



## Agenda

Huntington Board of Zoning Appeals  
Tuesday, March 16, 2021 - 5:30pm

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1. Call to Order
2. Roll Call
3. Approval of the January Minutes
4. Approval of the January Orders
  - BZA 21-A-01
5. Unfinished Business

### **BZA 21-V-01**

*Issue:* A petition for a Variance pursuant to *Article 1341.19.A* of the City of Huntington Zoning Ordinance to allow for the finished side of a privacy fence to face inward instead of toward the abutting properties in an R-1 Residential District. The property is located at 127 Wilson Ct, Cabell County Tax District 05, Tax Map 72, Parcel 129.

*Owner/Petitioner:* William Chappelle, 127 Wilson Ct., Huntington, WV 25701

6. New Petitions

### **BZA 21-V-02**

*Issue:* A petition for a Variance from the Article 1341.23.B of the City of Huntington Zoning Ordinance requirement that a factory built home to be a minimum of twenty-two (22) feet in length and width. The property is located at 826 Burlington Road in Wayne County.

*Owner/Petitioner:* Robert and Christopher Fannin, 1014 11th Street, Huntington, WV

### **BZA 21-C-01**

*Issue:* A petition for a Conditional Use Permit to allow a Craft Production Facility to operate in C-1 Neighborhood Commercial District. The property is located at 711 Adams Avenue, Cabell County Tax District 07, Tax Map 27, Parcel 399.

*Owner/Petitioner:* Viking Spirits and Distillery, 1801 Sycamore Street, Kenova, WV 25530

7. Announcements/Discussion
8. Adjournment

**Minutes**  
**City of Huntington Board of Zoning Appeals**  
**January 19, 2021**

A meeting of the City of Huntington Board of Zoning Appeals was held on January 19, 2021 at 5:30 p.m. in the City Hall Council Chambers. *Mr. Dolin* called the meeting to order.

Members Present: Isabell Cross, C.W. Dolin, Howard Anderson, Dan Earl

Members Absent: Jacqueline Proctor

Staff Present: Breanna Shell, Planning Director  
Ericka Hernandez, Assistant City Attorney  
Patricia Usher, Zoning Officer

Elections were held at the start of the meeting for Chair and Vice Chair.

Mr. Anderson nominated Ms. Proctor for Vice Chair, and Mr. Earl seconded the nomination. No one else was nominated and nominations were closed.

All were in favor, and Ms. Proctor was elected to be the Vice Chair.

Mr. Anderson nominated Mr. Dolin for Chair, and Mr. Earl seconded the nomination. No one else was nominated and nominations were closed.

All were in favor, and Mr. Dolin was elected to be the Chair.

Ms. Shell presented the 2020 Annual Report

Hearing no corrections or objections, *Mr. Dolin* approved the Minutes.

Hearing no corrections or objections, *Mr. Dolin* approved the Orders.

**BZA 21-A-01**

An appeal of the requirement, decision, or determination made by the administrative official charged with the enforcement of the Zoning Ordinance pursuant to Article 1341.19.A regarding the facing of privacy fencing in a residential district.

Property Owner/Petitioner: William Chappelle, 127 Wilson Ct. Huntington, WV 25701

William and Madolyn Chappelle presented the petition, explaining to the Board the events that lead to their appearance before the Board. He explained to the Board that his youngest child is an elopement risk and for the safety of his independent play on their property they erected a 6 foot privacy fence in the rear yard. The fencing on the west side of the property was erected by a prior occupant with the finished side facing inward. This fencing was in poor condition, so it was decided to replace it and erect additional fencing along the south side of the property. The

replaced fencing and the new fencing were erected with the finished side facing inward. In late September, he encountered Mr. Strait investigating a complaint about his fencing which had been erected without a permit; he was unaware that a permit was needed to erect a fence. He was informed by Mr. Strait that a permit was needed and the fencing to the west could remain, but that fence on the south property line would need to be compliant with city regulations regarding facing. He submitted a request for reasonable accommodations, which was denied as there had been no effort made to erect fencing on the east side of the property. He has since erected fencing on the east side of the property and would like to keep all of the fencing erected with the finished side facing in.

*Mr. Anderson* – How do you feel about the suggestion of doing a shadow box style fence?

Mr. Chappelle explained that the only fencing where there is an issue is along the south side of the property and the owners of that house have erected a fence of their own, so they cannot see the fence. His friends moved into the house to the east and helped him put the fence up with the unfinished side facing their property. He informed the Board that he and his family do not have a safe relationship with their neighbor to the west and that Mr. Strait told him that he did not have to modify the fence on the west side of the property as he was simply repair what was already there.

*Mr. Earl* – If you do not receive a variance, the fence to the west can remain as is?

Mr. Chappelle told the Board that Mr. Strait had used the term *grandfathered in* when telling him that he did not have to change the fence abutting the property to the west.

Ms. Hernandez asked staff if there was ever a time when the ordinance did not require fencing to be erected with the finished side facing abutting property owners. Ms. Shell replied that this requirement has been in place during her tenure with the city and cannot speak to prior years without investigation. Ms. Shell explained to the Board that she was unaware of the decision made by Mr. Strait to allow for the west side portion of the fencing to remain.

*Mr. Earl* – The purpose of the requirement for fence facing is aesthetics, correct?

Ms. Shell confirmed that aesthetics is the rationale for the fence facing abutting properties.

Discussion ensued between the Board and the petitioner detailing the fencing as it currently exists.

*Mr. Earl* – Is there not a solution to finish both sides?

Mr. Chappelle explained that money is an issue for them at this time. His friend, who is also his neighbor to the east, is fine with the unfinished side facing his yard.

*Mr. Anderson* – Maybe put up only a few panels on the neighbor to the east side as a way to meet the requirements.

Mr. Chappelle explained that his friend who lives to the east does not want there to be paneling on his side of the fence.

*Mr. Anderson* – It would be helpful for us to have a record of your neighbor's approval of the fencing. Could you provide us with that?

Mr. Chappelle stated that he would be willing to provide the Board with his neighbor's verification.

*Ms. Cross* expressed concerned about how the other neighbors feel about this fence.

*Mr. Anderson* stated that he would like to reverse the decision made by staff so that they may come to a compromise with the petitioner regarding the fence.

*Mr. Anderson* made a motion to reverse BZA 21-A-01; *Ms. Cross* seconded the motion.

Roll Call BZA: Mr. Earl, Yes; Ms. Cross, Yes; Mr. Anderson, Yes; Mr. Dolin, Yes

BZA 21-A-01 an appeal of the requirement, decision, or determination made by the administrative official was reversed with a vote of 4 Yes to 0 No.

### **BZA 21-V-01**

A petition for a Variance pursuant to *Article 1341.19.A* of the City of Huntington Zoning Ordinance to allow for the finished side of a privacy fence to face inward instead of toward the abutting properties in an R-1 Residential District.

Property Owner/Petitioner: William Chappelle, 127 Wilson Ct. Huntington, WV 25701

*Mr. Anderson* – I would like to grant the variance with the condition that verification from the neighbors to the east is submitted by the petitioner and staff verifies the vinyl fence to the south and the grandfather status of the fence to the west.

