 3 feet away from the property. This explains the general idea. In the B-2 residential district, the setbacks are designed for the service businesses proposed in the district.

Meehan asked if there was a motion. Tomblin moved to accept the findings of fact, seconded by Benison. Decision was 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:

Reconstruction of the rear deck will not have adverse effects as it will use the footprint of the original structure. This work will have no impact on pedestrian safety and does not encroach on any adjacent structure. Replacement is necessary due to the removal of the old porch/deck addition which was in a dilapidated and unstable condition and had to be removed for safety reasons. The new deck will be constructed based on current building requirements. This new structure will be safer and more aesthetically pleasing.

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:

215 Beechurst Avenue property is approximately 100 years old. The rear porch/deck addition was added approximately 60 years ago. The house is “non-conforming” based on the current code and side setback requirement. The interior of this property has been reconditioned and inspected. It meets all occupancy code requirements. Replacement of the deck is necessary to finalize this work.

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

It is necessary to reconstruct the deck to provide an entrance into the ground floor of the structure. The second floor has doors allowing access to the outside deck. Reasonable land usage applies as this work is wholly consistent with adjacent houses that have exterior decks. This usage of the land is consistent with the neighborhood aesthetic and allows for continued use of the property and providing a finished look to the house.

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

The rear deck’s encroachment into the side setbacks appears to be consistent with development patterns along the Beechurst Avenue corridor. This property is zoned B-2, Service Business District and has two-additional overlay districts providing heightened

development requirements related to building and site design. At issue, is a side-yard setback for a rear feature which will not interfere with increased urban density encouraged for this area, and will allow for the continued use of a considerably older structure which may provide some continued benefit to the neighborhood and larger community.

Cook moved to grant the variance as stated in the packet, Tomblin seconded. The vote was unanimous. The variance was unanimously approved.

- B. V20-13 / Mountain Heights Church / 318 Chestnut Street:** Request by Bryant Noble on behalf of Mountain Heights Church for variance relief from Article 1369 concerning signage.

Whitmore presented the Staff Report and noted the petitioner is present. Whitmore apologized a filing mix up and noted changes for the future to avoid this from happening again. Nobel will be leaving the call early, and Amy Bond who is also a representative of Mountain Heights Church and will take over any questions.

Bryant Noble, Mountain Heights Church, 318 Chestnut Street. Stated that they were a new church in the Morgantown area and have leased office space on Chestnut Street. Would like to get signage on the building for wayfinding. He is hoping the sign would be big enough to be seen from the upper deck of the PRT station so that students would be able to see it. He stated they already have a sign main, tastefully designed in woodgrain.

Meehan asked if there were questions from the Board. Benison asked if the sign would stick out or be flush with the building. Noble stated it would be flush.

With no further questions Meehan declared the public meeting open and then closed the hearing when Whitmore stated there were no comments received. There being no public participants Meehan closed the public hearing.

Whitmore presented the staff recommendation.

Benison asked for clarification, are there any plans to illuminate the sign. Mr. Noble stated that possibly in the future, but not now.

Meehan asked for a motion. Cook motioned to accept the findings of fact. Seconded by Benison. The vote was 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 tenant is seeking a signage variance from the maximum sign area standard to enable property wayfinding. The physical size of the sign does not conflict with surrounding signage and is designed to appear similar to traditional wooden sign with permitted materials.

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 tenant is located along the northwestern side of the building along Chestnut Street. The property is oriented to Walnut Street creating a visual challenge for property advertising. The signage will be located along Chestnut Street and will not be readily visible to pedestrians along Walnut Street and will not be visible to motor vehicle traffic on Walnut Street. The proposed signage allows for Chestnut Street wayfinding.

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 provide wayfinding opportunity to the general public while maintaining a similar style of signage as is seen in the neighboring properties, particularly the Old Stone House Gift House, the closest neighboring tenant.

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 arises from the location of the tenant in a multi-use building in relationship to the pre-existing traffic areas. The Planning and Zoning Code does not provide practical methods to allow for increased wall sign areas in instances where proper advertising /wayfinding cannot be physically or practically achieved.

Cook moved to grant the variance, Tomblin seconded. The vote was again unanimous.

ANNOUNCEMENTS: BZA will not be meeting in June.

ADJOURNMENT: 7:10 p.m.

