



Rouss City Hall
15 North Cameron Street
Winchester, Virginia 22601
www.winchesterva.gov

Telephone: (540) 667-1815
FAX: (540) 722-3618
TDD: (540) 722-0782

BOARD OF ZONING APPEALS
AGENDA
APRIL 13, 2016 - 4:00 P.M.
Council Chambers - Rouss City Hall

1. **POINTS OF ORDER**

- A. Roll Call
- B. Approval of Minutes – March 9, 2016
- C. Reading of Correspondence

2. **PUBLIC HEARINGS**

3. **NEW BUSINESS**

BZA-16-106 Request of Carl S. Hales for variances of the Winchester Zoning Ordinance, Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (*Map Number 233-01- -11*) zoned Commercial Industrial (CM-1) District. The applicant is seeking these variances to allow for re-use of several non-conforming structures on the parcel.

BZA-16-206 Request of Montgomery Engineering Group, Inc., on behalf of Southside Church of Christ, for a variance pertaining to parking/drive buffer pursuant to Section 18-6-3.2 of the Winchester Zoning Ordinance, for the property located at 3136 Papermill Road (*Map Number 332-01- -1 - > <01*), zoned Medium Density Residential District. The applicant is seeking relief of the required parking/drive buffer in order to enhance the entrance to the church and provided safer parking.

4. **OLD BUSINESS**

5. **ADJOURN**



CASE #: 16-106
 FEE AM'T: 675.00
 DATE PAID: _____

Rouss City Hall
 15 North Cameron Street
 Winchester, VA 22601
 540-667-1815
 TDD 540-722-0782

APPLICATION FOR BOARD OF ZONING APPEALS

Please print or type all information

CARL S. HALES
 Applicant

241 PROVIDENCE LANE
 Street Address

BLUEMONT VA 20135
 City State Zip

(540) 664-1796
 Telephone

CARLH@WRIS.COM
 E-mail address

Carl S. Hales
 OWNER'S SIGNATURE (use reverse to list additional owners)

CARL S. HALES
 Owner Name (as appears in Land Records)

241 PROVIDENCE LANE
 Street Address

BLUEMONT VA 20135
 City State Zip

(540) 664-1796
 Telephone

CARLH@WRIS.COM
 E-mail address

REQUEST TYPE CODE - Please mark type of request and complete information
 KEY: V = Variance; AM = Administrative Modification; I = Interpretation

REQUEST TYPE	ORDINANCE SECTION	PERTAINING TO:
<u>V</u>	<u>10-5-1</u>	<u>Front Setback</u>
<u>V</u>	<u>10-6-2</u>	<u>Rear Setback</u>

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section
 Public hearing sign deposit fee: \$50

PROPERTY LOCATION
 Current Street Address(es) 1328-1470 COMMERCE ST. Zoning CM1

Tax Map Identification - (sections, blocks, lots) 233-01-11

REQUIRED MATERIALS LIST

\$675.00

- 1 copy of application (this form completed)
- 10 copies of letter explaining request and grounds for request
- 10 Copies of plans/or drawings, and surveys
- Fee (check made payable to the Treasurer, City of Winchester)
- List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee.
- Disclosure of Real Parties in Interest (list all equitable owners)
- Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign)

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE Carl S. Hales DATE 2-19-16



**WINCHESTER BOARD OF ZONING APPEALS
STAFF REPORT AND RECOMMENDATION**

ISSUE/BACKGROUND

Case: BZA-16-106

Applicant: Carl S. Hales, property owner

Location: 1328-1470 Commerce Street

Zoning: Commercial Industrial (CM-1) District

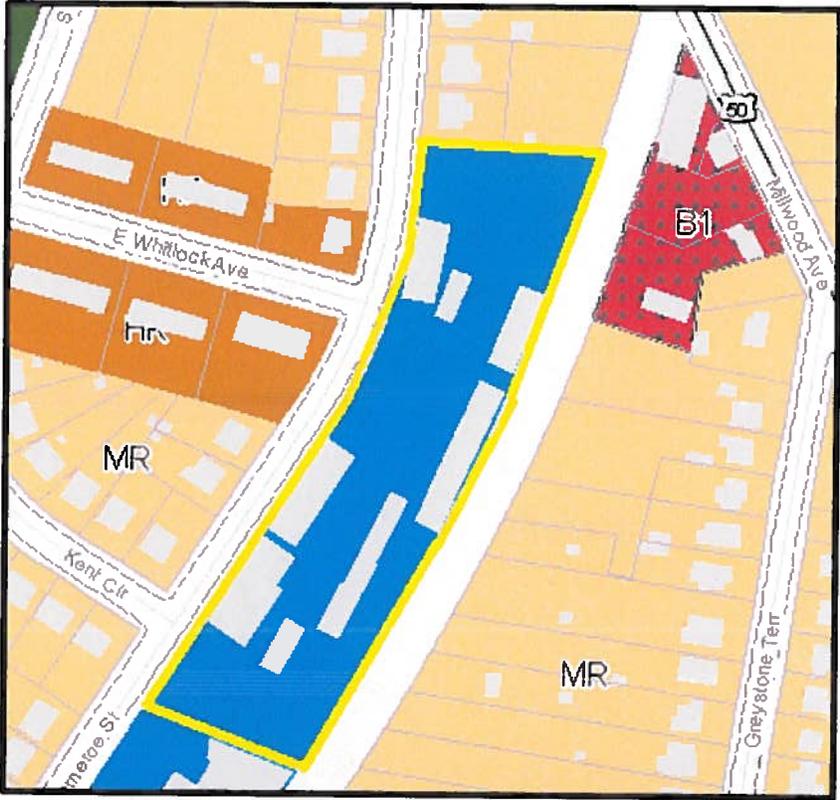
Future Land Use: Commercial-Industrial Uses.