*Mr. Chappelle* sited the letter submitted to the Planning office requesting reasonable accommodations. He told the Board that the woman who wrote the letter is now his neighbor. It was determined that the letter does not contain verification of the neighbor's consent and was written prior to them moving into the house, so it would not satisfy the request of the Board.

*Mr. Earl* and *Mr. Chappelle* had a brief discussion. *Mr. Earl* wanted clarification on how the surrounding neighbors would be impacted by the unfinished fencing. The neighbors on the southern property line have erected their own fence which blocks the unfinished fencing from their sight; the neighbors to the east have consented and assisted in the erection of the fence along their property line with the unfinished side facing them; and the fence to the west is grandfathered in.

*Ms. Cross* – You want to play it safe for the future in case you get new neighbors.

*Mr. Chappelle* stated the he anticipates that the neighbors to the east will be residing in their current location for many years.

*Ms. Hernandez* asked if *Mr. Chappelle* knew who had put the fencing up on the west side of the property prior to his purchasing the house. He believes the prior tenant who rented the house erected the fence.

The house was bought by the previous owner in 2015, *Ms. Hernandez* concluded that given the information provided, the fence would not have been erected under different regulation and

suggested that the entire fence be included in the variance and not consider the west side of the property as separate from the variance as it may have been erected illegally.

The Board discussed how grandfather status and nonconforming relate to this issue. There is brief discussion on options that could satisfy requirements and the petitioner’s needs. The history of the fence on the west side of the property would be nearly impossible to determine; therefore, the Board will not require information for that side of the property, but will require verification for the south and east sides of the property to be brought before the Board at the next meeting.

*Mr. Earl* made a motion to layover BZA 21-V-01; *Ms. Cross* seconded the motion.

Roll Call BZA: Ms. Cross, Yes; Mr. Anderson, Yes; Mr. Earl, Yes; Mr. Dolin, Yes

BZA 21-V-01 petition of a variance was laid over with a vote of 4 Yes to 0 No.

The meeting concluded at 6:10 p.m.

Date approved: \_\_\_\_\_

Chairperson: \_\_\_\_\_ Prepared by: \_\_\_\_\_  
C.W. Dolin, Chair Patricia Usher, Zoning Officer

BEFORE THE BOARD OF ZONING APPEALS, HUNTINGTON, CABELL AND WAYNE  
COUNTIES, WEST VIRGINIA

**BZA 21-A-01**

Owner/Petitioner: William Chappelle, 127 Wilson Ct., Huntington, WV

Subject Property: 127 Wilson Ct.

An appeal of the requirement, decision, or determination made by an administrative official charged with the enforcement of the Zoning Ordinance pursuant to *Article 1341.19.A* regarding the facing of privacy fencing in a residential district. The property is located at 127 Wilson Ct., Cabell County District 5, Map 72, Parcel 129.

Individual Speaking on Behalf of Petition: William and Madoloyne Chappelle  
Other Interested Parties: None

**ORDER**

On January 19, 2021, William and Madoloyne Chappelle came before the City of Huntington Board of Zoning Appeals to request the Board overturn the decision of the City of Huntington Planner to deny the Chappelle's the opportunity to apply for a variance from the requirements of the fence ordinance.

**FINDINGS OF FACT**

After reviewing all evidence presented by the Chappelle's and the staff, the Board finds as follows:

1. William Chappelle is the owner and petitioner.
2. This property is zoned R-1 Single-Family Residential District.
3. Mr. Chappelle was issued a building permit for the privacy fence by the Permits office without review or approval by Planning staff.
4. The building permit issued to Mr. Chappelle had attachments to be approved by the Planning Office, but the signatures were blank.
5. The proper permit for erecting a fence is a fence permit issued by the Planning Office.
6. The Permits office does not enforce the zoning ordinance, wherein the fence ordinance is located.
7. Mr. Chappelle erected the fence in the way he believed were best suited for the needs of his family, which was with the finished side facing inward.
8. Mr. Chappelle relied on the building permit when erecting his fence.
9. An unnamed person lodged a complaint with the City regarding how the fence was erected.
10. The City Planner investigated the complaint and found that the fence was erected incorrectly.
11. The property to the rear of Mr. Chappelle has a privacy fences abutting Mr. Chappelle's property.
12. When attempting to enforce the fence ordinance, the City Planner denied Mr. Chappelle the opportunity to apply for a variance because he did not believe Mr. Chappelle's situation fit the standard for a variance.

**CONCLUSIONS OF LAW**

In order to overturn a decision by a city official, the Board must find that the official's decision was unreasonable, an abuse of discretion, or otherwise illegal. The standard for a variance is as follows:

- a. That the requested variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents. In determining this, the Board must find that such variance will **not**:
  - 1. Alter the land use characteristics of the district;
  - 2. Impair the adequate supply of light and air to adjacent property;
  - 3. Increase the hazard from fire, flood and other dangers of said property;
  - 4. Diminish the marketable value of adjacent lands and buildings;
  - 5. Increase the congestion in the Streets;
  - 6. Otherwise impair the public health, safety, convenience, comfort or general welfare;
- b. That the variance arises from special conditions or attributes which pertain to the property for which a variance is sought. Such special conditions may not be created by the person seeking the variance;
- c. That the variance would eliminate an unnecessary hardship and permit a reasonable use of the land; and
- d. That the variance will allow the intent of the zoning ordinance to be observed and substantial justice done.

In this case, Mr. Chappelle did not pursue a fence permit, but, instead, relied on a building permit when he erected his fence. Due to the lack of communication between the Permits office and the Planning office, may not have had the opportunity to learn of the proper method of installing the fence. Additionally, there may be special family circumstances that dictate a more liberal reading of the fence ordinance.

The Board has broader authority to approve variances to the zoning ordinance. Given the evidence presented, the Board believes that approval of a request for variance may be feasible. Because of this and because of the lack of communication within City Hall, the Board believes it was unreasonable for the City Planner to deny Mr. Chappelle the opportunity to apply for a variance.

**DECISION**

**THEREFORE**, based upon the above, the Board **REVERSES** the decision of the Planner to not permit the Petitioner the opportunity to apply to the Board for a variance. This decision in no way should be taken as approval of the forthcoming Variance, but only regards the appeal before it.

ENTERED

\_\_\_\_\_   
 Date

Chairperson: \_\_\_\_\_ Prepared by: \_\_\_\_\_   
 C.W. Dolin, Chair Ericka Hernandez   
 Counsel for the BZA

**Staff Report** A petition for a Variance to allow for a privacy fence to have the finished side facing inward.

**Legal Ad**

A petition for a Variance pursuant to *Article 1341.19.A* of the City of Huntington Zoning Ordinance to allow for the finished side of a privacy fence to face inward instead of toward the abutting properties in an R-1 Residential District.

The property is located at 127 Wilson Ct, Cabell County Tax District 05, Tax Map 72, Parcel 129.

