

Morgantown Board of Zoning Appeals



MEETING PACKET

Wednesday, April 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



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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 by videoconference at the following Cisco Webex link is:

<https://cityofmorgantown.my.webex.com/cityofmorgantown.my/j.php?MTID=m2c94afa3daec6d5bad65518cb5947ad4>.

The Webex meeting number (access code) is 790 518 033. The Webex meeting password is MWd6npx4gu2 (69366794 from phones and video systems).

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: <https://www.morgantownwv.gov/FormCenter/Public-Comment-Sign-Up-Sheet-14/Public-Comment-Morgantown-Board-of-Zonin-59> 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 January 15, 2020 hearing.
- B. Planning Commission's 2019 Annual Report to City Council

III. UNFINISHED BUSINESS: None.

IV. NEW BUSINESS:

- A. **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.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

John Whitmore, AICP
Senior Planner

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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B. 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.

C. V20-05 / Vision Homes / 1994 Marvin Street: Request by Ross Slovak, on behalf of Vision Homes, for variance relief from Article 1335 concerning residential construction street orientation; Sixth Ward Tax District, Tax Map 43, Parcel 11; R-1A, Single-Family Residential District.

D. 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.

E. 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.

F. 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.

G. V20-10 / 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.

H. 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 1367.08 regarding landscaping buffer; Seventh Ward Tax District, Tax Map 53, Parcels 219 and 220; B-1, Neighborhood Business District.

V. ANNOUNCEMENTS

A. "Restaurant, Private Club" uses update

VI. ADJOURNMENT

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

BZA Remote Meeting Announcement

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 Remote 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 Remote 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 Remote 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.

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BOARD OF ZONING APPEALS

MINUTES

6:30 p.m.

January 15, 2020

Council Chambers

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

MEMBERS ABSENT: None

STAFF: John Whitmore

- A. CALL TO ORDER AND ROLL CALL:** Mr. Case called the meeting to order and read the standard explanation of how the Board conducts business and rules for public comments.
- B. 2020 Leadership Election: Chair and Vice-Chair:** Mr. Tomblin nominated and seconded by Ms. Cook to have Harrison Case continue as chair of the board. The motion was unanimous. Motion by Ms. Cook and seconded by Mr. Benison to have Kevin Meehan continue as vice chair.
- C. MATTERS OF BUSINESS:** Minutes for the December 18, 2019 hearing were reviewed and approved.
- D. UNFINISHED BUSINESS:** None.
- E. NEW BUSINESS:**
 - 1. 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.

Whitmore presented the Staff Report for CU20-01 and noted the petitioner is present.

Alexandria Beto, an attorney with Bowles Rice, is representing the petitioner. Business address is 125 Granville Square, Suite 400, Morgantown, WV 26501. Brandon Mathess, the General Manager of Lotsa Stone Fired Pizza, and Michael Cardi, Partner at Bowles Rice, are also present tonight.

Ms. Beto stated that Lotsa Stone Fired Pizza is a fast and casual restaurant located on High Street in downtown Morgantown. This business has been in operation since October, 2015. The family of the owners are former WVU students who grew to love Morgantown and WV. They desire to obtain this liquor license for the purpose of growing the business and becoming competitive in the downtown Morgantown area. It in no way desires or intends to become a club. Its specialty is pizza and it intends to continue to serve pizza and specialize in this area. They would like to expand the menu, provide some additional options and increase business revenue. We have submitted all documentation regarding this conditional use application. The application

to the ABCA is complete and we are awaiting some final client signatures before submitting to the state. We have every expectation that the state will approve this application.

Case asked and confirmed that there were not questions. Case declared the public hearing open. Case asked if there was anyone present who wishes to speak in favor of or in opposition to this request.

Ken DuVall, owner of Extensive Enterprises a downtown rental company. I have a couple questions. First, I think Lotsa has been a great addition to the downtown. In the last couple years any of us business owners that have been downtown have seen a steady decline and it's accelerating. I think we need more diversity downtown, more options to get people down here than going to the mall and shopping at places where there is free parking. The question that I have, is about the conditional use. From my understanding on a conditional liquor license, which you guys approved, has a couple restrictions in there. One of them is that if it's a conditional use, they have to stop serving alcohol by 1:00 a.m. Is that correct? Case stated that after his questions were completed, that Staff could address this question. DuVall stated that he recently purchased a building right behind this location that has two grandfathered liquor licenses in there. That has some value to me because they can serve alcohol until 3:00 a.m. I have tried to speak with Chris Fletcher many times, and this has nothing to do with Lotsa, but if you grant a conditional use license, what exactly does that mean? Once you put a liquor license in a location, what happens if they don't abide by the conditions anymore? Who enforces that? Who is going to show up at 1:00 a.m. and say that they can no longer sell alcohol? If it is a conditional use license at 1:00 a.m. does that just cut off the alcohol sales and they can still run their food till 4:00 a.m.? They do have a very good late-night business. This is why I came here today is to see who is in charge of enforcing this. There have been instances in the past where we have had restaurants that had conditional use. Dragonfly was one, Sidelines was one and we have also had one that has a conditional use license that runs until 4:00 a.m. The city police used to enforce it, but now they are telling me that they can't. Lotsa currently has eight different location. I am in favor of them getting it. If they can pass it through ABC and they are not to close to the church, I think that they would run a quality business over there in addition to what they are doing with liquor.

Case mentioned that we are here today only on this specific case, but would be glad to hear thoughts on this specific application. DuVall stated that he is in favor of it.

Case asked and confirmed that there was no one else present to speak. Case asked Whitmore if it would be proper to have a rebuttal? Whitmore stated that the annex provides that you may provide a rebuttal. Case stated that at this point, per the rules, he would offer the opportunity for Lotsa to provide a rebuttal to anything that was said during the public hearing. Lotsa stated there was no rebuttal. Case declared the public hearing closed.

Whitmore presented the Staff Recommendation.

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.

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.

Case stated that before we get into specific points that were raised by the applicant, we did have one public comment which was in favor of this application but raising some questions about conditional use and hours of serving alcohol. I didn't note anything that was specifically addressed in this petition but is there is anything that was brought up that the Board needs to be concerned with, or if there was some confusion. Whitmore stated that conditional restaurant/private club in the B4 district is required to comply with Article 1331.06(27) and specifically regarding the sale of alcoholic beverages. Section G includes that liquor or wine shall not be served later than 1:00 a.m. except on New Year's Eve. Case asked if that was for any establishment that would be operating under this provision and Whitmore stated that was correct. Case asked if there were other establishments that have a different classification that can serve later. Whitmore stated that yes there are, they would be legal unique pre-existing non-conforming private club established in accordance with Section K. There are a few extra carve outs that are permitted for restaurant private clubs. Case stated that to clarify, in this case, they would have to stop serving at 1:00 a.m. except for New Year's Eve. Whitmore stated that this would be a Planning and Zoning Code related issue. What would occur, hypothetically, any Planning and Zoning Code complaint we receive, we investigate. If we find evidence of the complaint existing, we proceed either to municipal court or circuit court as required to stop the activity. Case clarified that this cleared up the questions mentioned in the public hearing. Just to reiterate, it is Staff's position that the fact that they are going to be required and are already applying for a certain type of license from the ABCA is outside of our jurisdiction. We just find if they meet the requirements that are set forth in our Planning and Zoning Code. To consider where the church is would probably be inappropriate unless it affected one of the other factors. Also, Case wanted to note for the record, although it was in the report, that at least five of us did visit the site about a week ago and were given a tour of where the alcohol would be served. It was my understanding from that tour that there is no actual serving bar, as if you were going to sit at the bar and order drinks. Drinks would be brought out and served. Nothing in the restaurant would change physically, other than the bar back area to make the drinks. Between that and the presentation from Council today, along with Staff's recommendation, I am satisfied that conditions have been met in this case. Do other members of the board have concerns or questions? There were no questions.

Mr. Meehan made a motion to approve the following Findings and Fact, as outlined in Addendum D and seconded by Mr. Benison.

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 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.

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:

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 motion was approved unanimously.

Case asked for a motion as to the granting of the variance presumably with the conditions set by Staff. Motion by Ms. Cook, seconded by Mr. Tomblin to grant the variance with the six staff recommended conditions. This was also unanimous.

Case reminded the petitioner 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.

- 2. 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.

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

Jackson Gardner, Triad Engineering, 1097 Chaplin Road, Morgantown, WV 26501. We are requesting a variance for a setback encroachment. This proposed work will allow for unwanted access onto that side corner of the property which currently has a lot of loitering. It will also enhance the aesthetics of the area. We have gone after the site plan meeting and added a sidewalk and privacy access to that left side, to limit unwanted access between our building and the adjacent property. This proposed work also does not decrease the existing parking. It still allows for the proper setback for the parking to Willey Street. The new parking configuration allows for parking size and ADA accessibility. Following the site plan meeting we have added bollards surrounding the addition, providing greater protection to the building. Reasons for placement include problems with reconfiguration of the inside of the building that goes into customer space, employee space, ingress and egress from the building, storage space and also with other property lines of the parcel. We do provide access with a sidewalk, and there is also vegetated buffer between shielding off from the adjacent property and enhancing the aesthetics of the area.

Case asked if members of the Board had any questions?

Benison asked if they were anticipating any adverse impact on available parking. You are not going to be losing, just shift and reconfigure, correct? Jackson stated that the two spaces that were there originally got pushed up in front of the structure. It still adds over the twenty-foot requirement to that front property line. Case asked if they are redoing the whole façade of the building? Jackson stated they are matching the façade. Case asked if there would be windows on this “cube” or any other features or signage? Jackson stated it was just a projection out with no windows or signage. This would strictly be cooler space. Tomblin asked if there would be any traffic circulation issues regarding deliveries? Jackson stated that the existing delivery space does not get impeded by the change in the parking configuration. It will remain as it is now. Case mentioned page 38 of the packet, the two pictures. The current space between your client’s property and the building immediately adjacent to it, where is it that there are issues of people loitering. Is it between the two buildings, behind? Jackson stated that the area in question is the left side corner. Homeless and other assorted people hang out and cause disruption to that area close to the ice machines. Case mentioned the gas meter and stated that they are not going all the way out to leave access to the meter. Jackson stated that without adjusting the historical entrances, this is the best option. Benison asked about the ice chests and would they be moved, and Jackson stated they would be moved past the sidewalk.

Case opened the public hearing and asked if anyone was present to speak. There were none and the public hearing was closed.

Whitmore presented the Staff Recommendation that explained that there was no direct staff recommendation but that in the event the Board granted approval of the variance staff recommended the 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.

Case asked if there were any questions from the Board. Meehan stated that the setback is zero based on historical, obviously built on the property line. Case stated that all we are doing in this case is allowing them to extend that somewhat further. He thinks that having that landscaping buffer in addition to the reason of having it for the parking, it is a little help to soften that boxy look coming out from the front of it. He doesn't see any reason not to approve with the conditions suggested by Staff. Motion by Mr. Tomblin to accept the revised Findings of Fact set forth in the packet and seconded by Mr. Benison.

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.
- 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.
- 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 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 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.
- 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.

The vote was unanimous. Cook moved to grant the variance with conditions, seconded by Mr. Meehan. It was unanimous.

Case reminded the petitioner 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. 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.

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

Crystal Miller, City Neon, 295 Chaplin Road, Morgantown, WV 26501. Crystal stated that she came before the Board in May of 2019 asking relief from the code for a larger sign area and materials. Since then, the building has neared completion. Members of Chase Bank sent representatives from their corporate offices to view the jobsite. When they took a walk down High Street, they realized that illuminated signage was allowable in certain instances in the City of Morgantown. They would like to receive the same treatment and would like to have their sign illuminated.

Questions from the Board? Tomblin asked if the whole sign would be illuminated or just parts of the sign? Miller stated it will be a channel letter stacked. It was already set up as a dimensional letter, instead of the gooseneck lighting being above the sign focusing downward onto it, the lights will be inside the individual letters so it will be a halo effect with minimal glow. The letters will be the only thing illuminated beside the symbol. Case asked Miller and Whitmore if the other tenants in this building are doing illuminated signs? Miller stated there was cabinet sign in the building illuminated but was unsure if it was interior or not. She stated there would no above lighting, that it would all be interior now.

Whitmore asked the applicant to confirm that the letter itself will be a cabinet, and will the lighting be shining through or behind the letter? Example will the C in Chase Bank be lit around the C or is light coming through? Ms. Miller stated that there is a new type of vinyl called day/night vinyl. In the day it looks black but when it is illuminated it is white. Ms. Miller stated there are actually three signs. One on Forest Avenue, one on High Street and a suspended sign. Whitmore stated that on page 60 of the staff report includes the schematic of the building showing the signs.

Case opened the public hearing. Seeing none the hearing is closed.

Whitmore provided the staff recommendation

It is the duty of the Board of Zoning Appeals to determine whether the proposed request

Case asked for a motion to approve the findings of fact. Tomblin motioned to approve, seconded by Ms. Cook. It 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 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:

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 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 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.

Cook moved to grant the variance; Meehan seconded.

Case reminded the petitioner 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.

- 4. 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.

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

Crystal Miller, City Neon, 295 Chaplin Road, Morgantown. Ms. Miller stated that Auto Max has taken over the old Waterfront Jeep dealership. They would like to keep the Waterfront because it is the first or last property of the Waterfront development and would like to keep it as significance to that. The addition of the Auto Max signs to that makes the appearance off. The size we are asking for sounds like a lot, but given the size of the property and the way the building is oriented, it is limited to signage on the two ends of the building which brings the allotment from the city code down. They would like to utilize both sides of the building just as Jeep did, because one side is sales and the other side is service. They would like to have both sides designated for easier wayfinding for all their patrons. There is a slight difference in the amount of signage

between the Jeep and the Auto Max. The Auto Max is slightly larger, the sales sign for Jeep was 32 square feet, ours is 31.8 which is essentially the same. On the rear side which was the service side Auto Max is requesting a larger sign at 74 square feet, where Jeep had one that was 45. The difference is that Jeep did have a ground sign on site in the parking lot and Auto Max has chosen not the route of a ground sign.

Case asked about the photos included in the packet. Miller stated the bottom photo is the proposal, the others are previous pictures from Jeep.

Public hearing is open. Any questions? Being none, the public hearing is closed.

Whitmore presented the Staff Recommendation.

Case asked if the any Board members had questions or comments regarding this application? Case noted that this is in the B4 district, but it is not High Street. It is a 50-mph road and you can see from the pictures on it is well below the road. Looking at the pictures submitted, even though the numbers are big in terms square footage variance, the proposed signs don't seem to be out of proportion for the building or the City. Benison noted that he agrees that site topography does constitute a hardship.

Case asked for a motion to adopt the findings of fact. Motion to approve by Benison, seconded by Cook. It 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 that designated this building as part of the Waterfront development area, is an internally illuminated channel letter set. The 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.

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 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.

Motion to grant the variance by Cook, seconded by Tomblin. It was unanimous.

Case reminded the petitioner 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.

ANNOUNCEMENTS: Whitmore informed the Board that they would not be having a meeting in February 2020 as there are no business items for the agenda.

ADJOURNMENT: 7:35 p.m.

MINUTES APPROVED:

BOARD SECRETARY:

Christopher M. Fletcher, AICP

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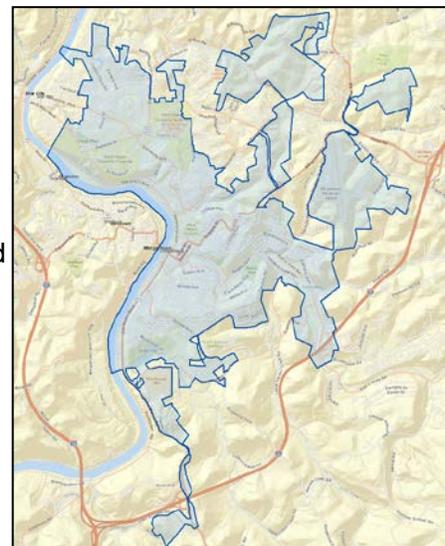
The West Virginia State Code Chapter 8A-2-11 requires Planning Commissions to:

“Make an annual report to the appropriate governing body concerning the operation of the planning commission and the status of planning within its jurisdiction.”

The Morgantown Planning Commission respectfully submits this 2019 Annual Report to the Morgantown City Council.

Morgantown Land Use Planning Milestones

- 1944 City Council adopted first Zoning Ordinance
- 1959 West Virginia Planning Enabling Act Adopted
- 1961 City’s First Comprehensive Plan Adopted
- 1970 Comprehensive Plan Updated
- 1979 First City Planner Hired
- 1999 Comprehensive Plan Update Adopted
- 2006 Planning & Zoning Code Modernized and Codified
- 2010 Downtown Strategic Plan Update Adopted
- 2013 Comprehensive Plan Update Adopted
- 2016 Small Area Plan – Future Study Area No. 17
- 2017 Small Area Plan – Future Study Area No. 2
- 2018 Small Area Plan – Future Study Area No. 18
- 2018 Small Area Plan – Future Study Area No. 16
- 2019 Small Area Plan – Future Study Area No. 5



2019 Planning & Zoning Cases

The following table illustrates the caseload for the Planning Commission and Board of Zoning Appeals during the 2017, 2018, and 2019 calendar years.

PC	BZA	Number of Applications			2019 Actions			
		2017	2018	2019	Pending	Approved	Denied	W/drawn
Site Plans (DSI)		3	2	1		1		
Minor Subdivisions		18	22	17		17		
Major Subdivisions		0	0	0		0		
Map Amendments		3	3	5	1	4		
Text Amendments		12	7	1		1		
Variances		42	44	41		41		
Conditional Uses		10	9	4		4		
Administrative Appeals		3	2	0		0		
TOTAL		91	89	69	1	68		

Citizen Planners

The success of local planning policies, programming, and services depends largely on the commitment and integrity of residents appointed by the Morgantown City Council to serve on various planning-related commissions, boards, and committees. Morgantown is fortunate to enjoy a well-informed public willing to serve in the role of “Citizen Planner.” The following table identifies these volunteers and their respective terms as of December 31, 2019.

Citizen Planner	Date of Original Appointment	Current Term	Tenure (in months)
Planning Commission			
Peter DeMasters, President 6 th Ward Representative	03/21/2006	01/01/17 – 12/31/19	164
Carol Pyles, Vice-President 7 th Ward Representative	09/17/2008	01/01/19 – 12/31/21	135
Sam Loretta 1 st Ward Representative	06/20/2006	01/01/18 – 12/31/20	161
Tim Stranko 2 nd Ward Representative	03/21/2007	01/01/18 – 12/31/20	152
William Blosser 3 rd Ward Representative	11/05/2013	01/01/17 – 12/31/19	73
William Petros 4 th Ward Representative	01/19/2010	01/01/19 – 12/31/21	119
Michael Shuman 5 th Ward Representative	08/04/2009	01/01/19 – 12/31/21	124
Ron Dulaney Jr. City Councilor	07/01/2017	City Council term ending 06/30/21	30
AJ Hammond Administration Representative	11/20/19	at the will of City Manager	1
<i>PC Tenure Summary:</i>	Total: 959 mos. or 79.9 yrs. Average: 106.6 mos. or 8.9 yrs.		
Board of Zoning Appeals			
Harrison Case	2/21/2017	01/01/17 – 12/31/19	35
Kevin Meehan	10/17/2017	01/01/19 – 12/31/21	27
Chris Benison	12/5/2017	01/01/18 – 12/31/20	24
Heidi Cook	03/20/2018	01/01/18 – 12/31/20	21
Garrett Tomblin	01/9/2019	01/01/19 – 12/31/21	12
<i>BZA Tenure Summary:</i>	Total: 119 mos. or 9.9 yrs. Average: 23.8 mos. or 2 yrs. +/-.		

The following table identifies attendance trends for the 2017, 2018, and 2019 calendar years. One (1) Planning Commission meeting was canceled in 2019 due to the lack of cases to review and consider.

Citizen Planner	2017		2018		2019		Three-Year Attendance Rate
	Absent	Present	Absent	Present	Absent	Present	
Planning Commission							
Peter DeMasters 6 th Ward Representative	1	10	3	7	1	10	84%
Carol Pyles 7 th Ward Representative	4	7	3	7	4	7	66%
Sam Loretta 1 st Ward Representative	0	11	1	9	0	11	97%
Tim Stranko 2 nd Ward Representative	2	9	2	8	0	11	88%
William Blosser 3 rd Ward Representative	0	11	0	10	0	11	100%
William Petros 4 th Ward Representative	2	9	3	7	1	10	81%
Michael Shuman 5 th Ward Representative	5	6	4	6	0	11	72%
Ronald Dulaney, Jr. City Councilor	1	5	0	10	3	8	72%
AJ Hammond Administration Representative	N/A	N/A	N/A	N/A	0	1	100%
Board of Zoning Appeals							
Harrison Case	1	8	3	8	2	10	81%
Kevin Meehan	0	2	1	10	1	11	92%
Chris Benison	N/A	N/A	0	11	0	12	100%
Heidi Cook	N/A	N/A	0	9	1	11	95%
Garrett Tomblin	N/A	N/A	N/A	N/A	3	8	75%

2019 Building Permits and Construction Value

The following table identifies building permit and construction value (nominal) trends for the 2017, 2018, and 2019 calendar years as tracked and report by the City's Code Enforcement Department.

	2017		2018		2019	
	No. / Value	% Change	No. / Value	% Change	No. / Value	% Change
No. of Building Permits Issued	1,910	22.8%	1,680	-12.0%	1,805	7.0%
Total Construction/Improvement Value	\$36,267,943	9.9%	\$20,644,918	-43.1%	\$30,246,880	47.0%
Total Amount of Building Permit Related Fees Paid to the City	\$206,042	2.5%	\$161,668	-21.5%	\$212,461	31.0%

Planned Unit Developments (PUDs)

As of December 31, 2019, there have been seven (7) Planned Unit Development (PUD) Outline Plans recommended by the Planning Commission and approved by City Council. The following status for each PUD is provided in accordance with Article 1357.03(D)(4)(c) of the Planning and Zoning Code.

The Square at Falling Run, SC Bodner, Westminster House, and Beech View Place Planned Unit Developments were completed. Grand Central Apartments was originally approved in 2007 but rescinded by ordinance in 2010. Habitat for Humanity was originally approved in 2009 but rescinded by ordinance in 2012, and lands subsequently developed as single-family housing. Glen Ridge Apartments was originally approved in 2015 but rescinded by ordinance in 2017. These PUDs were rescinded because development was not initiated prior to respective Outline Plan Approval deadlines. The City of Morgantown has not received an application for a Planned Unit Development since the Glenn Ridges Apartment PUD Outline Plan in August 2015.

2019 Planning Accomplishments and 2020 Planning Work Program

- City of Morgantown 2017-2019 Strategic Plan** – In December 2017, City Council finalized a strategic plan to serve as a road map guiding its vision toward implementing significant, measurable and attainable improvements. The Planning Commission and/or Development Services Department staff have direct or indirect roles in contributing to the following strategic goals and objectives.

Attractive Amenities
Objective 1: Continue to revitalize the riverfront
Promote infill and redevelopment in the Wharf District <i>UPDATE/STATUS – The Planning Division continues to engage potential development interest for the reuse of existing buildings and new construction.</i>

Cooperative Relationships
Objective 1: Leverage and expand intergovernmental relationships
Develop relationships with other political entities for cooperative service delivery <i>UPDATE/STATUS – The Planning Division continues to contribute to the Morgantown-Monongalia Metropolitan Planning Organization (MMMPO) through active membership on its Transportation Technical Advisory Committee (TTAC). Additionally, staff attends, as appropriate, meetings of the City’s Housing Advisory Commission and the City’s Bicycle Board.</i>
Excellent City Services
Objective 3: Promote collaborative code enforcement
Evaluate appropriate staffing assignments and levels to address code violations <i>UPDATE/STATUS – Additional funding was allocated by City Council in the FY2019 City Budget to increase Planning Division staff by one (1) full-time equivalent position in the third quarter of the fiscal year. Recruitment to fill the newly created Zoning Compliance Inspector position will be initiated in February 2020.</i>
Quality Development
Objective 1: Promote strategic community development
Provide updates of the comprehensive plan implementation regularly <i>UPDATE/STATUS – An administrative zoning text amendment was recommended by the Planning Commission and approved by City Council in JUL 2019 addressing single-family residential design standards related to front-loaded garages. The objective of these text amendments is to ensure new construction maintains an inviting human scale where exterior design emphasizes the dwelling unit rather than what is typically observed as the last attractive element: the garage.</i>
Vibrant Downtown
Objective 1: Encourage the continued enhancement and diversity of the downtown area
Utilize the Main Street Market Data Study. Encourage diversity in downtown development, businesses, and activities. <i>UPDATE/STATUS – Construction was substantially completed in 2019 at 461 High Street (former Dairy Queen) by SunCap Development offering three (3) new tenant spaces (Chipotle, Chase Bank, and TBD) and new mixed-used dwellings above. Additionally, The Mills Group, a local architecture firm, acquired and made significant progress in substantially renovating the building at 88 High Street (former City Office Equipment).</i>
Attainable Housing
Objective 1: Promote quality and diversification of housing
Research tools to increase affordable housing through inclusionary and incentive zoning practices <i>UPDATE/STATUS – \$30,000 is budgeted in FY 2019 to engage a firm to identify home ownership and rental housing market gaps and establish related policy and programming recommendations. A firm was selected in 2019 and project completion is expected in Summer 2020.</i>

Under the direction of the City Manager’s Office, the Planning Division will continue to develop and undertake implementation strategies in 2020 intended to advance these goals and objectives accordingly.

- **Small Area Studies** – Strategies NH 1.2 and ED 5.7 of the 2013 Comprehensive Plan Update provides for the preparation and implementation of small area studies for 16 “Future Study Areas”, which are identified in Appendix A of the Plan. Planning projects were completed in 2019 for Study Area No. 5 with the report received by the Planning Commission in October 2019. Further zoning map and text amendments related to the study area are anticipated for early 2020.
- **Modernization of Subdivision Regulations** – The Planning Commission and City Council completed the lengthy task of modernizing and codifying the City’s zoning regulations in 2006. The fundamental purpose of this endeavor was to implement progressive land use policies and strategies as well as comply with the State Legislature’s similar effort in 2004 to modernize the State’s Planning Enabling Law. Changes in State Code have created opportunities to streamline the review and approval of subdivision petitions. Incorporating these opportunities in Morgantown’s Planning and Zoning Code requires a major amendment to the City’s subdivision regulations. City Council allocated \$75,000 in FY 2019 to complete this project. A related request for proposals will be published in the first quarter of 2020 Calendar Year, with project completion anticipated within 9 to 12 months.
- **Geographic Information System (GIS)** – The Monongalia County Assessor’s Office maintains a web-based GIS parcel viewer [<https://ags.agdmaps.com/wv/mon/>]. The Planning Division has completed the laborious task of editing the City’s zoning district boundaries to align with the County’s GIS-based parcel mapping boundaries. Amendments to the Official Zoning Map were recommended for approval by the Planning Commission under Case Number RZ19-04 in September 2019 and approved by the City Council under Ordinance 19-29. Further amendments to the Official Zoning Map are anticipated to be enacted in early 2020 to related to Overlay Districts. Additionally, General Fund resources were programmed in 2019 with direction given by the City Manager’s Office to recruit a full-time GIS professional, outsourced technical support, and acquire necessary hardware and software to launch an integrated City GIS. Marvin Davis joined the City of Morgantown as a GIS Analyst in September 2019.
- **Richwood-Willey Intersection Report** – In February 2018, the Planning Commission accepted the Small Area Plan and Recommendations Report for Future Study Area No. 2. A transportation operational study of the Richwood Avenue and Willey Street intersection was recommended, the completion of which by the Morgantown-Monongalia Metropolitan Planning Organization (MMMPO) occurred in June 2019. Discussions with West Virginia Division of Highways and other stakeholders on completion of recommended improvements are ongoing.
- **Morgantown Regional Bike and Pedestrian Transportation Plan** – The City of Morgantown in conjunction with the City of Westover, Monongalia County, MMMPO, West Virginia Department of Transportation, and West Virginia University assisted in the completion of the Morgantown Regional Bike and Pedestrian Transportation Plan, coordinated by Alta Planning and Design and Stantec. The plan document is anticipated to be completed in 2020, with an executive summary provided in November 2019. Initial findings from the executive summary have provided the City of Morgantown with data beneficial in modifying the existing sidewalk construction requirements and methods, with Planning Commission recommendation and Council action occurring in early 2020.

- **2023 Comprehensive Plan Update** – In hopes of building on the collaborative success of the 2013 Comprehensive Plan Update process, City Administration began the process of securing multi-year funding commitments from the Morgantown-Monongalia Metropolitan Planning Organization (MMMPO), the Monongalia County Commission, and neighboring municipalities. This will align with the timing of the MMMPO's next Metropolitan Transportation Plan (MTP) and publication of the 2020 decennial census data. Funding has been requested over three fiscal years in the City's Capital Escrow Account.

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MORGANTOWN BOARD OF ZONING APPEALS

April 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: CU20-02/ Harshbarger / 1009 Vandalia Road

REQUEST and LOCATION:

Request by Colleen Harshbarger, for conditional use approval of a “Class 2 Home Occupation” at 1009 Vandalia Road.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Second Ward Tax District, Tax Map 35, Parcel 156; R-1, Single-Family Residential District.

SURROUNDING ZONING:

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

West: R-3, Multi-Family Residential

BACKGROUND and ANALYSIS:

The petitioner seeks conditional use approval for a “Class 2 Home Occupation” accessory use at 1009 Vandalia Road. Addendum A of this report illustrates the location of the subject establishment.

The petitioner seeks to provide a yoga studio in her residence. 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-1 District require conditional use approval by the Board.

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

- The petitioner owns and resides in the subject single-family dwelling and no modifications to the structure are planned for the proposed home-based business.
- The proposed hours of operation are from 8 a.m. to 6 p.m. with two (2) to three (3) group classes per week with additional individual sessions.
- Up to eight (8) clients will be scheduled for one (1) group session with an average of one (1) additional individual session per day.
- 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 six (6) vehicles to park on site. There appears to be approximate area for four (4) stacked off-street parking spaces on the petitioner’s driveway, and two (2) additional spaces.

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

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

Board Members:

Harrison Case, Chair
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Chris Benison
Heidi Cook
Garrett Tomblin

On-street parking, while physically possible, does not appear to be practical. Current roadway widths at this location are twenty (20) linear feet. The use of the subject right-of-way could obstruct line-of-sight for vehicles turning from Karen Lane. Additionally, Staff is concerned that high turnover parking on the roadway may result in damage to roadway ditches and potentially interfere with two-way traffic. It should be noted access and use of public right-of-way is open to the general public and may not be reserved for private access or use.

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 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. CU20-02 for Colleen Harshbarger as requested 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

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MORGANTOWN BOARD OF ZONING APPEALS

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

Board Members:

Harrison Case, Chair
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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.

In the event the Board of Zoning Appeals has concern with on-street parking and congestion effects from the conditional use, Staff provides the following additional condition that may be used to offset some of those concerns:

1. 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 6 p.m. Monday thru Friday, during Monongalia County Schools days of instruction, to avoid excessive street congestion during times of school bussing.