MINUTES APPROVED:

BOARD SECRETARY:

Christopher M. Fletcher, AICP

Intentional Blank Page



MORGANTOWN BOARD OF ZONING APPEALS

July 15, 2020
6:30 p.m.
By Electronic Means

Board Members:

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

STAFF REPORT

CASE NO: CU20-03 / Rappmundt / 817 Willowdale Road

REQUEST and LOCATION:

Request by Brian Rappmundt for conditional use approval of a “Class 2 Home Occupation” at 817 Willowdale Road.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Fourth Ward Tax District, Tax Map 12, Parcel 10; R-1A, Single-Family Residential District

SURROUNDING ZONING:

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

West: R-1, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks conditional use approval for a “Class 2 Home Occupation” accessory use at 817 Willowdale Road. Addendum A of this report illustrates the location of the subject establishment.

The petitioner seeks to provide a firearms repair, maintenance and customization business from his home. Because clients will be visiting the residence, the home-based business is considered a “Class 2 Home Occupation.” Table 1331.05.01 “Permitted Land Uses” of the Planning and Zoning Code provides that “Class 2 Home Occupation” uses in the R-1A District require conditional use approval by the Board.

The following points highlight information provided in the petitioner’s application:

- The petitioner rents and resides in the subject single-family dwelling and no modifications to the structure are planned for the proposed home-based business. A signed letter from the property owner allowing the accessory use was included with the application materials.
- The proposed hours of operation are from 10 a.m. to 5 p.m. Tuesday through Saturday, by appointment only.
- No delivery trucks associated with the proposed home occupation are anticipated to visit the site on a regular basis.
- The petitioner notes there is space for up to three (3) vehicles to park on site.

STAFF RECOMMENDATION:

It is the duty of the Board of Zoning Appeals to determine whether the proposed request meets the standard criteria for a “Class 2 Home Occupation” conditional use by reaching a positive determination for *each* of the “Findings of Fact” submitted by the petitioner. If

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

July 15, 2020
6:30 p.m.
By Electronic Means

Board Members:

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

the Board disagrees with the petitioner's "Findings of Fact" and determines the proposed request does not meet the standard criteria for a "Class 2 Home Occupation" conditional use, then the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject conditional use petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Addendum B of this report provides suggested 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 that conditional "Class 2 Home Occupation" use approval be granted under Case No. CU20-03 for Brian Rappmundt as requested with the following conditions:

1. That, to the greatest extent practicable, appointments shall not overlap to ensure adequate on-site parking and mitigate parking and traffic congestion.
2. That vehicles visiting the petitioner's residents shall not park in such a manner that encroaches into the public right-of-way obstructing the sidewalk or travel lane along Willowdale Road.
3. That adherence with and monitoring of Conditions 1 and 2 above shall rely upon the review, suspension, and revocation provisions provided in Section 1331.06(2)(d)(i) of the Planning and Zoning Code.
4. That the conditional use approval granted herein is specific to the petitioner and may not be transferred without prior approval by the Board of Zoning Appeals.
5. If the petitioner, as the sole beneficiary of this conditional use approval, wishes to make changes in the conduct of the business that departs from the description in the application or from any conditions or restrictions imposed by the Board of Zoning Appeals, the holder must obtain prior approval of the Board. Changes include, but are not limited to, days and/or hours of operation, number of clients seen per day, etc.