*Owner/Petitioner:* William Chappelle, 127 Wilson Ct. Huntington, WV 25701

**Introduction**

William Chappelle is petitioning for a variance to allow the finished side of his fencing to face inward and leave the abutting side unfinished.

**Brief timeline of events**

1. Neighbor complaint received about privacy fence.
2. Internal investigation found the fence was installed incorrectly.
3. Property owner was informed that the fence was unlawful and given options to correct.
4. Property owner requested a reasonable accommodation under the Fair Housing Act.
5. The accommodation was reviewed and denied.
6. Property owner requested to apply for a variance for the fence.
7. Planner verbally denied the opportunity to apply for a variance due to lack of hardship.
8. Property owner sought and acquired a building permit from the permitting office in error.
9. Property owner erected the fence on the east side of the property incorrectly.
10. Appeal and Variance requests submitted.

11. Property owner was informed that the building permit was not valid.
12. At the January 19, 2021, BZA meeting, the Board reversed the decision made by staff and granted the petitioners a right to have a Variance hearing.
13. The Board requested information from staff and the petitioner to assist in making a fair decision on the issue.

**Additional Information**

Staff has confirmed that the property owners of 1848 Enslow Blvd. were approved for a six foot vinyl privacy fence in the rear yard of their property.

The petitioner has submitted a letter from the owners of 129 Wilson Ct. confirming they do not object to the unfinished side of the petitioner’s fence facing their property.

**Zoning Ordinance**

*Article 1341.19.A* requires that privacy fences shall be constructed so that the finished side of a fence faces toward abutting properties or right-of-ways.

**Summary / Findings of Fact**

1. William Chappelle is the owner and petitioner.
2. *Article 1341.19.A* requires the finished side of a privacy fence to face abutting properties.
3. The lot is approx. 5,663 sf.
4. This property is zoned R-1 Single-Family Residential District.

**Attachments**

- Please see attached Aerial map and letter from property owners of 129 Wilson Ct.



**127 Wilson Court**  
**BZA 21-A-01 - Appeal**  
**BZA 21-V-01 - Variance**  
**Privacy Fence Facing**



To Whom It May Concern,

This letter is in regards to the 6-foot privacy fence erected on the property line between 127 Wilson Court and 129 Wilson Court.

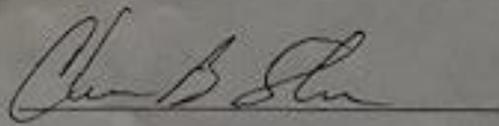
This fence was erected in collaboration with the owners from both properties. The residents of 129 Wilson Court were aware of the neighbors at 127 Wilson Court having a son, William Chappelle, with Autism Spectrum Disorder, because Charles Slash, of 129 Wilson Court, is William's respite care worker, and Jesska Slash, of 129 Wilson Court, is William's service coordinator.

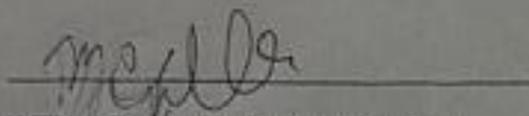
Before the fence was constructed, both neighbors planned the direction that the fence would face so that William Chappelle could be kept safe. The neighbors agreed that the fence should be constructed with the smooth side facing 127 Wilson Court. In order to construct this fence, the chain link fence belonging to the property of 129 Wilson Court had to be taken down. The residents of 127 Wilson Court and 129 Wilson Court arranged to have mutual friends remove this chain link fence.

The residents of both properties do not wish for any part of this fence to be changed.

  
Jessica Slash of 129 Wilson Court

  
Madaloyne Chappelle of 127 Wilson Court

  
Charles Slash of 129 Wilson Court

  
William Chappelle of 127 Wilson Court



APPLICATION FOR APPEAL FOR VARIANCE OF ZONING REGULATIONS

Planning and Zoning Huntington City Hall 800 Fifth Avenue P.O. Box 1659 Huntington, WV 25717 (304) 696-5540, opt 3

Applicant Name: William Chappelle Phone: 740 307 5285

Address (city, state, zip): 127 Wilson Ct Huntington WV 25701

Email:

Property Owner: William Chappelle Phone: 740 307 5285

Address (city, state, zip): 127 Wilson Ct Huntington WV 25701

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot.): 127 Wilson Ct Huntington WV 25701

Variance requested pursuant to:

Article 1341.19 and/or Figure of the City of Huntington Zoning Ordinance.

Description of the variance being requested: Privacy Fencing around backyard of 127 Wilson Ct. constructed on south side mt.

Description of property including tax map, parcel, lot number (if applicable), street address and/or other description: 127 Wilson Ct. Huntington WV 25701

Please describe the special conditions or attributes which pertain to the property or hardships for which the variance is sought (state any reason which the Board of Zoning Appeals should be aware of in forming its decision): My son has Autism, and is an elopement risk. Constructing the fence, finished side in does not allow him to have a foothold to climb the fence. My neighbor to the west (back) was constructed on white vinyl, fence directly behind my wood fence so it is not visible to him. Now child he can have a place I asked him. Fencing on the south side, woods at St. Chrysostomus, now is west privacy fence to address the planners reason for denying (Attach additional pages if necessary) my request for a variance or reasonable accommodation due to my sons disability.

**The following exhibits are to be attached and made part of this application:**

- Site plan of Real Estate involved (if applicable); drawn to scale with scale shown, with direction North clearly indicated on the drawing, showing all boundary lines and placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, etc.).
- Valid State or Federal Photo ID.
- Any and all documentation and evidence to support the request.
- One Hundred Sixty dollars (\$160.00) filing fee for each variance sought.

All of the above documentation is to be submitted to the office of Planning and Zoning by: 12/18/20 in order to be placed on the next Board of Zoning Appeals agenda. Incomplete documentation will delay applicants review by the BZA.

I/We, the undersigned, am/are aware that a Public Hearing by the Board of Zoning Appeals will be held on Tuesday, January 19, 2020. It is my responsibility to attend (or send a representative) to the above meeting to present plans and to answer any questions regarding the request for a Variance. All meetings are held at 5:30 p.m. in the City Council Chambers of Huntington City Hall.

<b>FOR OFFICE USE</b>
Received: <u>12/18/2020</u>
Staff Initials: <u>PU</u>
Project Number: <u>BZA 21-V-01</u>

[Signature]  
Signature of Applicant

12/18/20  
Date

[Signature]  
Signature of Property Owner

12/18/20  
Date

*\*All applications to be submitted must be typed or legibly written in blue or black ink.*

**FOR OFFICE USE ONLY**

**Board of Zoning Appeals**

Approved      Date of Decision: \_\_\_\_\_

Denied      Conditions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Planning Staff: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

# City of Huntington Board of Zoning Appeals

February 9, 2021

**Staff Report:** A petition for a Variance to reduce the required minimum width of a factory built dwelling unit from twenty-two (22) feet to fourteen (14) feet.

## Legal Ad

### BZA 21-V-01

*Issue:* A petition for a Variance from the Article 1341.23.B of the City of Huntington Zoning Ordinance requirement that a factory built home to be a minimum of twenty-two (22) feet in length and width. The property is located at 826 Burlington Road in Wayne County.