Attachments: Application and exhibits

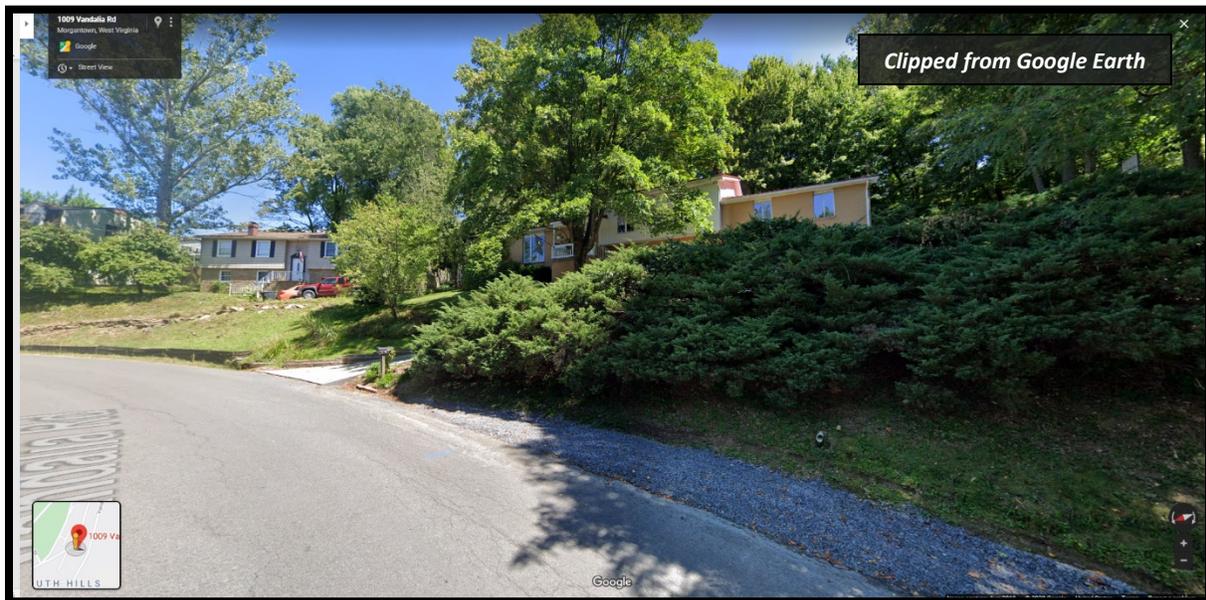
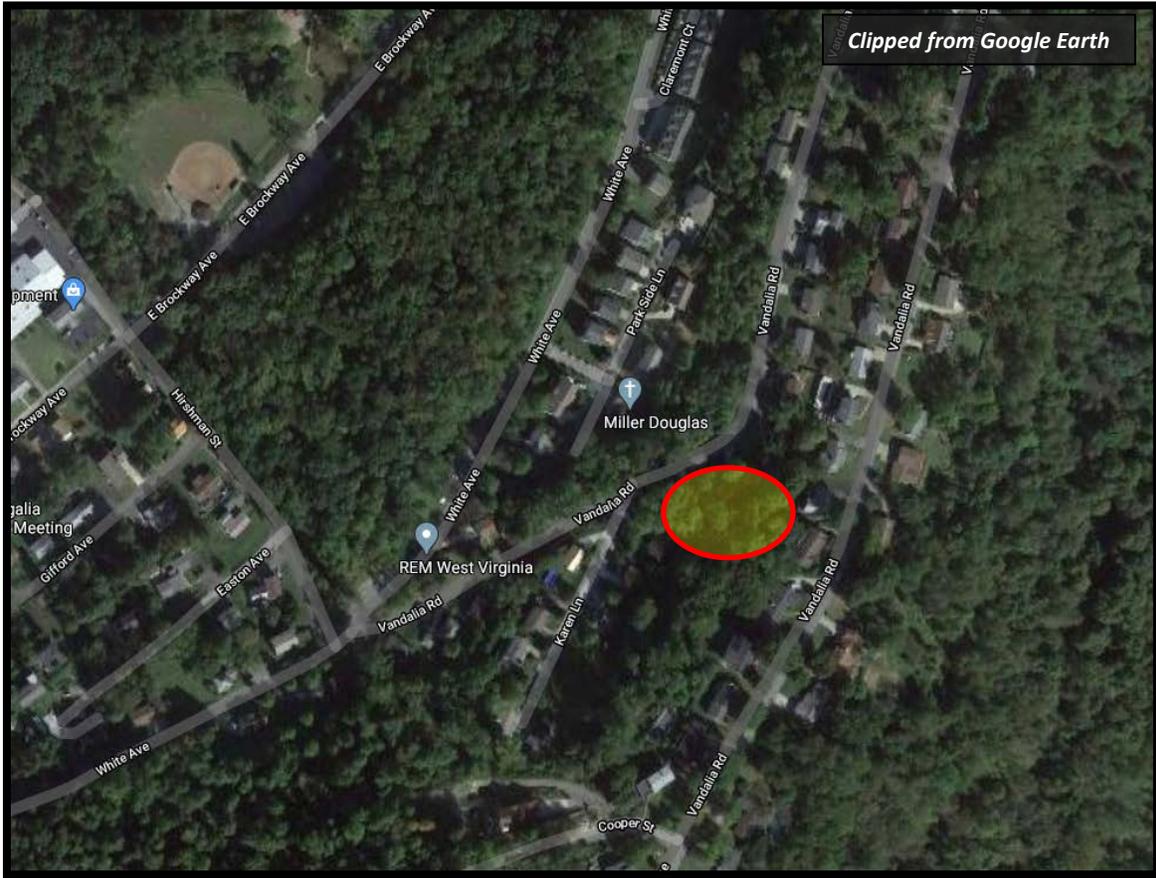
Development Services

Christopher Fletcher, AICP
Director

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

STAFF REPORT ADDENDUM A
CU20-02 / Harshbarger / 1009 Vandalia Avenue



STAFF REPORT ADDENDUM A
CU20-02 / Harshbarger / 1009 Vandalia Avenue



STAFF REPORT ADDENDUM B
CU20-02 / Harshbarger / 1009 Vandalia 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:

Classes are only held a few times per week, typically when neighbors are at work, and the use is communal in nature. ~~Clients park in my driveway mostly.~~

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

~~Nothing different than has been for 20+ years. It's a home with a small studio above the garage. 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:

~~I think it'll add to it. It makes a great gathering place for neighbors to connect. No visible exterior changes to property. 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:

~~I have a large driveway and off street parking. 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.~~



OFFICE USE
CASE NO. *CU-20-02*

APPLICATION FOR CONDITIONAL USE *CP # 1049*

(PLEASE TYPE OR PRINT IN INK)

Fee: \$150.00 [Z-CU]

I. APPLICANT/AGENT

Name:	<i>Colleen Harshbarger</i>		Phone:	<i>304-508-2398</i>
Mailing Address:	Street	<i>1009 Vandalia Rd.</i>		
	City	State	Zip	Email:
	<i>Morgantown</i>	<i>WV</i>	<i>26501</i>	<i>colleen@wellbeingwv.com</i>
				Mobile: <i>304-216-6346</i>

II. PROPERTY

Owner:	<i>Colleen + Dave Harshbarger</i>		Phone:	
Mailing Address:	Street	<i>same</i>		
	City	State	Zip	Email:
				Mobile:

III. CONDITIONAL USE DESCRIPTION

Street Address (if assigned): <i>1009 Vandalia Rd.</i>					
Zoning:	Tax Map #:	Parcel #:	Parcel Area:	sq. ft.	
Existing Use of the Site, including total building area per building on site:	<i>Home with space above garage (about 450 sq. ft.) that's used for personal yoga</i>				
Proposed Use of the Site, including total building area per building on site:	<i>same - with proposed above garage space used for yoga classes</i>				

\$150.00
 Z-CU
 2020-0001974
 Kim Mitchell
 2/11/2020 8:46:09 AM
 CONDITIONAL USE APPLICATION
 FOR DEPOSIT ONLY
 City of Morgantown



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:		GFA to be occupied:		sq. ft.	
Projected days and hours of business operation:							
Projected number of clients per day:		Projected number of employees present during busiest shift:					
<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:

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

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

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

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



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:

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

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

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.

Colleen Naishbarger C Naishbarger 2-10-2020
 Type/Print Name of Applicant/Agent Signature of Applicant/Agent Date

CU20-02



City of Morgantown
West Virginia

HOME OCCUPATION APPLICATION

I. APPLICANT					
Applicant Name:		Colleen Harshbarger et			
Name of Business:		Wellbeing Solutions, LLC			
Mailing Address:	Street	1009 Vandatic Road		Phone:	304-508-2319
	City	State	Zip	Mobile:	304-216-6346
				Email:	colleen@wellbeingwv.com
II. PROPERTY					
Street Address:		1009 Vandatic Road			
Zoning:	GA Residential	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 checked="" type="checkbox"/> Yes <input 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 checked="" type="checkbox"/> Yes <input 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>					

CU20-02



City of Morgantown
West Virginia

HOME OCCUPATION APPLICATION

IV. NARRATIVE

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

I offer yoga classes currently in the community and would like to move them to my home. I anticipate teaching 2-3 classes per week with no more than 8 people in a class. I also offer 1-1 sessions.

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.

Colleen Harshbarger

C Harshbarger

2-4-2020

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

OFFICE USE ONLY

Received: 06 FEB 2020 Complete: _____ Class 1 Class 2 By: *C.H.*

Class 1 Approved Class 1 Disapproved Date: _____

Comments: REQUIRES CONDITIONAL USE APPROVAL AS A CLASS 2 HOME OCCUPATION

CU20-02



City of Morgantown
West Virginia

HOME OCCUPATION APPLICATION

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: *8A-6P*

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 =	<i>12</i>	maximum =	<i>20</i>
Number per day:	average =	<i>6</i>	maximum =	<i>9</i>
Number at one time:	average =	<i>6</i>	maximum =	<i>8</i>

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?

50% by car

Please explain: *I have a good following within my neighborhood*

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 =		maximum =	
Number per day:	average =		maximum =	

5. Describe the availability of on-street, off-street, and public parking at the site and in the vicinity.
I can fit 5-6 cars in my driveway and another 2-3 off the road near my mailbox

**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:

Classes are only held a few times per week, typically when neighbors are at work. Clients park in my driveway mostly.

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

Nothing different than has been for 20+ years - it's a home with a small studio above the garage

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

I think it'll add to it - it makes a great gathering place for neighbors to connect. No visible exterior changes to property.

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

I have a large driveway and off street parking.

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MORGANTOWN BOARD OF ZONING APPEALS

April 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: V20-04 / Callen / 3435 Collins Ferry Road

REQUEST and LOCATION:

Request by Michael Callen, for variance relief from Article 1333 concerning setbacks for development of three single-family dwellings at 3435 Collins Ferry Road.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Seventh Ward Tax District, Tax Map 53, Parcels 127 and 128; R-1, Single-Family Residential District.

SURROUNDING ZONING:

R-1, Single-Family Residential District.

BACKGROUND:

The petitioner seeks to build three (3) single-family dwellings, requiring variance relief from the R-1, Single-Family Residential District setback standards. Addendum A of this report illustrates the location of the subject site.

On 09 MAY 2019, the Morgantown Planning Commission approved cases MNS19-07 / Kolanko / 1428 Western Avenue and MNS19-08 / Bossio / 3431 and 3435 Collins Ferry Road. These minor subdivisions allowed for the creation of four (4) revised parcels identified as Lots A, B, C, and D in the approved Subdivision Plat. All four (4) parcels are accessible from a 25-foot wide private road. The right-of-way will be required to be named in accordance with Monongalia Emergency Centralized Communications Agency (MECCA 911) polices and procedures. Previous minor subdivision materials are included in Addendum B of this Staff Report.

ANALYSIS:

The single-family dwellings proposed for Lots A, B, and C are designed to be located 20 feet from the northern boundary of the private road, and 20 feet from the rear parcel boundary. R-1, Single-Family Residential District Setbacks are established in Section 1333.04 (A) as shown below:

1333.04 SETBACKS.	
(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:..... 25 feet
(2)	Maximum Front setback:..... 30 feet
(3)	Minimum Side setback:..... 10 feet
(4)	Minimum Rear setback: 25 feet

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

April 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 proposed building envelopes for the structures to be built on Lots A, B, and C indicate that there will be a front setback encroachment of five (5) feet and a rear setback encroachment of five (5) feet.

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 variance petition.

Staff recommends approval of the variance as requested as the placement of the private road appears to interfere with traditional R-1, Single-Family Residential development patterns necessitating the front and rear setback encroachment.

Additionally, Staff recommends that said approval include 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).

Attachments: Application and accompanying materials

Development Services

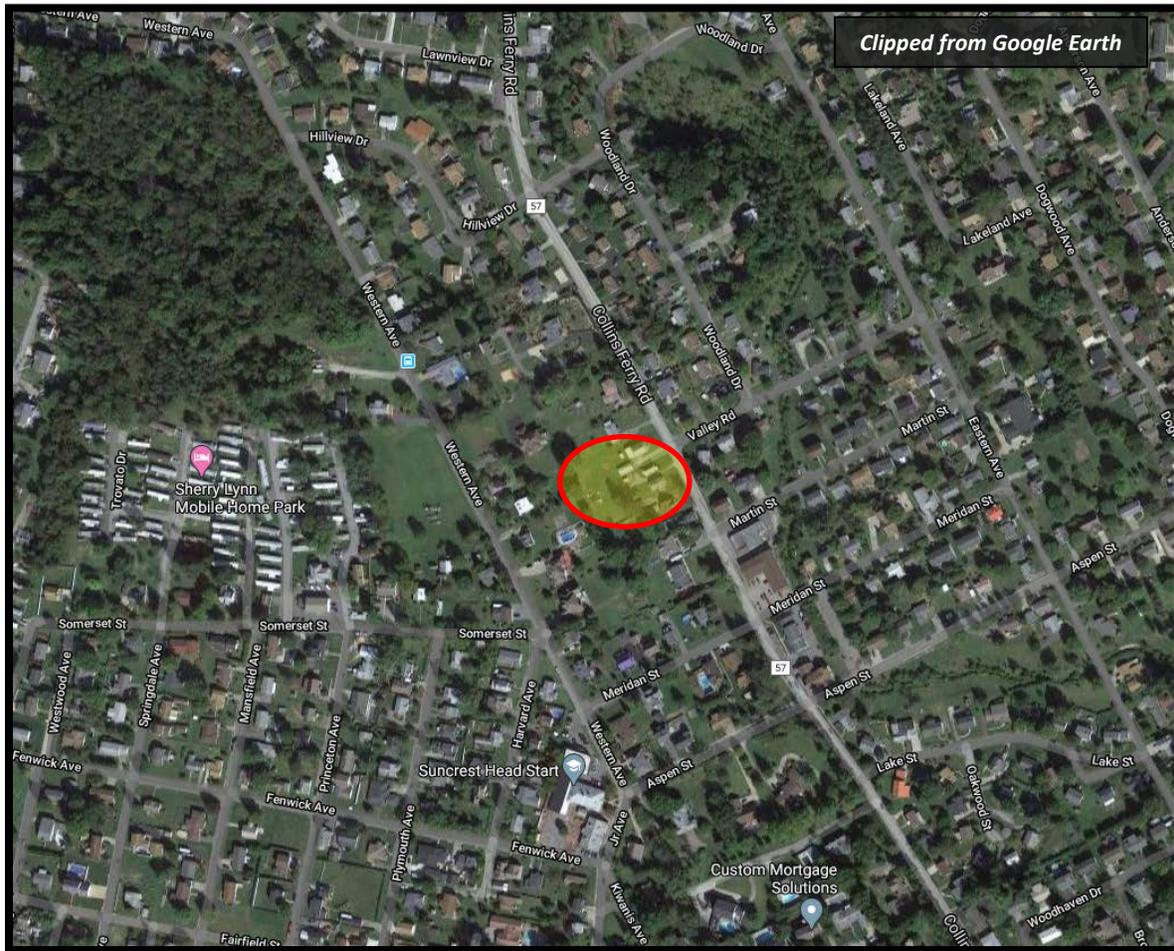
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

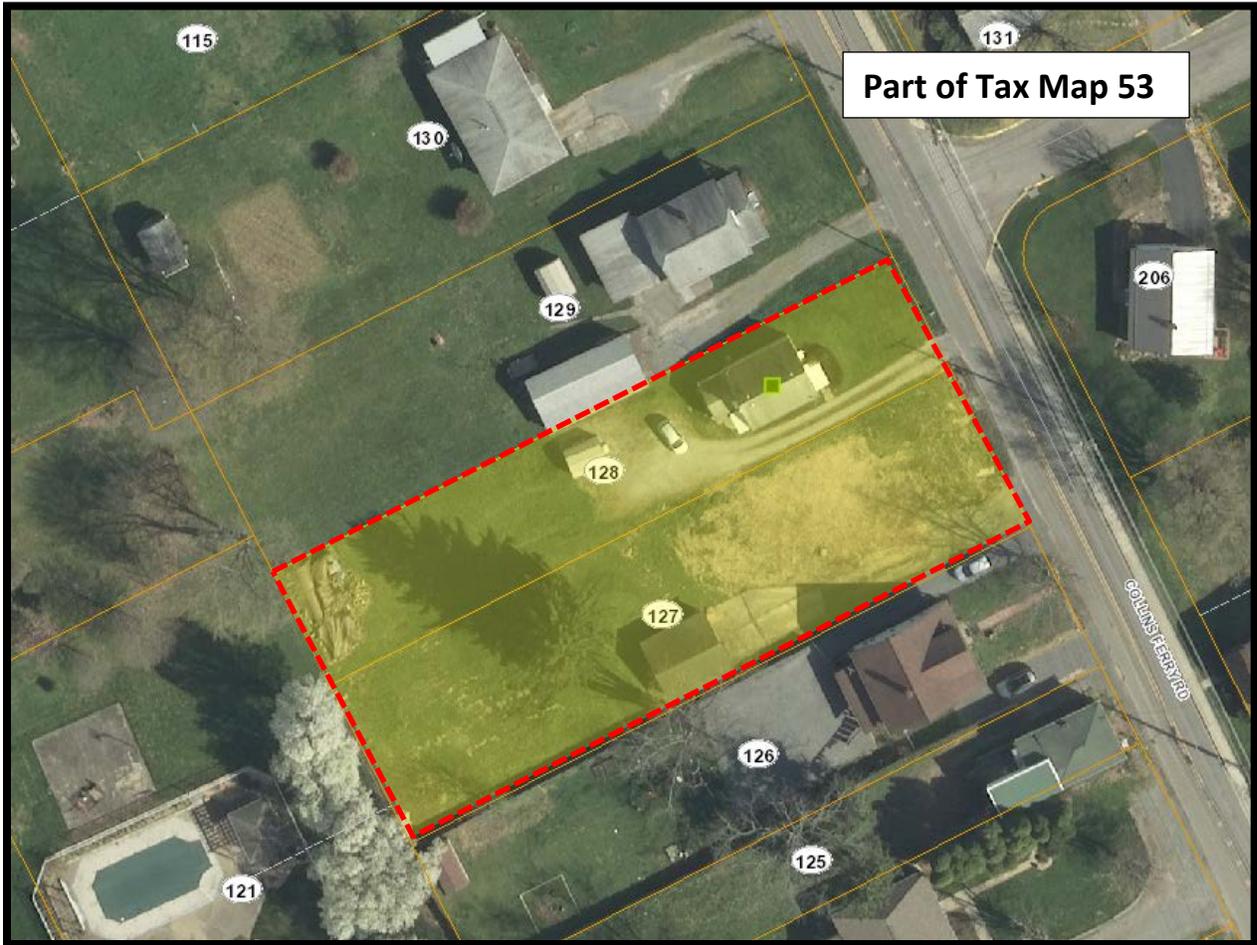
Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V20-04 / Callen / 3435 Collins Ferry Road



STAFF REPORT ADDENDUM A
V20-04 / Callen / 3435 Collins Ferry Road



STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road

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MNS19-08 & MNS19-07 Combined Approval letter	Page 22 of 23

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



MORGANTOWN PLANNING COMMISSION

May 9, 2019
6:30 p.m.
City Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Blosser, 3rd Ward

Bill Petros, 4th Ward

Michael Shuman, 5th Ward

Ronald Dulaney, City Council

Gigi Villarreal, City Admin.

COMBINED STAFF REPORT

CASE NOS: MNS19-08 / Bossio / 3431 and 3435 Collins Ferry Road
MNS19-07 / Kolanko / 1428 Western Avenue

REQUEST and LOCATION:

Requests by Bernard Bossio, for himself and on behalf of Vincent and Delores Kolanko, for minor subdivision approvals of property located at 3431 and 3435 Collins Ferry Road and at 1428 Western Avenue, respectively.

TAX MAP NUMBER (s) and ZONING DESCRIPTION:

Tax Map 53, Parcels 127, 128 and 121, respectively; R-1, Single-Family Residential District

SURROUNDING ZONING:

R-1, Single-Family Residential District

BACKGROUND

The petitioners seek to subdivide their three (3) respective parcels and provide a 25-foot right-of-way easement in a configuration that will result in four (4) new buildable parcels. Addendum A of this report illustrates the location of the subject site.

The subdivision of Parcel 127, included in MNS19-08 Bossio petition, into two (2) parcels was approved by the Planning Commission on 18 NOV 2013 under Case No. MNS13-22. The Planning Division has no record of that subdivision being recorded at the Monongalia County Clerk's Office. Addendum B of this report provides the Planning Commission's approval letter and Staff Report related to that case.

ANALYSIS:

MNS19-08 / Bossio / 3431 and 3435 Collins Ferry Road

Mr. Bossio seeks to reconfigure his two (2) existing parcels into three (3) parcels that will front and be accessed by a 25-foot right-of-way easement to/from Collins Ferry Road. If the MNS13-22 subdivision had been recorded, Mr. Bossio's proposal would be considered a reconfiguration of three (3) parcels. These parcels are labeled Lots "A", "B", and "C" on the petitioner's proposed plat.

The right-of-way easement includes a "T" or "Hammerhead" designed turn-around that has been preliminarily reviewed by the City Fire Marshall's Office to ensure proper access and movements for emergency response vehicles. The location of this turn-around is a part of the tract included in the Kolanko proposed subdivision [MNS19-07].

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

Planning Division

380 Spruce Street
Morgantown, WV 26505
304.284.7431

Page 1 of 4

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



MORGANTOWN PLANNING COMMISSION

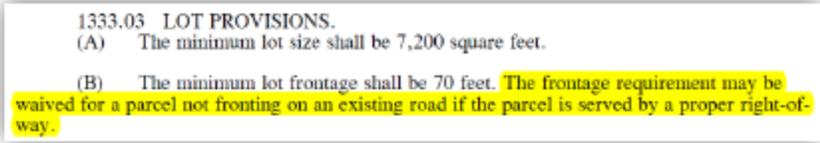
May 9, 2019
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Michael Shuman, 5th Ward
Ronald Dulaney, City Council
Gigi Villareal, City Admin.

As illustrated in the clipped image below, the R-1 District minimum lot area standard is 7,200 square feet and the minimum lot frontage standard is 70 feet (emphasis added and addressed later).



The following table identifies the proposed lot frontage and lot areas for each of the three (3) proposed parcels included in this petition. Frontage these parcels will be along the to-be-named right-of-way easement.

Lot Identifier	Proposed Lot Area (min. of 7,200 sq. ft.)	Proposed Lot Frontage (min. of 70 ft.)
Lot "A"	9,786 sq. ft.	90 ft.
Lot "B"	8,700 sq. ft.	80 ft.
Lot "C"	8,721 sq. ft.	80 ft.

MNS19-07 / Kolanko / 1428 Western Avenue

The Kolankos reside at 1428 Western Avenue, the parcel for which is currently configured in an "L" shape wrapping around Parcel 121.1 of Tax Map 53. The petitioner seeks to create a new buildable parcel as they plan to downsize from their existing home.



The proposed parcel, labeled as Lot "D" on the petitioner's proposed plat, follows the orderly side property boundary of Parcel 121.1 (1432 Western Avenue) as illustrated in the graphic to the right. The proposed parcel will be accessed by the right-of-way easement to/from Collins Ferry Road through the Bossio proposed subdivision [MNS19-08].

Lot "D" will be approximately 14,243 sq. ft. in area, which exceeds the minimum R-1 District lot size area standard. The proposed parcel will only have approximately 57 feet of frontage along the turn-around. As highlighted in the Section 1333.03 graphic above, the 70-foot lot frontage standard may be waived as the proposed Lot "D" will be served by a proper right-of-way running through the Bossio proposed subdivision [MNS19-08].

Development Services
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

Planning Division
389 Spruce Street
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STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



MORGANTOWN PLANNING COMMISSION

May 9, 2019
6:30 p.m.
City Council Chambers

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Peter DeMasters, 6th Ward

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Ronald Dulaney, City Council

Gigi Villarreal, City Admin.

The petitioner has submitted a MUB service availability letter and an approved access permit from the West Virginia Division of Highways.

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

STAFF RECOMMENDATION:

Again, each minor subdivision petition must be considered and acted upon by the Planning Commission separately. Due to the nature of the subdivision petitions and access, Staff recommends MNS19-08 involving 3431 and 3435 Collins Ferry Road be decided first.

MNS19-08 / Bossio / 3431 and 3435 Collins Ferry Road

Staff recommends the proposed subdivision be approved as requested with the following conditions:

1. That this approval shall be contingent upon Planning Commission approval of Case No. MNS19-07;
2. That, if not already completed, the two (2) single-family principle buildings and any accessory structures thereto located on Parcels 127 and 128 of Tax Map 53, must be razed and removed;
3. That final right-of-way easement location and design dimensions must be approved in writing by the City Engineer and the City Fire Marshall;
4. That the petitioner shall furnish to the Office of the City Manager a performance bond that assures the City that the subdivider, his/her heirs, successors and assigns, their agent or servants will faithfully perform and complete the work of constructing and installing improvements as determined by the City Engineer (e.g., roadway, sidewalks, water, sanitary sewer, stormwater, etc.). Further, such performance bond shall:
 - a. Run to the City of Morgantown.
 - b. Be in an amount of the estimated construction cost of the ultimate installation of improvements as determined by the City Engineer.
 - c. Specify the time for the completion of installation of the improvements.
5. That the petitioner submit at least three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature; and,
6. That the final plat is recorded at the Monongalia County Courthouse within thirty (30) days of observing the conditions set forth above and after receiving the executed plat.

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

Page 3 of 4

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



MORGANTOWN PLANNING COMMISSION

May 9, 2019
6:30 p.m.
City Council Chambers

President:

Peter DeMasters, 6th Ward

Vice-President:

Carol Pyles, 7th Ward

Planning Commissioners:

Sam Loretta, 1st Ward

Tim Stranko, 2nd Ward

William Blosser, 3rd Ward

Bill Petros, 4th Ward

Michael Shuman, 5th Ward

Ronald Dulaney, City Council

Gigi Villarreal, City Admin.

MNS19-07/ Kolanko / 1428 Western Avenue

Staff recommends the proposed subdivision be approved as requested with the following conditions:

1. That this approval shall be contingent upon Planning Commission approval of Case No. MNS19-08;
2. That final right-of-way easement location and design dimensions must be approved in writing by the City Engineer and the City Fire Marshall;
3. That the petitioner shall furnish to the Office of the City Manager a performance bond that assures the City that the subdivider, his/her heirs, successors and assigns, their agent or servants will faithfully perform and complete the work of constructing and installing improvements as determined by the City Engineer (e.g., roadway, sidewalks, water, sanitary sewer, stormwater, etc.). Further, such performance bond shall:
 - a. Run to the City of Morgantown.
 - b. Be in an amount of the estimated construction cost of the ultimate installation of improvements as determined by the City Engineer.
 - c. Specify the time for the completion of installation of the improvements.
4. That the petitioner submit at least three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature; and,
5. That the final plat is recorded at the Monongalia County Courthouse within thirty (30) days of observing the conditions set forth above and after receiving the executed plat.

Enclosure: Application and accompanying exhibits

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

Page 4 of 4

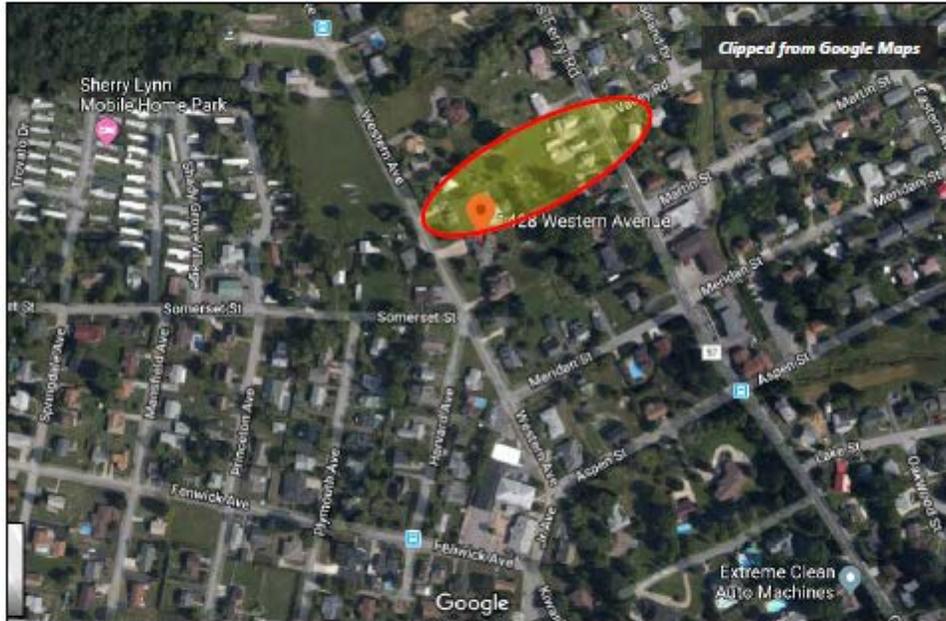
STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road

COMBINED STAFF REPORT ADDENDUM A

MNS19-07 / Kolanko / 1428 Western Ave.

MNS19-08 / Bossio / 3431 and 3435 Collins Ferry Rd.



Staff Report Addendum A
MNS19-08 & MNS19-07

Page 1 of 1

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



OFFICE USE
CASE NO. **MNSA-08**

APPLICATION FOR MINOR SUBDIVISION

A Minor Subdivision of property includes the creation of up to four (4) parcels or the consolidation of existing parcels via survey plat or approved deeded covenants, but does not involve the extension of off-site facilities (streets, etc.) or the dedication of a portion of the site for public use.

(PLEASE TYPE OR PRINT IN BLACK INK)

FEE: \$75.00 [Z-MNS]

I. APPLICANT			
Name:	Bernard V. Bossio		Phone: N/A
Mailing Address:	449 Kiwanis Ave		Mobile: 304.685.9810
	Street	Morgantown WV 26505	Email: bernie@bossioent.com
	City	State Zip	
II. AGENT / CONTACT INFORMATION			
Name:	Bernard V. Bossio		Phone: N/A
Mailing Address:	449 Kiwanis Ave		Mobile: 304.685.9810
	Street	Morgantown WV 26505	Email: bernie@bossioent.com
	City	State Zip	
Mailings –	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input checked="" type="checkbox"/> Agent/Contact		
III. PROPERTY			
Owner:	Bernard V. Bossio		Phone: N/A
Mailing Address:	3431 & 3435 Collins Ferry Road		Mobile: 304.685.9810
	Street	Morgantown WV 26505	Email: bernie@bossioent.com
	City	State Zip	
IV. SITE			
Street Address (if assigned):	3431 & 3435 Collins Ferry Road	Tax Map No(s):	53
Zoning:	R-1 <i>cl</i>	Parcel No(s):	128 and 127
Subdivision Description, including areas (sq. ft.) of proposed parcel(s):	3431 Collins Ferry Road was previously approved by the City of Morgantown Planning Commission to be divided into two(2) lots creating a "Flag" lot with a 12" access driveway. I would like to improve upon this approval by requesting a change to enhance these properties. I own 3435 Collins Ferry Road as well as 3431 Collins Ferry road now. I am requesting for approval to combine the two parcels together to allow for the minor subdivision creation of Three (3) lots. Furthermore, this will allow for the fourth (4th) lot "Lot D" to have access to the 25' ROW/Easement. If approved, Lot D would become part of the proposed development. This configuration gives emergency vehicles as well as auxiliary type vehicles such as garbage and delivery (UPS & FedEx) the needed area to properly service the 4 properties. The entire property boundaries would be encompassed with a privacy fence and vegetation areas much like my other developments, Vintner Reserve and Vintner Square.		
Are there any Variances from the Subdivision Regulations anticipated:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, to what extent is a variance necessary?	Possibly ,front and rear yard set backs up to 10 feet each.		

\$75.00
 Z-MNS
 2019-00009231
 Samantha Batdwin
 4/8/2020 12:43:43 PM
 Minor Subdivision Application
 For Deposit only
 City of Morgantown

Development Services Department • 389 Spruce Street, Morgantown, WV 26505
www.morgantownwv.gov • 304.284.7431

Page 1 of 2
 Form Rev. 20180701

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



OFFICE USE
CASE NO. *MNS9-08*

APPLICATION FOR MINOR SUBDIVISION

V. PLAT

Preliminary Plat submission – A Minor Subdivision Application must also include one (1) preliminary plat illustrating:

- (a) Existing and proposed property boundaries, property boundary dimensions, and square footage.
- (b) A letter of service availability and approval from the Morgantown Utility Board.

Final Plat submission – Upon approval by the Planning Commission, three (3) sealed Final Plat surveys must be submitted to the Planning Office and meet the following standards:

- (a) Drawn to a scale of one inch (1") equals fifty feet (50') or larger;
- (b) Date of preparation, north arrow, and scale;
- (c) Legal description;
- (d) Applicant/owner name and address;
- (e) Existing zoning;
- (f) Legend;
- (g) Vicinity map;
- (h) Existing and proposed utility lines and easements;
- (i) Certification by a registered land surveyor, licensed in the State of West Virginia, that the dimension and bearings are accurately delineated with a seal and signature;
- (j) Location, shape, exterior dimensions of each existing building on the site(s);
- (k) Location and dimensions of paved surfaces including sidewalks and curb cuts, and of all abutting streets;
- (l) Location of springs, streams, other water bodies, and areas subject to flooding;
- (m) Floodplain designation making reference to pertinent FEMA Firm Community Panel Number;
- (n) Approval signature block allowing space for President of Morgantown Planning Commission;
- (o) Other items as deemed necessary by Planner Director or City Engineer.

Please note that all approved minor subdivision plats must be filed with the Monongalia County Tax Office within thirty (30) days of approval. Plats not filed within thirty (30) days will be considered invalid by the City of Morgantown and will require a new application.

