



Charleston Board of Zoning Appeals

AGENDA

8:30 a.m., Thursday, July 23, 2020

Join via internet at:

<https://us02web.zoom.us/j/89045752039?pwd=NlZ1a3AvWlEyRE14R0owaXpXYm5sUT09>

Or call: 312-626-6799 or 929-436-2866 or 346-248-7799

Webinar ID: 890 4575 2039

Password: 385031

I. Items for Review

VAR-20-2982

(continued from 7/9/2020)

Application of Sarah Korwan requesting a variance of the fence height restriction in order to bring into compliance a fence installed on the property located at **659 Holly Road**.

VAR-20-2983

Application of Priscilla Waddy requesting a rear setback variance in order to construct a small deck on the property located at **921 Greendale Drive**.

CUP-20-0207

Application of Kevin Adams requesting a conditional use permit in order to relocate a tattoo and body piercing studio on the property located at **3624 MacCorkle Avenue**.

II. Approval of minutes for the July 9, 2020 hearing.



**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Until further notice, BZA hearings will be accessible via Zoom.

Case Description

VAR-20-2982—Application of Sarah Korwan requesting a variance of the fence height restriction in order to bring into compliance a fence installed on the property located at **659 Holly Road**.

The file (including the application, site plan and other supporting documentation) is available for your inspection online at <https://charlestonwv.civicclerk.com/>. If you have questions, email lori.brannon@cityofcharleston.org or call 304-348-8105.

Hearing Details

WHEN: 8:30 a.m.
Thursday, July 9, 2020

WHERE: Join via internet at:
<https://us02web.zoom.us/j/84971873876?pwd=Vy85L3JrTDBDaE1VYzZVQ0xRZWVGUT09>
Or call: 312-626-6799 or 929-436-2866 or 346-248-7799
Webinar ID: 849 7187 3876
Password: 914542

Public Participation

Anyone who wishes to comment on the case described above is encouraged to do so in one of the following ways:

1. Send a written statement to lori.brannon@cityofcharleston.org. These statements will become a part of the record and will be shared with members of the Board prior to the hearing.
2. Speak directly to the Board by joining the meeting via Zoom using the details listed above. ***Please provide your name and the phone number or e-mail address you'll be using to join the hearing to lori.brannon@cityofcharleston.org by 5 pm on Tuesday, July 7, 2020.***

As a matter of general policy these proceedings will not be transcribed by the Board. Anyone wishing a legal transcript must provide a court reporter at his/her own expense.

Board of Zoning Appeals
Application for Variance

BZA # _____

Hearing Date: _____

Applicant Information	Property Information
Name: Geoff and Sarah Korwan	Address: 659 Holly Road Charleston WV 25314
Address: 659 Holly Road Charleston WV 25314	Tax Map and Parcel:
Phone: 304-543-5700	Zoning District:
Agent Name, Address and Phone Number: (if other than applicant) NA	Property Owner and Mailing Address: (if other than applicant) Same

INSTRUCTIONS: This application must be typed or legibly printed and filed with the Planning Department in person or by mail to 915 Quarrier Street, Suite 1 Charleston, WV 25301. The following items must accompany this application:

1. a site plan drawn to scale; **See attached map. Red line represents approximation of length and placement of fence.**
2. a list of the owners, with their mailing addresses, of the properties within a 100 foot radius of the property for which the variance is being sought; and
3. \$125.00 filing fee in the form of cash, personal check or money order made payable to the City of Charleston.

You are also encouraged to submit any additional information, including photographs, elevations, testimonials or other documentation which may support your application. You or your representative must be present at the scheduled public hearing in order to present your request and answer questions.

THE PLANNING DEPARTMENT WILL NOT ACCEPT INCOMPLETE APPLICATIONS.