Legal Notice: The request for variance was advertised in the *Winchester Star* on March 30, 2016, and April 6, 2016. The property was required to be posted with a public hearing sign and notices were mailed to property owners within 300' of the subject property.

Applicant's Request: Request of Carl S. Hales for variances of the Winchester Zoning Ordinance, Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (*Map Number 233-01- -11*) zoned Commercial Industrial (CM-1) District. The applicant is seeking these variances to allow for re-use of several nonconforming structures on the parcel.

BACKGROUND

The subject property is located on east side of Commerce Street and is zoned Commercial Industrial (CM-1) district. The property is bounded on the southwest and north by Medium Density Residential (MR) district, on the west by High Density Residential (HR) district, on the south by CM-1, and on the east by the CSX railroad. Properties on the east of the CSX railroad include conditionally zoned Central Business (B-1) and Medium Density Residential districts.



Vicinity Zoning & Aerial Map (Highlighted in yellow)

The subject property has been the question of previous Board of Zoning Appeals actions. Up until 1998, the property had been used by Rosenberger Lumber/Building Supply. In 1998, the property was sold and a new owner desired to change the use of the property. In a June 1998 decision, the Board of Zoning Appeals granted variances for the front yard setback for several buildings fronting on Commerce Street. The applicant at the time did not know the full scope of the uses that would be proposed, as a result a compromise was reached to grant the variances, but to limit the prospective uses of the buildings. Since this 1998 approval, the property ownership has once again changed hands and is now owned by the current applicant before the BZA.

In 2014, City Zoning & Inspections staff observed that several new and different uses were established at the property in violation of the previous BZA approval and use limitations. The current property owner filed a variance request to amend the use restrictions imposed in the 1998 variance approvals. Specifically, the applicant requested that *Service Stations* (light auto repair) and *Contractor's* Establishments be authorized in buildings "F" and "G/H." The Board approved the request and as part of the decision, several conditions were imposed with the approval. These conditions included the following:

- a) Submittal of a complete site plan application and fee to the Planning Director within 6 months of the date of Board approval.
- b) Implementation of all required site improvements within 12 months of site plan approval.
- c) All inoperable vehicles legally stored on the property and associated with a permitted automotive repair use shall be screened by a 6-foot opaque fence or other material(s) as approved by the Planning Director.
- d) Failure to implement the aforementioned improvements shall cause this variance to become null and void.

Following the Board's decision, a site plan application was filed with the Planning department and was subsequently approved. This approval occurred on November 21, 2014, which would have required all site improvements to be completed no later than November 2015, consistent with condition "b" listed above. Furthermore, all inoperable vehicles on the property do not meet the screening requirements provided in condition "c" above. As a result of noncompliance with the Board's conditions, the variances approved have become null and void.

The property owner has filed a subsequent application to the Board to re-establish the variances at the property.

	<u>Minimum Requirement</u>	<u>Provided on Site</u>	<u>Variance Needed</u>
Front Setback			
Building F	35-feet	1-foot	34-feet
Building G/H	35-feet	3-feet	32-feet
Rear Setback			
Building K	25-feet	5-feet	20-feet

While the 1998 variances are still in effect, the modified variances from 2014 have become void due to the failure of the owner to adhere to the BZA's conditions in the 2014 variance approval. As a result, in order to allow for the uses that the owner has permitted to be established at the property, the front yard variances will be to be re-authorized.

In addition to the variances requested specifically for buildings "F" and "G/H" there have been unauthorized changes from warehouse/storage in Building "K" to include auto repair. In order to authorize this, a variance for the rear yard setback must be approved.