VIII. ATTEST

I hereby certify that I have read and examined this document and know the same to be true and correct. All provisions of laws and ordinance governing this type of work will be complied with whether specified herein or not. Granting of a permit 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.

Bernardo V. Bossio

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

4.8.19

Date

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



OFFICE USE
CASE NO. **MWS19-07**

APPLICATION FOR MINOR SUBDIVISION

A Minor Subdivision of property includes the creation of up to four (4) parcels or the consolidation of existing parcels via survey plat or approved deeded covenants, but does not involve the extension of off-site facilities (streets, etc.) or the dedication of a portion of the site for public use.

(PLEASE TYPE OR PRINT IN BLACK INK)

FEE: \$75.00 [Z-MNS]

I. APPLICANT			
Name:	Vincent and Dolores Kolanko		Phone: 304.599.5522
Mailing Address:	1428 Western Ave		Mobile: 304.216.5965
	Street	Morgantown WV 26505	Email: deervince@comcast.net
	City	State Zip	
II. AGENT / CONTACT INFORMATION			
Name:	Bernard V. Bossio		Phone:
Mailing Address:	449 Kiwanis Ave		Mobile: 304.685.9810
	Street	Morgantown WV 26505	Email: bernie@bossioent.com
	City	State Zip	
Mailings –	Send all correspondence to (check one): <input type="checkbox"/> Applicant OR <input checked="" type="checkbox"/> Agent/Contact		
III. PROPERTY			
Owner:	Dolores Kolanko		Phone: 304.599.5522
Mailing Address:	1428 Western Ave		Mobile: 304.216.8514
	Street	Morgantown WV 26505	Email: deervince@comcast.net
	City	State Zip	
IV. SITE			
Street Address (if assigned):	1428 Western Ave	Tax Map No(s):	53
Zoning:	R1	Parcel No(s):	121
Subdivision Description, including areas (sq. ft.) of proposed parcel(s):	Divide into two parcels a currently "L" shaped parcel. Remaining parcel with dwelling to maintain 27,000+ Sq Ft of area and the proposed parcel "Lot D" will have 14,000 Sq Ft of area. Lot D, if permitted, will now have access through new development onto Collins Ferry Road.		
Are there any Variances from the Subdivision Regulations anticipated:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, to what extent is a variance necessary?	Possibly front and rear yard set backs up to 10 feet		

475.00
 Z-MNS
 2018-03-09/2018
 2:50PM BRIGGS
 4/8/2019 12:43:48 PM
 Minor Subdivision Application
 For Deposit Only
 City of Morgantown

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



OFFICE USE
CASE NO. *MNS19-07*

APPLICATION FOR MINOR SUBDIVISION

V. PLAT

Preliminary Plat submission – A Minor Subdivision Application must also include one (1) preliminary plat illustrating:

- (a) Existing and proposed property boundaries, property boundary dimensions, and square footage.
- (b) A letter of service availability and approval from the Morgantown Utility Board.

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- (a) Drawn to a scale of one inch (1") equals fifty feet (50') or larger;
- (b) Date of preparation, north arrow, and scale;
- (c) Legal description;
- (d) Applicant/owner name and address;
- (e) Existing zoning;
- (f) Legend;
- (g) Vicinity map;
- (h) Existing and proposed utility lines and easements;
- (i) Certification by a registered land surveyor, licensed in the State of West Virginia, that the dimension and bearings are accurately delineated with a seal and signature;
- (j) Location, shape, exterior dimensions of each existing building on the site(s);
- (k) Location and dimensions of paved surfaces including sidewalks and curb cuts, and of all abutting streets;
- (l) Location of springs, streams, other water bodies, and areas subject to flooding;
- (m) Floodplain designation making reference to pertinent FEMA Firm Community Panel Number;
- (n) Approval signature block allowing space for President of Morgantown Planning Commission;
- (o) Other items as deemed necessary by Planner Director or City Engineer.

Please note that all approved minor subdivision plats must be filed with the Monongalia County Tax Office within thirty (30) days of approval. Plats not filed within thirty (30) days will be considered invalid by the City of Morgantown and will require a new application.

VIII. ATTEST

I hereby certify that I have read and examined this document and know the same to be true and correct. All provisions of laws and ordinance governing this type of work will be complied with whether specified herein or not. Granting of a permit 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.

Vincent + Delores Kolanko

Type/Print Name of Applicant/Agent

Vincent Kolanko by 30.

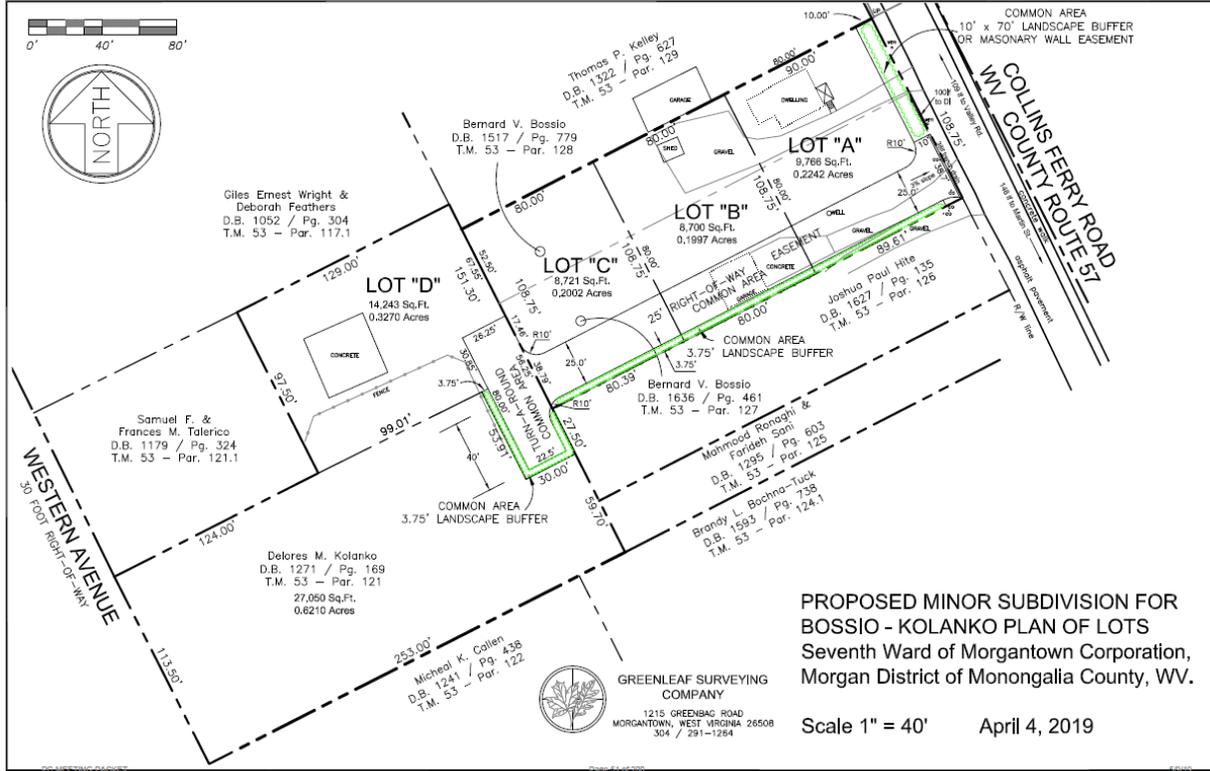
Signature of Applicant/Agent

4.8.19

Date

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road

278 Greenbag Road • Post Office Box 852 • Morgantown, WV 26507-0852 • 304-292-8443 • Fax 304-292-1526

MUB

April 26, 2019

www.mub.org

Bernie Bossio
449 Kiwanis Avenue
Morgantown, WV 26505
VIA EMAIL: bernie@bossioent.com

Re: Water, Sewer & Storm Service Availability
7th Ward, Tax Map 53
P/O Parcel 121, Parcel 127 & 128

Dear Mr. Bossio,

This will confirm that water and sanitary sewer service is available to the above referenced property, however, will require an estimate for a main line extension per applicable WV Public Service Commission (PSC) rules and regulations. Storm sewer service is available as-cost and will require an estimate. Note that we are unable to certify whether the depth/elevation and/or size of the existing MUB facilities are adequate to serve the proposed structure. We will evaluate such adequacy upon receipt of additional details describing the design of the proposed structures along with a property plat showing the proposed structures to be served.

In addition to the above costs and in accordance with our PSC-approved rate schedule, tap fees will be charged for each domestic service connection requested. The tap fee for water service is \$700.00 (3/4-inch or less); \$1,000.00 (1-inch); \$1,500.00 (1 1/2-inch); \$2,000.00 (2-inch) per meter setting. All water services larger than 2-inch are installed on an as-cost basis. The tap fee for sewer service is \$700.00 per structure. The PSC requires that we install the utility service line to the property line of the premises being served for the cost of these tap fees and further requires that a single and separate customer service line be provided for each structure being served.

A Stormwater Permit Application will be required for your project along with a review and approval of your Storm Water Management Plan by MUB. **Note that this would be required prior to construction and/or development of the site.** Note also that a structural stormwater management control facility would be required as a part of any Stormwater Management Plan.

In order to help us serve you better, please bring this letter with you when applying for new service, along with any additional property information available.

If you have any questions regarding this matter, please call me at (304) 292-8443. Thank you in advance for your kind cooperation.

Sincerely,
MORGANTOWN UTILITY BOARD



Brandon Stickley
Engineering Technician

X:\Eng\dept\Estimates\Availability\2019\Bossio, Bernie_Wtr-Swr-Strm Avail_7th Ward_TM53_p-o P121, P127, P128.doc

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

Office of the District Engineer/Manager
District Four

Byrd E. White, III
Secretary of Transportation

PO Box 4220 (EXIT 121, I-79) * Clarksburg, WV 26302 * 304-842-1550
April 11, 2019

BOSSIO, BERNARD VICTOR

449 KIWANIS AVE.
MORGANTOWN, WV 26505

Dear Applicant:

Your approved copy of Permit Number 04-2019-0358 for a AR - Approach Residential

permit type is enclosed. A description of the work is on the permit.

Please contact the District Four office:

304-842-1597

at least 48 hours in advance of the date you plan to begin work so arrangements can be made to inspect the work authorized by the permit.

Failure to comply will result in cancellation of your permit.

A copy of this permit is to be available on the job at all times while the work is in progress for inspection by the West Virginia Division of Highways' personnel.

Sincerely,

District Engineer / District Manager

Permit Supervisor

Initials: DC:MC:md

Attachments: Yes

Enclosure: No

cc:File OM MD 0431

PC MEETING PACKET

E.E.O./AFFIRMATIVE ACTION EMPLOYER

Page 53 of 200

5/9/19

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road

Form MM-109
Rev. 05-19-05

PERMIT NO. 04-2019-0358

PERMIT TO ENTER UPON, UNDER, OVER OR ACROSS THE STATE ROADS OF THE STATE OF WEST VIRGINIA, AS PROVIDED FOR IN SECTION 6, ARTICLE 16, CHAPTER 17; SECTION 9, ARTICLE 16, CHAPTER 17; SECTION 8, ARTICLE 4, CHAPTER 17, WEST VIRGINIA CODE, 1931, AS AMENDED.

THIS PERMIT, Made this 10 day of April 20 19, between the WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, a statutory corporation hereinafter called DIVISION and Bernard Victor Bossio

Address: 449 Kiwanis Ave Morgantown, WV 26505 Phone No: (304) 685-9810
hereinafter called APPLICANT.

WITNESSETH

In consideration of the hereinafter set out covenants and in accordance with Section 6, Article 16, Chapter 17; or Section 9, Article 16, Chapter 17; or Section 8, Article 4, Chapter 17, of the Official Code of West Virginia, 1931, as amended, and the rules and regulations promulgated thereunder, APPLICANT does hereby apply to enter

Route Type & No. CR 57 DOH Project No. _____ (if applicable);
at 0.46mi north of jct. CR 59/2 Mile Post 0.71

in Monongalia County, for the purposes hereinafter set forth and in accordance with the plans and specifications which are attached hereto and made a part hereof:

Construction and maintenance of a shared use driveway as shown on the attached site plan.

APPLICANT further agrees to accept the conditions hereinafter set forth:

1. APPLICANT shall deposit with DIVISION the sum of \$ _____ in the form of an official, certified or cashier's check, or executed bond with surety satisfactory to DIVISION to cover any damage and inspection costs DIVISION may sustain by reason of the granting of this permit, including any expense incurred in restoring said highway to its original condition or the proper repair of any and all damages that may result within one (1) year from the date of the completion of said work.
2. APPLICANT agrees to reimburse DIVISION for inspection costs as follows:
 A. For any inspection costs incurred under this permit.
 B. At \$ _____ per linear foot for _____ feet of water line installed under this permit
 C. At \$ _____ per linear foot for _____ feet of sewer line installed under this permit
3. APPLICANT shall notify DIVISION at least 48 hours in advance of the date the work will begin. Failure to comply will be cause for cancellation of this permit.
4. APPLICANT agrees to protect its employees, equipment and users of the highway at all times in accordance with the current Division of Highways manual "Traffic Control For Street and Highway Construction and Maintenance Operations", "Temporary Traffic Control for Streets and Highways."
5. APPLICANT agrees to comply with all applicable state and federal laws in the performance of work under this permit.
6. Supplementary conditions cited on the reverse side of this permit are understood and agreed to be a part hereof.
7. The work authorized under this permit shall be completed on or before (Date): 4/11/20

Applicant's signature on this permit affirms that all text herein is a verbatim reproduction of The West Virginia Division of Highways Encroachment Permit Form MM-109, revision date May 19, 2005. All attachments are inclusive to this permit.

RECOMMENDED:

[Signature]
Title District Four

[Signature]
Signature and Title of Applicant
Stand V Bossio, owner

BOND REQUIREMENT:

BOND NO. _____ DATE _____
Attached On File
INSPECTION: Owner/Consultant
Full Time Part Time
Periodic Retainable No Cost

APPROVER

[Signature]
Title ASSISTANT DISTRICT ENGINEER MAINTENANCE
West Virginia Division of Highways

AUTHORIZATION NO: _____

PERMIT NO: 04-2019-0358

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road

CHAPTER 17 WEST VIRGINIA CODE, 1931

§17-4-8. Use of roadbed by railroad, telephone company, etc.

No railroad or electric or other railway shall be constructed upon the roadbed of any state road, except to cross the same, nor shall any person, firm or corporation enter upon or construct any works in or upon such road, or lay or maintain thereon or thereunder any drainage, sewer or water pipes, gas pipes, electric conduits or other pipes, nor shall any telephone, telegraph or electric line or power pole, or any other structure whatsoever, be erected upon, in or over any portion of a state road, except under such restrictions, conditions and regulations as may be prescribed by the state road commissioner. Whenever any railroad or electric or other railway, heretofore or hereafter constructed, shall cross any state road, it shall be required to keep its own roadbed, and the bed of the road or highway at such crossing, in proper repair, or else to construct and maintain an overhead or undergrade crossing, subject to the approval of the state road commissioner; and the tracks of such railroad or railway at grade crossings shall be so constructed as to give a safe and easy approach to and across the same, and when the construction of such approaches is made necessary by a change in the railroad grade at the grade crossing, the cost shall be upon the railway company.

§17-16-6. Permit by commission or county court for openings in or structures on public roads; franchises and easements of oil, etc., transportation companies.

No opening shall be made in any state or county-district road or highway, nor shall any structure be placed therein or thereover, nor shall any structure, which has been so placed, be changed or removed, except in accordance with a permit from the state road commission or county court, as the case may be. No road or highway shall be dug up for laying or placing pipes, sewers, poles or wires, or for other purposes, and no trees shall be planted or removed or obstructions placed thereon, without the written permit of the commission or county court, or its duly authorized agent, and then only in accordance with the regulations of the commission or court. The work shall be done under the supervision and to the satisfaction of the commission or court; and the entire expense of replacing the highway in as good condition as before shall be paid by the persons to whom the permit was given, or by whom the work was done: **Provided, however,** That nothing herein contained shall be so construed as to prevent any oil or gas company or person having a proper permit or franchise from transporting oil or gasoline along any of the public highways of this State, nor to give such company a franchise without paying to the landowners through whose lands such road passes the usual and customary compensation paid or to be paid to the landowners for such right of way. Any grant or franchise when made shall be construed to give to such company or person only the right to use the easement in such public road.

A violation of any provision of this section shall be a misdemeanor, and the person or corporation violating the same shall, upon conviction thereof, be fined not less than twenty-five nor more than one hundred dollars for each offense.

§17-16-9. Private driveways or approaches to roads; obstruction of ditches.

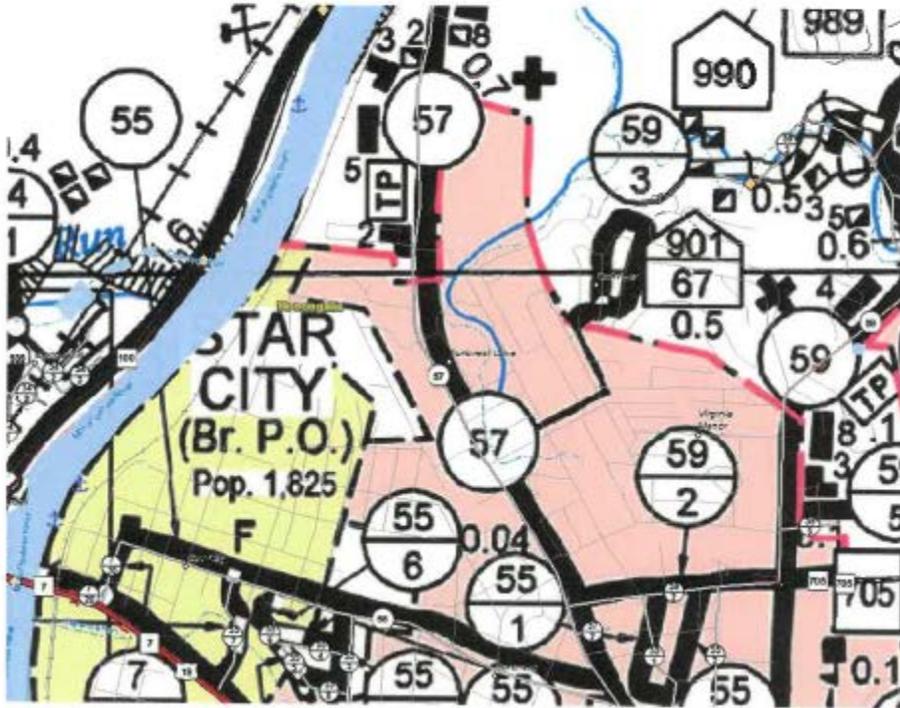
The owner or tenant of land fronting on any state road shall construct and keep in repair all approaches or driveways to and from the same, under the direction of the state road commission, and, likewise, the owner or tenant of land fronting on any county-district road shall construct and keep in repair approaches or driveways to and from the same, under the direction of the county road engineer, and it shall be unlawful for such owner or tenant to fill up any ditch, or place any material of any kind or character in any ditch, so as in any manner to obstruct or interfere with the purposes for which it was made.

SUPPLEMENTARY CONDITIONS

1. The person, firm or corporation to whom a permit is issued agrees to hold the State of West Virginia and DIVISION harmless on account of any damages to persons or property which may arise during the process of the work authorized by this permit or by reason thereof.
2. Applications for permission to perform work within highway rights of way shall be made on DIVISION'S standard permit form and shall be signed by the authorized representative of the person, firm or corporation applying.
3. The APPLICANT shall give detailed information concerning the work to be performed and the application must include a sketch sufficient to show the nature of the work performed.
4. APPLICANT, his agents, successor, heirs or assigns, contractors or any other person, firm or corporation working under APPLICANT'S real or apparent authority, shall perform the work in a manner satisfactory to DIVISION. Damage to the road resulting at any time from work authorized under this permit shall be repaired by APPLICANT. Unsatisfactory repairs may be corrected by DIVISION or its authorized agent and the cost thereof paid by APPLICANT.
5. DIVISION assumes no liability for damage to the proposed work by reason of construction or maintenance work on the road.
6. This permit is granted subject to removal of the authorized installation by APPLICANT at no cost to DIVISION when required for improvement of the road, and subject to all regulations now or hereafter adopted by DIVISION.
7. Utility installation shall be in accordance with the current manual, "Accommodation of Utilities on Highway Right of Way".
8. Driveways shall be in accordance with the current manual, "Rules and Regulations for Constructing Driveways on State Highway Rights-of-Way."
9. DIVISION reserves the right to cancel this permit at any time, should APPLICANT fail to comply with the terms and conditions under which it is granted.
10. This permit is granted only insofar as the DIVISION has a right to do so.

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



Bassio -79.9758
Mon Co. 57 39.6630
MP. 0.71

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road

Bossio, CR57
Monongalia Co.
SL 25mph



400ft +



165ft

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



organtown, West Virginia

Google

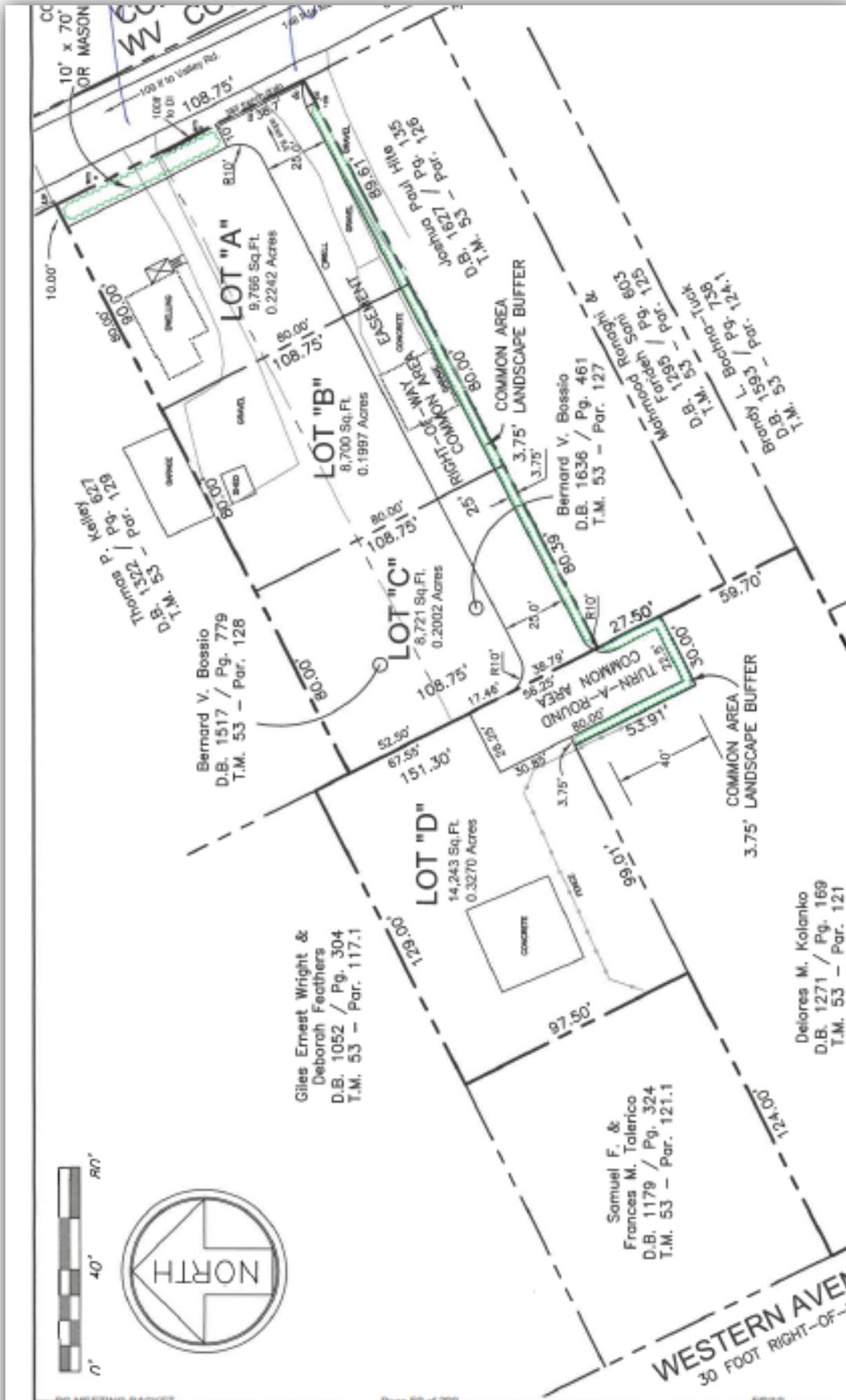
reet View - Nov 2017

**BOSSIO-KOLANKO PLAN OF LOTS
COLLINS FERRY ROAD
WV COUNTY ROUTE 57
STREET VIEW SOUTHEAST**

Image capture: Nov 2017 © 2019 Google

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road

DeMasters asked if it would be stated in the deed that the parcels may not be subdivided in the future. Berryman confirmed.

There being no further comments or questions by the Planning Commission, DeMasters asked if anyone was present to speak in favor of or in opposition to the petition. There being none, DeMasters closed the public hearing and asked for staff's recommendation, which was read by Fletcher.

Stranko moved to approve MNS19-06 with Staff recommended conditions; seconded by Dulaney. Motion carried unanimously.

Petros reentered Council Chambers.

B. MNS19-08 / Bossio / 3431 & 3435 Collins Ferry Road: Request by Bernard V. Bossio for minor subdivision approval of property located at 3431 & 3435 Collins Ferry Road; Tax Map 53, Parcels 127 and 128; R-1, Single-Family Residential District.

Fletcher presented a combined Staff Report for Case Nos. MNS19-08 and MNS19-07.

DeMasters recognized Bernard Bossio of 449 Kiwanis Avenue who provided further explanation of the petitions.

Petros asked if the existing pool would be razed. Bossio confirmed.

Stranko asked if the setback requirements will be met with the subdivision. Bossio stated he is not sure if he will be able to meet the setbacks until building designs have been finalized and stated a variance may be necessary in the future.

Stranko referred to the Staff Report asked about the boundary to the north of the Kelly property. Bossio stated there will be a six-foot high fence surrounding the property.

DeMasters asked if he was representing the Kolankos petition. Bossio confirmed.

DeMasters asked if there were any objections to combining MNS19-08 and MNS19-07. No objections were noted.

There being no further comments or questions by the Planning Commission, DeMasters asked if anyone was present to speak in favor of or in opposition to the petitions. There being none, DeMasters closed the public hearing and asked for staff's recommendation, which was read by Fletcher.

Stranko moved to approve MNS19-08 with Staff recommended conditions; seconded by Pyles. Motion carried unanimously.

C. MNS19-07 / Kolanko / 1428 Western Avenue: Request by Bernard V. Bossio, on behalf of Vincent and Delores Kolanko, for minor subdivision approval of property located at 1428 Western Avenue; Tax Map 53, Parcel 121; R-1, Single-Family Residential District.

Stranko asked for further explanation on why the surety bond is included in the MNS19-07 staff recommendation. Fletcher stated the roadway encroaches onto the Kolanko property.

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road

Stranko moved to approve MNS19-07 with Staff recommended conditions; seconded by Dulaney. Motion carried unanimously.

- D. MNS19-09 / Adkins / Woodland Drive: Request by Chaille Adkins for minor subdivision approval of property located along Woodland Drive; Tax Map 53, Parcel 187; R-1, Single-Family Residential District.

Fletcher presented the Staff Report.

Stranko asked if MUB has stormwater management in this area. Fletcher referred to Addendum A in the Staff Report to show where the stormwater management facility is located.

There being no further comments or questions by the Planning Commission, DeMasters asked if anyone was present to speak in favor of or in opposition to the petition. There being none, DeMasters closed the public hearing and asked for staff's recommendation, which was read by Fletcher.

Stranko moved to approve MNS19-09 with Staff recommended conditions; seconded by Petros. Motion carried unanimously.

- E. S19-01-III / ALDI, Inc. / 1351 Earl L. Core Road: Request by Sudath Alvis, on behalf of ALDI Inc., Saxonburg Division, for a Type III Development of Significant Impact Site Plan approval at 1351 Earl L. Core Road; Tax Map 31, Parcels 101.2 and 101.5; B-2, Service Business District and B-5, Shopping Center District, respectively.

Fletcher presented the Staff Report.

DeMasters recognized Christopher Kambur of APE Engineering and Architecture, on behalf of ALDI, Inc., who presented a Power Point presentation to give a brief history of the company and to further explain the project.

Fletcher noted there will be a cross access easement and stated the whole intersection will be reconfigured which will allow for better navigation of that area.

Stranko asked if the access road would be a City-owned street. Fletcher stated the driveway would be private access.

Fletcher stated the setback variance is largely created by the floodplain which created an opportunity for parking between the building and Earl Core Road. Fletcher noted the parking spaces could be considered as advancing traffic calming as designed.

Stranko asked if there are plans for speed bumps or any other speed-controlled measures. Kumbur noted there will be pavement marked crosswalks and yield signs.

Stranko inquired about the green space along Earl Core Road. Kumba stated there will be small trees in between bushes that will be set back ten to eleven feet to prevent any visual barriers.

Kumba provided further explanation on the placement of parking, green space, lighting and landscaping.

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road



DEVELOPMENT SERVICES
PLANNING DIVISION

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 10, 2019

Bernard V. Bossio
449 Kiwanis Avenue
Morgantown, WV 26505

RE: **MNS19-08 / Bossio / 3431 and 3435 Collins Ferry Road**
MNS19-07 / Kolanko / 1428 Western Avenue
Tax Map 53, Parcels 127, 128 and 121, respectively; R-1, Single-Family Residential District

Dear Mr. Bossio:

At their monthly meeting on Thursday, May 9, 2019, the Morgantown Planning Commission **APPROVED** the above referenced petition to subdivide the subject realty as requested.

MNS19-08 / Bossio / 3431 and 3435 Collins Ferry Road

Staff recommends the proposed subdivision be approved as requested with the following conditions:

1. That this approval shall be contingent upon Planning Commission approval of Case No. MNS19-07;
2. That, if not already completed, the two (2) single-family principle buildings and any accessory structures thereto located on Parcels 127 and 128 of Tax Map 53, must be razed and removed;
3. That final right-of-way easement location and design dimensions must be approved in writing by the City Engineer and the City Fire Marshall;
4. That the petitioner shall furnish to the Office of the City Manager a performance bond that assures the City that the subdivider, his/her heirs, successors and assigns, their agent or servants will faithfully perform and complete the work of constructing and installing improvements as determined by the City Engineer (e.g., roadway, sidewalks, water, sanitary sewer, stormwater, etc.). Further, such performance bond shall:
 - a. Run to the City of Morgantown.
 - b. Be in an amount of the estimated construction cost of the ultimate installation of improvements as determined by the City Engineer.
 - c. Specify the time for the completion of installation of the improvements.
5. That the petitioner submit at least three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature; and,

Page 1 of 2

STAFF REPORT ADDENDUM B

V20-04 / Callen / 3435 Collins Ferry Road

6. That the final plat is recorded at the Monongalia County Courthouse within thirty (30) days of observing the conditions set forth above and after receiving the executed plat.

MNS19-07/ Kolanko / 1428 Western Avenue

Staff recommends the proposed subdivision be approved as requested with the following conditions:

1. That this approval shall be contingent upon Planning Commission approval of Case No. MNS19-08;
2. That final right-of-way easement location and design dimensions must be approved in writing by the City Engineer and the City Fire Marshall;
3. That the petitioner shall furnish to the Office of the City Manager a performance bond that assures the City that the subdivider, his/her heirs, successors and assigns, their agent or servants will faithfully perform and complete the work of constructing and installing improvements as determined by the City Engineer (e.g., roadway, sidewalks, water, sanitary sewer, stormwater, etc.). Further, such performance bond shall:
 - a. Run to the City of Morgantown.
 - b. Be in an amount of the estimated construction cost of the ultimate installation of improvements as determined by the City Engineer.
 - c. Specify the time for the completion of installation of the improvements.
4. That the petitioner submit at least three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature; and,
5. That the final plat is recorded at the Monongalia County Courthouse within thirty (30) days of observing the conditions set forth above and after receiving the executed plat..

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 Planning Commission during this thirty-day period is at the sole financial risk of the petitioner.

Should you have any questions or require further clarification concerning the next steps, please contact the undersigned. We look forward to serving your development review and approval needs.

