



Charleston Board of Zoning Appeals

AGENDA

8:30 a.m., Thursday, May 12, 2022

City Service Center Conference Room · 915 Quarrier Street

I. Items for Review

VAR-22-3003

(continued from 4/14/2022)

Application of Charleston School of Beauty Culture requesting a variance of the on-site parking requirements in order to establish an educational facility at the property located at **514 50th Street.**

VAR-22-3005

Application of Dwan Davis requesting a variance of the on-site parking requirements in order to bring into compliance a single family dwelling on the property located at **503 Ruffner Avenue.**

VAR-22-3006

Application of Bridge Road Bistro requesting a variance of the on-site parking requirements in order to continue outdoor dining established during the COVID pandemic on the property located at **915 Bridge Road.**

VAR-22-3007

Application of William Huffman requesting a variance of the on-site parking requirements in order to continue outdoor dining established during the COVID pandemic on the property located at **1038 Bridge Road.**

II. Approval of minutes for the April 14, 2022 hearing.



**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Case Description

VAR-22-3003: Application of Charleston School of Beauty Culture requesting a variance of the on-site parking requirements in order to establish an educational facility at the property located at **514 50th Street.**

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, April 14, 2022

WHERE: City Service Center Conference Room
915 Quarrier Street

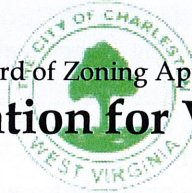
Public Participation

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.

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: <u>Charleston School of Beauty Culture</u>	Address: <u>514 50th St, SE</u>
Address: <u>514 50th St, SE</u>	Tax Map and Parcel:
Phone: <u>304-807-8019</u>	Zoning District:
Agent Name, Address and Phone Number: (if other than applicant) <u>Stephen Hall</u> <u>5241 Doc. Bailey Rd.</u> <u>Cross Lanes, WV 25313</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. Seeking a waiver of the on-site parking requirements.

Applicable Section(s) of the Zoning Ordinance § 23-060-01

Please describe the proposed work to be done on the property. Converting Hardings Funeral Home into a Beauty and Barber school.

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? There are seven parking spaces on site along with twenty-seven spaces on the public right-of-way. With car-pooling and the number of students who do not drive, no adverse parking overflow is anticipated.

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? What is unique about this property is that the building occupy the majority of the available space but are simultaneously adjacent to an unusually wide right-of-way with available parking spaces.

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? Virtually any commercial use available for the property would not be possible without a variance because of the limited spaces available compared to the size of the building.

Is your situation due to unique circumstances that are not shared by other land in the district? Most of the neighboring businesses also rely upon right-of-way parking.

Would approval of your variance request alter the essential character of the surrounding neighborhood or community? No.

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?

The intent of the Zoning Ordinance is observed because of the significant available parking already available adjacent to the site. Further, the variance sought differs little from the variance previously granted for the site as a funeral home.

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?

The variance permits the land modern adaptability in commercial usage

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.

Stephen L. Hall

Signature

3-7-22

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





Board of Zoning Appeals PUBLIC HEARING NOTICE

Case Description

VAR-22-3004 & CUP-22-0220: Application of JD Stricklen requesting a variance of the lot provisions in order to subdivide townhouses and a conditional use permit in order to establish restricted accessory parking lot at the properties located at **1258-1268 Oakhurst 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, April 14, 2022

WHERE: City Service Center Conference Room
915 Quarrier Street

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.

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**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Case Description

VAR-22-3005: Application of Dwan Davis requesting a variance of the on-site parking requirements in order to bring into compliance a single family dwelling on the property located at **503 Ruffner 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

WHEN: 8:30 a.m.
Thursday, May 12, 2022

WHERE: City Service Center Conference Room
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 Board of Zoning Appeals
Application for Variance

BZA # _____

Hearing Date: _____

Applicant Information	Property Information
Name: <u>Dwan Lee Davis</u>	Address: <u>503 Ruffner Avenue</u>
Address: <u>503 Ruffner Ave</u>	Tax Map and Parcel: <u>EC 21 280</u>
Phone: <u>304-543-6037</u> <u>Char, WV 25301</u>	Zoning District: <u>R-10</u>
Agent Name, Address and Phone Number: (if other than applicant)	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.**

I recently had a home built at 503 Ruffner, due to the Code, it was stated that I have to install a driveway. I am requesting that I be exempted in placing a driveway due to safety issues and placing it may cause soil erosion due to the slope of the land.

