Morgantown Board of Zoning Appeals

MEETING PACKET

Wednesday, August 21, 2019
6:30 p.m.
City Council Chambers

Board Members:
Harrison Case, Chair
Kevin Meehan, Vice Chair
Chris Benison
Heidi Cook
Garrett Tomblin

Development Services Department
Christopher M. Fletcher, AICP, Director
John Whitmore, AICP, Planner III
BZA Pre-Meeting Announcement read by the Chairperson

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

The Board conducts business in the following order:

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

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

- I will introduce the agenda item and the Planning Division will present a Staff Report, which may or may not offer a recommendation.

- The applicant/agent will be asked to present their justification for their request, which may include questions by members of the Board.

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

- I may elect to recognize the applicant/agent at the end of the public hearing to provide rebuttal or additional comments, which will be limited to five (5) minutes. If members of the Board have any questions of the applicant/agent, that time will not be counted toward his/her five (5) minutes.

- After all testimony is heard, I will declare the PUBLIC HEARING CLOSED and no further public comment will be permitted.

- Uncivil, unruly, and/or disruptive behavior at any time during this meeting is prohibited and will result in removal from this public meeting.

- State law requires the Board to consider findings of fact for each conditional use and variance request. The request cannot be granted unless a majority of the quorum present finds in the positive of ALL of the findings of fact. The Board may elect to continue the hearing to another date if it needs additional information.

- Applicants and requesting parties will be notified in writing by the Planning Division of the Board’s findings and conclusions. Regardless of whether a request is approved or denied, decisions of the Board can be appealed to the Circuit Court of Monongalia County within thirty (30) days upon receipt of the written notification. Any work done relating to decisions rendered by this Board during this thirty-day period is at the sole financial risk of the applicant.

Thank you for your consideration and respect for these proceedings and the opinions of all meeting participants.
I. CALL TO ORDER AND ROLL CALL

II. MATTERS OF BUSINESS:
   A. Minutes for the July 17, 2019 hearing

III. OLD BUSINESS:
   A. V19-23 / Istanbul Delicacy / 2995 University Avenue: Request by Maria Pachina, on behalf of Istanbul Delicacy, for variance relief from Article 1369 concerning signage; Seventh Ward Tax District, Tax Map 11, Parcel 7; B-2, Service Business District.

IV. NEW BUSINESS:
   A. CU17-02 / Morgantown Flour & Feed Co. / 156 Clay Street: Request by Kristin Taylor, on behalf of Morgantown Flour & Feed Co., seeking revised conditional use approval for a “Restaurant, Private Club” located at 156 Clay Street. First Ward Tax District; Tax Map 28, Parcel 38; B-4, General Business District.
   B. V19-27 / South Park Service Center / 301 Pleasant Street: Request by David Stull, on behalf of South Park Service Center, for variance relief from Article 1369 concerning signage; Second Ward Tax District, Tax Map 29, Parcels 370 and 371; B-4, General Business District.
   C. V19-28 / Taco Bell / 347 Patteson: Request by Rosa M. Paddock of GLMV Architecture, on behalf of Aarsand Management, LLC and Taco Bell, for variance relief from Article 1369 concerning signage; Seventh Ward Tax District, Tax Map 10, Parcel 79.3; B-5, Shopping Center District.
   D. V19-29 / Volcano Japanese Restaurant / 372 Patteson Drive: Request by Crystal Miller of City Neon, Inc., on behalf of Volcano Japanese Restaurant, for variance relief from Article 1369 concerning signage; Seventh Ward Tax District, Tax Map 11, Parcel 2; B-5, Shopping Center District.
   E. V19-30 / Chipotle Restaurant / 461 High Street: Request by Marie Hashaw of Adcon Signs, on behalf of Chipotle Restaurant, for variance relief from Article 1369 concerning signage; Third Ward Tax District, Tax Map 26, Parcels 75 and 76; B-4, General Business District.
Board of Zoning Appeals
Harrison Case, Chair
Kevin Meehan, Vice-Chair
Chris Benison
Heidi Cook
Garrett Tomblin

Development Services
Christopher Fletcher, AICP
Director

Planning Division
John Whitmore, AICP
Planner III

389 Spruce Street
Morgantown, WV 26505
304.284.7431

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

MORGANTOWN BOARD OF ZONING APPEALS
August 21, 2019
6:30 p.m.
Council Chambers

F. V19-31/ Sheetz / 1901 Earl L. Core Road: Request by Robert Franks, on behalf of Sheetz, for variance relief from Article 1369 concerning signage; Sixth Ward Tax District, Tax Map 44A, Parcel 1; B-2, Service Business District.

V. ANNOUNCEMENTS

VI. ADJOURNMENT
BOARD OF ZONING APPEALS

MINUTES

6:33 p.m. July 17, 2019 Council Chambers

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

MEMBERS ABSENT: None.

STAFF: John Whitmore, AICP

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

II. MATTERS OF BUSINESS:

A. Minutes for the June 19, 2019 hearing. No corrections noted and minutes approved as presented.

III. UNFINISHED BUSINESS: None.

IV. NEW BUSINESS:

A. CU19-03 / HTM Properties / 499 Locust Avenue: Request by Doug Shepard, on behalf of HTM Properties, for conditional-use approval of a “Dwelling, Multi-Family” use; Fifth Ward Tax District, Tax Map 26, Parcel 281; R-2, Single and Two-Family Residential District.

Whitmore presented the combined Staff Report for CU19-03 and V19-26.

Case recognized Doug Shepard of 820 Riverview Drive who provided further explanation of the project.

Case asked how many levels would be on the property. Shepard explained there would be three (3) levels and provided further explanation of the proposed multi-family structure.

Case noted they meet the parking requirements.

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

Case referred to the Findings of Facts and stated there is not an increase in occupancy with the conversion as it is eliminating a bedroom. Case noted that each unit has their own exits so fire safety is not jeopardized, and the building will be inspected by both the Code Enforcement and
the Fire Marshal. Case stated there are no changes to the exterior of the structure and the value of the building will be conserved as one-bedroom rentals appear to be a better use for the property.

Meehan made a motion to find in the affirmative for all of the Finding of Facts for CU19-03 as presented; seconded by Tomblin. Motion carried unanimously.

NOTE: The following findings were included in the motion.

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

The change of use from “Two-Family Dwelling” that includes one (1) one-bedroom and one (1) three-bedroom unit to “Multi-Family Dwelling” unit that includes three (3) one-bedroom unit is a reduction in occupancy. Additionally, the minimum parking requirement does not change with the land use reclassification as proposed.

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

Each unit will have its own egress and building will now be inspected under both fire and building codes.

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

There will be no changes to the exterior of the existing structure thereby not disrupting existing light distribution and airflow conditions within the immediate area.

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

There will be no changes to the exterior of the existing structure.

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

The change in land use classification will result in a lower residential occupancy for the principal building as proposed.

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 residential occupancy of the principle building will be decreased by the land use reclassification as proposed.

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

The area is an existing higher density rental neighborhood. The change of use will provide for increased fire and building code compliance requirements, which should serve to elevate the safety of this structure.

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

The structure is currently a permitted by-right two-family dwelling with occupancy designed for four individuals. The proposed reconfiguration will result in fewer residents and provide higher rates of occupancy, while also increasing life-safety standards for the structure.

Cook moved to approve Case No. CU19-03 with the Staff recommended conditions; seconded by Benison. Motion carried unanimously.
B. **V19-26 / HTM Properties / 499 Locust Avenue:** Request by Doug Shepard, on behalf of HTM Properties, for variance relief from Article 1331 concerning common entrance design standards; Fifth Ward Tax District, Tax Map 26, Parcel 281; R-2, Single- and Two-Family Residential District.

Case read aloud the modified Findings of Facts in the Staff Report. Case noted the building is located in a dense area on a unique lot.

Case expressed there is not a change in the existing structure that would be visible from the street and therefore the change would not negatively affect the surrounding area or cause a hardship to the public.

Meehan made a motion to find in the affirmative for all of the Finding of Facts for V19-26 as presented; seconded by Benison. Motion carried unanimously.

*NOTE: The following findings were included in the motion.*

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

The front façade of the structure will not change as a result of this development activity. Instead, the change of use from a two-family dwelling to a multi-family dwelling will lower the current occupancy. The existing separate direct access entrances through the front façade does not appear to have jeopardized persons or property. All things being equal, the impact of not having a common entrance will not be noticed by the general public or surrounding property owners.

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

The building is solid block construction. The creation of a common entrance will necessitate improvements that could result in structural degradation. Additionally, there does not appear to be requisite physical space to move the staircase in 3rd floor unit to accommodate the common entrance.

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

It will allow reconfiguration and use of the existing building. This will keep conformity in neighborhood and not compromise the structure. The common entrance requirement does not appear to account for existing building design and related physical constraints of existing floor plans and multiple level access.

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

The use requested is the spirit of the neighborhood and doesn't place undo burden on construction. The use of two-separate entrances in the principal facade will allow for three individual one-bedroom units. The design of the existing entrances does not create visual blight, and is found in other older structures in the vicinity.

Tomblin moved to approve Case No. V19-26 with the Staff recommended conditions; seconded by Meehan. Motion carried unanimously.
Case reminded Mr. Shepard that the Board’s decisions can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board’s decisions during this period would be at the sole financial risk of the petitioner.

C. **V19-23 / Istanbul Delicacy / 2995 University Avenue**: Request by Maria Pachina, on behalf of Istanbul Delicacy, for variance relief from Article 1369 concerning signage; Seventh Ward Tax District, Tax Map 11, Parcel 7; B-2, Service Business District.

Due to the applicant not being present Case moved V19-23 to the end of the agenda in case the applicant was running late.

D. **V19-24 / Alpha Rho Corporation of WV / 650 N. Spruce Street**: Request by Brian Dawson, on behalf of Alpha Rho Corporation of WV, for variance relief from Section 1339.04 regarding setbacks; Fifth Ward Tax District, Tax Map 26, Parcel 217; R-3, Multi-Family Residential District.

Whitmore presented the Staff Report.

Case recognized Eric Dyson, Vice President of the Alpha Rho Corporation, who stated they had obtained a permit to build the deck in 1996 that was torn down eleven years later due to deterioration. Dyson stated they would like to rebuild the deck from the previously approved footprint.

Case asked if this was a fraternity house. Dyson confirmed.

Benison asked if the property is leased to WVU. Dyson stated they no longer lease to WVU and now direct lease to students.

Case asked what the motivation is to rebuild the deck. Dyson stated the deck is necessary for safety and to take students off the streets to allow for better flow of foot traffic.

Case asked for further explanation on the design of the proposed deck. Whitmore referred to the Staff Report to provide further explanation.

Cook asked if this deck would be the exact same footprint as what was previously approved.

Case recognized Brian Dawson of Jamestown Drive who stated the proposed deck is the exact same footprint and stated the Staff Report includes pictures of the original deck.

Benison asked if a survey has been conducted to determine property lines. Dawson confirmed.

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

Case reviewed the Findings of Facts listed in the Staff Report.

Case noted there are houses surrounding the property and noted there is a potential for large outdoor gatherings on the deck. Case recognized the area is mostly student housing.
Cook inquired if the previously approved deck would follow the current Planning and Zoning Code as there have been new regulations enacted in 2006. Cook expressed that it would set a precedent if they approve every petition that was presented in the past.

Case expressed concerns with the 0-foot setback onto North Spruce Street as pedestrians would be walking underneath the deck structure.

Case inquired if not having a deck structure would be a hardship.

Benison noted the previous deck was allowed to fall into a state of disrepair.

Dawson stated there are dual sidewalks on North Spruce Street with ample room for pedestrians as shown in the Staff Report illustration.

Case referred to the Staff Report and asked for further explanation on the design and materials used to build the deck. Dawson provided further explanation and stated the railing would have a bracket to prevent people from sitting or falling off.

Cook noted that one sidewalk has a steep slope. Whitmore stated the current condition of the sidewalk does have a slope with some cracking and the property owner could be requested to repair the sidewalk to meet standards.

Case expressed there are benefits to clearing the public right-of-way by giving pedestrians a place to congregate. Board members agreed.

Case asked if the Board could request the sidewalk be brought up to standards as a condition to the petition. Whitmore confirmed.

Case asked if the property owner would consider repairing the sidewalk in conjunction with erecting the deck. Dyson stated they would not be opposed to repairing the sidewalk.

Whitmore stated a condition could be listed to repair the sidewalk to the satisfaction of the City Engineer.

Benison made a motion to find in the affirmative for all of the Finding of Facts for V19-24 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:

The variance will not adversely affect the following because the property is located on a corner lot with no neighbors where the deck is proposed. The safety and welfare of the public will not be affected because this deck will provide its residents a location to socialize and relieve use of a common sidewalk currently used for that reason.

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:

This variance arises from special conditions because this property was issued a permit in the 2000’s for this structure already. This deck was torn down due to disrepair and its occupants would greatly
benefit if a new deck was allowed to go back in its place. This property also has double sidewalks in front of its house as shown on the site plan. This will allow the public to have ample room to pass by without being affected by this structure.

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

This variance will eliminate an unnecessary hardship because and provide reasonable use of land because this structure would sit on an area which is unusable as it currently sits. No green space would be disturbed and this deck would make sense for its residents therefore providing a reasonable use of the land.

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

This variance will allow the intent of zoning to be conformed to because of the location of the property. Since there are no neighbors and there is a double sidewalk in front of the structure the public will not be affected. The intent of the zoning ordinance in this case is to ensure the proposed structure does not affect anyone else in doing so, and this structure will not. If there was not a double sidewalk present the 3’ setback would be necessary to provide ample room.

Meehan moved to approve Case No. V19-24 with the Staff recommended conditions and adding the condition that the applicant will reconstruct the Spruce Street sidewalk along the frontage of Spruce Street to the satisfaction of the City Engineer; seconded by Cook. Motion carried unanimously.

Case reminded Mr. Dawson 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.

E. V19-25 / Sigma Phi Epsilon / 709 N. High Street: Request by Crystal Miller of City Neon, Inc., on behalf of Sigma Phi Epsilon, for variance relief from Article 1369 concerning signage; Fifth Ward Tax District, Tax Map 26, Parcel 160.1; R-2, Single- and Two-Family Residential District.

Whitmore presented the Staff Report.

Case recognized Crystal Miller of City Neon, Inc., on behalf of Sigma Phi Epsilon who provided further explanation on the requested signage.

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

Case reviewed the listed Findings of Facts listed in the Staff report.

Benison asked if the variance petition is only for square footage and not materials. Miller confirmed.

Tomblin made a motion to find in the affirmative for all of the Finding of Facts for V19-25 as presented; seconded by Benison. Motion carried unanimously.
NOTE: The following findings were included in the motion.

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

The proposed signage is similar in size to the various other fraternities and sororities in the vicinity. The signage on these properties have not had any ill effects on the public or residents of the 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:

In the past, this building has housed fraternities that have displayed large Greek letters on the building’s exterior. There are two entrances to the parking lot and the proposed signage will make wayfinding easier to pedestrian/vehicular traffic coming from the Mountain Lair, North High Street, and other side streets.

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

The proposed signage fits within the architectural elements of the building in which it will be mounted and improve way finding for all types of traffic.

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

The proposed wall signs will be consistent with other fraternities and sororities in the area while maintaining a balance of the building’s architecture.

Meehan moved to approve Case No. V19-25 without conditions; seconded by Cook. Motion carried unanimously.

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

Whitmore referred to Case V19-23 / Istanbul Delicacy / 2995 University Avenue and stated the Board could act on the petition as the sign dimensions were not changing or they could table it to the next month. Board members decided to table the petition to allow the petitioner to bring a picture with further explanation of the proposed sign.

Cook moved to table V19-23; seconded by Benison. Motion carried unanimously.

V. ANNOUNCEMENTS:

Whitmore informed the Board that Morgantown Flower is Feed is proposing a change in hours of operation and asked if Board members wanted to schedule a field trip prior to the hearing. Board members declined a field trip.

Cook asked for Staff to super impose pictures into Staff Reports to help Board members understand further requests and expressed it would have helped to see how the proposed deck on North Spruce Street would look when finished.
VI. ADJOURNMENT: 7:45 p.m.

MINUTES APPROVED:

BOARD SECRETARY: _____________________________

Christopher M. Fletcher, AICP
CASE NO: V19-23 / Istanbul Delicacy / 2995 University Avenue

REQUEST and LOCATION:
Request by Maria Pachina on behalf of Istanbul Delicacy, for variance relief from Article 1369 concerning signage at 2995 University Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:
Seventh Ward Tax District, Tax Map 11, Parcel 7; B-2, Service Business District

SURROUNDING ZONING:
North: B-5, Shopping Center District
East, South, and West: B-2, Service Business District

BACKGROUND and ANALYSIS:
The petitioner seeks to re-install wall signage at a commercial tenant space at 2995 University Avenue requiring variance from Article 1369 of the Planning and Zoning Code. Addendum A of this report illustrates the location of the subject site.

Section 1369.07(I)(1) provides a maximum wall sign area standard of six tenths (0.6) square feet for every one-foot of tenant building frontage in the B-4 District. The linear width of the tenant’s frontage is 50 feet +/-, which establishes a maximum wall sign area standard of 30 square feet. The petitioner proposes a total of 84 square feet of wall signage. In particular, the signage being requested is the re-use of previously abandoned wall sign cabinets that were on-site for the previous tenant. As such, variance relief of 54 square feet is required for the wall sign as proposed and further illustrated in the table below.

<table>
<thead>
<tr>
<th>Wall Signs</th>
<th>Sign Area</th>
</tr>
</thead>
</table>
| Istanbul Delicacy | 42 sf  
(x2 = 84 sf) |

| Total Permitted Sign Standards | 30 sf |
| Total Requested Variance | 54 sf |
STAFF RECOMMENDATION:

It is the duty of the Board of Zoning Appeals to determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for each of the “Findings of Fact” submitted by the petitioner. If the Board disagrees with the petitioner’s “Findings of Fact” and determines the proposed request does not meet the standard criteria for a variance, then the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject variance petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Addendum B of this report provides revisions to the petitioner’s Findings of Fact responses (deleted matter struck through; new matter underlined). Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner’s responses or the subject petition.

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

Attachments: Application and accompanying materials
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:

It’s not in right of way. Not increasing in size. We only changing the face of the sign. The area of the signage is in keeping with previously installed wall sign cabinets, which do not appear to have jeopardized persons or property nor created negative impacts on 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:

We replacing existing sign to advertise for our business. The “Restaurant” use is located along a five-lane, 35 mph posted roadway with limited visibility due to the University Avenue intersection alignment. The previous signage was grandfathered and lost its nonconforming status due to abandonment provisions in the Nonconforming Provisions of the Planning and Zoning Code. The applicant seeks what is nearly similar to a change of copy face for the wall sign cabinets that would be permitted if the subject sign cabinets had not been abandoned.

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

Sign will direct customers to our restaurant. Nearly all surrounding businesses have sought and been provided sign area variance relief due to the unique conditions occurring as a result of the Patteson Drive roadway design in relationship to service business uses. Without increased signage area, the viability of the subject tenant space would appear to be jeopardized.

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

The sign will not increase in size from what is currently there. We replace the face to advertise local restaurant. The petitioner’s tenant space is located within a mixed use building located in vehicular dominated business corridor. The comparative size of the tenant space’s storefront results in a maximum wall sign area standard that does not appear to adequately communicate to vehicular passersby. The requested variance relief seeks to reuse previously functional sign cabinets that appear to integrate into the surrounding B-2 District built environment.
APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK)  Istanbul Delicacy  Fee: $150.00 [Z-V]

I. APPLICANT/AGENT  Name: Abdullah Aytaç & Maria Pachuna

Mailing Address: 2995 University Ave  Phone: 304-728-5727

City Morgantown  State WV  Zip 26505

Mobile:  Email:

II. PROPERTY  Street Address: 2995 University Ave

Owner: Maria Pachuna  Zoning:

Mailing Address: 2217 Stewartstown Rd  Tax Map No: 11

Street  City Morgantown  State WV  Zip 26508

Parcel No: 07  Phone: 304-728-5727

III. NARRATIVE  Describe the specific use and the standard for which the variance is sought.

Changing existing signs

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.

Maria Pachuna

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date 05/10/19
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.
### VI. FINDINGS OF FACT

<table>
<thead>
<tr>
<th>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</th>
</tr>
</thead>
</table>

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

- It's not in right of way.
- Not increasing in size.
- We only changing the face of the sign.

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:

- We replacing existing sign to advertise for our business.
## VI. FINDINGS OF FACT

<table>
<thead>
<tr>
<th>COMPLETE THE FOLLOWING STATEMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>IN THIRD PERSON.</td>
</tr>
</tbody>
</table>

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

> Sign will direct customers to our restaurant.

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

> The sign will not increase in size from what is currently there. We replace the face to advertise local restaurant.
CASE NO: CU17-02 / Morgantown Flour and Feed / 156 Clay Street

REQUEST and LOCATION:
Request by Kristin Taylor on behalf of Morgantown Flour and Feed Co, LLC, seeking revised conditional use approval for a “Restaurant, Private Club” located at 156 Clay Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:
First Ward Tax District, Tax Map 28, Parcel 38; B-4, General Business District

SURROUNDING ZONING:
B-4, General Business District

BACKGROUND and ANALYSIS:
The petitioner operates a conditional “Restaurant, Private Club” use previously approved by the Board of Zoning Appeals on 15 MAR 2017 under Case No. CU17-02. Addendum A of this report illustrates the location of the subject site. Addendum B of this report provides Case Number CU17-02 materials.

The Board included the following condition in its original approval of Case No. CU17-02 for the subject conditional “Restaurant, Private Club” use.

The petitioner seeks the Board’s approval to modify this condition to instead allow for the restaurant to be open to serve lunch three (3) days a week rather than five (5) days a week.

The petitioner submitted to Staff detailed restaurant financial information concerning net sales from 11 a.m. to 5 p.m. on Wednesdays and Thursdays during the months of April, May, June and July to demonstrate limited business activity during these times. Appended hereto is a summary of the petitioner’s financial summary reports. These reports will be available for inspection during the 21 AUG 2019 hearing but have not be include in the Board’s record to respect the confidential nature of this information.
STAFF RECOMMENDATION:

It is the duty of the Board of Zoning Appeals to determine whether the petitioner’s request to modify the Board’s hours of operation related condition included in its 15 MAR 2017 conditional use approval advances the Planning and Zoning Code’s intent to ensure establishments within the B-4 District selling liquor are “bona fide restaurant” establishments.

Because the Board has already granted conditional “Restaurant, Private Club” use approval, no further consideration of new or revised Findings of Fact appear necessary. Specifically, the matter before the Board is to determine which of the following options preserves and advances the intent of related Planning and Zoning Code provisions for the Morgantown Flour and Feed conditional “Restaurant, Private Club” use:

1. Deny the petitioner’s request to modify the hours of operation related condition included in the Board’s 15 MAR 2017 conditional use approval under Case No. CU17-02. The basis of this decision would be continued concern the establishment operate as a “bona fide restaurant” rather than a “Private Club” use where food sales is not required.

2. Approve the petitioner’s request to modify the hours of operation related condition so that the establishment would be required to be open to the general public a minimum of 11:00 a.m. to 1:00 p.m., three (3) days a week, for the purpose of serving lunch as generally described in the menu submitted with the petitioner’s conditional use application. The basis of this decision would be that the Morgantown Flour and Feed establishment and its ownership [Morgantown Flour and Feed Co, LLC] have satisfactorily demonstrated “bona fide restaurant” operations since conditional use approval was granted on 15 MAR 2017 under Case No. CU17-02.

3. Eliminate the hours of operation-related condition so that the establishment’s ownership may operate during hours of the day and days of the week it deems necessary and appropriate in responding to and capturing restaurant market opportunities.

Staff recommends the Board consider Options 2 or 3 above, with preference for Option No. 3.

Attachments: Application and accompanying materials
Clipped from Monongalia County Assessor Office’s Parcel Viewer – Part of Tax Map 28
Table of Contents

<table>
<thead>
<tr>
<th>CU17-02 2017 Staff Report</th>
<th>Page 2 of 65</th>
</tr>
</thead>
<tbody>
<tr>
<td>CU17-02 2017 Staff Report Addendum A</td>
<td>Page 5 of 65</td>
</tr>
<tr>
<td>CU17-02 2017 Staff Report Addendum B</td>
<td>Page 6 of 65</td>
</tr>
<tr>
<td>CU17-02 2017 Staff Report Addendum C</td>
<td>Page 8 of 65</td>
</tr>
<tr>
<td>CU17-02 2017 Staff Report Addendum D</td>
<td>Page 32 of 65</td>
</tr>
<tr>
<td>CU17-02 2017 Application</td>
<td>Page 33 of 65</td>
</tr>
<tr>
<td>CU17-02 2017 Additional Material</td>
<td>Page 37 of 65</td>
</tr>
<tr>
<td>March 15, 2017 Board of Zoning Appeals Minutes</td>
<td>Page 58 of 65</td>
</tr>
<tr>
<td>CU17-02 2017 Approval letter</td>
<td>Page 63 of 65</td>
</tr>
</tbody>
</table>
MARTOWN BOARD OF ZONING APPEALS
March 15, 2017
6:30 PM
Morgantown Municipal Airport ARFF Building – Conference Room

STAFF REPORT

CASE NO: CU17-02 / Morgantown Flour and Feed Co. / 156 Clay Street

REQUEST and LOCATION:
Request by Kristin Elek, on behalf of Morgantown Flour & Feed Co. LLC, for approval of a conditional “Restaurant, Private Club” use at 156 Clay Street

TAX MAP NUMBER(s) and ZONING DESCRIPTION:
Tax Map 20, Parcel 38, B-4, General Business District

SURROUNDING ZONING:
B-4, General Business District

BACKGROUND and ANALYSIS:
The petitioner seeks to establish a “Restaurant, Private Club” use that will include a license with the West Virginia Alcoholic Beverage Control Administration to serve liquor. Addendum A of this report illustrates the location of the subject site.

Table 1331.06.01 “Permitted Land Uses” provides that the development of “Restaurant, Private Club” uses in the B-4 District requires conditional use approval by the Board of Zoning Appeals. Addendum B of this report contains related excerpts from Section 1331.06(27) of the Planning and Zoning Code.

