

# Morgantown Board of Zoning Appeals



## MEETING PACKET

**Wednesday, October 21, 2020**

**6:30 p.m.**

**By Electronic Means**

### **Board Members:**

Harrison Case, Chair

Kevin Meehan, Vice Chair

Chris Benison

Heidi Cook

Garrett Tomblin

### **Development Services Department**

Christopher M. Fletcher, AICP, Director

John Whitmore, AICP, Senior Planner

## **BZA Remote Meeting Announcement**

### **Confirming Member Access:**

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

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

*State each members' name.*

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

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

*State each staff members' name.*

- John Whitmore, Senior Planner

### **Introduction to Remote Meeting:**

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

In order to mitigate the transmission of the virus and reduce risk of COVID-19 illness, we have been advised and directed to suspend public gatherings. In keeping with that direction, and the authority provided by the Open Governmental Proceedings Act and the Ethics Commission guidance allowing the conduct of public meetings by electronic means so long as the public is able to observe the meeting, this meeting is being conducted by remote electronic participation and in-person attendance by the public is not permitted.

## **BZA Remote Meeting Announcement**

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

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

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

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

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

## **BZA Remote Meeting Announcement**

### **Meeting Business Ground Rules**

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

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

It is the duty of this Board to consider requests for relief from the requirements of the City's zoning regulations; to consider conditional use permit requests; and, to hear administrative appeals.

The Board conducts business in the following order:

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

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

- I will introduce the agenda item and the Planning Division will present a Staff Report, which may or may not offer a recommendation.
- The applicant/agent will be asked to present their justification for their request, which may include questions by members of the Board.

## BZA Remote Meeting Announcement

- I will then open a **public hearing** to hear testimony in support of, or in opposition to, the request. The meeting Chair will proceed with public testimony as follows:
  - The Chair will first read, or have read, all written comments submitted, and will then review the list of public commenters who have signed up by the meeting start time.
  - Once the Chair has a list of all public commentators, I will call on each by name. All speakers will be limited to **five (5) minutes**. If members of the Board have any questions of the speaker, that time will not be counted toward his/her five (5) minutes. Public speakers must state their name and address for the record.
  - All comments must be addressed to the Board, should be relevant to the application, and may not be of a personal nature or personal attacks.
  - If there is a large number of speakers, including many who are part of groups or organizations, I may, to avoid repetitive comments, elect to ask for a representative to speak on behalf of the group or organization.
  - Speakers are notified that irrelevant comments or comments of a personal nature or personal attacks may result in the speaker forfeiting his/her opportunity to participate in the public hearing.
  - I may elect to recognize the applicant/agent at the end of the public hearing to provide rebuttal or additional comments, which will be limited to five (5) minutes. If members of the Board have any questions of the applicant/agent, that time will not be counted toward his/her five (5) minutes.
- After all testimony is heard, I will declare the **public hearing CLOSED** and no further public comment will be permitted.
- Uncivil, unruly, and/or disruptive behavior at any time during this meeting is prohibited and will result in removal from this public meeting.

## BZA Remote Meeting Announcement

- State law requires the Board to consider findings of fact for each conditional use and variance request. The request cannot be granted unless a majority of the quorum present finds in the positive of ALL of the findings of fact. The Board may elect to continue the hearing to another date if it needs additional information.
- Finally, because this public meeting is being conducted by remote electronic participation and to ensure accurate meeting minutes each vote taken during this meeting will be conducted by roll call vote.
- Applicants and requesting parties will be notified in writing by the Planning Division of the Board's findings and conclusions. Regardless of whether a request is approved or denied, decisions of the Board can be appealed to the Circuit Court of Monongalia County within thirty (30) days upon receipt of the written notification. Any work done relating to decisions rendered by this Board during this thirty-day period is at the sole financial risk of the applicant.

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

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# MORGANTOWN BOARD OF ZONING APPEALS

October 21, 2020  
6:30 p.m.  
By Electronic Means

## Board of Zoning Appeals

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

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

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

Meeting Number: 793 734 477

Phone: 408-418-9388

Access Code: 793 734 477

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

Any person who wishes to speak at the meeting may complete the form at: <http://morgantownwv.gov/FormCenter/Public-Comment-Sign-Up-Sheet-14/Public-Comment-Morgantown-Board-of-Zonin-104> or provide their name, phone number they will use to participate, and the specific Case Number listed on the BZA's agenda on which they would like to speak by texting 304-906-7843 or calling 304-685-7813. You may sign up to speak at any time until the meeting begins. Additionally, the public may submit written comments for the public hearing portions of the meeting by sending written comments via email to the Development Services Department at [bmcdonald@morgantownwv.gov](mailto:bmcdonald@morgantownwv.gov). In the email, please use the subject line "Public Comment BZA 10/21/2020" and indicate in the body of the email the specific Case Number you wish to address and if you would like your comment to be read aloud during the public hearing portion for that case.

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

## AGENDA

### I. CALL TO ORDER AND ROLL CALL

### II. MATTERS OF BUSINESS:

A. Minutes for the August 19, 2020 hearing.

### III. UNFINISHED BUSINESS: None.

### IV. NEW BUSINESS:

A. **V20-15 / Suncrest Corporate Center, LLC / 430 Drummond Street:**  
Request by Crystal Miller of City Neon, on behalf of Suncrest Corporate Center, LLC, for variance relief from Article 1369 concerning signage;

## Development Services

John Whitmore, AICP  
Interim Director

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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Tax District 15, Tax Map 6, Parcels 18.1 and 17.1; PRO, Professional, Residential, and Office District.

**B. V20-16 / Greer Building, LLC / 1251 Earl L. Core Road:** Request by Crystal Miller of City Neon, on behalf of Greer Building, LLC, for variance relief from Article 1369 concerning signage; Tax District 14, Tax Map 31, Parcel 7.1; B-2, Service Business District.

**C. CU20-04 / E and J Holdings, LLC / 311 Mclane Avenue:** Request by Trevor Lloyd of Cheat Road Engineering on behalf of E and J Holdings, LLC for approval of a conditional "Parking Lot, Principal Use" use; Tax District 12, Tax Map 19, Parcel 109; R-3, Multi-Family Residential District and SSOD, Sunnyside South Overlay District.

**D. V20-17 / E and J Holdings, LLC / 311 Mclane Avenue:** Request by Trevor Lloyd of Cheat Road Engineering on behalf of E and J Holdings, LLC for variance relief from Article 1339 concerning screening requirements; Tax District 12, Tax Map 19, Parcel 109; R-3, Multi-Family Residential District and SSOD, Sunnyside South Overlay District.

**E. V20-18 / E and J Holdings, LLC / 311 Mclane Avenue:** Request by Trevor Lloyd of Cheat Road Engineering on behalf of E and J Holdings, LLC for variance relief from Article 1367 concerning landscaping buffer requirements; Tax District 12, Tax Map 19, Parcel 109; R-3, Multi-Family Residential District and SSOD, Sunnyside South Overlay District.

**F. V20-19 / E and J Holdings, LLC / 311 Mclane Avenue:** Request by Trevor Lloyd of Cheat Road Engineering on behalf of E and J Holdings, LLC for variance relief from Article 1365 concerning parking lot design requirements; Tax District 12, Tax Map 19, Parcel 109; R-3, Multi-Family Residential District and SSOD, Sunnyside South Overlay District.

**G. V20-20 / E and J Holdings, LLC / 311 Mclane Avenue:** Request by Trevor Lloyd of Cheat Road Engineering on behalf of E and J Holdings, LLC for variance relief from Article 1361 concerning parking lot screening requirements; Tax District 12, Tax Map 19, Parcel 109; R-3, Multi-Family Residential District and SSOD, Sunnyside South Overlay District.

### V. ANNOUNCEMENTS

### VI. ADJOURNMENT

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

### Development Services

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# BOARD OF ZONING APPEALS

## MINUTES

6:30 p.m.

August 19, 2020

Virtual/Electronic Meeting

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

**MEMBERS ABSENT:** Harrison Case

**STAFF:** John Whitmore, City of Morgantown

- I. **CALL TO ORDER AND ROLL CALL:** Mr. Meehan explained that as there were no speakers signed up for public comment, the pre-meeting announcement may be waived. The Board concurred.
- II. **MATTERS OF BUSINESS:**  
Minutes from July 15, 2020 were unanimously approved.
- III. **UNFINISHED BUSINESS:** None.
- IV. **NEW BUSINESS:**

**V20-14 / Twyman Estates LLC / Dorsey Avenue:** Request by James Twyman, on behalf of Twyman Estates, LLC, for variance relief from Article 1331 concerning the minimum width standard for a single-family dwelling; First Ward Tax District, Tax Map 40, Parcel 457; R-1A, Single-Family Residential District.

Whitmore presented the Staff Report and noted that the applicant is present.

Mr. Twyman stated that he bought the home with two additional lots with the intention to build on one of the lots. He stated that he found a house plan that would fit on the lot if he were able to get the variance to build. When questioned by Benison, Twyman confirmed that the lot number is 457.

Cook asked about space for a driveway and the house. Twyman responded that the garage would be underneath the unit from the back alley. Twyman stated that there would be also be space for one spot in the front of the home, but the main entrance would be from the back.

Being that there were no other questions, Meehan opened the public hearing. No one was present for the public hearing it was closed. Meehan requested from Whitmore the staff recommendation.

Whitmore provided the Staff Recommendation with approval of the variance, as Parcel 457 cannot be developed in fulfillment of the R-1A, Single-Family Residential District purpose as established in Section 1335.01 of the Planning and Zoning Code:

The R-1A, District purpose cannot be achieved on Parcel 457 without creating either a side-setback [minimum of four (4) foot variance encroachment required] or residential dwelling unit minimum width nonconformity, as Case V20-14 establishes.

Cook motioned to accept the findings of fact as stated in the report. Tomblin seconded. Approved unanimously.

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

The parcel will be developed to meet property setbacks and lot coverage standards and the proposed single-family dwelling of less than the minimum housing unit width standard should not adversely impact the surrounding built environment or the public's enjoyment thereof.

**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 parcel is too narrow to properly develop into a detached single-family residential dwelling. The variance request allows for a single-family dwelling while maintaining minimum side setback standards within the R-1A District.

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

The applicant will be able to build a residential home on this residually zoned on a nonconforming parcel subdivided in 1908.

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

The parcel will be developed and maintained as a single-family residence in conformity with other Planning and Zoning Code provisions pertaining to that otherwise permitted development, occupancy, and use.

Cook moved to grant the variance as stated in the Staff Report. Seconded by Tomblin seconded. Unanimously approved.

Meehan stated the petition has been approved and that Mr. Twyman will receive a letter from the Planning Department soon. Meehan stated that he should wait at least thirty days in case there is someone that would appeal this decision.

**ANNOUNCEMENTS:** Whitmore stated that there were no announcements. He stated that he did receive word from Mr. Case during the meeting that he was unavoidably detained due to a family illness. Meehan noted that he had seen the announcement from Mr. Fletcher stating he

was moving on and that he was sorry to see him go. Whitmore stated Mr. Fletcher's last day would be September 3, 2020 so they would have a chance to wish him luck.

**ADJOURNMENT:** 6:46 p.m.

MINUTES APPROVED:

BOARD SECRETARY:

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John Whitmore, AICP

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# MORGANTOWN BOARD OF ZONING APPEALS

October 21, 2020  
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 By Electronic Means

## STAFF REPORT

**Board Members:**

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

**CASE NO:** V20-15 / Suncrest Corporate Center, LLC / 430 Drummond Street

**REQUEST and LOCATION:**

Request by Crystal Miller of City Neon on behalf of Suncrest Corporate Center, LLC for variance relief from Article 1369 concerning signage.