In addition to unauthorized changes pursuant to the Zoning Ordinance, many of the changes on site have occurred without the proper permits through the building code.

A summary of staff's understanding of the current uses at the property are the following:

Building Letter	Use Restrictions by BZA-98-05 (Yes/No)	Current Use	BZA Use Violation (Yes/No)	Certificate of Occupancy for current use on file (Yes/No)
K (part)	No	Storage	No	No – not required, no change from previous uses
K (part)	No	Auto Repair/Storage	Yes	No – unauthorized change of use
H/G	Yes	Auto Repair (Including Salvage/Scrapping of Vehicles)	Yes	No – unauthorized change of use and violation of BZA conditions
F	Yes	Auto Detailing / Auto Repair	Yes	No – unauthorized change of use and violation of BZA conditions

STAFF ANALYSIS & CONCLUSION

There are several evaluation criteria that the Board must use to evaluate a variance request to determine if it may be granted.

The Zoning Ordinance requires that with variance requests, the burden of proof shall be on the applicant to prove by a preponderance of the evidence that his application meets the standard for a variance.

A variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition related to the property or improvements thereon at the time of the effective date of the ordinance. The request must satisfy all of the following:

- A. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
- B. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- C. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
- D. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,
- E. The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.

If the Board believes that the request does not satisfy each of the above considerations, then a variance cannot be issued.

Overall staff believes that a hardship did exist at the time of the original variance requests in 1998 that allowed for adaptive reuse of the property. However, the continual change of uses at the property to include numerous automobile repair operations and associated inoperable vehicle storage and the requests to make these uses permitted on site do have the appearance of being more of a convenience to the owner than necessary to ensure there is reasonable use of the property.

Criterion	Staff Analysis
The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance	The property was purchased by the current owner after the limitations of the 1998 variances were put into place. Staff believes that requests to add additional uses to the property which were not previously authorized are hardships created by the applicant.
The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area	The previous variances granted in 1998 authorized lesser intensity uses for the buildings closer to the street, which would have less of a direct impact on surrounding property owners. The inclusion of automobile repair operations to the property could negatively impact the adjacent residential uses due to noise, increased traffic, and storage of inoperable vehicles.
The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance	This property does have some unique challenges due to the design and layout of the existing buildings dating from its use as a lumber yard. Several of the buildings are within a few feet of the front property line.
The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property	Staff believes the proposal is consistent with this criterion.
The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application	Staff believes the proposal is consistent with this criterion.

As a result of the above considerations, staff believes the requirements for a variance in this instance have not been met.

If the Board is inclined to support the variance requests, staff recommends that the variances be conditioned to allow for a narrow reuse of the property. Additionally, tight time controls should be implemented to ensure that all required improvements called for on the approved site plan and building code changes are met in a timely manner. Lastly, staff recommends that the variances should expire if the conditions are not met within a specified timeframe or if the property ceases to be used for a period of two years or more.

Note: Staff has not received any letters of support or opposition for this application.

POSSIBLE MOTION(S)

[Deny the variances]

MOVE, that the Board of Zoning Appeals **deny** variances of the Winchester Zoning Ordinance, Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (Map Number 233-01-11) zoned Commercial Industrial (CM-1) District, for the following reasons:

- a. *Any hardship that exists on the property is created by the applicant for the variances. There presently exist several uses which could be legally operated in accordance with BZA-98-05.*
- b. *(List any additional reasons)*

[Approve the variances]

MOVE, that the Board of Zoning Appeals **approve** variances of the Winchester Zoning Ordinance Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (Map Number 233-01-11) zoned Commercial Industrial (CM-1) District, with the following conditions:

- a. The variance for front yard setback applies to Buildings "F" and "G/H" consistent with the use allowances of BZA-98-05 and also including *Service Station (Section 10-1-29)* and *Contractor's Establishment (Section 10-1-8)* as permitted uses.
- b. The variance for rear yard setback applies to Building "K" and is conditioned on use being either the *Storage buildings and warehousing (Section 10-1-35)* or *Service Station (Section 10-1-29)*.
- c. The variances apply only to the existing buildings and do not include any new structures, additions, or replacement structures.
- d. No additional overhead door openings towards Commerce Street may be created in any building.
- e. All required site improvements must be completed within one (1) year of the date of this decision.
- f. Failure to complete the required site improvements or if the property becomes vacant for two (2) years or more will cause **all** variances for this property to expire.