Per the petitioner’s application and exhibits, the Morgantown Flour and Feed Company is approximately 3,500 square feet in area, and the menu will feature a combination of traditional American fare and refined specialty dishes prepared by Chef Seth French, a graduate of La Cordon Bleu – Pittsburgh, PA.

The petitioner submitted a sample menu, floor plan showing seating configurations, business organization documents, and staff bios with the conditional use application.

A site visit was conducted at 4:45 p.m. on March 6, 2017 with members of the Board and included a tour of the facility by the petitioner and discussion of contemplated opening dates. Notes from the site visit are attached hereto as Addendum C. As requested at the site visit, Addendum C also includes the staff report, application, approval letter, and meeting minutes relating to Case No. CU13-19 for the Lebanese Bistro, which previously occupied the subject restaurant space as an approved conditional “Restaurant, Private Club” use.

STAFF RECOMMENDATION:
The Board of Zoning Appeals must first determine whether or not it will waive the one-year “bona fide restaurant” requirement [Section 1331.06(27)(c)] prior to the petitioner
obtaining a liquor license from the West Virginia Alcohol Beverage Control Administration.

Should the Board decide to waive said one-year “bona fide restaurant” requirement, it must determine whether the proposed request meets the standard criteria for a conditional use by reaching a positive determination for each of the “Findings of Fact” submitted by the petitioner.

Addendum D of this report restates the petitioner’s findings of fact responses. Staff makes no recommendation concerning whether or not the petitioner’s findings should be modified. It should be noted the petitioner has presented the same conditional use findings approved by the Board under Case No. CU13-19 for the Lebanese Bistro, which previously occupied the subject restaurant space as an approved conditional “Restaurant, Private Club” use.

Should the Board waive the one-year “bona fide restaurant” requirement and grant approval of the subject conditional use petition to Morgantown Flour and Feed Company, Staff recommends the following conditions be included:

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 obtain permitting as a “restaurant” from the Monongalia County Health Department under the Monongalia County Clean Indoor Air Regulations.

3. That the “Restaurant, Private Club” use shall be limited to the interior design and identified areas of the subject building as illustrated on the drawings submitted with the application and reviewed and approved by the Board of Zoning Appeals. Any expansion of the conditional use or significant deviation from said facility layout design, operations, or proposed dining experience must first be approved by the Board of Zoning Appeals.

4. That, to ensure that the petitioner’s business description and plans are executed as described and considered in granting the one-year “bona fide restaurant” waiver, the subbed “Restaurant, Private Club” use must:
   a. Be open to the general public a minimum of 11:00 a.m. to 1:00 p.m. Monday through Friday for the purpose of serving lunch as generally described in the menu submitted with the petitioner’s conditional use application.
   b. 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 Section 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.
MORGANTOWN BOARD OF ZONING APPEALS
March 15, 2017
6:30 PM
Morgantown Municipal Airport ARFF Building – Conference Room

Board Members:
Leanne Candoso, Chair
Colin Waddleworth, Vice-Chair
Harrison Case
George Papandreas
Jim Shaffer

Development Services
Christopher Fletcher, AICP
Director
John Whitemore, AICP
Planner III

Planning Division
359 Spence Street
Morgantown, WV 26505
304.284.7431

5. That any regulated signage shall be reviewed and approved by the Downtown Design Review Committee and the Planning Division prior to building permit issuance for same.

6. That the beneficiary of this conditional use approval is Morgantown Flour and Feed Co. LLC, which may not be transferred without prior approval of the Board of Zoning Appeals.

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

(a) Such private club shall have as its principal purpose the business of serving meals on its premises to its patrons and to members of such club and their guests. For the purposes of this section, the term “meals” shall be consistent with that of the State of West Virginia as defined in its Legislative Rules and Regulations pertaining to Private Club License and shall not include packaged potato chips and similar products; packaged crackers; packaged nuts; packages of desserts (fruit pies, cakes, cookies, etc.); and bar sausages and similar products.

(b) Such private club with a bar shall post a sign not smaller than three (3) square feet in a prominent location near the bar that states the following: “It is a violation of City Ordinance to serve wine or liquor beverages after 1:00 a.m.” (Amended by Cord. 08-14. Passed 06-06-2006.)

(c) No such applicant may be licensed as a private club under this conditional use that has not been in operation for at least one year as a bona fide restaurant before making application for a license under this conditional use. However, when an applicant owns another restaurant the same as the one being proposed, the Board of Zoning Appeals may consider the proposed restaurant application on the basis of the existing restaurant which has been in operation for at least one year. In the B-4 district, the Board of Zoning Appeals may waive the requirement, to be in business for one year as a bona fide restaurant, when the applicant’s written description of the business operations, plus floor plans, demonstrate clearly that the establishment will meet the criteria in this subsection of the ordinance.

(d) NOT APPLICABLE

(e) Food and non-alcoholic beverages shall comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.

(f) Such private club shall provide a seating capacity for at least fifty (50) persons, at a table or counter maintained for the principal purpose of serving meals. Seats at a bar, which is primarily for the serving of alcoholic beverages, shall not be counted as meeting the minimum seating capacity of the establishment. Liquor or wine may be served either at seats intended primarily for dining, or at any bar area within the restaurant, with or without an accompanying meal.

(g) Liquor or wine shall not be served later than 1:00 a.m., except on New Year’s Eve.

(h) The private club shall, at the time of each sale or at the time of payment, record the amount of revenue derived from the sale of liquor and wine beverages separately from the amount of revenue derived from the sale of food and non-alcoholic beverages.

(i) During each calendar month, the private club shall maintain and preserve accurate and adequate records including those required by paragraphs (e) and (h) above, to prove compliance with the City’s Finance Director, and shall make all such records available for review and audit promptly upon request by the Finance Director. The records for each month shall be preserved for not less than twenty-four (24) months next following.

(j) Quarterly, the private club shall send to the City Finance Director summaries showing the amount of revenue derived from liquor and wine beverages versus the amount derived from the sale of food and non-alcoholic beverages.

(k) NOT APPLICABLE
## Addendum C – Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 6, 2017 Field Notes</td>
<td>9</td>
</tr>
<tr>
<td>CU13-19 Staff Report</td>
<td>10</td>
</tr>
<tr>
<td>CU13-19 Staff Report Addendum A</td>
<td>13</td>
</tr>
<tr>
<td>CU13-19 Staff Report Addendum B</td>
<td>15</td>
</tr>
<tr>
<td>CU13-19 Staff Report Addendum C</td>
<td>16</td>
</tr>
<tr>
<td>CU13-19 Application</td>
<td>17</td>
</tr>
<tr>
<td>CU13-19 Additional Material</td>
<td>22</td>
</tr>
<tr>
<td>CU13-19 BZA Action Letter</td>
<td>24</td>
</tr>
<tr>
<td>November 20, 2013 Board of Zoning Appeals Minutes (CU13-19 Sections)</td>
<td>27</td>
</tr>
</tbody>
</table>
Field Notes

Purpose: Restaurant, Private Club in B-4 District

Date: 3/6/2017 Time: 4:45 PM-5:30 PM Weather: N/A (indoors)

General:

4:45 PM arrival

Notes:

Mr. Elek and petitioner’s Chef, Mr. French showed the property and introduced themselves to attending BZA members (Cardoso, Wattleworth, Case, and Papandreas). A menu was shown to the Board members, and a tour of the facilities, including basement was provided. The space appears to have a fully functioning commercial kitchen, with prep area in basement. The applicant will host a soft opening planned for March 17, 2017, leaving hours between potential approval/denial notification and opening. Space will hold 100 regular table seats, 15 bar seats, and 50 exterior seats. The restaurant will stop serving dinner at 10 PM +/-, and feature a limited menu until closing, at 1:00 AM or earlier.

Author’s Notes:

Staff was requested to will provide the Lebanese Bistro, CU13-19 case information (staff report, application, and minutes) as an addendum to the Morgantown Flour and Feed Co. Staff Report. (See Further Attachments)
MORGANTOWN BOARD OF ZONING APPEALS
November 20, 2013
6:30 PM
City Council Chambers

STAFF REPORT

CASE NO: CU13-19 / Lebanese Bistro, LLC / 156 Clay Street

REQUEST and LOCATION:
Request by George Tanios, on behalf of Lebanese Bistro, LLC, for conditional use approval of a "Restaurant, Private Club" use located at 156 Clay Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:
Tax Map 28, Parcel 38; B-4, Service Business District

SURROUNDING ZONING:
B-4, Service Business District

BACKGROUND and ANALYSIS:
The petitioner seeks to establish a “Restaurant, Private Club” use that will include a license with the West Virginia Alcohol Beverage Control Administration to liquor. Addendum A of this report illustrates the location of the subject site.

Table 1331.05.01 “Permitted Land Uses” provides that the development of "Restaurant, Private Club" uses in the B-4 District requires conditional use approval by the Board of Zoning Appeals. Addendum B of this report contains related excerpts from Article 1331.00(27) of the Planning and Zoning Code.

According to the petitioner’s application and exhibits, the Lebanese Bistro is approximately 3,500 square feet and will feature Middle Eastern and Lebanese cuisine.

Meals will be served with many appetizers and a main entree. All dishes will be made with fresh ingredients and several dishes will be vegetarian and gluten free. Service will be typical for a sit-down restaurant with a host seating guests; a server taking orders and delivering the food; and the guest will pay the server. A lunch buffet will be offered Monday through Friday from 11:30 AM to 2:00 PM for $9.95. The buffet will consist of many cold dishes, soup, and a few hot items.

The Lebanese Bistro will be open seven (7) days a week; closing at 10:00 PM during the week; open until 12:00 AM on Friday and Saturday; and, closed Sunday at 4:00 PM.

The petitioner emailed Staff photo images of the lunch and dinner menus but the quality (resolution) of the images was not sufficient to attach hereto. However, the petitioner will be distributing copies of the menu at the Board’s hearing.

The petitioner submitted floor plans to Staff. However, the physical size of the plans was too large to scan and attach hereto. The submitted floor plan will be available for review at the Board’s hearing.

Page 1 of 3
MORGANTOWN BOARD OF ZONING APPEALS

November 20, 2013
6:30 PM
City Council Chambers

The 18 NOV 2013 email from the petitioner to Staff and attached hereto provides additional information concerning the petitioner’s bona fide restaurant operations and restaurant business background.

The subject restaurant space was previously occupied by La Casa Mexican Grill and Synergy Chop House and Salon, both of which held liquor licenses grandfathered from present related conditional use approval and performance standard requirements.

STAFF RECOMMENDATION:

The Board of Zoning Appeals must first determine whether or not it will waive the one-year “bona fide restaurant” requirement [Article 1331.06(27)(c)] prior to the petitioner obtaining a liquor license from the West Virginia Alcohol Beverage Control Administration.

Should the Board decide to waive said one-year “bona fide restaurant” requirement, it must determine whether the proposed request meets the standard criteria for a conditional use by reaching a positive determination for each of the “Findings of Fact” submitted by the petitioner.

Addendum C of this report provides Staff recommended revisions to the petitioner’s Findings of Fact (deleted matter struck through; new matter underlined).

Should the Board waive the one-year “bona fide restaurant” requirement and grant approval of the subject conditional use petition to Lebanonos Bistro, LLC, Staff recommends the following conditions be included:

1. That the petitioner must maintain compliance with all supplemental regulations set forth in Article 1331.06(27) of the Planning and Zoning Code.

2. That the petitioner must obtain permitting from the Monongalia County Health Department under the Monongalia County Clean Indoor Air Regulations.

3. That the “Restaurant, Private Club” use shall be limited to the interior design and identified areas of the subject building as illustrated on the drawings submitted with the application and reviewed and approved by the Board of Zoning Appeals. Any expansion of the conditional use or significant deviation from said facility layout design, operations, or proposed dining experience must first be approved by the Board of Zoning Appeals.

4. That, to ensure that the petitioner’s business description and plans are executed as described and considered in granting the one-year “bona fide restaurant” waiver, the subject “Restaurant, Private Club” use must:
   a. Be open to the general public; a minimum of 11:00 AM to 1:00 PM Monday through Friday for the purpose of serving lunch as generally described in the menu submitted with the petitioner’s conditional use application.
MORGANTOWN BOARD OF ZONING APPEALS
November 20, 2013
6:30 PM
City Council Chambers

Board Members:
Bernie Bossio, Chair
Leanne Cardoso, Vice-Chair
George Papandreou
Tom Shomberger
Jim Shaffer

b. 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.

5. That any regulated signage shall be reviewed and approved by the Downtown Design Review Committee and the Planning Division prior to building permit issuance for same.

6. That the beneficiary of this conditional use approval is Lebanese Bistro, LLC, which may not be transferred without prior approval of the Board of Zoning Appeals.

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

(a) Such private club shall have as its principal purpose the business of serving meals on its premises to its patrons and to members of such club and their guests. For the purposes of this section, the term “meal” shall be consistent with that of the State of West Virginia as defined in its Legislative Rules and Regulations pertaining to Private Club License and shall not include packaged potato chips and similar products; packaged crackers; packaged nuts; packages desserts (fruit pies, cakes, cookies, etc.); and bar sausages and similar products.

(b) Such private club with a bar shall post a sign not smaller than three (3) square feet in a prominent location near the bar that states the following: “It is a violation of City Ordinance to serve wine or liquor beverages after 1:00 a.m.” (Amended by Ord. 06-14, Passed 06-06-2006.)

(c) No such applicant may be licensed as a private club under this conditional use that has not been in operation for at least one year as a bona fide restaurant before making application for a license under this conditional use. However when an applicant owns another bona fide restaurant the same as the one being proposed, the Board of Zoning Appeals may consider the proposed restaurant application on the basis of the existing restaurant which has been in operation for at least one year. In the B-4 district the Board of Zoning Appeals may waive the requirement, to be in business for one year as a bona fide restaurant, when the applicant’s written description of the business operations, plus floor plans, demonstrate clearly that the establishment will meet the criteria in this subsection of the ordinance.

(d) NOT APPLICABLE

(e) Food and non-alcoholic beverages shall comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.

(f) Such private club shall provide a seating capacity for at least fifty (50) persons, at a table or counter maintained for the principal purpose of serving meals. Seats at a bar, which is primarily for the serving of alcoholic beverages, shall not be counted as meeting the minimum seating capacity of the establishment. Liquor or wine may be served either at seats intended primarily for dining, or at any bar area within the restaurant, with or without an accompanying meal.

(g) Liquor or wine shall not be served later than 1:00 a.m., except on New Year’s Eve.

(h) The private club shall, at the time of each sale or at the time of payment, record the amount of revenue derived from the sale of liquor and wine beverages separately from the amount of revenue derived from the sale of food and non-alcoholic beverages.

(i) During each calendar month, the private club shall maintain and preserve accurate and adequate records including those required by paragraphs (e) and (h) above, to prove compliance to the City’s Finance Director, and shall make all such records available for review and audit promptly upon request by the Finance Director. The records for each month shall be preserved for not less than twenty-four (24) months next following.

(j) Quarterly, the private club shall send to the City Finance Director summaries showing the amount of revenue derived from liquor and wine beverages versus the amount derived from the sale of food and non-alcoholic beverages.

(k) NOT APPLICABLE
STAFF REPORT ADDENDUM C  
CU 13-19 / Lebanese Bistro / 156 Clay Street

Staff recommended revisions to petitioner’s Findings of Fact (deleted matter struck through; new matter underlined).

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

This location has been operated as a restaurant for several years with no change in patterns proposed from previous restaurant occupants of the subject site. The Wharf Parking Garage is located approximately 600 feet from the proposed “Restaurant, Private Club” use.

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

All fire systems and sprinkler system has been tested. CO was permitted from fire marshall. The establishment and building will be required to meet all related life safety building and fire code provisions.

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

The subject structure already exists and should therefore not affect present light distribution and air flow patterns.

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

It has never happened before. No expansion of the existing building is proposed that would increase its building footprint or building height.

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

There is more than enough room for everyone. Maximum occupancy will be regulated by related building and fire code provisions. There is no residential use proposed as a part of the conditional “Restaurant, Private Club” use.

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 previous restaurants never had a problem and we should be the same. The subject conditional “Restaurant, Private Club” establishment will be located in a space that has already been used and occupied as a restaurant and should therefore not require any further public services or utilities.

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

The property has been cleaned painted, and fixed all issues. Property is now in prime shape. The location of the proposed “Restaurant, Private Club” has been occupied by various restaurant uses for several years, which do not appear to have adversely impacted property values within the immediate area.

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

The location of the proposed “Restaurant, Private Club” has been occupied by restaurant uses for several years and is located in close proximity to other various restaurant uses within the downtown Wharf District.
City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT

Name: Lebanese Bistro LLC
Phone: 304-381-2127
Mailing Address: 156 Clay Street
City: Morgantown
State: WV
Zip: 26501
Email: Lebanonesebistro1.com

II. AGENT / CONTACT INFORMATION

Name: George Lancia
Phone: 814-301-2805
Mailing Address: 156 Clay Street
City: Morgantown
State: WV
Zip: 26501
Email:

Mailings – Send all correspondence to (check one): [] Applicant OR [ ] Agent/Contact

III. PROPERTY

Owner: Mike Vecchio
Phone: 304-319-0600
Mailing Address: 142 Vecchio Lane
City: Morgantown
State: WV
Zip: 26508
Email:

IV. SITE

Street Address (if assigned): Tax Map #: Parcel #:
Zoning:


Shape of Lot: [] Corner [] Interior [] Through [] Flag [] Irregular [] Non-conforming

Existing Use of Structure or Land:

Proposed Use of Structure of Land:
### V. STRUCTURE

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Height of Structure:</td>
<td></td>
<td></td>
<td>No. of Proposed Off-Street Parking Spaces:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No. of Dwelling Units (if applicable):</td>
<td></td>
<td></td>
<td>No. of Bedrooms:</td>
<td></td>
<td></td>
<td>No. of Employees:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Square Footage of all Proposed Structures (please explain):</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Please see drawing.**

### VI. SITE PLAN

A Site Plan (8 copies), drawn to scale, that includes the following elements must accompany the application if not provided above in Sections IV and V:

(a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a registered design professional licensed by the State of West Virginia.

(b) The exact sizes and locations on the lot of existing structures, if any;

(c) The location, square footage, and dimensions of the proposed structure or alteration;

(d) The location of the lot with respect to adjacent rights-of-way;

(e) The existing and proposed uses of the structure and land;

(f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;

(g) The location and dimensions of off-street parking and means of ingress and egress for such spaces;

(h) Height of structure;

(i) Setbacks;

(j) Buffer yard and screening, if applicable;

(k) Location of garbage collection area and screening;

(l) Location of existing and/or proposed signs, if applicable;

(m) roadway typical detail for internal roadways, if applicable;

(n) Location and size of stormwater management facilities; and,

(o) Utility lines and easements, if applicable.
VII. SUPPLEMENTAL PLANS AND EXHIBITS

Applicants MUST also submit the following plans and exhibits, unless waived by the Planning Director:

(a) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer licensed by the State of West Virginia, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets.

(b) If applicable, design of stormwater management facilities and drainage calculations that bear the name, address, and seal of a registered professional engineer licensed by the State of West Virginia that meet the requirements of the City Zoning Ordinance, the City Stormwater Management Ordinance, and all other applicable local, state and federal regulations.

(c) Parking and Landscaping Plan

(d) Sign Plan

(e) Approved WV Division of Highways Access Permit, if applicable

(f) Sediment and erosion control plan as approved by the West Virginia Department of Environmental Protection and the City of Morgantown

(g) Approved State of West Virginia NPDES General Permit for Storm Water Associated with Industrial (Construction) Activity, if applicable

(h) A traffic impact study, if required by the City Engineer

(i) The Planning Director may require the applicant to submit additional information concerning the lot or neighboring lots to determine conformance with, and provide for the enforcement of, the City Zoning Ordinance.

(j) The Planning Director may require the applicant to submit, in the case of accessory structures or minor additions, dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey prepared a registered design professional licensed by the State of West Virginia.

Applicants submitting a conditional use application in accordance with Article 313.05 “Building Height and Use” within the B-4 General Business District MUST also submit the following analyses:

(a) An air flow analysis conducted by a licensed architect or profession engineer, describing the estimated impact of the proposed building on existing patterns of air flow in the general vicinity; and how these impacts may affect existing properties with a 300 foot radius of the site.

(b) An analysis of the impacts of the proposed building on sunlight distribution in the general vicinity, with special emphasis on predicting light blockage and shadow casting onto all properties with a 300 foot radius of the site. Such analysis shall be conducted by a licensed architect or professional engineer.

(c) An analysis of the potential of “stepping back” upper floors as a technique to avoid negative impacts with respect to light and airflow, and to minimize the canyon effect of non-recess tall buildings. Such analysis shall be conducted by a licensed architect or professional engineer.

(d) An infrastructure and traffic analysis predicting the impacts of the building on water, sewer, drainage, electrical and gas infrastructure, on transportation levels of service (including transit) for impacted streets, and on fire suppression capabilities of the city. Such analysis shall be conducted by a licensed architect or professional engineer.
## VIII. 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 is not increased, in that:**
   - This location has been operated as a restaurant for several years with no change in patterns.

2. **Safety from fire, panic, and other danger is not jeopardized, in that:**
   - All fire systems and sprinkler system have been tested. CO was permitted from fire Marshall.

3. **Provision of adequate light and air is not disturbed, in that:**

4. **Overcrowding of land does not result, in that:**
   - It has never happened before.

5. **Undue congestion of population is not created, in that:**
   - There is more than enough room for everyone.
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:

   The previous restaurants never had a problem and we should be the same

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

   The property has been cleaned, painted, and fixed all issues. Property is now in prime shape.

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

IX. 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.

George Tannos

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

- Conditional Use Petition Fee of $75 must accompany application
Re: Lebanese Bistro - Conditional Use Application

From: George Tanios <lebanesebistro@gmail.com>  
To: Christopher Fletcher <cfletcher@cityofmorgantown.org>  

Mon, Nov 18, 2013 08:48 AM

A detailed written description of the proposed restaurant including type, style, service, operations, lunch and dinner menus, hours of operation, floor plans, etc.

The proposed restaurant will serve Middle Eastern, Lebanese food. The meals are served with many appetizers and a main entree. All dishes are made with fresh ingredients in house. Several of the dishes are Vegetarian and Gluten Free. Service will be typical for a sit down restaurant. Host will seat guests, a server comes and takes the order, brings the food over to the guest, guest will pay the server. Lebanese Bistro will be open 7 days a week. Closing at 10pm during the week. Open till 12am on Friday & Saturday, closed Sunday at 4pm. A Lunch Buffet will be offered Monday - Friday 11:30am - 2:00pm for $9.95. Buffet will consist of many cold dishes, Soup and a few hot items. Sandwiches and full menu are attached to e-mail. Floor plans have been given.

- A detailed written explanation that the proposed "Restaurant, Private Club" establishment will operate as a bona fide restaurant. In other words, the sale of food and non-alcoholic beverage will be 60% or more of the restaurant's total gross sales of all food and drink items.

The Lebanese Bistro will run as a Full Scale Restaurant with Food, Wine, Beer and Alcohol. Our focus is our food. We will be doing a happy hour with food and drink specials. Lebanese Bistro has been open for nearly a month now without beer, wine, and liquor and we have had a great response so far. A lot of time, money, and energy has been put into our kitchen and prep areas which should prove that the bar comes secondary to that. However several of our customers would like to enjoy their meal with a drink. We do not foresee sales of Alcohol exceeding 40% because many of our guests are older, more educated, not of the heavy drinking type and also Muslim who do not drink because of their religion.

- A detailed written explanation of your personal experience in owning another bona fide restaurant the same as or similar to the one being proposed.

The Lebanese Bistro is owned and operated by George Tanios. George Tanios has been self-employed since 2001 and has owned several businesses. A landscaping company, ice cream business, 3 restaurants, (2 in State College PA, 1 in Morgantown), the franchisor of Sandwich University LLC, a sports bar named 4th & Goal, and 3 Convenience Stores which sell Beer & Wine. He has moved his parents to Morgantown from New Jersey to cook and help manage operations. His parents, Pierre & Maggie, owned and operated G&B Lebanese Restaurant in New Brunswick, NJ for 30 years (second longest running restaurant in town) Several of his family members also own restaurants in the New Jersey area. To say "He was born into it" would be an understatement. Working in the family businesses growing up, being self employed since high school, owning and operating several long standing businesses, experience with employees, vendors, and customers, George is confident enough to put his money and efforts into the Lebanese Bistro and make it a success.

The Lebanese Bistro has been open and is seeing many returning guests and has had great reviews. The Wine, Beer, and Liquor would just be a side dish to the main one, the food.

Chris,

I hope this answers your questions in more detail. I apologize for any inconvenience and thank you for giving me the opportunity to resolve the issue today. Please let me know what else I need to do.

On Sun, Nov 17, 2013 at 8:15 PM, Christopher Fletcher <cfletcher@cityofmorgantown.org> wrote:
Email it to me as soon as possible so I can review to ensure all the elements are addressed.

Christopher M. Fletcher, AICP
Director of Development Services

From: "Lebanese Bistro" <lebanesebistro@gmail.com>
To: "C Fletcher" <c Fletcher@cityofmorgantown.org>
Sent: Sunday, November 17, 2013 10:17:43 AM
Subject: Re: Lebanese Bistro - Conditional Use Application

Yes, I will have something typed tonight and emailed over to you. Or do I print and bring over.

George Tanios
President
Lebanese Bistro LLC
Sent from my iPhone

On Nov 15, 2013, at 7:27 PM, C Fletcher <c Fletcher@cityofmorgantown.org> wrote:

Can you submit all the elements listed by noon on Monday?

Christopher M. Fletcher, AICP
Director of Development Services
Sent from smartphone. please excuse typos.

Lebanese Bistro <lebanesebistro@gmail.com> wrote:

---

Bistro Menu.JPG
33 KB

---

Bistro Sandwich Menu.JPG
33 KB
November 21, 2013

Lebanese Bistro, LLC  
c/o George Tanios  
156 Clay Street  
Morgantown, WV 26501

RE: CU13-19 / Lebanese Bistro / 156 Clay Street  
Tax Map 28, Parcel 38

Dear Mr. Tanios:

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced conditional use petition for “Restaurant, Private Club” use at 156 Clay Street. The decision is as follows:

Board of Zoning Appeals, November 20, 2013:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.