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

Tax District 15, Tax Map 6, Parcels 17.1, 17.2, and 18.1; PRO, Professional, Residential, and Office District

**SURROUNDING ZONING:**

- North: R-1, Single-Family Residential District
- East: PRO, Professional, Office, and Residential District
- South: B-2, Service Business District
- West: B-5, Shopping Center District

**BACKGROUND and ANALYSIS:**

The petitioner seeks to install wall signage at 430 Drummond Street, requiring variance relief from Article 1369 of the Planning and Zoning Code. Addendum A of this report illustrates the location of the subject site.

Section 1369.09(E) provides a maximum sign area standard of twenty (20) square feet for businesses in the PRO district. The proposed sign is 81.1 square feet requiring variance relief of 61.1 square feet as illustrated below.

Wall Sign	Sign Area
	81.1 sf
Total Permitted Sign Standards	20 sf
<b>Total Requested Variance</b>	<b>61.1 sf</b>

**Development Services**

John Whitmore, AICP  
 Interim Director

**Planning Division**

389 Spruce Street  
 Morgantown, WV 26505  
 304.284.7431



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The proposed wall signage will utilize permitted metal letters with golden coloring in a satin finish, therefore not requiring variance from Section 1369.08(B) Lighting and Design Standards.

It should be noted that the site does have two legal, pre-existing nonconforming ground signs. One located fronting Drummond Street and another fronting WV 705. Of interest is the ground sign located near WV 705, which is 60 square feet (6' X 10') in area itself. The location of the building as set-back from WV 705, presents a common issue for signage scale. The applicant is seeking to present commercial messaging that may appear excessive, given the physical distance from the signage to the reader. The Patteson Drive/Van Voorhis Road façade is approximately 182 feet +/- from eastbound traffic stop bar on Patteson Drive and north facing traffic stop bar on University Avenue

### **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).

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

Attachments: Application and accompanying materials

### **Development Services**

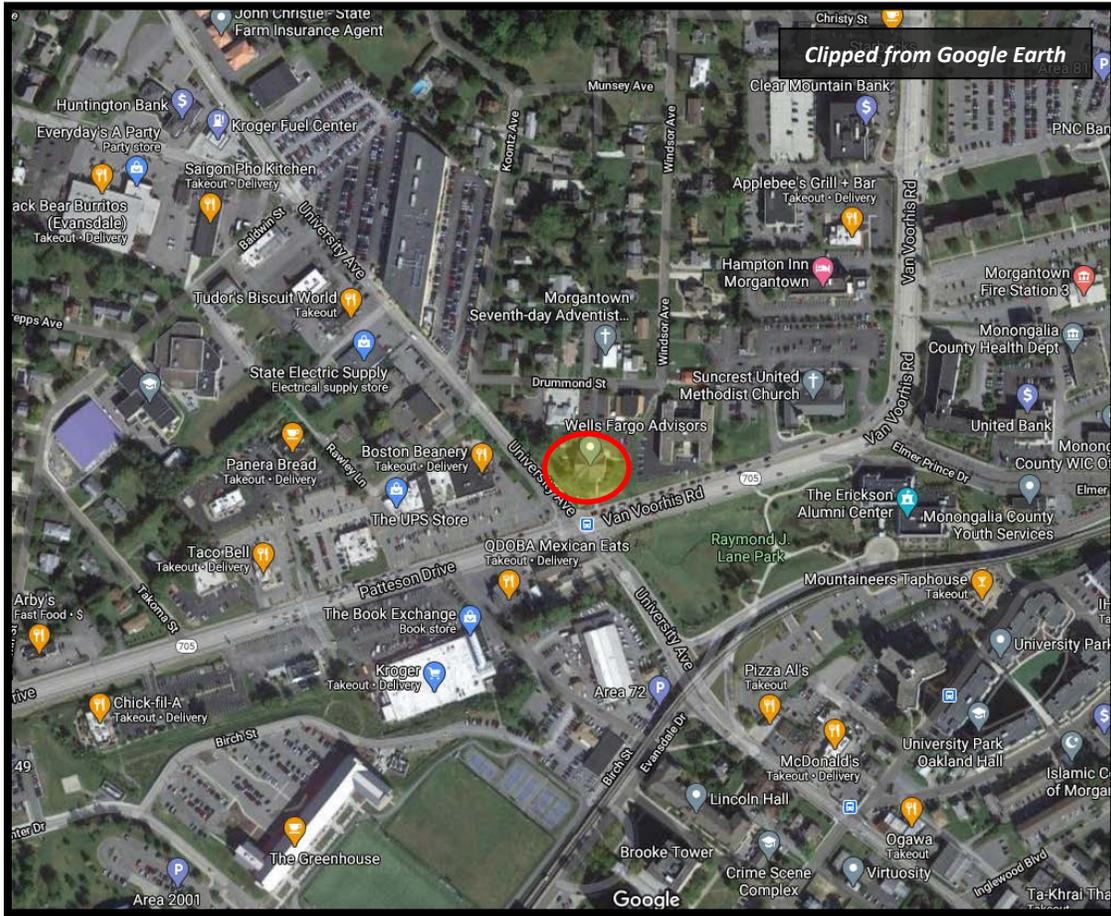
John Whitmore, AICP  
Interim Director

### **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

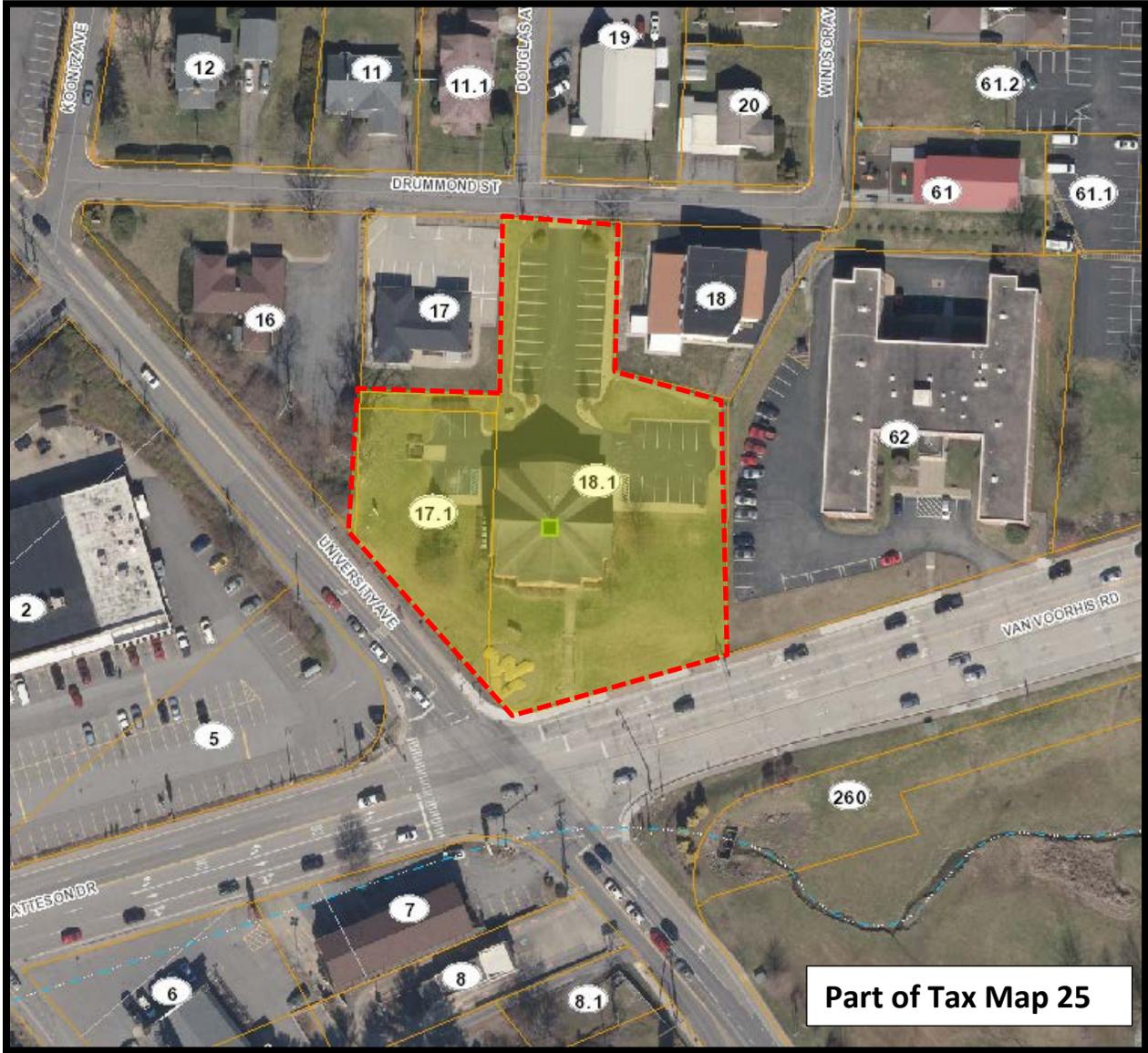
# STAFF REPORT ADDENDUM A

V20-15 / Suncrest Corporate Center, LLC / 430 Drummond Street



# STAFF REPORT ADDENDUM A

V20-15 / Suncrest Corporate Center, LLC / 430 Drummond Street



## STAFF REPORT ADDENDUM B

### V20-15 / Suncrest Corporate Center, LLC / 430 Drummond Street

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Staff recommends the following revisions to the petitioner's Findings of Fact responses (deleted matter struck through; new matter underlined). Recommended revisions should not be considered or construed as supporting or opposing the merits of 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:

This site is surrounded by various businesses that have larger code allowance signs. Across ~~the street~~ Patterson Drive is a zone that allows illuminated signage. These other signs have not had an adverse effect to the public or neighboring properties.

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

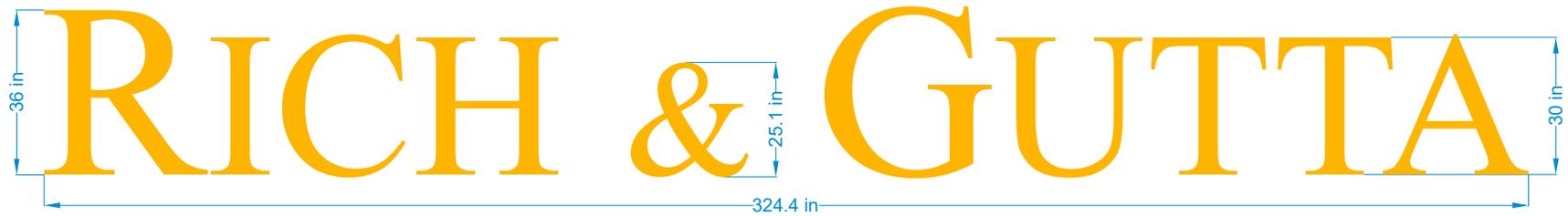
This site sits atop a hill at the intersection of Patteson Drive, Van Voorhis Road, and University Avenue. This busy intersection has roadways that range from 3-5 lanes wide. The building's distance to the center of the intersection is approximately 140 feet. These constraints limit adequate wayfinding and commercial messaging opportunities, requiring ~~In an effort to safely advertise, the tenant is requesting~~ a larger sign.

**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 safely advertise with signage that compliments the building's location and architectural features.

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

The signage will safely and effectively advertise the business without adverse effect on the public or neighbors.