Respectfully,



Stacy Hollar
Executive Secretary

Page 2 of 2

STAFF REPORT ADDENDUM C

V20-04 / Callen / 3435 Collins Ferry Road

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:

This is a private development completely surrounded by a privacy fence with its own private entrance. This variance does not affect the private road ~~already approved by the DOH~~ nor does it affect the development's ~~grading in any way~~. The reason for the variance is to improve the curb appeal of all the houses in the development as well as all houses in the surrounding area. By approving this variance, ~~it allows the houses to be moved back~~ will be arranged to resemble the traditional low density single-family residential district R-1 zoning 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 ~~rite~~ on the curb of the 25' 25-foot wide private road ~~or a max of 5' off of it. There would be no room for sidewalks, no driveway, and would look terrible. limiting pedestrian infrastructure and neighborhood amenities~~. The variance would allow for a 20' front yard and 20' driveway which would closely resemble the 25' traditional R-1 district setbacks. ~~Nobody would even know a variance was needed because it would look correct. By moving the house back to have 20' front setback it greatly reduces the buildable square footage so the rear setback would need to be 20' as well to match the front as well as give enough buildable space.~~

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' off 20 feet from the road instead of ~~rite~~ right on the road. By having the houses sit 20' off 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' 20 feet from the private road and having 20' off 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., ~~nt turn positively affecting the neighborhood.~~

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

~~Because of the road being where it is (25' off the property line) the~~ Site characteristics limit where houses cannot 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.

Feb. 7th - March 18th



THE CITY OF MORGANTOWN WEST VIRGINIA

OFFICE USE
CASE NO. ~~#~~ V20-04

APPLICATION FOR VARIANCE

OK # 4064

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$150.00 [Z-V]

I. APPLICANT/AGENT		Name:	Michael Callen			
Mailing Address:	Street	182 Greenville School Road		Phone:	304-904-7181	
	City	Bruceston Mills	State	WV	Zip	26525
				Mobile:	Same	
				Email:	Mikecallen12@yahoo.com	

II. PROPERTY		Street Address:	3435 Collins Ferry Rd.			
Owner:	Michael S Callen			Zoning:	R1	
Mailing Address:	Street	182 Greenville School Rd.			Tax Map No:	53
	City	Bruceston Mills	State	WV	Zip	26525
				Parcel No:	012740128	
				Phone:	304-904-7181	

III. NARRATIVE	Describe the specific use and the standard for which the variance is sought.
<p>Front and rear set back adjustment do to a 25' road being on the front set back.</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>	

Michael S Callen	<i>Michael S. Callen</i>	2/5/20
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.



APPLICATION FOR VARIANCE

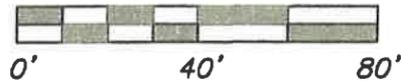
VI. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</p>	<p>This is a private development completely surrounded by a privacy fence with its own private entrance. This variance does not effect the road already approved by the DOT nor does it effect the grading in any way. The reason for the variance is to improve the curb appeal of all the houses in the development as well as all houses in the surrounding area. By approving this variance it allows the houses to be moved back to resemble the R1 zoning specifications.</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 property line of all the houses is on the left side of the new development's private road. By following the R1 zoning front and rear setbacks, the house would sit right on the curb of the 25' road or a max of 5' off it. There would be no room for sidewalks, no driveway, and would look Terrible. The variance would allow for a 20' front yard and 20' Driveway which would closely resemble the 25' R1 set back for front and back. Nobody would even know a variance was needed because it would look correct. By moving the house back to have 20' front set back, it greatly reduces the buildable square footage so the rear set back would need to be 20' as well to match the front as well as give enough buildable space.</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>Granting the variance would allow the houses to sit 20' off the road instead of rite on the road. By having the houses sit 20' off the private road it will look like all the other houses in the R1 zoning. Having 20' from the private road and having 20' off 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, it turn positively affecting the neighborhood.</p>
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p>	<p>Because of the ^{Road} being where it is (25' off property line), the houses cannot be built to resemble the R1 zoning. The variance will not change anything or affect the single family dwelling concept.</p>

V20-04



COMMON AREA
10' x 70' LANDSCAPE BUFFER
OR MASONRY WALL EASEMENT

Thomas P. Kelley
D.B. 1322 / Pg. 627
T.M. 53 - Par. 129

Bernard V. Bossio
D.B. 1517 / Pg. 779
T.M. 53 - Par. 128

Giles Ernest Wright &
Deborah Feathers
D.B. 1052 / Pg. 304
T.M. 53 - Par. 117.1

LOT "A"
9,766 Sq.Ft.
0.2242 Acres

LOT "B"
8,700 Sq.Ft.
0.1997 Acres

LOT "C"
8,721 Sq.Ft.
0.2002 Acres

LOT "D"
14,243 Sq.Ft.
0.3270 Acres

Joshua Paul Hite
D.B. 1627 / Pg. 135
T.M. 53 - Par. 126

Samuel F. &
Frances M. Talerico
D.B. 1179 / Pg. 324
T.M. 53 - Par. 121.1

Bernard V. Bossio
D.B. 1636 / Pg. 461
T.M. 53 - Par. 127

Mahmood Ronaghi &
Farideh Sani
D.B. 1295 / Pg. 603
T.M. 53 - Par. 125

Brandy L. Bochna-Tuck
D.B. 1593 / Pg. 738
T.M. 53 - Par. 124.1

Delores M. Kolanko
D.B. 1271 / Pg. 169
T.M. 53 - Par. 121
27,050 Sq.Ft.
0.6210 Acres

Micheal K. Callen
D.B. 1241 / Pg. 438
T.M. 53 - Par. 122

WESTERN AVENUE
30 FOOT RIGHT-OF-WAY

COLLINS FERRY ROAD
WV COUNTY ROUTE 57

PROPOSED MINOR SUBDIVISION FOR
BOSSIO - KOLANKO PLAN OF LOTS
Seventh Ward of Morgantown Corporation,
Morgan District of Monongalia County, WV.



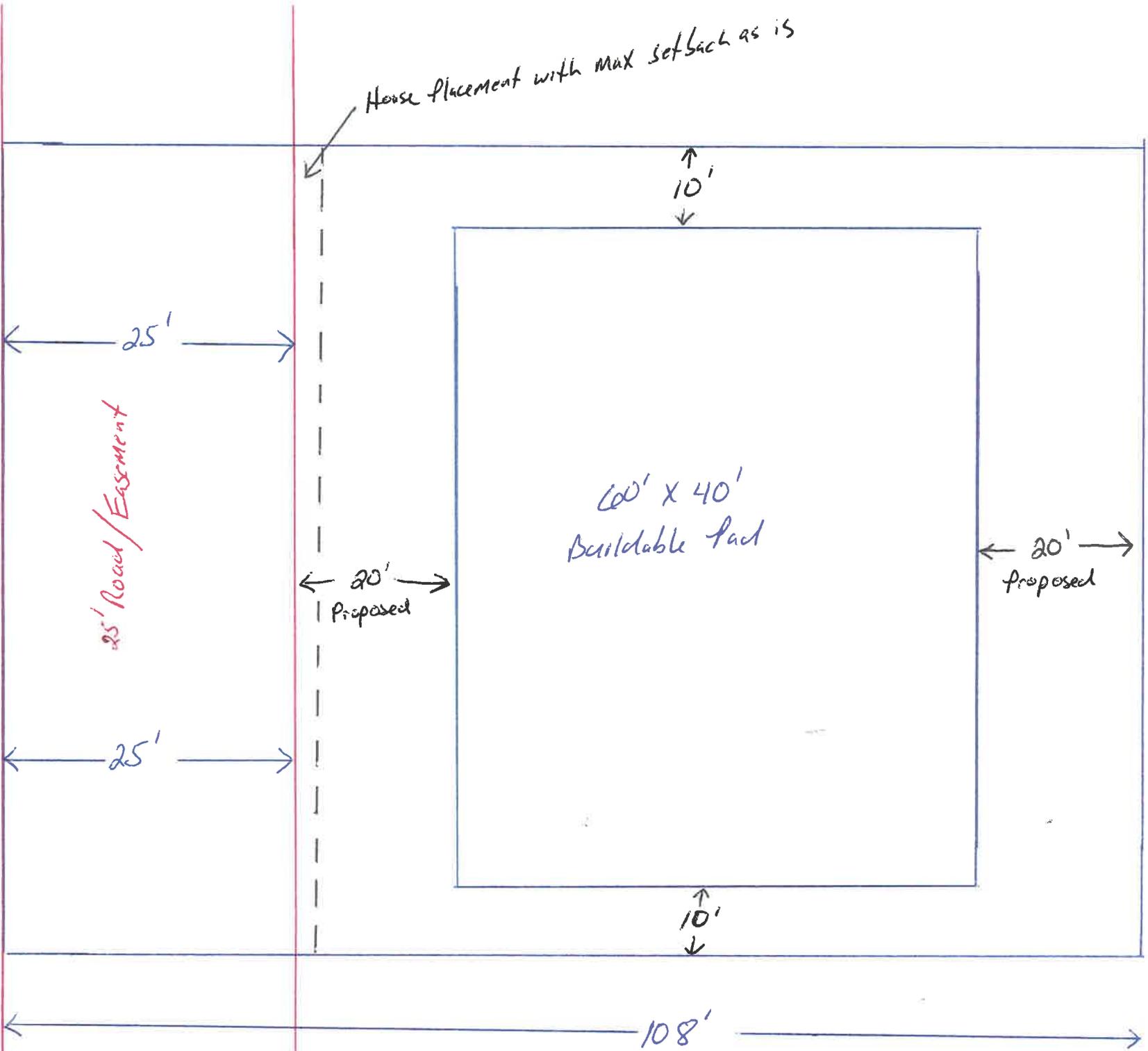
GREENLEAF SURVEYING
COMPANY
1215 GREENBAG ROAD
MORGANTOWN, WEST VIRGINIA 26508
304 / 291-1264

Scale 1" = 40'

April 4, 2019

3435 Collins Ferry Road

Property Line



80'

V20-04

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MORGANTOWN BOARD OF ZONING APPEALS

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

STAFF REPORT

Board Members:

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

CASE NO: V20-05 / Vision Homes / 1994 Marvin Street

REQUEST and LOCATION:

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.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Sixth Ward Tax District, Tax Map 43, Parcel 11; R-1A, Single-Family Residential District.

SURROUNDING ZONING:

R-1A, Single-Family Residential District.

BACKGROUND:

The petitioner seeks to build a single-family dwelling at 1994 Marvin Street, requiring variance relief from the R-1A, Single-Family Residential District residential construction performance standards. Addendum A of this report illustrates the location of the subject site.

On 21 JAN 2020, Twila Goodwin of *Vision Homes* applied for a building permit (Building Permit Application 2020-00000089) for improvements associated with a new "Single-Family Dwelling" use. Planning Division staff reviewed the building permit and contacted the applicant on 27 JAN 2020 identifying design issues that would not allow for administrative approval of the building permit application. The applicant was advised to revise the design to a permitted standard or seek variance as required. Background materials associated with the building permit application and the 27 JAN 2020 staff communication are attached hereto directly after the applicant's variance petition application.

ANALYSIS:

The single-family dwelling proposed for 1994 Marvin Street is designed to front Marvin Street. Parcel 11 is a corner lot with an approximately 85.5 linear foot boundary along Springfield Avenue and an approximately 146.2 linear foot boundary along Marvin Street. Section 1335.04(B) provides that the frontage of a corner lot is the lot line having the shortest dimension along the street right-of-way line, as shown below:

(B) On a corner lot, the front lot line shall be the lot line having the shortest dimension along the street right-of-way line. The required side yard setback on the side facing a street shall be one and one-half (1.5) times the normal side setback requirement. (Amended by Ord. 06-24, Passed 07-18-2006)

This provision requires Springfield Avenue to be the lot front for the parcel.

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



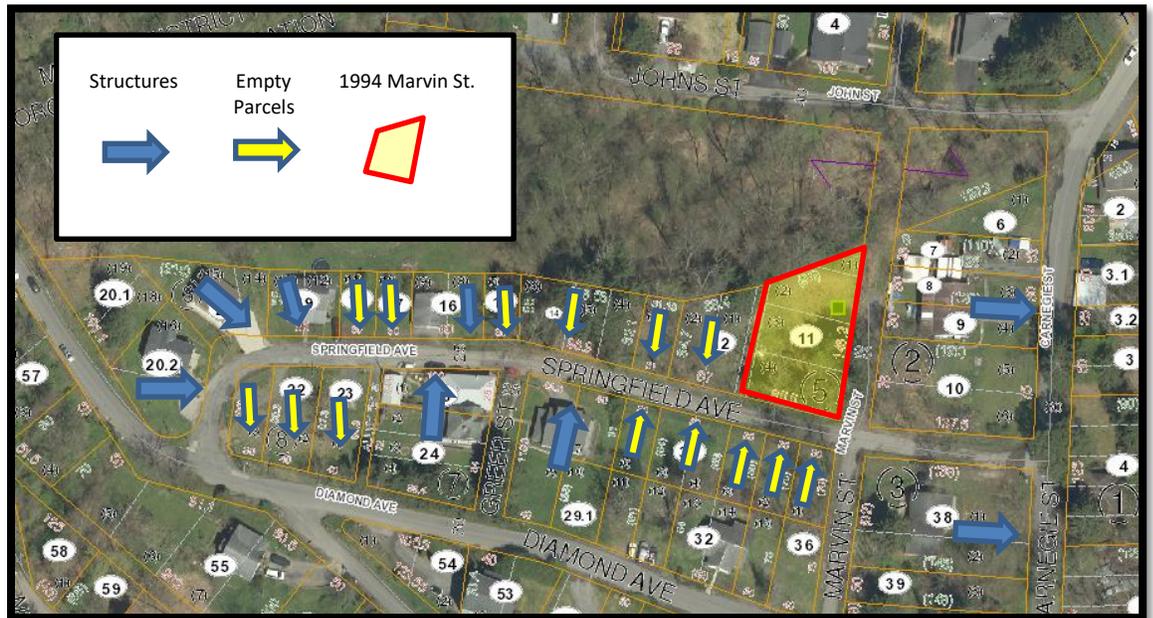
MORGANTOWN BOARD OF ZONING APPEALS

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

Board Members:

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

Site plans and building elevations submitted with the building permit application indicate that the structure will feature a physical building frontage oriented to Marvin Street. The Block layout for this neighborhood shows buildings and parcels fronting Springfield Avenue as illustrated by the directional arrows in the image below:



As such, a structure design for 1994 Marvin Street with a principal façade oriented to Marvin Street is contrary to Section 1335.07(A) residential construction standards as shown below:

1335.07 PERFORMANCE STANDARDS.
 (A) All residential construction shall substantially conform in street orientation to adjacent interior lot residential structures.

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 provides no recommendation whether variance relief should be granted from the performance standard as requested.

Development Services

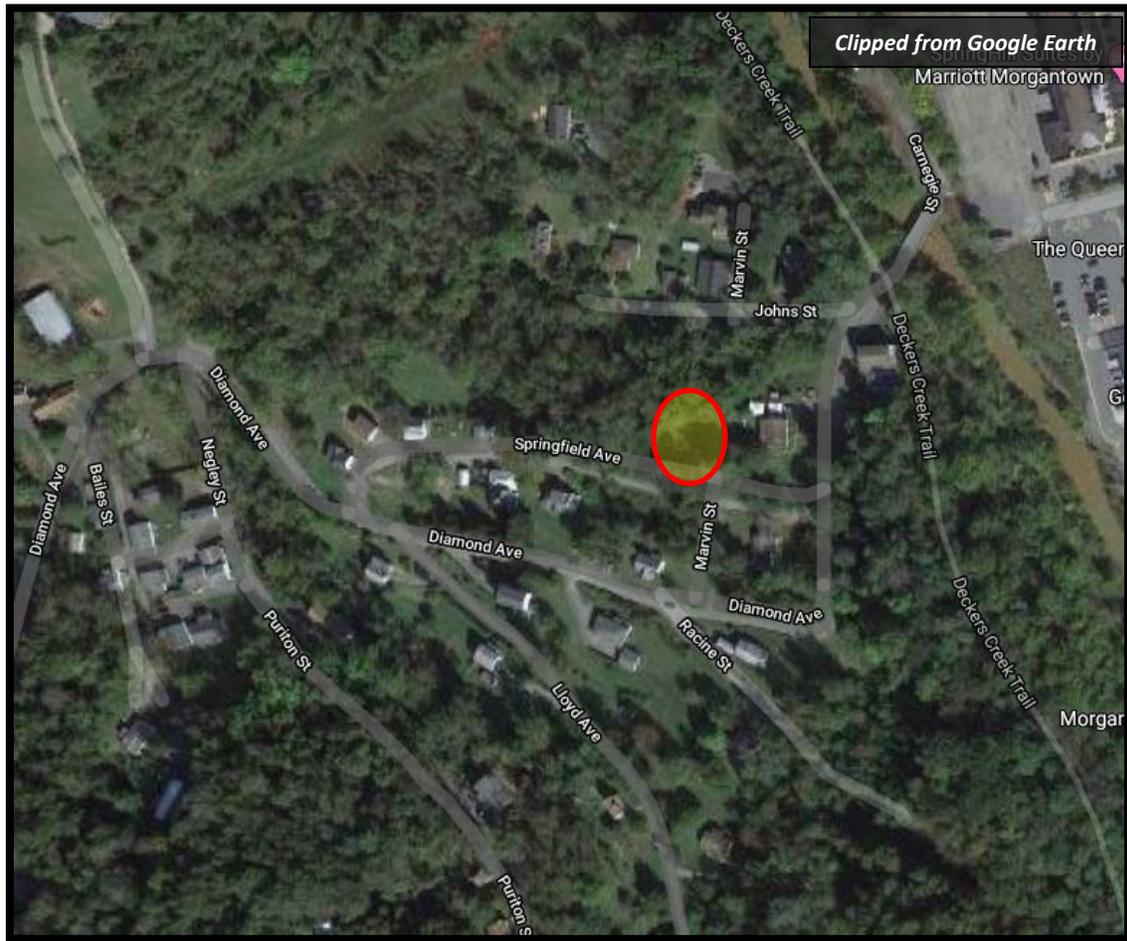
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V20-05 / Vision Homes / 1994 Marvin Street



STAFF REPORT ADDENDUM A
V20-05 / Vision Homes / 1994 Marvin Street



STAFF REPORT ADDENDUM B
V20-05 / Vision Homes / 1994 Marvin 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:

~~Ross Slovak's family has been living on this site since~~ The property has been in use with brief interruption since 1901 and the adjoining neighbors have not changed in over 50 years, ~~by building on the same home site as previous structure neighbors will not be affected. 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 home has been in design process for a very long time, changing the plans would incur costs which would provide a hardship on his budget and already closed construction loan. The layout of the land and the design of the home would conform to the lot nicely, changing the direction would not be appealing or have the best~~ allow practical use of the ~~lots~~ 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 ~~and the house the best possible way.~~



OFFICE USE
CASE NO. **V20-05**

APPLICATION FOR VARIANCE

VISA

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$150.00 [Z-V]

I. APPLICANT/AGENT		Name: Ross Allen Slovak / Vision Homes
Mailing Address:	Street: 1994 Marvin Street	Phone:
	City: Morgantown WV 26505	Mobile: 304-376-5142
	State: Zip:	Email: rawslovak@gmail.com
II. PROPERTY		Street Address:
Owner: Ross Slovak	Zoning:	
Mailing Address:	Street:	Tax Map No: 43
	City: State: Zip:	Parcel No: 11, 12, 13, & 14
		Phone:
III. NARRATIVE		Describe the specific use and the standard for which the variance is sought.
		Single Family Residential home.
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>		
Ross A. Slovak		Vision Homes 2/16/2020
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	<p>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.</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> – 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	<p>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.</p>

APPLICATION FOR VARIANCE

VI. FINDINGS OF FACT

COMPLETE THE FOLLOWING STATEMENTS
IN THIRD PERSON.

- 1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:**

Ross Slovak's family has living on this site since 1901 and the adjoining neighbors have not changed in over 50 years , by building on the same home site as previous structure neighbors will not be affected.

- 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 approved 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.

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 home has been in design process for a very long time, changing the plans would incur costs which would provide a hardship on his budget and already closed construction loan. The layout of the land and the design of the home would conform to the lot nicely, changing the direction would not be appealing or have the best use of the lots.

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 the lot and the house the best possible way

City of Morgantown Application for Building Permit

Application Date <u>1/21/20</u>	Type of Work: <input checked="" type="checkbox"/> New Construction SFD <input type="checkbox"/> SFD Addition <input type="checkbox"/> New Construction Rental/Commercial <input type="checkbox"/> Rental/Commercial Addition	Is Applicant Owner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
---	---	--

P

COPY

PROPERTY INFORMATION:

Street address: 1994 Marvin Street Map# 43 Parcel# 11,12 Ward 6th Zoning 13+14

PROPERTY OWNER INFORMATION:

Name: Ross A Slovak Business name: N/A
 Address: 16 Dorsey Lane, Morgantown, WV 26505 Phone: 304.376.4273
 Email: tegoodvision@comcast.net property owner contractor

CONTRACTOR INFORMATION:

TYPE:	Contractors Business Name	City License Number
Architect/Engineer	Primetime Prints	N/A
General Contractor	Vision Homes, Inc	4003
Excavation	Mill Run Enterprises, Inc	4335
Concrete	Colebank's Construction	8714
Carpentry	Master Works	
Electrical	Shaffer Electric, LLC	
Plumbing	Mountain State Plumbing	
Sewer	Mill Run Enterprises, Inc	4335
Mechanical	M. C. Cutcherson, Heating + Cooling	
Roofing	R+J Roofing	
Masonry	Hillbilly Masonry	1607
Drywall/Lathing	SD Construction	2621
Sprinkler	N/A	
Paving	N/A	
Fire Alarm	N/A	

Est. value of building \$ 194,004 Electrical value \$ 10,400
 Square footage of build 1356 Square footage of grading 7,806

*****Must attach detailed construction plans and site plan*****

I here by certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the code official or the code official's authorized representative shall have the authority to enter areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to this permit.

Twila E Goodwin 1128 Grafton Rd, Mgrtn, WV 304.296.0024
 SIGNATURE OF APPLICANT ADDRESS OF APPLICANT PHONE
 PRINT NAME: Twila E Goodwin

Design A or Variance. emailed 1/27/2020

Detailed Description of Work to be Done:

Construction of single family dwelling
 Consists of 1,229 sq ft of living space.
 2 Story, 3 BR, 2 BA
 2 car basement garage

STRUCTURAL FRAME INFORMATION:

Steel Masonry Concrete Wood Other (identify) _____

EXTERIOR WALL INFORMATION:

Steel Masonry Concrete Wood Other (identify) _____

Street Frontage (FEET)	146.79	Stories (NUMBER)	2	Lot Area (SQ. FT.)	22,302
Front Setback (FEET)	25	Bed Rooms (NUMBER)	3	Total Building Area (SQ. FT.)	1356
Rear Setback (FEET)	212	Full Baths (NUMBER)	2	Parking Area (SQ. FT.)	812
Left Setback (FEET)	15	Partial Baths (NUMBER)	0	Living Area (SQ. FT.)	1356
Right Area (FEET)	47	Garages (NUMBER)	1	Basement Area (SQ. FT.)	1480 1480
Height Above Grade (FEET)	24'	Windows (NUMBER)	9	Garage Area (SQ. FT.)	728 728 In Basement
New Residential Units (NUMBER)	1	Fireplaces (NUMBER)	0	Office/Sales Area (SQ. FT.)	0
Existing Residential Units (NUMBER)	0	Enclosed Parking (NUMBER)	2	Service Area (SQ. FT.)	0
Elevators/Escalator (NUMBER)	0	Outside Parking (NUMBER)	0	Manufacturing Area (SQ. FT.)	0

ELECTRICAL INFORMATION:

Size of underground conductor _____ 4 _____
 Size of grounded conductor _____ 4 Solid _____
 Size of grounding conductor _____ 4 Solid _____
 Type of grounding system (water pipe, ground rods, etc) _____ Water Pipe, Ground Rods _____
 Size of conduit used _____ 3" _____
 Electrician license number _____

APPROVALS:

Engineering Department Approval Notes:

Signature of person reviewing: _____ DATE

Planning Department Approval Notes:

Signature of person reviewing: _____ DATE

Code Enforcement Approval Notes:

Signature of person reviewing: _____ DATE

Fire Department Approval Notes:

Signature of person reviewing: _____

VALIDATION:

Permit Number: <i>SFD RES-2020 00000089</i>	Fee <i>288.15</i>
Electrical:	Fee <i>90.00</i>
Other:	Fee
Other:	Fee
Stop Work Order:	Fee

Application Accepted and Processed By: _____

Total Fee

Approved By: _____ DATE

Signature of Person Picking Up Building Permit: _____ DATE

Print Name of Person Picking up Permit: _____

Greer Street (undeveloped)

N 88° 03' 51" W - 11.00'

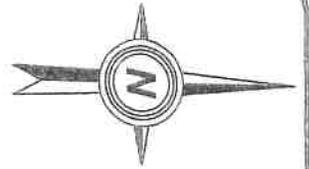
Iron pin & cap set

N 02° 17' 58" E

55.39'

Moran
WB 281/PG 38
Tax Dist. 14, Map 43
Pcl. 15

Iron pin & cap set



North Meridian is based on:
State Plane Coordinates, NAD 83, WV North
Vertical Datum Based on NGVD 88.

Susan Hess Cook,
Nancy Smalley &
Mildred H. Johns, Estate
WB 132/PG 286
Tax Dist. 14, Map 43, Pcl. 1

Springfield Avenue

(6)

S 82° 28' 34" E - 138.16'

Iron pin & cap set

N 75° 17' 28" E

63.00'

Iron pin & cap set

S 81° 04' 42" E - 10.00'

Iron pin & cap set

N 65° 08' 40" E - 85.42'

Iron pin & cap set

S 07° 26' 19" W - 146.79'

House

Driveway

Marvin Street

1" pipe found

Marvin Street

Springfield Avenue

Site Plan for
Ross Slovak
1994 Marvin St
Morgantown WV 26508

* Not to Scale

* Subject to Change
Once house is staked

Plat of Survey
Showing Property of

Ross A. Slovak

Situates At

1994 Marvin Street

Lots 11, 12, 13 & 14

The West Sabraton Addition
Sixth Ward, City of Morgantown
Morgantown Corporation District
Monongalia County
West Virginia

Scale: 1" = 50'

December 9, 2015



Prepared By:

Wolfe & Associates, Inc.

Engineers & Land Surveyors

1323 Mill Street - PO Box 375
Farmington, WV 26571

(304) 925-1374



C. B. Wolfe WV L.S. No. 1045

Greer Street (undeveloped)

N 88° 03' 51" W - 11.00'

Iron pin & cap set

N 02° 17' 58" E
55.39'

Moran
WB 281/PG 38
Tax Dist. 14, Map 43
Pct. 15



North Meridian is based on
State Plane Coordinates, NAD 83, WV North
Vertical Datum Based on NGVD 88.

Springfield Avenue

6

S 82° 28' 34" E - 138.16'

Iron pin & cap set

Susan Hess Cook,
Nancy Smalley &
Mildred H. Johns, Estate
WB 132/PG 286
Tax Dist. 14, Map 43, Pct. 1

Ross A. Slovak
DB 1463/PG 452
Tax Dist. 14, Map 43
Pcls. 11, 12, 13 & 14
Area: 0.512 Acres

N 75° 17' 28" E
63.00'

Iron pin & cap set

S 81° 04' 42" E - 10.00'

Iron pin & cap set

5



N 65° 08' 40" E - 85.42'

Iron pin & cap set

S 07° 26' 19" W - 146.79'

Marvin Street

1" pipe found

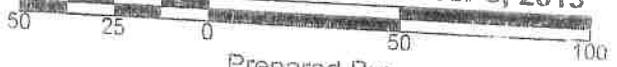
Marvin Street

Springfield Avenue

**Plat of Survey
Showing Property of
Ross A. Slovak**

**Situates At
1994 Marvin Street
Lots 11, 12, 13 & 14
The West Sabraton Addition
Sixth Ward, City of Morgantown
Morgantown Corporation District
Monongalia County
West Virginia**

Scale: 1" = 50'
December 9, 2015



Prepared By:

Wolfe & Associates, Inc.
Engineers & Land Surveyors
1323 Mill Street - PO Box 375
Farmington, WV 26571
(304) 925-1374



C. B. Wolfe WV L.S. No. 1045

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MORGANTOWN BOARD OF ZONING APPEALS

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

STAFF REPORT

Board Members:

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

CASE NO: V20-06 / Stead / 2885 University Avenue

REQUEST and LOCATION:

Request by Traci Stead on behalf of Antiqui Tea House, LLC, for variance relief from Article 1369 concerning signage at 2885 University Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Seventh Ward Tax District, Tax Map 11, Parcels 240 and 240.2; PRO, Professional, Office, and Residential District.

SURROUNDING ZONING:

North: B-1, Neighborhood Business District.
East and West: PRO, Professional, Office, and Residential District.
South: R-1, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to install a post and panel ground sign at 2885 University Avenue, requiring variance relief from Article 1369 of the Planning and Zoning Code. Addendum A of this report illustrates the location of the subject site.

2285 University Avenue is a legal, pre-existing nonconforming structure operating as a permitted "Office Building" use in the PRO, Professional, Office, and Residential District. The applicant is proposing a V-Type, post and panel sign to be located near the parking lot entrance on Parcel 240. As the sign is estimated to have an angle in excess of 60 degrees, each sign face is considered a separate sign per the Section 1329.02 definition of "Sign, V-Type" as shown below:

SIGN, V-TYPE – A type of sign with two faces connected at one end, but facing away from each other at angles that impart a "V" shape to the sign. For purposes of computing surface area, such signs are two separate signs if the angle between the two outer surfaces is less than 60 degrees; otherwise the wings shall be considered one sign.
(Ord. 06-01. Passed 1-3-06.)

Each sign face of the V-Type, post and panel sign will be approximately 8.75 square feet in area for a total combined sign face area of 17.5 square feet. In reviewing the site, a legal, pre-existing nonconforming directory sign is already on-site on the parcel boundary for 240.1 and 240.2. According to Section 1369.07(F)(4), multi-tenant buildings are only permitted directory signs, as shown below.

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

April 15, 2020
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Board Members:

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

- (4) For multi-tenant buildings the only post and panel sign allowed on the property shall be a directory sign. All other signs for tenants shall be wall signs or sandwich board signs; and
- (5) Outparcels in shopping centers shall not be allowed post and panel signs.

Additionally, Section 1369.09(F) requires that all signage for businesses in the PRO District not exceed 20 square feet. As there is a pre-existing directory sign on site that exceeds the permitted area for the district, the area of the V-Type post and panel sign will require variance as shown in the table below:

Ground Sign	Sign Area
	17.5
Total Additional Signage Permitted	0 sf
Total Requested Variance	17.5 sf

In addition to the sign type and area variances, the proposed post and panel sign will utilize non permitted polymer materials, requiring variance from Section 1369.08(B)(3) Lighting and Design Standards.

Development Services

Christopher Fletcher, AICP
 Director

John Whitmore, AICP
 Senior Planner

Planning Division

389 Spruce Street
 Morgantown, WV 26505
 304.284.7431

The following summarizes code sections and related variances required for the proposed sign:

- Section 1369.07(F)(4)..... Sign Type
- Section 1369.08(B)(3) Sign Materials
- Section 1369.09(F)..... Sign area variance of 17.5 square feet



MORGANTOWN BOARD OF ZONING APPEALS

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

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

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.