2. The Board approved Case No. CU13-19 as requested with the following conditions:
   1. That the petitioner must maintain compliance with all supplemental regulations set forth in Article 1331.06(27) of the Planning and Zoning Code.
   2. That the petitioner must obtain permitting as a “restaurant” from the Monongalia County Health Department under the Monongalia County Clean Indoor Air Regulations.
   3. That the “Restaurant, Private Club” use shall be limited to the interior design and identified areas of the subject building as illustrated on the drawings submitted with the application and reviewed and approved by the Board of Zoning Appeals. Any expansion of the conditional use or significant deviation from said facility layout design, operations, or proposed dining experience must first be approved by the Board of Zoning Appeals.
   4. That, to ensure that the petitioner’s business description and plans are executed as described and considered in granting the one-year “bona fide restaurant” waiver, the subject “Restaurant, Private Club” use must:
      a. Be open to the general public a minimum of 11:00 AM to 1:00 PM Monday through Friday for the purpose of serving lunch as generally described in the menu submitted with the petitioner’s conditional use application.
      b. 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.

5. That any regulated signage shall be reviewed and approved by the Downtown Design Review Committee and the Planning Division prior to building permit issuance for same.

6. That the beneficiary of this conditional use approval is Lebanese Bistro, LLC, which may not be transferred without prior approval of the Board of Zoning Appeals.

The approval of this conditional use is set to expire in twelve (12) months unless you can demonstrate that it has been acted upon 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.

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 applicant.

Please note that requisite building permits and sign permits must be obtained prior to the commencement of any work.

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

Respectfully,

Stacy Hollar
Executive Secretary
Development Services Department
shollar@cityofmorgantown.org
ADDENDUM A – Approved Findings of Fact
CU13-19 / Lebanese Bistro / 156 Clay Street

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:
This location has been operated as a restaurant for several years with no change in patterns proposed from previous restaurant occupants of the subject site. The Wharf Parking Garage is located approximately 500 feet from the proposed “Restaurant, Private Club” use.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:
The establishment and building will be required to meet all related life safety building and fire code provisions.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:
The subject structure already exists and should therefore not affect present light distribution and air flow patterns.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:
No expansion of the existing building is proposed that would increase its building footprint or building height.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:
Maximum occupancy will be regulated by related building and fire code provisions. There is no residential use proposed as a part of the conditional “Restaurant, Private Club” use.

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 subject conditional “Restaurant, Private Club” establishment will be located in a space that has already been used and occupied as a restaurant and should therefore not require any further public services or utilities.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:
The location of the proposed “Restaurant, Private Club” has been occupied by various restaurant uses for several years, which do not appear to have adversely impacted property values within the immediate area.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:
The location of the proposed “Restaurant, Private Club” has been occupied by restaurant uses for several years and is located in close proximity to other various restaurant uses within the downtown Wharf District.
Papandreus asked the Board if they would allow a sign of that size to be raised five feet from the ground and expressed concerns of the sign blocking views and feels it could affect the value of the property.

Shamberger felt the road visibility would not be an issue as there is enough height in the sign. Bossio agreed.

Shaffer stated that he had not considered how the sign might affect properties to the west of the site and felt more information was needed to fully understand the location of the billboard and suggested postponing the case until additional information could be obtained.

Shamberger asked which Findings of Fact was a concern. Bossio stated that Findings of Fact 3 and 7 are a factor as they refer to adequate light, air and value of the surrounding buildings being affected.

Bossio and Papandreus agreed that they had also not considered viewshed considerations west of the proposed billboard sign location.

Bossio suggested postponing the case and visit the site to gain a better understanding of the billboard and its positioning instead of denying the request. He noted that other communities demonstrate by using balloons attached to a crane.

Bossio invited Bonasso to the podium and asked if he was familiar with using balloons to demonstrate the positioning of billboards. Bonasso stated he was familiar with using a balloon on a tether.

Bossio suggested Adkins and her client could be notified prior to a site visit so they could gain a better perspective of how the billboard would be positioned.

Papandreus made a motion to table Case No. CU13-18 pending a site visit; seconded by Shaffer. Motion carried unanimously.

Bossio reiterated to Bonasso that the request was tabled to the December 2013 Board of Zoning Appeals Hearing and to contact the Planning Office to make arrangements for a site visit.

B. CU13-19 / Lebanese Bistro / 156 Clay Street: Request by George Tanios, on behalf of Lebanese Bistro, LLC, for conditional use approval of a “Restaurant, Private Club” use located at 156 Clay Street under Article 1331.06(27); Tax Map 28, Parcel 38; B-4, Service Business District.

Bossio recused himself due to a prior business relationship with the petitioner. Bossio left the Chambers and Shamberger took the Chair position.

Fletcher read the Staff Report stating the petitioner seeks to establish a “Restaurant, Private Club” use that will include a license with the West Virginia Alcohol Beverage Control Administration to liquor. Addendum A of this report illustrates the location of the subject site.

Table 1331.05.01 “Permitted Land Uses” provides that the development of “Restaurant, Private Club” uses in the B-4 District requires conditional use approval by the Board of Zoning Appeals.
Addendum B of this report contains related excerpts from Article 1331.06(27) of the Planning and Zoning Code.

According to the petitioner’s application and exhibits, the Lebanese Bistro is approximately 3,500 square feet and will feature Middle Eastern and Lebanese cuisine.

Meals will be served with many appetizers and a main entree. All dishes will be made with fresh ingredients and several dishes will be vegetarian and gluten free. Service will be typical for a sit-down restaurant with a host seating guests; a server taking orders and delivering the food; and the guest will pay the server. A lunch buffet will be offered Monday through Friday from 11:30 AM to 2:00 PM for $9.95. The buffet will consist of many cold dishes, soup, and a few hot items.

The Lebanese Bistro will be open seven (7) days a week; closing at 10:00 PM during the week; open until 12:00 AM on Friday and Saturday; and, closed Sunday at 4:00 PM.

The petitioner emailed Staff photo images of the lunch and dinner menus but the quality (resolution) of the images was not sufficient to attach hereto. However, the petitioner will be distributing copies of the menu at the Board’s hearing.

The petitioner submitted floor plans to Staff. However, the physical size of the plans was too large to scan and attach hereto. The submitted floor plan will be available for review at the Board’s hearing.

The 18 NOV 2013 email from the petitioner to Staff and attached hereto provides additional information concerning the petitioner’s bona fide restaurant operations and restaurant business background.

The subject restaurant space was previously occupied by La Casa Mexican Grill and Synergy Chop House and Saloon, both of which held liquor licenses grandfathered from present related conditional use approval and performance standard requirements.

Shamberger recognized George Tanios of 156 Clay Street who stated he took over the lease approximately two years ago based on the assumption he would be able to open a full scale restaurant. The restaurant is currently serving beer and wine.

Shamberger explained the Board would have to first determine whether or not to waive the one-year “bona fide restaurant” requirement and that 60% of all sales must be food.

Tanios understood the requirement could be waived based on his experience as a business owner and operator. He currently owns two beer and wine licenses with the ABC of West Virginia at two convenience stores, and previously held a liquor license with a former establishment on Walnut Street called 4th and Goal. There was one underage drinking violation in three years which did not happen on his shift.

Tanios stated that he currently owns one restaurant called Sandwich University that does not sell alcohol. Previously he owned two restaurants located in State College, PA and his family has a history of operating full scale restaurants for the past 30 years. Lebanese Bistro is a family-owned restaurant and they are depending on the business doing well and generating as much income as possible. Tanios does not anticipate selling more than 40% in alcohol, as the restaurant does not attract a binge drinking kind of crowd. There are currently four restaurants
on the Wharf District and three of them are serving liquor. Those restaurants are trying to
revitalize the area with bringing a more sophisticated crowd.

Shamberger asked how long the restaurant had been opened. Tanios stated the establishment
had been opened a month but didn’t press the issue because the purpose of the restaurant is
the food and not the liquor.

Papandreas asked if alcohol will be served inside and outside on the deck. Tanios explained
that the WVABCA does not allow selling liquor and wine on the back deck as it is a state law
that was not previously enforced.

There being no further comments or questions by the Board, Shamberger opened the public
hearing asking if anyone was present to speak in favor of or in opposition to the request.

Shamberger recognized Terri Cutright of Main Street Morgantown, who stated that she has
heard many positive comments about Lebanese Bistro and how the quality of food is excellent.
Main Street Morgantown encourages other restaurants in the Wharf and would like to see that
area become a dining district.

There being no further public comments, Shamberger declared the public hearing closed and
asked for Staff recommendations.

Fletcher stated that the Board of Zoning Appeals must first determine whether or not it will waive
the one-year “bona fide restaurant” requirement [Article 1331.06(27)(c)] prior to the petitioner
obtaining a liquor license from the West Virginia Alcohol Beverage Control Administration.

Should the Board decide to waive said one-year “bona fide restaurant” requirement, it must
determine whether the proposed request meets the standard criteria for a conditional use by
reaching a positive determination for each of the “Findings of Fact” submitted by the petitioner.

Addendum C of this report provides Staff recommended revisions to the petitioner’s Findings of
Fact (deleted matter struck through; new matter underlined).

Should the Board waive the one-year “bona fide restaurant” requirement and grant approval of
the subject conditional use petition to Lebanese Bistro, LLC, Staff recommends the following
conditions be included:

1. That the petitioner must maintain compliance with all supplemental regulations set forth
   in Article 1331.06(27) of the Planning and Zoning Code.

2. That the petitioner must obtain permitting as a “restaurant” from the Monongalia County
   Health Department under the Monongalia County Clean Indoor Air Regulations.

3. That the “Restaurant, Private Club” use shall be limited to the interior design and
   identified areas of the subject building as illustrated on the drawings submitted with the
   application and reviewed and approved by the Board of Zoning Appeals. Any expansion
   of the conditional use or significant deviation from said facility layout design, operations,
   or proposed dining experience must first be approved by the Board of Zoning Appeals.
4. That, to ensure that the petitioner’s business description and plans are executed as described and considered in granting the one-year “bona fide restaurant” waiver, the subject “Restaurant, Private Club” use must:

a. Be open to the general public a minimum of 11:00 AM to 1:00 PM Monday through Friday for the purpose of serving lunch as generally described in the menu submitted with the petitioner’s conditional use application.

b. 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.

5. That any regulated signage shall be reviewed and approved by the Downtown Design Review Committee and the Planning Division prior to building permit issuance for same.

6. That the beneficiary of this conditional use approval is Lebanese Bistro, LLC, which may not be transferred without prior approval of the Board of Zoning Appeals.

Papandreas made a motion to waive the one-year “bona fide restaurant” requirement; seconded by Shaffer. Motion carried unanimously.

Shaffer made a motion to find in the affirmative for all the Findings of Facts for CU13-19 as revised by Staff; seconded by Papandreas. Motion carried unanimously.

NOTE: The following Findings of Fact were included in the motion.

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

This location has been operated as a restaurant for several years with no change in patterns proposed from previous restaurant occupants of the subject site. The Wharf Parking Garage is located approximately 600 feet from the proposed “Restaurant, Private Club” use.

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

The establishment and building will be required to meet all related life safety building and fire code provisions.

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

The subject structure already exists and should therefore not affect present light distribution and air flow patterns.

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

No expansion of the existing building is proposed that would increase its building footprint or building height.

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

Maximum occupancy will be regulated by related building and fire code provisions. There is no residential use proposed as a part of the conditional “Restaurant, Private Club” use.

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:

Morgantown Board of Zoning Appeals
November 20, 2013 Minutes
The subject conditional “Restaurant, Private Club” establishment will be located in a space that has already been used and occupied as a restaurant and should therefore not require any further public services or utilities.

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

The location of the proposed “Restaurant, Private Club” has been occupied by various restaurant uses for a several years, which do not appear to have adversely impacted property values within the immediate area.

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

The location of the proposed “Restaurant, Private Club” has been occupied by restaurant uses for several years and is located in close proximity to other various restaurant uses within the downtown Wheeling District.

Shaffer moved approve CU13-19 with Staff recommended conditions; seconded by Papandreas. Motion carried unanimously.

Shamberger reminded Mr. Tanios that the Board’s decision can be appealed to Circuit Court within thirty days the decision and that any work related to the Board’s decision during this period would be at the sole financial risk of the petitioner.

C. CU13-20 / Chaang Thai Restaurant / 361 High Street: Request by Rajagopal Sundaram, on behalf of PR Thai Images Corporation, for approval of a conditional “Restaurant, Private Club” use located at 361 High Street under Article 1331.06(27); Tax Map 26A, Parcel 98; B-4, Service Business District.

Bossio returned to Chambers and assumed the Chair. Papandreas recused himself due to a business relationship with the petitioner.

Fletcher read the Staff Report stating According to the petitioner, Chaang Thai Restaurant seeks to offer, “six to seven exotic [liquor-based] drinks from Thailand to cater to the existing clientele who expect a unique authentic Thai experience.” Addendum A of this report illustrates the location of the subject site.

The City’s Planning and Zoning Code requires conditional use approval from the Board to sell liquor in the B-4 District as a “Restaurant, Private Club” use. Addendum B of this report contains related excerpts from Article 1331.065(27) of the Planning and Zoning Code.

Chaang Thai Restaurant opened at 361 High Street in August 2011. The following information can be found on the establishment’s website at chaangthai.com (16 NOV 2013):

- Hours of operation are Monday thru Thursday from 11:00 AM to 9:30 PM; Friday from 11:00 AM to 10:00 PM, Saturday from 11:30 AM to 10:00 PM, and Sunday from 11:30 AM to 9:30 PM.
- The establishment offers sit-down dining, pre-order, take-out, and delivery services.
- Menus include “Authentic Thai Cuisine” for business lunch, main dinner, party platter, and takeout that appear to be an extensive assortment of appetizers, soups, salads, signature specials, desserts, and a kids menu. The “Chaang Takeout Menu” has been downloaded
The following restates the petitioner's Findings of Fact responses. Staff makes no recommendation concerning whether or not the petitioner's findings should be modified.

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

This location has been operated as a restaurant for several years with no change in patterns proposed from previous restaurant occupants from the subject site. The Wharf parking garage is located approximately 600 feet from the proposed “Restaurant, Private Club” use.

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

The establishment and building will be required to meet all related life safety building and fire code provisions.

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

The subject structure already exists and should therefore not affect present light distribution and airflow patterns.

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

No expansion of the existing building is proposed that would increase its building footprint or building height.

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

Maximum occupancy will be regulated by related building and fire code provisions. There is no residential use proposed as a part of the conditional “Restaurant, Private Club” use.

**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 subject conditional “Restaurant, Private Club” establishment will be located in a space that has already been used and occupied as a restaurant and should therefore not require any further public services or utilities.

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

The location of the proposed “Restaurant, Private Club” establishment has been occupied by various restaurant uses for several years, which do not appear to have adversely impacted property values within the immediate area.

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

The location of the proposed “Restaurant, Private Club” has been occupied by restaurant uses for several years and is located in close proximity to other various restaurants uses within the immediate area.
City of Morgantown, West Virginia

APPLICATION FOR TYPE IV SITE PLAN – CONDITIONAL USE

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT

<table>
<thead>
<tr>
<th>Name: Mellott Flour &amp; Feed Co</th>
<th>Phone: 304-212-5092</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address: 156 Clay St.</td>
<td>Mobile: 654-553-9999</td>
</tr>
<tr>
<td>Morgantown WV 26501</td>
<td>Email: <a href="mailto:mflour@flourandfeed.com">mflour@flourandfeed.com</a></td>
</tr>
</tbody>
</table>

II. AGENT / CONTACT INFORMATION

<table>
<thead>
<tr>
<th>Name: Kristin L Eilts</th>
<th>Phone: 651-209-3703</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address: 832 Rug Mountain Dr.</td>
<td>Mobile: 852-121-3232</td>
</tr>
<tr>
<td>Morgantown WV 26506</td>
<td>Email: <a href="mailto:theeleks10@gmail.com">theeleks10@gmail.com</a></td>
</tr>
</tbody>
</table>

Mailings – Send all correspondence to (check one): [ ] Applicant OR [ ] Agent/Contact

III. PROPERTY

<table>
<thead>
<tr>
<th>Owner: Town</th>
<th>Phone:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address: 142 Vecchio Lane</td>
<td>Mobile:</td>
</tr>
<tr>
<td>Morgantown WV 26506</td>
<td>Email:</td>
</tr>
</tbody>
</table>

IV. SITE

<table>
<thead>
<tr>
<th>Street Address (if assigned): 156 Clay St</th>
<th>Tax Map #: 20</th>
<th>Parcel #: S8</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning: B-4</td>
<td>Lot Dimensions: Width: 100 Ft</td>
<td>Depth: 100 Ft</td>
</tr>
<tr>
<td>Shape of Lot: [X] Interior</td>
<td>Existing Use of Structure or Land: Full Service Restaurant w/ Private</td>
<td></td>
</tr>
<tr>
<td>Proposed Use of Structure or Land: Full Service Restaurant w/ Private</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Planning Department • 388 Spruce Street, Morgantown, WV 26505
304.284.7431 • 304.284.7534 f

BZA MEETING PACKET • Page 60 of 170
V. STRUCTURE

<table>
<thead>
<tr>
<th>Proposed Setbacks:</th>
<th>Front:</th>
<th>ft</th>
<th>Rear:</th>
<th>ft</th>
<th>Side A:</th>
<th>ft</th>
<th>Side B:</th>
<th>ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Height of Structure:</td>
<td></td>
<td>No. of Proposed Off-Street Parking Spaces:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No. of Dwelling Units (if applicable):</td>
<td></td>
<td>No. of Bedrooms:</td>
<td></td>
<td>No. of Employees:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Square Footage of all Proposed Structures (please explain):</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

VI. SITE PLAN

A Site Plan (8 copies), drawn to scale, that includes the following elements must accompany the application if not provided above in Sections IV and V:

(a) The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a registered design professional licensed by the State of West Virginia.

(b) The exact sizes and locations on the lot of existing structures, if any;

(c) The location, square footage, and dimensions of the proposed structure or alteration;

(d) The location of the lot with respect to adjacent rights-of-way;

(e) The existing and proposed uses of the structure and land;

(f) The number of employees, families, housekeeping units, bedrooms, or rental units the structure is designed to accommodate;

(g) The location and dimensions of off-street parking and means of ingress and egress for such space;

(h) Height of structure;

(i) Setbacks;

(j) Buffer yard and screening, if applicable;

(k) Location of garbage collection area and screening;

(l) Location of existing and/or proposed signs, if applicable;

(m) Roadway typical detail for internal roadways, if applicable;

(n) Location and size of stormwater management facilities; and,

(o) Utility lines and easements, if applicable.
VII. SUPPLEMENTAL PLANS AND EXHIBITS

Applicants MUST also submit the following plans and exhibits, unless waived by the Planning Director:

(a) Drainage plan and drainage calculations that bear the name, address, signature and seal of a registered professional engineer licensed by the State of West Virginia, with floodplain zones clearly denoted, a typical of all swales, and a design of the drop inlets.

(b) If applicable, design of stormwater management facilities and drainage calculations that bear the name, address, and seal of a registered professional engineer licensed by the State of West Virginia that meet the requirements of the City Zoning Ordinance, the City Stormwater Management Ordinance, and all other applicable local, state and federal regulations.

(c) Parking and Landscaping Plan

(d) Sign Plan

(e) Approved WV Division of Highways Access Permit, if applicable

(f) Sediment and erosion control plan as approved by the West Virginia Department of Environment Protection and the City of Morgantown

(g) Approved State of West Virginia NPDES General Permit for Storm Water Associated with Industrial (Construction) Activity, if applicable

(h) A traffic impact study, if required by the City Engineer

(i) The Planning Director may require the applicant to submit additional information concerning the lot or neighboring lots to determine conformance with, and provide for the enforcement of, the City Zoning Ordinance.

(j) The Planning Director may require the applicant to submit, in the case of accessory structures or minor additions, dimensions shown on plans relating to the size of the lot and the location of the structure(s) thereon be based on an actual survey prepared a registered design professional licensed by the State of West Virginia

Applicants submitting a conditional use application in accordance with Article 313.05 "Building Height and Use" within the B-4 General Business District MUST also submit the following analyses:

(a) An air flow analysis conducted by a licensed architect or professional engineer, describing the estimated impact of the proposed building on existing patterns of air flow in the general vicinity, and how those impacts may affect existing properties with a 300 foot radius of the site.

(b) An analysis of the impacts of the proposed building on sunlight distribution in the general vicinity, with special emphasis on predicting light blockage and shadow casting onto all properties with a 300 foot radius of the site. Such analysis shall be conducted by a licensed architect or professional engineer.

(c) An analysis of the potential of "steeping back" upper floors as a technique to avoid negative impacts with respect to light and airflow, and to minimize the canyon effect of non-recess tall buildings. Such analysis shall be conducted by a licensed architect or professional engineer.

(d) An infrastructure and traffic analysis predicting the impacts of the building on water, sewer, drainage, electrical and gas infrastructure, on transportation levels of service (including transit) for impacted streets, and on fire suppression capabilities of the city. Such analysis shall be conducted by a licensed architect or professional engineer.
### VIII. 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:

   The subject conditional "Restaurant, private club" establishment will be located in a space that has already been used and occupied as a restaurant and show therefore not require any further public services or utilities.

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

   The location of the proposed "Restaurant, Private Club" establishment has been occupied by various restaurant uses for several years, which do not appear to have adversely impacted property values within the immediate area.

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

   The location of the proposed "Restaurant, Private Club" has been occupied by restaurant uses for several years and is located in close proximity to other various restaurants uses within the immediate area.

### IX. 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.

<table>
<thead>
<tr>
<th>Type/Print Name of Applicant/Agent</th>
<th>Signature of Applicant/Agent</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kristin Eck</td>
<td>Kristin Cooke</td>
<td>2-1-17</td>
</tr>
</tbody>
</table>

- Conditional Use Petition Fee of $75 must accompany application
Morgantown Flour & Feed Co.

Morgantown Flour & Feed Co. is a full service restaurant located in the Historic Wharf District in the original Morgantown Flour & Feed Co. Building built between 1904 and 1906 by J.C. Kincaid.

Kristin L Elek of Morgantown owns the restaurant. Passion for great food, atmosphere, and history were the driving factors behind her creation. The décor of the restaurant is reminiscent of the original warehouse. With its soaring ceiling, expansive brick walls, large wormy chestnut timber posts, and 110 year old hardwood floors, creates an inviting historic atmosphere.

The menu will feature a combination of traditional American fare and refined specialty dishes prepared by Chef Seth French, a graduate of the renowned La Cordon Blue.

A.J. Jakomas, a graduate of Penn State University with a degree in Hotel/Restaurant Management, will manage the restaurant. A.J. has made a career in fine dining working for such notable restaurants such as Morton’s, Ruth Chris and Eddie Merlots.

Objective: To create an elevated casual fine dining experience that embraces the historic significance of the Wharf District, bringing the preservation and rejuvenation to one of Morgantown’s most historic locations.
West Virginia Secretary of State — Online Data Services

Business and Licensing
Online Data Services Help

Business Organization Detail

NOTICE: The West Virginia Secretary of State’s Office makes every reasonable effort to ensure the accuracy of information. However, we make no representation or warranty as to the correctness or completeness of the information. If information is missing from this page, it is not in the West Virginia Secretary of State’s database.

MORGANTOWN FLOUR & FEED CO. LLC

<table>
<thead>
<tr>
<th>Organization Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Org Type</td>
</tr>
<tr>
<td>LLC</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Organization Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Purpose</td>
</tr>
<tr>
<td>Charter County</td>
</tr>
<tr>
<td>Charter State</td>
</tr>
<tr>
<td>At Will Term</td>
</tr>
<tr>
<td>At Will Term Years</td>
</tr>
<tr>
<td>Authorized Shares</td>
</tr>
</tbody>
</table>

Addresses

Page 40 of 65

BZA MEETING PACKET

Page 69 of 212

8/21/19
2/1/2017

<table>
<thead>
<tr>
<th>Type</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Designated Office Address</td>
<td>832 BIG MOUNTAIN DRIVE MORGANTOWN, WV, 26508</td>
</tr>
<tr>
<td>Mailing Address</td>
<td>832 BIG MOUNTAIN DRIVE MORGANTOWN, WV, 26508</td>
</tr>
<tr>
<td>Notice of Process Address</td>
<td>KRISTIN ELEK</td>
</tr>
<tr>
<td></td>
<td>832 BIG MOUNTAIN DRIVE MORGANTOWN, WV, 26508</td>
</tr>
<tr>
<td>Principal Office Address</td>
<td>832 BIG MOUNTAIN DRIVE MORGANTOWN, WV, 26508</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type</th>
<th>Name/Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Member</td>
<td>KRISTIN ELEK</td>
</tr>
<tr>
<td></td>
<td>832 BIG MOUNTAIN DRIVE MORGANTOWN, WV, 26508</td>
</tr>
<tr>
<td>Organizer</td>
<td>KRISTIN ELEK</td>
</tr>
<tr>
<td></td>
<td>832 BIG MOUNTAIN DRIVE MORGANTOWN, WV, 26508</td>
</tr>
</tbody>
</table>

### DBA

<table>
<thead>
<tr>
<th>DBA Name</th>
<th>Description</th>
<th>Effective Date</th>
<th>Termination Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>MORGANTOWN FLOUR &amp; FEED CO.</td>
<td>TRADENAME</td>
<td>10/3/2015</td>
<td></td>
</tr>
</tbody>
</table>

For more information, please contact the Secretary of State's Office at 304-558-8000.

Wednesday, February 1, 2017 — 8:08 AM

© 2017 State of West Virginia
Articles of Organization of Limited Liability Company

Business Legal Name: Morgantown Flour & Feed Co. LLC

Morgantown Flour & Feed Co. LLC

Trade Name: Morgantown Flour & Feed Co.

09/26/2016

Business Type: New Business

09/26/2016

RCPR Type: Domestic

A business formed in West Virginia.

