

# BOARD OF ZONING APPEALS

## MINUTES

6:33 p.m.

June 19, 2019

Council Chambers

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

**MEMBERS ABSENT:** Harrison Case

**STAFF:** John Whitmore, AICP

- I. **CALL TO ORDER AND ROLL CALL:** Meehan called the meeting to order and read the standard explanation of the how the Board conducts business and rules for public comments.
- II. **MATTERS OF BUSINESS:**
  - A. Minutes for the May 15, 2019 hearing. No corrections noted, and minutes approved as presented.
- III. **UNFINISHED BUSINESS:** None.
- IV. **NEW BUSINESS:**
  - A. **CU19-03 / HTM Properties / 499 Locust Avenue:** Request by Doug Shepard, on behalf of HTM Properties, for conditional-use approval of a “Dwelling, Multi-Family” use; Fifth Ward Tax District, Tax Map 26, Parcel 281; R-2, Single and Two-Family Residential District. **POSTPONED**
  - B. **CU19-04 / Waterfront Jeep / 285 Don Knotts Blvd.:** Request by Pete Hudson, on behalf of Waterfront Jeep, for conditional-use approval of an “Automotive Sales” use; First Ward Tax District, Tax Map 39, Parcel 29; B-2, Service Business District.

Meehan recognized Pete Hudson, owner of Waterfront Jeep, who provided further explanation on the petition and stated he would like to sell used vehicles on the property.

Whitmore presented the Staff Report and provided further clarification on the petition.

Benison asked if the universal van space is included parking calculations. Whitmore confirmed and stated there will be seven (7) total spaces.

Benison asked if repairs and services would go through the primary office. Hudson provided further explanation and stated that used cars would be sold at this location and also repaired when necessary. Hudson expressed he needs the extra space to be able to sell used cars at a higher volume.

Tomblin inquired if there is adequate parking on the property. Hudson stated there are about 30 spaces and noted there is additional parking in the rear of the property for employees.

Whitmore referred to the definition of "Automotive Sales" in the Planning and Zoning Code and stated it includes storage, maintenance, and servicing of vehicles.

Hudson noted that used vehicles and tires were previously sold on this property and stated the whole area includes retail sales.

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

Benison asked if Staff anticipates the petitioner would seek variance approval. Whitmore stated a variance may be necessary for signage.

Benison made a motion to find in the affirmative for all of the Finding of Facts for CU19-04 as presented; seconded by Cook. Motion carried unanimously.

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

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

The Automotive Sales use will only be using existing parking spaces, and is located in a commercial corridor along an arterial route that can accommodate increased traffic from the use.

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

There is no anticipated hazardous practices associated with this use and conformance with related Building and Fire Codes will be required as a part of occupancy permitting.

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

The proposed use will not require construction of a new building or an addition to the existing building disrupting existing light distribution and airflow patterns within the immediate area.

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

The proposed use will not require construction of a new building or an addition to the existing building that would change the existing scale and density of the site.

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

The proposed development does not include a residential component.

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

The proposed "Automotive Sales" use does not appear to require additional public utilities or services above levels currently in place.

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

No physical changes to the building are anticipated and the retail nature of the commercial side of the corridor is maintained.

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

The proposed "Automotive Sales" appears to compliment other commercial and retail uses along the riverside of the corridor.

Cook moved to approve Case No. CU19-04 with the Staff recommended conditions; seconded by Tomblin. Motion carried unanimously.

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

- C. V19-08 / Asian Massage / 1390 University Avenue:** Request by Thomas M. Matthew of TMM Holdings, Inc., on behalf of Asian Massage, for variance relief from Article 1369 concerning signage; Third Ward Tax District, Tax Map 26A, Parcel 85; B-4, General Business District.

Whitmore presented the Staff Report.

Meehan recognized Rocky Gianola of 1714 Mileground Road, on behalf of TMM Holdings, Inc., who referred to the Staff report and stated the location of the business is in a challenging location that sits back from the road. Gianola expressed the proposed illuminated signage is necessary for advertising and for customers to locate the business.