*Owner/Petitioner:* Robert and Christopher Fannin, 1014 11<sup>th</sup> Street, Huntington, WV

## Introduction

Robert Fannin is petitioning for a Variance to reduce the required minimum width of a factory built home from twenty-two (22) feet to fourteen (14) feet.

## Existing Conditions / Background

The petitioned property is situated on the east side of a dead end road third from the end on the block.

The property is zoned R-2 Single-Family Residential, as are the properties to the north and west. The property to the east, is zoned C-1 Neighborhood Commercial. The properties to the south are outside of city limits.

A portion of the property is located in the FEMA 100-year floodplain. The property has been professionally surveyed and an Elevation Certificate and plat have been submitted.

## Proposed Conditions

The proposed structure is a 14 x 40 (560 sq. ft.) storage structure that is being refitted for habitation. The building inspections office has confirmed that the structure can be made to meet building code.

The entrance of the structure would not face the road, as required in *Article 1315.09.B*. The petitioner will be required to include a door on the side of the structure facing Burlington Rd.

The proposed structure would meet the required setbacks. There will be a four foot wide porch on the north side of the structure and a six foot wide porch projecting into the front yard.

## Zoning Ordinance

*Article 1341.23.B*, the General Regulations for Factory Built Homes, requires that the minimum length and width of the home must be twenty-two (22) feet.

## Plan2025

Plan2025 Comprehensive plan for this neighborhood states that it is a concern of the Westmoreland residents that new residential developments match the overall neighborhood style or character.

## Summary / Findings of Fact

1. Robert Fannin is the owner and petitioner.
2. The variance is to allow for a structure that is less wide than the Ordinance requires.

3. The Ordinance requires a minimum width of twenty-two (22) feet.
4. The proposed width will be fourteen (14) feet.
5. The property is zoned R-2 Single Family Residential District, as well as all properties on same block. The school, Kellogg Elementary, to the east is zoned C-1 Neighborhood Commercial.
6. The lot is approx. 3,958 sf.

**Attachments**

- Aerial, Location, and Zoning Maps for reference.
- Site Plan provided by the applicant.
- Site pictures



# 826 Burlington Road Variance for Building Width of a Factory Built Home





# 826 Burlington Road Variance for Building Width of a Factory Built Home



## Future Land Use Zoning in Plan2025

- Commercial Node
- Traditional Residential

Location of Building Width Variance

BURLINGTON RD



0 15 30 60 90 120 Feet

# 826 Burlington Road Variance for Building Width of a Factory Built Home

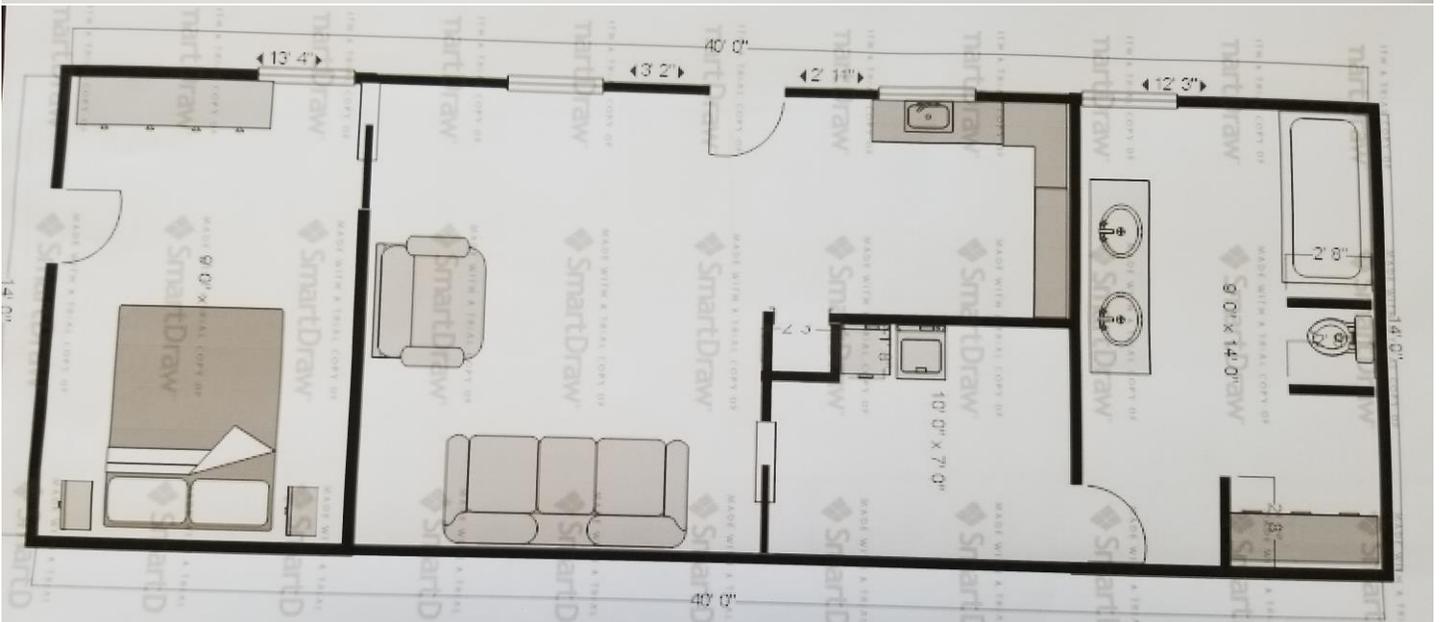
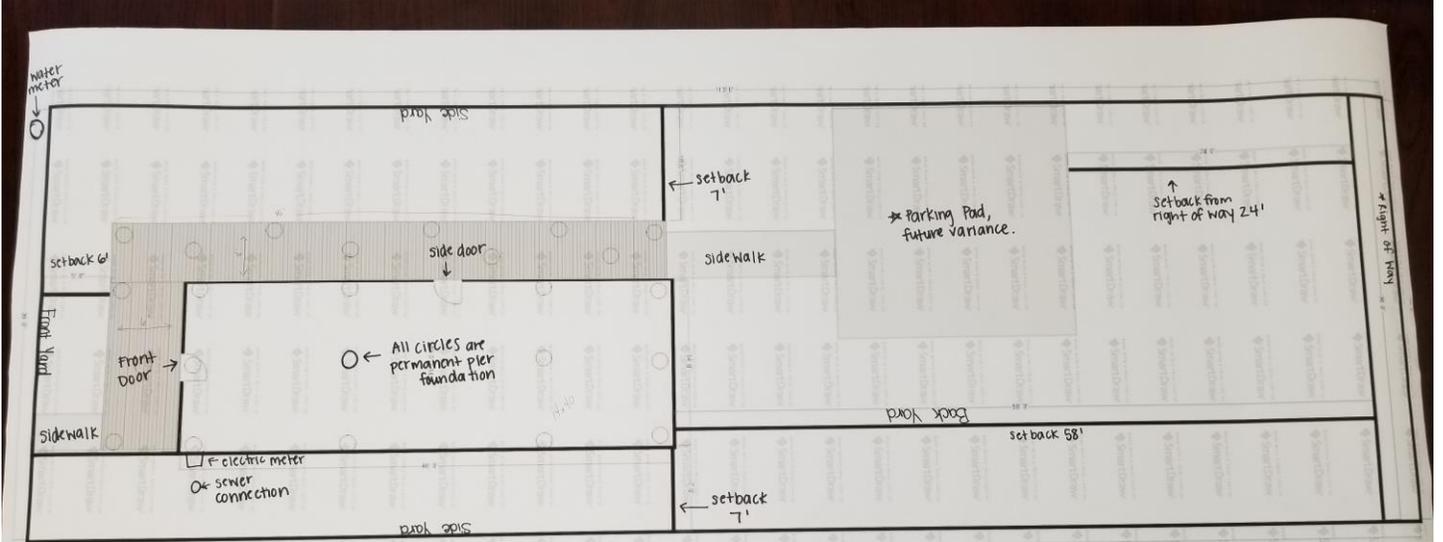