For Profit

Organization Type: Limited Liability Company

Monongalia

County

Monongalia

To operate a full service restaurant

WV Effective Date: 09/26/2016

Merger

Merger

Member/Manager Managed

At Will/None

Primary Business Location

No

156 Clay St, Morgantown, WV 26501

County: Monongalia

Phone #: (304) 558-3800

632 Big Mountain Drive Morgantown, WV 26508

Kristin Elek

632 Big Mountain Drive Morgantown, WV 26508

Kristin Elek

632 Big Mountain Drive Morgantown, WV 26508

Kristin Elek

632 Big Mountain Drive Morgantown, WV 26508

ALL NEW

4452 Specialty Food Stores

4452 Special - All Other Specialty Food Stores

No

No

No

No

No

BZA MEETING PACKET

Page 60 of 175

3/15/19

Page 1

8/21/19
Articles of Organization of Limited Liability Company

Business Legal Name: Morgantown Flour & Feed Co. LLC

For filling with the West Virginia Secretary of State a Business for West Virginia Partner

tel: (304) 558-8000

I certify the information provided is true. I further certify that I am duly authorized to file this document on behalf of this organization as required by West Virginia Code. I agree that the electronic entry of my name below represents my signature and authorization for this filing.

Kristin L Elek
Authorized By

ORGANIZER
Capacity
<table>
<thead>
<tr>
<th>Activity</th>
<th>Yes/No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sell beer to licensed distributors?</td>
<td>No</td>
</tr>
<tr>
<td>Sell beer to licensed retailers?</td>
<td>No</td>
</tr>
<tr>
<td>Sell liquor/wine/beers by the bottle?</td>
<td>No</td>
</tr>
<tr>
<td>Sell wine to licensed distributors?</td>
<td>No</td>
</tr>
<tr>
<td>Sell wine to licensed retailers?</td>
<td>No</td>
</tr>
<tr>
<td>Sell wine products to suppliers?</td>
<td>No</td>
</tr>
<tr>
<td>Stamp and sell cigarettes wholesale?</td>
<td>No</td>
</tr>
<tr>
<td>Sell other tobacco products wholesale?</td>
<td>No</td>
</tr>
<tr>
<td>Sell cigarettes retail?</td>
<td>No</td>
</tr>
<tr>
<td>Sell other tobacco products at retail?</td>
<td>No</td>
</tr>
<tr>
<td>Sell tax paid motor fuel at retail?</td>
<td>No</td>
</tr>
<tr>
<td>Operate as an (n) Refiner</td>
<td>No</td>
</tr>
<tr>
<td>Operate as an (n) Supplier</td>
<td>No</td>
</tr>
<tr>
<td>Operate as an (n) Permissive Supplier?</td>
<td>No</td>
</tr>
<tr>
<td>Operate as an (n) Importer</td>
<td>No</td>
</tr>
<tr>
<td>Operate as an (n) Broker</td>
<td>No</td>
</tr>
<tr>
<td>Operate as an (n) Exporter</td>
<td>No</td>
</tr>
<tr>
<td>Operate as an (n) Terminal Operator</td>
<td>No</td>
</tr>
<tr>
<td>Operate as an (n) Transporter</td>
<td>No</td>
</tr>
<tr>
<td>Operate as an (n) Distributor</td>
<td>No</td>
</tr>
<tr>
<td>Operate as an (n) Producer</td>
<td>No</td>
</tr>
<tr>
<td>Operate air or watercraft for freight or passengers?</td>
<td>No</td>
</tr>
<tr>
<td>Manufacturer of soft drinks, syrups and/or powders</td>
<td>No</td>
</tr>
<tr>
<td>Bottler of soft drinks, syrups and/or powders</td>
<td>No</td>
</tr>
<tr>
<td>Wholesaler of soft drinks, syrups and/or powders</td>
<td>No</td>
</tr>
<tr>
<td>Purchase soft drinks, syrups and/or powders for resale with the excise tax paid from a manufacturer</td>
<td>Yes</td>
</tr>
<tr>
<td>Purchase soft drinks, syrups and/or powders for resale with the excise tax paid from a wholesaler</td>
<td>No</td>
</tr>
<tr>
<td>Purchase soft drinks for resale without the excise tax paid from a bottler or manufacturer</td>
<td>No</td>
</tr>
<tr>
<td>Purchase soft drinks for resale without the excise tax paid from a wholesaler</td>
<td>No</td>
</tr>
<tr>
<td>Behavioral health center or community care service?</td>
<td>No</td>
</tr>
<tr>
<td>Provide health care services?</td>
<td>No</td>
</tr>
<tr>
<td>Economic interest in severing natural resources?</td>
<td>No</td>
</tr>
<tr>
<td>Produce or process coal only?</td>
<td>No</td>
</tr>
<tr>
<td>Produce or process coal and other natural resources?</td>
<td>No</td>
</tr>
<tr>
<td>Produce timber?</td>
<td>No</td>
</tr>
<tr>
<td>Produce timber and other natural resources?</td>
<td>No</td>
</tr>
<tr>
<td>Provide public utilities?</td>
<td>No</td>
</tr>
<tr>
<td>Generate electric power for resale?</td>
<td>No</td>
</tr>
</tbody>
</table>
### Fees for Registration of Morgantown Flour & Feed Co. LLC

**Unified Business ID:** UD000572796001

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Secretary of State</td>
<td></td>
</tr>
<tr>
<td>Articles of Organization of Limited Liability Company</td>
<td>$100.00</td>
</tr>
<tr>
<td>Additional Trade Name Registration(s)</td>
<td>$25.00</td>
</tr>
<tr>
<td>WV State Tax Department</td>
<td></td>
</tr>
<tr>
<td>Business Registration Fee</td>
<td>$30.00</td>
</tr>
<tr>
<td>WV Treasury Convenience Fee</td>
<td>$1.00</td>
</tr>
<tr>
<td>Unemployment Compensation</td>
<td>N/A</td>
</tr>
<tr>
<td>No deposit required. First payment due at end of initial quarter.</td>
<td></td>
</tr>
</tbody>
</table>

**Business Registration Total Fees:** $156.00
West Virginia Unemployment Compensation Signature Page

Unified Business Identifier: UD000572796001
Business Legal Name:
Morgantown Flour & Feed Co. LLC

I certify the information provided is true. I further certify that as an officer of the corporation, a member of the LLC, a partner of the sole proprietor I am duly authorized to file on behalf of this organization. I agree that the electronic entry of my name and capacity below represent my signature and authorization for this filing.

Kristin L. Eck
Authorized By

Managing Member
Capacity
WEST VIRGINIA
STATE TAX DEPARTMENT

BUSINESS REGISTRATION CERTIFICATE

ISSUED TO:
MORGANTOWN FLOUR & FEED CO. LLC
DBA MORGANTOWN FLOUR & FEED CO.
156 CLAY ST
MORGANTOWN, WV 26501-0006

BUSINESS REGISTRATION ACCOUNT NUMBER: 2335-6697
This certificate is issued on: 10/5/2016

This certificate is issued by
the West Virginia State Tax Commissioner
in accordance with Chapter 11, Article 12, of the West Virginia Code

The person or organization identified on this certificate is registered
to conduct business in the State of West Virginia at the location above.

This certificate is not transferrable and must be displayed at the location for which issued
This certificate shall be permanent until cessation of the business for which the certificate of registration
was granted or until it is suspended, revoked or cancelled by the Tax Commissioner.

Change in name or change of location shall be considered a cessation of the business and a new
certificate shall be required.

TRAVELING/STREET VENDORS: Must carry a copy of this certificate in every vehicle operated by them.
CONTRACTORS, DRILLING OPERATORS, TIMBER/LOGGING OPERATIONS: Must have a copy of
this certificate displayed at every job site within West Virginia.

atL00I V.4
L0614984112
## Starters

- Pretzel Bites
  - Hand Made Sour Dough Pretzels, Aged Cheddar, Beer Mustard 9
- Pork Belly
  - Smoked Maple & Black Pepper Pork Belly, Roasted Tomato Jam, Composed Greens, Lemon Vin 11
- Calamari
  - Hand Cut Fries, Bourbon Gravy, Aged Cheddar, Crispy Lardons 8

## Fried Mozz
- Fine Herbs, Balsamic Reduction, Pomodoro, Focaccia 11

## Loaded Nachos
- Smoked Brisket, Queso Blanco, Pork Belly, Mango Salsa, Pickled Jalapenos 10

## Wings

- House Drined Wings, Sea Salt, Fresh Black Pepper 12

### Sauces

- Buffalo, Hot, Infemo, B&G, Mountaineer Gold BBQ, House BBQ, Sweet Thai

## Small Plates

### Meatballs

- House Ground Blend, Roasted Tomato Pomodoro, Fine Herbs, Shave Pecorino 12

### Beets

- Roasted Red, Gold & Candy Striped Beets, Figs, Feta, Honeycomb,
  - Candied Ginger Roasted Shallots 11

### Ceviche *

- Shrimp, Calamari, Scallop, Fresh Citrus, Mango, Avocado
  - Red Onion, Ailoli 11

### Short Ribs

- Slow Braised Short Rib, Tomato BBQ, Garlic Confit Mash, Crispy Shallots 12

## Pierogies

- Horba, Cheddar, Potato Ardoiville, Herb Butter 8

### Toppings

- Caramlized Onions, Lardons, House Made Sauerkraut, Roasted Mushrooms,

---

*Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of foodborne illness*
STAFF REPORT ADDENDUM B
CU17-02 / Morgantown Flour and Feed / 156 Clay Street (2019)

morgantown Flour & Feed Co.

Soup

Cup 4 or Bowl 6

French Onion
Sourdough Brioche, Gruyere, Fine Herbs

Seafood Chowder
Shrimp, Clams, Fresh Fish, Roasted Corn, Butter Potatoes, Pork Belly, Cheddar Cheese "Cracker"

Soup Du Jour
Fresh Seasonal Soup

Salads

Caesar*
Grilled Romaine Hearts, Black Pepper Focaccia Croutons, White Anchovies
Sherry Tomatoes, Marinated Olives, Fresh Shaved Parm, Over Easy Egg 9

Cobb
Iceberg, Candied Nuts, Blue Cheese, Pork Belly, Sherry Marinated Tomatoes, Roasted Avocado 10

Solstice
Field Greens, Roasted Mushrooms, Spiced Nuts, Figs, Cranberries, Toasted Oats
Sun Dried Tomatoes, Shaved Radish, Honey Ginger Vin 10

Add

Chicken 6 Salmon 7 Shrimp 8 Steak 10

Sammies

Grilled Cheese
Fontina, Arugula, Sea Salt Tomatoes, Sherry Glaze, Honey Wheat 6

Roasted Chicken
Marinated Chicken, Field Greens, Sweet Balsamic Reduction
Fresh Mozz, Sea Salt Tomatoes, Black Pepper Maple Bacon Focaccia 10

Butcher's Buger*
House Ground Blend,
Black Pepper & Maple Glazed Thick Cut Bacon, Field Greens, Tomato, Grilled Onion,

Smoked Cheddar Cheese, Fresh Baked Broche Roll 12
Caesar
Slow Braised Apple Brioche Pork But, Carolina Mop Sauce, Chili Lime Slaw
Cajun Cheddar Cornbread 11

Steak *
Beer Mustard Roasted Steak, Peppercorn Demi Roasted Mushrooms,
Seared Sweet Onions, Provolone, Broche Roll 12

Sloppy Joe
Slow Cooked House Ground Blend, Southern Tomato Sauce,
Aged Cheddar, Slaw, Broche Roll 12

*Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of foodborne illness

All Sammies Served with Fresh Cut Fries
Add Hand Breaded Onion Rings for 2

BZA MEETING PACKET Page 50 of 175 3/15/2017
Flour & Feed Favorites
All Entrees Served With Our House Salad

<table>
<thead>
<tr>
<th>Pot Pie</th>
<th>Fish &amp; Chips</th>
</tr>
</thead>
<tbody>
<tr>
<td>Braised Chicken, Peas, Roasted Mirepoix, Black Pepper</td>
<td>Fine Herb Hand Breaded Whiting, Sea Salt &amp; Mustard Vinegar Fingerlings</td>
</tr>
<tr>
<td>Dumplings, Lemonade</td>
<td>Candied Citrus, Sherry Apple Slaw, Remoulade, Yuzu Aioli</td>
</tr>
<tr>
<td>Butternut Crust, Farmer’s Salad 16</td>
<td>13</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Beer Can Chicken</th>
<th>Salmon *</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slow Roasted Cornish Hen, Kansas Style BBQ</td>
<td>Togarashi &amp; Ginger Rubbed Salmon, House Made Kimchi, Stir Fry Forbidden Rice, Honey Napa Slaw, Yuzu Gastrique</td>
</tr>
<tr>
<td>Warm Leek &amp; Pork Belly Fingerlings, Roasted Corn Salad 18</td>
<td>15</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Hunter’s Meatloaf</th>
<th>Pasta 13</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boar &amp; Bison Meatloaf, Wild Mushrooms, Garlic Confit Mash, Glazed Herloom Carrots, Brandy Pan Sauce 17</td>
<td>Choice of Handmade Pasta &amp; Sauce</td>
</tr>
<tr>
<td>Cast Iron Lasagna</td>
<td>Roasted Red Pappardelle, Mushroom Fettuccine, Fine Herb Soupless</td>
</tr>
<tr>
<td>House Ground Beef Blend, Sun Dried Tomato Pomodoro, Mozz Honey Bruschetta 15</td>
<td>Pomodoro, Lobognase, Pasta Cream, Aglio e Oliio</td>
</tr>
</tbody>
</table>

Off the Grill

<table>
<thead>
<tr>
<th>Filet *</th>
<th>Swordfish *</th>
</tr>
</thead>
<tbody>
<tr>
<td>Herb Marinated Pan Seared Filet, Confit Mash</td>
<td>Herb Marinated Swordfish, Wasabi &amp; Honey Poached Apples, Rendered Pork Belly, Horseradish Risotto, Arugula, Cherry Vinaigrette</td>
</tr>
<tr>
<td>Wild Mushrooms, Bourbon Demi, Roasted Root Vegetables 32</td>
<td>26</td>
</tr>
<tr>
<td>Hanger *</td>
<td>Crab *</td>
</tr>
<tr>
<td>Mustard Grilled Hanger, Chimichurri, Braised Collard Greens, Crispy Polenta Cake, Cipollini Onions 70</td>
<td>Twin Cakes, White Asparagus Salad, Rendered Pork Belly, Wasabi Rice Cake</td>
</tr>
<tr>
<td>Ribeye *</td>
<td>Wilted Greens, Candied Citrus, Togarashi Aioli 29</td>
</tr>
<tr>
<td>Blackened Ribeye, BBQ Rubbed, Double Pan Fried Fingerlings, Gorgonzola, Cajun Draw Butter, Luffa Crab, Roasted Asparagus Salad 34</td>
<td>Scallops *</td>
</tr>
<tr>
<td>Citrus Pothouse *</td>
<td>Seared Scallops, Truffle Honey, Lavender Pan Sauce, Bourbon Ball</td>
</tr>
<tr>
<td>Blood Orange Glazed Pork Potouse, Crispy Sprouts</td>
<td>Arugula, White Balsamic Vinaigrette, Forbidden Rice 34</td>
</tr>
<tr>
<td>Cranberry Risotto, Fresh Figs, Horseradish Cream 23</td>
<td>Fresh Catch with Seasonal Accompaniments, Martini Price</td>
</tr>
</tbody>
</table>

Sauces

Mushroom Demi, Port, Peppercorn, Blue Cheese Butter, Fois Butter, House Steak Sauce, Horseradish Cream

Add
Shrimp & Crab Cake 8

*Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of foodborne illness
Sides

Sweat Potato
Bourbon Butte, Cinnamon, Spiced Nuts, 0

Mac & Cheese
Pork Belly, Five Cheese Bechamel, Herb Bread Crumb 7

Crispy Sprouts
Honey, Pork Belly, Blue Cheese, 5

Mushroom & Onions
Roasted Herb Mushrooms, Seared Onions, Shaved Parm 6

Greens

Breased Collard Greens, Pork Belly, Apple Cider VIn 7

Salted Crusted Baked Potato
Creme Fraiche, Chives, Lardons 7

Onion Rings
Hand Breaded, Tomato BBQ, Ground Mustard 5,

Fresh Cut Fries
Double Fried, Sea Salt, Tomato BBQ 5

*Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of foodborne illness.
Desserts

Layered S'more
Graham Cracker Crumble, Peanut Butter Mousse
Chocolate Ganache, Marshmallow 8

Bread Pudding
Dark Rum Bread Pudding, Macerated Berries, Sea Salt Caramel 7,

Cookies & Milk
Fresh Baked Dark Chocolate Chip Cookies & Local Milk 6

Harry Taylor's Hot Damn Pineapple Upside Down Cake
Fresh Baked Sponge Cake, Pineapple Whiskey, Toasted Coconut,
Caramelized Pineapple, Sour Cherry Glaze 8

Table Side Bananas Foster
Seared Bananas, Orange Liqueur, Cinnamon Sugar,
Vanilla Ice Cream 9
Seth Bradley French
Sous Chef

Unicorn, PA 15401
jlanceeal10@yahoo.com - 7245545752

Sous Chef, with nine combined years experience, four in a five star hotel, working in a four star restaurant. As well as six months as a acting Executive Chef. Associate degree in culinary arts / restaurant and hospitality management.

Highlights
- High-volume dining Trained in liquor, wine and food service
- Food ingredients expert in-depth food and wine knowledge
- Food safety understanding
- Extensive hospitality background
- Willing to relocate to: Pittsburgh, PA - Morgantown, WV
- Authorized to work in the US for any employer

WORK EXPERIENCE

Sous Chef
Park Inn by Radisson Unicorn, PA - Unicorn, PA - June 2015 to Present

Responsibilities
- Sous chef, tasked with over seeing production, of both banquet and a la carte dining, as well as developing recopies, for tasting menus and general menu production. Up keep on standards.

Skills Used
- Flavor pairings, interpersonal skills, knowledge of tools, and current trends in food as well as classical cooking

Sous Chef
Twelve Oaks Restaurant and Tavern - Brownsville, PA - June 2014 to May 2015

Sous Chef, responsible for over seeing kitchen operations, from preparation to table, including ordering, and planning. Was acting Executive Chef for six months.

Nemacolin Woodlands
First Cook - Farmington, PA - March 2009 to June 2014

First cook, tasked with working various stations and meal periods throughout the day at a four star restaurant.

EDUCATION

AA in Culinary Arts
La Cordon Blue - Pittsburgh, PA

LINKS

http://tribe.com/lifestyles/cookin/7400120-74oaks-twelve-scallops
https://www.instagram.com/ethbradley_22/?hl=en
CERTIFICATIONS/LICENSES

ServSafe Manager
June 2016 to June 2021
BOARD OF ZONING APPEALS

MINUTES

8:30 PM March 15, 2017 Morgantown Municipal Airport – ARFF Building

MEMBERS PRESENT: Leanne Cardoso, Colin Wattleworth, Harrison Case, and Jim Shaffer

MEMBERS ABSENT: George Papandreou

STAFF: John Whitmore, AICP

I. CALL TO ORDER AND ROLL CALL: Cardoso called the meeting to order at 6:30 p.m. and read the standard explanation of the how the Board conducts business and rules for public comments.

II. MATTERS OF BUSINESS:

A. Minutes for the February 15, 2017 hearing. No corrections noted; minutes approved as presented.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. **CU17-02 / Morgantown Flour & Feed Co. / 156 Clay Street**: Request by Kristin Elek, on behalf of Morgantown Flour & Feed Co., for approval of a conditional “Restaurant, Private Club” use at 156 Clay Street; Tax Map 28, Parcel 38; B-4, General Business District.

Whitmore presented the Staff Report.

Cardoso recognized Martin Elek of 1133 Burwood Drive who explained the restaurant seats a total of 100 with 15 of those seats located at the bar. Elek noted the restaurant is located in an area where other establishments have private licenses and the addition of liquor would help them remain competitive and the drinks would also accommodate the menu.

Cardoso asked Elek if he had reviewed the requirements to maintain a restaurant private club status. Elek confirmed.

Cardoso asked what has been done with the menu to ensure the 60/40 requirement is met. Elek explained the establishment is built as a restaurant and not as a bar and noted the menu is extensive with a certain price point that does not exceed $33.00. Elek stated the business plan for the restaurant is built on food alone and does not include alcohol. Elek stated the hours of operation will not go past midnight.

Morgantown Board of Zoning Appeals
March 15, 2017 Minutes
Cardoso asked Elek to elaborate on the chef that was hired. Elek stated Chef Seth is a graduate of Cordon Bleu and was previously a chef for Nemacolin Woodlands. Elek noted that Chef Seth will eventually become a partner once the restaurant is established and running efficiently.

Cardoso referred to Elek’s wife and understood that she had past restaurant experience. Elek confirmed and stated his wife had past experience with the restaurant business which included wait staff and some management. Elek explained that he and his wife have a passion for the restaurant industry and have enjoyed restoring the building to an original look and feel.

Wattleworth asked if the conditions have been reviewed and understood if the petition is approved. Elek confirmed.

Cardoso asked if the restaurant would open regardless of the Board’s decision. Elek confirmed.

Wattleworth asked if employees have already been hired. Elek confirmed and stated that six chefs, three dishwashers and nine servers have been hired.

Shaffer asked if the petitioner felt the code was putting him at a competitive disadvantage. Elek confirmed.

Case inquired about the lunch hours listed in the conditions and asked if this would be a hardship to maintain. Elek expressed they would like to be closed on Monday’s if they had the option in order to allow Staff to regroup. Elek explained the original concept of the restaurant involved dinner only but after spending time on the rail trail they realized lunch would be beneficial.

Wattleworth asked Board members if days and hours of operation could be adjusted to allow for the establishment to be closed on Monday’s. Whitmore stated that could be done within the motions to approve the petition.

Case inquired if lunch could be at the discretion of the establishment. Wattleworth asked for further explanation on why the condition involves lunch hours. Whitmore explained that including the lunch hours basically establishes a restaurant as a restaurant use as opposed to being open only at night.

Cardoso explained the lunch hours are listed as a condition have been established as a precedent over time and has helped many restaurants to meet the 60/40 requirement.

There being no further questions or comments by the Board, Cardoso asked if anyone was present to speak in favor of or in opposition to the conditional use petition. There being no public comments, Cardoso declared the public hearing portion closed and asked for Staff recommendations, which were read by Whitmore.

Case expressed the establishment meets the requirements for a bona-fide restaurant based on the information presented. Wattleworth agreed and expressed favor in the freezer shown at the site visit.

Cardoso expressed the petitioner has done a lot of preparation and noted the petitioner will be going forward with the restaurant no matter the decision of the Board.
Wattleworth expressed he is comfortable with granting the request as he is confident they will be opening soon. Cardoso agreed and noted that $10,000 worth of merchandise has already been purchased in preparation for the opening.

Wattleworth made a motion to grant a waiver to the one-year bona-fide restaurant for CU17-02; seconded by Caso. Motion carried unanimously.

Cardoso noted the condition on requiring lunch hours is to help maintain the 60/40 requirement but didn’t see a problem with eliminating the lunch one day of the week.

Discussion continued regarding the conditions on the lunch hours and it was agreed upon that lunch hours are needed but not necessarily seven days a week. Cardoso invited the petitioner to the podium and asked if five days of lunch per week, without specifying the days within the conditions, would be acceptable. Elek agreed and noted this would allow them to give Staff a full day off on Monday’s and not staff a lunch on Tuesday.

Case asked if brunch would be served on the weekends. Elek confirmed and stated that brunch is a missed market in Morgantown.

Board members agreed to change the wording in the conditions to include “five days a week” instead of “Monday through Friday”.

Shaffer made a motion to find in the affirmative for all the Findings of Facts for CU17-02 as revised; seconded by Wattleworth. Motion carried unanimously.

NOTE: The following findings were included in the motion.

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

This location has been operated as a restaurant for several years with no change in patterns proposed from previous restaurant occupants from the subject site. The Wharf parking garage is located approximately 600 feet from the proposed “Restaurant, Private Club” use.

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

The establishment and building will be required to meet all related life safety building and fire code provisions.

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

The subject structure already exists and should therefore not affect present light distribution and airflow patterns.

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

No expansion of the existing building is proposed that would increase its building footprint or building height.

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

Maximum occupancy will be regulated by related building and fire code provisions. There is no residential use proposed as a part of the conditional “Restaurant, Private Club” use.
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 subject conditional “Restaurant, Private Club” establishment will be located in a space that has already been used and occupied as a restaurant and should therefore not require any further public services or utilities.

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

The location of the proposed “Restaurant, Private Club” establishment has been occupied by various restaurant uses for several years, which do not appear to have adversely impacted property values within the immediate area.

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

The location of the proposed “Restaurant, Private Club” has been occupied by restaurant uses for several years and is located in close proximity to other various restaurants uses within the immediate area.

Shaffer moved to grant conditional use approval for Case No. CU17-02 with the amended conditions; seconded by Wattleworth. Motion carried unanimously.

NOTE: The following conditions were included in the motion:

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 obtain permitting as a “restaurant” from the Monongalia County Health Department under the Monongalia County Clean Indoor Air Regulations.

3. That the “Restaurant, Private Club” use shall be limited to the interior design and identified areas of the subject building as illustrated on the drawings submitted with the application and reviewed and approved by the Board of Zoning Appeals. Any expansion of the conditional use or significant deviation from said facility layout design, operations, or proposed dining experience must first be approved by the Board of Zoning Appeals.

4. That, to ensure that the petitioner’s business description and plans are executed as described and considered in granting the one-year ‘bona fide restaurant’ waiver, the subject “Restaurant, Private Club” use must:
   a. Be open to the general public a minimum of 11:00 a.m. to 1:00 p.m., five days a week, for the purpose of serving lunch as generally described in the menu submitted with the petitioner’s conditional use application.

5. 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 Section 1331.06(27)(a) provisions, which requires the sale of food and non-alcoholic beverages to comprise a minimum of 50 percent of total gross sales of all food and drink items in each calendar month.

6. That any regulated signage shall be reviewed and approved by the Downtown Design Review Committee and the Planning Division prior to building permit issuance for same.