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

Tomblin asked if other means of lighting the sign were explored by the petitioner. Gianola stated the petitioner explored down lighting but the glare would be encroaching onto Beechurst. He noted that upward lighting was not possible as there is nothing to attach to below the signage.

Tomblin asked if there are any concerns by having illuminated red lettering on the sign at the intersection. Gianola stated the setback is sufficient and not at the level of the stop light. He also noted that state regulations prohibit green and red lighting at the intersection and the proposed signage would be clear illumination.

Whitmore stated the WVDOH would seek modifications if there are any concerns as the surrounding roads are owned by the state. He stated the proposed signage had been operational previously and no complaints had been received by Staff.

Benison asked if surrounding businesses had illuminated signage. Whitmore stated there is a pizza place and a book store that has illuminated signage in that area.

Whitmore stated that City could work with the applicant to stay in compliance to ensure glare is not projected onto the public right-of-way.

Cook made a motion to find in the affirmative for all of the Finding of Facts for V19-08 as presented; seconded by Tomblin. Motion carried unanimously.

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

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

Proposed sign materials and internal illumination do not appear to adversely affect the public health or safety at the subject location. It's away from the street walk way and away from on-site parking or side walk.

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 business is located along a five-lane arterial roadway with a tenant frontage that is fifty-feet from the nearest road-pavement. Providing an internally illuminated suspended sign will allow for the business to be visible to motorists, while respecting the limited sign area requirement.

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

The petitioner's storefront entrance is located in an alcove of the building that is difficult to see by pedestrian or vehicular passersby. Permitting materials and internal illumination for a sign that otherwise meets suspended sign area standards appears to be reasonable compromise to adequately communicate the presence of the establishment to a busy five-lane arterial route with limited pedestrian traffic. Additionally, external illumination permitted by-right could present a glaring condition within the adjacent intersection.

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

The establishment will be permitted to communicate its challenging location with a storefront that is difficult to identify to passersby without exceeding the maximum suspended sign area standard.

Cook moved to approve Case No. V19-08 without conditions; seconded by Tomblin. Motion fails 0-4 with Cook, Meehan, Tomblin and Benison voting nay.

Meehan moved to approve Case No. V19-08 with the condition that the sign shall not create glare or interfere with public safety; seconded by Cook. Motion passes unanimously.

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

- D. V19-18 / ALDI, Inc. / 1351 Earl L. Core Road:** Request by Rory Garr, Saxonburg Division, on behalf of ALDI, Inc., for variance relief from Article 1369 concerning signage; Sixth Ward Tax District, Tax Map 31, Parcels 101.2; B-2, Service Business District.

Whitmore presented the Staff Report.

Meehan recognized Stephanie Albright of APD Engineering, on behalf of Aldi, Inc. who provided a presentation to further explain the proposed signage.

Albright noted they would be willing to lower the sign if necessary.

Bension asked for the average height of the signs on the corridor. Whitmore stated they do not have calculations for the average height along the corridor but noted the last sign to be erected by *Defense in Depth* had a maximum height of approximately 28 feet. He noted the sign for *Long John Silver's* is non-conforming.

An *Aldi* representative [was not recognized] expressed that the taller signage is preferable as it is standard to *Aldi* and would allow for customers to easily locate the business prior to stopping at the intersection.

Whitmore noted that a pole sign is not permitted and gave examples of other pole signage along the corridor. He noted an alternative to altering the height would be to scale back the size of the sign.

The *Aldi* representative stated they would like to keep the proposed size of the sign if the height is permitted but agreed to scale back the size if the Board wanted it to be lowered.

Whitmore stated that Staff reviewed the *Popeye's* signage as a guide in developing the Staff Report and noted that the bottom of their signage is approximately 8 feet in height, which avoids any clearance issues.

Tomblin suggested a compromise and allow 24 feet in height to keep sequential uniformity with the signage along the corridor.

The *Aldi* representative noted the 30 feet proposed is *Aldi's* standard height at other locations and provided further explanation of their signage standards.

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

Meehan read aloud the Findings of Facts 1 through 4.

Cook referred to Finding of Fact 2 and expressed the proposed signage is not consistent as it is higher and larger in size.