Figure 1: Photo of the petitioned property from Burlington Rd. The pink flags on the fence posts mark the property lines. The white lines are an approximation of where and how the structure will fit on the property; the blue lines are the proposed porch.

Figure 2 (below): Site plan of the property and structure submitted by the petitioner.

Figure 3 (bottom of the page): Internal layout of the proposed structure.





Figures 4 and 5: Pictures of the proposed structure.



Figures 6 and 7: Burlington Rd. looking north. The petitioner's property is located to the north of the blue house in Fig. 7



Figure 8 and 9: Burlington Rd. looking south.



**APPLICATION FOR  
APPEAL FOR  
VARIANCE OF  
ZONING  
REGULATIONS**

**Planning and Zoning**

**Huntington City Hall 800 Fifth Avenue**

**P.O. Box 1659**

**Huntington, WV 25717**

**(304) 696-5540, opt 3**

**Applicant Name:** Robert Fannin Phone: 859-361-1433

Address (city, state, zip): 826 Burlington Rd, Huntington WV 25704

Email: Randcky@gmail.com

**Property Owner:** Robert & Christopher Fannin Phone: 859-361-1433

Address (city, state, zip): 1014 11<sup>th</sup> Street Huntington, WV 25701

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

826 Burlington Rd Huntington WV 25740. Parcel # 06-6-02280000, BLK 5; LOT 3 SUB OF A, B, C, D E & F SUB 2 Z4

**Variance requested pursuant to:**

Article: 1341.23.B and/or Figure \_\_\_\_\_ of the City of Huntington Zoning Ordinance.

Description of the variance being requested:

The home must measure in width and length at least 22 feet for the main body.

Description of property including tax map, parcel, lot number (if applicable), street address and/or other description:

Parcel # 06-6-02280000, BLK 5; LOT 3 SUB OF A, B, C, D E & F SUB 2 Z4

Lot is 36ft x 110ft.

Please describe the special conditions or attributes which pertain to the property or hardships for which the variance is sought (state any reason which the Board of Zoning Appeals should be aware of in forming its decision):

We are applying for this variance because as we understand that our new home must be 22ft wide. Our lot is only 36ft wide. it would not allow for a structure to be 22ft wide. With the attached porch on our home it will be 18ft wide.

**(Attach additional pages if necessary)**

**The following exhibits are to be attached and made part of this application:**

- Site plan of Real Estate involved (if applicable); drawn to scale with scale shown, with direction North clearly indicated on the drawing, showing all boundary lines and placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, etc.).
- Valid State or Federal Photo ID.
- Any and all documentation and evidence to support the request.
- One Hundred Sixty dollars (\$160.00) filing fee for each variance sought.

All of the above documentation is to be submitted to the office of Planning and Zoning by: Jan 19 in order to be placed on the next Board of Zoning Appeals agenda. Incomplete documentation will delay applicants review by the BZA.

I/We, the undersigned, am/are aware that a Public Hearing by the Board **FOR OFFICE USE** of Zoning Appeals will be held on Tuesday, Feb 16. Received: 1-19-2021 It is my responsibility to attend (or send a representative) to the above Staff Initials: PMJ meeting to present plans and to answer any questions regarding the request Project Number: BZA 21-V-02 for a Variance. All meetings are held at 5:30 p.m. in the City Council Chambers of Huntington City Hall.

[Signature]  
Signature of Applicant

1-19-21  
Date

Same  
Signature of Property Owner

\_\_\_\_\_  
Date

*\*All applications to be submitted must be typed or legibly written in blue or black ink.*

**FOR OFFICE USE ONLY**

**Board of Zoning Appeals**

Approved  
 Denied

Date of Decision: \_\_\_\_\_  
Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Planning Staff: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

# City of Huntington Board of Zoning Appeals

March 4, 2021

**Staff Report** A petition for a Conditional Use Permit to allow a Craft Production Facility to operate in C-1 Neighborhood Commercial District.

## Legal Ad

### BZA 21-C-01

A petition for a Conditional Use Permit to allow a Craft Production Facility to operate in C-1 Neighborhood Commercial District. The property is located at 711 Adams Avenue, Cabell County Tax District 07, Tax Map 27, Parcel 399.

*Owner/Petitioner:* Viking Spirits and Distillery, 1801 Sycamore Street, Kenova, WV 25530

## Introduction

Viking Spirits and Distillery is petitioning to construct and operate a Craft Production Facility (microdistillery and winery) on Adams Avenue.

## Existing Conditions / Background

The property is approximately 11,468 sq. ft. of vacant land on the southwest corner of Adams Avenue and West 7<sup>th</sup> Street.

## Photos



Figure 1: Looking southeast from Adams Avenue.



Figure 2: Looking southwest from Adams Avenue.

## Proposed Conditions

Viking Spirits and Distillery is proposing to construct a large building to house the distillery and bottling, and a second building is being proposed to host tasting events.

The preliminary plans the petitioner submitted, which are included with the packet, have not taken into account all zoning regulations and building codes. The petitioner intends to hire an architect to design for the development once they are assured that the use will be allowed.

## Zoning Ordinance

*Article 1320* requires a Conditional Use Permit to operate a Craft Production Facility in a C-1 Neighborhood Commercial District.

*Article 1315* defines **Craft Production Facility** as a facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption, and which possesses the appropriate license from the State of West Virginia. On premise production includes more than 500 barrels per year. Tasting

rooms for the consumption of on-site produced beer, wine, or distilled products are permitted on premises as an accessory use. Retail sales are also permitted in hand-capped or sealed containers in quantities up to one-half barrel or 15.5 gallons sold directly to the consumer.

### **Staff Comments**

Viking Spirits and Distillery is the first micro production company to apply for permission to be located in the city. In 2015, the city amended the Zoning Ordinance to include Craft Production Facility as a use to encourage the growth of this industry to the area.

Granting this business the opportunity to operate in Huntington could encourage other craft production organizations to locate to the city, thus transforming Huntington into a destination location for visitors from other areas.