Attachments: Application and accompanying materials

Development Services

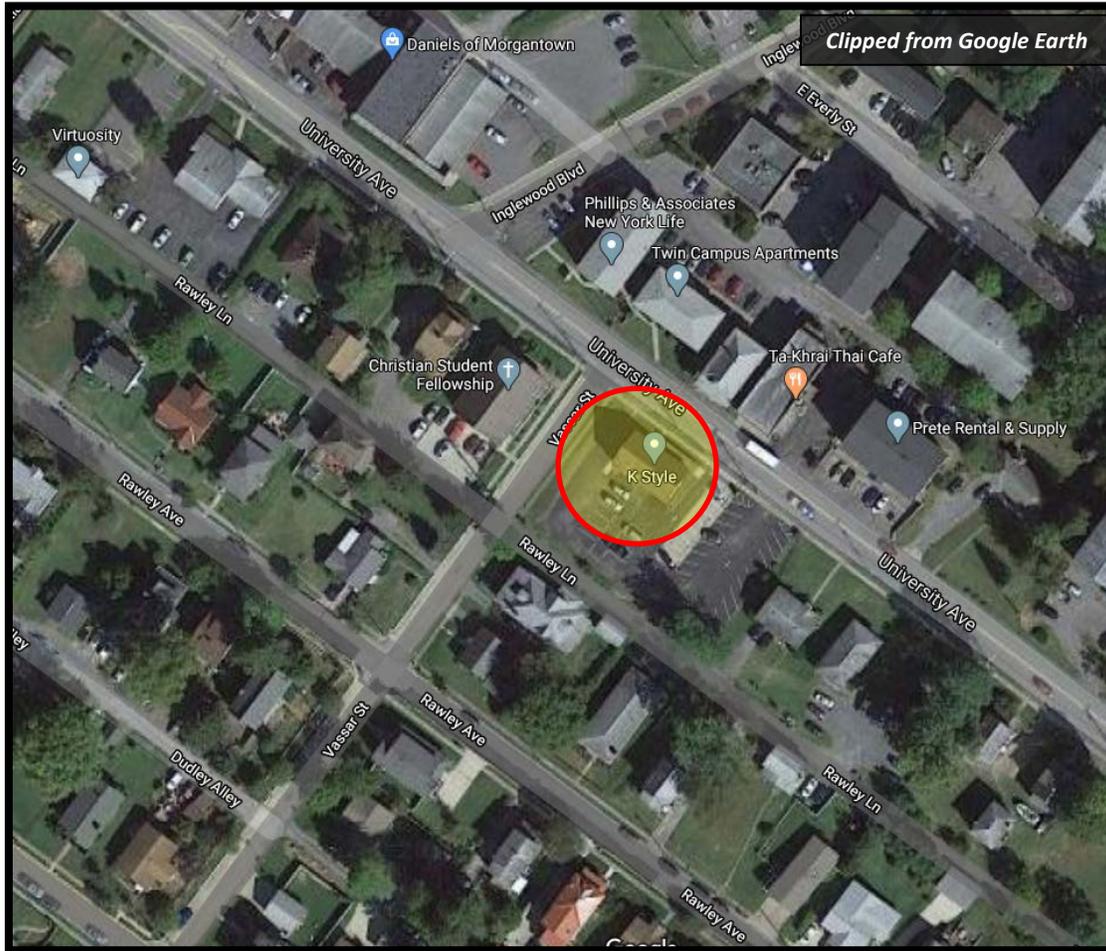
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

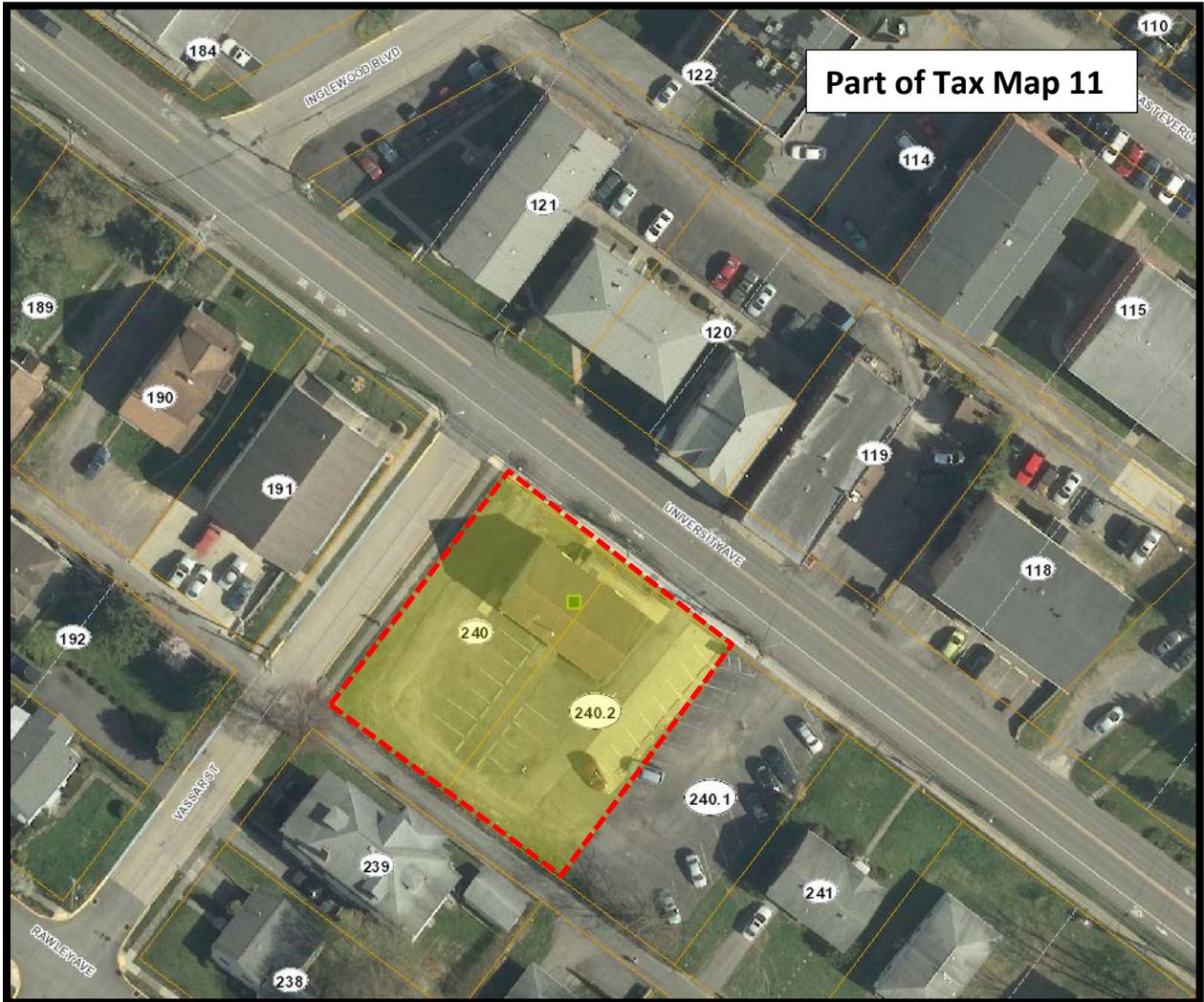
Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V20-06 / Stead / 2885 University Avenue



STAFF REPORT ADDENDUM A
V20-06 / Stead / 2885 University Avenue



STAFF REPORT ADDENDUM B

V20-06 / Stead / 2885 University Avenue

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 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. ~~The signage will be in the grassy area of the front lawn. It will bear the business logo of a tree and the words Antiqui Tea House Fine Teas and Coffee. It will be a post and panel sign lit with two spotlights shielded from traffic.~~

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:

It is similar to signage in the area. 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.



APPLICATION FOR VARIANCE

OK # 504

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$150.00 [Z-V]

I. APPLICANT/AGENT		Name: <u>Antiqui Tea House LLC Matthew & Traci Stead</u>	
Mailing Address:	<u>2885 University Ave Suite B</u>	Phone:	
	<u>Morgantown WV 26505</u>	Mobile:	<u>252-341-6737</u>
	<u>Morgantown WV 26505</u>	Email:	<u>Dr Matt Stead@gmail.com</u>
II. PROPERTY		Street Address: <u>2885 University Ave Suite B</u>	
Owner:	<u>Matthew & Traci Stead</u>	Zoning:	<u>Pro</u>
Mailing Address:	<u>2885 University Ave Suite B</u>	Tax Map No:	
	<u>Morgantown WV 26505</u>	Parcel No:	<u>240/240.2</u>
	<u>Morgantown WV 26505</u>	Phone:	<u>252-341-6737</u>
III. NARRATIVE	Describe the specific use and the standard for which the variance is sought.		
<u>The Post and Panel Sign is needed to direct customers to our business in the lower level with a back entry. It resembles other signs in the area and will not negatively impact the neighborhood.</u>			
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.			
<u>Traci L. Stead</u>	<u>Traci L. Stead</u>	<u>2-7-2020</u>	
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.



APPLICATION FOR VARIANCE

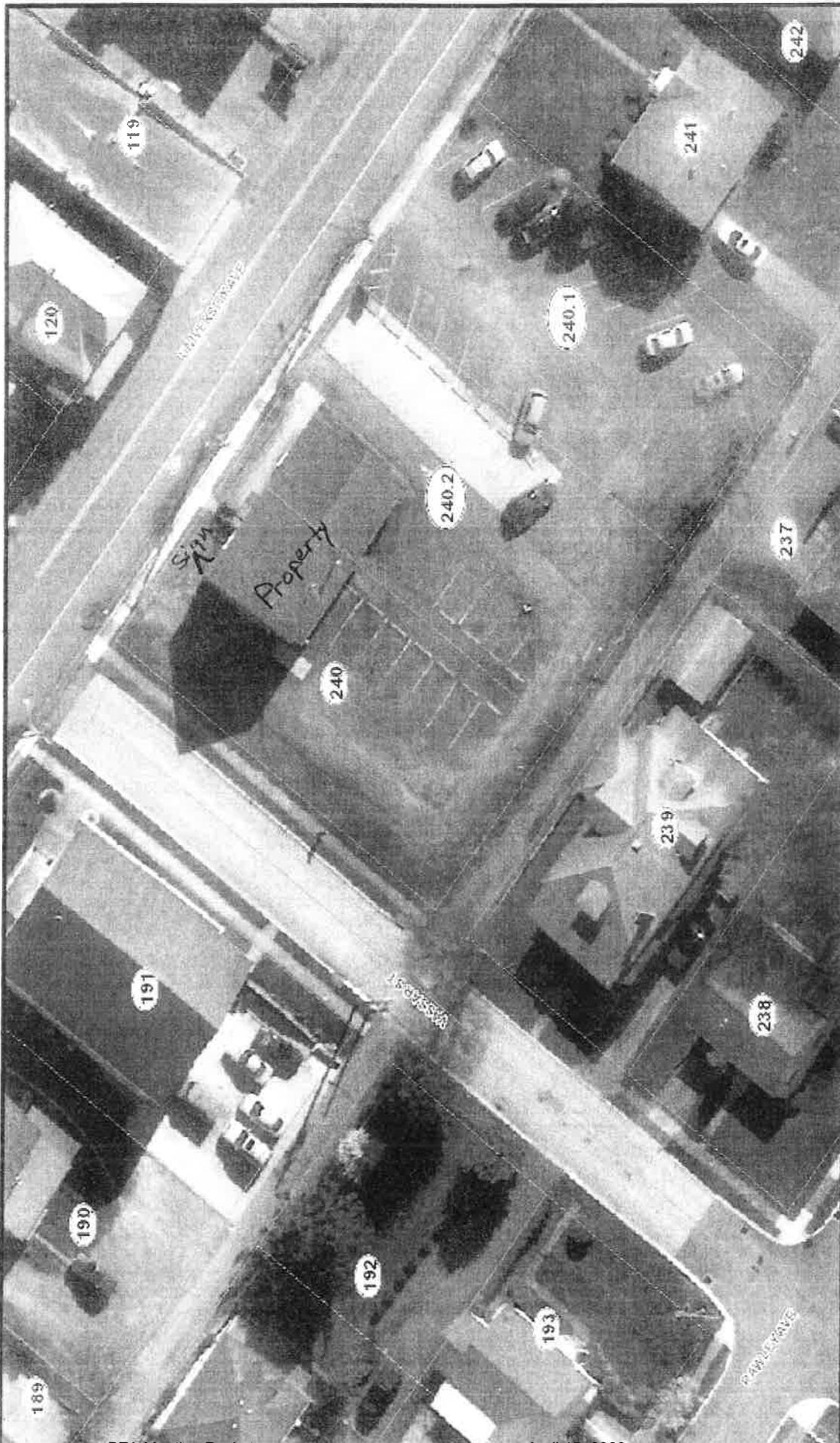
VI. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
	<p>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</p> <p>the variance allows for safe signage permitting the flow of traffic to continue. The variance does not interfere with current signage or tenants.</p> <p>The signage will be 13 feet from the road and creating an ample field of vision for motorists. The signage will be in the grassy area of the front lawn. It will bear the business logo of a tree and the words Antiqui Tea House Fine Teas and Coffee. It will be a post and panel sign lit with two spotlights shielded from traffic.</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 lower level was built long ago with rear entrance. There is not an entrance from the upper level.</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><i>it will easily direct/notify customers and traffic of the location.</i></p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p><i>it is similar to signage in the area.</i></p>	

V70-04



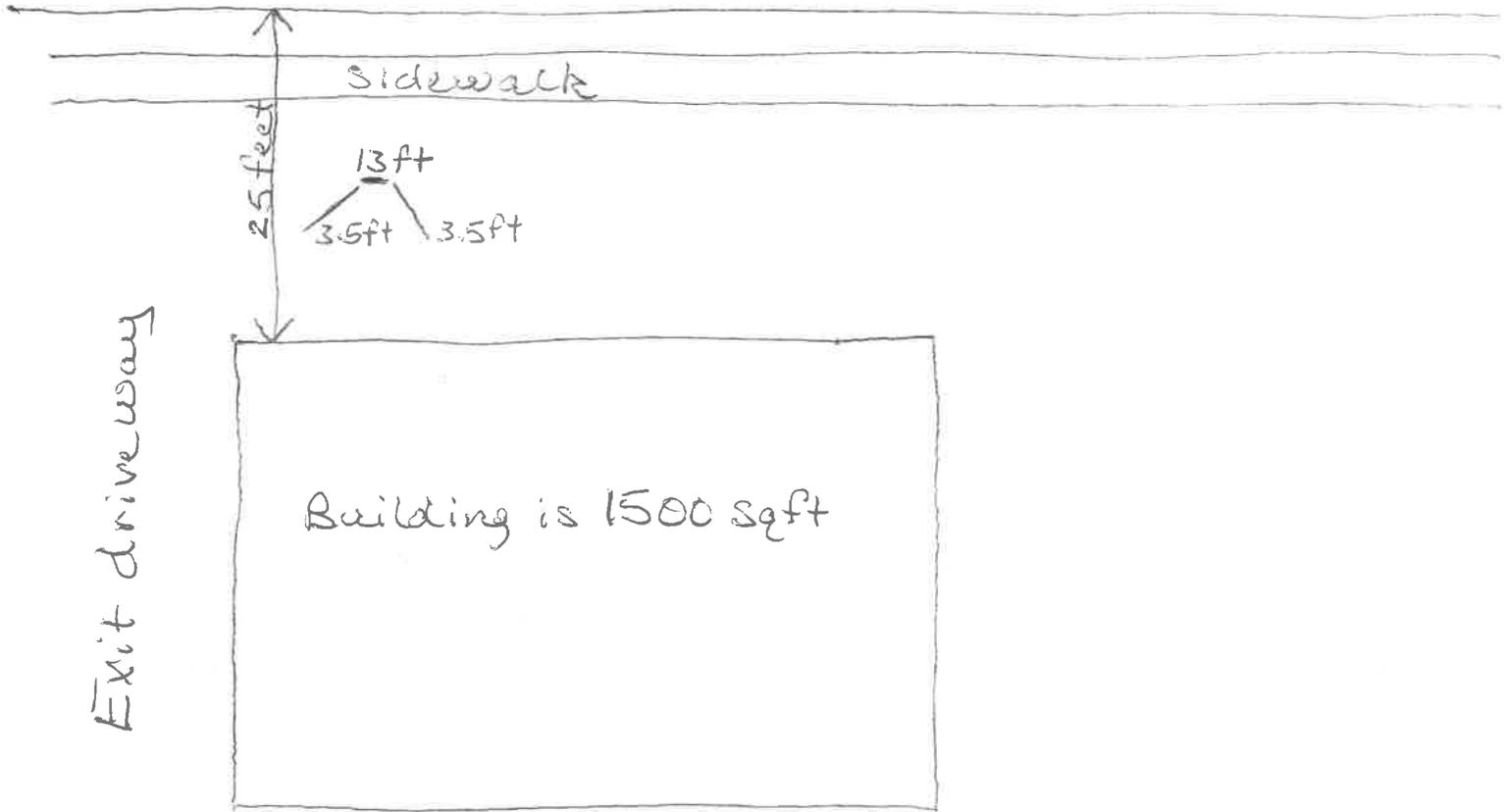
Scale = 1 : 908

Monongalia, WV



THIS MAP IS DESIGNED FOR ASSESSMENT PURPOSES ONLY AND IS NOT INTENDED AS A SUBSTITUTE FOR A TRUE TITLE SEARCH, PROPERTY APPRAISAL OR A SURVEY BY A LICENSED SURVEYOR.

University Avenue



From: [Traci Stead](#)
To: [John Whitmore](#)
Subject: AntiquiTea House Signage
Date: Sunday, March 1, 2020 6:44:17 PM

Hello, Mr. Whitmore. My husband sent me your email asking about our sign. Here is what the sign-maker, Jason Nipper at WV Signs, said:

Sandblasted - -

31"x42"x1.5" (8.75 sq ft each sign) high density urethane. Same characteristics as wood but will never rot, warp or crack like wood will over time. The signs are primed and hand painted with a sign makers paint. The enamel leaves a hard, candy-shell like finish. The signs will last for years and years but will need repainted after 8-12 years depending on UV exposure, etc.

The signs would be mounted in a "V" formation using treated 4"x4" posts with white vinyl post sleeves/caps covering them. The signs would be attached using aluminum angle from the back side which hides all the fasteners.

I will forward you another email from Jason that contains a mock-up. We are going with a tan/off-white sign so the color in the mock-up isn't correct.

Thank you and let me know if you have more questions.

--

Traci Stead
Making the Ancient Relevant



Virus-free. www.avast.com



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MORGANTOWN BOARD OF ZONING APPEALS

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

STAFF REPORT

Board Members:

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

CASE NO: V20-07 / Almost Heaven / 374 High Street

REQUEST and LOCATION:

Request by Crystal Miller of City Neon, on behalf of Almost Heaven, for variance relief from Article 1369 concerning signage at 374 High Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Third Ward Tax District, Tax Map 26A, Parcel 111; B-4, General Business District.

SURROUNDING ZONING:

B-4, General Business District.

BACKGROUND and ANALYSIS:

The petitioner seeks to install wall signage at 374 High Street, 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 51.6 feet, which establishes a maximum wall sign area standard of 20.6 square feet. The proposed sign is 55.3 square feet requiring variance relief of 34.7 square feet as illustrated in the table below.

Wall Sign	Sign Area
<p> ALMOST HEAVEN BAR & GRILL RACEWAY MOUNTED CHANNEL LETTERS WHITE LED ILLUMINATION STORE FRONT 51'-7" - MAXIMUM SIGN SIZE: 20.6 SQFT ACTUAL SIGN SIZE: 55.3 SQFT - WILL REQUIRE A VARIANCE </p> <ul style="list-style-type: none"> 1. 1/2" ALUMINUM CHANNEL LETTERS 2. 1/2" LED ILLUMINATION 3. 1/2" LED ILLUMINATION 4. 1/2" LED ILLUMINATION 5. 1/2" LED ILLUMINATION 6. 1/2" LED ILLUMINATION 7. 1/2" LED ILLUMINATION 8. 1/2" LED ILLUMINATION 9. 1/2" LED ILLUMINATION 10. 1/2" LED ILLUMINATION 11. 1/2" LED ILLUMINATION 12. 1/2" LED ILLUMINATION 13. 1/2" LED ILLUMINATION 14. 1/2" LED ILLUMINATION 15. 1/2" LED ILLUMINATION 16. 1/2" LED ILLUMINATION 17. 1/2" LED ILLUMINATION 18. 1/2" LED ILLUMINATION 19. 1/2" LED ILLUMINATION 20. 1/2" LED ILLUMINATION 	55.3
Total Permitted Sign Standards	20.6 sf
Total Requested Variance	34.7 sf

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

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

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

The proposed wall signage will utilize acrylic materials and interior illumination, requiring variance from Section 1369.08(B) Lighting and Design Standards.

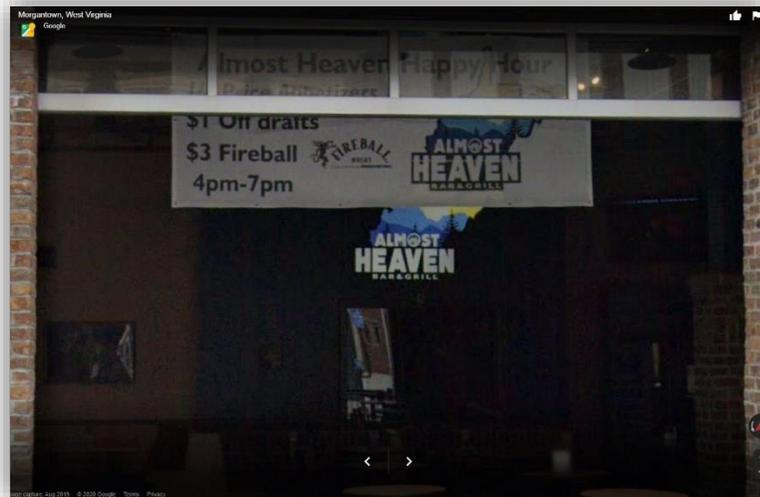
STAFF RECOMMENDATION:

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 restates the petitioners Findings of Fact responses.

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

It is the opinion of the Planning Division that relief from the maximum area standards should be considered for the petitioner, particularly when reviewing signage trends on the upper 300 Block of High Street. However, the applicant’s proposed signage appears to be much larger than neighboring business tenants and does not utilize the existing awning. The below image capture from Google Street View in August 2019 shows a different text configuration, which, if used, would reduce the total area of the signage.



Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

Planning Division

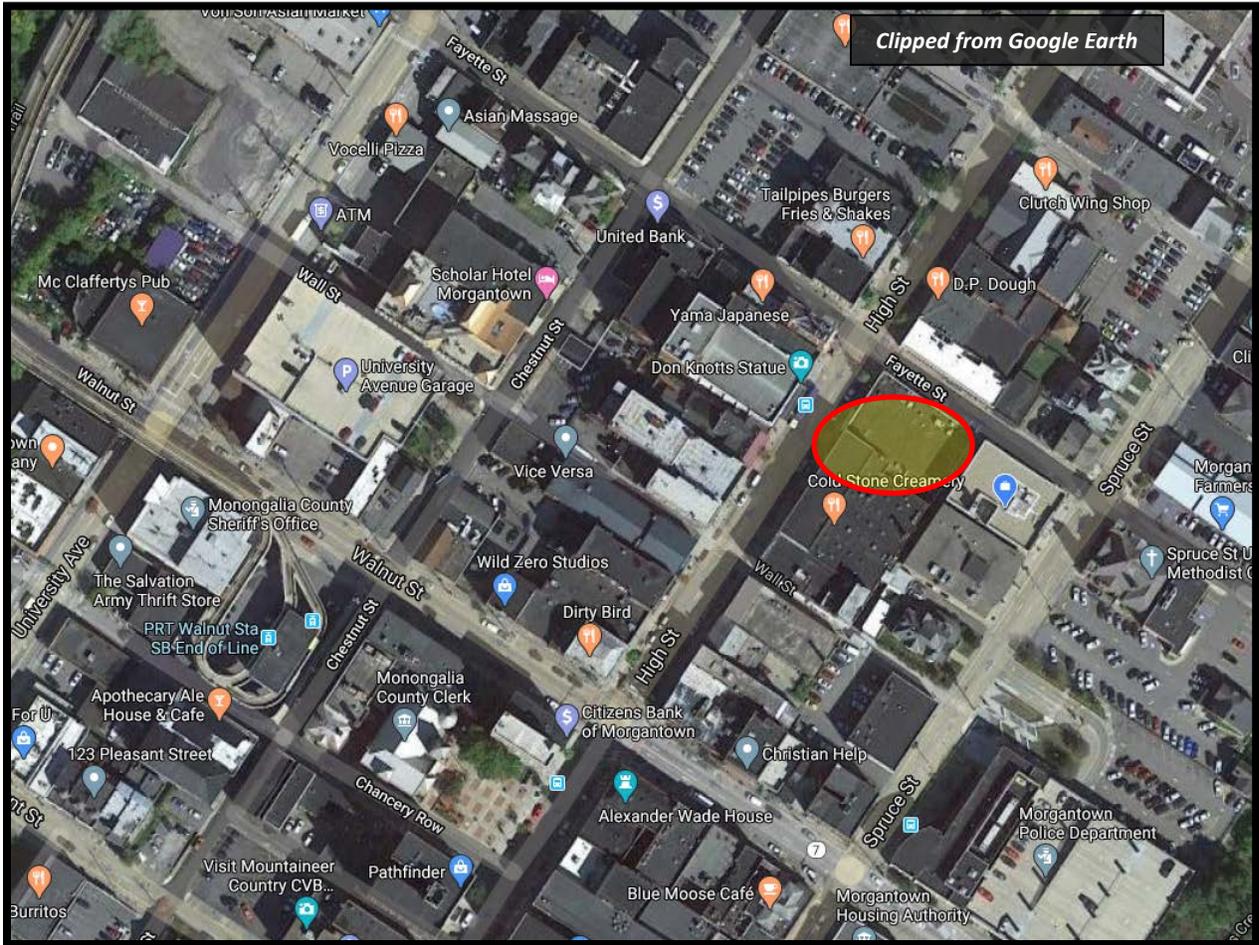
389 Spruce Street
Morgantown, WV 26505
304.284.7431

Staff recommends the petitioner explore awning signage as opposed to channel letters. An awning sign may require variance for area as opposed to an area and materials variance and would be in keeping with the existing design aesthetic of the block.

Attachments: Application and accompanying materials

STAFF REPORT ADDENDUM A

V20-07 / Almost Heaven / 374 High Street



STAFF REPORT ADDENDUM A
V20-07 / Almost Heaven / 374 High Street



STAFF REPORT ADDENDUM B
V20-07 / Almost Heaven / 374 High Street

The following restates the petitioner's findings of fact responses.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

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.



OFFICE USE
CASE NO. V20-07

APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK)

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

paid
35632

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: 374 High Street - Almost Heaven	
Owner:	Extensive Enterprises, LLC	Zoning:	B-4
Mailing Address:	338 Meadow Lane	Tax Map No:	26A
	Street Bruceton Mills WV 26525	Parcel No:	111
	City State Zip	Phone:	304-216-6371

III. NARRATIVE	Describe the specific use and the standard for which the variance is sought.
<p>Almost Heaven has a store front of 51'-7" with a sign allotment of 20.6 sq ft. The proposed sign is an internally illuminated channel letter set measuring 2'-2" x 25'-8" or 55.3 sq ft. We are requesting 34.7 sq ft of area relief, as well as materials and illumination.</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		02/07/2020
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date

\$150.00
 Z-V
 2020-00012226
 BREANNA ELLIOTT
 2/7/2020 4:07:26 PM
 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 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.</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 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.</p>	

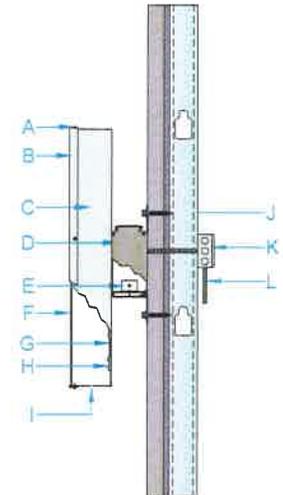
APPLICATION FOR VARIANCE

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 effectively advertise and attract customers throughout all business hours with signage similar to other businesses in the downtown community.</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>The tenant can utilize commercial advertising throughout the day and evening as appropriate. And can continue to grow and prosper in the downtown district</p>	

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



RACEWAY MOUNTED CHANNEL LETTERS
 WHITE LED ILLUMINATION
 STORE FRONT 51'-7" - MAXIMUM SIGN SIZE: 20.6 SQFT
 ACTUAL SIGN SIZE: 55.3 SQFT - WILL REQUIRE A VARIANCE



A	JEWELITE SCREWS
B	1" JEWELITE TRIM CAP
C	0.040" ALUMINUM RETURNS
D	SIGNCOMP 8" NARROW RACEWAY
E	60W LED POWER SUPPLY
F	0.177" ACRYLIC FACE
G	0.063" ALUMINUM BACKS
H	QWIK MOD 2 LEDS
I	WEEP HOLES
J	MOUNTING HARDWARE
K	JUNCTION BOX
L	PRIMARY ELECTRICAL INPUT

V20-09

PRODUCTION WILL NOT BEGIN UNTIL SIGNED APPROVAL IS RECEIVED



1095 Chaplin Hill Road
 Morgantown, WV 26501
 Phone: 304-599-1854
 Fax: 304-599-5852

PROJECT



THE ARTWORK, DESIGNS AND/OR CREATIVE ELEMENTS OF THIS LAYOUT IS AND REMAINS, THE COPYRIGHTED PROPERTY OF CITY NEON, INC. UNTIL PURCHASED AS PART OF THIS PROJECT OR LOGO DEVELOPMENT INFORMATION SHOWN IN THIS DRAWING IS PROPRIETARY AND SOLE PROPERTY OF CITY NEON INC., AND IS NOT TO BE REPRODUCED, DISCLOSED OR TRANSMITTED TO OTHERS FOR ANY PURPOSE NOT AUTHORIZED BY CITY NEON INC.

ELEMENT: RACEWAY MOUNTED CHANNEL LETTERS

LOCATION: HIGH STREET, MORGANTOWN

DATE: 2/5/20

APPROVAL:



downtownmorgantown.com • barb@downtownmorgantown.com

Main Street Morgantown, Inc. • 201 High St., Suite 2 • Morgantown, WV 26505 • 304-292-0168

March 15, 2020

Dear Design Review Committee and the City of Morgantown Planning Commission:

Main Street Morgantown would like to encourage both boards to approve Almost Heaven proposed signage variance. Our organization supports and has approved this project for a sign grant. The improved signage will enhance the current storefront and therefore improve the appearance of the 300 block of High Street. Business with more visible attracts more customers, which helps in the economic development to the downtown.

Thank you for your consideration and continued support of Main Street Morgantown.

Respectfully,

Barbara Watkins

Barbara Watkins,

Executive Director

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MORGANTOWN BOARD OF ZONING APPEALS

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

STAFF REPORT

Board Members:

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

CASE NO: V20-08 / Auto Max / 525 Don Knotts Boulevard

REQUEST and LOCATION:

Request by Crystal Miller of City Neon, on behalf of *Auto Max*, 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 *Auto Max* and two (2) existing signs that will remain identifying *Waterfront*. The total wall sign area is projected to be 277.8 square feet, necessitating a variance for 239.8 square feet of wall sign area.

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	125 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.

This site received sign area and materials variances under Case V20-03 on 15 JAN 2020, materials for which are included in Addendum B of this report. The Board granted variance

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

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

Board Members:

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

relief of 146.6 square feet allowing for a total of 184.6 square feet of wall signage in addition to variance to allow for translucent acrylic internally illuminated signage. This new request would allow an additional 93.2 square feet of wall sign area.