Benison referred to another similar case where the petitioner was granted a variance but was compelled to forgo one of the façade sides. He argued the Board should remain consistent with all cases.

Cook referred to the verbiage in Finding of Fact 3 regarding the separate facades and questioned if the Facts should be approved all together.

After further discussion, Board members expressed the two façade signs are necessary to identify the entrance to the business at that location.

The *Aldi* representative expressed if the two façade signs were not permitted then *Aldi* may reconsider building at that location as it is important from a business standpoint.

Whitmore suggested Board members review the Findings of Facts individually and recommended altering Finding of Fact 2 to state the ground sign appears to be necessitated by the commercial use.

Cook made a motion to find in the affirmative for Finding of Fact 1 as presented; seconded by Tomblin. Motion carried unanimously.

*NOTE: The following finding was included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because there appears to be a number of wall signs within the Earl Core Road commercial corridor that exceed maximum wall sign area and maximum ground sign area and height standards, which do not appear to have adversely affected the public realm or private property rights. The proposed signs appear to be within the predominant sign development pattern within the immediate area.

Whitmore reiterated suggested changes to the wording in Finding of Fact 2.

Meehan made a motion to find in the affirmative for Finding of Fact 2 as revised by the Board; seconded by Cook. Motion carried unanimously.

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

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 increased wall sign area intensity appears to overcome messaging challenges arising from the principle building's extended front setback from Earl Core Road arising from floodplain location constraints. The ground appears to be necessary for this commercial use at this location. The modified ground sign height variance appears necessary to ensure the sign is not obstructed by on-site parking stalls.

Whitmore suggested changes to the wording to remain consistent with Finding of Fact 2.

Meehan made a motion to find in the affirmative for Finding of Fact 3 as revised by the Board; seconded by Cook. Motion carried unanimously.

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

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because each of the proposed wall signs appears to be relatively close the maximum wall sign area. The petitioner's corner entry design appears to necessitate two (2) wall signs on separate facades. Two (2) walls that total less than the maximum wall sign area standard would result in both wall signs not be legible by passersby. The ground appears to be necessitated by the business use at this location. The modified sign ground sign height variance appears necessary to ensure the sign is not obstructed by on-site parking stalls.

Whitmore suggested changes in wording to remain consistent.

Meehan made a motion to find in the affirmative for Finding of Fact 4 as revised by the Board; seconded by Benison. Motion carried unanimously.

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

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because the proposed signs for Aldi's appear to be necessary for the development pattern within the Earl Core Road commercial corridor.

Tomblin moved to grant the variance relief from Section 1369.07(F)(1) to develop a 76 square foot post and panel ground sign that shall not exceed 24-feet in total height. The motion was seconded by Benison; the motion carried unanimously.

Tomblin moved to grant the variance from Section 1369.07(l)(1) to develop two (2) total wall signs as proposed without conditions. The motion was seconded by Meehan; the motion carried 3-1 with Cook voting nay.

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

- E. V19-19 / McDonalds / 2932 University Avenue:** Request by Tracey Diehl, on behalf of McDonalds Corporation, for variance relief from Article 1369 concerning signage; Seventh Ward Tax District, Tax Map 11, Parcels 66, 69, and 70; B-1 Neighborhood Business District.

Whitmore presented the Staff Report.

Meehan recognized Tara Puntasecca, on behalf of McDonalds Corporation, who provided further explanation on the proposed signage and noted the total sign area will be reduced from what is currently in place.

Whitmore stated there was previous variance approval for this location in 2010 and this petition is only pertaining to the menu boards.

Whitmore noted this petition is comparable to a previously approved variance petition for Starbucks.

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

Meehan expressed favor in the lighting and the reduced signage area.

Tomblin made a motion to find in the affirmative for all of the Finding of Facts for V19-19 as revised; seconded by Cook. Motion carried unanimously.

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

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

The variance for this site was previously approved. Additional menu boards that are not legible from adjoining properties or public rights-of-way should not have a negative impact on adjacent properties, the public realm, or residents.

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

Contemporary practice for “Fast Food Restaurant” uses appears to utilize multiple menu boards to allow enhanced traffic flow while simultaneously encouraging additional on-site commerce. The additional menu boards appear to reflect present signage trends serving drive-thru customers.