7. That the beneficiary of this conditional use approval is Morgantown Flour and Feed Co. LLC, which may not be transferred without prior approval of the Board of Zoning Appeals.
Cardoso reminded Mr. Elek that the Board’s decision 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. V17-01 / Starbucks / 51 Donahue Drive: Request by Donald D. Evans of ADM Signs, on behalf of Starbucks, for variance relief from Article 1369 concerning signage; Morgan District. Tax Map 4, Parcels 18.5, 19 and 20; B-5, Shopping Center District.

Whitmore presented the Staff Report.

Cardoso recognized Donald Evans of ADM Signs in Pittsburgh, PA, on behalf of Starbucks, who provided further explanation of the variance request. Evans noted that additional signage is necessary to operate a drive thru window and that directional signage is necessary for efficient flow thru the parking lot.

Cardoso stated she would like to see what was requested and what the code permits to get a visual comparison.

Evans referred to the Staff report and provided further clarification on the proposed signs and stated the 20ft. circle sign shown is equivalent to the what code allows.

Shaffer noted that monument signs at this location were previously mentioned when the project was being reviewed. Cardoso asked if a monument sign had been requested for this area previously.

Whitmore clarified that the development is multi-tenant and that the monument sign provision in the code requires that multi-tenant buildings use a directional sign, limited to 18 square feet or six feet tall, by three feet wide. The total area requested was 32 square feet which required variance approval.

Shaffer expressed that he expects more sign variances for this area in the future and would like to consider that when reviewing the proposed petition. Cardoso agreed and stated that what is decided on the current petition will set the precedent for future variance petitions in this area.

Evans noted the Starbucks will be different as it is located on the end of the building and will have a drive thru.

Shaffer asked how lightning will be staged. Whitmore explained approval for the lighting plan will be reviewed and through the building permit process.

Wattleworth asked if Starbucks would have a spot on the monument sign. Evans confirmed and provided Board members with an example of how that sign will look.

Wattleworth reminded the Board members that the developer requested the project to be within the City limits and had the opportunity to avoid review and approval processes.

Shaffer expressed favor in the petitioner reducing square footage where possible and noted the site is difficult for signage. Cardoso agreed and noted the elevation and topography are a challenge.
March 16, 2017

Morgantown Flour & Feed Co.
c/o Kristin L. Elek
832 Big Mountain Drive
Morgantown, WV 26508

RE: CU17-02 / Morgantown Flour & Feed Co. / 156 Clay Street
Tax Map 28, Parcel 38

Dear Ms. Elek:

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced conditional use petition for “Restaurant, Private Club” use at 156 Clay Street. The decision is as follows:

Board of Zoning Appeals, March 15, 2017:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.

2. The Board approved the proposed conditional “Restaurant, Private Club” under Case No. CU17-02 with the following conditions:

   A. That the petitioner must maintain compliance with all supplemental regulations set forth in Section 1331.06(27) of the Planning and Zoning Code.

   B. That the petitioner must obtain permitting as a “restaurant” from the Monongalia County Health Department under the Monongalia County Clean Indoor Air Regulations.

   C. That the “Restaurant, Private Club” use shall be limited to the interior design and identified areas of the subject building as illustrated on the drawings submitted with the application and reviewed and approved by the Board of Zoning Appeals. Any expansion of the conditional use or significant deviation from said facility layout design, operations, or proposed dining experience must first be approved by the Board of Zoning Appeals.

   D. That, to ensure that the petitioner’s business description and plans are executed as described and considered in granting the one-year “bona fide restaurant” waiver, the subject “Restaurant, Private Club” use must:

      a. Be open to the general public a minimum of 11:00 a.m. to 1:00 p.m., five days a week, for the purpose of serving lunch as generally described in the menu submitted with the petitioner’s conditional use application.
E. 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 Section 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.

F. That any regulated signage shall be reviewed and approved by the Downtown Design Review Committee and the Planning Division prior to building permit issuance for same.

G. That the beneficiary of this conditional use approval is Morgantown Flour and Feed Co. LLC, which may not be transferred without prior approval of the Board of Zoning Appeals.

The approval of this conditional use is set to expire in twelve (12) months unless you can demonstrate that it has been acted upon 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.

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 applicant.

Please note that requests for building permits must be obtained prior to the commencement of any work for which approval 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 approval needs.

Respectfully,

Stacy Hollar
Executive Secretary
Development Services Department
shollar@cityofmorgantown.org
ADDENDUM A – Approved Findings of Fact
CU17-02 / Morgantown Flour & Feed Co. / 156 Clay Street

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:
This location has been operated as a restaurant for several years with no change in patterns proposed from previous restaurant occupants from the subject site. The Wharf parking garage is located approximately 600 feet from the proposed “Restaurant, Private Club” use.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:
The establishment and building will be required to meet all related life safety building and fire code provisions.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:
The subject structure already exists and should therefore not affect present light distribution and airflow patterns.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:
No expansion of the existing building is proposed that would increase its building footprint or building height.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:
Maximum occupancy will be regulated by related building and fire code provisions. There is no residential use proposed as a part of the conditional “Restaurant, Private Club” use.

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 subject conditional “Restaurant, Private Club” establishment will be located in a space that has already been used and occupied as a restaurant and should therefore not require any further public services or utilities.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:
The location of the proposed “Restaurant, Private Club” establishment has been occupied by various restaurant uses for several years, which do not appear to have adversely impacted property values within the immediate area.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:
The location of the proposed “Restaurant, Private Club” has been occupied by restaurant uses for several years and is located in close proximity to other various restaurants uses within the immediate area.
Good Afternoon,

The files from your son were received.

Thank you!

-----Original Message-----
From: The Eleks <eat@morgantownflourandfeed.com>
Sent: Tuesday, August 13, 2019 1:20 PM
To: John Whitmore <jwhitmore@morgantownwv.gov>
Subject: Flout and Feed

To whom it may concern:
I am requesting for Morgantown Flour and Feed to be closed for lunches on Wednesday’s and Thursdays due to financial hardship. The restaurant is losing money during lunches by having to pay for cooks and servers to work on those days.
I would like for the business hours to be Tuesday thru Thursday’s from 4pm to 10pm. Friday and Saturday from 11am to 10pm and Sunday’s from 10am to 9pm.

Attached are statements from the pos system from 4-3-19 to 8-11-19 showing revenue for lunches on Wednesday’s and Thursdays.

Sincerely,
Kristin

Sent from my iPhone
# APPLICATION FOR CONDITIONAL USE

(PLEASE TYPE OR PRINT IN INK)

**I. APPLICANT/AGENT**

<table>
<thead>
<tr>
<th>Name:</th>
<th>Kristin Taylor</th>
<th>Phone:</th>
<th>304-212-5092</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>156 Clay Street, Apt. 2</td>
<td>Mobile:</td>
<td>681-209-3828</td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>Morgantown, WV 26501</td>
<td>Email:</td>
<td><a href="mailto:eat@morgantownflourandfeed.com">eat@morgantownflourandfeed.com</a></td>
</tr>
</tbody>
</table>

**II. PROPERTY**

<table>
<thead>
<tr>
<th>Owner:</th>
<th>Appalachian Management</th>
<th>Phone:</th>
<th>304-236-3427</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>PO Box 2076</td>
<td>Mobile:</td>
<td></td>
</tr>
<tr>
<td>Street:</td>
<td>Williamson, WV 25661</td>
<td>Email:</td>
<td></td>
</tr>
</tbody>
</table>

**III. CONDITIONAL USE DESCRIPTION**

<table>
<thead>
<tr>
<th>Street Address (if assigned):</th>
<th>156 Clay Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning:</td>
<td>B-4</td>
</tr>
<tr>
<td>Tax Map #:</td>
<td>28</td>
</tr>
<tr>
<td>Parcel #:</td>
<td>38</td>
</tr>
<tr>
<td>Parcel Area:</td>
<td>$/A</td>
</tr>
<tr>
<td>sq. ft.</td>
<td></td>
</tr>
</tbody>
</table>

**Existing Use of the Site:** including total building area per building on site:

Full Service Restaurant with Private
Opened 5 days a week for lunch and 6 days a week for dinner.

**Proposed Use of the Site:** including total building area per building on site:

Full Service Restaurant with Private club
Proposing to change hours of operation for lunch from 5 days a week to three days due to financial hardship. The restaurant would be opened 6 days a week for dinner.
IV. CONDITIONAL USE DESCRIPTION (cont.)

<table>
<thead>
<tr>
<th>On-Site Parking Spaces</th>
<th>Existing:</th>
<th>Proposed:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>IF RESIDENTIAL</strong></td>
<td></td>
<td>sq. ft.</td>
</tr>
<tr>
<td>Total No. of Dwelling Units:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bedroom Composition:</td>
<td>No. of 1BD:</td>
<td>No. of 2BD:</td>
</tr>
<tr>
<td>Location within the building:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GFA to be occupied:</td>
<td>sq. ft.</td>
<td></td>
</tr>
</tbody>
</table>

Projected days and hours of business operation: Tuesday through Thursday 4PM to 10PM; Friday and Saturday 11AM to 10PM; Sunday 10AM to 9PM

Projected number of clients per day: 40 to 50

Projected number of employees present during busiest shift: 8 to 10

- 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.

1. Vicinity map showing all adjacent properties and nearby streets within a 300-foot radius around the project site, drawn at an appropriate scale.

2. **Site Plan.** A site plan (3 copies) drawn to scale at a minimum 1" = 50', and a maximum of 1" = 10', and include the following:
   (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) **Parking Plan.** The location and dimensions of off-street parking and means of ingress and egress for such space.
   (f) Required and proposed setbacks.
(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.
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:
   This site has been used as a restaurant before Morgantown Flour and Feed, so congested will not be increased since I am proposing to not be opened for lunch but three days a week.

2. Safety from fire, panic, and other danger will not be jeopardized, in that:
   Nothing will change
   The establishment and building is required to meet all safety and fire codes

3. Provision of adequate light and air will not be disturbed, in that:
   Nothing will change
   The existing light and air will not be disturbed and meet all codes necessary.

4. Overcrowding of land will not result, in that:
   Nothing will change
   There are no plans to add or change the establishment

5. Undue congestion of population will not be created, in that:
   Nothing will change
   The site will meet all codes for occupancy
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:
   Nothing will change
   The restaurant will continue to meet all public requirements

7. Value of buildings will be conserved, in that:
   Nothing will change

8. The most appropriate use of land is encouraged, in that:
   Nothing will change
   The site has been occupied as a restaurant for years and will continue to meet all codes and requirements necessary.

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.
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.

Kristin L Taylor  

Type/Print Name of Applicant/Agent  

Signature of Applicant/Agent  

Date  

6-3-19
WEST VIRGINIA
STATE TAX DEPARTMENT
BUSINESS REGISTRATION
CERTIFICATE

ISSUED TO:
MORGANTOWN FLOUR & FEED CO. LLC
DBA MORGANTOWN FLOUR & FEED CO.
156 CLAY ST
MORGANTOWN, WV 26501-0006

BUSINESS REGISTRATION ACCOUNT NUMBER: 2335-6697
This certificate is issued on: 10/5/2016

This certificate is issued by
the West Virginia State Tax Commissioner
in accordance with Chapter 11, Article 12, of the West Virginia Code

The person or organization identified on this certificate is registered
to conduct business in the State of West Virginia at the location above.

This certificate is not transferrable and must be displayed at the location for which issued

This certificate shall be permanent until cessation of the business for which the certificate of registration
was granted or until it is suspended, revoked or cancelled by the Tax Commissioner.

Change in name or change of location shall be considered a cessation of the business and a new
certificate shall be required.

TRAVELING/STREET VENDORS: Must carry a copy of this certificate in every vehicle operated by them.
CONTRACTORS, DRILLING OPERATORS, TIMBER/LOGGING OPERATIONS: Must have a copy of
this certificate displayed at every job site within West Virginia.

atl006 v.4
L0614694112
## Filing Summary: MORGANTOWN FLOUR & FEED CO. LLC - Address/Officer Change Filing

### Business Information
- **Organization Name**: MORGANTOWN FLOUR & FEED CO. LLC
- **Organization Type**: Limited Liability Company
- **Charter Type**: Domestic
- **Class**: For Profit
- **Home State**: WV
- **WV Effective Date**: 10/03/2016
- **Trade Name(s)**: MORGANTOWN FLOUR & FEED CO.
- **Submitted Date**: 05/22/2019

### Filing Information
- **Principal Office**: 156 CLAY STREET, MORGANTOWN, WV 26501
- **Mailing Address**: 156 CLAY STREET, MORGANTOWN, WV 26501
- **Designated Office**: 156 CLAY STREET, MORGANTOWN, WV 26501
- **Agent of Process**: KRISTIN TAYLOR
  - **Address**: 156 CLAY STREET, APT. 2, MORGANTOWN, WV 26501
- **Member Information**: 156 CLAY STREET, APT. 2, MORGANTOWN, WV 26501
- **Company Email**: EAT@MORGANTOWNFLOURANDFEED.COM
Lunch

Starters

Pierogies
Cheddar Cheese, Sautéed Onions, Andouille 12

Brussels's Sprouts
Honey, Bleu Cheese, Bacon 12

Soup Du Jour 5/7

Salads

House
Spring Mix, Red Onion, Tomato, Cucumber, Feta 4/8

Caesar
Romaine, Shaved Parm, House Made Crotons 4/8

***Spinach
Spinach, Strawberries, Pecans, Red Onion, Feta, Strawberry Balsamic 10

Tuna
Blackened or Grilled Tuna, Mix Greens, Fresh Spring Vegetables, Strawberries 16

F&F Salad
Spring Mix, Grilled Chicken, Tomato, Cucumber, Red Onion, Egg, Cheddar Jack, Fresh Cut Fries 12

*Add to any Salad- Chicken 6; Salmon 8; Shrimp; 8; Fried Egg 2

Handhelds

Steak 'n Cheese
Ribeye, Sautéed Onions, Mushrooms and Peppers, Provolone, Toasted Philly Roll 14

The Butcher
House Blended Burger, Bacon, Fried Egg, Cheddar, Lettuce, Tomato, Onion, Toasted Brioche 12

Chicken Club
Grilled Chicken Breast, Applewood Smoked Bacon, Smoked Gouda, Chipotle Aioli, Lettuce, Tomato, Toasted Brioche 12

Pulled Pork
Pulled Pork, Carolina Sauce, Coleslaw, Toasted Brioche 12

The Beyond Burger
Vegan, Choice of Toppings 15

*Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of foodborne illness.
***Contains Nuts
Shareables
Peel and Eat Shrimp
Old Bay Seasoning, House Made Cocktail Sauce ½ lb. 9 1 lb. 15
Pierogies
Cheddar Cheese-Mashed Potatoes, Andouille, Caramelized Onions, Sautéed Scallions, White Wine 12
Brussels Sprouts
Honey, Bleu Cheese, Bacon 12
Nachos
Steak or Chicken, Jalapeños, Black Beans, Pico de Gallo, Sour Cream, Queso Cheese 12
Wings
Mild, Medium, Hot, Parm Garlic, Old Bay, BBQ 12
Bier Cheese and Pretzels
Pretzel Bites and Brown Ale Bier Cheese 7
Greek Style Mussels
Mussels, Mild Banana Peppers, Fire Roasted Tomatoes, Feta 14

Flatbreads
Roasted Mushroom
Garlic Spread, Feta, Arugula, Balsamic Drizzle 9
BBQ Chicken
House Made BBQ, Grilled Chicken Breast, Cheddar, Caramelized Onions 9
**Pesto Chicken Caprese
House Made Pesto, Mozzarella, Grilled Chicken, Tomatoes, Balsamic Drizzle 12

Soups
Seafood Chowder 6/8  Tomato Bisque 5/7

Salads
House
Spring Mix, Red Onion, Tomato, Cucumber, Feta 4/8
Caesar
Romaine, Shaved Parm, House Made Croutons 4/8
Blackened Tuna
Spring Mix, Blackened Tuna, Mango Salsa, Pineapple Rum Dressing 16
Spinach
Spinach, Strawberries, Pecans, Red Onion, Feta, Strawberry Balsamic 10
F&F Salad
Spring Mix, Grilled Chicken, Tomato, Cucumber, Red Onion, Egg, Cheddar Jack, Fresh Cut Fries 12
*Add to any Salad- Chicken 6; Salmon 8; Shrimp; 8; Blackened Tuna 8, Fried Egg 2

Handhelds Served with Fresh Cut Fries
Steak 'n Cheese
Ribeye, Sautéed Onions, Mushrooms and Peppers, Mozzarella, Toasted Philly Roll 14
Black 'n Bleu
House Blended, Blackened Burger, Bleu Cheese, Bacon, Lettuce, Tomato, Toasted Brioche 12
The Butcher
House Blended Burger, Bacon, Cheddar, Lettuce, Tomato, Toasted Brioche 12
Chicken Club
Southern Fried or Grilled Chicken Breast, Bacon, Cheddar, Chipotle Aioli, Lettuce, Tomato, Toasted Brioche 12
Pulled Pork
Pulled Pork, Carolina Sauce, Coleslaw, Toasted Brioche 12
Catfish
Fried, Grilled or Blackened Catfish, Lettuce, Tomato, Bacon, Remoulade Sauce, Toasted Brioche 12
Portabella
Grilled Portabella, Sautéed Peppers and Onions, Mozzarella, Arugula, Balsamic Drizzle, Toasted Brioche 10
Salmon BLT
Grilled Salmon, Bacon, Lettuce, Tomato, Chipotle Mayo, Toasted Brioche 16
The Beyond Burger  Vegan, Choice of Toppings 15
Vegan, Choice of Toppings

*Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of foodborne illness.
**Contains Nuts
House Salad 2
Caesar 3

Ribeye
Grilled, House-Cut Ribeye, Choice of Scalloped or Whipped Potatoes, Chef's Veg 32

Cajun Mac and Cheese
Blackened Chicken, Andouille, Bacon, Creamy Béchamel, Herb Crust 24

Salmon*
Grilled Salmon, Choice of Scalloped or Whipped Potatoes, Chef's Veg, Lemon-Dill Cream Sauce 26

Blackened Chicken
Blackened Chicken Breast, Choice of Scalloped or Whipped Potatoes, Collard Greens 19

Shrimp 'N Grits
Cajun-Grilled Shrimp, Grits, Bacon, Scallions, Red and Green Peppers, Onions, Sauce Béchamel 22

Fish 'N Chips
Beer-Battered, Fried White Fish, Fresh Cut Fries, Caper-Lemon Tartar Sauce 18

Mississippi Delta Catfish
Blackened, Grilled or Fried Catfish, Choice of Scalloped or Whipped Potatoes, Collard Greens, Remoulade Sauce 24

Dual Crab Cakes
Sautéed, House-Made Crab Cake, Choice of Scalloped or Whipped Potatoes, Chef's Veg 24

Vegetable Pasta
Linguini, Mushrooms, Tomatoes, Green and Red Peppers, Spinach, Onions, Basil, Garlic White Wine 18
*Add Chicken $6; Salmon; $8; or Shrimp $8; Tuna $8

Sides
Mac 'N Cheese 5
Scalloped Potatoes 5
Whipped Potatoes 5
Brussels Sprouts 5
Chef's Vegetables 5
Collard Greens 5
Fresh Cut Fries 3

*Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of foodborne illness.
**Contains Nuts
EXPERIENCE

Lakeview Golf Resort and Spa, Morgantown, WV
Executive Chef, 2014-Present
Directly oversee operations of a multi-million dollar culinary department that operates banquet facilities, two restaurants, two golf course outlets, and off site catering.
Responsibilities Include:
* Directly oversee all food production for all outlets.
* Scheduling within budgetary parameters.
* Maintain budget and food, liquor, and labor costs for multiple departments.
* Assist guests in the planning of special menus for banquet functions.
* Write, cost, and analyze profitability of menus for all outlets.

Renaissance Asheville Hotel, Asheville, NC
Executive Chef and Food and Beverage Director June 2011-March 2014
Oversee and supervise all Food and Beverage daily operations including the restaurant, banquets, and room service.
Responsibilities Include:
*Scheduling for staff
*Maintain a budget including food costs, labor, and direct expenses
*Write and cost menus and oversee and ensure consistent quality of all menu items.
*Opened and a new restaurant with a new concept after renovation.
*Planned and cost out menus for privet events
*Oversee purchasing

Lakeview Golf Resort and Spa, Morgantown, WV
Executive Chef, January 2008-June 2011

New Castle Country Club, New Castle, PA
Executive Chef, 2006-2007
Oversee the culinary department of the club house, dining room, banquet facility, and golf events
Responsibilities Include:
* Managed culinary department within budget guidelines.
* Scheduling of staff.
* Product ordering.
* Assist club members in the planning of functions and menus.
* Maintain bi-weekly menu rotations.

At Your Service Hospitality Management, Laurel, MD
Culinary Consultant, 2005-2006
Assumed temporary control for food and beverage operations at a variety of properties, including but not limited to Marriott and free standing inns.
Responsibilities Include:
* Troubleshooting culinary operations for multi-million banquet facilities.
* Assist in food costs and labor controls.
* Implement corporate standards when applicable.
* Assist in the production of VIP functions (i.e. Super Bowl 40).

Asheville Renaissance Hotel, Asheville, NC
Executive Chef, 2002-2005
Oversee the culinary department within a two hundred eighty three room hotel with banquet department and full service restaurant. Responsibilities include:
* Coordinating of management between departments to ensure the success of banquet functions.
* Menu planning and development for all functions, be it banquet or restaurant related.
* Scheduling, within labor constraints, for three different departments within the Culinary Team
* Adhering to budgetary guidelines for all operations

Norfolk Waterside Marriott, Norfolk, VA
Banquet Chef, 2000-2002
Managed a banquet kitchen that was responsible for handling a volume of clientele that had a yearly gross of ten million dollars in revenue.
Responsibilities Include:
* Operating department within budgeted parameters.
* Development of menus for special events which accounted for at least one-quarter of the yearly revenue.
* Assist the Executive and Sous Chefs in daily restaurant operations as needed.
* Directly responsible for opening and operating a strict kosher kitchen and maintaining close working ties to the local synagogue authorities.

Smithfield Station, Smithfield, VA
Executive Sous Chef. 1999-2000

Smithfield Inn, Smithfield, VA
Sous Chef, 1997-1999

Education
*Pennsylvania Institute of Culinary Arts, Pittsburgh, PA ~ A.A., Specialized Sciences, 1996
*Currently Serve Safe Certified
*Mon County Health Dept. Manager in Charge

AWARDS AND RECOGNITIONS
Manager of the First Quarter: Asheville Renaissance Hotel 2013.
Regular guest on WLOS NEWS 13 Carolina Kitchen
Captain of the winning team for NPN Culinary Competition 2014
Captain of the winning team for NPN Culinary Competition 2015
<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Date</th>
<th>Time</th>
<th>Net Sales</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wednesday, April 03, 2019 11 a.m. to Wednesday, April 03, 2019 5 p.m.</td>
<td>$161.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, April 04, 2019 11 a.m. to Wednesday, April 10, 2019 5 p.m.</td>
<td>$118.95</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, April 10, 2019 11 a.m. to Thursday, April 11, 2019 5 p.m.</td>
<td>$121.90</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, April 11, 2019 11 a.m. to Wednesday, April 17, 2019 5 p.m.</td>
<td>$228.90</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, April 17, 2019 11 a.m. to Thursday, April 18, 2019 5 p.m.</td>
<td>$188.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, April 18, 2019 11 a.m. to Wednesday, April 24, 2019 5 p.m.</td>
<td>$163.95</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, April 24, 2019 11 a.m. to Thursday, April 25, 2019 5 p.m.</td>
<td>$225.75</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, April 25, 2019 11 a.m. to Wednesday, May 01, 2019 5 p.m.</td>
<td>$15.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, May 01, 2019 11 a.m. to Thursday, May 02, 2019 5 p.m.</td>
<td>$261.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, May 02, 2019 11 a.m. to Wednesday, May 08, 2019 5 p.m.</td>
<td>$402.50</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, May 08, 2019 11 a.m. to Thursday, May 09, 2019 5 p.m.</td>
<td>$304.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, May 09, 2019 11 a.m. to Wednesday, May 15, 2019 5 p.m.</td>
<td>$254.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, May 15, 2019 11 a.m. to Thursday, May 16, 2019 5 p.m.</td>
<td>$261.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, May 16, 2019 11 a.m. to Wednesday, May 22, 2019 5 p.m.</td>
<td>$282.50</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, May 22, 2019 11 a.m. to Thursday, May 23, 2019 5 p.m.</td>
<td>$28.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, May 23, 2019 11 a.m. to Wednesday, May 29, 2019 5 p.m.</td>
<td>$90.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, May 29, 2019 11 a.m. to Thursday, May 30, 2019 5 p.m.</td>
<td>$202.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, May 30, 2019 11 a.m. to Wednesday, June 05, 2019 5 p.m.</td>
<td>$76.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, June 05, 2019 11 a.m. to Thursday, June 06, 2019 5 p.m.</td>
<td>$303.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, June 06, 2019 11 a.m. to Wednesday, June 12, 2019 5 p.m.</td>
<td>$283.90</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, June 12, 2019 11 a.m. to Thursday, June 13, 2019 5 p.m.</td>
<td>$164.50</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, June 13, 2019 11 a.m. to Wednesday, June 19, 2019 5 p.m.</td>
<td>$90.90</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, June 19, 2019 11 a.m. to Thursday, June 20, 2019 5 p.m.</td>
<td>$289.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, June 20, 2019 11 a.m. to Wednesday, June 26, 2019 5 p.m.</td>
<td>$121.95</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, June 26, 2019 11 a.m. to Thursday, June 27, 2019 5 p.m.</td>
<td>$175.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, June 27, 2019 11 a.m. to Wednesday, July 10, 2019 5 p.m.</td>
<td>$0.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, July 10, 2019 11 a.m. to Thursday, July 11, 2019 5 p.m.</td>
<td>$257.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, July 11, 2019 11 a.m. to Wednesday, July 17, 2019 5 p.m.</td>
<td>$0.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, July 17, 2019 11 a.m. to Thursday, July 18, 2019 5 p.m.</td>
<td>$0.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, July 18, 2019 11 a.m. to Wednesday, July 24, 2019 5 p.m.</td>
<td>$75.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wednesday, July 24, 2019 11 a.m. to Thursday, July 25, 2019 5 p.m.</td>
<td>$0.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thursday, July 25, 2019 11 a.m. to Wednesday, July 30, 2019 5 p.m.</td>
<td>$0.00</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
MORGANTOWN BOARD OF ZONING APPEALS
August 21, 2019
6:30 p.m.
City Council Chambers

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

STAFF REPORT

CASE NO: V19-27 / South Park Service Center / 301 Pleasant Drive

REQUEST and LOCATION:
Request by David Stull on behalf of South Park Service Center for variance relief from Article 1369 concerning signage at 301 Pleasant Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:
Second Ward Tax District, Tax Map 29, Parcel 371; B-4, General Business District

SURROUNDING ZONING:
North, East, and West: B-4, General Business District
South: R-1A, Single-Family Residential District

BACKGROUND and ANALYSIS:
The petitioner seeks to install wall signs and expand an existing post-and-panel sign for a nonconforming “Automotive Repair Shop” use at 301 Pleasant Street. Addendum A of this report illustrates the location of the subject site.