The proposal is in-line with the West Huntington neighborhood's Plan2025 goals for economic development to "focus on commercial and infill development along Adams Avenue" and add to the recreational attractions in the area.

There is concern about the ingress and egress of truck traffic on 7<sup>th</sup> Street W. According to Public Works, truck traffic has been prohibited onto 7<sup>th</sup> Street W. The turn radius from Adams Avenue onto 7<sup>th</sup> Street W. is not available without encroaching onto the property to the east of the intersection.

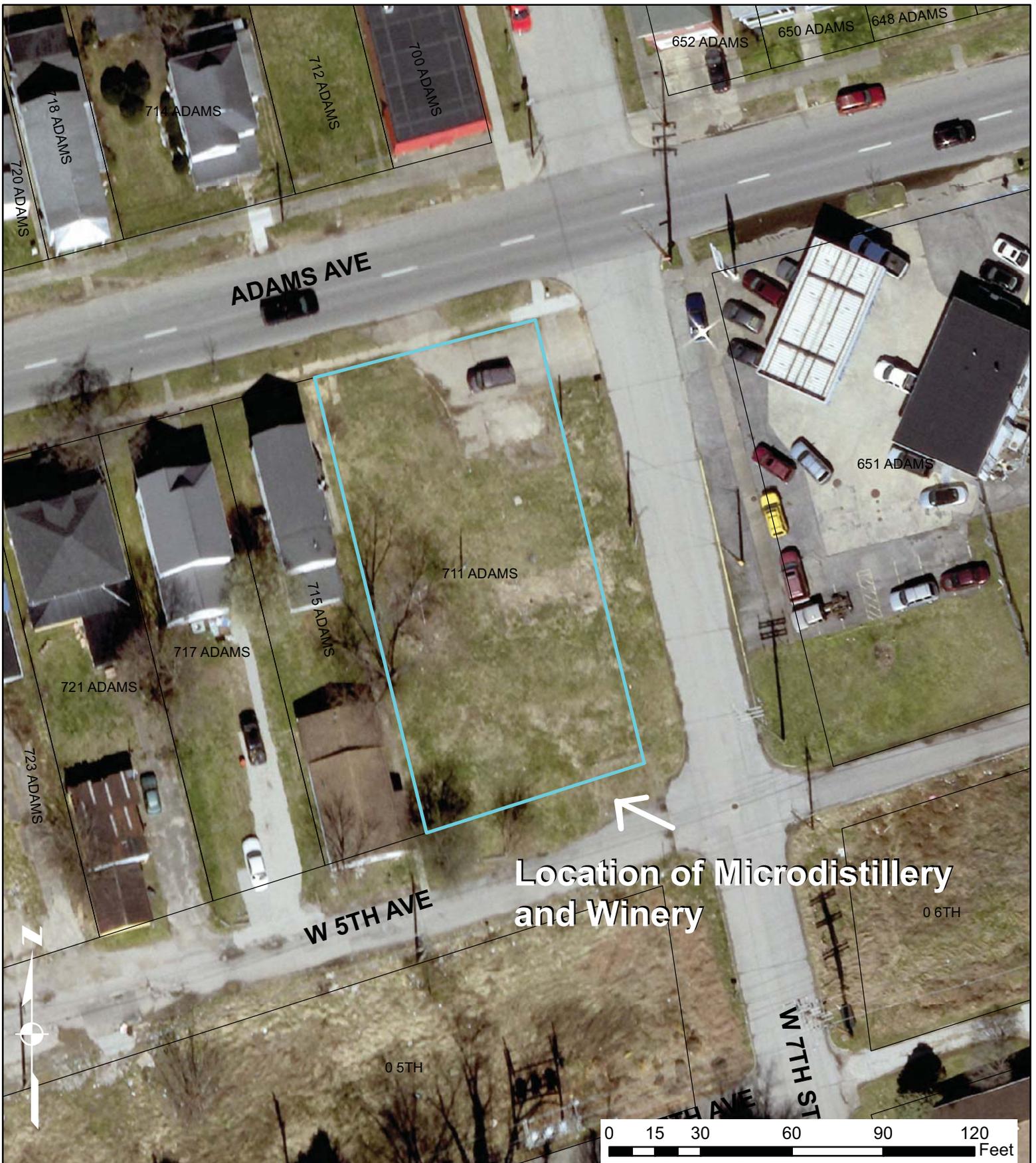
### **Summary / Findings of Fact**

1. Viking Spirits and Distillery is the owner and petitioner.

2. The proposed use is a Craft Production Facility (microdistillery and winery).
3. The property is zoned C-1 Neighborhood Commercial District.
4. The lot is approx. 11,468 sf.
5. The petitioner is proposing to operate a microdistillery and winery production facility.
6. The property is zoned C-1 Neighborhood Commercial District.