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

The variance is necessary for the business to operate as a drive thru establishment in manner that appears common in the fast food service industry.

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

The menu boards that exist are under an existing variance. This variance would allow for the property to continue to exist as a drive thru establishment and it is necessary for the menu boards to be replaced.

Cook moved to approve Case No. V19-19 to develop four (4) total menu board type signs without conditions; seconded by Tomblin. Motion passes unanimously.

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

- F. V19-20 / McDonalds / 1820 Sturgiss Avenue:** Request by Joseph C. Sparone, on behalf of McDonalds Corporation, for variance relief from Article 1369 concerning signage; Sixth Ward Tax District, Tax Map 33, Parcel 53.1; B-2, Service Business District.

Whitmore presented the Staff Report.

Meehan recognized Joseph Sparone, on behalf of McDonalds, who provided further explanation on the proposed signage and noted they will be reducing the size of the existing menu board signage.

Benison inquired if tandem lanes are necessary from a corporate standpoint or if it is the physical characteristics of that location. Sparone stated that McDonald's are remodeling all of their signage and their corporate office analyzes each store to determine if tandem lanes are necessary. He noted that it appears they are a good fit for this location and therefore necessary to accommodate the customer demand.

Whitmore reminded the Board that signage is the only matter to be considered and the tandem lanes are being reviewed by the City Engineer.

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

Cook made a motion to find in the affirmative for all of the Finding of Facts for V19-20 as presented; seconded by Tomblin. Motion carried unanimously.

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

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

While the number of menu boards will increase to four (4) with the addition of a pre-browse board, the total overall aggregate area of the menu boards will be reduced when compared to that which exists. The new menu boards will provide a state-of-the-art drive-thru facility that's not only in line with McDonald's latest standards but also the current quick service restaurant industry. The modernization of the drive-thru will serve to increase its efficiency resulting in reduced wait times and minimizing the stacking of vehicles in the drive-thru lane. The propose menu boards will be located in a similar location as the existing boards and are designed to be viewed and utilized by customers already on-site.

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

The property is bound by two (2) public roadways and other commercial development. While the variances are specific to this site, the amount and type of signage proposed is not out of character from that on similar uses or the surrounding area. Market competition and customer expectations require the aesthetics and functionality of existing quick service restaurants to be improved. The proposed menu-board signage will bring the sit up to date with current McDonald's and industry standards for a more modern, efficient drive-thru.

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

Allowing an additional menu-board onsite will increase the efficiency of the existing drive-thru. The use of multiple menu boards is standard on new McDonald's and common place not only on other quick service restaurant establishments but similar commercial uses.

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

Per review of the purpose and findings of the sign code at Article 1369, the intent of the code is to promote communication in the City in an aesthetically pleasing manner to enhance the look of the city while avoiding adverse effects of signs on nearby public and private property. The proposed signage variances will allow the existing restaurant to better match the company's new image, match the design of their new buildings, and keep pace with industry standards. Additionally, the proposed signage is not out of the ordinary for similar commercial uses.

Cook moved to approve Case No. V19-20 to develop four total menu board signs as proposed without conditions; seconded by Tomblin. Motion passes unanimously.

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

- G. V19-21 / Wesbanco Bank / 1350 Earl L. Core Road:** Request by Crystal Miller of City Neon, Inc., on behalf of Wesbanco Bank of Fairmont, Inc., for variance relief from Article 1369 concerning signage; Sixth Ward Tax District, Tax Map 31, Parcel 101.3; B-2, Service Business District.

Whitmore presented the Staff Report.

Meehan recognized Crystal Miller of City Neon, Inc., on behalf of Wesbanco Bank of Fairmont, Inc., who provided further explanation on the proposed signage and noted the front sign is

compromised by a lot of dead space. Miller stated the bank would like to utilize the rear entrance of the building from Hartman Run Road and therefore additional signage is necessary.

Tomblin asked if traffic patterns would be changed.

A representative from Wesbanco [did not state name] of 1350 Earl Core Road stated that traffic patterns would remain the same and additional signage is necessary to alert customers they can enter from Hartman Run Road.