DIMENSIONAL LETTERS  
 PAINTED METALLIC GOLD  
 STUD MOUNTED WITH SPACERS



PRODUCTION WILL NOT BEGIN UNTIL SIGNED APPROVAL IS RECEIVED



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

PROJECT

RICH & GUTTA

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

ELEMENT: DIMENSIONAL LETTERS

LOCATION: MORGANTOWN, WV

DATE: 9/1/20

APPROVAL:



THE CITY OF  
**MORGANTOWN**  
WEST VIRGINIA

<b>OFFICE USE</b>
CASE NO. <u>120-15</u>

*OK 37145*

## APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$150.00 [Z-V]

<b>I. APPLICANT/AGENT</b>		Name: City Neon, Inc. - Crystal Miller	
Mailing Address:	PO Box 40	Phone:	304-599-1854
	Street Morgantown WV 26507	Mobile:	
	City State Zip	Email:	crystal@cityneon.com
<b>II. PROPERTY</b>		Street Address: 430 Drummond Street	
Owner:	Suncrest Corporate Center, LLC	Zoning:	PRO
Mailing Address:	430 Drummond Street	Tax Map No:	6
	Street Morgantown WV 26505	Parcel No:	18.1
	City State Zip	Phone:	304-290-1215
<b>III. NARRATIVE</b>		Describe the specific use and the standard for which the variance is sought.	
<p>This building is zoned PRO and is allowed 20 sq ft of sign area. The tenant would like to install metal dimensional lettering 3'x32' that totals 96 sq. ft. We are asking for 76 sq ft of relief from the Code.</p>			
<b>IV. ATTEST</b>			
<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>			
Crystal Miller		<i>Crystal Miller</i>	08/27/2020
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent	Date

\$150.00  
 Z-V  
 2021-0002663  
 Kim M. Stoltz  
 8/27/2020 4:18:24 PM  
 Variance Application  
 For Department of  
 City of Morgantown

## APPLICATION FOR VARIANCE

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**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

<b>VI. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p><b>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</b></p> <p>This site is surrounded by various businesses that have larger code allowance signs. Across the street is a zone that allows illuminated signage. These other signs have not had an adverse effect to the public or neighboring properties.</p>	
<p><b>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:</b></p> <p>This site sits atop a hill at the intersection of Patteson Drive, Van Voorhis Road, and University Avenue. This busy intersection has roadways that range from 3-5 lanes wide. The building's distance to the center of the intersection is approximately 140 feet. In an effort to safely advertise, the tenant is requesting a larger sign.</p>	



<b>OFFICE USE</b>
CASE NO. _____

## APPLICATION FOR VARIANCE

**VI. FINDINGS OF FACT**

COMPLETE THE FOLLOWING STATEMENTS  
IN THIRD PERSON.

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

The tenant will be able to safely advertise with signage that compliments the building's location and architectural features.

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

The signage will safely and effectively advertise the business without adverse effect on the public or neighbors.

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# MORGANTOWN BOARD OF ZONING APPEALS

October 21, 2020  
6:30 p.m.  
By Electronic Means

## STAFF REPORT

### Board Members:

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

**CASE NO:** V20-16 / Greer Building, LLC / 1251 Earl L. Core Road

### **REQUEST and LOCATION:**

Request by Crystal Miller of City Neon on behalf of Greer Building, LLC for variance relief from Article 1369 concerning signage.

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

Tax District 14, Tax Map 31, Parcel 7.1; I-1, Industrial District

### **SURROUNDING ZONING:**

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

East and South: I-1, Industrial District

### **BACKGROUND and ANALYSIS:**

The petitioner seeks to install ground signage at 1251 Earl L. Core Road, requiring variance relief from Article 1369 of the Planning and Zoning Code. Addendum A of this report illustrates the location of the subject site.

Section 1369.07(F) provides a maximum post and panel area standard of thirty-two (32) square feet and a maximum height of six (6) feet. The proposed sign has an area of 96.8 square feet requiring variance relief of 64.8 square feet. The proposed sign's height is 20.2 feet tall feet requiring variance relief of 14.2 feet. The table on Page 2 of this report illustrates the required variances.

### **Development Services**

John Whitmore, AICP  
Interim Director

### **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



# MORGANTOWN BOARD OF ZONING APPEALS

October 21, 2020  
 6:30 p.m.  
 By Electronic Means

**Board Members:**

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

Ground Sign	Sign Area	Sign Height
	96.8 sf	20.2 feet
Total Permitted Sign Standards	32 sf	6 feet
<b>Total Requested Variance</b>	<b>64.8 sf</b>	<b>14.2 sf</b>

**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)].

**Development Services**

John Whitmore, AICP  
 Interim Director

**Planning Division**

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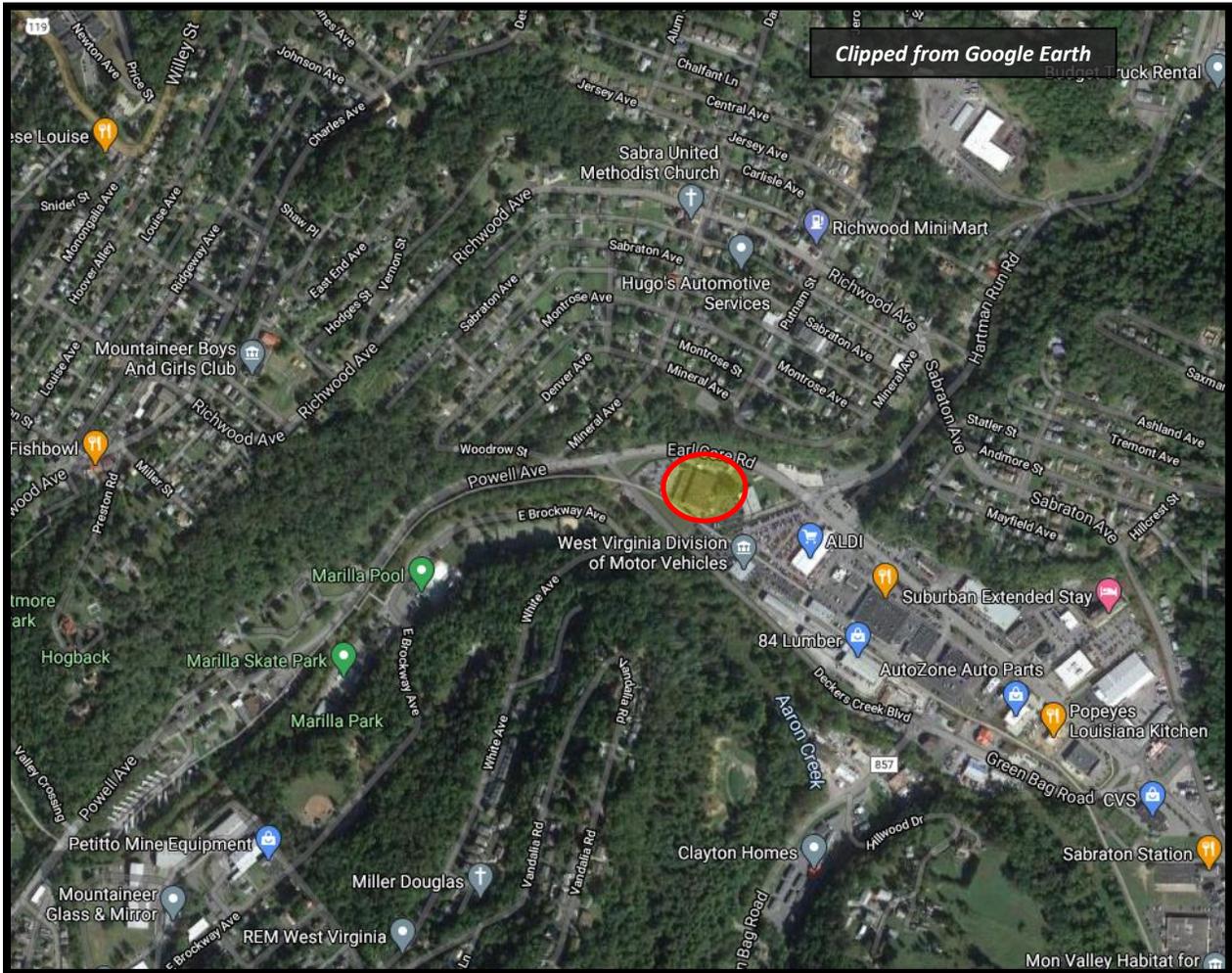
Addendum B of this report provides revisions to the petitioner’s Findings of Fact responses (deleted matter struck through; new matter underlined).

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

Attachments: Application and accompanying materials

# STAFF REPORT ADDENDUM A

## V20-16 / Greer Building, LLC / 1251 Earl L. Core Road



## STAFF REPORT ADDENDUM B

### V20-16 / Greer Building, LLC / 1251 Earl L. Core Road

---

Staff recommends the following revisions to the petitioner's Findings of Fact responses (deleted matter struck through; new matter underlined). Recommended revisions should not be considered or construed as supporting or opposing the merits of 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 original (now non-conforming) sign is seeking to come into compliance with relief for height and sign area.~~ Along this particular stretch of roadway, there are many signs reaching the height of 20+ feet in height and larger than code sign area. There appears to be no ill effect on the businesses and residents of this area from other similar signs.

**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 main cabinet of this sign has had many short term repairs over the years, but has met the end of its function and desperately needs replacing. As it is no longer a conforming sign with its single pole, two additional poles will be added to give it a post and panel look that is within the Code. This addition will allow us to replace the aging cabinet with a new one to showcase the building's tenants.~~

The Greer Building is a terminus for the Sabraton commercial corridor along Earl L. Core Road. The site is unique as most sides of the property are an elaborate stormwater management system requiring signage be setback from the roadway. The roadway is a 35-mph highway with limited pedestrian foot traffic along the road, as there is a trail system located to the rear of the property. The sign as proposed will allow for legible commercial copy and way finding to the Greer Building and is similar to other ground signs in the Sabraton area.

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

~~The building owner will be able to utilize existing components of the sign, replace the aging cabinet that is no longer serviceable, and showcase the building's tenants.~~

The signage must be larger than permitted to allow for adequate viewing due to site constraints and the layout and design of Earl L. Core Road.

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

~~The additional poles will bring the sign into conformance with the code since the code has changed since the installation of this sign. It will no longer be a single pole non-conforming sign.~~

The property is zoned I-1, Industrial, but is located along a busy commercial corridor. The use of the property is for newspaper publishing and other media functions. The applicant will be able to better use their property and promote their business functions on-site with the larger sign.