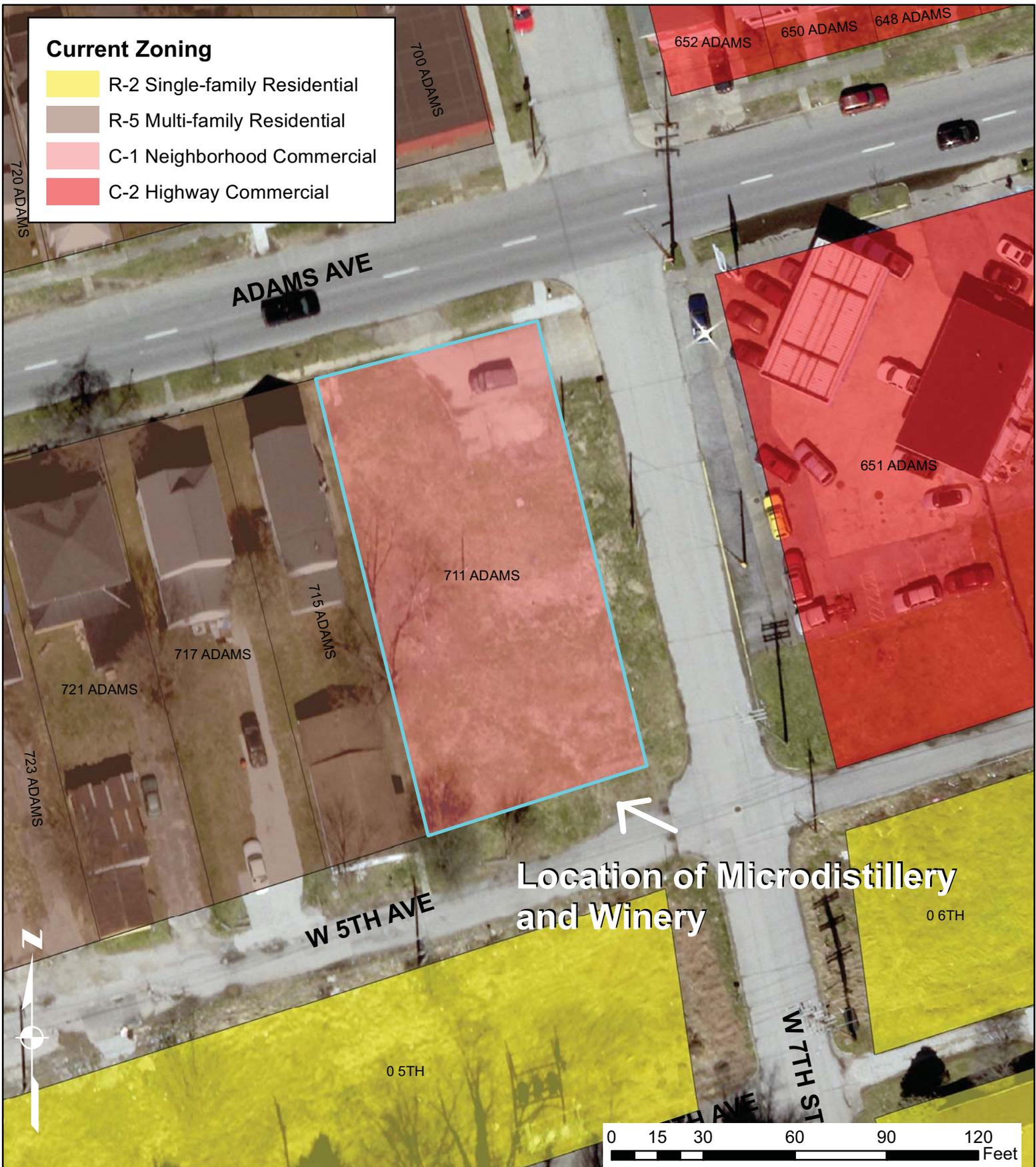
### **Attachments**

Please see attached Aerial, Location, and Zoning Maps for reference.



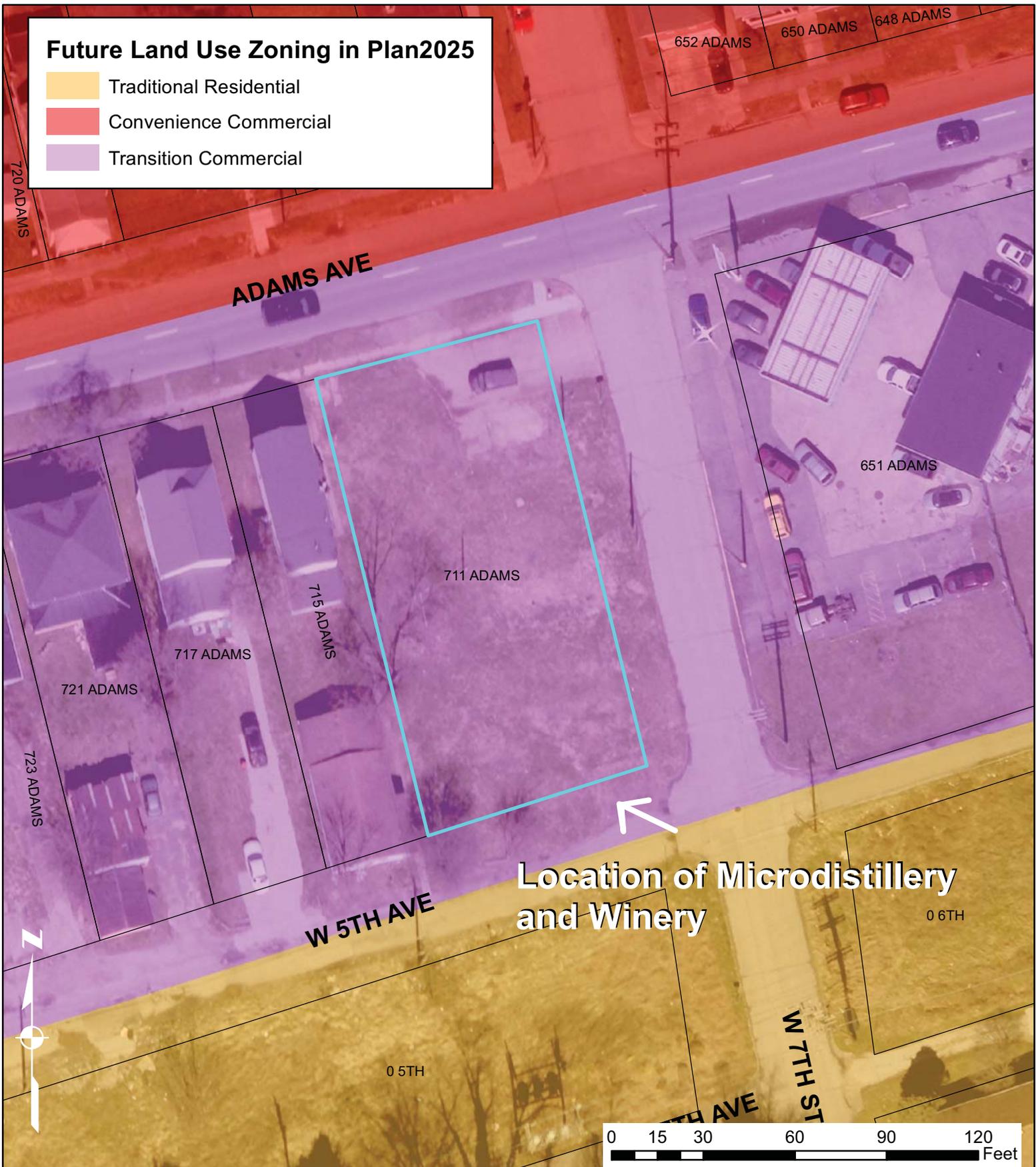
# 711 Adams Ave Craft Production Facility Microdistillery and Winery





**711 Adams Ave  
 Craft Production Facility  
 Microdistillery and Winery**





# 711 Adams Ave Craft Production Facility Microdistillery and Winery





APPLICATION FOR
CONDITIONALLY
PERMITTED USE

Planning and Zoning
Huntington City Hall
800 Fifth Avenue
P.O. Box 1659
Huntington, WV 25717
(304) 696-5540, opt 3

Applicant Name: Viking Spirits & Distilling, LLC (Steve Fannin, Member) Phone: 513-432-1347

Address (city, state, zip): 1801 Sycamore Street, Kenova, WV 25530

Email: shadow933b@gmail.com

Property Owner (if applicable): same as above Phone: same as above

Address (city, state, zip): same as above

Please list the Location (address) and Description (Tax Map Number, Parcel, and Lot,):

711 Adams Avenue, Huntington, WV 25701 Tax Map Number: 07 27039900000000 (7-27-399)

Parcel 399, Block 32, Lots 16, 17 & 18

Description

Under the terms and conditions indicated in Article 1359 of the Zoning Ordinance, application is hereby made for a Conditional Use pursuant to Article 1327 to allow the following:

Operate a Microdistillery and Winery to manufacture alcoholic beverages for on-site sampling and retail sales pursuant to licenses issued by the State of West Virginia.

The following exhibits are to be attached and made part of this application:

- Site Plan of Real Estate involved (if applicable): Drawn to Scale with scale shown, the direction of North clearly indicated on the drawing, showing all boundary lines and placement of existing and/or proposed structures, and with all dimensions shown (setbacks, buildings, etc).
Valid State or Federal Photo ID.
Any and all documentation and evidence to support the request.
Treasurers Receipt for One Hundred Sixty Dollars (\$160.00) filing fee for each Conditional Use sought.