Attachments: Application and exhibits

Development Services

Christopher Fletcher, AICP
Director

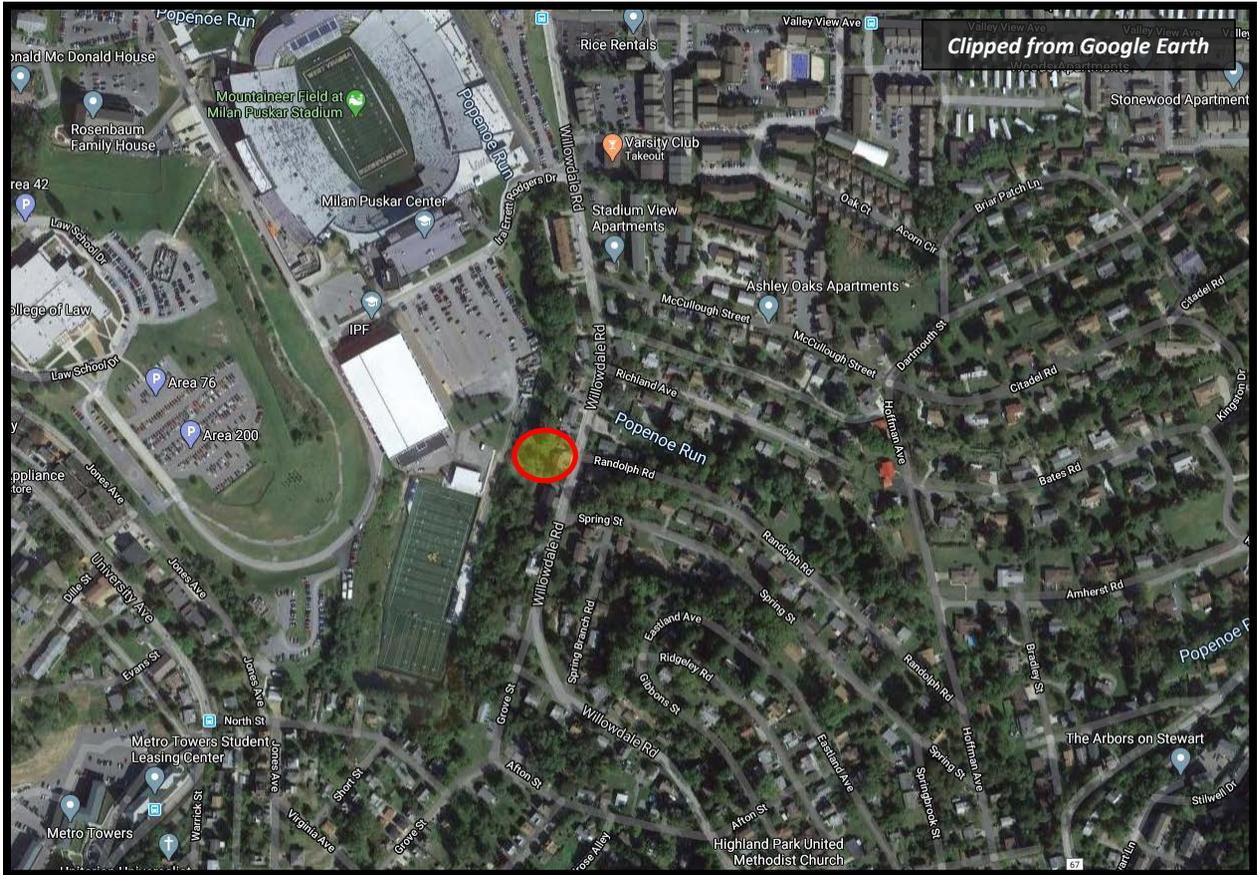
John Whitmore, AICP
Senior Planner

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

CU20-03 / Rappmundt / 817 Willowdale Road



STAFF REPORT ADDENDUM A
CU20-03 / Rappmundt / 817 Willowdale Road



STAFF REPORT ADDENDUM B
CU20-03 / Rappmundt / 817 Willowdale Road

Staff submits the following revisions to petitioner's Findings of Fact (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.

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*,

Finding of Fact No. 1 – The home occupation will be compatible with residential uses of the dwelling, in that:

The business will be conducted in the garage, and will not affect the upper living levels of the structure.

Finding of Fact No. 2 – The home occupation will not change the residential character of the dwelling, in that:

~~No additions were needed.~~ The use will not require any modifications to the structure and will operated within the existing integral single-car garage.

Finding of Fact No. 3 – The home occupation will not detract from the residential character of the neighborhood, in that:

The business is extremely limited in scope and will be conducted during day light hours. Customers will be on-site by appointment only and will not congregate on-site or in the neighborhood.

Finding of Fact No. 4 – Congestion in the streets will not be increased, in that:

The business is by appointment only and will not provide for excessive automobile or pedestrian traffic.