Post and Panel Sign
The Board previously granted variance relief to permit the current post-and-panel sign under Case No. V18-06, related materials for which are included as Addendum B of this report. The current sign is believed to be 21 feet in height and 48 square feet in area. The petitioner seeks to expand the area of the sign to include a 40 square foot (5’ x 8’) service list below the existing post-and-panel sign’s commercial content.

Per Section 1369.07(F)(1), post-and-panel signs shall not exceed six (6) feet in height and shall not exceed 32 square feet in area. The existing sign’s height will not change as a result of the proposed improvement, but the sign’s total area would increase. The increase in sign area results in a 56-square foot area variance for the post-and-panel sign.

Wall Signage
Article 1369.07(I)(1) provides a maximum wall sign area standard of 0.4 square feet of wall sign area per linear foot of tenant building frontage in the B-4 District. The petitioner’s linear frontage appears to be 30 feet +/-, providing for a maximum of 12 square feet of permitted wall sign area. The petitioner seeks to install one (1) 240 square foot canopy sign, three (3) 16 square foot aluminum signs above three (3) garage bays, and one (1) 20 square foot aluminum sign above the remaining garage bay. The signage combines for a total of 308 square feet of wall signage, requiring variance relief of 296 square feet, as shown in the following table.
### Wall Sign

<table>
<thead>
<tr>
<th>Description</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Permitted Wall Signage</td>
<td>12 sf</td>
</tr>
<tr>
<td>Required Variance Relief</td>
<td>296 sf</td>
</tr>
</tbody>
</table>

### Development Services

**Christopher Fletcher, AICP**  
Director  
**John Whitmore, AICP**  
Planner III  
**Planning Division**  
389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

### Board Members:

- **Harrison Case**, Chair  
- **Kevin Meehan**, Vice-Chair  
- **Christopher 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 C of this report provides recommends replacing the petitioner’s response with the Board’s approved Findings of Fact for Case No. V18-06 with minor adaptions for wall signage.

Traditionally, Staff does not provide a recommendation for sign variance petitions. However, as this location hosts signage that benefits from the recent Case No. V18-06 variance decision, Staff recommends the Board include the following considerations in its evaluation of the current variance petition.

- In reviewing the post-and-panel sign, Staff believes the current Case No. V18-06 variance decision providing for 48 square feet of signage is adequate to provide ground sign wayfinding and commercial messaging for the use.

- The proposed wall signage appears to be significantly increased as a result of utilizing the canopy. The total variance request could be reduced to permit the requested wall signage on the principal building that would result in a 56 square foot variance as opposed to the requested 296 square foot variance.

Attachments: Application and accompanying materials
Table of Contents

| V18-06 Staff Report                      | Page 2 of 20 |
| V18-06 Staff Report Addendum A          | Page 5 of 20 |
| V18-06 Staff Report Addendum B          | Page 6 of 20 |
| Notice of Zoning Violation              | Page 8 of 20 |
| V18-06 Application                      | Page 9 of 20 |
| V18-06 Additional Material             | Page 13 of 20|
| March 14, 2018 Board of Zoning Appeals Minutes | Page 14 of 20|
| V18-06 Approval letter                 | Page 18 of 20|
MORGANTOWN BOARD OF ZONING APPEALS
March 14, 2018
6:30 p.m.
City Council Chambers

STAFF REPORT

CASE NO: V18-06 / South Park Service Center / 301 Pleasant Street

REQUEST and LOCATION:
Request by Ryan Stuart on behalf of South Park Service Center, for variance relief from Article 1369 concerning signage at 301 Pleasant Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:
Tax Map 29, Parcel 371; B-4, General Business District

SURROUNDING ZONING:
North, East, and West: B-4, General Business District
South: R-1A, Single-Family Residential District

BACKGROUND and ANALYSIS:
The petitioner has erected multiple nonconforming wall signs and improved a nonconforming post and panel sign for a nonconforming "Automotive Repair Shop" use at 301 Pleasant Street. Addendum A of this report illustrates the location of the subject site. Staff issued a Notice of Zoning Violation to the petitioner on 26 DEC 2017, a copy of which is appended.

Article 1369.07(l)(1) provides a maximum wall sign area standard of 0.4 square feet of wall sign area per linear foot of tenant building frontage in the B-4 District. The tenant's linear frontage appears to be 30 feet +/-, providing for a maximum of 12 square feet of permitted wall sign area. The petitioner appears to have erected over 352 square feet of wall signage on site, requiring variance relief of 340 square feet to maintain the eleven (11) wall signs observed on or about 26 DEC 2017.

Additionally, all the wall signs appear to be vinyl, which is not a permitted sign material in the B-4 District under Section 1369.08(B)(3).

BZA MEETING PACKET
Page 50 of 226
3/14/18
MORGANTOWN BOARD OF ZONING APPEALS
March 14, 2018
6:30 p.m.
City Council Chambers

The site also includes an 80-square foot sign affixed to an existing post and panel sign structure. This sign was previously used by former “Gasoline Service Station” use, as shown in the 2012 Google Street View image to the right:

Per Section 1369.07(F)(1), post and panel signs shall not exceed 6 feet in height and shall not exceed 32 square feet in area. The table below indicates known information regarding the post and panel signage:

<table>
<thead>
<tr>
<th>Sign</th>
<th>Sign Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Park Service Center</td>
<td>80 sf</td>
</tr>
</tbody>
</table>

In addition to known area variance requirements, a height variance would be required, the extent of which is not fully known. It is believed that the post and panel sign is 21 feet tall, requiring a 15-foot height variance. The petitioner notes the material of the sign affixed to the post-and-panel structure is “aluminum composite”, which appears to require variance relief from Section 1369.08(B)(3) sign material 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(a) and 8A-7-11(b)].

Addendum B of this report provides revisions to the petitioner’s findings of fact responses (deleted matter struck through; new matter underlined). Staff recommended revisions should not be considered or construed as supporting or opposing the merits of the petitioner’s responses or the subject variance petition.

It should be noted the burden of having to remove and replace the subject signs to either conform to maximum sign standards or to conform to a lesser approved variance was a financial hardship created by the petitioner.

As is customary with sign variance petitions, no recommendation is submitted by Staff concerning whether variance relief should be granted as requested. However, should the Board contemplate granting variance relief under Case No. V18-06, Staff recommends the Board consider the merits of:

1. Wall Signage. Because all erected wall signs appear to be vinyl banners, which does not meet sign material standards, and because the total area of erected wall signs significantly exceeds the maximum wall sign area standard, variance relief related to all existing wall signage is denied so the petitioner may work with Staff to pursue compliant wall signage or seek a separate wall sign related variance petition; preferably meeting material standards and significantly reducing the number of and total wall sign area. Additionally, all existing illegal wall signs must be removed by 11:59 p.m. on Monday, March 19, 2018, after which enforcement action, if necessary will be initiated to achieve compliance.

2. Post-and-Panel Signage. Variance relief from the post-and-panel maximum height, and maximum area, and material standards are approved so that the existing post-and-panel structure and commercial copy may remain as requested; provided,
   a. A sign permit for the commercial copy parallel sign faces affixed to said post-and-panel sign structure must be issued within 45 days.
   b. With the exception of the existing West Virginia Official Motor Vehicle Inspection Station signage, no additional signage may be affixed to the subject post-and-panel sign structure nor placed within the planting bed surrounding the base of the subject post-and-panel sign.
   c. The post-and-panel sign structure shall be maintained and kept painted to avoid rust and decay and any and all related maintenance work must be completed, following related building permit issuance, within 90 days.

3. Any and all on-site portable signage, not permitted under Morgantown’s Planning and Zoning Code, shall be removed by 11:59 P.M. Monday, March 19, 2018, after which enforcement action, if necessary will be initiated to achieve compliance.

Enclosures: Application and accompanying exhibits
The following restates the petitioner’s findings of fact responses. Staff submits the following revisions and encourages the Board to review the petitioner’s responses carefully.

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

The signage does not affect anyone due to it is affixed to the building. The post-and-panel sign structure has been in place for many years without appreciable adverse impact.

The variance related to the wall signs will adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The erected wall signs deleteriously impact the public’s enjoyment of the built environment, the rights and obligations of property owners to expect sign regulation compliance, and the intent and spirit of maximum sign area and sign material standards.

Finding of Fact No. 2 – The variance related to the post and panel sign 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:

Location has been a auto-repair business for decades. We removed the gasoline service due to safety and finance. Because we are not affiliated with the Exxon brand, we had to change the signage. The historic use of the property requires signage not traditionally associated with a downtown core, and the property itself is unique in that it is detached from the urban core of the City by serving the immediate residential neighborhood. The post-and-panel signage utilizes an existing post-and-panel structure.

The variance related to the wall signs does not arise 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:

Location has a long history of providing automotive repair and service. The existing wall signs are part of the business and have been in place for many years.

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

The signage is of great use for the development of our small business. We are a small business employing six people and cannot afford any more setbacks. Removal of the existing post-and-panel sign structure does not appear necessary to ensure a reasonable use of the ground signage in this case; provided deferred maintenance of the sign structure is addressed within a reasonable time.

The variance for the wall signage will not eliminate an unnecessary hardship and permit a reasonable use of the land, because:

No hardship is apparent concerning the erected wall signage; particularly given the temporary nature of vinyl sign materials.
Finding of Fact No. 4 – The variance for the post-and-panel sign will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Will allow the signage to appropriately advertise our business in a manner which we can afford. The existing post-and-panel sign structure will continue to be used and serve commercial messaging need for the site as the structure has done for many years in this case; provided, deferred maintenance of the sign structure is addressed within a reasonable time.

The variance for the wall signage will not allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Variance relief permitting the erected illegal wall signage to remain in this case will only serve to diminish the value of and the public’s compliance expectations for related signage regulations and the enforcement thereof.
OFFICIAL NOTICE

Property Address: 301 Pleasant Street

Owner/Manager Name: ___________________________ Date: 12/26/17

THIS OFFICIAL NOTICE IS HEREBY GIVEN THAT YOU ARE IN VIOLATION OF
THE CITY OF MORGANTOWN PLANNING AND ZONING CODE.

THE VIOLATION IS AS FOLLOWS: 

Sign material not permitted B-9 Zone

THIS IS A VIOLATION OF CODE: 

13.69.08 (B)(3)

YOU ARE GIVEN 2 DAYS(S) FROM THE RECEIPT OF THIS NOTICE TO CORRECT THE PROBLEM
INDICATED AND TO NOTIFY THE PLANNING DIVISION OF THE CORRECTION. IF THE VIOLATION IS
NOT CORRECTED WITHIN THE TIME FRAME GIVEN, YOU WILL BE ISSUED A CITATION TO APPEAR
IN COURT. FINES CAN BE UP TO $500.00 PER DAY FOR EVERY DAY THAT THE VIOLATION
CONTINUES TO EXIST.

NOTICE RECEIVED BY: ____________________________

(Your signature only implies receipt of this notice)

STAFF SIGNATURE: ____________________________
# Application for Variance Petition

**I. Applicant**

<table>
<thead>
<tr>
<th>Name</th>
<th>South Park Service Center</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address</td>
<td>301 Pleasant Street</td>
</tr>
<tr>
<td></td>
<td>Morgantown, WV 26505</td>
</tr>
</tbody>
</table>

**II. Property**

<table>
<thead>
<tr>
<th>Owner</th>
<th>B-4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address</td>
<td>301 Holland Ave</td>
</tr>
<tr>
<td>Tax Map No.</td>
<td>29</td>
</tr>
<tr>
<td>Parcel No.</td>
<td>371</td>
</tr>
</tbody>
</table>

**III. Narrative**

We feel it is imperative to the nature of our business for our signage to inform our customers of our services. Vinyl signage is the only way we can afford to have applicable signs.

**V. 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 or officials 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.

**Ryan Stuart**

Type/Print Name of Applicant/Agent: Ryan Stuart

Signature of Applicant/Agent: [Signature]

Date: 12/26/19

---

Development Services Department
130 Spruce Street, Morgantown, WV 26505

www.morgantownwv.gov 304-254-7431

Form Rev. 20140001

Page 8 of 228

BZA MEETING PACKET

3/14/19
VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

☐ Land Use Characteristics (complete only those that apply)
  ☐ Residential ☐ Single-Family Dwelling ☐ Townhouse Dwelling
  ☐ Two-Family Dwelling ☐ Multi-Family Dwelling
  ☑ Non-Residential or Mixed (please explain)

☐ Structure Characteristics (complete only those that apply)
  Total number of buildings: 1
  Gross floor area of each building: 3500 sq
  Estimated number of employees: 6
  No. of dwelling units: 
  No. of bedrooms:
  Additional structure-related details:

☐ Additional Information (as required by Staff):

☐ Site Plan. A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff:
  • Location, shape, exterior dimensions, and number of stories of each building on the site.
  • Standard yard setbacks for the applicable zoning district
  • Location, grade, and dimensions of paved surfaces, and all abutting streets
  • Existing and proposed contours, at an interval of at least two (2) feet
  • Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
  • Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required
### VII. FINDINGS OF FACT

**COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.**

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

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

   The signage does not affect anyone due to it is affixed to the building.

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:

   Location has been a auto repair business for decades. We removed the gasoline service due to safety and finance. Because we are not affiliated with the Exxon brand we had to change the signage.
VII. FINDINGS OF FACT

3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because: The signage is of great use for the development of our small business. We are a small business employing six people and cannot afford any more setbacks.

4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because: Will allow the signage to appropriately advertise our business in a manner which we can afford.
1/4/2018

To whom it may concern:

In March of 2017, Mr. Stoll ordered a sign from Deer Park Signs. The sign is 8’ x 10’ Alupanel. Alupanel is an aluminum composite panel.

If you need any further information, please contact us at 301-334-1344.

Thank you,

Deer Park Signs
After further discussion, Board members expressed discontentment in granting the variance and noted that the applicant is not willing to compromise with different signage or attend the hearing.

Shamberger moved to find in the negative for all the Findings of Facts for Case V18-02; seconded Meehan. Motion carried unanimously.

NOTE: The following findings were included in the motion

Finding of Fact No. 1 – The variance will adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The erected wall signs detrimentally impact the public’s enjoyment of the built environment, as protected by the related sign regulation, and the public’s right and shared obligation to comply with related sign regulations.

Finding of Fact No. 2 – The variance does not arise 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:

No special conditions or attributes pertaining to the erected wall signs are apparent nor were special conditions or attributes identified by the petitioner that were not created by the petitioner.

Finding of Fact No. 3 – The variance will not eliminate an unnecessary hardship and permit a reasonable use of the land, because:

No unnecessary hardship is apparent nor has the petitioner demonstrated an unnecessary hardship that would negate a reasonable and effective means of communicating the location and purpose of the establishment to the public.

Finding of Fact No. 4 – The variance will not allow the intent of the zoning ordinance to be observed and substantial justice done, because:

Variance relief permitting the erected illegal wall signage to remain in this case would only serve to diminish the value and purposes of and the public’s compliance expectations for related sign regulations and the enforcement thereof. Further, there appears to be alternate design means, which the petitioner has been unwilling to explore, that could reasonably and effectively communicate the location and purpose of the establishment to the public.

Shamberger moved to deny Case No. V18-02; seconded by Meehan. Motion carried unanimously.

Case stated that the Board’s decision 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.

IV. NEW BUSINESS

A. V18-06 / South Park Service Station / 301 Pleasant Street: Request by Ryan Stewart, on behalf of South Park Service Station, for variance relief from Article 1369 concerning signage; Tax Map 29, Parcels 370 and 371; B-4, General Business District.

Whitmore presented the Staff Report.
Case recognized Ryan Stuart of 4202 Persinal Woods who stated he understands the vinyl signs need to come down and noted they did not know that replacing the face of the existing signage was not allowed as it was the same size of what was previously there. Stuart questioned how to measure the frontage of the building.

Whitmore explained how the building frontage is calculated and noted it is calculated using Coburn Avenue per the Planning and Zoning Code frontage provisions.

Case asked if the petitioner wanted to keep the post and panel signage but understood that the vinyl signage had to come down. Stuart confirmed.

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

Case recognized Paul Steel of 220 Grand Street who stated the business is an entrance into South Park and does not need all of the signage currently on the building. Steel noted the bottom of the post and panel sign is a planter and has needed repaired for years.

Case recognized William Kawecki of 324 Cobun Avenue who encouraged the BZA to be more restrictive in permitting sign variances and encouraged the Planning Division to review the sign regulations and expressed that visual clutter is not appealing in the City. Kawecki expressed he would like to see signage taken down.

Whitmore read public comments received by Staff from Stanley Cohen, Penny Koska, and Cathleen and Walter Latis who all opposed the proposed variance request.

Case referred to the meeting packet and noted that comments were received from Deer Park Signs noting the size and material of the post and panel sign.

Case offered the petitioner a chance for rebuttal. Stuart declined the rebuttal opportunity.

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

Case referred to the Staff recommendations and noted the planting bed of the post and panel sign would be required to be maintained. Whitmore confirmed and stated the planting bed is a podium for the sign and could be removed if desired.

Benison questioned the two answers given for Finding of Fact 1. Whitmore explained that Staff provided two sets of findings of fact response addressing the wall signage and the post-and-panel signage separately and noted that the Finding of Fact questions could be reviewed individually.

Shambarger noted the sign is older and nonconforming and the new standard would be less square footage and lower in height. Case expressed that lowering the sign could be a concern as it is located on a corner and could obstruct visibility. Shambarger expressed the sign is too high to be visible unless a person is close.

After further discussion, Board members decided to approve the variance for the nonconforming sign but deny the variance for the vinyl signs.
Meehan moved to find in the affirmative for all of the Findings of Facts for Case V18-06 as revised by Staff; seconded Berinson. Motion carried unanimously.

NOTE: The following findings were included in the motion

Finding of Fact No. 1 – The variance related to the post-and-panel sign will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The post-and-panel sign structure has been in place for many years without appreciable adverse impact.
The variance related to the wall signs will adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The erected wall signs do not seriously impact the public’s enjoyment of the built environment, the rights and obligations of property owners to expect sign regulation compliance, and the intent and spirit of maximum sign area and sign material standards.

Finding of Fact No. 2 – The variance related to the post-and-panel sign 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 historic use of the property requires signage not traditionally associated with a downtown core, and the property itself is unique in that it is detached from the urban core of the City by serving the immediate residential neighborhood. The post-and-panel signage utilizes an existing post-and-panel structure.
The variance related to the wall signs does not arise 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:

No special conditions or attributes pertaining the erected wall signs are apparent that were not created by the petitioner.

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

Removal of the existing post-and-panel sign structure does not appear necessary to ensure a reasonable use of the ground signage in this case; provided deferred maintenance of the sign structure is addressed within a reasonable time.
The variance for the wall signage will not eliminate an unnecessary hardship and permit a reasonable use of the land, because:

No hardship is apparent concerning the erected wall signage; particularly given the temporary nature of vinyl sign materials.

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

The existing post-and-panel sign structure will continue to be used and serve commercial messaging need for the site as the structure has done for many years in this case; provided, deferred maintenance of the sign structure is addressed within a reasonable time.
The variance for the wall signage will not allow the intent of the zoning ordinance to be observed and substantial justice done, because:
Variance relief permitting the erected illegal wall signage to remain in this case will only serve to diminish the value of and the public's compliance expectations for related signage regulations and the enforcement thereof.

Shamberger moved to approve the variance for the post and panel sign for Case No. V18-06 with Staff recommended conditions; seconded by Meehan. Motion carried unanimously.

The following condition was approved for Case V18-06:

The variances for the post-and-panel sign were granted with the condition that The post-and-panel sign structure shall be maintained and kept painted to avoid rust and decay and any and all related maintenance work must be completed, including theower-bed podium, following related building permit issuance, within 90 days.

Shamberger moved to deny the variance for the wall signage for Case No. V18-06 and stated that all existing illegal signage be removed by Monday, March 19, 2018; seconded by Meehan. Motion carried unanimously.

Case stated that the Board’s decision 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. **V18-07 / Mountaineer Amish Structures / 1591 Deckers Creek:** Request by Chad Matheny, on behalf of Mountaineer Amish Structures, for variance relief from Section 1365 related to minimum parking standards; Tax Map 31, Parcel 114; B-2, Service Business District.

C. **CU18-01 / Mountaineer Amish Structures / 1591 Deckers Creek:** Request by Chad Matheny, on behalf of Mountaineer Amish Structures, for approval of a conditional “Outdoor Storage Facility” use; Tax Map 31, Parcel 114; B-2, Service Business District.

With no objections from the Board, the petitioner, or the public, Whitmore presented the combined Staff report for V18-07 and CU18-01.

Case recognized Chad Matheny of 3488 Earl L. Core Road who stated he has had storage sheds in different locations within the City and never had any problems. Matheny noted he does not want to pave the property as he does not own it and it is for sale. Matheny stated that moving and dragging the sheds would be detrimental to pavement. He expressed that not many customers visit the location at one time and that customers usually park at CVS when coming to look at the storage sheds. Matheny stated that if the variance is granted, he will bring in top soil and beautify the property with thick grass.

Shamberger asked if the pavement was torn up at his other locations while moving the sheds. Matheny explained that different equipment was used to move previous sheds at the different location. He stated he could afford and acquire some “shavings” if gravel will not be permitted.

Case asked if he had an office at the location. Matheny stated he has an office off-site in Richard and customers call for information or to make appointments.
March 15, 2018

Dear Mr. Stuart,

This letter is to notify you of the decision made by the Board of Zoning Appeals concerning the above referenced variance petition for variance relief from Article 1369 as it relates to signage at 301 Pleasant Street.

The decision is as follows:

Board of Zoning Appeals, March 14, 2018:

1. Each of the Findings of Fact was found in the positive as stated in Addendum A of this letter.
2. The Board granted a 48-square foot variance from the maximum post-and-panel sign area standard.
3. The Board granted a 15-foot variance from the maximum post-and-panel sign height standard.
4. The Board granted a variance from permitted materials to allow aluminum-composite on the post-and-panel sign.
5. The variances for the post-and-panel sign were granted with the condition that the post-and-panel sign structure shall be maintained and kept painted to avoid rust and decay and any and all related maintenance work must be completed, including the flower-bed podium, following related building permit issuance, within 90 days.
6. The Board denied variance from the wall signage area and permitted sign material requirements, and required that all existing illegal wall must be removed by 11:59 p.m. on Monday, March 19, 2018, after which enforcement action, if necessary will be initiated to achieve compliance.

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

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

Please note sign 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: 2018.03.15 11:52:49 -04'00'
ADDENDUM A – Approved Findings of Fact

V18-06/ South Park Service Center / 301 Pleasant Street

Finding of Fact No. 1 – The variance related to the post-and-panel sign will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

- The post-and-panel sign structure has been in place for many years without appreciable adverse impact.
- The variance related to the wall signs will adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:
- The erected wall signs deleteriously impact the public’s enjoyment of the built environment, the rights and obligations of property owners to expect sign regulation compliance, and the intent and spirit of maximum sign area and sign material standards.

Finding of Fact No. 2 – The variance related to the post-and-panel sign 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 historic use of the property requires signage not traditionally associated with a downtown core, and the property itself is unique in that it is detached from the urban core of the City by serving the immediate residential neighborhood. The post-and-panel signage utilizes an existing post-and-panel structure.
- The variance related to the wall signs does not arise 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:
- No special conditions or attributes pertaining the erected wall signs are apparent that were not created by the petitioner.

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

- Removal of the existing post-and-panel sign structure does not appear necessary to ensure a reasonable use of the ground signage in this case; provided deferred maintenance of the sign structure is addressed within a reasonable time.
- The variance for the wall signage will not eliminate an unnecessary hardship and permit a reasonable use of the land, because:
- No hardship is apparent concerning the erected wall signage; particularly given the temporary nature of vinyl sign materials.

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

- The existing post-and-panel sign structure will continue to be used and serve commercial messaging need for the site as the structure has done for many years in this case; provided, deferred maintenance of the sign structure is addressed within a reasonable time.
- The variance for the wall signage will not allow the intent of the zoning ordinance to be observed and substantial justice done, because:
- Variance relief permitting the erected illegal wall signage to remain in this case will only serve to diminish the value of and the public’s compliance expectations for related signage regulations and the enforcement thereof.
Staff recommends the petitioner’s Findings of Fact response be replaced with the Board’s approved Findings of Fact for Case No. V18-06 with minor adaptions for wall signage (deleted matter struck-through; new matter underlined). **Text highlighted below** assumes the Board does not grant variance relief to increase the area of the existing post-and-panel sign as requested. Should the Board decide to grant variance relief to increase the total area of the existing post-and-panel sign, the Board will need to modify the highlighted text below.

**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 simple signage that allows us to show our customers the services we offer. The previous tenant Gary Maust always had banners with service. The post-and-panel sign structure has been in place for many years without appreciable adverse impact. **However, the requested increase in post-and-panel sign area could serve to adversely impact the visual character and appearance of the gateway entrance to the neighborhood.** The proposed wall signage will primarily be directed away from residential uses and appears to better communicate the commercial use of the site.

**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:

People can’t see what services we offer, we simply need it for us to continue to do business. The current and historic use of the property appears to require wall signage not traditionally associated with a downtown core, and the property itself is unique in that it is detached from the urban core of the City and primarily serves the immediate residential neighborhood. However, the requested increase in post-and-panel sign area does not appear to arise from special conditions or attributes that otherwise hinder the use’s ability to effectively communicate to passersby.