The variances are approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:

- 1) *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*

- 3) *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

[Approve in part and deny in part the variances]

MOVE, that the Board of Zoning Appeals **deny** a variance of the Winchester Zoning Ordinance, Sections 10-6-2 pertaining to rear setbacks at 1328-1470 Commerce Street (Map Number 233-01- -11) zoned Commercial Industrial (CM-1) District, for the following reasons:

- a. *Any hardship that exists on the property is created by the applicant for the variance. There presently exist several uses which could be legally operated in accordance with BZA-98-05.*
- b. *(List any additional reasons)*

AND FURTHER MOVE, that the Board of Zoning Appeals **approve** a variance of the Winchester Zoning Ordinance Sections 10-5-1 pertaining to front setbacks at 1328-1470 Commerce Street (Map Number 233-01- -11) zoned Commercial Industrial (CM-1) District, with the following conditions:

- a. The variance for front yard setback applies to Buildings "F" and "G/H" consistent with the use allowances of BZA-98-05 and also including *Service Station (Section 10-1-29)* and *Contractor's Establishment (Section 10-1-8)* as permitted uses.
- b. The variance applies only to the existing buildings and do not include any new structures, additions, or replacement structures.
- c. No additional overhead door openings towards Commerce Street may be created in any building.
- d. All required site improvements must be completed within one (1) year of the date of this decision.
- e. Failure to complete the required site improvements or if the property becomes vacant for two (2) years or more will cause **all** variances for this property to expire.

The variance is approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:

- 1) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

Prepared by:



Aaron M. Grisdale, CZA
Director of Zoning and Inspections

February 16, 2016

Board of Zoning Appeals
Winchester, Virginia

Re: Case # 1600008525

On Feb 12, 2014 BZA approved my request for variance in case # 14-048 with the provisions that a complete site plan application be submitted to the Planning Director within (6) months and implementation be completed within 12 months of approval date of said site plan.

The site plan was approved and parts of same have been completed. Remaining to be completed are: marking of parking spaces; installation of dumpster (I wish to amend location of same) and screening for some of the inoperable automobiles.

I have attached copies of my original request for variance and I request the variance granted to be extended through June 30, 2016.

I apologize for my failure to have complied in a timely manner with the actions required by your previous approval of my variance request.

Respectfully,

A handwritten signature in blue ink that reads "Carl S. Hales". The signature is written in a cursive style with a large initial "C".

Carl S. Hales
241 Providence Lane,
Bluemont, Virginia 20135

TRACK

OVERALL BUILDING LAYOUT
1" = 50'

COMMERCE STREET

CURB LINE
8" WATER MAIN
8" SEWER MAIN

EXISTING 4' CONC. WALK
CURE LINE

RA. 12" PIPES

ASPH.

PROPOSED 4' CONC. WALK

ASPH.