Whitmore stated the intersection is a state route and the WVDOH will be doing the installation of the traffic lights.

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

Cook made a motion to find in the affirmative for all of the Finding of Facts for V19-21 as presented; seconded by Tomblin. Motion carried unanimously.

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

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

Many businesses along this particular road have sought and received relief for signage increase with no ill effects to the public or other business/property owners. The client wishes to keep their branding and signage similar to other Main Branch divisions throughout their entire corporate structure.

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 branch is the Main Branch for the Morgantown area and houses the various services the Bank offers unlike the many of their "Drive-Thru" style branches throughout the Morgantown area. As such, the Client would like the signage to show the significance of this branch to Morgantown. The client would like to utilize the rear wall to advertise to the heavily traveled Hartman Run Road traffic because of then entrance to the main parking lot from Hartman Run Road. Traffic is coming from a wooded residential area into the commercial corridor of Sabraton which is very busy and often congested with traffic.

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

The client will be able to advertise to both heavily traveled roads that it services while showing the significance of this particular branch.

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

The proposed signage is in production to the size of the building and on a corner lot servicing two streets. The client will eb able to advertise efficiently to both streets.

Cook moved to approve Case No. V19-21 to develop two wall signs as proposed without conditions; seconded by Tomblin. Motion carried unanimously.

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

- H. V19-22 / Northeast Natural Energy / 48 Donley Street:** Request by Crystal Miller of City Neon, Inc., on behalf of Northeast Natural Energy, for variance relief from Article 1369 concerning signage; First Ward Tax District, Tax Map 28, Parcel 17; B-4, General Business District.

Whitmore presented the Staff Report.

Meehan recognized Crystal Miller of City Neon, Inc., on behalf of Northeast Natural Energy, who provided further explanation on the proposed signage and noted the building setback significantly from the road and additional signage is needed to be visible from the road.

Tomblin inquired about the type of illumination that would be used.

Whitmore noted the business is in the B-4 zone and explained the lighting standards within that district.

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

Benison asked if the proposed materials are comparable to the "Spillman" sign. Whitmore confirmed.

Benison made a motion to find in the affirmative for all of the Finding of Facts for V19-22 as presented; seconded by Cook. Motion carried unanimously.

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

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

The signage will be attached in the wall space between the 4<sup>th</sup> and 5<sup>th</sup> floors of the building's Don Knotts Blvd. face. (The previous sign in that placement was Dixon Hughes). It is not directly facing any residence or business. All previous signs on this particular building have had internal illumination with similar materials (all achieved through previous variances) with no ill effects to public health, safety or welfare, or the rights of adjacent property owners or residents.

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

The eight story building sits off of the road approximately 300' from Don Knotts Boulevard on a slight downward slope. The scale of the building vs the setback from the main road would allow for larger signage for maximum visibility of the client. Allowing proposed materials would be more cost effective for the client as less maintenance will need to be done to the signage. Rentals of cranes are expensive in order to maintain the neon gas/transformers in the signage.

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

The LED's that will be used are more energy efficient, more durable, and longer lasting and need less maintenance than the Morgantown's Code preference of Neon.

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

The client will have a visible sign from Don Knotts Boulevard while remaining in proportion to the building is attached. Signage is designed to compliment the building style and represent the client in a cohesive manner, while utilizing cost effective materials standard of the current sign industry.

Cook moved to approve Case No. V19-22 to develop a wall sign as proposed without conditions; seconded by Tomblin. Motion passes unanimously.

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

**V. ANNOUNCEMENTS:**

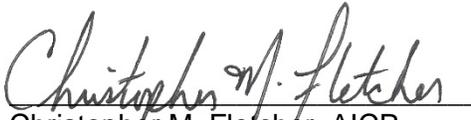
Whitmore informed the Board of upcoming petitions for July 2019 and asked the Board to inform Staff of any planned vacations.

**VI. ADJOURNMENT:** 8:33 p.m.

MINUTES APPROVED:

July 17, 2019

BOARD SECRETARY:

  
Christopher M. Fletcher, AICP