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



1099 Chapin Hill Road  
Morgantown, WV 26501  
Phone: 304-699-1854  
Fax: 304-599-5892

PROJECT

**GREER BUILDING**

PRODUCTION WILL NOT BEGIN UNTIL SIGNED APPROVAL IS RECEIVED

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

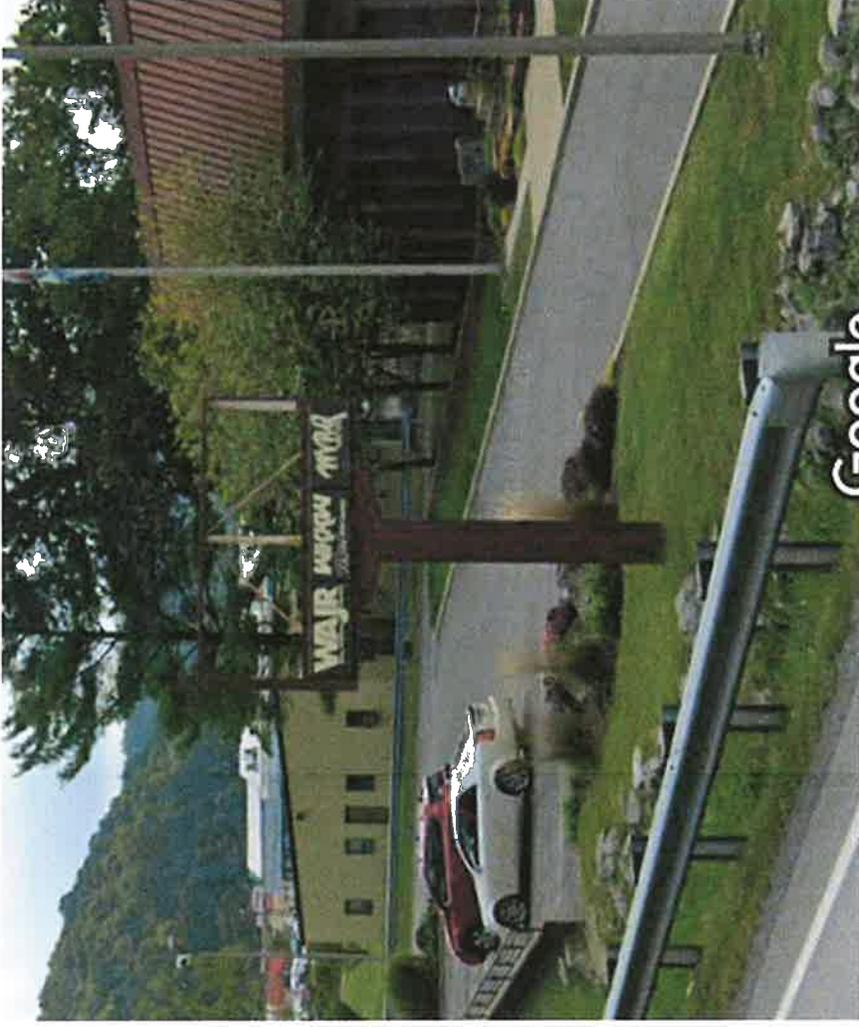
ELEMENT PYLON SIGN

LOCATION MORGANTOWN, WV

DATE: 8/11/20

APPROVAL

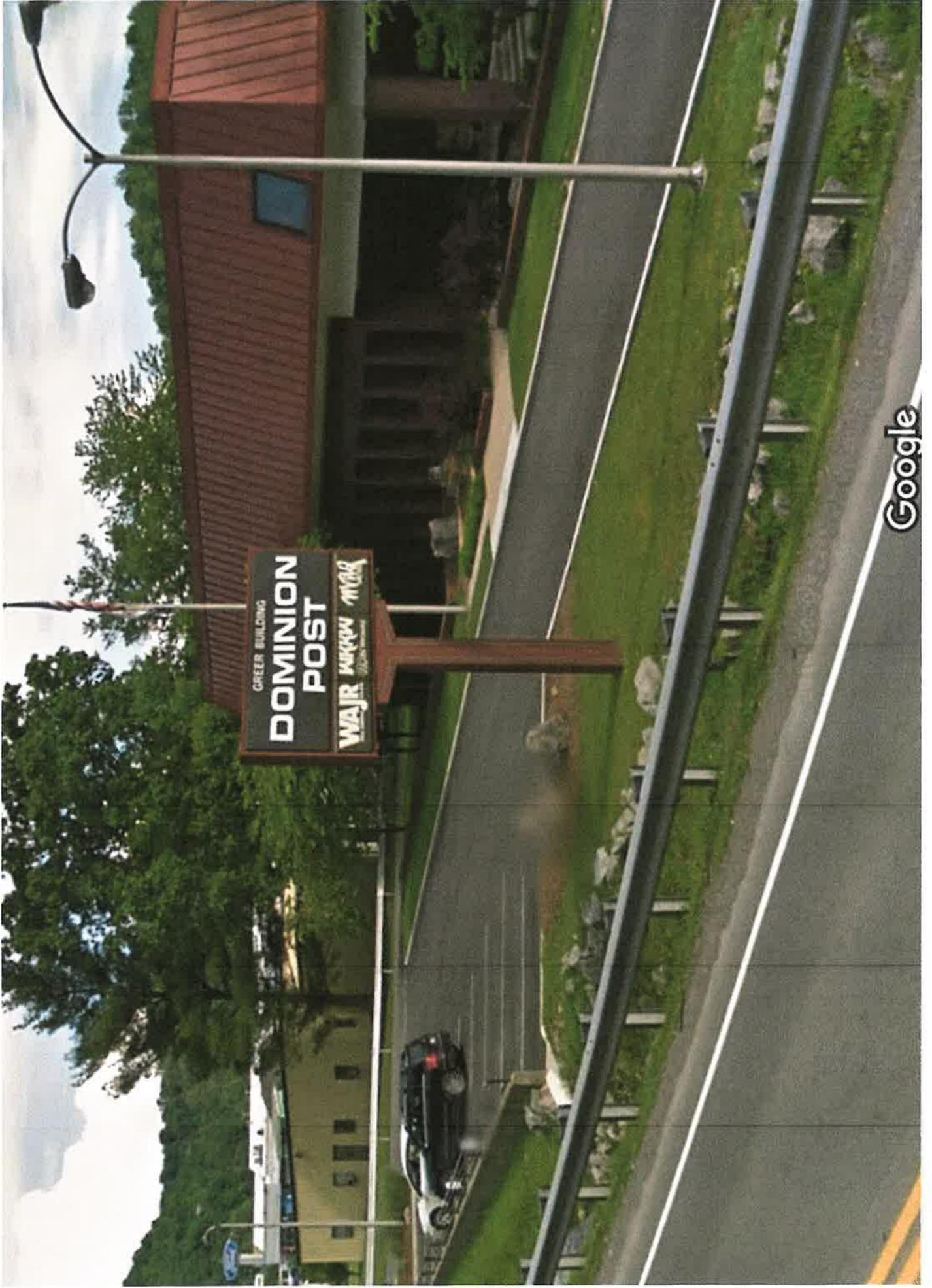
EXISTING



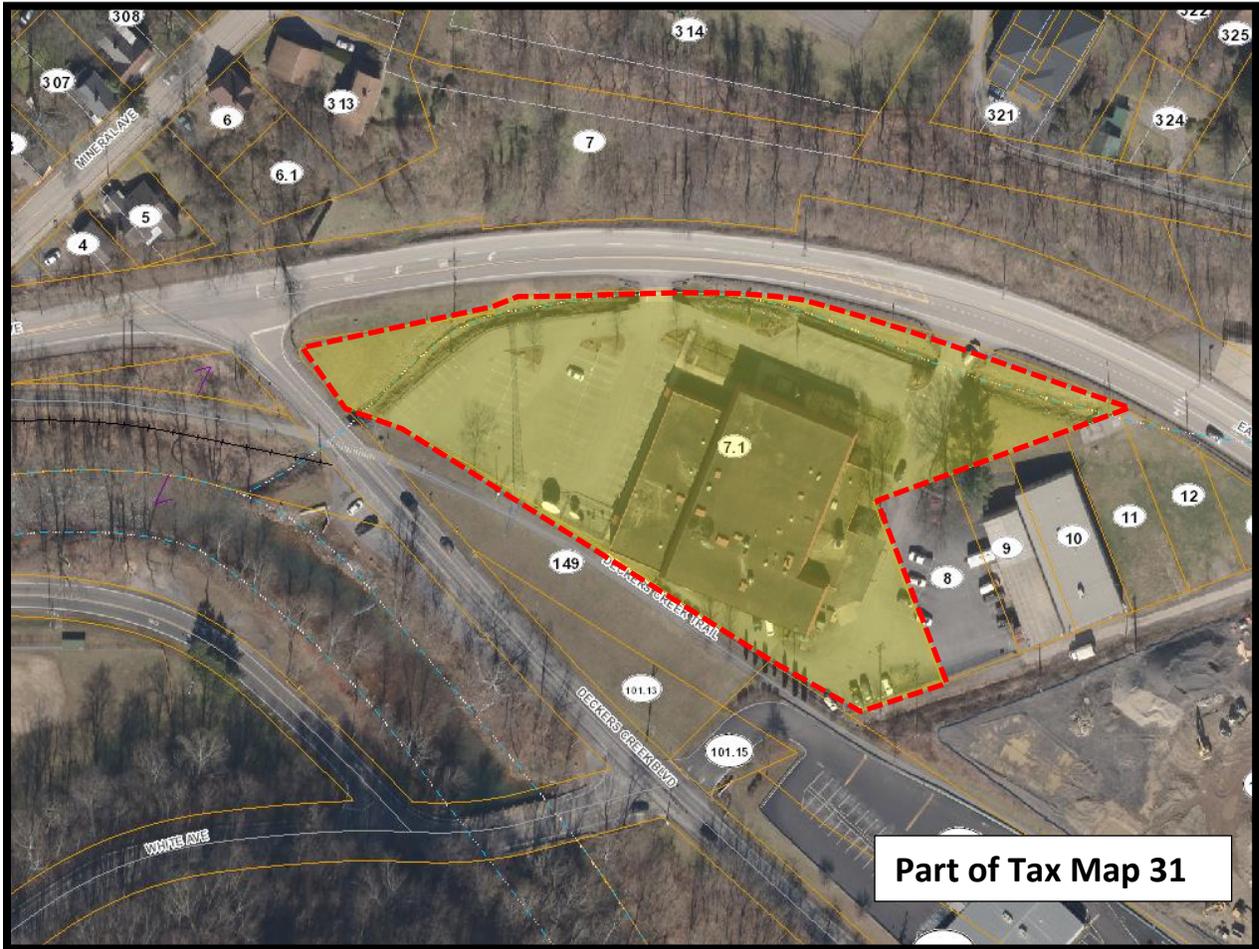
2019  
"WRAPPED W/BANNER"



2012



**STAFF REPORT ADDENDUM A**  
**V20-16 / Greer Building, LLC / 1251 Earl L. Core Road**





*Handwritten signature/initials in red ink*

## APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$150.00 [Z-V]

<b>I. APPLICANT/AGENT</b>		Name:	City Neon, Inc. - Crystal Miller													
Mailing Address:	PO Box 40		Phone:	304-599-1854												
	Street	Morgantown	WV	26507												
	City	State	Zip													
		Mobile:														
		Email:	crystal@cityneon.com													
<b>II. PROPERTY</b>		Street Address:	1251 Earl L. Core Road													
Owner:	Greer Building, LLC		Zoning:	I-1												
Mailing Address:	PO Box 1900		Tax Map No:	31												
	Street	Morgantown	WV	26507												
	City	State	Zip													
		Parcel No:	7.1													
		Phone:	304-282-0175													
<b>III. NARRATIVE</b>		Describe the specific use and the standard for which the variance is sought.														
<p>The Greer Building would like to renovate their currently non-conforming ground signage. The propose signage modifications bring it closer to compliance with the City's sign code, but still requires relief from the code for height and sign area.</p> <table border="0"> <tr> <td>Allowable height:</td> <td>6'</td> <td>Allowable sign area:</td> <td>32</td> </tr> <tr> <td>Current sign height:</td> <td>14.67'</td> <td>Current sign area:</td> <td>72 sq ft</td> </tr> <tr> <td>Proposed height:</td> <td>20.17'</td> <td>Proposed sign area:</td> <td>92 sq ft (84 sq ft + 8sq ft) 2 cabinets</td> </tr> </table> <p>We are seeking 14.17' in height and 60 sq ft in signage area of relief from the City Code.</p>					Allowable height:	6'	Allowable sign area:	32	Current sign height:	14.67'	Current sign area:	72 sq ft	Proposed height:	20.17'	Proposed sign area:	92 sq ft (84 sq ft + 8sq ft) 2 cabinets
Allowable height:	6'	Allowable sign area:	32													
Current sign height:	14.67'	Current sign area:	72 sq ft													
Proposed height:	20.17'	Proposed sign area:	92 sq ft (84 sq ft + 8sq ft) 2 cabinets													
<b>IV. ATTEST</b>																
<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>																
Crystal Miller		<i>Crystal Miller</i>		8/27/20												
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date												

RECEIVED  
 SEP 1 2020 4:19:53 PM  
 DEVELOPMENT SERVICES DEPARTMENT  
 CITY OF MORGANTOWN

## APPLICATION FOR VARIANCE

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**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.**

<b>V. SITE PLAN</b>
---------------------

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.