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

Will The increase wall sign area should help drive business into our place the commercial use and appears reflect other similar uses along mixed residential corridors. **However, the requested increase in post-and-panel sign area does not appear to overcome an apparent hardship to effectively communicating to passersby.** Most of our customers are students so they come and go all the time. When a person drives by and can see an oil change sign, we gain their business while they are here. We are down more than 20% after removing signs.

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

Without allowing us signage business will have to be discontinued thus Morgantown will loose all tax revenue and there is no way anyone would rent this again if no signs were allowed. **The proposed signage, except for the requested increase in area of the post-and-panel sign, appears to serve commercial messaging needs for the site as the structure has done for many years.**
APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK) Fee: $150.00 [Z-V]

I. APPLICANT/AGENT Name: SOUTH PARK SERVICE CENTER

Mailing Address:
Street: 301 PLEASANT STREET
City: MORGANTOWN
State: WV
Zip: 26501
Phone: 304-292-4390
Mobile: 304-616-5807
Email: SOUTH/PARK/SERVICECENTER

II. PROPERTY Street Address: 301 PLEASANT STREET

Owner: DAVID STUHL RYAN STUART

Mailing Address:
Street:
City: MORGANTOWN
State: WV
Zip: 26501

Tax Map No: 29
Parcel No: 371

III. NARRATIVE Describe the specific use and the standard for which the variance is sought.

ALLOWING PEOPLE TO KNOW WHAT SERVICES WE OFFER. SEE LETTER WITH PICTURES

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.

DAVID STUHL
Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date 7/1/19
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.
## 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:

   This is simple signage that allows us to show our customers the services we offer. The previous tenant Gary Must always had banners with services.

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:

   People can’t see what services we offer, we simply need it for us to continue to do business.
### 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:

   will help drive business into our place. Most of our customers are students so they come and go all the time. When a person drives by and can see an oil change sign, we gain their business while they are here. We are down more than 20% after removing signs.

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

   without allowing us signage business will have to be discontinued. Thus Morgantown will lose all tax revenue and there is no way anyone would rent this again if no signs were allowed.
To whom it may concern,

Since the city of Morgantown had made us remove our signage we have had a 20% decrease in business. We have the following proposal for signage. Refer to picture number one. We would like to put in vinyl lettering on the red section of the canopy "Full Service Auto Repair and Diagnostics" letters will be 60 feet long and sized height to fit. Picture number two, 8 foot by 5 foot menu board that can vary what it will say. Menu board will be made out of white aluminum. Picture number three above each garage door will be a 2 foot tall by 8 foot white aluminum signs with vinyl letters. Picture number four will have a 2 foot tall by 10 foot aluminum sign with vinyl letters. Thank you for the consideration.

Dave Stull
Owner
South Park Service Center
Regards
David Stull

This menu board will cover the bottom part of the old existing sign making it look very professional.
Regards
David Stull
Regards
David Stull

SOUTH PARK SERVICE CENTER <southparkservicecenter@gmail.com>
CASE NO:  V19-28 / Taco Bell / 347 Patteson Drive

REQUEST and LOCATION:
Request by Rosa Paddock of Aarsand Management, LLC on behalf of Taco Bell for variance relief from Article 1369 concerning signage at 347 Patteson Drive.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:
Seventh Ward Tax District, Tax Map 10, Parcel 79.3; B-5, Shopping Center District

SURROUNDING ZONING:
North and East: B-5, Shopping Center District
South and West: B-2, Service Business District

BACKGROUND and ANALYSIS:
The petitioner is currently renovating the existing Taco Bell establishment on Patteson Drive. Renovations include preserving existing wall and menu type signs and developing a new ground sign replacing the existing ground sign illustrated to the right. Addendum A of this report illustrates the location of the subject site.

Section 1373.07(C)(2), illustrated below, addresses when nonconforming signs lose their nonconforming protection status when a business undergoes remodeling in excess of $50,000.

Because the Taco Bell’s remodeling value is reported as $150,000, all signage must either be brought into conformance with related sign regulations or variance relief granted where applicable.
The petitioner seeks to preserve existing wall and menu type signs, which requires variance relief and is addressed in greater detail below. Additionally, the petitioner seeks variance relief to replace the existing nonconforming ground sign with a ground sign that conforms in terms of sign type and maximum sign area standards but exceeds the maximum sign height standard, which is addressed in greater detail below.

**Wall Signage – existing**

Section 1369.07(I)(1) provides a maximum wall sign area standard of six tenths (0.6) square feet for every-one (1) foot of tenant building frontage in the B-2 District. The linear width of the tenant’s frontage is 40 feet, which establishes a maximum wall sign area standard of 24 square feet. The petitioner seeks to preserve existing wall signs, the total area for which is 103.2 square feet of wall signage. As such, variance relief of 79.2 square feet is required for the wall sign as proposed and shown in the table below:

<table>
<thead>
<tr>
<th>Wall Sign</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>22.24 sf</td>
</tr>
<tr>
<td></td>
<td>(x3 = 66.72 sf)</td>
</tr>
<tr>
<td></td>
<td>12.16 sf</td>
</tr>
<tr>
<td></td>
<td>(x3 = 36.48 sf)</td>
</tr>
<tr>
<td>Total Permitted Wall Signage</td>
<td>24 sf</td>
</tr>
<tr>
<td>Required Variance Relief</td>
<td>79.2 sf</td>
</tr>
</tbody>
</table>
Menu Board – existing

Section 1369.07(D)(1) provides a maximum menu board sign area standard of thirty-two (32) square feet and maximum menu board sign height of six feet. The petitioner seeks to maintain the existing menu board sign illustrated to the right, which is 56.17 square feet in area and 8.67 feet tall. As such, a menu board area variance of 24.17 square feet and height variance of 2.67 feet are required for the signage to continue.

Post and Panel Signage – new

Section 1369.07(F)(1)(a) provides that post-and-panel signs be limited to six (6) feet in height. The applicant proposes a 20-foot tall sign, which is illustrated to the right. As such a 14-foot height variance is required for the new post-and-panel sign.

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 provides Staff recommended revisions to the petitioner’s 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
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:

A variance is being requested on existing drive-thru and building wall signage that has been installed at this site for approximately 10 years.

**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 City of Morgantown has adopted an ordinance that no pylon signs are allowed. Taco Bell installed their existing pylon sign previous to this ordinance. The building and drive-thru signage are also existing and nonconforming previously installed before the new ordinance.

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

N/A The commercial “Restaurant, Fast Food” tenant will be able to market to motorist traffic along Patteson Drive in a manner that has previously been available on-site and afforded other commercially-zoned sites within this corridor.

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

Taco Bell wishes to seek variance on the signage ordinance due to the existing building and drive-thru signage is nonconforming. Due to contractual obligations the Franchisee has with the Taco Bell Corporate, the store requires minor remodel to bring the building up to the latest Taco Bell Brand Standards; however, signage is not part of this requirement. In addition, Taco Bell understands the existing pylon sign is nonconforming, but not eligible for variance; therefore, Taco Bell is proposing to remove and replace with a new post and panel sign that is in conformance with current ordinance, but is seeking a variance to match the existing pylon sign height which is not. Taco Bell fells that it would be a disadvantage for customer visibility along that corridor, as all other restaurants have nonconforming pylon signs of similar height.
APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK)

Fe: $150.00 [Z-V]

I. APPLICANT/AGENT

Name: Rosa Paddock

<table>
<thead>
<tr>
<th>Mailing Address:</th>
<th>1525 E. Douglas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street</td>
<td>Wichita</td>
</tr>
<tr>
<td>City</td>
<td>KS</td>
</tr>
<tr>
<td>State</td>
<td>KS</td>
</tr>
<tr>
<td>Zip</td>
<td>67211</td>
</tr>
</tbody>
</table>

Phone: (316) 265-9367

II. PROPERTY

Street Address: 347 Patterson Street

Owner: Aarsand Management, LLC

<table>
<thead>
<tr>
<th>Mailing Address:</th>
<th>11019 McCormick Road, Suite 320</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street</td>
<td>Hunt Valley</td>
</tr>
<tr>
<td>City</td>
<td>MD</td>
</tr>
<tr>
<td>State</td>
<td>MD</td>
</tr>
<tr>
<td>Zip</td>
<td>21030</td>
</tr>
</tbody>
</table>

Zoning: B5

Tax Map No: B5

Parcel No: B5

Phone: (410) 771-1880

III. NARRATIVE

Describe the specific use and the standard for which the variance is sought.

Per e-mail from John Whitmore dated June 13, 2019 the proposed Taco Bell renovations (Building Permit 2019-00000814) have an estimated value of $150,000. Per Section 1373.07(C)(2)(b) of the City of Morgantown Planning & Zoning Code, construction in excess of $50,000 creates a situation where nonconforming signage on-site shall lose its nonconforming status, and would be required to be brought into compliance with the Sign Ordinance. This business currently has nonconforming signage (pole sign & directional signage) and is anticipated to have nonconforming wall and menu board signs.

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.

Rosa M. Paddock

Signature of Applicant/Agent: Rosa M. Paddock

Date: 06/27/2019
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/renders, 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.
### VI. FINDINGS OF FACT

<table>
<thead>
<tr>
<th>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</th>
</tr>
</thead>
</table>

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

A variance is being requested on existing drive-thru and building wall sigange that has been installed at this site for approximately 10 years.

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 City of Morgantown has adopted an ordinance that no pylon signs are allowed. Taco Bell installed their existing pylon sign previous to this ordinance. The building and drive-thru signage are also existing and noncomforming previously installed before the new ordinance.
<table>
<thead>
<tr>
<th>VI. FINDINGS OF FACT</th>
<th>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</td>
<td></td>
</tr>
<tr>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</td>
<td></td>
</tr>
<tr>
<td>Taco Bell wishes to seek variance on the signage ordinance due to the existing building and drive-thru signage is nonconforming. Due to contractual obligations the Franchisee has with Taco Bell Corporate, the store requires minor remodel to bring the building up to the latest Taco Bell Brand Standards; however, signage is not part of this requirement. In addition, Taco bell understands the existing pylon sign is nonconforming, but not eligible for variance; therefore, Taco Bell is proposing to remove and replace with a new post and panel sign that is in conformance with current ordinance, but is seeking a variance to match the existing pylon sign height which is not. Taco Bell feels that it would be a disadvantage for customer visibility along that corridor, as all other restaurants have nonconforming pylon signs of similar height.</td>
<td></td>
</tr>
</tbody>
</table>
TACO BELL

Breakfast

32 sq ft sign

20'
overall height

Customer:  
Project No:  
Scale: NTS
Date: 1/11/16 
Drawn By: KW
Location:  
Site No:  
Revised:  
Revised:  

DISCLAIMER: Renderings are for graphic purposes only and not intended for actual construction dimensions. For windload requirements, actual dimensions and mounting detail, please refer to engineering specifications and install drawings.

These drawings and designs are the exclusive property of Everbrite LLC. Use of, or duplication in any manner without express written permission of Everbrite LLC is prohibited.

Customer Approval: Graphics and colors on file will be used unless otherwise specified by customer. Please review drawing carefully. By signing below, you agree to graphics as shown above, and location of sign as shown. Please return signed copy back to Everbrite.

CUSTOMER SIGNATURE

LANDLORD SIGNATURE

DATE

PAGE 157 OF 212

8/21/19
**TYPICAL SECTION**

**BUILDING FINISH**

1/2' DIA. PIPE SPACER

#8 SCREW

.040 ALUM. RETURNS

.177 CLEAR SG POLYCARBONATE FACE-EMBOSSED

.063 ALUM. BACK

**WOOD BLOCKING**

WALL STUD ON 15" CTRS.

**PLYWOOD SHEATHING**

AGILIGHT LS-PRO/160-65K-2B1 WHITE LED MODULE, TYP.

**TO PRIMARY POWER SUPPLY**

1/4" DIA. WEEP HOLE

---

**SPECIFICATIONS**

**DESIGN PARAMETERS**

- Structural adequacy shall be the manufacturer's responsibility using the following criteria:
  - 100 MPH 3 second gust wind speed per ASCE 7-05
  - (150 MPH - ASCE 7-10). Category II, Exposure C. Components & Cladding, Zone 5.
  - Attachment may vary based on wall conditions.
  - Refer to written documentation for material specifications.

**MATERIALS**

- Cabinet: .040 aluminum returns w/ black finish and .063 aluminum back.
- Cap over design - removable face.
- Face: .177 clear SG polycarbonate - embossed.

**AREA**

- Squared: 22.24 ft²
- Actual: 14.23 ft²

**ELECTRICAL/PERFORMANCE SPECIFICATIONS**

- NEC approval required.
- 12V, Class II UL approved system.
- If alternate LED's are used:
  - 50,000 hour system where no greater than 30% lumen depreciation is experienced at 50K hours.
  - Thermally managed surface mount devices (SMD).

**LED(s):**

- LEDs (23 B) or equivalent - pre-approval required

**Power Supply:**

- (1) 12V/80W LED Power Supply @ 0.9 amps
- Total Load: 0.9 amps
- Circuits(s): (1) 20 amp-120V

---

**GRAPHIC & COLOR SPECIFICATIONS:**

<table>
<thead>
<tr>
<th>Color</th>
<th>PMS Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>TB Bronze Tiger Dylac</td>
<td>49-66239 C33</td>
</tr>
<tr>
<td>Pkpm PMS</td>
<td>2685U</td>
</tr>
<tr>
<td>Amber Wave SW-6657 PMS 139U</td>
<td></td>
</tr>
<tr>
<td>PMS 131U</td>
<td></td>
</tr>
<tr>
<td>PMS 139U</td>
<td></td>
</tr>
<tr>
<td>Yellow PMS 109; 3M VQ4077</td>
<td></td>
</tr>
<tr>
<td>Pantone Process Magenta</td>
<td>3M VQ4154</td>
</tr>
<tr>
<td>Pantone Violet C</td>
<td>3M VQ4153</td>
</tr>
<tr>
<td>Pantone Black</td>
<td></td>
</tr>
<tr>
<td>Benjamin Moore Bavarian Creme White #2146-70</td>
<td></td>
</tr>
<tr>
<td>Pantone White</td>
<td>3M 3630-20; White Matte-Cabinet Interior</td>
</tr>
</tbody>
</table>
ILLUMINATION LAYOUT

LED quantities and spacing may vary based on system used.

SPECIFICATIONS

DESIGN PARAMETERS
- Structural adequacy shall be the manufacturer's responsibility using the following criteria:
  - 100 MPH 3 second gust wind speed per ASCE 7-05 (130 MPH - ASCE 7-10). Category II, Exposure C. Components & Cladding, Zone 5.
  - Attachment may vary based on wall conditions.
  - Refer to written documentation for material specifications.

Materials
- Cabinet: .040 aluminum returns w/ white finish and .063 aluminum back
- 1" white Jewelite trim
- Face: .150 White SG polycarbonate
- Removable face

Area
- Squared: 12.17 sf  
  Actual: 8.18 sf

ELECTRICAL/PERFORMANCE SPECIFICATIONS
- UL & NEC approval required
- 12V, Class II, UL approved system
- If alternate LED's are used:
  - 50,000 hour system where no greater than 30% lumen depreciation is experienced at 50K hours
  - Thermally managed surface mount devices (SMD)

LED(s): (45) AgiLight LS-PRO160-65K-2B1 White (6500K)  
LEDs (23 ft.) or equivalent - pre-approval required

Power Supply: (1) 12V/60W LED Power Supply @ 0.9 amps  
- Remotely Located

Total Load: 0.9 amps
Circuits(s): (1) 20 amp-120V

GRAPHIC & COLOR SPECIFICATIONS:
- #1 TB Bronze Tiger Dye 49-66230 C33
- #2 Plum PMS 388U
- #3 Amber Wave SW-9857 PMS 138U
- #4 PMS 131U
- #5 PMS 139U
- #6 Yellow PMS 109; 3M VQ4077
- #7 Pantone Process Magenta; 3M VQ4154
- #8 Pantone Violet C; 3M VQ4153
- #9 Pantone Black
- #10 Benjamin Moore Bavarian Creams White #2146-70
- #11 Pantone White; 3M 3650-20; White Matte-Cabinet Interior
SPECIFICATIONS

DESIGN PARAMETERS
• Structural adequacy shall be the manufacturer's responsibility using the following criteria:
  • 100 MPH 3 second gust wind speed per ASCE 7-05
  (130 MPH - ASCE 7-10), Category II, Exposure C, Components & Cladding, Zone 5.
  • Attachment may vary based on wall conditions.
  • Refer to written documentation for material specifications.

Materials
• Cabinet: Extruded aluminum
• Face: .150 clear SG polycarbonate
• Access: Open doors & remove panels

Area
• Squared: 81.72 sf

ELECTRICAL/PERFORMANCE SPECIFICATIONS
• UL & NEC approval required

Lamp(s):
(4) FO32/741 36" 4100K
(10) FO32/741 48" 4100K
(2) FO40/741 60" 4100K

Ballast(s):
(7) Electronic ballast @ .56 amps ea.
(1) Electronic ballast @ .17 amps
(2) Electronic ballasts @ 1.15 amps ea.

Total Load: 6.39 amps

Circuits:
(1) 15 amp circuit, 60Hz

GRAPHIC & COLOR SPECIFICATIONS:

1. TB Bronze Tiger Drylac 40-82230 C33
2. Plum PMS 2865U
3. Amber Wave SW-6657 PMS 136U
4. PMS 131U
5. PMS 136U
6. Yellow PMS 109; 3M V04077
7. Pantone Process Magenta; 3M V04154
8. Pantone Violet C; 3M V04153
9. Pantone Black
10. Benjamin Moore Bavarian Creme White #2146-70
11. Pantone White; 3M 3650-20; White Matte Cabinet Interior
Intentional
Blank
Page
CASE NO: V19-29 / Volcano / 372 Patteson Drive

REQUEST and LOCATION:
Request by Crystal Miller of City Neon on behalf of Volcano Japanese Restaurant, for variance relief from Article 1369 concerning signage at 372 Patteson Drive.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:
Seventh Ward Tax District, Tax Map 11, Parcel 2; B-5, Shopping Center District

SURROUNDING ZONING:
North and South: B-2, Service Business District
West: B-5, Shopping Center District
East: PRO, Professional, Residential, and Office District

BACKGROUND and ANALYSIS:
The petitioner seeks to install a post and panel sign at the subject site that, as proposed, requires variance relief from Article 1369 of the Planning and Zoning Code. Addendum A of this report illustrates the location of the subject site.

Article 1369.07(F)(1)(a) provides a maximum “Post and Panel” sign height of six (6) feet, and Article 1369.07(F)(1)(b) provides a maximum “Post and Panel” sign area of 32 square feet. However, Article 1369.07(F)(4) provides the following:

(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.

Article 1369.07(B)(1) provides a maximum “Directory” sign area standard of 18 square feet and maximum height of six (6) feet. Additionally, “Directory” signs may not be internally illuminated.

The applicant seeks to develop an 80 square foot (8’ x 10’) post and panel sign that will be 26.5 feet in height. The proposed location is where the abandoned pylon sign is that featured the former Radio Shack establishment, which is shown in the image on the following page. The proposed sign face is considered an “Electronic, Scrolling Message Sign” and is permitted in the B-5 District. However, such signs must be designed as either a wall or monument type sign.
The proposed sign will require the following variance relief:

- Variance relief to permit the development of a post and panel type sign rather than a directory type sign;
- Variance relief to permit an “Electronic, Scrolling Message” type sign to be developed as a post and panel type sign rather than a wall or monument type sign;
- Variance relief to exceed the maximum area standard for post and panel type signs by 48 square feet; and,
- Variance relief to exceed the maximum height standard for post and panel type signs by 20.5 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)].

Customarily Staff does not provide a recommendation regarding sign variance petitions. However, in reviewing this request in relationship to the overall site, Staff does not believe Finding of Fact No. 4 should be found in the affirmative. Specifically, the proposed sign does not appear to observe, nor will substantial justice be done if variance relief is granted to permit the single-tenant sign as doing so appears to exacerbate the existing overdevelopment of ground signs serving the subject multi-tenant building.
There are five (5) ground signs located on the site. Two (2) ground signs are for existing/current tenants of the shopping center (Pizza Hut and Boston Beanery). One (1) ground sign is for a tenant that has recently left the plaza (Rite Aid Pharmacy) and is at risk of being abandoned. One (1) ground sign is a nonconforming off-premise billboard type sign. The remaining Radio Shack ground sign has been abandoned under the Nonconforming Provisions shown in Section 1373.07(D) below:

(D) Abandonment. Any sign, including its frame and support structures, related to a use or business that ceases to exist or operate for a continuous period of 90 days shall be considered nonconforming and shall not be reused for sign purposes unless and until it is in full conformity with the sign regulations of this zoning ordinance, subject to the issuance of a new sign permit. This requirement shall apply whether the property owner has been specifically informed of the 90-day lapse, or not.
(Ord. 17-29. Passed 7-5-17.)

In particular, the Planning and Zoning Code provides that the first purpose of the sign regulations are to encourage the effective use of signs as a means of communication in the City; to maintain and enhance the pleasing look of the City, which attracts to the City continued economic investment; to preserve Morgantown as a community that is attractive to business, to residents and to visitors.

Additionally, Section 1369.07(B)(2), shown below, provides that sites with more than one tenant may have a multi-tenant ground sign with all other signs limited to wall, suspended, or sandwich board type signs.

(2) All other signs for individual tenants must be wall signs, suspended signs, or sandwich board signs.

It is the opinion of the Planning Division that these sign provisions are intended to curb the overdevelopment of ground signs for multi-tenant buildings thereby reducing visual clutter and confusing commercial messaging along the commercial corridor. Specifically, these sign provisions provide the opportunity for one (1) multi-tenant type ground sign at shopping center site entrances to brand the site and communicate and attract passersby to the site with consolidated messaging of the commercial offerings located within the site. Additional signs permitted as wall, suspended, and or sandwich board type signs serve to direct the arriving shopping center patron to his/her destination establishment(s).

Ideally, the property owner and the commercial tenants of the building can and should work in collaboration to pursue a new multi-tenant type ground sign and eliminate the remaining nonconforming ground signs to enhance site branding and provide enhance communication to the site’s passersby.

As such, Staff recommends denial of the variance request under Case No. V19-29 with the following negative Finding of Fact No. 4:

NEGATIVE FINDING OF FACT No.4 – The variance will not allow the intent of the zoning ordinance to be observed and substantial justice done, because:
1. There is already opportunity for the individual tenant to utilize the legal, pre-existing nonconforming *Rite Aid Pharmacy* ground signage that is now vacant and at risk of being abandoned; and

2. The property owner has the ability to provide directory signage for multiple tenants, as intended by Section 1369.07(B)(2) of the Planning and Zoning Code.

Addendum B of this report restates the petitioner’s Findings of Fact responses. Should the Board decide to grant variance relief as requested, Staff recommends the following conditions be included:

1. That the digital display shall be static or stationary and may not contain any visible moving parts, alternating or moving messages or have the appearance of having moving parts or messages. Provided, the digital display shall remain fixed for at least ten (10) seconds; must accomplish the change between messages within an interval of two (2) seconds or less; and, must contain a default mechanism or setting that will cause the digital display to turn off or show a “full black” image if a visible malfunction or failure occurs.

2. That the digital display may not appear to flash, undulate, pulse, move, scroll, or portray explosions, fireworks, flashes of light, or blinking lights or otherwise appears to move toward or away from the view, expand or contract, bounce, rotate, spin, twist, or make other comparable movements.

3. That, to ensure brightness levels are acceptable, the digital display shall observe related provisions provided in Section 1359.03(b)(2) and (3), which are provided below.

(2) The display, message, or copy must otherwise comply with subsection 1359.02(k) and the digital billboard sign must have a light sensing device to adjust brightness as ambient light conditions change in order to insure that the message meets the following brightness standard. Maximum brightness levels for digital billboards shall not exceed 0.2 (two tenths) foot-candles over ambient light levels measured within 150 feet of the sign. Certification must be provided to the City demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Certified re-inspection and recalibration shall be annually required by the City, in its reasonable discretion, at the sign owner/operator’s expense to ensure that the specified brightness levels are maintained at all times.

(3) Brightness of digital billboards shall be measured as follows:

A. At least 30 minutes following sunset, a foot-candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.

B. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.

C. If the difference between the readings is 0.2 (two tenths) foot-candles or less, the brightness is properly adjusted.
4. That the digital display shall be turned off or display a “full black” image when the establishment closes each day and shall remain so until no earlier than 9 a.m. the following day.

5. That the digital display shall be limited to commercial copy of tenants within the multi-tenant building within which the Volcano Restaurant establishment is located thereby ensuring the prohibition of advertisement for off-premise businesses or services provided in Section 1369.08(L)(4) is observed.

6. That the Volcano Restaurant establishment owner shall maintain a secure electronic communication network that controls the display and display changes.

Attachments: Application and accompanying materials
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:

Digital boards are allowed in shopping plazas in this zoning district of Morgantown. The client is seeking a higher sign in order to maintain clear sight lines along a very busy five lane roadway and a nearby entrance into the plaza. The placement would allow the drivers to safely navigate in the entrance/exit of the plaza while maintaining the placement of the existing non-conforming sign in front of their business.

**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 plaza currently has four ground signs in the front of the Plaza. The plaza frontage is approximately 415’. Plaza ground signs include Pizza Hut, Radio Shack, (which space is now occupied by Café Fruit Life/Volcano Japanese restaurant), Boston Beanery, and Rite Aid. The building has a significant setback from Patteson Drive of approximately 140’ and was granted relief from the code for their wall signage. The tenant would now like to replace the ground sign that was erected for the previous occupant of the space. In order to advertise specials, the tenant is seeking permission to erect a digital board. (A spec sheet of this board is attached).

**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 advertise daily specials and attract more patrons to the business.