Applicable Section(s) of the Zoning Ordinance _____

Please describe the proposed work to be done on the property. A brick retaining wall will be placed to protect the soil erosion. The brick retaining wall will be built where the partial driveway is now.

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? By placing a retaining wall it will be safer for the public and neighbors. If a driveway is completed the pedestrians or the children playing in the area could cause a dangerous situation.
In placing a retaining wall, it will only restore the way the property was originally. This will be safe for the public, neighbors, traffic, and on coming vehicles.

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? I would be the only home on that street with a driveway.
The majority of the homes on that street has a retaining wall. The driveway is taking up a significant amount of land.

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? Yes the partial driveway is taking up most of the front lawn. Without the variance, I could lose more land due to soil erosion.

Is your situation due to unique circumstances that are not shared by other land in the district? The neighbors in my area are on flat land or they have a retaining wall.

Would approval of your variance request alter the essential character of the surrounding neighborhood or community? NO - The approval of the variance

will only make the neighborhood uniform,

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

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? yes.

The request would benefit the public, the neighbors, and the safety of others.

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

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

Due to a massive fire and loss of his house on this property, the owner is presently prepared to have a new house built on the site. The property owner was told that, by ordinance, he must put in a driveway. There are factors to consider when pursuing this ordinance. The factors include safety, usability, and viability. There is also a loss of a parking spot, where people could be ticketed for blocking a driveway. The owner does not own a car. The other factor is the water flow onto the sidewalk from the incline of the property, which could make this a hazard. Major factors are:

1. Parking the car, and especially backing out of a driveway with this incline. This could be dangerous for many pedestrians and cyclists, who use this sidewalk daily. It also presents the lack of good visibility when backing out into the busy two way traffic, which is heavy and usually fast, on this portion of Ruffner Avenue.
 2. Roosevelt Center has daily programs and events and in great need of parking spots. This driveway would be a loss of a parking spot on the street for both visitors, employees, other residents and especially the neighbors who park there.
 3. This property has a strong wall to retain water from flowing onto the sidewalk. A driveway could be a conduit for water to collect on the sidewalk making it more dangerous, especially during the winter months.
-



Pedestrians and cyclists



Incline



Water retention wall

The owner is asking the City Council Board members to take all of the above into consideration, as soon as possible, and time is of the essence, to grant permission, via the Grandfather clause to make an exception to this new and specific ordinance, with considerations based on facts above, and revoke the order to create a driveway.

“Grandfathering clauses are typically designed to preserve the property rights of individuals and businesses who would otherwise be adversely affected.”