<b>VI. FINDINGS OF FACT</b>
-----------------------------

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

<b>VI. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<b>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</b>	<p>The building owner will be able to utilize existing components of the sign, replace the aging cabinet that is no longer serviceable, and showcase the building's tenants.</p>
<b>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</b>	<p>The additional poles will bring the sign into conformance with the code since the code has changed since the installation of this sign. It will no longer be a single pole non-conforming sign.</p>

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# MORGANTOWN BOARD OF ZONING APPEALS

October 21, 2020  
6:30 p.m.  
By Electronic Means

## Board Members:

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

## COMBINED STAFF REPORT

**CASE NO:** CU20-04 / E and J Holdings, LLC / 311 Mclane Avenue  
V20-17 / E and J Holdings, LLC / 311 Mclane Avenue  
V20-18 / E and J Holdings, LLC / 311 Mclane Avenue  
V20-19 / E and J Holdings, LLC / 311 Mclane Avenue  
V20-20 / E and J Holdings, LLC / 311 Mclane Avenue

### **REQUEST and LOCATION:**

Request by Trevor Lloyd of Cheat Road Engineering on behalf of E & J Holdings, LLC for conditional "Parking Lot, Principal Use" use approval and variance relief from Article 1339 concerning screening requirements, Article 1361 concerning parking lot screening requirements, Article 1365 concerning parking lot design requirements, and Article 1367 concerning landscape buffer requirements.

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

Tax District 12, Tax Map 19, Parcel 109; R-3, Multi-Family Residential District and SSOD, Sunnyside South Overlay District.

### **SURROUNDING ZONING:**

North, East, and South: R-3, Multi-Family Residential District and  
SSOD, Sunnyside South Overlay District  
West: B-2, Service Business District,  
SSOD, Sunnyside South Overlay District, and  
BCOD, Beechurst Corridor Overlay District

### **BACKGROUND:**

The petitioner seeks to construct a parking lot with sixteen (16) spaces at 311 Mclane Avenue, requiring conditional use approval and variance relief from Articles 1339, 1361, 1365, and 1367 of the Planning and Zoning Code. Addendum A of this report illustrates the location of the subject site. The proposed design of the parking lot requires three (3) similar variances, in relationship to the Multi-Family Residential District, Sunnyside South Overlay District, and the landscape ordinance.

Access to the parking lot is proposed from Alley B, located between Mclane Avenue to the North and Beechurst Avenue to the South. Parking spaces are designed in a tandem design, enabling increased parking density. A copy of the proposed design of the parking lot is provided on Page 2 of this report.

## **Development Services**

John Whitmore, AICP  
Interim Director

## **Planning Division**

389 Spruce Street  
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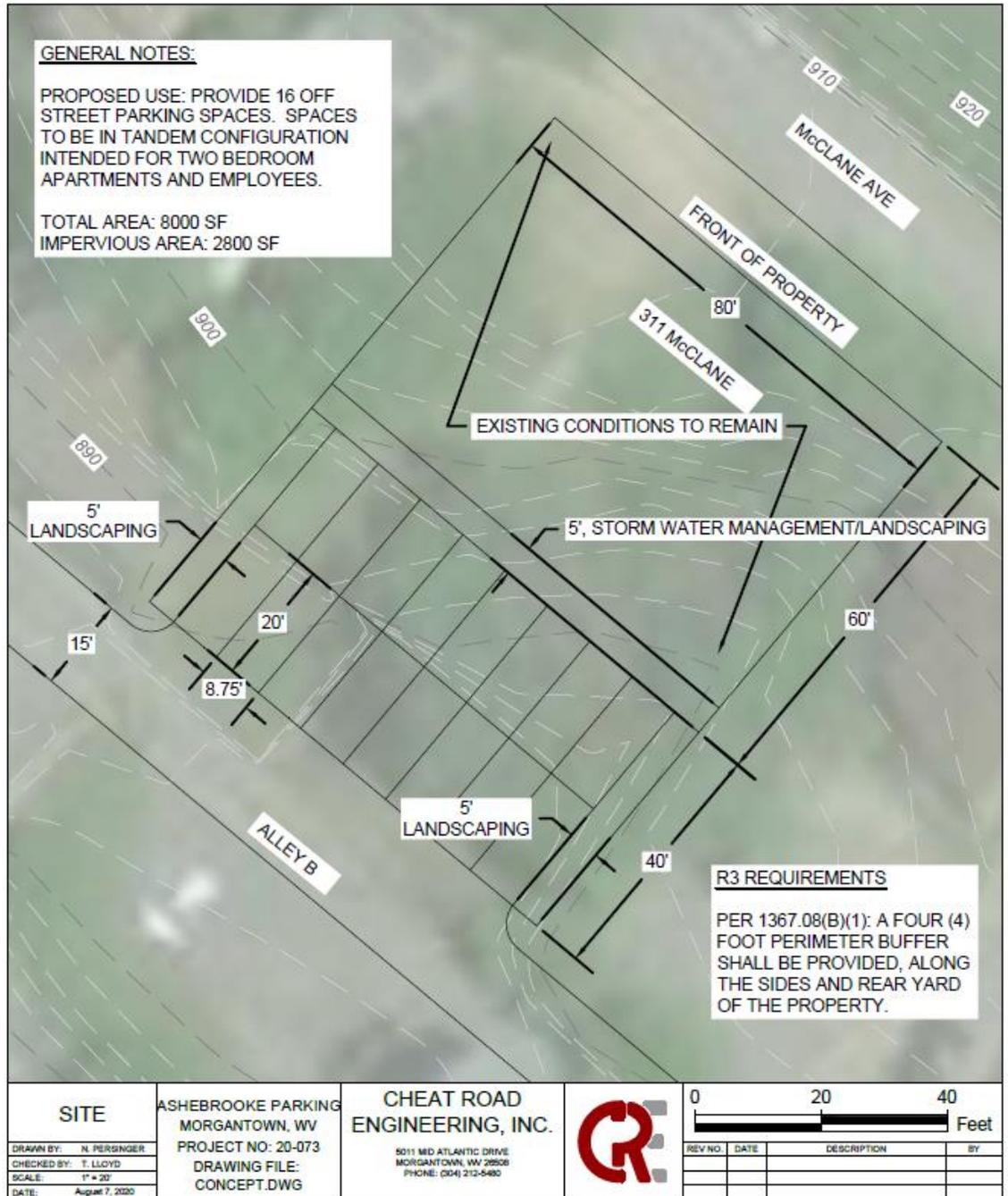


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**Development Services**

John Whitmore, AICP  
 Interim Director

**Planning Division**

389 Spruce Street  
 Morgantown, WV 26505  
 304.284.7431

**ANALYSIS:**

*CU20-04 – Conditional “Parking Lot, Principal Use”*

The petitioner proposes a new “Parking Lot, Principal Use” use in the vacant parcel commonly known as 311 Mclane Avenue, which results in a change in land use



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classification. The “Parking Lot, Principal Use” use is defined in Article 1329 of the Planning and Zoning Code as follows:

**PARKING LOT, PRINCIPAL USE** - An off-street, ground level facility including paved parking spaces and adjacent drives and aisles for maneuvering, access, entrance, and exit; improved in a way to accommodate the parking of four (4) or more motor vehicles where the parking lot is either the principal use of the premises or the stand-alone use of the parcel. (Ord. 16-44. Passed 9-6-16.)

“Parking Lot, Principal Use” uses are permitted within the R-3, Multi-Family Residential District with conditional use approval by the BZA, per Table 1331.05 illustrated below.

Uses	R-1	R-1A	R-2	R-3	PRO	B-1	B-2	B-4	OI	B-5	I-1	Supplemental Regulations
Parking Lot, Principal Use				C		P	P	C		P	P	

*V20-17 – R-3, District Screening Requirements*

Section 1339.06(D) of the Planning and Zoning Code provides requirements for certain surface parking areas in the R-3, Multi-Family Residential District, as shown below:

(D) With the exception of single-family, two-family, and townhouse dwellings, surface parking areas shall be concealed along the street frontage by an architectural screen wall between three and one-half (3.5) and five (5) feet in height, and by dense landscaping along property lines not adjoining a public street. The material and finish of the architectural screen shall be consistent with the materials and finish of buildings with which it is associated or buildings in the immediate vicinity.

As this is a proposed “Principal Use, Parking Lot,” the parking lot is required to observe Section 1339.06(D) architectural screening requirements. The establishment of a wall between the surface parking and Alley B is impossible with the proposed design as access to the parking spaces would be impossible. Alternatively, the applicant could provide access from Alley B to a parking area separated from both Alley B and Mclane Avenue with a wall feature, however topography in the area appears to present a significant challenge for such a development.

*V20-18 – Landscape Buffer Requirements*

The Landscape Ordinance requires vegetative buffering between parking areas and other land uses. Section 1367.08(B)(1) regulates landscaping for parking lots that are not located between a principal building and a street as shown on the following page.

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If there is no parking anywhere between the established building line, projected from corner of building to property lines:

- (1) A four (4) foot perimeter buffer shall be provided, along the sides and rear yard of the property, that contains at least one two inch (2") caliper tree every twenty (20) feet and at least three (3) shrubs of at least three (3) gallons in size clustered between each two (2) trees.

This section is identified for this development’s review, as there is no principal building on-site.

Parcel 109 is a through-lot abutting two rights-of-way on opposite sides of the parcel. Section 1329.02 of the Planning and Zoning Code provides the definition for Lot Front and a protocol for establishing frontage as shown below.

LOT FRONT – The side of a lot that abuts a public street is the front of the lot. For corner lots, the shortest side fronting upon a street shall be considered the front of the lot. Where buildings exist on the lot, the frontage may be established by the orientation of the building, or of the principal entrance, if building orientation does not clearly indicate lot frontage. Where no other method determines conclusively the front of a lot, the Planning Director shall select one frontage on the basis of traffic flow on adjacent streets, so that the lot is considered to front on the street with the greatest traffic flow.

As provided by the definition of Lot Front, the acting Planning Director has determined that the frontage of this parcel is the Mclane Avenue side. As such, the rear of the parcel is along Alley B. Therefore, variance is required from Section 1367.08(B)(1) as the establishment of the required four (4) foot perimeter buffer is impossible with the proposed design as access to the parking spaces would be impossible.

*V20-19 – Parking Lot Design*

Section 1365.09(A)(4) of the Planning and Zoning Code requires that parking lots for four (4) or more automobiles, excluding single and two-family dwellings, agricultural and rural uses, and storage of vehicular merchandise, have each parking space open directly onto a parking aisle that is not located in a public right-of-way, as shown below.

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

The use of a public right-of-way for vehicle maneuvering into the parking spaces, as designed, is not permitted. Parking lots are to be designed with a dedicated entrance and

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exit, whereby vehicles interaction with the right-of-way is for forward movement into and out of the parking lot. The petitioner proposes to utilize Alley B for turning movements into and out of the proposed parking spaces.

*V20-20 – Parking Lot Screening Requirement*

Section 1361.03(Q)(3) of the Planning and Zoning Code requires that surface parking lots developed within the Sunnyside Overlay Districts be screened from the right-of-way, as shown below.

- (3) Surface parking lots between buildings shall be designed as interior landscaped courtyards where cars are screened from the right-of-way; surface lots shall not be constructed where two (2) public rights-of-way intersect.

Similar to variances requests V20-17 and V20-18, the proposed design of the parking lot does not allow for screening from the right-of-way, as the individual parking spaces are to be directly accessed from Alley B, rendering required screening impossible.

Broadly, the Board of Zoning Appeals is reviewing the proposed “Parking Lot, Principal Use” based on the following categories:

Case Number(s)	Reasoning
CU20-04	Required Conditional Use
V20-17, V20-18, and V20-20	Landscaping and Screening
V20-19	Parking Lot Design

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

**STAFF RECOMMENDATION:**

The Board of Zoning Appeals must determine whether the proposed requests meet the standard criteria for a conditional use or 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 conditional use or variance, then the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject conditional use or variance petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

**Development Services**

John Whitmore, AICP  
Interim Director

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## MORGANTOWN BOARD OF ZONING APPEALS

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Addendum B of this report restates the petitioner's findings of fact for each petition. Again, each petition must be considered and acted upon by the Board separately. The Board may review and provide a determination for any of these five (5) cases in an order of their choosing. Staff provides no recommendation for any of the cases presented in this staff report.