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 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

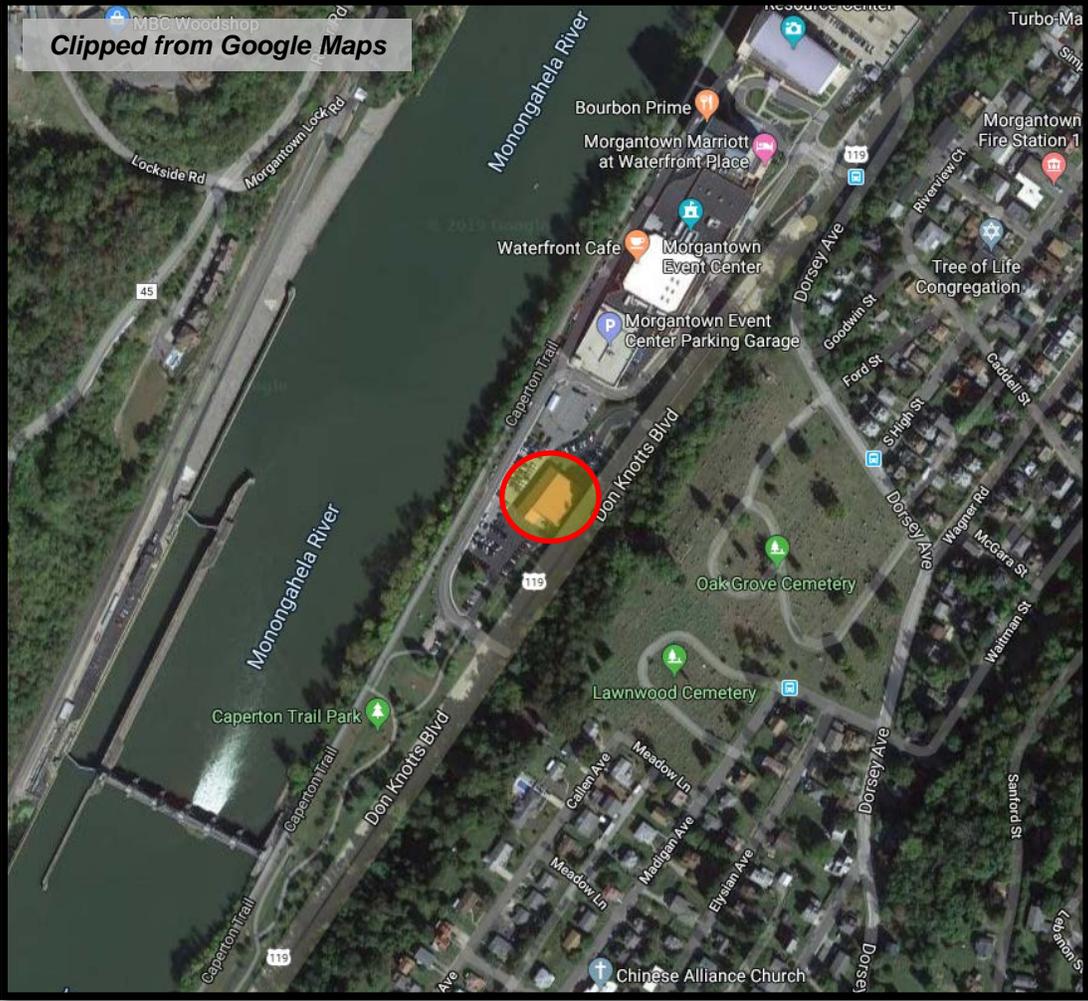
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V20-08 / Auto Max / 525 Don Knotts Boulevard



STAFF REPORT ADDENDUM A
V20-08 / Auto Max / 525 Don Knotts Boulevard



STAFF REPORT ADDENDUM B
V20-08 / Auto Max / 525 Don Knotts Boulevard

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V20-03 Staff Report Addendum A	Page 4 of 13
V20-03 Staff Report Addendum B	Page 6 of 13
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V20-03 Approval letter	Page 12 of 13

STAFF REPORT ADDENDUM B
V20-08 / Auto Max / 525 Don Knotts Boulevard



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: V20-03 / 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

STAFF REPORT ADDENDUM B

V20-08 / Auto Max / 525 Don Knotts Boulevard



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

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

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

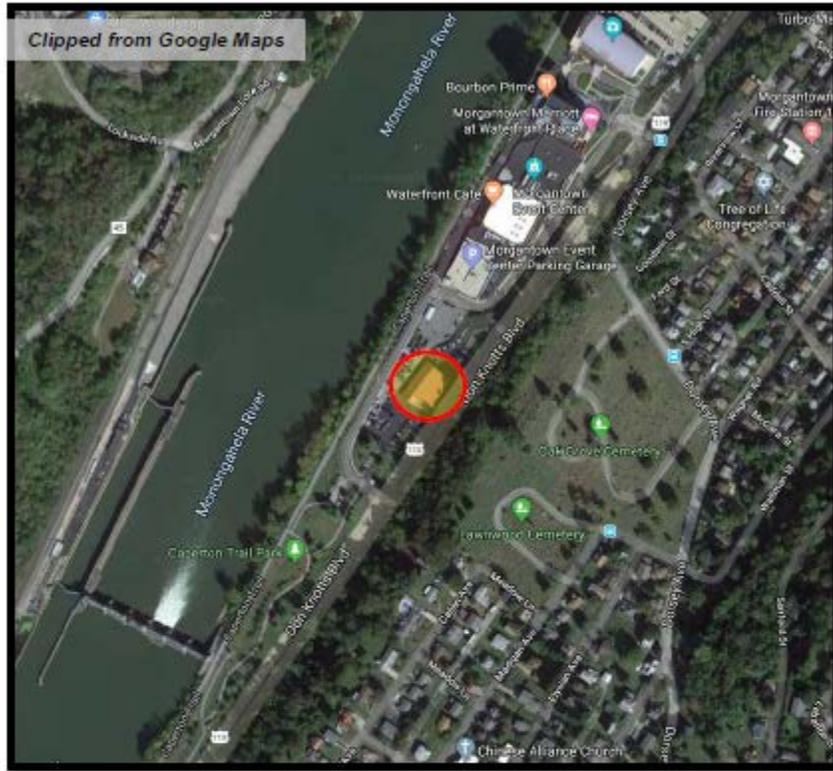
Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

Page 2 of 2

STAFF REPORT ADDENDUM B
V20-08 / Auto Max / 525 Don Knotts Boulevard

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



Staff Report Addendum A
V20-03

STAFF REPORT ADDENDUM B
V20-08 / Auto Max / 525 Don Knotts Boulevard

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



STAFF REPORT ADDENDUM B
V20-08 / Auto Max / 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.

STAFF REPORT ADDENDUM B

V20-08 / Auto Max / 525 Don Knotts Boulevard



OFFICE USE
CASE NO. V20-03

APPLICATION FOR VARIANCE

pd check #
35150

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$150.00 [Z-V]

I. APPLICANT/AGENT		Name: <u>City Neon, Inc. - Crystal Miller</u>	
Mailing Address:	PO Box 40	Phone:	304-599-1854
	Street <u>Morgantown WV 26507</u>	Mobile:	
	City State Zip	Email:	<u>crystal@cityneon.com</u>
II. PROPERTY		Street Address: <u>525 Don Knotts Boulevard - Auto Max</u>	
Owner:	<u>Grandeotto, Inc. - Joseph Folio</u>	Zoning:	<u>B-4</u>
Mailing Address:	PO Box 2328	Tax Map No:	<u>37</u>
	Street <u>Clarksburg WV 26302</u>	Parcel No:	<u>5.1</u>
	City State Zip	Phone:	<u>304-626-0572</u>
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			
<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>			
<u>Crystal Miller</u>		<u>12/06/2019</u>	
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date	

\$150.00
 Z-V
 2020-00001873
 EXEMPT FROM
 12/6/2019 4:10:43 PM
 VARIANCE APPLICATION
 FOR DEPOSIT ONLY
 City of Morgantown

STAFF REPORT ADDENDUM B

V20-08 / Auto Max / 525 Don Knotts Boulevard



OFFICE USE
CASE NO. V20-03

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.

STAFF REPORT ADDENDUM B

V20-08 / Auto Max / 525 Don Knotts Boulevard



OFFICE USE
CASE NO. V20-03

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>	

STAFF REPORT ADDENDUM B
V20-08 / Auto Max / 525 Don Knotts Boulevard



OFFICE USE
CASE NO. V20-03

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:	<p>The tenant will be able to keep the existing Waterfront signage as well as install their branding onto the building.</p>
4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:	<p>The tenant will be able to effectively advertise along a very busy stretch of Don Knotts Blvd.</p>

STAFF REPORT ADDENDUM B

V20-08 / Auto Max / 525 Don Knotts Boulevard

M:\company\jobs\2008-Present\A Files\Auto Max\3973 - AutoMax-Waterfront\Disclaimer-Auto Max Ch-Ltr-03-front.pdf 12/5/2019 9:59:30 AM

Scale: 1:2.75 Length: 17.000 Height: 22.000 in

V20-03

SIGNAGE

The visual use of the artwork used in the preparation of this proposal is for informational purposes only. Installation is required on the site of the project. Colors used may vary slightly from those shown. Any alterations to what is shown in this proposal at customer's request will result in additional charges.



<p>1000 Clough Hill Road Morgantown, WV 26501 Phone: 304-836-1852 Fax: 304-836-1852</p>	<p>PROJECT</p>	<p>PRODUCTION WILL NOT BEGIN UNTIL SIGNED APPROVAL IS RECEIVED</p>	
		<p>CLIENT: ILLUMINATED CHANNEL LETTER SET</p>	<p>LOCATION: MORGANTOWN, WV</p>

STAFF REPORT ADDENDUM B
V20-08 / Auto Max / 525 Don Knotts Boulevard



**DEVELOPMENT
SERVICES
DEPARTMENT**

The City of Morgantown

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

January 16, 2020

Crystal Miller
City Neon
P.O. Box 40
Morgantown, WV 26507

RE: V20-03 / Automax / 525 Don Knotts Boulevard
Tax District 9, Tax Map 37; Parcel 5.1

To Whom It May Concern:

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 standards.

The decision is as follows:

Board of Zoning Appeals, January 15, 2020:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted variance relief from Section 1369.07(l) to 184.6 square feet of wall signage at 525 Don Knotts Boulevard.

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 upon prior written request of the Board. 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
Senior Planner

Digitally signed by John
Whitmore, AICP
Date: 2020.01.16 11:12:13 -05'00'

Page 1 of 2

STAFF REPORT ADDENDUM B
V20-08 / Auto Max / 525 Don Knotts Boulevard

ADDENDUM A
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 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. The 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.

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 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.

STAFF REPORT ADDENDUM C

V20-08 / Auto Max / 525 Don Knotts Road

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 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. ~~Relief would all the tenant to utilize existing signage and~~ 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.



OFFICE USE
CASE NO. *V20-08*

APPLICATION FOR VARIANCE

paid check # 356022
Fee: **\$150.00** [Z-V]

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT/AGENT		Name: Crystal 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	Morgantown 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>AutoMax/City Neon sought relief and was approved for 184.6 sq ft of signage, materials, and illumination. The incorrect size of the front/sales AutoMax sign was submitted and we would like to request for additional sq ft allotment. Building width 95' = 38 sq ft sign allotment The previously approved front sign was 31.8 sq ft and the newly proposed sign is 125 sq ft</p> <p>We are requesting relief of 239.8 sq ft to cover the newly proposed signage.</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>	02/07/2020
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	Date

\$150.00
 Z-V
 2020-00012222
 BRENNER, ERIN
 2/7/2020 4:03:45 PM
 VARIANCE APPLICATION
 FOR DEPOSIT TO
 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 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.</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 in the lot Sales and Service located on opposite sides of the building. This particular stretch of Don Knotts Boulevard is a 50mph divided 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 has forced the signage and entrances to be placed onto the smaller side of the building creating a smaller signage allowance.</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>Site topography in combination with sign area restrictions limit the practical commercial use of this location. Relief would all the tenant to utilize existing signage and</p>
	<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>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 acheived via a 50mph 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 advertize along a very busy stretch of Don Knotts Boulevard with variance relief as requested.</p>

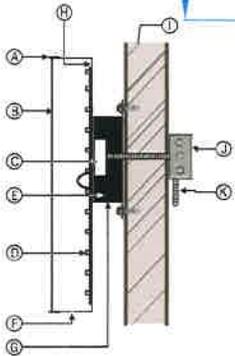
V20-08

Location		Previously Approved Size	Newly Proposed Size
Front/Sales	Waterfront	30.6	30.6
Front/Sales	Auto Max	31.8	125
Rear/Service	Waterfront	48.1	48.1
Rear/Service	Auto Max	74.1	74.1
		184.6	277.8

PROPOSED 2/7/2020

SIGNAGE

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



A	1" TRIM CAP
B	3/16" ACRYLIC
C	12V LED POWER SUPPLY
D	WHITE LEDs
E	DISCONNECT SWITCH
F	WEEP HOLE
G	ALUMINUM RACEWAY
H	.040 ALUM. RETURNS - 5" DEEP
I	3/8" GALVANIZED HARDWARE
J	JUNCTION BOX
K	PRIMARY ELECTRIC SOURCE



PRODUCTION WILL NOT BEGIN UNTIL SIGNED APPROVAL IS RECEIVED



1095 Chaplin Hill Road
Morgantown, WV 26501
Phone: 304-599-1854
Fax: 304-599-5852

PROJECT



THE ARTWORK, DESIGNS AND/OR CREATIVE ELEMENTS OF THIS LAYOUT IS AND REMAINS THE COPYRIGHTED PROPERTY OF CITY NEON, INC. UNTIL PURCHASED AS PART OF THIS PROJECT OR LOGO DEVELOPMENT. INFORMATION SHOWN IN THIS DRAWING IS PROPRIETARY AND SOLE PROPERTY OF CITY NEON INC. AND IS NOT TO BE REPRODUCED, DISCLOSED OR TRANSMITTED TO OTHERS FOR ANY PURPOSE NOT AUTHORIZED BY CITY NEON INC.

ELEMENT:	ILLUMINATED CHANNEL LETTER SET	LOCATION:	MORGANTOWN, WV	DATE:	11/21/19	APPROVAL:	
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V-20-08



PREVIOUSLY APPROVED
V-20-03

V-20-03

	<p>1095 Chaplin Hill Road Morgantown, WV 26501 Phone: 304-296-1851 Fax: 304-309-5852</p>	<p>PRODUCTION</p>
<p>ELEMENT: ILLUMINATED CHANNEL LETTER SET</p>	<p>LOCATION: MORGANTOWN, WV</p>	

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MORGANTOWN BOARD OF ZONING APPEALS

April 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

COMBINED STAFF REPORT

CASE NOS: V20-10 and V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

REQUEST and LOCATION:

Request by Gloria Scotchel, of Mini Mountaineer Early Learning Center, LLC, for minor subdivision approval for property located at 3414 Collins Ferry Road.

TAX MAP NUMBER (s) and ZONING DESCRIPTION:

Tax Map 53, Parcel 219, R-1, Single-Family Residential District and
Tax Map 53, Parcel 220, B-1, Neighborhood Business District

SURROUNDING ZONING:

North, East and West: R-1, Single-Family Residential District
South: B-1, Neighborhood Business District

BACKGROUND:

The petitioner has developed a 3,967.17 square foot of gross floor area (GFA) "Class 3 Day Care Facility" called *Mini Mountaineer Early Learning Center*. Addendum A of this report illustrates the location of the subject site.

Variances V19-09 and V19-10 were approved by the Board of Zoning Appeals on 21 FEB 2019. The petitioner received correspondence related to inactivity of the site's building permit / Type II Site Plan on 09 APR 2019. The petitioner supplied site plan materials on 24 APR 2019. Development Services Staff sent the petitioner comments related to the site plan materials on 29 APR 2019. On 03 OCT 2019 Development Services Staff sent notification to the petitioner that variances V20-10 and V20-11 had not been activated and were at risk of expiring per Section 1381.05 of the Planning and Zoning Code:

1381.05 EXPIRATION.

In the case where a variance has not been used within twelve (12) months after the granting thereof, then without further action it shall be null and void. This time period may be extended at the discretion of the Board of Zoning Appeals by successive twelve (12) month time periods up to three (3) years from the date of the original expiration. A request for an extension shall be in writing stating the justification for the extension, and shall be submitted prior to the expiration of the variance approval. The word "used" shall mean that the approved variance has been activated as evidenced by the issuance and continuation of any related development permit and substantial construction started, if construction is involved in the variance. (Ord. 17-28. Passed 7-5-17.)

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

April 15, 2020
6:30 p.m.
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Heidi Cook
Garrett Tomblin

The 03 OCT 2019 correspondence included recommendation to allow for the variances to be extended via a written request received by the Development Services Department by no later than 5:00 p.m. 06 DEC 2019, the January 2020 Board of Zoning Appeals meeting agenda item application deadline.

The Development Services Department did not have contact with the petitioner until 19 FEB 2020. Correspondence was sent to the petitioner on 21 FEB 2020 providing information related to the expiration of V19-09 and V19-10. Additional information was provided regarding the 19 FEB 2020 submitted site plan materials. Staff met with the petitioner's representative on 28 FEB 2020 establishing methods for the development to be approved. Information related to the V19-09 and V19-10 and related correspondence is included in Addendum B of this Staff Report.

ANALYSIS:

Case No. V20-10 – Landscape Buffer

Section 1367.08(C) of the Planning and Zoning Code states the following landscaping requirement when parking spaces are located between the building and the street.

- (C) Development with Parking Located Between Building and Street. If any parking is located between the street and the building line, the following shall apply:
 - (1) A ten-foot wide buffer shall be provided for the length of any parking area abutting the street. The buffer area shall contain at least one (1) two inch (2") caliper trees for every twenty (20) feet and at least three (3) shrubs of at least three (3) gallons in size clustered between each two (2) trees.
 - (2) A six (6) foot side and rear yard buffer shall be provided that shall contain at least one two inch (2") caliper tree for every twenty (20) feet and three (3) shrubs of at least three (3) gallons in size clustered between each two (2) trees. (Ord. 06-01. Passed 1-3-06.)

Assuming variance relief is granted under Case No. V19-09, the ten-foot buffer required above cannot be accomplished due to the direct access between the parking spaces and Martin Street.

Concerning the six-foot rear yard buffer, there is an open creek and vegetated area along the creek bank. Section 1367.09 provides administrative discretion to maintain the spirit rather than the letter of law concerning landscaping and screening when practical difficulties necessitate alternate compliance solutions. The graphic on Page 3 of this report illustrates floodplain conditions on the site and within the immediate area. Additionally, there is 24.5 feet between the nearest proposed parking space and the rear property boundary.

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Senior Planner

389 Spruce Street
Morgantown, WV 26505
304.284.7431

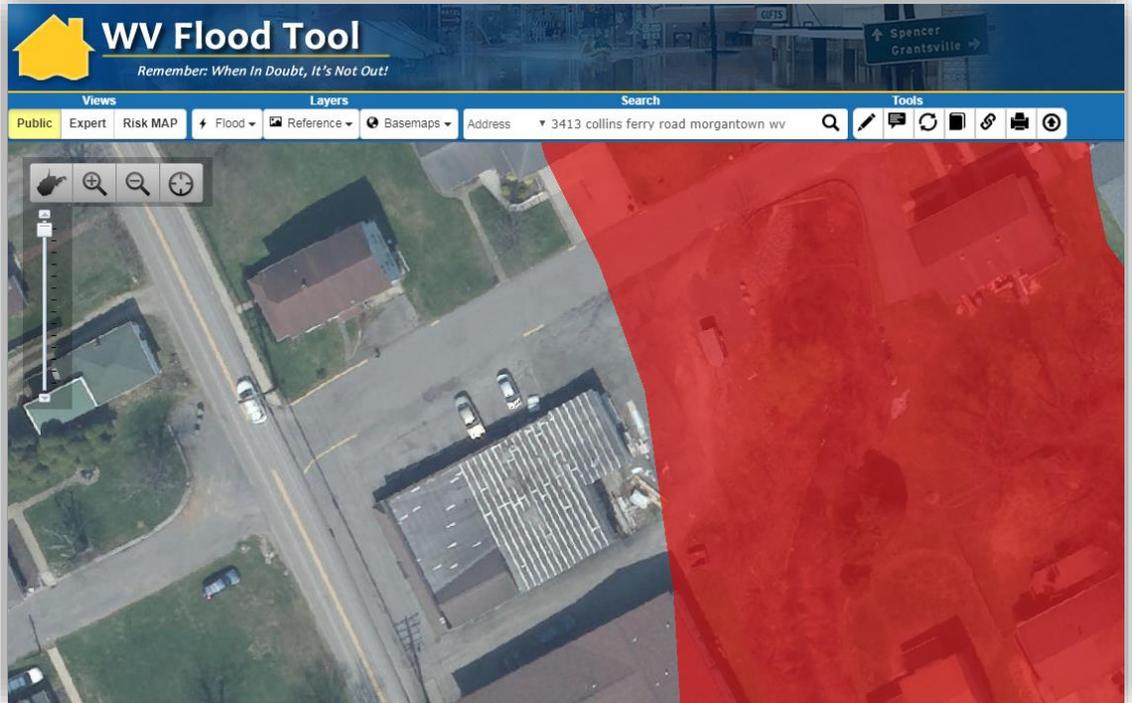


MORGANTOWN BOARD OF ZONING APPEALS

April 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



Case No. V20-11 – Parking Development Standards

Section 1365.09(A)(3) of the Planning and Zoning Code provides for a required driveway aisle as shown below:

(3) Except on lots occupied by one and two-family dwellings, each off-street parking space shall open directly upon an aisle or driveway at least twelve (12) feet wide or such additional width and design in accordance with Table 1365.09.01, so as to provide safe and efficient means of vehicular access to such parking space. Such aisle or driveway shall be unobstructed and allow for the passage of emergency vehicles at all times. This requirement may be waived by the Planning Director where such waiver will not cause a hazard.

The applicant proposes ten (10) parking spaces to be accessed directly from Martin Street. The parking spaces will each be nine (9) feet wide and at least eighteen (18) feet deep. An additional six (6) off-street parking spaces are proposed on the rear portion of the development site.

Per Section 1365.04.01, the minimum off-street parking requirement for a Day Care Facility use is determined as is shown on Page 4 of this Staff Report.

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

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

Board of Zoning Appeals

Harrison Case, Chair
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Chris Benison
Heidi Cook
Garrett Tomblin

Use	Minimum Off-Street Parking Requirement
Day Care Facility, All Classes	1 space per 4 clients and 1 space per employee

The applicant has provided information to the Planning Division establishing a total of 30 clients served and six (6) employees present during the busiest shift at this location. This data indicates that a total of 14 off-street parking spaces are required for this scale of “Class 3 Day Care Facility” use. However, Section 1365.04(O) provides the following minimum off-street parking reduction for uses in the B-1, Neighborhood Business District:

(O) In the B-1 districts, uses may provide less than the required number of off-street parking spaces, but in no case shall a use provide less than 75 percent of the minimum number of off-street parking spaces in accordance with Table 1365.04.01.

Taken with Section 1365.04(I), which provides a maximum parking standard in non-residential districts of 115% of the minimum parking requirement, the *Mini Mountaineer Early Learning Center* “Class 3 Day Care Facility” use would be required to provide a minimum of 11 and no more than 16 off-street parking spaces.

In reviewing the 19 FEB 2020 site plan and proposed parking layout plan, the following conformity issue was identified by Planning and Engineering Staff:

Section 1365.09(A)(4), provided below, prohibits aisles serving parking spaces from being located within the public right of way.

(4) All required parking spaces and aisles shall be provided wholly within the property lines and shall not extend into any public right-of-way.

The City Engineer is in agreement to permit the aisle to be located within the right-of-way in this case, given lower expected traffic volumes along the residential Martin Street. Previous public comment sought that a no-parking/yellow curb be established to limit on-street parking in the vicinity of the parking lot. This will be provided to the City Engineer, with final approval and discretion of the design at the City Engineer’s discretion.

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

STAFF RECOMMENDATION:

The Board of Zoning Appeals must determine whether the proposed requests meet the standard criteria for a variance by reaching a positive determination for *each* of the “Findings of Fact” submitted by the petitioner. If the Board disagrees with the petitioner’s

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

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

Board of Zoning Appeals

Harrison Case, Chair
Kevin Meehan, Vice-Chair
Chris Benison
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“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)].

Again, each variance petition must be considered and acted upon by the Board separately.

Addendum C of this report provides previously approved findings of fact, as the circumstances for approval have not substantially changed.

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.

Development Services

Christopher Fletcher, AICP
Director

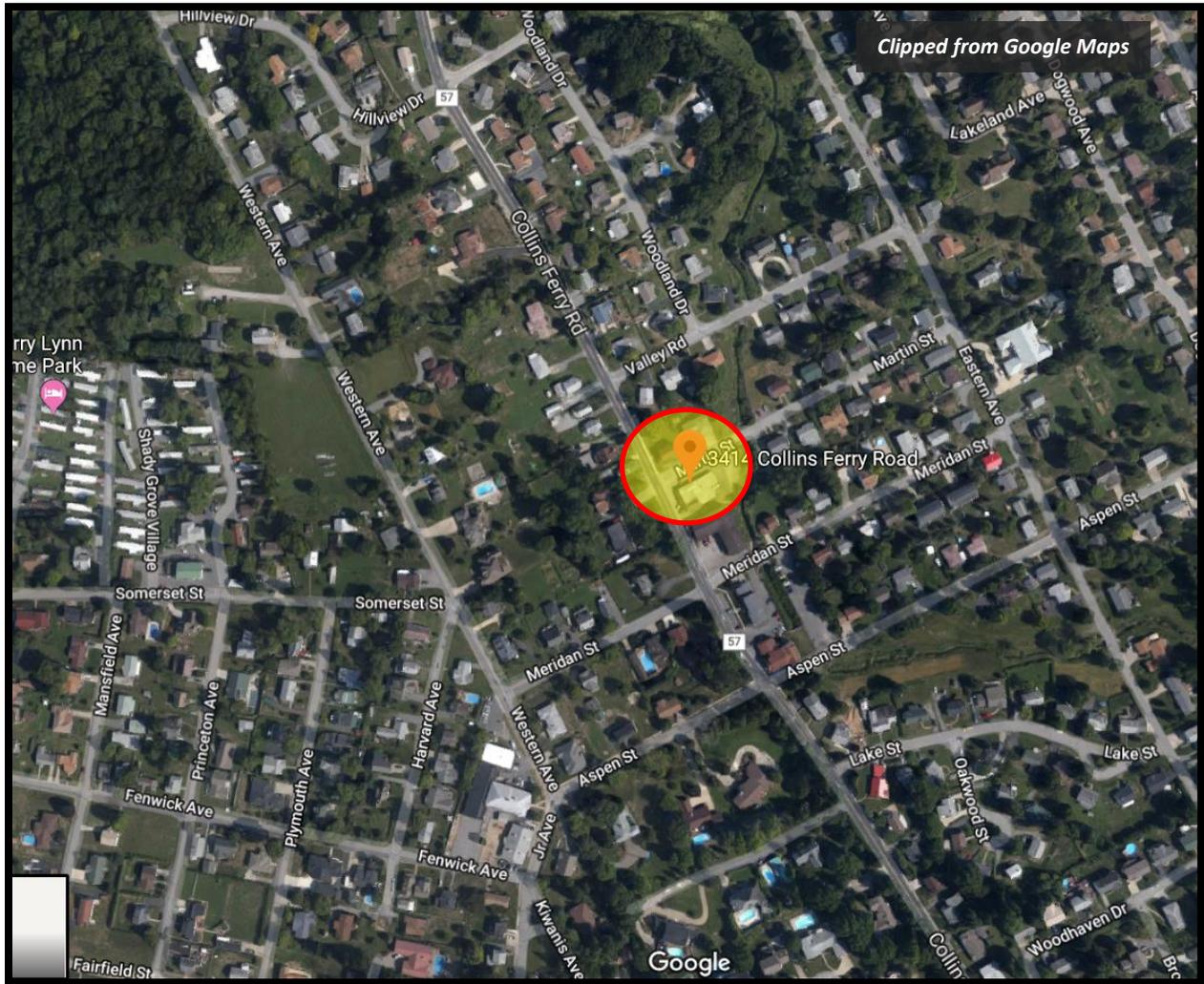
John Whitmore, AICP
Senior Planner

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /

3414 Collins Ferry Road



STAFF REPORT ADDENDUM A
V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

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28 FEB 2020 Correspondence	Page 47 of 47

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



MORGANTOWN BOARD OF ZONING APPEALS

February 20, 2019
6:30 p.m.
City Council Chambers

Board of Zoning Appeals

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

COMBINED STAFF REPORT

CASE NOS: V19-02 and V19-03 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

REQUEST and LOCATION:

Request by Gloria Scotchel, of Mini Mountaineer Early Learning Center, LLC, for minor subdivision approval for property located at 3414 Collins Ferry Road.

TAX MAP NUMBER (s) and ZONING DESCRIPTION:

Tax Map 53, Parcel 219, R-1, Single-Family Residential District and
Tax Map 53, Parcel 220, B-1, Neighborhood Business District

SURROUNDING ZONING:

North, East and West: R-1, Single-Family Residential District
South: B-1, Neighborhood Business District

BACKGROUND:

The petitioner has developed a 3,967.17 square foot of gross floor area (GFA) "Class 3 Day Care Facility" called *Mini Mountaineer Early Learning Center*. Addendum A of this report illustrates the location of the subject site.

The development's related Minor Subdivision, MNS19-02 is being reviewed by the Planning Commission on 14 FEB 2019.

ANALYSIS:

Case No. V19-09 – Parking Development Standards

Section 1365.09(A)(3) of the Planning and Zoning Code provides for a required driveway aisle as shown below:

- (3) Except on lots occupied by one and two-family dwellings, each off-street parking space shall open directly upon an aisle or driveway at least twelve (12) feet wide or such additional width and design in accordance with Table 1365.09.01, so as to provide safe and efficient means of vehicular access to such parking space. Such aisle or driveway shall be unobstructed and allow for the passage of emergency vehicles at all times. This requirement may be waived by the Planning Director where such waiver will not cause a hazard.

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

389 Spruce Street
Morgantown, WV 26505
304.284.7431

The applicant proposes thirteen (13) parking spaces to be accessed directly from Martin Street. The parking spaces will each be nine (9) feet wide and at least eighteen (18) feet

Page 1 of 5

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



MORGANTOWN BOARD OF ZONING APPEALS

February 20, 2019
6:30 p.m.
City Council Chambers

Board of Zoning Appeals

Harrison Case, Chair

Kevin Meehan, Vice-Chair

Chris Benison

Heidi Cook

Garrett Tomblin

deep. An additional five (5) off-street parking spaces are proposed on the rear portion of the development site.

Per Section 1365.04.01, the minimum off-street parking requirement for a Day Care Facility use is determined as follows:

Use	Minimum Off-Street Parking Requirement
Day Care Facility, All Classes	1 space per 4 clients and 1 space per employee

The applicant has provided information to the Planning Division establishing a total of 30 clients served and six (6) employees present during the busiest shift at this location. This data indicates that a total of 14 off-street parking spaces are required for this scale of "Class 3 Day Care Facility" use. However, Section 1365.04(O) provides the following minimum off-street parking reduction for uses in the B-1, Neighborhood Business District:

(O) In the B-1 districts, uses may provide less than the required number of off-street parking spaces, but in no case shall a use provide less than 75 percent of the minimum number of off-street parking spaces in accordance with Table 1365.04.01.

Taken with Section 1365.04(I), which provides a maximum parking standard in non-residential districts of 115% of the minimum parking requirement, the *Mini Mountaineer Early Learning Center* "Class 3 Day Care Facility" use would be required to provide a minimum of 11 and no more than 16 off-street parking spaces.

In reviewing the site plan and proposed parking layout plan, the following conformity issues were identified by Planning and Engineering Staff:

1. The proposed 18 parking spaces exceeds the maximum standard by 2 parking spaces.
2. At least one (1) parking space must meet the design standards for a van or universal accessible parking space [see Table 1365.06.01].
3. Section 1365.09(B)(2), provided below, prohibits driveway entrances from being located closer to than 30 feet from the nearest point of the intersection of two streets.

(2) Driveway entrances or exits shall be no closer than 15 feet to an adjoining residential property line or 5 feet to an adjoining non-residential property line or designed in such a manner as to least interfere with traffic movement. No driveway across public property at the right-of-way line of the street shall exceed a width of 22 feet, unless a greater width is specifically approved by the City Engineer. No driveway shall be located closer than 30 feet of the nearest point of the intersection of two streets.

4. Section 1365.09(A)(4), provided below, prohibits aisles serving parking spaces from being located within the public right of way.

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

389 Spruce Street
Morgantown, WV 26505
304.284.7431

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STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
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MORGANTOWN BOARD OF ZONING APPEALS

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- (4) All required parking spaces and aisles shall be provided wholly within the property lines and shall not extend into any public right-of-way.

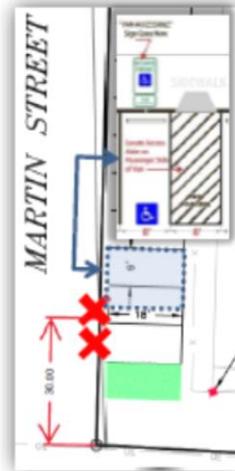
It is the opinion of the Planning Division, with the support of the City Engineer, that minor modifications to the petitioner's parking layout plan can and should be made to address some of the issues noted above.

The graphic to the right, clipped from the petitioner's site plan, illustrates the elimination of two (2) parking spaces and the conversion of one (1) parking space to a van or universal accessible design. Doing so would eliminate conformity issues (a) through (c) above, leaving requisite variance relief Section 1365.09(A)(4) to permit the aisle serving the parking spaces to be located within the public right-of-way of Martin Street.

The City Engineer is in agreement to permit the aisle to be located within the right-of-way in this case, given lower expected traffic volumes along the residential Martin Street; provided, the noted design changes are made.

Case No. V19-10 – Landscape Buffer

Section 1367.08(C) of the Planning and Zoning Code states the following landscaping when parking spaces are located between the building and the street.



- (C) Development with Parking Located Between Building and Street. If any parking is located between the street and the building line, the following shall apply:
- (1) A ten-foot wide buffer shall be provided for the length of any parking area abutting the street. The buffer area shall contain at least one (1) two inch (2") caliper trees for every twenty (20) feet and at least three (3) shrubs of at least three (3) gallons in size clustered between each two (2) trees.
 - (2) A six (6) foot side and rear yard buffer shall be provided that shall contain at least one two inch (2") caliper tree for every twenty (20) feet and three (3) shrubs of at least three (3) gallons in size clustered between each two (2) trees. (Ord. 06-01. Passed 1-3-06.)

Development Services
Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

389 Spruce Street
Morgantown, WV 26505
304.284.7431

Assuming variance relief is granted under Case No. V19-09, the ten-foot buffer required above cannot be accomplished due to the direct access between the parking spaces and Martin Street.

Concerning the six-foot rear yard buffer, there is an open creek and vegetated area along the creek bank. Section 1367.09 provides administrative discretion to maintain the spirit rather than the letter of law concerning landscaping and screening when practical difficulties necessitate alternate compliance solutions. The graphic below illustrates

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V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
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MORGANTOWN BOARD OF ZONING APPEALS

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floodplain conditions on the site and within the immediate area. Additionally, there is 24.5 feet between the nearest proposed parking space and the rear property boundary.



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

STAFF RECOMMENDATION:

The Board of Zoning Appeals must determine whether the proposed requests meet the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the petitioner. If the Board disagrees with the petitioner's "Findings of Fact" and determines 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)].

Again, each variance petition must be considered and acted upon by the Board separately.

Addendum B of this report restates the petitioner's Findings of Fact responses. Staff submits the following recommendations for each petition addressed herein.