Thank You, Dwan Lee Davis
LBT for Dwan Lee Davis

Re: 503 Ruffner Avenue
Charleston, WV 25311
(304) 543-6037

Dwan Lee Davis, property owner
October 3, 2021



STEPS



Re: 503 Ruffner Avenue
Charleston, WV 25311
(304) 543-6037

Dwan Lee Davis, property owner
October 3, 2021



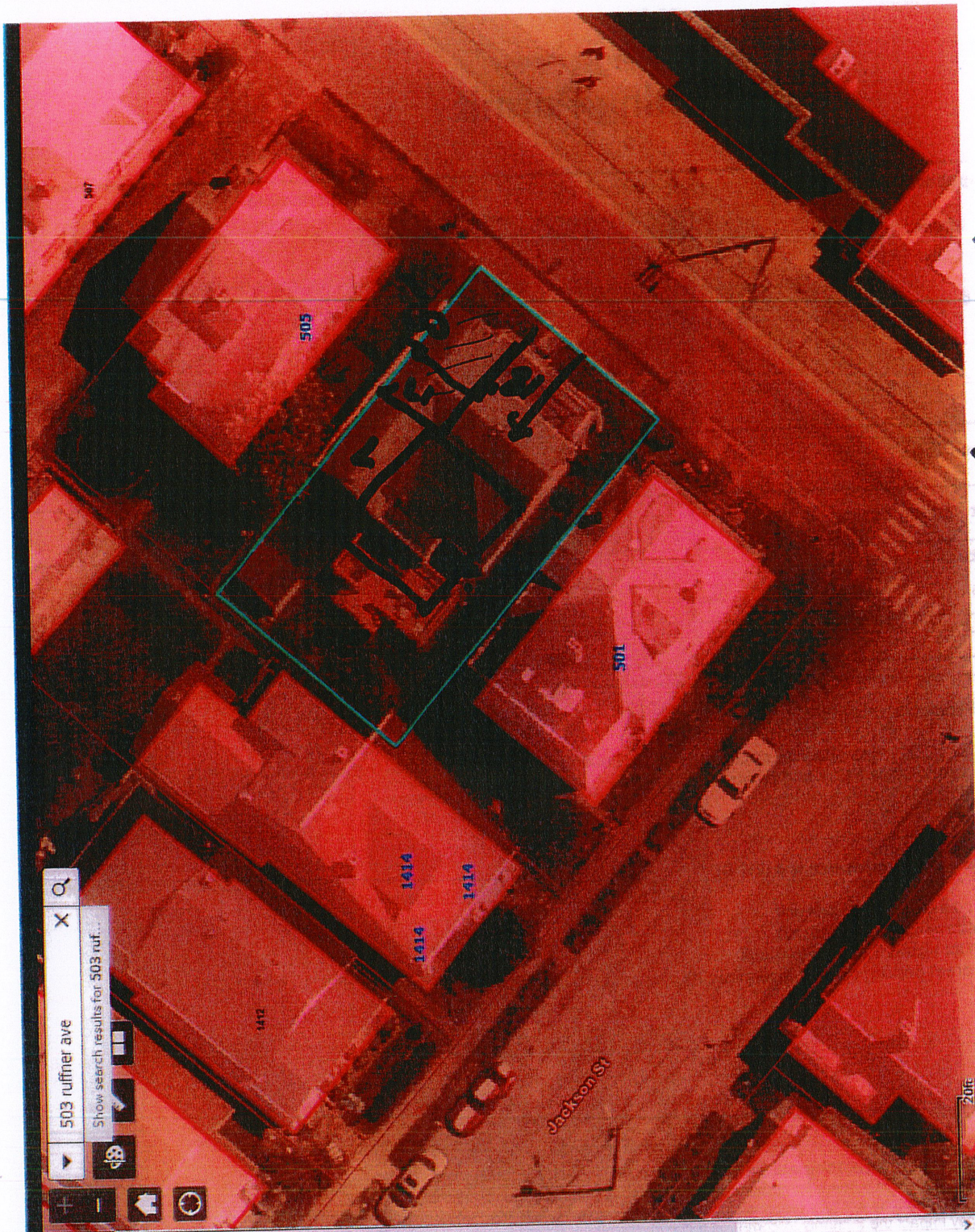
RETAINING WALL



STEPS



Original wall



32' x 32'

Information Details

of 5)

[Zoom to](#) [Clear Selected](#)

[Search Google Maps](#)

[View Map Card Front](#)

[View Map Card Back](#)

District: 11 - Charleston East

Map: 21

Parcel: 280

Parcel ID: 11 210280000000000

APN: 021.0280.0000.11

Comments:

Land Description

[Account Number: 06358791](#)

Owners: SMITH CASANDRA L & DWAN L DAVIS

Mailing Address: 503 RUFFNER AVE
CHARLESTON WV 25302

Deed Book/Pages: 2381/168

Last Sale: 1/31/1996

Sale Price: 43,500.00

Legal Description: PT LT 5 BKN 45X60
RUFFNER 503

Tax Class: 2 - Owner Occupied

Tax Year: 2020

Land Value: 11,400.00

Building Value: 28,500.00

Mineral Value: 0.00

Total Value: 39,900.00

Land Use Code: 101 - Residential 1 Family

Neighborhood: 200Y

Structure Description:

Year Built: 1930

Style: 1.5







**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Case Description

VAR-22-3006: Application of Bridge Road Bistro requesting a variance of the on-site parking requirements in order to continue outdoor dining established during the COVID pandemic on the property located at **915 Bridge 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, May 12, 2022

WHERE: City Service Center Conference Room
915 Quarrier Street

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.

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 Board of Zoning Appeals
Application for Variance

BZA # _____

Hearing Date: _____

Applicant Information	Property Information
Name: Bridge Road Bistro/Sandy Call	Address: 915 Bridge Road, Charleston WV 25314
Address: 915 Bridge Road, Charleston WV 25314	Tax Map and Parcel:
Phone: 304.720.3500	Zoning District:
Agent Name, Address and Phone Number: (if other than applicant) SAME	Property Owner and Mailing Address: (if other than applicant) SRT Properties-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;
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.**

For continued permission to use our four parking spaces for outdoor dining that belong to our building & place of business per our lease agreement as well.