In the event the Board of Zoning Appeals grants approval of the petition(s), staff recommends the following conditions be included with each petition's approval:

### *Case No. CU20-04 – Conditional "Parking Lot, Principal Use"*

1. Approval of CU20-04 is conditioned on the approval of Cases V20-17, V20-18, V20-19, and V20-20.
2. Parking spaces shall include signage and/or pavement markings establishing individual users of the "Parking Lot, Principal Use."
3. The "Parking Lot, Principal Use," shall be developed to include screening and buffering as provided in the site plan reviewed by the Board of Zoning Appeals, and to include a minimum five (5) foot wide buffer to abut the parking lot.

### *Case No. V20-17 – R-3, District Screening Requirements*

1. Approval of V20-17 is conditioned on the approval of Cases CU20-04, V20-18, V20-19, and V20-20.

### *Case No. V20-18 – Landscape Buffer Requirements*

1. Approval of V20-18 is conditioned on the approval of Cases CU20-04, V20-17, V20-19, and V20-20.

### *Case No. V20-19 – Parking Lot Design*

1. Approval of V20-19 is conditioned on the approval of Cases CU20-04, V20-17, V20-18, and V20-20.

### *Case No. V20-20 – Parking Lot Screening Requirement*

1. Approval of V20-20 is conditioned on the approval of Cases CU20-04, V20-17, V20-18, and V20-19.

### **Development Services**

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Interim Director

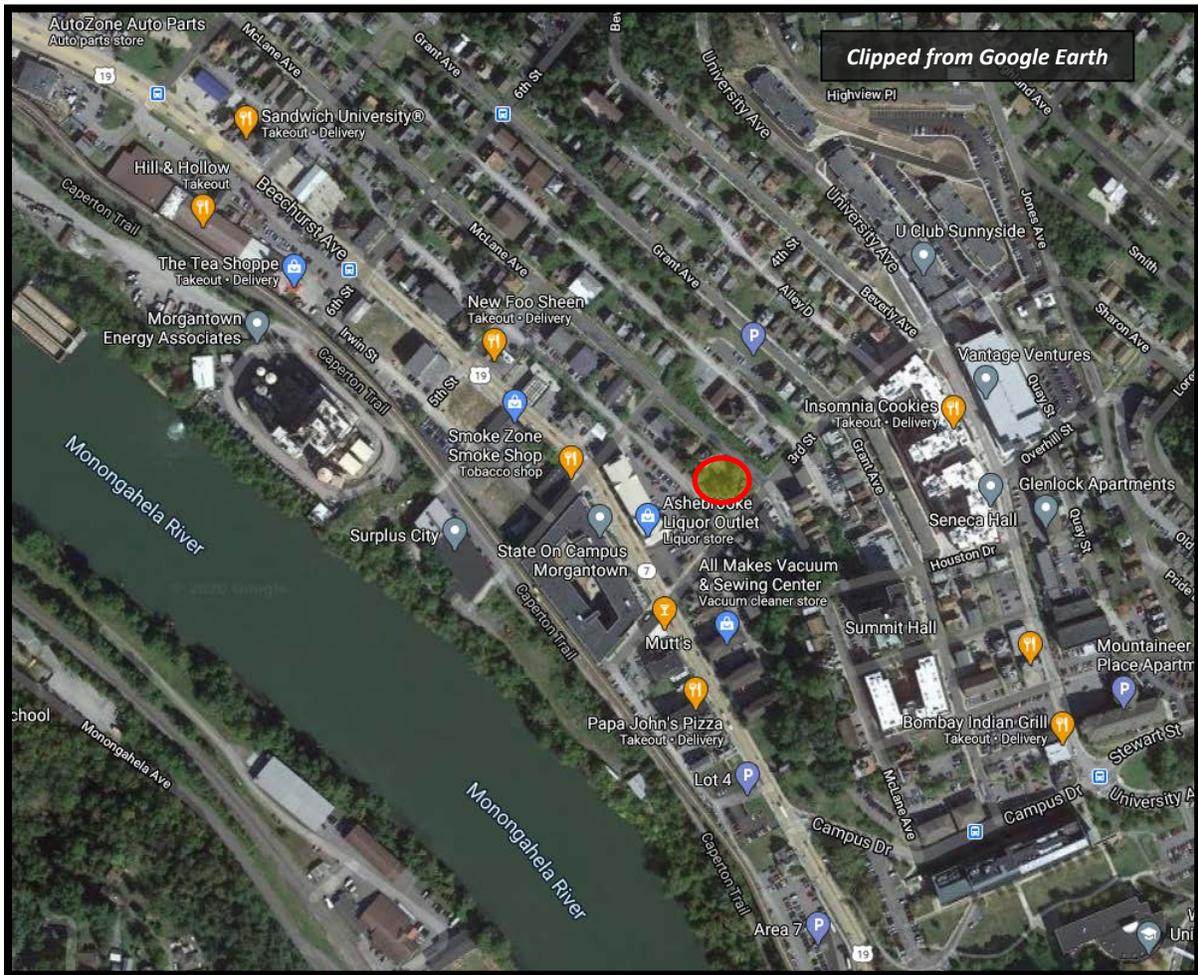
### **Planning Division**

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Attachments: Application and accompanying materials

# COMBINED STAFF REPORT ADDENDUM A

CU20-04, V20-17, V20-18, V20-19, and V20-20 / E & J Holdings / 311 McLane Ave.



# COMBINED STAFF REPORT ADDENDUM A

CU20-04, V20-17, V20-18, V20-19, and V20-20 / E & J Holdings / 311 Mclane Ave.



## COMBINED STAFF REPORT ADDENDUM B

Applicant submitted findings of fact are provided below.

### CU20-04 / E and J Holdings, LLC / 311 Mclane Avenue

---

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

All parked vehicles will be completely off public rights of way.

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

No enclosed structures are proposed.

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

All required lighting will be oriented downward and will not spill onto adjacent property.

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

Less than 50% of the lot will be developed.

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

This project is for vehicle storage for existing population.

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

Not Applicable

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

Not Applicable

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

In anticipation of commercial space expansion of the Ashbrook Liquor Outlet, this proposed parking facility will ensure that parking requirements are met.

## V20-17 / E and J Holdings, LLC / 311 McLane Avenue

---

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

This is a parking facility with access off of an alley way. There are no encroachments on public pedestrian pathways, adjacent properties or public utilities.

**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:

Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in it's entirety by granting the variance. Parking areas off an alley is a reasonable use of the land.

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

Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in it's entirety by granting the variance. Parking areas off an alley is 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:

Allowing for parking areas off of an alley is a reasonable use of the land. The proposed parking area will be screened from three sides and obscured from view from main streets and popular pedestrian pathways.

## V20-18 / E and J Holdings, LLC / 311 McLane Avenue

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

This is a parking facility with access off of an alley way. There are no encroachments on public pedestrian pathways, adjacent properties or public utilities.

**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:

Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in its entirety by granting the variance.

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

Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in its entirety by granting the variance. Parking areas off an alley is 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:

Allowing for parking areas off of an alley is a reasonable use of the land. The proposed parking area will be screened from three sides and obscured from view from main streets and popular pedestrian pathways.

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### V20-19 / E and J Holdings, LLC / 311 Mclane Avenue

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

This is a parking facility with access off of an alley way. There are no encroachments on public pedestrian pathways, adjacent properties or public utilities.

**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:

Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in its entirety by granting the variance.

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

Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in it's entirety by granting the variance. Parking areas off an alley is 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:

Allowing for parking areas off of an alley is a reasonable use of the land. The proposed parking area will be screened from three sides and obscured from view from main streets and popular pedestrian pathways.

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### **V20-20 / E and J Holdings, LLC / 311 Mclane Avenue**

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

This is a parking facility with access off of an alley way. There are no encroachments on public pedestrian pathways, adjacent properties or public utilities.

**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:

Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in its entirety by granting the variance.

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Allowing for parking areas off of an alley is a reasonable use of the land. The proposed parking area will be screened from three sides and obscured from view from main streets and popular pedestrian pathways.



## APPLICATION FOR CONDITIONAL USE

*38576*

(PLEASE TYPE OR PRINT IN INK)

Fee: \$150.00 [Z-CU]

I. APPLICANT/AGENT								
Name:	Trevor Lloyd				Phone:	304-212-5480		
Mailing Address:	5011 Mid Atlantic Drive				Mobile:	304-989-1723		
	Street	Morgantown	WV	26508	Email:	tlloyd@crewv.com		
	City	State	Zip					
II. PROPERTY								
Owner:	E and J Holdings LLC, c/o Joseph Moser				Phone:	304-290-5703		
Mailing Address:	300 Beechurst Ave				Mobile:			
	Street	Morgantown	WV	26505	Email:	jmoser1@aol.com		
	City	State	Zip					
III. CONDITIONAL USE DESCRIPTION								
Street Address (if assigned):		311 McClane Avenue						
Zoning:	R3	Tax Map #:	19	Parcel #:	109	Parcel Area:	8000 sq. ft.	
<b>Existing Use</b> of the Site, including total building area per building on site:		Vacant Lot						
<b>Proposed Use</b> of the Site, including total building area per building on site:		Sixteen off street parking spaces in tandem configuration intended for two-bedroom apartments for the 4th Street Apartment's at 300 Beechurst Ave and employees of Ashebrook Liquor Outlet of the same address. Impervious parking area to be 2,800 square feet.						

\$150.00  
 Z-CU  
 2021-00002940  
 Kim Higerl  
 9/1/2020 10:02:25 AM  
 Conditional Use Application  
 For Deposit Only  
 City of Morgantown



## APPLICATION FOR CONDITIONAL USE

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



## APPLICATION FOR CONDITIONAL USE

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

## APPLICATION FOR CONDITIONAL USE

### VI. FINDINGS OF FACT

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

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

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

All parked vehicles will be completely off public rights of way.

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

No enclosed structures are proposed.

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

All required lighting will be oriented downward and will not spill onto adjacent property.

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

Less than 50% of the lot will be developed.

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

This project is for vehicle storage for existing population.

## APPLICATION FOR CONDITIONAL USE

### VI. FINDINGS OF FACT (cont.)

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

Non applicable.

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

Non applicable.

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

In anticipation of commercial space expansion of the Ashebrook Liquor Outlet, this proposed parking facility will ensure that parking requirements will be met.

### VII. CONDITIONAL USE APPROVAL OBJECTIVES

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

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



## APPLICATION FOR CONDITIONAL USE

4. Neighborhood character and surrounding property values are reasonably safeguarded.
5. Operations in connection with the proposed conditional use are not offensive, dangerous, destructive of property values and basic environmental characteristics, or detrimental to the public interest of the community. The proposed conditional use is not more objectionable to nearby properties by reason of fumes, noise, vibration, flashing of or glare from lights, and similar nuisance conditions than the operations of any permitted use not requiring a conditional use permit in the district.
6. The character and appearance of the proposed conditional use, buildings, structures, and/or outdoor signs should be in general harmony or better, with the character and appearance of the surrounding neighborhood.

### VIII. ATTEST

I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent and I agree to conform to all applicable laws of this jurisdiction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions.