EXISTING 4' CONC. WALK
CURE LINE

STORE & OFFICE A

LUMBER SHED B

LUMBER SHED C

LUMBER SHED D

LUMBER SHED E

PLANING MILL F

PROP. BLDG. G

METAL BUILDING H

BLDG. BUILDING I

BIN

TOOL HOUSE

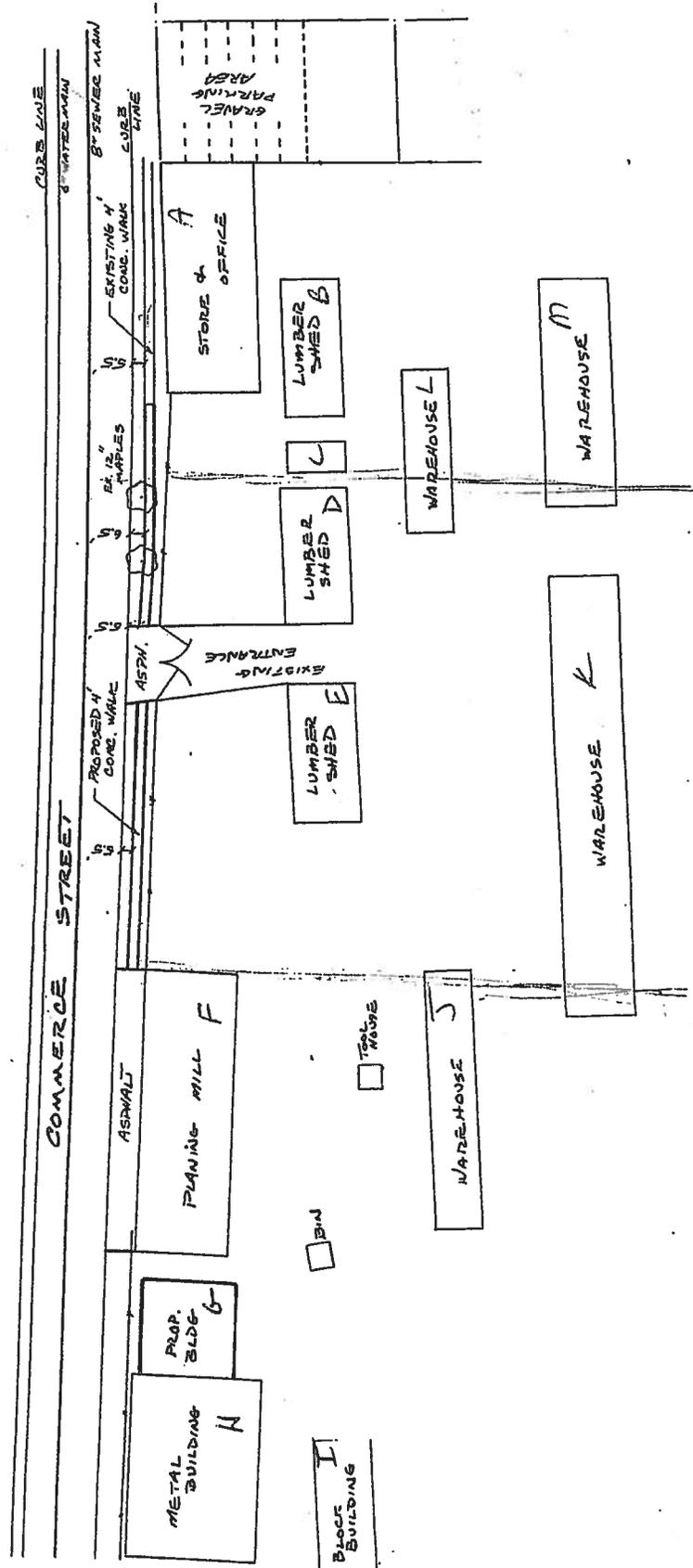
WAREHOUSE J

WAREHOUSE L

WAREHOUSE K

WAREHOUSE M

GRAVEL PARKING AREA





Rouss City Hall
15 North Cameron Street
Winchester, VA 22601

Telephone: (540) 667-1815
FAX: (540) 722-3618
TDD: (540) 722-0782
Website: www.winchesterva.gov

February 14, 2014

Carl S. Hales
241 Providence Lane
Bluemont, VA 20135

Dear Mr. Hales:

On Wednesday, February 12, 2014, the Board of Zoning Appeals acted on the following request:

BZA-14-048 Request of Carl S. Hales for a variance pertaining to front setback requirements pursuant to Section 10-5-1 of the Winchester Zoning Ordinance, for the property located at 1328-1470 Commerce Street (*Map Number 233-01- -11 - > <01*), zoned Commercial Industrial (CM1) District. The applicant is seeking this variance to modify previous use restrictions on

On a roll call vote of 5-0, the Board approved BZA-14-048 with the following conditions:

- a. Submittal of a complete site plan application and fee to the Planning director within six (6) months of the date of Board approval;
- b. Implementation of all required site improvements within 12 months of site plan approval;
- c. All inoperable vehicles legally stored on the property and associated with a permitted automotive repair use shall be screened by a 6-foot opaque fence or other material(s) as approved by the Planning Director; and
- d. Failure to implement the aforementioned improvements shall cause this variance to become null and void.

The decision of the Board may be appealed to the Circuit Court within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1492.

Sincerely yours,

Aaron M. Grisdale, CZA
Director of Zoning and Inspections



CITY OF WINCHESTER, VIRGINIA

Rouss City Hall
15 North Cameron Street
Winchester, VA 22601
540-667-1815

June 17, 1998

Ronald V. Shickle
J.A.R.K. Investments, Inc.
326 Dogwood Road
Winchester, VA 22602

Dear Mr. Shickle:

On Wednesday, June 10, 1998 the Board of Zoning Appeals acted on the following request:

BZA-98-05 - Request of J.A.R.K. Investments, Inc. for a Variance from the Winchester Zoning Ordinance Section 10-5-1 pertaining to setback at 1328, 1336 and 1400 Commerce Street (Section 233, Double Circle 1, Lots 10 & 11 and Section 233, Double Circle 4, Block C, Lot 8) zoned Commercial Industrial, CM-1 District.

The Board unanimously approved the variance request for **Building H** as shown on the drawing dated May 26, 1998 for the following uses: 10-1-5 Building supplies and service with storage under cover; 10-1-13b Carpenter or cabinet shop, 10-1-13c Contractors' equipment storage yards or plants, or rental equipment commonly used by contractors, 10-1-13j Retail lumber yard, including only incidental mill work, 10-1-13k Upholstery shop; 10-1-25 Repair services or businesses, including repair of bicycles, guns, radios, television sets, electrical appliances, locks and other home appliances, shoes, toys, typewriters, watches, and clocks; 10-1-31 Outdoor storage of materials and supplies and display of merchandise for sale or rent incidental to the conduct of any permitted uses on the lot as provided for in Section 18-20 of this Ordinance. (10-17-95, Case TA-95-04, Ord. No. 053-95); 10-1-35 Wholesale businesses, storage buildings, and warehousing. The variance is only for the existing buildings and not for any new structures, additions, or replacement structures. No additional openings are to be installed in the building walls facing Commerce Street. Off-street parking required by any change of use shall be provided.