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

389 Spruce Street
Morgantown, WV 26505
304.284.7431

Case No. V19-09 – 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:

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V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



MORGANTOWN BOARD OF ZONING APPEALS

February 20, 2019
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1. That the two (2) parking stalls closest to the Martin Street and Collins Ferry Road intersection be eliminated and barriers, to the satisfaction of the City Engineer, be established to advance public safety by ensuring no parking space is located closer than 30 feet from the intersection.
2. That the third parking space from the Martin Street and Collins Ferry Road intersection be converted to a van or universal accessible parking stall, marked/striped, and signed accordingly to the satisfaction of the City Engineer.
3. 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.
4. That all parking spaces illustrated on the parking lot layout plan reviewed herein, with the exception of the two (2) eliminated parking spaces, shall be improved, surfaced, and marked/striped to the satisfaction of the City Engineer.
5. 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.

Case No. V19-10 – Landscape Buffer

Assuming variance relief is granted under Case No. V19-09, 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.

Development Services

Christopher Fletcher, AICP
Director

John Whitmore, AICP
Planner III

389 Spruce Street
Morgantown, WV 26505
304.284.7431

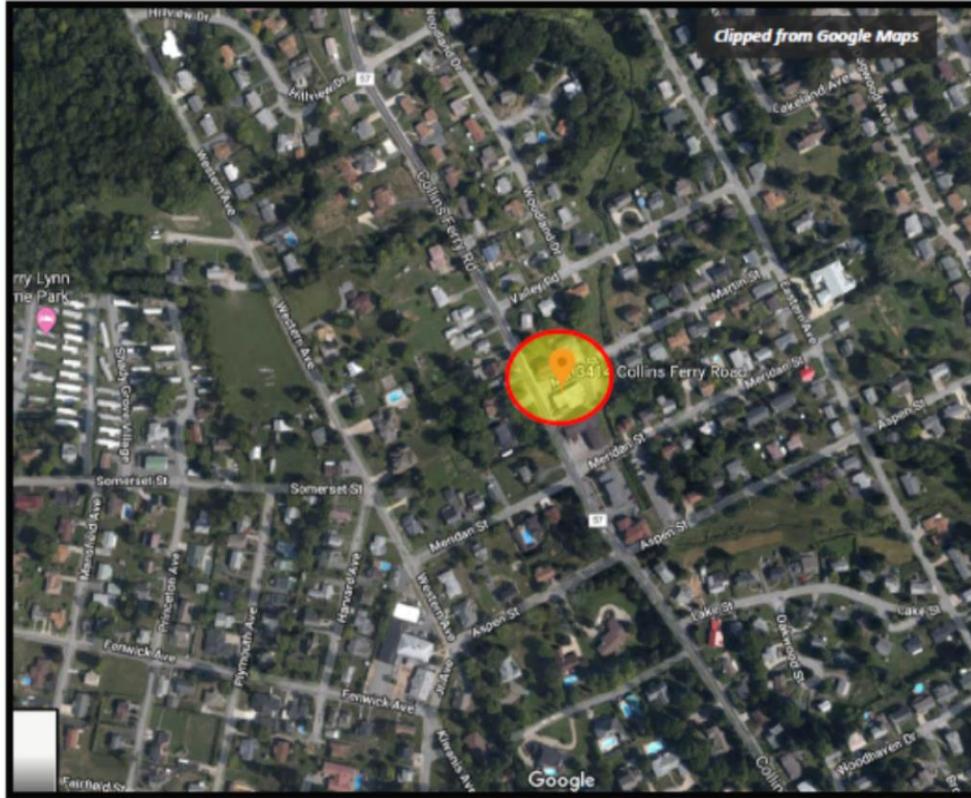
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V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

STAFF REPORT ADDENDUM A

V19-09 & V19-010 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

STAFF REPORT ADDENDUM A

V19-09 & V19-010 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



STAFF REPORT ADDENDUM B
V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

STAFF REPORT ADDENDUM B
V19-09 & V19-10 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

The following restates the petitioner's Findings of Fact responses.

Case No. V19-09 – Parking Development Standards

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

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

economic burden on the owner to justify the needs in order to operate a safe and healthy establishment.

Case No. V19-10 – Landscape Buffer

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.

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V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
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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).

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V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



THE CITY OF
MORGANTOWN
WEST VIRGINIA

OFFICE USE
CASE NO. V19-09

APPLICATION FOR VARIANCE

\$150.00
9-0006702
City of Morgantown
General Revenue Fund
Acct# 0030128676
For Deposit Only
Fee: \$150.00 [Z-V]

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT/AGENT		Name:	<u>GLORIA J. SCOTCHEL</u>		
Mailing Address:	Street	<u>P.O. Box 31</u>		Phone:	<u>304-288-3175</u>
	City	State	Zip	Mobile:	<u>SAME</u>
	<u>RIVESVILLE WV 26588</u>			Email:	<u>gloria25@yahoo.com</u>
II. PROPERTY		Street Address:	<u>3414 COLLINS FERRY RD, MORGANTOWN, WV</u>		
Owner:	<u>GLORIA J. SCOTCHEL</u>		Zoning:	<u>B-1</u>	
Mailing Address:	Street	<u>P.O. Box 31</u>		Tax Map No:	<u>53</u>
	City	State	Zip	Parcel No:	<u>2194220</u>
	<u>RIVESVILLE WV 26588</u>			Phone:	<u>304-288-3175</u>
III. NARRATIVE		Describe the specific use and the standard for which the variance is sought.			
<u>PARKING PLAN (LIM CODE SECTION 1365.09(A)(3))</u>					
IV. ATTEST		PAID JAN 08 2019 PAID BY: _____			
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.					
<u>GLORIA J. SCOTCHEL</u>		<u>Gloria Scotchel</u>		<u>1-7-19</u>	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date	

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



OFFICE USE
CASE NO. V19-09

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

SEE ATTACHED "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.

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V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



OFFICE USE
CASE NO. V19-09

APPLICATION FOR VARIANCE

VI. FINDINGS OF FACT

COMPLETE THE FOLLOWING STATEMENTS
IN THIRD PERSON.

1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

SEE ATTACHMENT

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:

SEE ATTACHMENT

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



OFFICE USE
CASE NO. V19-09

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 style="text-align: center;"><u>SEE ATTACHMENT</u></p>
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p>	<p style="text-align: center;"><u>SEE ATTACHMENT</u></p>

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

V19-09

Gloria J. Scotchel/Mini-Mountaineer Early Learning Center, LLC

Application for Variance ("Parking Aisles"):

- 1) 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.

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 a hazard or risk the safety of the neighboring residents or the customers and employees of the daycare facility.

- 2) 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.

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V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

V19-09

- 3) 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.
- 4) 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.

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



OFFICE USE
CASE NO. **V19-10**

APPLICATION FOR VARIANCE

1029

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$150.00 [Z-V]

I. APPLICANT/AGENT		Name: GLORIA J. SCOTCHEL	
Mailing Address:	Street	Phone:	304-288-3175
	City	State	Zip
	RIVESVILLE WV 26588	Mobile:	SAME
		Email:	gloriz25@yahoo.com
II. PROPERTY		Street Address: 3414 COLLINS FERRY RD. MORGANTOWN, WV	
Owner:	GLORIA J. SCOTCHEL		Zoning: B-1
Mailing Address:	Street	Tax Map No:	53
	City	State	Zip
	RIVESVILLE WV 26588	Parcel No:	219 & 220
		Phone:	304-288-3175
III. NARRATIVE		Describe the specific use and the standard for which the variance is sought.	
LANDSCAPING BUFFER (CITY CODE SECTION 1367.08(C))			
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>			
GLORIA J. SCOTCHEL Type/Print Name of Applicant/Agent		 Signature of Applicant/Agent	
		1-7-19 Date	

\$150.00
 Z-V
 2019-0008703
 KIM MORGENTHAU
 1/8/2019 1:54:18 PM
 Variance Application Fee
 For Deposit Only
 City of Morgantown

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



OFFICE USE
CASE NO. V19-10

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

SEE ATTACHED "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.

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**V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road**



OFFICE USE
CASE NO. V19-10

APPLICATION FOR VARIANCE

VI. FINDINGS OF FACT

COMPLETE THE FOLLOWING STATEMENTS
IN THIRD PERSON.

1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

SEE ATTACHMENT

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:

SEE ATTACHMENT

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



OFFICE USE
CASE NO. V19-10

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:

SEE ATTACHMENT

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

SEE ATTACHMENT

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

V19-10

Gloria J. Scotchel/Mini-Mountaineer Early Learning Center, LLC

Application for Variance ("Landscape Buffer"):

- 1) This variance request pertains to the City Code, Section 1367.08 (C), "Landscaping 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 daycare 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 a hazard or risk the

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

V19-10

safety of the neighboring residents or the customers and employees of the daycare facility.

- 2) 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.
- 3) 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 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.
- 4) 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).

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

V19-10

Gloria J. Scotchel/Mini-Mountaineer Early Learning Center, LLC

Lighting Plan:

The following exterior lighting plan will be administered to the subject properties and building structure to provide proper illumination around the building and parking areas. The exterior lighting fixtures will be installed and positioned in such a manner as to prevent glare from encroaching onto the adjoining properties or public rights-of-way.

The attached "Site Plan" depicts proposed locations of lighting fixtures and type of lighting (ie; Flood Light/Park Light).

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

John Whitmore

From: Gloria <gloria25s@yahoo.com>
Sent: Wednesday, February 06, 2019 9:24 AM
To: John Whitmore
Subject: Re: Mini Mountaineers establishing parking requirements

Hello :)
We have 30 kids and about 5-6 staff at one time..
I hope everything goes through and this works out. I just received Engineering fees over \$6,000.00 for this already!!

Thank you,
Gloria

[Sent from Yahoo Mail for iPhone](#)

On Tuesday, February 5, 2019, 11:03 AM, John Whitmore <jwhitmore@morgantownwv.gov> wrote:

Good Morning,

We are finalizing staff reports for the Board of Zoning Appeals, and I need additional information related to Mini Mountaineers.

Specifically, I need to know the number of clients served at this location, and the total number of employees present during the busiest shift.

Thank you,

John Whitmore, AICP

Planner III

City of Morgantown

389 Spruce Street

Morgantown, WV 26505

Office: [\(304\) 284-7431](tel:3042847431)

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

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

The existing master bedroom is not large enough for family use. If this house is to continue to be used only for students, then this variance is not necessary. But if a family is to live here then the size of the master bedroom is unreasonably small and the resulting space, if only built to a 5-foot setback is inadequate.

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 to allow an extension of the existing foot print of the house to fill in the rear gap area will not extend any new construction beyond what is already there in front of the house, where there is already a shorter set back than the required five feet. So, justice will be done by solving an existing problem without creating any problem.

Cook moved to grant variance relief for Case No. V19-07; seconded by Meehan. Motion carried unanimously.

Case reminded Mr. 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.

- B. V19-09 / 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; Tax Map 53, Parcels 219 and 220; B-1, Neighborhood Business District.

Whitmore presented the combined Staff Report for Case Nos. V19-09 and V19-10.

Whitmore stated Staff received a letter in opposition from Betsy Mullett and noted said letter includes three specific points that will need addressed by the Board.

Case recognized Mike Ludman of 3131 Cove Point Drive, on behalf of Mini Mountaineer, who provided further explanation of the project. Ludman stated the parking off of Martin Street is vital to the business and noted a variance is necessary for the landscaping as a 10-foot buffer would eliminate the parking. He referred to the letter of opposition and recognized it is a busy intersection but expressed there is enough staging area to pull onto Martin Street.

Case asked if there were any objections to combining the public hearing for V19-09 and V19-10. There being none, Case asked if anyone would like to speak in favor of or in opposition to the either of the variance petitions.

Case recognized Amy and Ben Mayle of 509 Martin Street who asked to read the letter of opposition from Betsy Mullett. Mr. Mayle was provided the letter.

Mayle stated they live across from the daycare and noted he has not had any parking issues with past businesses in that building. He expressed he is in favor of the proposed variances but requested yellow line parking for two spaces on the opposite side of Martin Street to ensure safety.

There being no further comments, Case declared the public hearing closed and asked for Staff recommendations, which were read by Whitmore.

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

Case referred to the map within the Staff Report and asked if parking would be allowed within the floodplain. Whitmore confirmed and stated the floodplain impacts landscaping as there will be higher saturation.

Case referred to the letter from Mullett and asked if the objections were in reference to the proposed modifications or from past experiences.

Whitmore noted there are issues at the site with large expansive asphalt but expressed there is a lot of opportunity for parking. He explained the past parking use was previously consider as pre-existing, legal, nonconforming conditions. However, the building sat empty for more than twelve months resulting in those nonconforming conditions to be abandoned.

Case referred to the letter from Mullett and read aloud the three concerns noted.

Case referred to the Staff Report and expressed those concerns were addressed within the report.

Case inquired if the applicant would need to obtain approval of the final plans from the City Engineer if the variances are approved. Whitmore confirmed.

Case asked if Staff consulted with the applicant when crafting the Staff recommendations. Whitmore stated the staff recommendations were created internally based on the submitted plans.

Benison asked if 16 spaces are adequate. Ludman confirmed.

Case asked the petitioner if there were any objections to the Staff recommended conditions in the Staff Report. Ludman agreed to all conditions with no objections.

Cook expressed the conditions listed in the Staff Report address the concerns submitted in Mullett's letter of opposition.

Cook asked if a yellow curb could be painted on the opposite side of Martin Street to provide more room and increase safety.

Whitmore stated he would forward the request for service to the City Engineer.

Case expressed the yellow curb option could not be listed as a condition as the applicant cannot be responsible for ensuring that is completed.

Benison made a motion to find in the affirmative for all of the Finding of Facts for V19-09 as presented; 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:

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

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

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.

Whitmore suggested to modify Staff condition number four to include drive isles in addition to parking spaces.

Benison noted the request for 18 parking spaces was listed in the original application. Case noted the applicant is fine with the adjustment to 16 spaces.

Benison asked if they should consider the landscaping prior to making a motion for the parking variance. Case expressed they should consider them individually even though there may be some combined aspects.

Whitmore noted that parking flows into the buffering issue and therefore the parking needs to be considered first.

Cook moved to grant variance relief for Case No. V19-09 with presented Staff recommended conditions including the amended condition to include drive isles; seconded by Meehan. Motion carried unanimously.

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

- C. V19-10 / 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 1367.08 regarding landscaping buffer; Tax Map 53, Parcels 219 and 220; B-1, Neighborhood Business District.

Case expressed this is a unique property as it sits on a corner lot, has pre-existing nonconforming issues, a floodplain in the rear of the property, and there has been an increased in traffic patterns.

Board members agreed with Case and expressed no issues with the proposed landscaping buffer variance.

Meehan made a motion to find in the affirmative for all of the Finding of Facts for V19-10 as presented; 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:

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.

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

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).

Cook moved to grant variance relief for Case No. V19-10 with Staff recommended conditions; seconded by Tomblin. Motion carried unanimously.

Case reminded the petitioner 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.

V. ANNOUNCEMENTS:

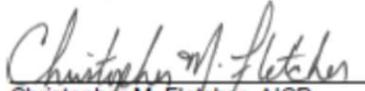
- A. Whitmore stated there will be a training workshop for all Board members on Monday, March 11, 2019 at 6:00 p.m. in the Public Safety Building's Conference Room.
- B. Whitmore stated the Planning and Zoning Code updates have been codified for 2019 and is available on the City website. Hard copies can be provided at the training session if needed.

VI. ADJOURNMENT: 7:50 p.m.

MINUTES APPROVED:

March 20, 2019

BOARD SECRETARY:


Christopher M. Fletcher, AICP

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



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

February 21, 2019

Gloria Scotchel
Mini Mountaineer Early Learning Center, LLC
P.O. Box 31
Rivesville, WV 26588

RE:

V19-09 & V19-10 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road
Tax Map 53, Parcels 219 and 220

Dear Ms. Scotchel,

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced variance petitions for variance relief from Article 1365 as it relates to parking aisle design and Article 1367 as it relates to landscape buffer requirements at 3414 Collins Ferry Road.

The decisions are as follows:

Board of Zoning Appeals, February 20, 2019:

V19-09

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted a variance allowing the use of Martin Street right-of-way as the aisle servicing the 90-degree parking spaces identified in the applicant's parking layout plan with the following conditions:
 1. That the two (2) parking stalls closest to the Martin Street and Collins Ferry Road intersection be eliminated and barriers, to the satisfaction of the City Engineer, be established to advance public safety by ensuring no parking space is located closer than 30 feet from the intersection.
 2. That the third parking space from the Martin Street and Collins Ferry Road intersection be converted to a van or universal accessible parking stall, marked/striped, and signed accordingly to the satisfaction of the City Engineer.
 3. 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.
 4. That all parking spaces and drive aisle illustrated on the parking lot layout plan reviewed herein, with the exception of the two (2) eliminated parking spaces, shall be improved, surfaced, and marked/striped to the satisfaction of the City Engineer.
 5. 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.

Page 1 of 4

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

V19-10

- A. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
- B. The Board granted a variance allowing the elimination of 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.

These decisions 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 approvals are set to expire in twelve (12) months unless you can demonstrate that said approval 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 and building 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
Date: 2019.02.21
08:57:15 -05'00'

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

APPROVED FINDINGS OF FACT

Case No. V19-09 – Parking Development Standards

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.

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

Case No. V19-10 – Landscape Buffer

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).

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



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www.morgantownwv.gov

CERTIFIED MAIL
7015 3010 0001 6597 9523

April 9, 2019

Gloria Scotchel
3414 Collins Ferry Road
Morgantown, WV 26505

RE: Status of Required Improvements

Dear Ms. Scotchel,

On 21 FEB 2019, you were sent the Board of Zoning Appeals action letter regarding cases V19-09 and V19-10. These variances were required for the operation of a "Day Care Facility, Class 3" use located at 3414 Collins Ferry Road. Parking (V19-09) and landscaping (V19-10) nonconformities required Board of Zoning Appeals approvals. Those approvals included conditions and physical improvements to the property. Per the attached variance approvals letter and local and state code, you or a party to the Board of Zoning Appeals decisions had the ability to appeal these decisions to the Circuit Court of Monongalia County, WV, within thirty days of the decision. The appeal deadline passed on 23 MAR 2019, with no record of request for Circuit Court action.

As of April 8, 2019, the Planning Division is unaware of any plans or associated building permits related to the following required conditions of approval:

- Parking Plan indicating approved parking spaces and layout in accordance with Article 1365 requirements:
- Required Landscaping Plan indicating placement of planting materials in accordance with Article 1367 requirements: and,
- Required Lighting Plan indicating the location of any illumination generated on-site in accordance with Article 1371 requirements.

Improvements to the property are required for the continued use of the "Day Care Facility, Class 3" at 3414 Collins Ferry Road. The plans may be individually submitted to the Planning Division for review or sent as attachment to the site's associated Building Permit Application.

Staff is aware of the "Day Care Facility, Class 3" use being in operation with unapproved associated features including fencing and parking. In the event the above plan materials are not provided to the Planning Division for review by 5 p.m. on Friday, 26 APR 2019, Staff will conclude that a common nuisance is in existence at 3414 Collins Ferry Road and will be abated in

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

accordance with existing law. Staff will begin enforcement procedures as established in Article 1393 Violations and Enforcement, of the Planning and Zoning Code.

Per Section 1393.01(E):

(E) Any person, firm or corporation violating any of the provisions of this ordinance shall for each violation, upon conviction thereof, pay a penalty of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), with costs recoverable before the Judge of the Municipal Court; and upon default of payment of the penalty and costs the person or persons convicted may be committed to the City or County Jail for not exceeding thirty (30) days. Each day that a violation is permitted to exist shall constitute a separate offense. (Ord. 15-04. Passed 2-3-15.)

Please contact me at your earliest convenience to discuss remedies and/or begin required plan review.

Respectfully,



Digitally signed by John
Whitmore
Date: 2019.04.09 10:08:02
-04'00'

John Whitmore, AICP
Planner III

CC: Chris Fletcher, Development Services Director
Damien Davis, City Engineer

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



DEVELOPMENT
SERVICES
DEPARTMENT

The City of Morgantown

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

April 29, 2019

Gloria Scotchel
3414 Collins Ferry Road
Morgantown, WV 26505

RE: 24 APR 2019 Draft Site Plan Comments

Dear Ms. Scotchel,

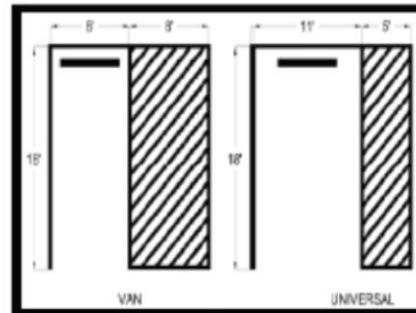
Thank you for providing the 24 APR 2019 Site Plan. A review of the document indicates deficiencies requiring correction. The following comments are compiled for your information.

Parking Plan

- Accessible Space design is required to be Universal or Van per Section 1365.06.01.

6 standard parking spaces on the Martin Street approach could be reduced to 8.5 in width to permit a similar parking layout.

- Bumper/wheel guards are to be shown on the site plan as required per Section 1365.09(B)(4)(b).



Landscaping Plan

- The landscape plan is a separate document required to be completed in conformance with Section 1367.04. This document is required to include the following information:
 - (A) The location and dimensions of all existing and proposed structures, parking lots and drives, roadways and right-of-way, sidewalks, bicycle paths, ground signs, refuse disposal areas, freestanding electrical equipment, recreation facilities, utility lines and easements, freestanding structural features, and other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas;
 - (B) The name, address and phone number of the owner, developer, and plan preparer, the date the plan was prepared, scale, and north arrow;
 - (C) The location, quantity, size, and common name of all proposed planting materials;

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

- (D) The location, size, and common name of existing trees over 8" diameter at breast height, areas of dense trees or shrubs, and other natural features, indicating which are to be preserved and which are to be removed;
 - (E) Existing and proposed grading of the site, including proposed berming;
 - (F) Specification of the type and boundaries of all proposed vegetative ground cover;
 - (G) Design of fences and other significant accessory structures;
 - (H) Planting and installation details as necessary to ensure conformance with all required standards; and;
 - (I) Details indicating specific grading measures or other protective devices where trees are to be preserved in areas of cut and fill.
- Additional information will be required, including items C, D, E, G, H and I, as necessary. In addition to this information, the following is also required:
 - All parking rows are required to terminate with a 130 square-foot landscaped island created via a concrete curb, per Section 1367.08(D)(3). The island is required to be a minimum of 5-feet in width.

Lighting Plan

- Please be aware that all off-street parking spaces are required to be illuminated. In the event the lighting plan shows foot-candle trespass into the public right-of-way or neighboring parcels, a Board of Zoning Appeals variance from Section 1371.03(A).

Corrections to the parking plan are required prior to issuance of a Building Permit. The landscape and lighting plans can be updated during the building permit process but are required to be approved prior to issuance of a Certificate of Occupancy. Please contact me at your earliest convenience to discuss above remedies and/or revise required plans to finalize review.

Respectfully,



Digitally signed by John
Whitmore, AICP

Date: 2019.04.29 16:49:14 -04'00'

John Whitmore, AICP
Planner III

CC via email: Chris Fletcher, Development Services Director
Damien Davis, City Engineer
Mikel Lutman, Lutman Land Services, LLC

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



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(304) 284-7431 TDD (304) 284-7512
www.morgantownwv.gov

CERTIFIED MAIL
7008 1140 0002 2809 5142

October 3, 2019

Gloria Scotchel
3414 Collins Ferry Road
Morgantown, WV 26505

RE: Status of Required Improvements

Dear Ms. Scotchel,

On 21 FEB 2019, you were sent the Board of Zoning Appeals action letter regarding cases V19-09 and V19-10. These variances were required for the operation of a "Day Care Facility, Class 3" use located at 3414 Collins Ferry Road. Parking (V19-09) and landscaping (V19-10) nonconformities required Board of Zoning Appeals approvals. Those approvals included conditions and physical improvements to the property. Per the attached variance approvals letter and local and state code you or a party to the Board of Zoning Appeals decisions, had the ability to appeal these decisions to the Circuit Court of Monongalia County, WV, within thirty days of the decision. The appeal deadline passed on 23 MAR 2019, with no record of request for Circuit Court action.

As of 02 OCT 2019, the Planning Division is unaware of any approved plans or associated building permits related to the following required conditions of approval:

- Parking Plan indicating approved parking spaces and layout in accordance with Article 1365 requirements:
- Required Landscaping Plan indicating placement of planting materials in accordance with Article 1367 requirements: and,
- Required Lighting Plan indicating the location of any illumination generated on-site in accordance with Article 1371 requirements.

Improvements to the property are required for the continued use of the "Day Care Facility, Class 3" at 3414 Collins Ferry Road. The plans may be individually submitted to the Planning Division for review or sent as attachment to the site's associated Building Permit Application. My last communication with Mr. Mikel Lutman regarding corrections to submitted materials was on 06 JUN 2019.

Of current concern is the nonactivation of variances. Per Section 1381.05 of the Planning and Zoning Code, variances received under case numbers: V19-09 and V19-10 must be used by Thursday, 20 FEB 2020 or the variances will be null and void.

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

1381.05 EXPIRATION.

In the case where a variance has not been used within twelve (12) months after the granting thereof, then without further action it shall be null and void. This time period may be extended at the discretion of the Board of Zoning Appeals by successive twelve (12) month time periods up to three (3) years from the date of the original expiration. A request for an extension shall be in writing stating the justification for the extension, and shall be submitted prior to the expiration of the variance approval. The word "used" shall mean that the approved variance has been activated as evidenced by the issuance and continuation of any related development permit and substantial construction started, if construction is involved in the variance. (Ord. 17-28. Passed 7-5-17.)

Due to advertising and notice requirements, the latest a request for extension of variance by the Board of Zoning Appeals may be received for these two cases, is 5:00 P.M., Friday, 06 DEC 2019. The request for an extension of V19-09 and V19-10 would then be placed on the January 2020 Board of Zoning Appeals meeting agenda. A written request for an extension may also be received earlier.

In the event that an extension is not obtained or building permit materials are not completed and approved by 5:00 P.M. 20 FEB 2019, Planning Division Staff will conclude that a common nuisance is in existence at 3414 Collins Ferry Road and will be abated in accordance with existing law. Staff will begin enforcement procedures as established in Article 1393 Violations and Enforcement, of the Planning and Zoning Code. Per Section 1393.01(E):

(E) Any person, firm or corporation violating any of the provisions of this ordinance shall for each violation, upon conviction thereof, pay a penalty of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), with costs recoverable before the Judge of the Municipal Court; and upon default of payment of the penalty and costs the person or persons convicted may be committed to the City or County Jail for not exceeding thirty (30) days. Each day that a violation is permitted to exist shall constitute a separate offense. (Ord. 15-04. Passed 2-3-15.)

Please contact me at your earliest convenience to discuss remedies and/or begin required plan review.

Respectfully,

John Whitmore, AICP
Planner III



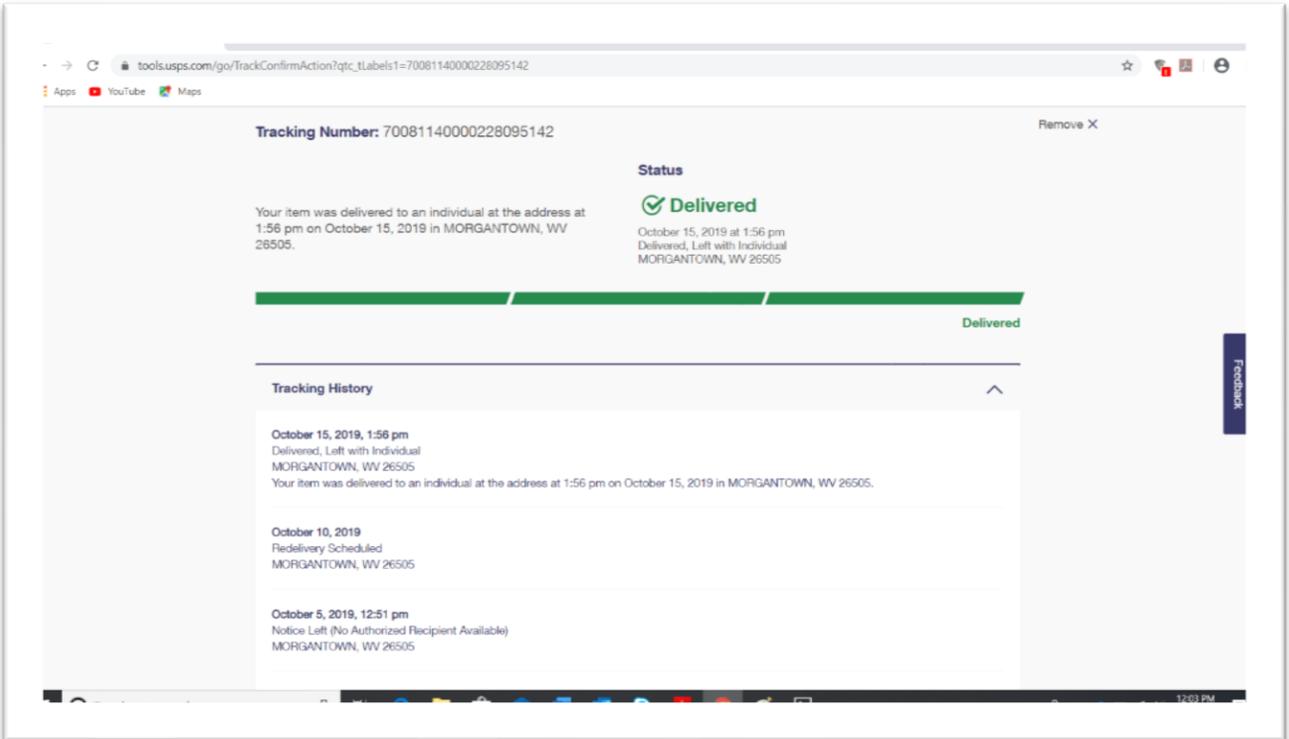
Digitally signed by
John Whitmore,
AICP

Date: 2019.10.03
09:55:28 -04'00'

CC: Chris Fletcher, Development Services Director
Damien Davis, City Engineer

Page 2 of 2

STAFF REPORT ADDENDUM B
V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



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www.morgantownwv.gov

CERTIFIED MAIL
7008 1140 0002 2809 5258

February 21, 2020

Gloria Scotchel
3414 Collins Ferry Road
Morgantown, WV 26505

RE: Status of Required Improvements

Dear Ms. Scotchel,

As was provided in correspondence sent to your attention on 03 OCT 2019 and delivered on 15 OCT 2019, the Board of Zoning Appeals variances related to 3414 Collins Ferry Road under cases V19-09 and V19-10 have expired in accordance with Section 1381.05 as shown below.

1381.05 EXPIRATION.

In the case where a variance has not been used within twelve (12) months after the granting thereof, then without further action it shall be null and void. This time period may be extended at the discretion of the Board of Zoning Appeals by successive twelve (12) month time periods up to three (3) years from the date of the original expiration. A request for an extension shall be in writing stating the justification for the extension, and shall be submitted prior to the expiration of the variance approval. The word "used" shall mean that the approved variance has been activated as evidenced by the issuance and continuation of any related development permit and substantial construction started, if construction is involved in the variance. (Ord. 17-28. Passed 7-5-17.)

On 21 FEB 2019, you were sent the Board of Zoning Appeals action letter regarding cases V19-09 and V19-10. These variances were required for the operation of a "Day Care Facility, Class 3" use located at 3414 Collins Ferry Road. Parking (V19-09) and landscaping (V19-10) nonconformities required Board of Zoning Appeals approvals. Those approvals included conditions and physical improvements to the property. Per the attached variance approvals letter and local and state code you or a party to the Board of Zoning Appeals decisions, had the ability to appeal these decisions to the Circuit Court of Monongalia County, WV, within thirty days of the decision. The appeal deadline passed on 23 MAR 2019, with no record of request for Circuit Court action.

On 19 FEB 2020 copies of revised site plans with a letter of transmittal were supplied to the Development Services Department. Copies of those materials are attached to this letter. In reviewing those materials previously identified issues (29 APR 2019) with requirements for the landscaping and lighting plan are still required prior to issuance of a Certificate of Occupancy.

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

Issues related to the parking appear to meet the Board of Zoning Appeals previous conditions of approval for V19-09.

As the Board of Zoning Appeals did not approve an extension of V19-09 or V19-10, in accordance with the Planning and Zoning Code, you are required to apply for variances from Articles 1365 and 1367 to receive approval for the use of 3414 Collins Ferry Road as a "Day Care Facility, Class 3" use. Materials provided on 19 FEB 2020 may be used for site plan materials with the new applications. The Application for Variance can be found online at this address:

<https://www.morgantownwv.gov/DocumentCenter/View/143/VarianceApplication-PDF>

In the event the two (2) Applications for Variance are not made by 5:00 p.m. 06 MAR 2020, Planning Division Staff will conclude that a common nuisance is in existence at 3414 Collins Ferry Road and will be abated in accordance with existing law. Staff will begin enforcement procedures as established in Article 1393 Violations and Enforcement, of the Planning and Zoning Code. Per Section 1393.01(E):

(E) Any person, firm or corporation violating any of the provisions of this ordinance shall for each violation, upon conviction thereof, pay a penalty of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), with costs recoverable before the Judge of the Municipal Court; and upon default of payment of the penalty and costs the person or persons convicted may be committed to the City or County Jail for not exceeding thirty (30) days. Each day that a violation is permitted to exist shall constitute a separate offense. (Ord. 15-04. Passed 2-3-15.)