Applicable Section(s) of the Zoning Ordinance 23-060-01

Please describe the proposed work to be done on the property. _____
Due to covid 19 we were granted by the City of Charleston for guest to dine outdoors without fear of the being exposed to the virus. We placed a fenced in seating area connected to our exit to comply to the ABC Expense on our behalf equated to over 8000.00 to survive the financial burden the pandemic caused. We We now have frequent guest that request outdoor dining-particularly out of state diners that visit our state.

We have all in place from the shutdown from the Pandemic 2020

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?

Public Safety has not been compromised by limiting access for emergency vehicles. & neighboring property owners have never hindered by the use of their properties in any manner permitted in the zoning ordinance.

We have been operating our spaces for 19 months without any hinderance to other residence nor business's
The four spaces are in front of our business.

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?

We have ample parking for our guest & other surrounding properties. We open for dinner service after
the other business's close for the day. 98% close at 5pm. We open at 4:30pm.

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? yes-our lease agreement permits us
to use our property as we see fit for our business. SRT Properties initially wanted us to get outdoor
seating There has never been any unnecessary hardship to any surrounding residence or business

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

Yes-our guest request to eat outdoors to stay safe from the virus & they also enjoy the vitality it brings
to our City We were the first restaurant to be approved of a liquor license in 2004 & we like to believe we are
an anchor store like in a Mall-we are a destination restaurant pulling traffic off of I64 to dine in our city!

Would approval of your variance request alter the essential character of the surrounding neighborhood or community? Yes-we have brought a new style of dining in Charleston offering more of an enhanced option

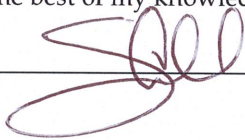
Approval of our variance would only enhance our community & bring more vitality to our city as a wonderful dining experience option for visitors & residents of WV-The character is only better & moving forward in history!

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, we have been protecting & promoting health safety convenience morals & general welfare for 19 months thus far to place proof in the pudding. We have honored all the above especially in the last 6 months since we have acquired 29 more parking spaces adjacent from us from the Citi Bank building that was leveled & made into a productive parking lot for all to enjoy-not only BRB> We also pay a lease annually to the Rubin family \$3000 to have back up parking for our guest-which now we don't even use anymore w/the new development

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? Substantial justice has been satisfied since 2020-we have represented the least deviation from the Zoning Ordinance necessary to achieve an outcome that is fair to our community & ourselves. We are using our own parking spaces without hinderance to any surrounding business or residence.

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

3-18-22

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









**Board of Zoning Appeals
PUBLIC HEARING NOTICE**

Case Description

VAR-22-3007: Application of William Huffman requesting a variance of the on-site parking requirements in order to continue outdoor dining established during the COVID pandemic on the property located at **1038 Bridge 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.
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Board of Zoning Appeals
Application for Variance

BZA # _____

Hearing Date: _____

Applicant Information	Property Information
Name: <u>WJTH PROPERTIES</u>	Address: <u>1038 BRIDGE ROAD, CHARLESTON, WV 25314</u>
Address: <u>1038 BRIDGE ROAD, CHARLESTON, WV 25314</u>	Tax Map and Parcel: <u>MAP - 0005 PARCEL 0188</u>
Phone: <u>813-416-5785</u>	Zoning District: <u>15th WARD</u>
Agent Name, Address and Phone Number: (if other than applicant) <u>WILL HUFFMAN, 6117 KIPPS COLONY DR. W. (813)416-5785 GULFPORT, FL 33707</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.

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During COVID we converted a section of our parking lot into outdoor seating. Would like to obtain a variance to all for this full time.

Applicable Section(s) of the Zoning Ordinance _____

Please describe the proposed work to be done on the property. a fence has already been

erected to separate the parking lot from all outdoor seating area. Would pour a concrete pad in the parking lot to put tables in.

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?

They should not be affected. We have operated the outdoor dining area for the last two (2) years on a temporary basis, and have not had any issues. There is ample off street parking.

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 lot is pie shaped, making forming a parking lot difficult.

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?

Yes, we would not be able to take advantage of the outdoor seating. We currently have six (6) tables in the subject area.

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

The shape of the lot make parking difficult.

Would approval of your variance request alter the essential character of the surrounding neighborhood or community?

No, I believe it would promote the character of the neighborhood.

by providing a parking spot: This would hopefully help build
support the Community Board.

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?

The approval of the variance will promote public health and safety by providing an outdoor dining option. This added area will hopefully protect other businesses in the area.

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?

We have been using the outdoor space for the last two (2) years without any issue. There is ample street parking to catch any overflow parking.

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.

William W. Hahn
Signature

3/16/22
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	

SITE PLAN