A variance is a method by which a property owner receives permission to vary from the development standards established in the Zoning Ordinance governing such matters as building location, building dimensions, setback requirements, placement and quantity of parking, landscaping, signage, and other features included in site design. **Please describe your variance request.** We are requesting a variance from Sec. 3-080 B of the Zoning regulations, which limits the height of a residential privacy fence to six and one-half feet, to allow our privacy fence to exceed this limit by 1 to 3 feet on a steep grade.

Applicable Section(s) of the Zoning Ordinance Sec. 3-080B

Please describe the proposed work to be done on the property. We built a privacy fence, which is 36 feet in length, between our property and that of Mark Hornbaker's. The fence is not in compliance with the Regulation by 1 to 3 feet due to the topography of the property. Specifically, the fence is built on a steep, downward grade.

IMPORTANT: According to Section 8A of the Code of the State of West Virginia and Section 29-040 of the City of Charleston's Zoning Ordinance, the Board of Zoning Appeals may grant a variance if and only if **ALL** of the following four criteria can be satisfied:

- 1.) The variance, if granted, will not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents; and,
- 2.) The variance arises from special conditions or attributes which pertain to the property for which a variance is being sought and which were not created by the person or entity seeking the variance; and,
- 3.) The variance, if granted, would eliminate an unnecessary hardship and permit a reasonable use of the land; and,
- 4.) The variance, if granted, will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

1.) If granted, your variance must not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents. For example, public safety cannot be compromised by limiting access for emergency vehicles, and neighboring property owners must not be hindered in the use their properties in any manner permitted in the Zoning Ordinance. If your variance request is granted, how will others in the area be affected? Neither public health, safety or welfare of the adjacent property owner will be adversely affected. It will partially block the owners view and access to our side yard.

2.) Your request must arise from special conditions or attributes which pertain to the subject property and which you did not create. The size, shape and topography of your lot are examples of the physical conditions which may satisfy this criterion. In comparison with other properties in the vicinity and under the same zoning regulations, what is unusual or different about the subject property? The topography of our lot and the adjacent property creates a special circumstance requiring a taller fence to achieve the privacy we seek. Notably, the property line is on a steep grade and the adjacent property sits above the property line next to the fence for which we are seeking the variance.

3.) **An unnecessary hardship is neither personal nor financial in nature.** In this application, an unnecessary hardship is a problem created by some feature of the land which prevents the owner from making reasonable use of the property as permitted by the Zoning Ordinance. The following three questions help to determine if there is an unnecessary hardship with regard to your property.

Without a variance, are you deprived of all beneficial use of your land? We have a reasonable expectation of privacy as well as the expectation that our property will be free of leaves and debris, which has, from time to time, either intentionally or unintentionally, filled the bedding on our side yard next to the property line.

Is your situation due to unique circumstances that are not shared by other land in the district? It is unique to the extent that the adjacent property sits above our property and the property line is on a steep grade.

Would approval of your variance request alter the essential character of the surrounding neighborhood or community? No. It is a 36 foot wooden paneled fence, typical of other residential privacy fences, and is partially.

obscured from the road above the fence by trees and shrubs.

4.) The general purpose and intent of the Zoning Ordinance of the City of Charleston is to protect and promote the public health, safety, convenience, morals and general welfare. For more specific information in regard to the scope and intent of the Zoning Ordinance, please see Section 1-020 as well as the section from which you are requesting this variance. Will approval of the variance allow the intent of the Zoning Ordinance to be observed?
Yes. The privacy fence affords us the privacy and protection we seek, yet neither violates the general character of the neighborhood nor diminishes property values.

Substantial justice is the idea that a standard of fairness has been satisfied according to the substance of the law. Does your variance request represent the least deviation from the Zoning Ordinance necessary to achieve an outcome that is fair to both you and to your community?

To the extent that the property line is on a steep grade, it was necessary to build the fence in excess of the Regulation to achieve the privacy and protection sought.