Trevor Lloyd

[Signature]

8/27/20

Type/Print Name of Applicant/Agent

Signature of Applicant/Agent

Date





<b>OFFICE USE</b>
CASE NO. _____

## 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

<b>VI. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p><b>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</b></p> <p>This is a parking facility with access off of an alley way. There are no encroachments on public pedestrian pathways, adjacent properties or public utilities.</p>	
<p><b>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:</b></p> <p>Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in its entirety by granting the variance.</p>	



<b>OFFICE USE</b>
CASE NO. _____

## APPLICATION FOR VARIANCE

<b>VI. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p><b>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</b></p> <p>Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in its entirety by granting the variance. Parking areas off an alley is a reasonable use of the land.</p>	
<p><b>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</b></p> <p>Allowing for parking areas off of an alley is a reasonable use of the land. The proposed parking area will be screened from three sides and obscured from view from main streets and popular pedestrian pathways.</p>	



## APPLICATION FOR VARIANCE

*Handwritten:* 12/20/20

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$150.00 [Z-V]

<b>I. APPLICANT/AGENT</b>		Name:	Trevor Lloyd	
Mailing Address:	5011 Mid Atlantic Drive		Phone:	304-212-5480
	Street	Morgantown WV 26508	Mobile:	304-989-1723
	City	State	Zip	Email: <b>tlloyd@crewv.com</b>
<b>II. PROPERTY</b>		Street Address:	311 McClane Ave	
Owner:	E and J Holdings LLC, c/o Joseph Moser		Zoning:	R3
Mailing Address:	300 Beechurst Ave		Tax Map No:	19
	Street	Morgantown WV 26505	Parcel No:	109
	City	State	Zip	Phone: 304-290-5703
<b>III. NARRATIVE</b>		Describe the specific use and the standard for which the variance is sought.		
<p>Sixteen off street parking spaces in tandem configuration intended for two-bedroom apartments for the 4th Street Apartment's at 300 Beechurst Ave and employees of Ashebrook Liquor Outlet of the same address.</p> <p>Landscaping buffer requirements [1367.08(B)(1)]</p>				
<b>IV. ATTEST</b>		I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.		
<p><i>Handwritten:</i> Joseph E. Moser</p>		<p><i>Handwritten Signature:</i></p>		<p><i>Handwritten:</i> 9-2-20</p>
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date

\$150.00  
 Z-V  
 2021-00009975  
 Kim M  
 9/2/2020 10:49:55 AM  
 Variance Application  
 For Deposit Only  
 City of Morgantown

## APPLICATION FOR VARIANCE

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

### V. SITE PLAN

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

- Vicinity map showing all adjacent properties and nearby streets within a 300-foot radius around the project site, drawn or illustrated at an appropriate scale.
- A site plan (3 copies) drawn to scale at a minimum 1" = 50' and a maximum of 1" = 10' and include the following:
  - The actual dimensions, size, square footage, and shape of the lot to be built upon as shown on an actual survey by a licensed land surveyor or registered design professional licensed by the State of West Virginia and as authorized by West Virginia State law.  
The exact sizes and locations on the lot of existing structures, if any.
  - The location(s), square footage(s), and dimensions of all proposed principal, accessory and/or temporary structure(s), and/or alteration(s).
  - The location of the lot with respect to adjacent rights-of-way.
  - Parking Plan. The location and dimensions of off-street parking and means of ingress and egress for such space.
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- 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.



<b>OFFICE USE</b>
CASE NO. _____

## APPLICATION FOR VARIANCE

<b>VI. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p><b>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</b></p> <p>This is a parking facility with access off of an alley way. There are no encroachments on public pedestrian pathways, adjacent properties or public utilities.</p>	
<p><b>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:</b></p> <p>Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in its entirety by granting the variance.</p>	



<b>OFFICE USE</b>
CASE NO. _____

## APPLICATION FOR VARIANCE

<b>VI. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p><b>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</b></p> <p>Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in its entirety by granting the variance. Parking areas off an alley is a reasonable use of the land.</p>	
<p><b>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</b></p> <p>Allowing for parking areas off of an alley is a reasonable use of the land. The proposed parking area will be screened from three sides and obscured from view from main streets and popular pedestrian pathways.</p>	



## APPLICATION FOR VARIANCE

OK  
3/25/20

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$150.00 [Z-V]

<b>I. APPLICANT/AGENT</b>	Name: Trevor Lloyd		
Mailing Address:	5011 Mid Atlantic Drive		Phone: 304-212-5480
	Street Morgantown	WV 26508	Mobile: 304-989-1723
	City	State Zip	Email: tlloyd@crewv.com

<b>II. PROPERTY</b>	Street Address: 311 McClane Ave		
Owner:	E and J Holdings LLC, c/o Joseph Moser	Zoning:	R3
Mailing Address:	300 Beechurst Ave		Tax Map No: 19
	Street Morgantown	WV 26505	Parcel No: 109
	City	State Zip	Phone: 304-290-5703

<b>III. NARRATIVE</b>	Describe the specific use and the standard for which the variance is sought.
<p>Sixteen off street parking spaces in tandem configuration intended for two-bedroom apartments for the 4th Street Apartment's at 300 Beechurst Ave and employees of Ashebrook Liquor Outlet of the same address.</p> <p>Drive aisle in public right-of-way [1365.09(A)(1)]</p>	

<b>IV. ATTEST</b>	<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>		
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Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date

\$150.00  
 Z-V  
 2021-00009076  
 Kim M  
 3/2/2020 10:49:15 AM  
 Variance Application  
 For Deposit to City  
 City of Morgantown



<b>OFFICE USE</b>
CASE NO. _____

## APPLICATION FOR VARIANCE

<b>VI. FINDINGS OF FACT</b>	<b>COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.</b>
<p><b>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</b></p> <p>This is a parking facility with access off of an alley way. There are no encroachments on public pedestrian pathways, adjacent properties or public utilities.</p>	
<p><b>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:</b></p> <p>Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in its entirety by granting the variance.</p>	



OFFICE USE  
CASE NO. V2020

*Ch 5/26/07*

## APPLICATION FOR VARIANCE

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$150.00 [Z-V]

<b>I. APPLICANT/AGENT</b>		Name:	Trevor Lloyd	
Mailing Address:	5011 Mid Atlantic Drive		Phone:	304-212-5480
	Street	Morgantown WV 26508	Mobile:	304-989-1723
	City	State	Zip	
		Email:	tlloyd@crewv.com	
<b>II. PROPERTY</b>		Street Address:	311 McClane Ave	
Owner:	E and J Holdings LLC, c/o Joseph Moser		Zoning:	R3
Mailing Address:	300 Beechurst Ave		Tax Map No:	19
	Street	Morgantown WV 26505	Parcel No:	109
	City	State	Zip	
		Phone:	304-290-5703	
<b>III. NARRATIVE</b>		Describe the specific use and the standard for which the variance is sought.		
<p>Sixteen off street parking spaces in tandem configuration intended for two-bedroom apartments for the 4th Street Apartment's at 300 Beechurst Ave and employees of Ashebrook Liquor Outlet of the same address.</p> <p>Parking lot is not screened from a public right-of-way [1361.02(Q)(3)]</p>				
<b>IV. ATTEST</b>				
<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Development Services Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>				
<p><u>Joseph E. Moser, II</u></p> <p>Type/Print Name of Applicant/Agent</p>		<p><u>[Signature]</u></p> <p>Signature of Applicant/Agent</p>		<p><u>8-2-2020</u></p> <p>Date</p>

\$150.00  
 Z-V  
 2021-00105278  
 RYM MORGANTOWN  
 5/2/2020 10:49:35 AM  
 Variance Application  
 For Deposit  
 City of Morgantown

## APPLICATION FOR VARIANCE

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

### V. SITE PLAN

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

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

### VI. FINDINGS OF FACT

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



## APPLICATION FOR VARIANCE

VI. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
	<p><b>1. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:</b></p> <p>This is a parking facility with access off of an alley way. There are no encroachments on public pedestrian pathways, adjacent properties or public utilities.</p>
	<p><b>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:</b></p> <p>Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in its entirety by granting the variance.</p>



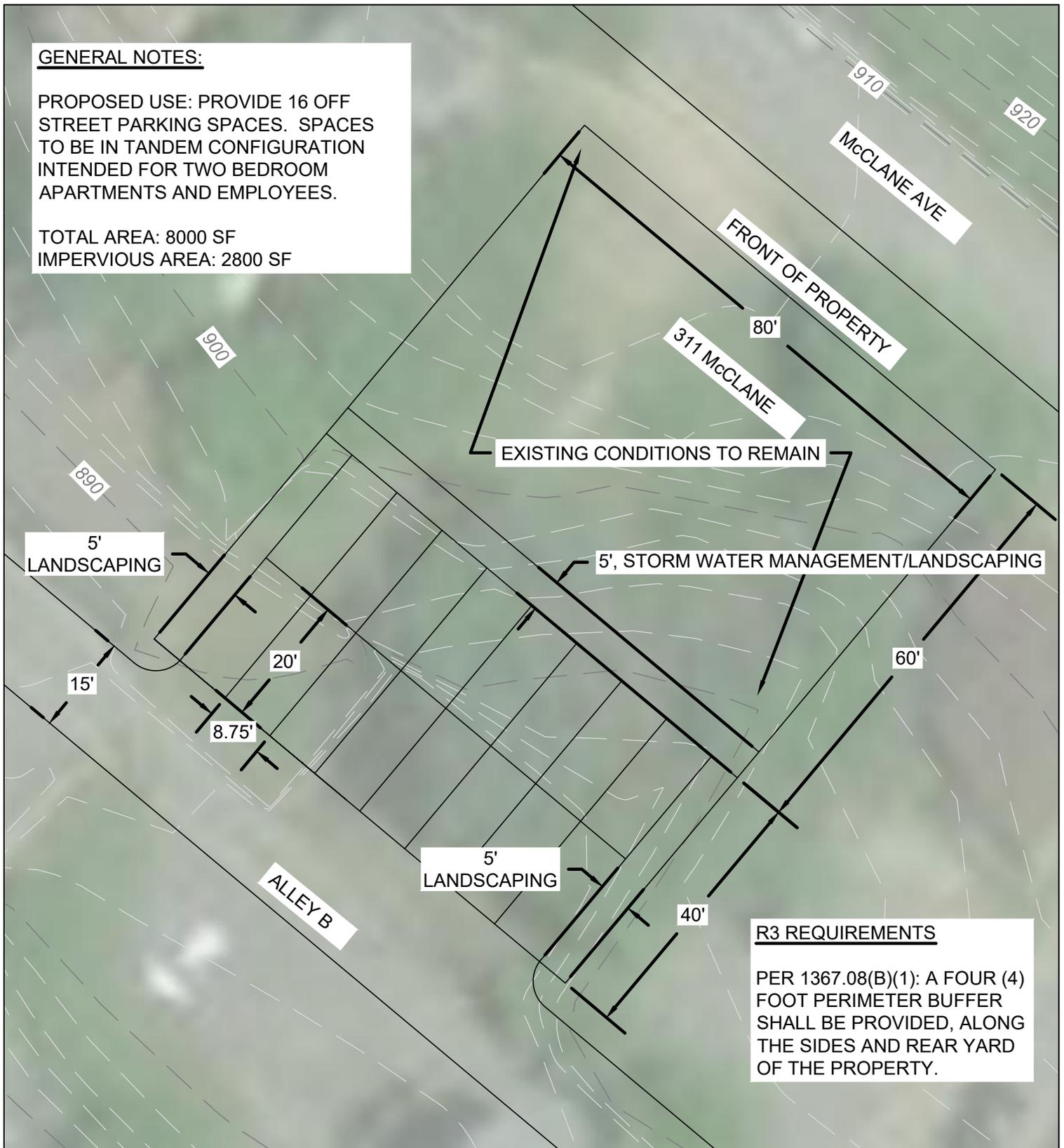
## APPLICATION FOR VARIANCE

<b>VI. FINDINGS OF FACT</b>	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p><b>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</b></p> <p>Access to the proposed parking spaces is directly off the alley. If the spaces were set back into the lot far enough for a landscaping buffer between the alley and the lot with an access road serving the parking spaces, the resulting earthwork would encroach on the zone of influence (stability) of McClane Ave. Although there are methods of stabilizing earth, this situation can be avoided in its entirety by granting the variance. Parking areas off an alley is a reasonable use of the land.</p>	
<p><b>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</b></p> <p>Allowing for parking areas off of an alley is a reasonable use of the land. The proposed parking area will be screened from three sides and obscured from view from main streets and popular pedestrian pathways.</p>	