The Board found that strict application of the Ordinance would produce undue hardship, such hardship is not shared generally by other properties in the same zoning district and the same vicinity, authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

The Board unanimously approved the variance request for **Building F** as shown on the drawing dated May 26, 1998 for the following uses: 10-1-5 Building supplies and service with storage under cover; 10-1-13b Carpenter or cabinet shop, 10-1-13c Contractors' equipment storage yards or plants, or rental equipment commonly used by contractors, 10-1-13j Retail lumber yard, including only incidental mill work, 10-1-13k Upholstery shop; 10-1-25 Repair services or businesses, including repair of bicycles, guns, radios, television sets, electrical appliances, locks and other home appliances, shoes, toys, typewriters, watches, and clocks; 10-1-31 Outdoor storage of materials and supplies and display of merchandise for sale or rent incidental to the conduct of any permitted uses on the lot as provided for in Section 18-20 of this Ordinance. (10-17-95, Case TA-95-04, Ord. No. 053-95); 10-1-35 Wholesale businesses, storage buildings, and warehousing. The variance is only for the

existing buildings and not for any new structures, additions, or replacement structures. No additional openings are to be installed in the building walls facing Commerce Street. Off-street parking required by any change of use shall be provided.

The Board found that strict application of the Ordinance would produce undue hardship, such hardship is not shared generally by other properties in the same zoning district and the same vicinity, authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

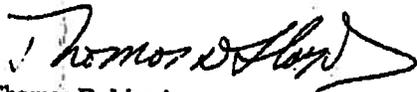
The Board unanimously approved the variance request for Building A as shown on the drawing dated May 26, 1998 for the following uses: 10-1-5 Building supplies and service with storage under cover (basement only); 10-1-8 Contractors' establishments, offices and display rooms. (10-17-95, Case TA-95-04, Ord. No. 053-95); 10-1-12 Government offices; 10-1-13b Carpenter or cabinet shop; 10-1-13e Machinery sales and service. 10-1-13k Upholstery shop. 10-1-18 Office, business and professional; 10-1-22 Printing shops; 10-1-25 Repair services, or businesses, including repair of bicycles, guns, radios, television sets, electrical appliances, locks and other home appliances, shoes, toys, typewriters, watches, and clocks; 10-1-31 Outdoor storage of materials and supplies and display of merchandise for sale or rent incidental to the conduct of any permitted uses on the lot as provided for in Section 18-20 of this Ordinance. (10-17-95, Case TA-95-04, Ord. No. 053-95); 10-1-35 Wholesale businesses, storage buildings, and warehousing (basement only); 10-1-39 Commercial Records Center (4-12-94, Case TA-94-03, Ord. No. 011-94).

The variance is only for the existing buildings and not for any new structures, additions, or replacement structures. No additional openings are to be installed in the building walls facing Commerce Street. Off-street parking required by any change of use shall be provided.

The Board found that strict application of the Ordinance would produce undue hardship, such hardship is not shared generally by other properties in the same zoning district and the same vicinity, authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

The Board unanimously limited building mounted signs on buildings A, F and H to one square foot per linear foot not to exceed 50 square feet total on each building.

Sincerely yours,



Thomas D. Lloyd
Zoning Administrator

CASE #: 16-206
FEE AM'T: \$575.00
DATE PAID: 3/21/16



Rouss City Hall
15 North Cameron Street
Winchester, VA 22601
540-667-1815
TDD 540-722-0782

APPLICATION FOR BOARD OF ZONING APPEALS

Please print or type all information

Montgomery Emp. Group, Inc
Applicant

540 974 7382
Telephone

ben@MEGinc.biz
E-mail address

132 Saddleback Lane
Street Address

Winchester VA 22602
City State Zip

[Signature] Elder
OWNER'S SIGNATURE (use reverse to list additional owners)

540 974 7382
Telephone

ben@MEGinc.biz
E-mail address

Southside Church of Christ
Owner Name (as appears in Land Records)

3136 Papermill Rd
Street Address

Winchester VA 22601
City State Zip

REQUEST TYPE CODE - Please mark type of request and complete information
KEY: V = Variance; AM = Administrative Modification; I = Interpretation

REQUEST TYPE	ORDINANCE SECTION	PERTAINING TO:
<input checked="" type="checkbox"/>	<u>18-6-3.2</u>	<u>Parking / Drive Buffer (front)</u>
<input type="checkbox"/>		
<input type="checkbox"/>		
<input type="checkbox"/>		