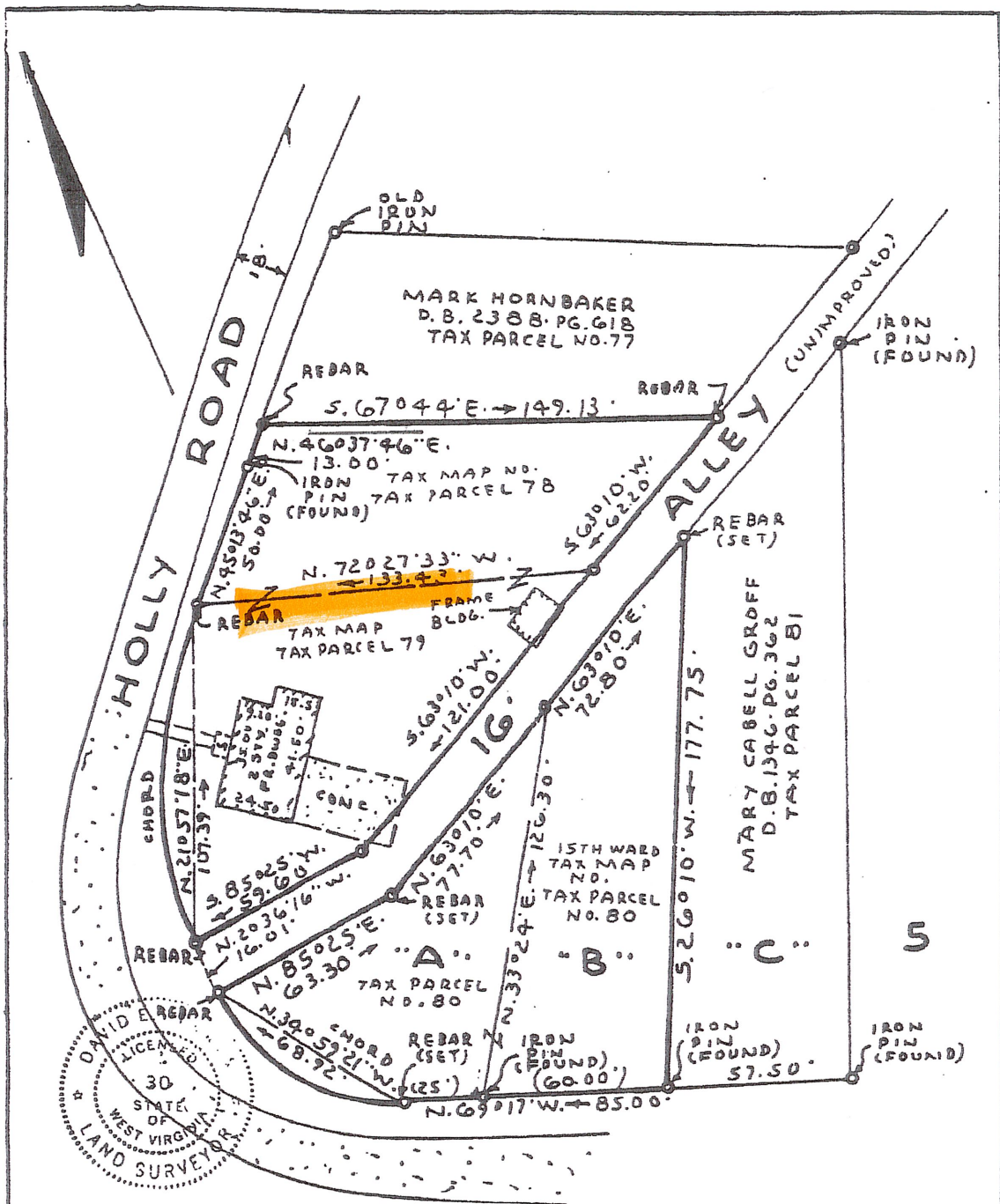
I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.

Signature

Date

6/1/2020

Planning Department Use Only	
The following is a list of related cases:	
The following is a list of zoning ordinance violations, building code violations and enforcement actions relating to the subject property:	
Application reviewed by:	
Action: ☐ Approved ☐ Rejected	
If approved, were there any specific conditions or limitations imposed by the BZA?	
Planning Official Signature and Title	
Date	



David E. Thomas

LICENSED LAND SURVEYOR
WV LICENSE NO. 30

NOTE:
REBARS AT CORNERS UNLESS
NOT OTHERWISE.