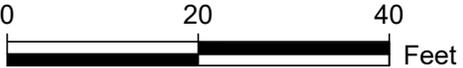
**GENERAL NOTES:**

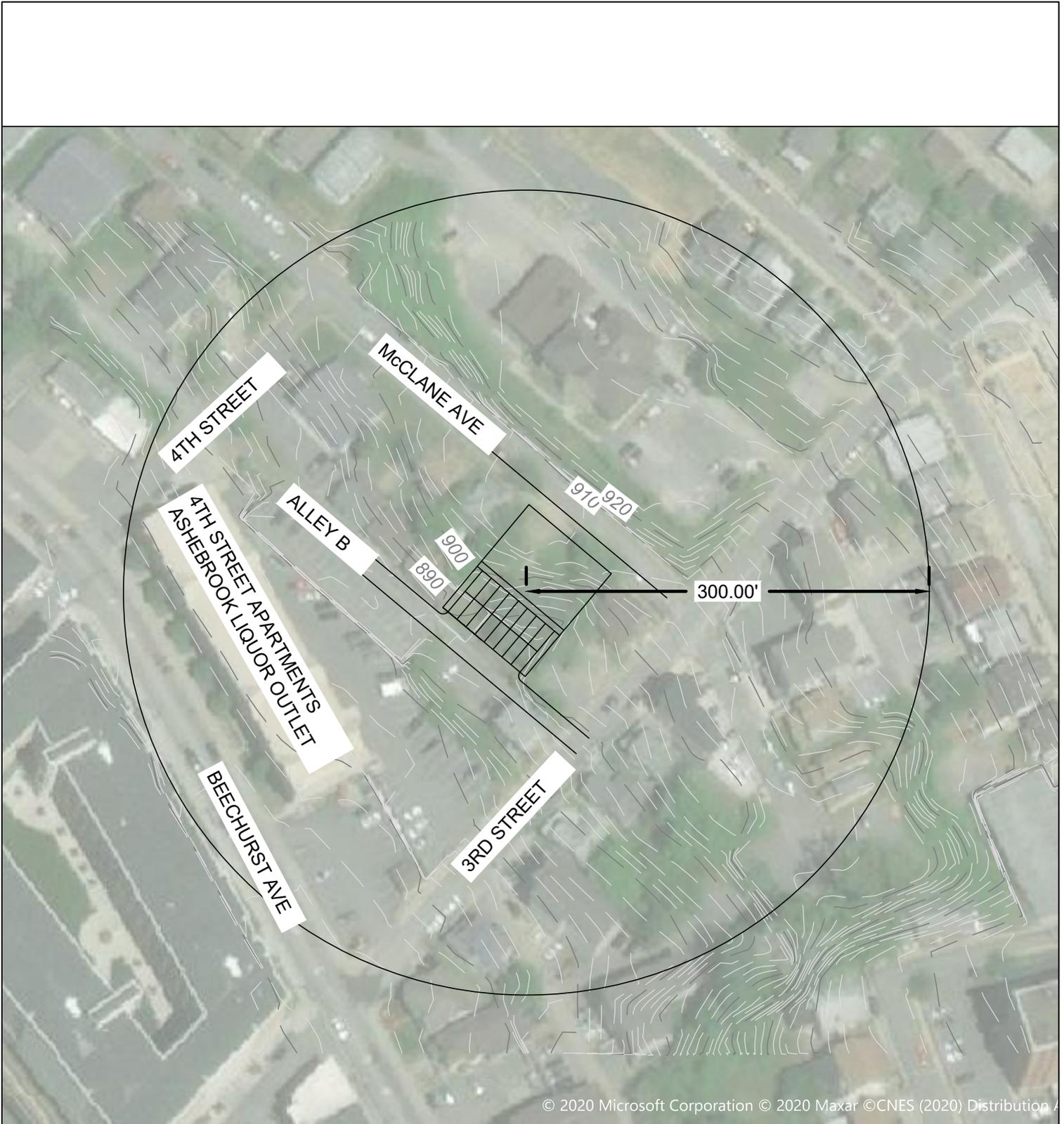
PROPOSED USE: PROVIDE 16 OFF STREET PARKING SPACES. SPACES TO BE IN TANDEM CONFIGURATION INTENDED FOR TWO BEDROOM APARTMENTS AND EMPLOYEES.

TOTAL AREA: 8000 SF  
IMPERVIOUS AREA: 2800 SF



**R3 REQUIREMENTS**  
PER 1367.08(B)(1): A FOUR (4) FOOT PERIMETER BUFFER SHALL BE PROVIDED, ALONG THE SIDES AND REAR YARD OF THE PROPERTY.

<b>SITE</b>	ASHEBROOKE PARKING MORGANTOWN, WV PROJECT NO: 20-073	<b>CHEAT ROAD ENGINEERING, INC.</b>													
DRAWN BY: N. PERSINGER CHECKED BY: T. LLOYD SCALE: 1" = 20' DATE: August 7, 2020	DRAWING FILE: CONCEPT.DWG	5011 MID ATLANTIC DRIVE MORGANTOWN, WV 26508 PHONE: (304) 212-5480		<table border="1"> <thead> <tr> <th>REV NO.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	REV NO.	DATE	DESCRIPTION	BY							
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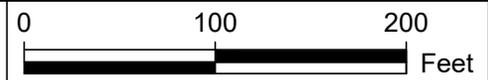
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**VICINITY MAP**

**ASHEBROOKE PARKING**  
 MORGANTOWN, WV  
 PROJECT NO: 20-073  
 DRAWING FILE:  
 CONCEPT.DWG

**CHEAT ROAD ENGINEERING, INC.**

5011 MID ATLANTIC DRIVE  
 MORGANTOWN, WV 26508  
 PHONE: (304) 212-5480



DRAWN BY: N. PERSINGER  
 CHECKED BY: T. LLOYD  
 SCALE: 1" = 20'  
 DATE: August 7, 2020

REV NO.	DATE	DESCRIPTION	BY

# McCoy Land Surveying

Harbert, Inc.  
Paul D. Harbert  
P. O. Box 9133  
Monongah, WV 26554  
Phone: (304) 534-5562  
(304) 534-3179

## LEGAL DESCRIPTION

ALL OF LOTS 2 & 3 , BLOCK 16 OF THE BEECHURST ADDITION AS SHOWN ON PLAT RECORDED IN DEED BOOK 97 AT PAGE 345, SITUATE IN THE FOURTH WARD, CITY OF MORGANTOWN, MONONGALIA COUNTY, WEST VIRGINIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

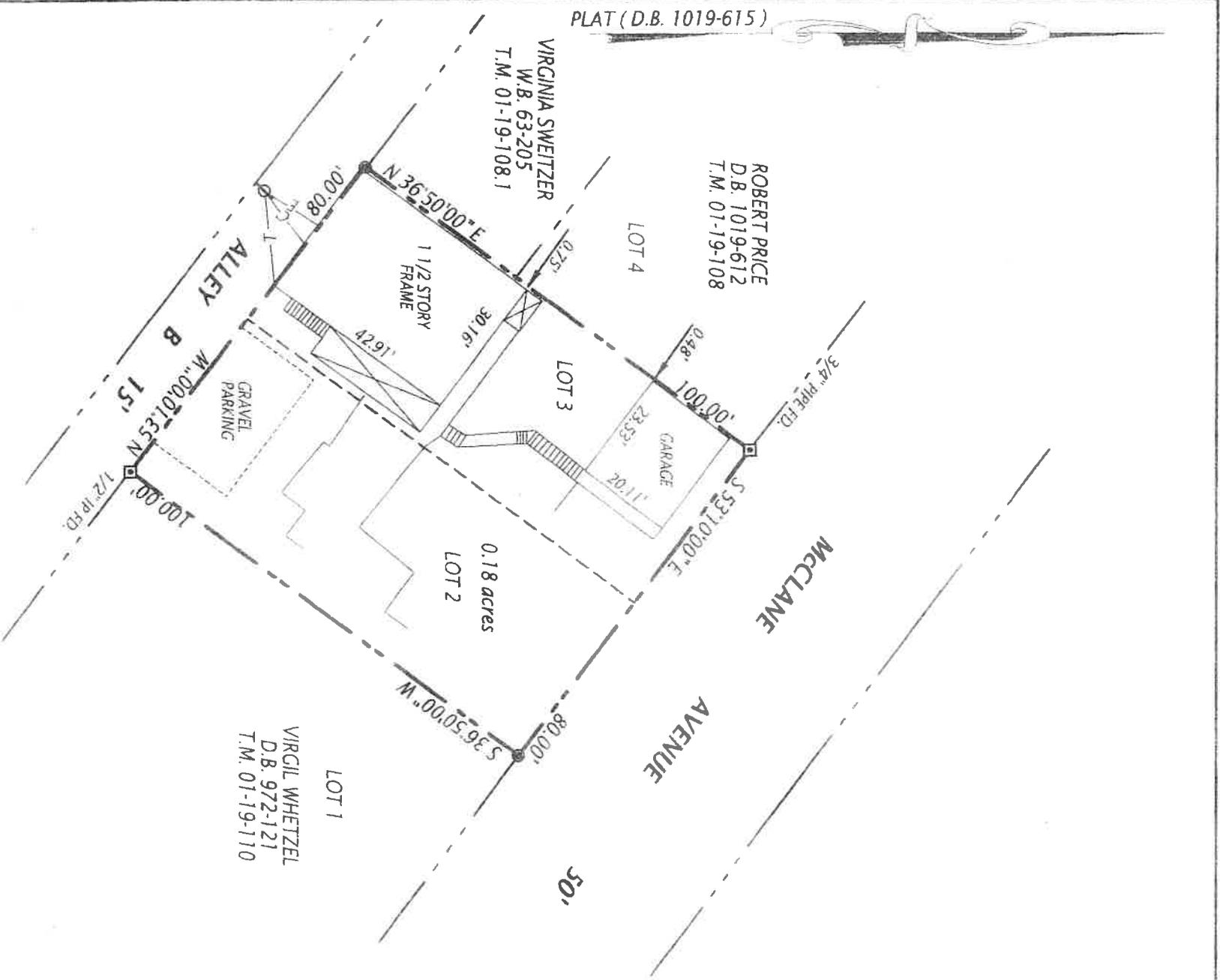
BEGINNING AT A ¾" PIPE FOUND ON THE SOUTHERN R/W LIMITS OF McCLANE AVENUE, CORNER TO LOTS 3 & 4;

THENCE WITH THE SOUTHERN R/W LIMITS OF McCLANE AVENUE S 53°10' E 80.00 FEET TO A ½" IRON PIN SET, CORNER TO LOTS 1 & 2;

THENCE WITH ONE LINE OF LOT 1 S 36°50' W 100.00 FEET TO A ½" IRON PIN FOUND ON THE NORTHERN R/W LIMITS OF ALLEY B, CORNER TO LOTS 1 & 2;

THENCE WITH THE NORTHERN R/W LIMITS OF ALLEY B N 53°10' W 80.00 FEET TO A ½" IRON PIN SET, CORNER TO LOTS 3 & 4;

THENCE WITH ONE LINE OF LOT 4 N 36°50' E 100.00 FEET TO THE PLACE OF BEGINNING, CONTAINING 0.18 ACRES.



NOTE: ALL CORNERS 1/2" IRON PINS SET,  
EXCEPT WHERE NOTED.  
DEED REF. 1113-613  
PLAT REF. 97-345, 1019-615  
TAX MAP 01-19-109

PLAT OF LOTS 2 & 3, BLOCK 16  
BEECHURST ADDITION  
LOCATED AT 311 McCLANE AVENUE  
SURVEYED FOR  
**TU DO INVESTMENT CORPORATION**  
FOURTH WARD CITY OF MORCANTOWN  
MONONGALIA CO. WEST VIRGINIA  
SCALE 1"=30' OCTOBER 2001



*Paul D. Harbert, PS*  
PAUL D. HARBERT, PS  
MCCOY LAND SURVEYING  
MONONGAHL, WV 304-534-5562