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section
Public hearing sign deposit fee: \$50

PROPERTY LOCATION
Current Street Address(es) 3136 Papermill Road Zoning MR
Tax Map Identification - (sections, blocks, lots) 332-01-1

REQUIRED MATERIALS LIST

- 1 copy of application (this form completed)
- 10 copies of letter explaining request and grounds for request
- 10 Copies of plans/or drawings and surveys
- Fee (check made payable to the Treasurer, City of Winchester)
- List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee.
- Disclosure of Real Parties in Interest (list all equitable owners)
- Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign)

\$575.00

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE [Signature] DATE 3/21/16
(rev 6/2012)



**WINCHESTER BOARD OF ZONING APPEALS
STAFF REPORT AND RECOMMENDATION**

ISSUE/BACKGROUND

Case: BZA-16-206

Applicant: Montgomery Engineering Group, Inc. (on behalf of property owner Southside Church of Christ)

Location: 3136 Papermill Road

Zoning: Medium Density Residential (MR) District

Future Land Use: Institutional / Place of Worship.

Legal Notice: The request for variance was advertised in the *Winchester Star* on March 30, 2016, and April 6, 2016. The property was required to be posted with a public hearing sign and notices were mailed to property owners within 300' of the subject property.

Applicant's Request: Request of Montgomery Engineering Group, Inc., on behalf of Southside Church of Christ, for a variance pertaining to parking/drive buffer pursuant to Section 18-6-3.2 of the Winchester Zoning Ordinance, for the property located at 3136 Papermill Road (*Map Number 332-01- -1*) zoned Medium Density Residential District. The applicant is seeking relief of the required parking/drive buffer in order to enhance the entrance to the church and provide safer parking.

BACKGROUND

The subject property is located on the east side of Papermill Road and is zoned Medium Density Residential (MR) District. The immediately surrounding properties on the northwest and northeast are similarly zoned MR. The property is bounded on the west by Interstate 81 and Frederick County, and on the west and south west by Highway Commercial (B-2) District.

During the site plan review process for improvements to the off-street parking and entrance drives for this property, an issue with the required off-street parking area/drive area buffer was observed. The Zoning Ordinance requires a buffer of 10-feet from the front property line, and the proposed driveway will come as close as 5.7 feet to the property line. Therefore the applicant is requesting a variance of 4.3 feet.

As part of this parking lot surfacing project, the property owner is correcting several nonconformities and bringing the property closer into compliance with current Zoning Ordinance requirements, including the paving of an existing gravel off-street parking area, and realignment of the driveway away from the signalized intersection and moving the property entrance in line with Summit Avenue, creating a safer and more desirable traffic situation. Due to the width of the City right-of-way along Papermill Road, which is approximately 18-feet, there will be plenty of buffer between the proposed paved area and the existing public road.

A similar variance was sought in 2013 and approved by the Board at that time. As part of that approval, there was a condition that the variance will expire in two years should the site improvements not be completed. Since the Church has not started the project to date, the Board will need to re-approve this variance request.

STAFF ANALYSIS & CONCLUSION

There are several evaluation criteria that the Board must use to evaluate a variance request to determine if it may be granted.

The Zoning Ordinance requires that with variance requests, the burden of proof shall be on the applicant to prove by a preponderance of the evidence that his application meets the standard for a variance.

A variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition related to the property or improvements thereon at the time of the effective date of the ordinance. The request must satisfy all of the following:

As a result of the above considerations, staff believes the criterion for the variance has been met.

Note: Staff has not received any letters of support or opposition for this application.

POSSIBLE MOTION(S)

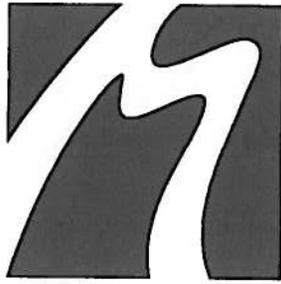
[Approve the variance]

MOVE, that the Board of Zoning Appeals **approve** a variance of the Winchester Zoning Ordinance pertaining to parking/drive buffer pursuant to Section 18-6-3.2 of the Winchester Zoning Ordinance, for the property located at 3136 Papermill Road (*Map Number 332-01- -1*) zoned Medium Density Residential District, with the following conditions:

- a. Failure to complete the required site improvements within two (2) years of the date of this decision will cause the variance for this property to expire.

The variance is approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:

- 1) *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*



MONTGOMERY
Engineering Group, Inc.