MAP SHOWING
PART OF BLOCK "32" OF SOUTH CHARLESTON IM-
PROVEMENT CO. TOGETHER WITH LOTS "A" & "B"
OF REDIVISION OF LOTS IN I. H. JOHNSON SUBD.
LOCATED IN 15TH WARD TAX DIST., CITY OF CHARLESTON, KANAWHA CO., WV

FOR
CHARLES HOWARD CAPITO
NO. 659 HOLLY ROAD
SCALE: 1" = 40' JANUARY 29, 1999
FIELD SURVEYING CO., INC.
CHARLESTON, WV













**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Until further notice, BZA hearings will be accessible via Zoom.

Case Description

VAR-20-2983: Application of Priscilla Waddy requesting a rear setback variance in order to construct a small deck on the property located at **921 Greendale Drive**.

The file (including the application, site plan and other supporting documentation) is available for your inspection online at <https://charlestonwv.civicclerk.com/>. If you have questions, email lori.brannon@cityofcharleston.org or call 304-348-8105.

Hearing Details

WHEN: 8:30 a.m.
Thursday, July 23, 2020

WHERE: Join via internet at:
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Or call: 312-626-6799 or 929-436-2866 or 346-248-7799
Webinar ID: 890 4575 2039
Password: 385031

Public Participation

Anyone who wishes to comment on the case described above is encouraged to do so in one of the following ways:

1. Send a written statement to lori.brannon@cityofcharleston.org. These statements will become a part of the record and will be shared with members of the Board prior to the hearing.
2. Speak directly to the Board by joining the meeting via Zoom using the details listed above. ***Please provide your name and the phone number or e-mail address you'll be using to join the hearing to lori.brannon@cityofcharleston.org by 5 pm on Tuesday, July 21, 2020.***

As a matter of general policy these proceedings will not be transcribed by the Board. Anyone wishing a legal transcript must provide a court reporter at his/her own expense.

#125

Board of Zoning Appeals
Application for Variance

BZA # VAR-20-2983

Hearing Date: 7/23/20

Applicant Information	Property Information
Name: <u>Perisally M Waddy</u>	Address: <u>921 Greendale</u>
Address: <u>921 Greendale Dr.</u>	Tax Map and Parcel: <u>WC 6 88 W5</u>
Phone: <u>304-542-2447</u>	Zoning District: <u>R-4</u>
Agent Name, Address and Phone Number: (if other than applicant) <u>pwaddyb@frontier.com</u>	Property Owner and Mailing Address: (if other than applicant)

INSTRUCTIONS: This application must be typed or legibly printed and filed with the Planning Department in person or by mail to 915 Quarrier Street, Suite 1 Charleston, WV 25301. The following items must accompany this application:

- 1. a site plan drawn to scale;
- 2. a list of the owners, with their mailing addresses, of the properties within a 100 foot radius of the property for which the variance is being sought; and
- 3. \$125.00 filing fee in the form of cash, personal check or money order made payable to the City of Charleston.

You are also encouraged to submit any additional information, including photographs, elevations, testimonials or other documentation which may support your application. You or your representative must be present at the scheduled public hearing in order to present your request and answer questions.
THE PLANNING DEPARTMENT WILL NOT ACCEPT INCOMPLETE APPLICATIONS.