HOME OCCUPATION APPLICATION

I. APPLICANT					
Applicant Name:		Brian Rappmundt			
Name of Business:		Precision Weapon Solutions			
Mailing Address:	817 Willowdale rd			Phone:	304-212-1777
	<small>Street</small>			Mobile:	
	Morgantown	WV	26505		
<small>City</small>		<small>State</small>	<small>Zip</small>	Email:	pws.llc.2016@gmail.com
II. PROPERTY					
Street Address:		817 Willowdale rd.			
Zoning:		Tax Map No:		Parcel No:	
III. DESCRIPTION					
<p>1. Please answer either "YES" or "NO" to each of the following descriptions that best explains your proposed home-based business. A "NO" response to any of these descriptions may lead to a Class 2 Home Occupation classification.</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No All work and communication is conducted over the internet, telephone, and/or electronic mail AND does not engage in any on-premise customer contact.</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Services are provided off-premise to clients or customers, with no client or customer visitation to the business location. In these instances, the business location is used solely for bookkeeping and electronic or telephone communication with clients and customers.</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Businesses where the owner produces a product at the business location and offers it for sale over the internet or transports the products(s) to off-premise merchants, trade shows, flea markets, and the like for sale. No products are displayed or offered for sale to customers visiting the business location.</p>					
<p>2. Is the applicant the owner of the dwelling at which the home occupation will be conducted?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If not, a copy of the applicant's written notice to the owner of the intention to conduct the business must be attached.</p>					

CU20-03



City of Morgantown
West Virginia

HOME OCCUPATION APPLICATION

IV. NARRATIVE

Please describe, in greater detail, the nature of your proposed enterprise.

Custom Firearms business
Firearms repair and maintenance

V. ATTEST

I have read and understand the zoning regulations pertaining to Home Occupations. I understand that my signature indicates that all of the information contained on this application is true and correct, and if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. I understand that approval of this home occupation is dependent upon me abiding by all the regulations found in the City of Morgantown Zoning Ordinance. 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 this application and enforce related approvals and conditions.

Brian Rogmundt

5-27-20

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

OFFICE USE ONLY

Received: _____ Complete: _____ Class 1 Class 2 By: _____

Class 1 Approved Class 1 Disapproved Date: _____

Comments: _____

CU20-03



City of Morgantown
West Virginia

HOME OCCUPATION APPLICATION

Fee: \$150.00 [Z-CU]

VI. SUPPLEMENTAL INFORMATION (Class 2 Conditional Use ONLY)

The Board of Zoning Appeals may impose additional conditions or restrictions and additional off-street parking depending on the nature of the proposed home occupancy. The following information is required to demonstrate the scale and scope of the proposed home-based enterprise.

1. The days and hours of operation will be: Tuesday - Saturday 10am - 5pm

2. Will any customers, clients, students or other persons visit the dwelling on a regular basis?

Yes No

If yes, state the average and maximum number of persons who will visit per week, per day, and at any one time.

Number per week:	average =	<input type="text"/>	maximum =	<input type="text"/>
Number per day:	average =	<input type="text"/>	maximum =	<input type="text"/>
Number at one time:	average =	<input type="text"/>	maximum =	<input type="text"/>

With respect to persons visiting the dwelling, what percentage do you anticipate will come by car, as opposed to on foot or by public transportation?

Car

Please explain:

By Appointment only

4. Will any delivery trucks stop at the dwelling on a regular basis, either to deliver or pick-up materials, supplies, finished products or other items?

Yes No

If yes, please state the average and maximum number of stops by delivery trucks per week and per day.

Number per week:	average =	<input type="text"/>	maximum =	<input type="text"/>
Number per day:	average =	<input type="text"/>	maximum =	<input type="text"/>

5. Describe the availability of on-street, off-street, and public parking at the site and in the vicinity.

off street parking for 3 vehicles

\$150.00
 Z-CU
 2020-001699
 Kim W. Gaidis
 5/27/2020 10:58:24 AM
 Coordinator Use Application
 City of Morgantown

**VII. FINDINGS OF FACT
(Class 2 Conditional Use ONLY)**

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. The home occupation will be compatible with residential uses of the dwelling, in that:

The business will be conducted in garage

2. The home occupation will not change the residential character of the dwelling, in that:

no additions were needed

3. The home occupation will not detract from the residential character of the neighborhood, in that:

The business will be conducted during daylight hours

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

the business is by appointment only

CU20-03

Brian Rappmundt
Precision Weapons Solutions
817 Willowdale Rd.
Morgantown, WV 26505

To: Keely Marlin

Please accept this as notice for the purpose of the Precision Weapons Solutions Home Occupation Application to the City of Morgantown that you agree to the operation of our business within your dwelling. Your acknowledgement of this notice indicates your agreement to conduct business at the address indicated above.

Sincerely,

Brian Rappmundt, Owner

Printed Name Keely Marlin
Signature [Handwritten Signature]
Date 5/22/20