All of the above documentation is to be submitted to the Planning Commission office by . Incomplete documentation will delay applicants review by the Board of Zoning Appeals.

Notice of Procedure

I/We, the undersigned am/are aware that the Board of Zoning Appeals will hold a public hearing on the request for a Conditional Use on Tuesday, at 5:30pm in City Hall Council Chambers. It is my responsibility to attend (or send a representative/agent) to this meetings to present plans and to answer any questions regarding the request for a Conditional Use.

Signature of Applicant

Date

\*All applications to be submitted must be typed or legibly written in blue or black ink.

FOR OFFICE USE
Received: 2.1.2021
Staff Initials:
Project Number:
Meeting Date:

BZA Decision:
o Approved
o Denied
o Approved with conditions
Conditions:



## APPLICATION FOR CONDITIONALLY PERMITTED USE

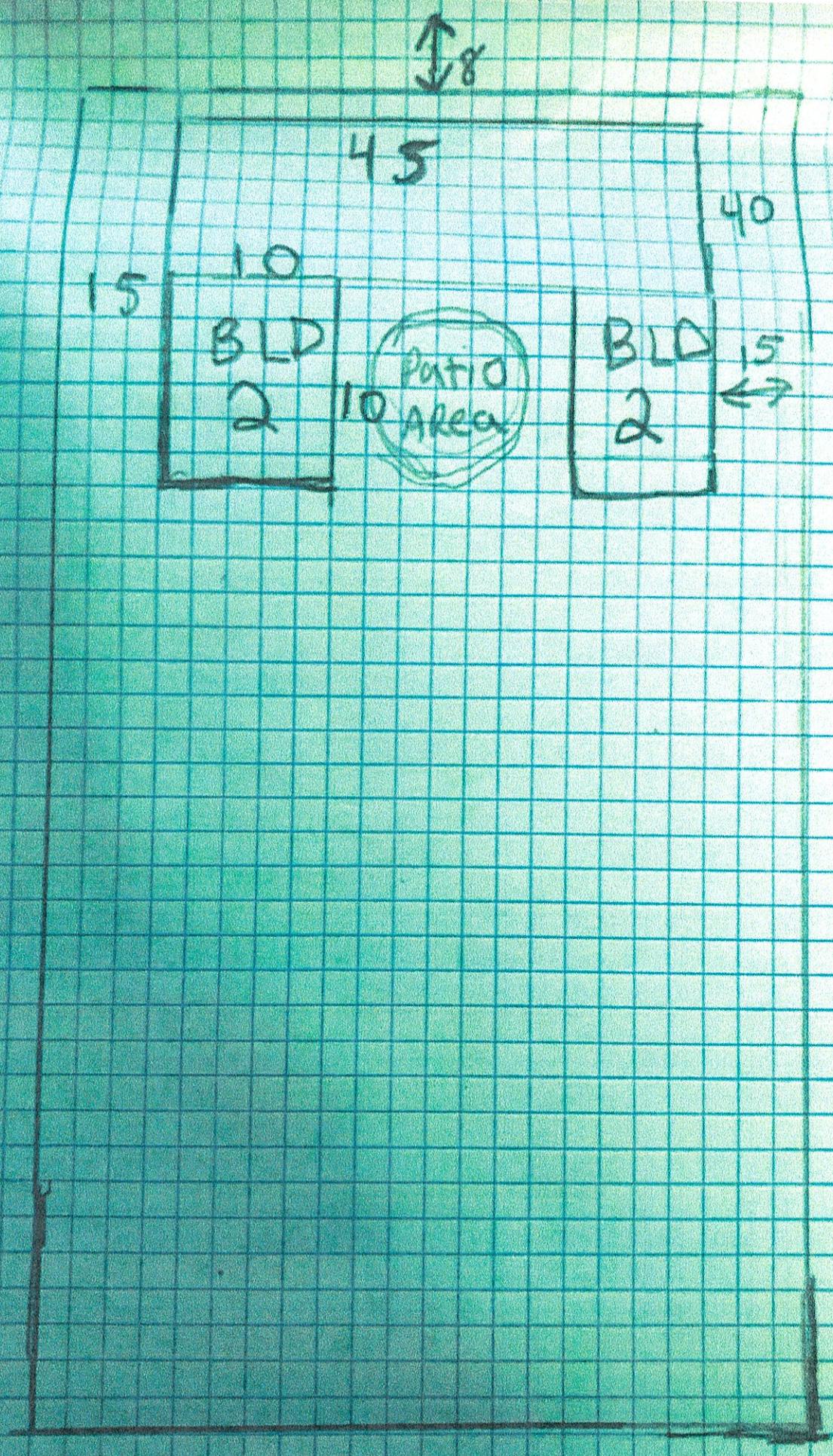
Planning and Zoning  
Huntington City Hall  
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Huntington, WV 25717  
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### Attachment A

In making its decision to approve or deny a request for Conditional Use, the Board of Zoning Appeals must consider the following six issues. Please provide a written statement how the proposed Conditional Use will affect each of these considerations.

1. Effect upon the Comprehensive Plan (available online or from the Planning and Zoning Office).  
VS&D will contribute to Plan 2025's objectives. The parcel is located in an area designated for enhancement and enrichment of existing development and will reduce vacant land. The tasting room will draw visitors and easily accessible by auto, foot or bicycle. Industrial impact is very low.
2. Public health, safety, morals, and general welfare.  
VS&D will practice strict age verification to ensure that no product is provided to persons under 21 years old. On-site consumption will comply with WVABCA limitations to prevent intoxicated patrons. Mr. Fannin intends to build a mutually beneficial relationship with local law enforcement.
3. Potential injury to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.  
Hours of operation for public guests will be limited to reduce potential for boistrous crowds at nighttime. VS&D's manufacturing will only occur during the daytime. Noise, odors and commercial traffic will be minimal. Mr. Fannin will be present at nearly all times that the business is open.
4. Effect upon the normal and orderly development and improvement of surrounding property for uses already permitted in the District.  
VS&D's desired use will enhance the corner of Adams Ave and 7th Street. VS&D will maintain the sidewalk and street facing facade to improve pedestrian access in the area. The parcel is the only vacant parcel at the intersection and would not disrupt any nearby improvements.
5. Adequate provisions for utilities, access roads, drainage, and other necessary facilities.  
The parcel is ready to be connected to electrical, natural gas, sewer and drainage. VS&D will consult and retain professional electrical and plumbing contractors to ensure that all connections are safe and operational with in Huntington's building and mechanical codes.
6. Adequate ingress and egress so designed to minimize traffic congestion in the public street.  
The parcel has two paved curb cuts, one to Adams Ave and another to 7th Street. Commercial will have access to the rear of the building for loading and unloading. Any visitors arriving by auto will have access to street parking along 7th Street.

*\*All applications to be submitted must be typed or legibly written in blue or black ink.*



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