A variance is a method by which a property owner receives permission to vary from the development standards established in the Zoning Ordinance governing such matters as building location, building dimensions, setback requirements, placement and quantity of parking, landscaping, signage, and other features included in site design. **Please describe your variance request.**

rear Construct a deck within required
rear setback

Applicable Section(s) of the Zoning Ordinance _____

Please describe the proposed work to be done on the property. 7x7

on grade

IMPORTANT: According to Section 8A of the Code of the State of West Virginia and Section 29-040 of the City of Charleston's Zoning Ordinance, the Board of Zoning Appeals may grant a variance if and only if **ALL** of the following four criteria can be satisfied:

- 1.) The variance, if granted, will not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents; and,
- 2.) The variance arises from special conditions or attributes which pertain to the property for which a variance is being sought and which were not created by the person or entity seeking the variance; and,
- 3.) The variance, if granted, would eliminate an unnecessary hardship and permit a reasonable use of the land; and,
- 4.) The variance, if granted, will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

1.) If granted, your variance must not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents. For example, public safety cannot be compromised by limiting access for emergency vehicles, and neighboring property owners must not be hindered in the use their properties in any manner permitted in the Zoning Ordinance. If your variance request is granted, how will others in the area be affected? _____

no ~~st~~ impact on my neighbors

2.) Your request must arise from special conditions or attributes which pertain to the subject property and which you did not create. The size, shape and topography of your lot are examples of the physical conditions which may satisfy this criterion. In comparison with other properties in the vicinity and under the same zoning regulations, what is unusual or different about the subject property? _____

Shape of my lot is different from my neighbors.

3.) **An unnecessary hardship is neither personal nor financial in nature.** In this application, an unnecessary hardship is a problem created by some feature of the land which prevents the owner from making reasonable use of the property as permitted by the Zoning Ordinance. The following three questions help to determine if there is an unnecessary hardship with regard to your property.

Without a variance, are you deprived of all beneficial use of your land? _____

Is your situation due to unique circumstances that are not shared by other land in the district? _____

my lot is square and ~~not~~ doesn't have the back yard that they have.

Would approval of your variance request alter the essential character of the surrounding neighborhood or community? *other properties have usable outside space*

what I am requesting is in keeping
with the character of the neighborhood.

4.) The general purpose and intent of the Zoning Ordinance of the City of Charleston is to protect and promote the public health, safety, convenience, morals and general welfare. For more specific information in regard to the scope and intent of the Zoning Ordinance, please see Section 1-020 as well as the section from which you are requesting this variance. Will approval of the variance allow the intent of the Zoning Ordinance to be observed?

Substantial justice is the idea that a standard of fairness has been satisfied according to the substance of the law. Does your variance request represent the least deviation from the Zoning Ordinance necessary to achieve an outcome that is fair to both you and to your community? Small deck

I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.

Priscilla M. Hadley
Signature

June 12-2020
Date

Planning Department Use Only	
The following is a list of related cases:	
The following is a list of zoning ordinance violations, building code violations and enforcement actions relating to the subject property:	
Application reviewed by:	
Action: ☐ Approved ☐ Rejected	
If approved, were there any specific conditions or limitations imposed by the BZA?	
Planning Official Signature and Title	
Date	



921 Greendale DR

20 F

S S

25 R

Flood-out



**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Until further notice, BZA hearings will be accessible via Zoom.

Case Description

CUP-20-0207 : Application of Kevin Adams requesting a conditional use permit in order to relocate a tattoo and body piercing studio on the property located at **3624 MacCorkle Avenue**.

The file (including the application, site plan and other supporting documentation) is available for your inspection online at <https://charlestonwv.civicclerk.com/>. If you have questions, email lori.brannon@cityofcharleston.org or call 304-348-8105.

Hearing Details

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Or call: 312-626-6799 or 929-436-2866 or 346-248-7799
Webinar ID: 890 4575 2039
Password: 385031

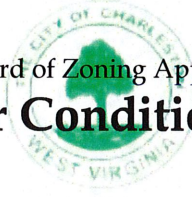
Public Participation

Anyone who wishes to comment on the case described above is encouraged to do so in one of the following ways:

1. Send a written statement to lori.brannon@cityofcharleston.org. These statements will become a part of the record and will be shared with members of the Board prior to the hearing.
2. Speak directly to the Board by joining the meeting via Zoom using the details listed above. ***Please provide your name and the phone number or e-mail address you'll be using to join the hearing to lori.brannon@cityofcharleston.org by 5 pm on Tuesday, July 21, 2020.***

As a matter of general policy these proceedings will not be transcribed by the Board. Anyone wishing a legal transcript must provide a court reporter at his/her own expense.