March 21, 2016

Re: Southside church of Christ

City of Winchester
Board of Zoning Appeals
15 North Cameron St.
Winchester, VA 22601

Dear Sirs:

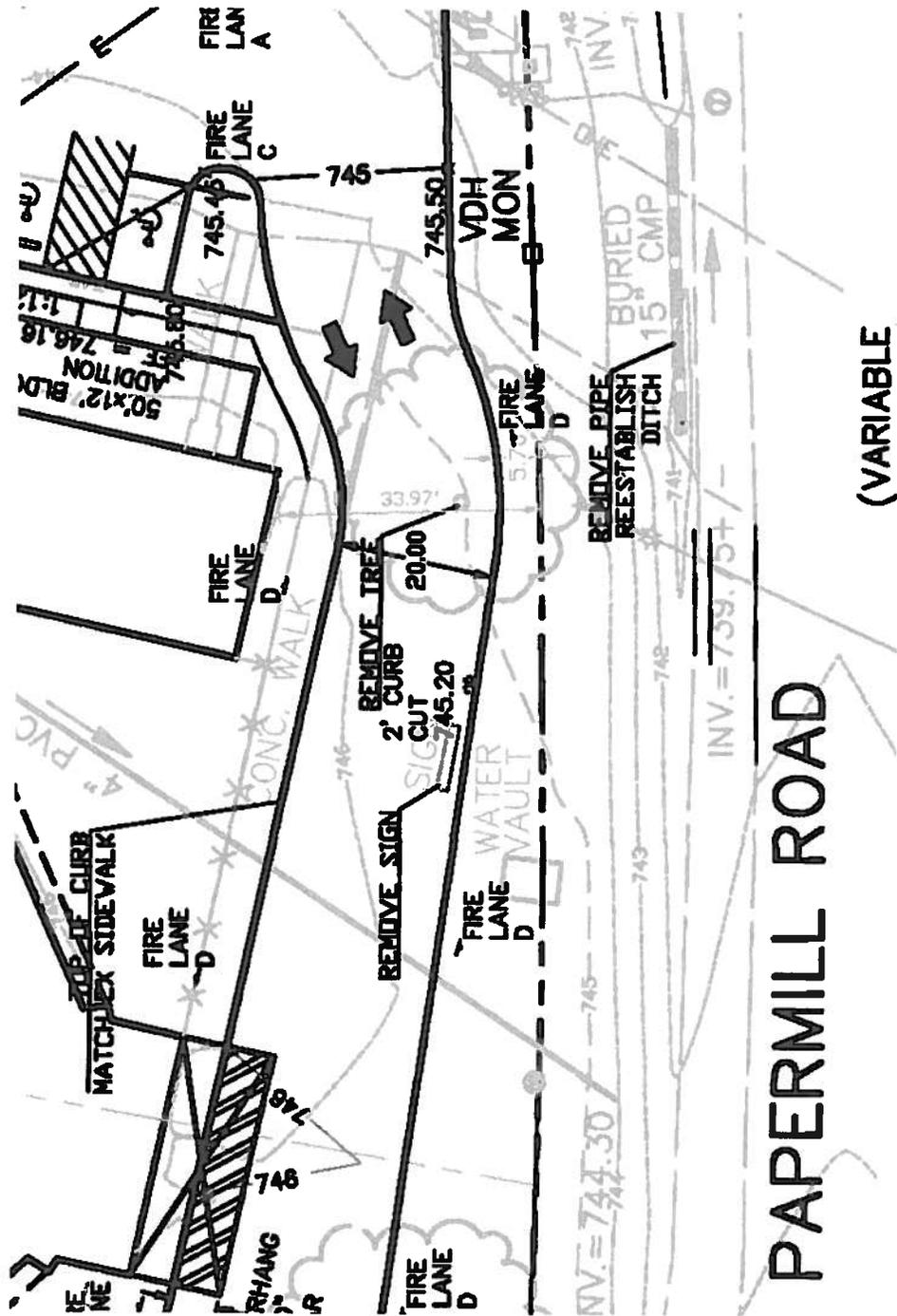
Montgomery Engineering Group, Inc. has designed a site plan for Southside church of Christ in order to hard surface the existing parking lot and create a safe entrance into the site. The existing parking lot enters from the intersection of Papermill Road and Shawnee Drive. The temporary traffic light installed there does not operate for our parking lot making it an unsafe condition. This entrance also does not line up with Shawnee Drive. We have chosen to move our entrance north down Papermill Road to the intersection of Summit Ave. In order to accomplish this, an access drive must go across the front of our existing building. At one area this drive encroaches on the required 10' off set required from the property line. The least dimension is 5.7' from the line. The ROW to the road is an additional 18' in this area.

We are asking for relief to allow this drive as we believe it is in both the city's and our best interest to move this entrance to a safer location.

If you have any questions, feel free to give me a call.

Sincerely,

Ben C. Montgomery, PE



PAPERMILL ROAD

(VARIABLE)