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

The tenant will be able to replace a non-conforming sign that attracts and informs patrons to business in a manner more representative of the code.
## APPLICATION FOR VARIANCE

**(PLEASE TYPE OR PRINT IN BLACK INK)**

### I. APPLICANT/AGENT

<table>
<thead>
<tr>
<th>Name</th>
<th>City Neon, Inc</th>
</tr>
</thead>
</table>
| Mailing Address: | **PO Box 40**  
Morgantown, WV 26507 |
| Phone:        | 304-599-1854            |
| Email:        | crystal@cityneon.com    |

### II. PROPERTY

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>372 Patteson Drive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner:</td>
<td>Sellaro Enterprises</td>
</tr>
</tbody>
</table>
| Mailing Address: | **512 Princeton Avenue**  
Morgantown, WV 26505 |
| Zoning:         | B-5                 |
| Tax Map No:     | 11                  |
| Parcel No:      | 2                   |
| Phone:          | 304-281-8184        |

### III. NARRATIVE

Volcano Japanese Restaurant is seeking to replace the sign that the former tenant utilized in the parking lot to advertise its business. The client would like to make it a post-panel style sign. The client is seeking variance for style, height, size, and the number of ground signs on the property.

The sign proposed is 10' x 26.6' post and panel sign with digital board and there are three other ground signs in the plaza. There has been discussion of making one "plaza" sign, but at this moment not all tenants are willing to remove their pylon signs without knowing whether or not a new, large plaza sign would be allowed by the City. The proposed Plaza sign is 10' x 31.9'.

### IV. ATTEST

I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.

Crystal Miller  
Date: 07/03/2019
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.
### 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:**

   Digital boards are allowed in shopping plazas in this zoning district of Morgantown. The client is seeking a higher sign in order to maintain clear sight lines along a very busy five lane roadway and a nearby entrance into the plaza. The placement would allow the drivers to safely navigate in the entrance/exit of the plaza while maintaining the placement of the existing non-conforming sign in front our their business.

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 plaza currently has four ground signs in the front of the Plaza. The plaza frontage is approximately 415’. Plaza ground signs include Pizza Hut, Radio Shack (which space is now occupied by Cafe Fruit Life/Volcano Japanese restaurant), Boston Beanery, and Rite Aid. The building has a significant setback from Patteson Drive of approximately 140’ and was granted relief from the code for their wall signage. The tenant would now like to replace the ground sign that was erected for the previous occupant of the space. In order to advertise specials, the tenant is seeking permission to erect a digital board. (A spec sheet of this board is attached).

   There has been discussion of eliminating the four ground signs in favor of a large, new plaza sign, but tenants are hesitant to remove the ground signs without knowing whether such a sign would be approved by the City. (Attached is a preliminary design that has been proposed by the tenant to the property owner and other tenants).
### VI. FINDINGS OF FACT

**COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.**

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

   The tenant will be able to advertise daily specials and attract more patrons to the business.

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

   The tenant will be able to replace a non-conforming sign that attracts and informs patrons to business in a manner more representative of the code.
VOLCANO SIGN
8' X 10' FULL COLOR LED DISPLAY
(2) 4' X 4' X 24' STEEL POLES
REMOVE OLD RADIO SHACK CABINET
DIG AND POUR CONCRETE FOR SECOND POLE FOR STRUCTURE
ADD 2" ANGLE TO THE BACK OF BOTH BOARDS FOR MOUNTING
WELD ANGLE TO BOTH POLES FOR MOUNTING
ADD IN 1/2" BOLTS FOR EXTRA SUPPORT AND FASTENING
SITE MAP LOCATION OF SIGN RED (X)
CITY NEON INC
Elliott Law
1095 Chaplin Rd
Morgantown, WV USA 26501
Phone: 
Fax: 
Email: elliott@cityneon.com

Reference: Volcano/ Fruit Life - EMC

<table>
<thead>
<tr>
<th>Model</th>
<th>Description</th>
<th>Qty</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>GS6-128X160-19.8-RGB-2V</td>
<td>Galaxy® Outdoor Electronic Message Center - GS6 Series - 19.8mm RGB; 2V Interconnect Cable Length Is 26 Feet; Includes Spare Parts Kit</td>
<td>1</td>
<td>USD 56,119.00</td>
</tr>
<tr>
<td></td>
<td>Line Spacing: 19.8mm</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Matrix: 128 lines by 160 columns</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>LED Color: RGB-281 Trillion Colors</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Display Configuration: 2V - two one sided displays - same content</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cabinet Design: Single Section per face</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Paint: Semi-Gloss Black. Borders Only</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Active Area: 8' x 10' 5&quot; W (Approx. Dimensions)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cabinet Dimensions: 8'10&quot; H X 10'11&quot; W X 0'11.1&quot; D (Approx. Dimensions)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Max Power: 3040 watts/display</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Galaxy® Outdoor Display, Communication Kit #1</td>
<td>Choose One: Fiber or Wire Ethernet (Cable Not Included), Wireless Ethernet Bridge Radio, or Daktronics Verizon 4G Cellular modem (HARDWARE ONLY. MUST SELECT DATA PLAN LENGTH FROM SERVICE OPTIONS BELOW).</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Galaxy® External Temperature Sensor</td>
<td>External Temperature Sensor with 25 ft. Quick Connect Cable</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Venus® Control Suite - Prime, Playlist Package, Cloud Based</td>
<td>Secure, web-based software that enables display management anytime, anywhere via internet connection. ADMINISTRATORS OF ACCOUNT REQUIRED AT TIME OF ORDER. Terms of Use: <a href="http://www.daktronics.com/TermsConditions/DD2698225">http://www.daktronics.com/TermsConditions/DD2698225</a></td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>

**Freight Services**

Galaxy® Outdoor Display, Communication Kit #1: Shipping to WV via Independent Truck - USD 2,895.00

**Options**

PLEASE SELECT ONE OF THE FOLLOWING TWO SERVICE PROVIDER OPTIONS: -

- **DAKRONTICS PROVIDES MAINTENANCE SERVICE** - Purchaser delegates Daktronics to support end user's display maintenance. Services include providing phone technical support, parts ordering, onsite labor and preventative maintenance.

- **PURCHASER PROVIDES MAINTENANCE SERVICE** - Purchaser will execute end user's display maintenance. Services include providing phone technical support, parts ordering, onsite labor and preventative maintenance.

**Installation Assurance Plus - Advanced onsite support of equipment installation. Adds 90 days onsite labor service to the Product Assurance and includes one web seminar for product user** - USD 1,500.00

**P1G6-Platinum Service (9 month extension) - Extend Platinum to 12 months of Daktronics onsite labor for commercial display(s). Includes 45' lift, normal business hours labor and requires purchase of an installation service.** - USD 1,741.00

**Daktronics Verizon Cellular Data Plan - Available on Displays Up to 100,000 Pixels, Select Up to 5 Years (Annual Price Per Modem)** - USD 240.00

Total Price Excluding Sales Tax: USD 59,014.00

Financing
Show customers how to preserve cash AND increase sales by financing their new Daktronics display. Call your Daktronics representative or click http://www.daktronics.com/financing

BZA MEETING PACKET
Page 176 of 212
Intentional
Blank
Page
**STAFF REPORT**

**CASE NO:** V19-30 / Chipotle / 461 High Street

**REQUEST and LOCATION:**
Request by Marie Hashaw of Adcon Signs, on behalf of Chipotle, for variance relief from Article 1369 concerning signage at 461 High Street.

**TAX MAP NUMBER(s) and ZONING DESCRIPTION:**
Third Ward Tax District, Tax Map 26, Parcel 76; B-4, General Business District

**SURROUNDING ZONING:**
B-4, General Business District

**BACKGROUND and ANALYSIS:**
The petitioner seeks to install wall signage for the Chipotle “Restaurant, Fast Food” use that will be located within the building currently under construction at 461 High Street. The propose signage as proposed requires variance from Article 1369 of the Planning and Zoning Code. Addendum A of this report illustrates the location of the subject site.

Section 1369.07(I)(1) provides a maximum wall sign area standard of six tenths (0.4) square feet for every-one (1) foot of tenant building frontage in the B-4 District. The linear width of the tenant’s frontage is 30.33 feet, which establishes a maximum wall sign area standard of 12.13 square feet. The petitioner seeks to erect a wall sign with a total area of 35.27 square feet. As such, variance relief of 23.14 square feet is required for the wall sign as proposed and further illustrated in the table below.

<table>
<thead>
<tr>
<th>Sign Area</th>
<th>Total Requested Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>35.27 sf</td>
<td>23.14 sf</td>
</tr>
<tr>
<td>Total Permitted Sign Standards</td>
<td>12.13 sf</td>
</tr>
</tbody>
</table>

![Sign Diagram]
The following graphic from Section 1369.08(B) Lighting and Design Standards identifies sign materials and illumination standards in the B-4 District.

The proposed wall and suspended signs utilize acrylic materials and interior illumination, requiring variance.

**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 petitioner's Findings of Fact responses. As is customary with sign variance petitions, no recommendation is submitted by Staff concerning whether variance relief should be granted as requested.
The following images were presented by SunCap Property Group’s design team to the Planning Commission on 08 NOV 2018 and are provided here for contextual purposes and to identify the specific tenant space within the building currently under construction.
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 signs are simple in nature and offer an effective way to communicate with vehicular and pedestrian traffic to ensure a successful venture. Signs would fit well on the architecture of the building and would pose no danger to the public health, safety or welfare or the rights of adjacent property owners or residents.

**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 storefront of Chipotle’s space is recessed back from the adjacent tenant storefront making it difficult to see the wall sign for oncoming traffic. A projecting sign on the adjacent space would assure that both pedestrian and vehicular traffic will be able to locate Chipotle.

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

By allowing the additional square footage for readable signage and to have the projecting sign on the adjacent space, the hardship of having the storefront recessed behind the adjacent space is less severe and will permit visibility to pedestrian and vehicular traffic.

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

The variance would follow the intent of the code in that it will encourage the effective use of signs as a means of communication within the City. This in turn attracts to the City continued economic investment. The variance would allow improved pedestrian and traffic safety as the space will be easier to identify. It would eliminate the hardship of having a recessed storefront in a busy downtown area and serve as substantial justice to the business.
APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK)

I. APPLICANT/AGENT

Name: Adcon Signs

Phone: 970-472-2135

Mailing Address:
3725 Canal Dr
Fort Collins CO 80524

Mobile:

Email: mhashaw@adcon-signs.com

II. PROPERTY

Street Address: 461 High St - Chipotle

Owner: Bossio Enterprises

Zoning: B-4

Tax Map No: 26

Parcel No: 76

Mailing Address:
PO Box 120
Morgantown WV 26507

Phone: 704-945-8000

III. NARRATIVE

Describe the specific use and the standard for which the variance is sought.

The tenant space measures 30'-4" which would allow for 12.13 square feet of signage. Chipotle is requesting two (2) signs for a total of 42.25 square feet of signage. We would like to receive a variance for 30.12 square feet of signage and to locate the projecting sign on the adjacent space facade.

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.

Marie Hashaw
Type/Print Name of Applicant/Agent

Marie Hashaw
Signature of Applicant/Agent

07-01-19
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.

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

   The signs are simple in nature and offer an effective way to communicate with vehicular and pedestrian traffic to ensure a successful venture. Signs would fit well on the architecture of the building and would pose no danger to the public health, safety or welfare or the rights of adjacent property owners or residents.

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 storefront of Chipotle's space is recessed back from the adjacent tenant storefront making it difficult to see the wall sign for oncoming traffic. A projecting sign on the adjacent space would assure that both pedestrian and vehicular traffic will be able to locate Chipotle.
### 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:

   By allowing the additional square footage for readable signage and to have the projecting sign on the adjacent space, the hardship of having the storefront recessed behind the adjacent space is less severe and will permit visibility to pedestrian and vehicular traffic.

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

   The variance would follow the intent of the code in that it will encourage the effective use of signs as a means of communication within the City. This in turn attracts to the City continued economic investment. The variance would allow improved pedestrian and traffic safety as the space will be easier to identify. It would eliminate the hardship of having a recessed storefront in a busy downtown area and serve as substantial justice to the business.
SPECIFICATIONS FOR (1) ILLUMINATED WALL SIGNS

1. CHANNEL LETTERS "CHIPOTLE" AND PEPPER LOGO

LETTER TYPE: Face-Lit channel letters  DEPTH=3"

PEPPER GRAPHIC: 0.040" Pre-finished Adobo brown alumn, F.C.O. overlay
TRIMCAP: 1" Brown Jewelite
BACK= 0.040" Pre-finished white aluminum
RETURNS= 0.040" Pre-finished Adobo Brown aluminum (w/ weep holes)
ILLUMINATION= White Sloan V180 HB Mini LEDs
MOUNTING= Mount flush to face of cabinets with #10 "blunt" ended screws as req.

2. BROWN & RED REVERSE PAN CABINETS

CABINET TYPE= Halo-Lit reverse pan  DEPTH= 2 5/8"
FACE= .080" Aluminum
RETURNS= Top & bottom: 2 1/2" x 1 3/4" aluminum angle w/ weep holes
ENDS/COVERS: (one-piece) .063" Aluminum, hot glue and Versilok to face
BACK= .063" Clear lexan w/ perimeter angle clips for rev. pan attachment
ILLUMINATION= White Sloan V180 HB Mini LEDs
MOUNTING= Mount to backer panel via 1 1/2" x 1/4" aluminum, square tube "spacer bars" using self-drilling screws as req.

3. WHITE BACKER PANEL

FACE= 1/8" Aluminum- Attachment to frame via Versilok adhesive
RETURNS= Top & bottom: See "Frame"
ENDS/COVERS: (one-piece) .063" Aluminum, hot glue and Versilok to face
BACK= N/A
FRAME= 1" x 2" x 1/8" Aluminum rec. tube
LIFT POINTS= Drill hole and Versilok 3/8" to bottom of frame
MOUNTING= Mount to existing fascia w/ 3/8" fasteners through face/frame (Heycos caps required in panel face)

ELECTRICAL

PRIMARY= 120V power supply mounted inside Cabinet's internal raceway (leave 6"-0" pigtails on back of backer panel)
SECONDARY= 12V LED wire leads jumped on back side of cabinets
POWER DISCONNECT= Toggle switch on cabinet return
ELECTRICAL HOOK-UP= Final electrical connection of sign is by others

COLOR SPECIFICATIONS

P.T.M. PMS #4642C "Roasted Red" (Nuance)
P.T.M. PMS #4625C "Adobe Brown" (Nuance)
P.T.M. White

NOTE: Paint all exposed fasteners and Heyco caps to match adjacent finish

ILLUMINATION RENDERING

SCALE: N.T.S.

END VIEW

SCALE: 1/2" = 1'-0"

END SECTION

SCALE: N.T.S.

Client Approval

Approver:
Date: 07/29/2019

Product Mgt. Approval
Date: 07/29/2019

Account Mgt. Approval
Date: 07/29/2019

PDM Mgt. Approval
Date: 07/29/2019

Revision Notes:
Change from A-3 to AW-3

Sheet No. 3.0
FABRICATION SPECIFICATIONS FOR (1) D/F PUSH THRU ILLUMINATED MEDALLION:

1. FRAME TYPE: D/F Custom fabricated alum. rec frame
2. FACES: .125" Thk., routed alum. w/ (2) color paint finish. Push mount to trim rings w/ countersunk fasteners (paint heads to match bgd.).
3. TRIM RINGS: .125" Thk. x 1 1/4" wide router-cut alum trim rings. Stitch weld & versalock to rolled returns.

FRAME RETURNS: .200" Thk. alum. w/ paint finish

2. PUSH THRU: 1/8" thick, water jet cut clear acrylic. Overlay faces w/ translucent white film.

BACKING MATERIALS: .125" Thk. Milky White acrylic #2447

PUSH THRU MOUNTING: Weld studs to alum. face (2nd surface) around backer perimeter & secure to face w/ nuts & silicone.

3. LED ILLUMINATION: GE Tetra miniMAX white LED grid mount to clear polycarb. internal light baffle

POWER SUPPLIES: LED power supplies to be housed inside standard transformer box behind fascia or self-contained inside cabinet (vfy.).

PRIMARY ELECTRICAL: Voltage & total sign amps T.B.D.

POWER OUT: Electrical sweep out mounting bracket in 1/8" seal-tite conduit to electrical supply (provided by others). Leave 8'-0" pigtail wire inside cab, for sign hook up.

POWER LOCATION: Power to be provided at site by others (location T.B.D.)

SWITCH LOCATION: Upper right side return

SERVICE ACCESS: Faces are removable for service. Attach w/ countersunk fasteners (paint heads to match bgd.)

4. MOUNTING BRACKET: 2" alum square tubes (1/4" wall). Weld to rolled 1/4" x 8" wide alum plate. Medallion welded to rolled plate. Opposite ends of 2" tubes welded to matchplate.

5. MATCHPLATE: 1-1/4" x 6" x 1/8" Thk. alum. plate w/ paint finish. Attach matchplate to fascia w/ (6) 3/8" fasteners (vfy.).

MOUNTING SURFACE: Exterior fascia. Field of fascia construction to determine final attachment method. Mounting dimensions T.B.D.

COLORS & FINISHES:

P1: T.M. PMS 484C "Rusted Red"  
P2: T.M. PMS 4625C "Adobe Brown"  
P3: Paint M.A.P. Brushed Aluminum (nuance)  
P4: Overlay push thru faces w/ white film #3630-20

All artwork indicated or presented by these drawings is the property of the Owner, and is used here in connection with the specific project.
Intentional
Blank
Page
STAFF REPORT

CASE NO: V19-31 / Sheetz / 1901 Earl L. Core Road

REQUEST and LOCATION:
Requests by Robert Franks on behalf of Sheetz Inc., for variance relief from Article 1369 concerning signage at 1901 Earl L. Core Road.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:
Sixth Ward Tax District, Tax Map 44A, Parcel 1; B-2, Service Business District

SURROUNDING ZONING:
B-2, Service Business District
The petitioner seeks to install wall and ground signage at the Sheetz “Gas Station Minimart” use located at 1901 Earl L. Core Road requiring variance from Article 1369 of the Planning and Zoning Code. Addendum A of this report illustrates the location of the subject site.

Post and Panel Signage
Section 1369.07(F)(1), provides that post and panel signs be limited to six (6) feet in height [1369.07(F)(1)(a)] and shall not exceed 32 square feet in area [1369.07(F)(1)(b)]. The applicant proposes a 20.75-foot-tall sign with a maximum sign area of 85.27 square feet. As such a 14.75-foot height variance and a 53.27 sign area variance are required.
Wall Signage
Section 1369.07(I)(1) provides a maximum wall sign area standard of six tenths (0.6) square feet for every-one (1) foot of tenant building frontage in the B-2 District. The linear width of the tenant’s frontage is 80 feet, which establishes a maximum wall sign area standard of 48 square feet. The petitioner proposes a total of 51.88 square feet of new wall signage and the continuance of 213.12 square feet of canopy signage. As such, variance relief of 217 square feet is required for the wall sign as proposed and further illustrated in the table below. It should be noted that total new signage will increase by 3.88 square feet in area, above the maximum wall sign area standard.

<table>
<thead>
<tr>
<th>Sign Area</th>
<th>Total Permitted Sign Standards</th>
<th>Total Sign Area Requested</th>
<th>Total Requested Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>25.94 sf</td>
<td>48 sf</td>
<td>265 sf</td>
<td>217 sf</td>
</tr>
<tr>
<td>(X2 = 51.88 sf)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>35.52 sf</td>
<td>(X6 = 213.12 sf)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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 petitioner’s Findings of Fact responses. As is customary with sign variance petitions, no recommendation is submitted by Staff concerning whether variance relief should be granted as requested. However, should the
Board determine to grant variance relief as requested, Staff recommends the following conditions be included:

1. Post-and-Panel Sign – That the fuel price changeable copy display on the post-and-pan sign shall be restricted to an electronically managed scrolling price display (e.g., Skyline Products or similar technology) as generally illustrated below in Graphic 1. Said fuel price changeable copy display may not include manual flip, individual alphanumeric manual changeable characters, or LED or similar alphanumeric character illumination display as generally illustrated below in Graphic 2.

![Graphic 1 – Permitted Display Technique](image1)

![Graphic 2 – Prohibited Display Techniques](image2)

2. Post-and-Panel Sign – That the copy on each side of the monument sign must be identical in design and content.

3. Post-and-Panel Sign – That, in accordance with Section 1369.07(F)(1)(c), the post-and-panel sign may not obstruct the corner visibility of the Earl Core Road and Eljadid Street intersection as determined by the City Engineer.

4. That, with the exception of the wall signs for which variance relief is granted herein, no additional signage, commercial messaging, or commercial copy may be affixed to the exterior of the principal building, including awnings, that can be read, understood, or legible from a public street by most persons of normal vision.

5. That, with the exception of the wall signs for which variance relief is granted herein, no additional signage may be affixed, attached, erected, etc. to/on the awning portion of or the vertical structural elements of the accessory fueling station canopy...
6. That no signage may be affixed, attached, erected, etc. to/on the gas pumps, gas pump islands, and/or air filling stations that can be read, understood, or legible from a public street by most persons of normal vision.

7. That no signage may be affixed, attached, erected, etc. to/on the dumpster enclosure, informational parking sign posts, bollards, lamp posts, traffic control regulatory sign posts, or similar structures and features that can be read, understood, or legible from a public street by most persons of normal vision.

Attachments: Application and accompanying materials
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 existing Sheetz store and signs have been on the parcel since the store opened in fall of 2003. The new proposed signs are smaller in size than the existing signs they are replacing.

**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 area is highly developed with signs of similar size. The change in ordinance since the store opening has created the situation that variances are needed.

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

The new signs are smaller in size than the existing signs being replaced but still keep the signs similar in size to signs in the area.

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

New signs will be existing situation close to compliance with new ordinance.
APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK) Fee: $150.00 [Z-V]

I. APPLICANT/AGENT

Name: Sheetz Inc - Robert Franks

<table>
<thead>
<tr>
<th>Mailing Address:</th>
<th>5700 G Ave Avenue</th>
<th>Phone: 814.239.6018</th>
</tr>
</thead>
<tbody>
<tr>
<td>City</td>
<td>Altoona</td>
<td>City</td>
</tr>
<tr>
<td>State</td>
<td>PA</td>
<td>Zip</td>
</tr>
<tr>
<td>Zip</td>
<td>16602</td>
<td>Zip</td>
</tr>
</tbody>
</table>

II. PROPERTY

Street Address: 1901 Earl L. Core Rd, Morgantown

<table>
<thead>
<tr>
<th>Owner:</th>
<th>Sheetz Inc</th>
<th>Zoning: B-2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>5700 G Ave Avenue</td>
<td>Tax Map No: 44A</td>
</tr>
<tr>
<td>City</td>
<td>Altoona</td>
<td>Parcel No: 1</td>
</tr>
<tr>
<td>State</td>
<td>PA</td>
<td>Phone: 814.946.3611</td>
</tr>
</tbody>
</table>

III. NARRATIVE

Describe the specific use and the standard for which the variance is sought.

* Update existing 92.29 sq ft post and panel sign (2019" Tall)
  * Replace existing 95 sq ft wall sign (2 of them) with a new 25.94 sq ft wall sign (2 of them)

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.

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date

Development Services Department • 389 Spruce Street, Morgantown, WV 26505
www.morgantownwv.gov • 304.284.7431 Form Rev. 20180701
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.
### 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 new signs are smaller in size than the existing signs being replaced, but still keep the signs similar in size to signs in the area.

4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:  
   
   New signs will bring existing situation closer to compliance with new ordinance.
<table>
<thead>
<tr>
<th>VI. FINDINGS OF FACT</th>
<th>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</td>
<td>The existing sheetz store and signs have been on the parcel since the store opened in Fall of 2003. The new proposed signs are smaller in size than the existing signs they are replacing.</td>
</tr>
<tr>
<td>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:</td>
<td>The area is highly developed with signs of similar size. The change in ordinance since the store opening has created the situation that variances are needed.</td>
</tr>
</tbody>
</table>
EXISTING CONDITIONS

Existing signage = 92.29 sq.ft.

PROPOSED

Proposed signage = 81.65 sq.ft.; 20'-9" OAH
**Pylon Mounted Headsign**

Scale: 1/2" = 1'

**Lightbar Layout**

**Parts and Descriptions:**

1. 0.125" X 4" X 8" 3003 H14 MF/ Inside Face Retainer and Cross Member Pieces
2. 0.080" X 4" X 8" 3003 H14 MF/ Outside Face Retainer
3. BULK 3/8" X 2" STAINLESS STEEL CAP 304/7 HEX-HEAD
4. 0.125" X 4" X 10" 3003 H14 MF/ CABINET
5. POLYCARBONATE SHEET CLEAR .003" X 60" X 140", FILM
6. BULK 3/4" NUT/WELDED TO TOP OF MATCH PLATE FOR SIGN ATTACHMENT
7. 4" X 2" X 1/4" X 40" STEEL TUBING "CARBON RECTANGLES RECTEWST 301
8. 1/4" X 4" X 8" STEEL PLATE / 2" X 4" POLE CAP
9. BULK 3/4" NUT/WELDED TO BOTTOM SIDE OF CAP PLATE FOR EYE BOLT ATTACHMENT
10. 2" X 1/4" FLAT IRON "HR/ FOR MOUNTING"
11. BULK 3/8" BOLT AL-S 4-616-312 +AK PROD
12. 4" X 4" JUNCTION BOX AND LID
13. 2" LOUVRES "B BOARD THE SOLAR GROUP PML 10000
14. HPLC COOL WHITE WITH POWER SUPPLIES
15. 1" X 4" X 8" STEEL PLATE (ASTM-A-36) 13 1/2" X 10" MATCH PLATE
16. 1 1/4" X 6" ALUMINUM PIANO HINGE / FOR ACCESS DOORS
17. 1 1/2" X 1 1/2", X 1/8" IRON ANGLE / LIGHT MOUNTING FRAME
18. EYEBOLT, 1/2" X 2 1/2"
19. 48" X 50 YARD BLACK POY 851 MATTE BLACK CALENDER INTERMEDIATE / APPLIED 2nd SURFACE
20. 48" X 50 YARD 3630 REGAL RED TRANSLUCENT SCOTCHTCH / APPLIED 2nd SURFACE
21. LIME GREEN VINYL 3630-136 3M 48" X 10 YARDS TRANSLUCENT / APPLIED 2nd SURFACE
22. PAINT WHITE / 2ND SURFACE
23. PAINT PMS 202 C RED / 2ND SURFACE
24. PAINT PMS 202 C RED - SEMIGLOSS / CABINET RETURNS, POLE AND PLATE