Board of Zoning Appeals
Application for Conditional Use Permit



CU # CUP-20-0207

Hearing Date: 7/23/20

Applicant Information	Property Information
Name: <u>KEVIN W. ADAMS</u>	Address: <u>25304</u> <u>3624 MACCORKLE AVE, CHARLESTON WV</u>
Address: <u>CHAS. WV</u> <u>4614 VENABLE AVENUE 25304</u>	Tax Map and Parcel:
Phone: <u>364-881-2612</u>	Zoning District: <u>C8</u>
Agent Name, Address and Phone Number: (if other than applicant)	Property Owner and Mailing Address: (if other than applicant) <u>SHWAIR LLC</u> <u>3626 MACCORKLE AVE SE</u> <u>CHARLESTON WV 25304</u>

IMPORTANT: This application must be typed or legibly printed and filed with the Planning Department in person or by mail to 915 Quarrier Street, Suite 1 Charleston, WV 25301. The following items must accompany this application: 1) a site plan drawn to scale; 2) a list of the owners, with their mailing addresses, of the properties within a 250 foot radius of the property for which the variance is being sought; 3) \$125.00 filing fee in the form of a check or money order made payable to the City of Charleston. You are also encouraged to submit any additional information, including photographs, elevations, testimonials or other documentation, which may support your application. You or your representative must be present at the scheduled public hearing in order to present your request and answer questions. THE PLANNING DEPARTMENT WILL NOT ACCEPT ANY INCOMPLETE APPLICATIONS.

Please describe the proposed use. Include information such as the activities to be conducted on the site, hours these activities will be conducted, and any other data pertinent to the proposed use. If the proposed use is a business, please attach a list of the officers and their contact information. OUR PLAN IS TO DO TATTOOS AND BODY PIERCINGS IN THE BASEMENT PORTION OF 3624 MACCORKLE AVENUE. BY APPOINTMENT BETWEEN THE HOURS OF 12:00 PM AND 8:00 PM 7 DAYS A WEEK. OUR CURRENT SHOP, BLACK EAGLE TATTOO, IS CLOSING. OUR CURRENT LOCATION IS ZONED A C8 AND THE NEW LOCATION IS, AS WELL. WE'RE REQUIRED TO BE IN A C10 OR HAVE A CONDITIONAL USE PERMIT. BLACK EAGLE CURRENTLY HAS A CONDITIONAL USE PERMIT.

Applicable Section(s) of the Zoning Ordinance _____

Does the proposed use comply with the conditions set forth in the Zoning Ordinance? YES, WE CURRENTLY WORK IN A SHOP UNDER THE SAME CONDITIONS AND PERMIT. WE ARE ALSO REGULATED BY THE STATE HEALTH DEPARTMENT. THE CURRENTLY USE OUR FACILITY AS AN EXAMPLE DURING THEIR SANITARIANS CLASS, TO TEACH NEW INSPECTORS ABOUT TATTOO AND BODY PIERCING STUDIOS/SHOPS.

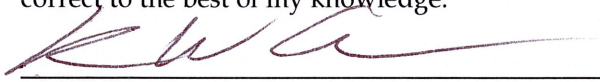
Please describe any proposed work to be done on the property. WE PLAN TO USE THE PROPERTY AS IS, ASIDE FROM GENERAL CLEANING AND REPAIR, SUCH AS PAINT. ANY EQUIPMENT, FURNITURE, OR SUPPLIES WILL NOT REQUIRE CHANGES TO THE PROPERTY.