Please contact me at your earliest convenience to discuss remedies and/or begin required plan review.

Respectfully,

John Whitmore, AICP
Senior Planner



Digitally signed by
John Whitmore,
AICP

Date: 2020.02.21
15:52:24 -05'00'

CC via 1ST class mail: Gloria Scotchel, P.O. Box 31
Mikel Lutman, Lutman Land Services LLC

CC via email: Chris Fletcher, Development Services Director
Damien Davis, City Engineer
Mike Stone, Code Enforcement
Ryan Simonton, City Attorney

STAFF REPORT ADDENDUM B
V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road

MINI-MOUNTAINEERS EARLY LEARNING CENTER
3414 COLLINS FERRY ROAD
MORGANTOWN, WV 26505

February 19, 2020

**CITY OF MORGANTOWN
PLANNING DEPARTMENT**

Mr. John Whitmore, AICP Planner III
The City of Morgantown
Development Services Department
389 Spruce Street
Morgantown, WV 26505

FEB 19 2020

RECEIVED

RE: Case Nos. V19-09 & V19-10
Proposed Improvements for the Mini-Mountaineers Daycare Facility
3414 Collins Ferry Road, Morgantown WV

Dear Mr. Whitmore:

Enclosed please find the requested additional information in response to correspondence received from the City of Morgantown, Development Services Department on April 29, 2019.

- Parking Plan (in accordance with Article 1365 requirements)
- Landscaping Plan (in accordance with Article 1367 requirements)
- Lighting Plan (in accordance with Article 1371 requirements/See "Site Plan" for location and bulb size illumination of the proposed lighting fixtures)

The Building Permit Application will be submitted to perform the requested improvements upon approval of these Plans by your Department.

Please review the enclosed information at your earliest convenience and contact me if you have any questions or require additional information.

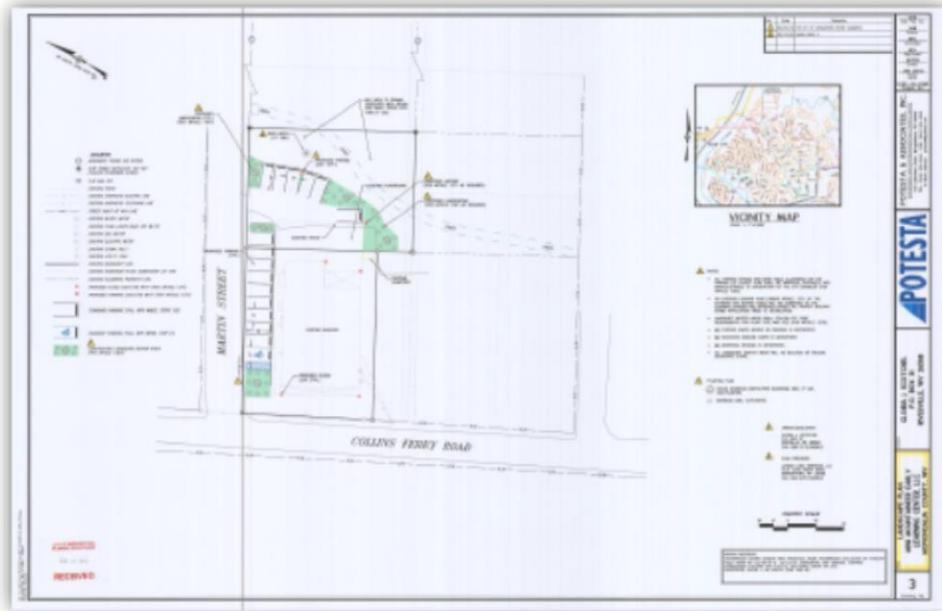
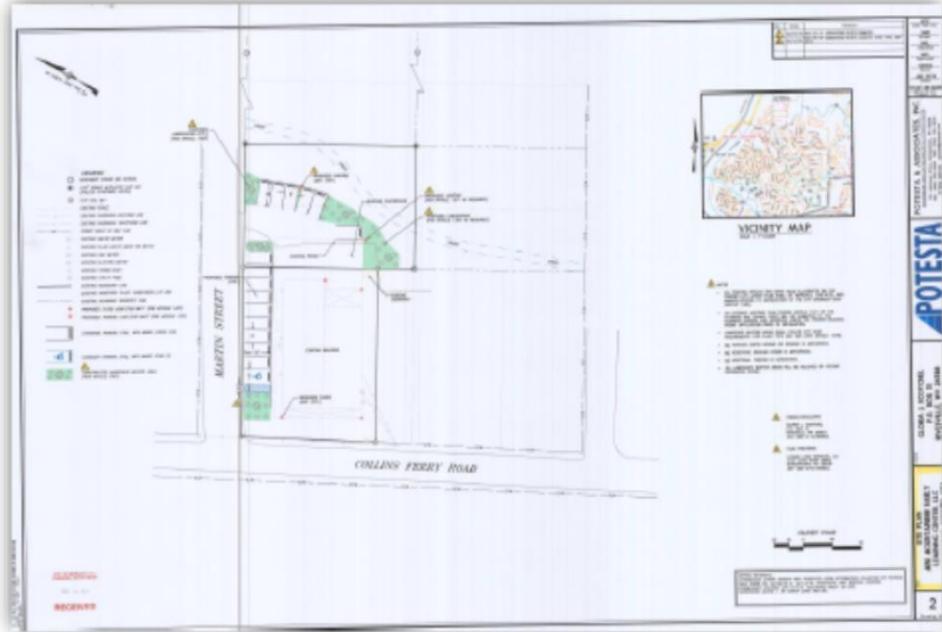
Thank you,

Gloria Scotchel-Owner
Mini-Mountaineers Early Learning Center, LLC

Enclosures:

STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC /
3414 Collins Ferry Road



STAFF REPORT ADDENDUM B

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

John Whitmore

From: John Whitmore
Sent: Friday, February 28, 2020 2:46 PM
To: MIKEL LUTMAN; 'Gloria Scotchel'
Cc: Chris Fletcher; Barbara McDonald; Damien Davis
Subject: 3414 Collins Ferry Road -- Site Plan Updates
Attachments: V19-10_Scanned-Application.pdf; V19-09_Scanned-Application.pdf

Good Afternoon,

At approximately 2:00 p.m. on 28 FEB 2020, Mr. Lutman and I met at the Development Services Department office to discuss the 3414 Collins Ferry Road development. The following items were discussed at this meeting:

- A. Board of Zoning Appeals – 2 new applications are required for the development as the previous variances have expired. Previous applications are to be refiled as all materials, with the exception of the site plan and landscaping plan, will remain the same as the previous 08 JAN 2020 submittals. The staff report for the new applications will include V19-09 and V19-10 applications, the combined staff report, relevant 20 FEB 2020 BZA meeting minutes, and the combined 21 FEB 2019 BZA Action Letter.
- B. Parking improvements are required to continue the “Daycare Facility, Class 3” use. The proposed improvements will require a building permit application. As proposed, the two (2) variances are required for the Planning Division to approve a building permit application to complete this development.
- C. A Certificate of Occupancy is required after the building permit is approved and construction is complete. The final construction and use is reviewed during the certificate of occupancy approval process.
- D. Landscaping Plan – Materials submitted on 19 FEB 2020 are sufficient for the building permitting process and will be included on any related approval addendum.
- E. Lighting Plan – A lighting plan will be provided and approved prior to issuance of a certificate of occupancy. Mr. Lutman is scheduling this work to be completed.

Staff anticipates that the two (2) completed variance applications as identified in the above item A, will be submitted prior by the close of business on 06 MAR 2020. If this cannot occur, please contact me as soon as possible. If you have any additional questions or to discuss the building permit process please contact me at your earliest convenience.

Thank you,

John Whitmore, AICP
Senior Planner
City of Morgantown
389 Spruce Street
Morgantown, WV 26505
Office: (304) 284-7431
morgantownwv.gov

STAFF REPORT ADDENDUM C

V20-10 & V20-11 / Mini Mountaineer Early Learning Center, LLC / 3414 Collins Ferry Road

The following are previously approved findings of fact for related variances that have since expired.

Case No. V20-10 – Landscape Buffer

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).

Case No. V20-11 – Parking Development Standards

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.

MINI MOUNTAINEER EARLY LEARNING CENTER

**3414 COLLINS FERRY ROAD
MORGANTOWN, WEST VIRGINIA**

**APPLICATION FOR VARIANCES
(Parking Aisles & Landscaping Buffer)
MARCH 2, 2020**



**SUBMITTED TO: THE CITY OF MORGANTOWN
DEVELOPMENT SERVICES DEPARTMENT
389 SPRUCE STREET
MORGANTOWN, WV 26505**



OFFICE USE
CASE NO. V20-10

APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK)

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

pay check # 119

I. APPLICANT/AGENT		Name:	<u>GLORIA J. SCOTCHEL</u>	
Mailing Address:	P.O. Box 31		Phone:	<u>304-288-3175</u>
	Street		Mobile:	<u>SAME</u>
	City	<u>RIVESVILLE WV 26588</u>	Zip	
			Email:	<u>gloria255@yahoo.com</u>

II. PROPERTY		Street Address:	<u>3414 Louins Ferry Rd. Morgantown, WV</u>	
Owner:	<u>GLORIA J. SCOTCHEL</u>		Zoning:	<u>B-1</u>
Mailing Address:	P.O. Box 31		Tax Map No:	<u>53</u>
	Street		Parcel No:	<u>219 & 220</u>
	City	<u>RIVESVILLE WV 26588</u>	Zip	
			Phone:	<u>304-288-3175</u>

III. NARRATIVE	Describe the specific use and the standard for which the variance is sought.
<u>LANDSCAPING BUFFER (CITY CODE SECTION 1367.08(C))</u>	

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>	

\$150.00
 Z-V
 2020-00014281
 BREARNA EFTW
 3/2/2020 4:13:10 PM
 For Deposit Only
 CITY OF MORGANTOWN

<u>GLORIA J. SCOTCHEL</u>	<u><i>Gloria J. Scotchel</i></u>	<u>3/2/20</u>
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

SEE ATTACHED "LANDSCAPE 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.

1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

SEE ATTACHMENT

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:

SEE ATTACHMENT



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:

SEE ATTACHMENT

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

SEE ATTACHMENT

Gloria J. Scotchel/Mini-Mountaineer Early Learning Center, LLC**Application for Variance (“Parking Aisles”):**

- 1) 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.

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 a hazard or risk the safety of the neighboring residents or the customers and employees of the daycare facility.

- 2) 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.

- 3) 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.

- 4) 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.

TABLE OF CONTENTS

- APPLICATION FOR VARIANCE (PARKING AISLES)
- APPLICATION FOR VARIANCE (LANDSCAPING BUFFER)
- LIGHTING PLAN (EXTERIOR)
- SITE PLAN (MAPPING)
- LANDSCAPE PLAN (MAPPING)
- PHOTOGRAPHS (MISC.)

APPLICATION FOR VARIANCE (PARKING AISLES)

SITE PLAN (MAPPING)

"SEE ROUNDED SET"

APPLICATION FOR VARIANCE (LANDSCAPING BUFFER)



OFFICE USE
CASE NO. 120-11

APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$150.00 [Z-V]

paid check # 118

I. APPLICANT/AGENT		Name:	<u>GLORIA J. SCOTCHEL</u>		
Mailing Address:	Street	<u>P.O. Box 31</u>		Phone:	<u>304-288-3175</u>
	City	State	Zip	Mobile:	<u>SAME</u>
	<u>RIVESVILLE WV 26588</u>			Email:	<u>gloria25s@yahoo.com</u>

II. PROPERTY		Street Address:	<u>3414 COLLINS FERRY RD, MORGANTOWN, WV</u>		
Owner:	<u>GLORIA J. SCOTCHEL</u>			Zoning:	<u>B-1</u>
Mailing Address:	Street	<u>P.O. Box 31</u>		Tax Map No:	<u>53</u>
	City	State	Zip	Parcel No:	<u>219 & 220</u>
	<u>RIVESVILLE WV 26588</u>			Phone:	<u>304-288-3175</u>

III. NARRATIVE	Describe the specific use and the standard for which the variance is sought.
<u>PARKING PLAN (LUM CODE SECTION 1365.09(A)(3))</u>	

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.
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\$150.00
 Z-V
 2020-0014280
 Breanna E...
 3/2/20 4:34:51 PM
 For Deposit Only
 City of Morgantown

<u>GLORIA J. SCOTCHEL</u>	<u><i>Gloria J. Scotchel</i></u>	<u>3/2/20</u>
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	<i>SEE ATTACHED "SITE PLAN"</i>
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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	
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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.

1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

SEE ATTACHMENT

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:

SEE ATTACHMENT



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 style="text-align: center;"><u>SEE ATTACHMENT</u></p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p style="text-align: center;"><u>SEE ATTACHMENT</u></p>	

Gloria J. Scotchel/Mini-Mountaineer Early Learning Center, LLC

Application for Variance (“Landscape Buffer”):

- 1) This variance request pertains to the City Code, Section 1367.08 (C), “Landscaping 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 daycare 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 a hazard or risk the

safety of the neighboring residents or the customers and employees of the daycare facility.

- 2) 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.
- 3) 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 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.
- 4) 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).

LANDSCAPE PLAN (MAPPING)

"SEE ROLLUP SET"

LIGHTING PLAN (EXTERIOR)

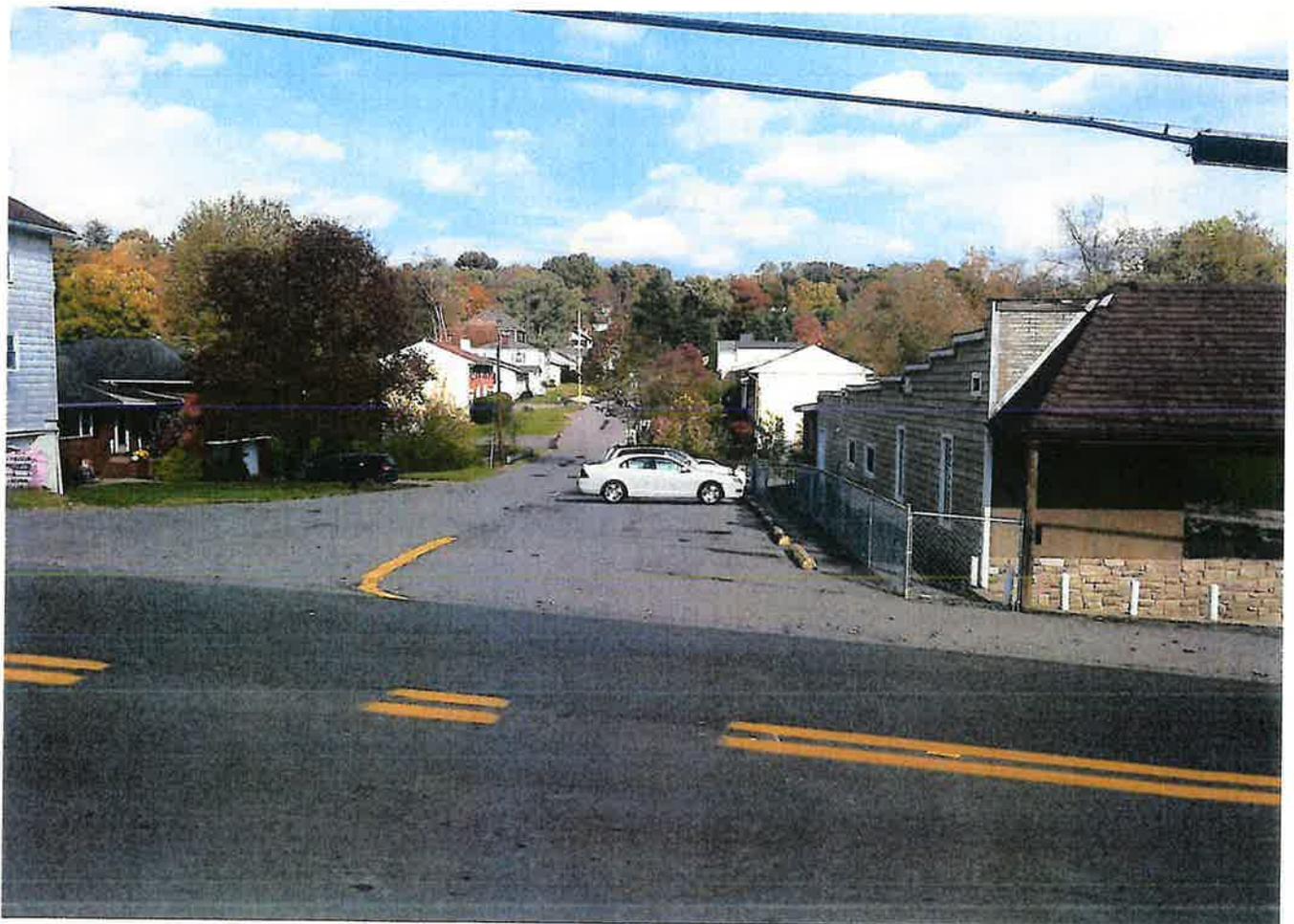
Gloria J. Scotchel/Mini-Mountaineer Early Learning Center, LLC

Lighting Plan:

The following exterior lighting plan will be administered to the subject properties and building structure to provide proper illumination around the building and parking areas. The exterior lighting fixtures will be installed and positioned in such a manner as to prevent glare from encroaching onto the adjoining properties or public rights-of-way.

The attached "Site Plan" depicts proposed locations of lighting fixtures and type of lighting (ie; Flood Light/Park Light).

PHOTOGRAPHS (MISC.)









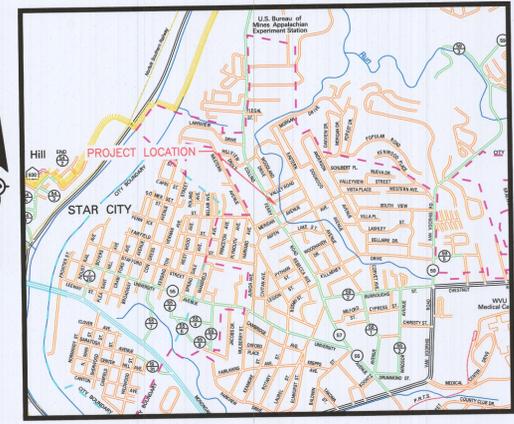
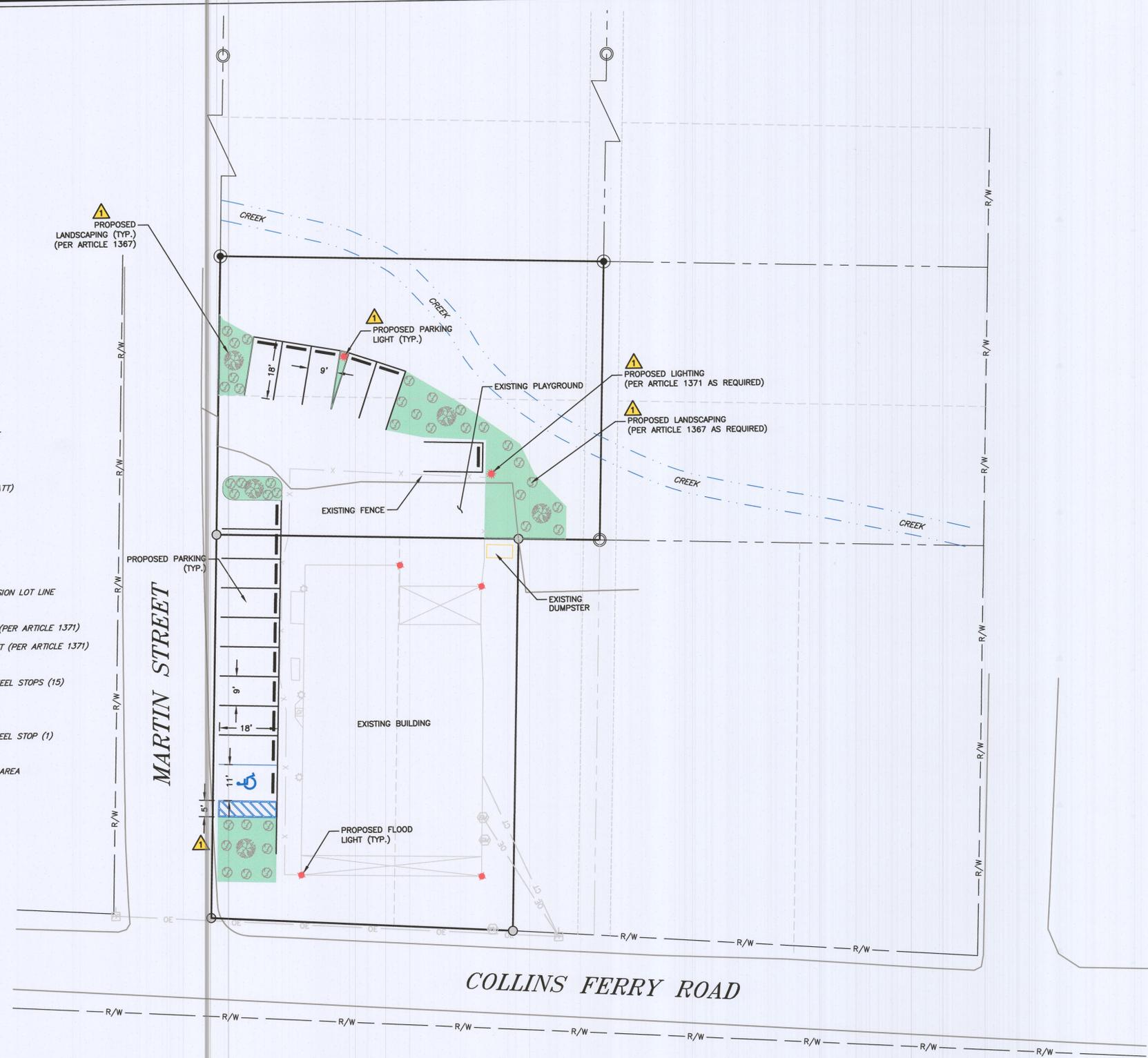


No.	Date	Revision
1	04/23/19	PER CITY OF MORGANTOWN REVIEW COMMENTS
2	02/10/20	PER CITY OF MORGANTOWN REVIEW COMMENTS DATED APRIL 29TH 2019

SITE
CAD File No.
SAB
Drawn
MKL
Checked
MKL
Approved
NOTED
Scale:
JAN 2019
Date:
0102-18-0395
Project No.



- LEGEND**
- MONUMENT FOUND (AS NOTED)
 - 5/8" REBAR W/PLASTIC CAP SET (UNLESS OTHERWISE NOTED)
 - P/K NAIL SET
 - X- EXISTING FENCE
 - OE- EXISTING OVERHEAD ELECTRIC LINE
 - CT- EXISTING OVERHEAD TELEPHONE LINE
 - R/W- STREET RIGHT OF WAY LINE
 - ⊕ EXISTING WATER METER
 - ⊕ EXISTING FLUID LIGHTS (MAX 100 WATT)
 - ⊕ EXISTING GAS METER
 - ⊕ EXISTING ELECTRIC METER
 - ⊕ EXISTING STORM INLET
 - ⊕ EXISTING UTILITY POLE
 - - - EXISTING BOUNDARY LINE
 - - - EXISTING ANDERSON PLACE SUBDIVISION LOT LINE
 - - - EXISTING ADJOINING PROPERTY LINE
 - ♦ PROPOSED FLOOD LIGHT/100 WATT (PER ARTICLE 1371)
 - ★ PROPOSED PARKING LIGHT/150 WATT (PER ARTICLE 1371)
 - ▭ STANDARD PARKING STALL WITH WHEEL STOPS (15)
 - ♿ HANDICAP PARKING STALL WITH WHEEL STOP (1)
 - ▲ CONSTRUCTED LANDSCAPE BUFFER AREA (PER ARTICLE 1367)

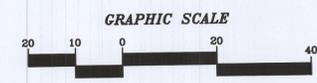


VICINITY MAP
SCALE = 1"=2,000'

- NOTES**
- ALL PARKING SPACES AND DRIVE AISLE ILLUSTRATED ON THE PARKING LOT LAYOUT PLAN SHALL BE IMPROVED, SURFACED, AND MARKED/STRIPED TO SATISFACTION OF THE CITY ENGINEER (PER ARTICLE 1365).
 - AN EXTERIOR LIGHTING PLAN (UNDER ARTICLE 1371 OF THE PLANNING AND ZONING CODE) WILL BE SUBMITTED TO THE PLANNING DIVISION AND APPROVED UNDER THE PROPER BUILDING PERMIT APPLICATION PRIOR TO INSTALLATION.
 - LANDSCAPE BUFFER AREAS SHALL FOLLOW CITY CODE REQUIREMENTS FOR PLANT TYPE AND SIZE (PER ARTICLE 1376).
 - NO FURTHER EARTH MOVING OR GRADING IS ANTICIPATED.
 - NO VEGETATIVE GROUND COVER IS ANTICIPATED.
 - NO ADDITIONAL FENCING IS ANTICIPATED.
 - ALL LANDSCAPE BUFFER AREAS WILL BE MULCHED OR RECEIVE DECORATIVE STONE.

▲ OWNER/DEVELOPER:
GLORIA J. SCOTCHEL
P.O. BOX 31
RIVESVILLE, WV 26583
304-288-3175/MOBILE

▲ PLAN PREPARER:
LUTMAN LAND SERVICES, LLC
4131 COVE POINT DRIVE
MORGANTOWN, WV 26508
304-290-8727/MOBILE



MAPPING REFERENCE:
INFORMATION SHOWN HEREON WAS PRODUCED FROM INFORMATION COLLECTED BY POTESTA FIELD CREW ON 10/18/18 & 12/13/18. HORIZONTAL AND VERTICAL CONTROL ESTABLISHED UTILIZING GPS O.P.U.S. SOLUTIONS TAKEN ON SITE.
HORIZONTAL DATUM = WV NORTH ZONE NAD-83.

CITY OF MORGANTOWN
PLANNING DEPARTMENT
FEB 19 2020
RECEIVED

POTESTA & ASSOCIATES, INC.
ENGINEERS AND ENVIRONMENTAL CONSULTANTS
125 Lakeview Drive, Morgantown, WV 26608
TEL: (304) 225-2245 FAX: (304) 225-2246
E-Mail Address: potesta@potesta.com

POTESTA

Client
GLORIA J. SCOTCHEL
P.O. BOX 31
RIVESVILLE, WV 26588

Title
SITE PLAN
MINI MOUNTAINEER EARLY
LEARNING CENTER, LLC

2
Drawing No.

File: Y:_230-Pre-Permit\2018\18-0395-DAYCARE\18-0395-SITE.dwg
Plotted By: msabgonc
Date: 02/10/2020 10:20:20 AM

No.	Date	Revision
▲	04/23/19	PER CITY OF MORGANTOWN REVIEW COMMENTS
▲	02/10/20	ADDED SHEET 3

SITE	
CAD File No.	SAB
Drawn	MKL
Checked	MKL
Approved	MKL
NOTED	NOTED
Scale:	JAN 2019
Date:	0102-18-0395
Project No.	

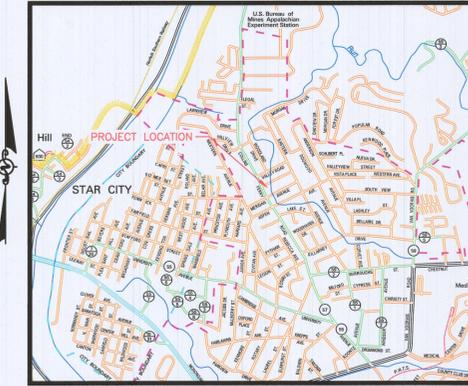
POTESTA & ASSOCIATES, INC.
 ENGINEERS AND ENVIRONMENTAL CONSULTANTS
 125 Lakeside Drive, Morgantown, WV 26508
 TEL: (304) 225-2245 FAX: (304) 225-2246
 E-Mail Address: potesta@potesta.com



Client
GLORIA J. SCOTCHEL
 P.O. BOX 31
 RIVESVILLE, WV 26588

Title
LANDSCAPE PLAN
MINI MOUNTAINEER EARLY
LEARNING CENTER, LLC
 MONONGALIA COUNTY, WV

Drawing No.
3



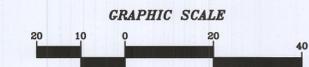
VICINITY MAP
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- ▲ PLANTING PLAN
- KOUSA DOGWOOD (WHITE/PINK BLOSSOM) (MIN. 2" DIA. ONE/PLANTER)
 - BOXWOOD (MIN. 6/PLANTER)

▲ OWNER/DEVELOPER:
 GLORIA J. SCOTCHEL
 P.O. BOX 31
 RIVESVILLE, WV 26583
 304-288-3175/MOBILE

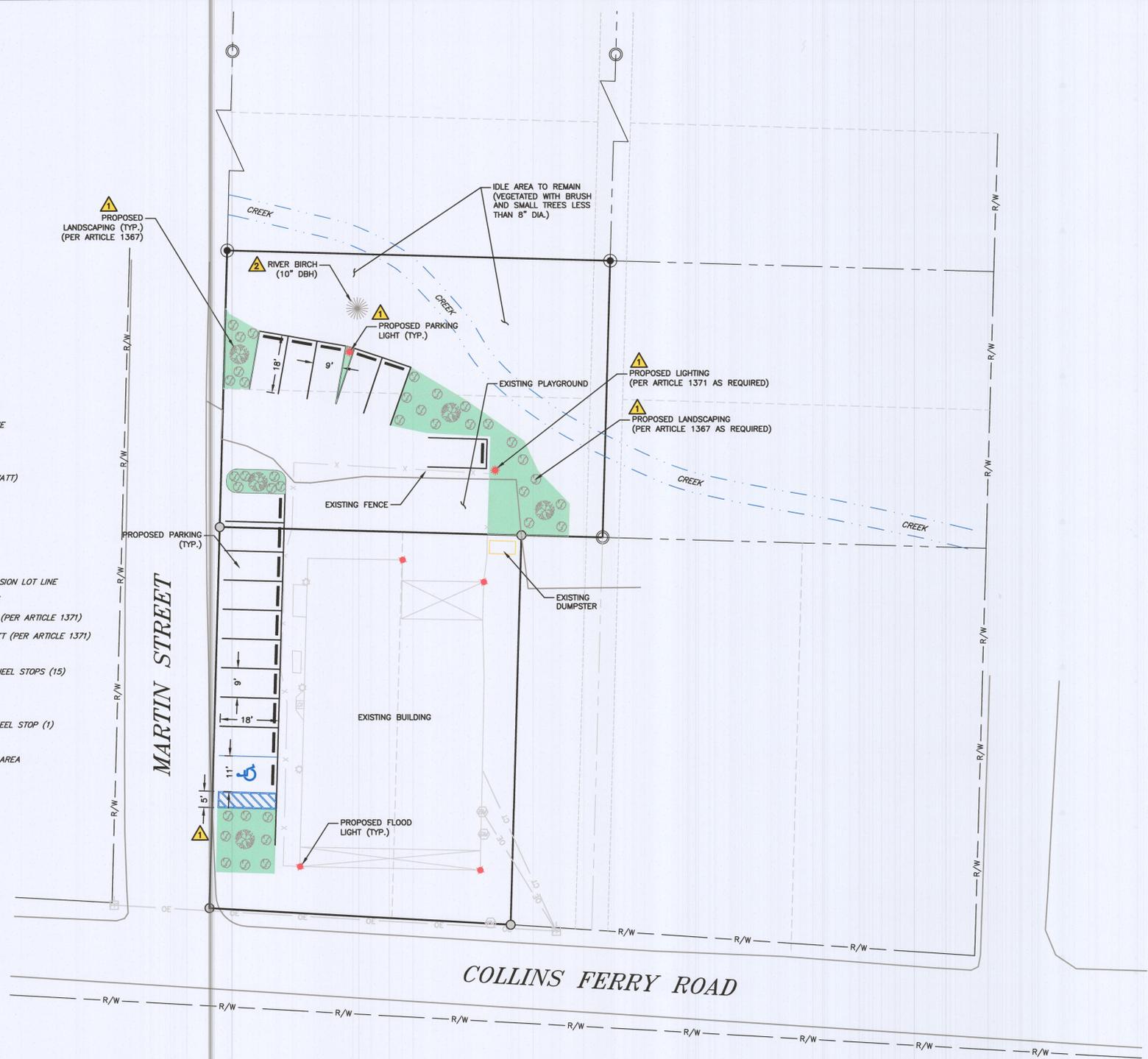
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CITY OF MORGANTOWN
 PLANNING DEPARTMENT

FEB 19 2020

RECEIVED

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