If your request for a conditional use permit is granted, how will others in the area be affected? AS WE ARE ALREADY LOCATED IN THE AREA, THIS SHOULDN'T AFFECT ANYONE IN THE SURROUNDING AREA. WE HAVE BEEN IN THIS AREA FOR NEARLY 20 YEARS. WE'RE JUST RELOCATING TO A MORE PRIVATE AND MORE AFFORDABLE LOCATION. WE CURRENTLY WORK AT BLACK EAGLE TATTOO WHICH WILL CLOSE AS OF 7/1/2020

Will your request devalue the property of others in the vicinity by altering land use characteristics or diminishing the marketable value of adjacent land and structures or increasing congestion on public streets? NO, I TEND TO BELIEVE WE HAVE ADDED VALUE TO THE AREA, BY SERVING THOUSANDS OF CLIENTS, WHO SUPPORT US AND SURROUNDING LOCAL BUSINESSES. WE ALSO SUPPORT OUR LOCAL BUSINESS NEIGHBORS THROUGH OUR LARGE INTERNET AND SOCIAL MEDIA PRESENCE. AS A COMPANY AND AS INDIVIDUALS WE HAVE DONATED TIME, MONEY AND EFFORT TO LOCAL CHARITIES AND CAUSES.

Is your request consistent with the purposes and intent of the Zoning Ordinance of the City of Charleston? YES. WE HAVE ALREADY BEEN GRANTED THIS REQUEST AT OUR PRIOR LOCATION. THIS WILL BE THE SAME CREW, JUST RELOCATING TO A NEW LOCATION AND OPERATING UNDER A NEW BUSINESS NAME, SINCE BLACK EAGLE TATTOO IS CLOSING PERMANENTLY. JUST RELOCATING FROM 3808 TO 3624 MACCORKLE AVE.

I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.


Signature

6/7/2020
Date

Planning Department Use Only	
The following is a list of related cases:	
The following is a list of zoning ordinance violations, building code violations and enforcement actions relating to the subject property:	
Application reviewed by:	
Action: ☐ Approved ☐ Rejected	
If approved, were there any specific conditions or limitations imposed by the BZA?	
Planning Official Signature and Title	
Date	



TO WHOM IT MAY CONCERN,

MY NAME IS KEVIN ADAMS, CO-FOUNDER
AND TATTOOER AT BLACK EAGLE TATTOO,
3812 MACCORMICK AVE SE, CHARLESTON WV 25304.
DUE TO UNFORSEEN CIRCUMSTANCES, WE ARE
RELOCATING THE SHOP AND CREW INTO A
MORE AFFORDABLE LOCATION. WE HAVE
BEEN IN KANAWHA CITY SINCE 1999, AS PART
OF ANCIENT ART TATTOO AND NOW BLACK EAGLE
TATTOO. NOT ONLY HAVE WE PROVIDE A SAFE,
SANITARY, AND OUTSTANDING SERVICE TO OUR
CLIENTS, BUT WE ALSO SERVE OUR COMMUNITY.
OUR SHOP AND STAFF HAVE DONATED TIME,
MONEY, GOODS AND LABOR TO MANY CHARITIES
AND CAUSES. MOST OF OUR CREW LIVE IN
KANAWHA CITY/CHARLESTON AREA. WE
BELIEVE IN SUPPORTING OUR COMMUNITY. WE
HAVE PROVIDED EMPLOYMENT AND TRAINING
TO SO MANY OVER THE YEARS. WE ALSO WORK
IN CONJUNCTION WITH THE STATE HEALTH DEPARTMENT
ON THEIR SANITARIANS CLASS, FOR NEW INSPECTORS.
WE WOULD LIKE TO CONTINUE TO BE A
PART OF THIS GREAT NEIGHBORHOOD. PROVIDING
THE SAME GREAT SERVICE AND SUPPORT TO
OUR COMMUNITY, JUST IN A NEW LOCATION
UNDER A NEW NAME.

THANK YOU

KEVIN W. ADAMS

THIS IS AN APPROXIMATE
LAYOUT OF THE EXISTING
SPACE. 3000 SQUARE FEET
ON THE BASEMENT LEVEL

