

MARTINSBURG BOARD OF ZONING APPEALS
April 16, 2019 6:30pm
232 N. Queen Street
J. Oakley Seibert Council Chambers
Special Meeting Minutes

With a quorum present, Chairperson Dulyea called the special scheduled meeting of the City of Martinsburg Board of Zoning Appeals to order at 6:30 p.m. The following Boardmembers were present: Mary Dulyea, Doreane Mosser, Brenda Casabona, and Dena Morgan. Absent was: Tom Johnson. Also, in attendance were: Legal Counsel Kin Sayre, City Engineer/Planning Director Kimberly Petrucci, City Planner Dana Keith and Planning Secretary Brianne Mann.

APPROVAL OF April 2, 2019 MEETING MINUTES

Boardmember Casabona made the motion to approve the April 2, 2019 minutes. The motion was seconded by Board member Morgan. Motion passed.

OLD BUSINESS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

Project SE#19-00004. 119-121 E. Race Street. Public Hearing. Special Exception application pursuant to Martinsburg Zoning Ordinance Section 560 Table of Zoning District Uses and Section 523 Downtown Business District to allow vegetation extraction and distillation. Dennis Cates, appellant.

After being sworn in by Legal Counsel, Dennis Cates, 204 Potter Road, Hedgesville, explained that he is the owner of School House Hemp, LLC. He stated that he is applying for a special exception to propagate and distill botanical oils and industrial hemp on the property located at 119-121 E. Race Street. Mr. Cates that it is his intent to also have retail and wholesale of his products. Mr. Cates stated that the retail hours tentatively would be 8 or 9 am to 5 or 6 pm but that once the extraction process began, the production hours would probably go beyond the retail hours.

Boardmember Casabona questioned where the retail space will be located. Mr. Cates stated that the retail space will be located at the 121 E. Race Street address.

Boardmember Casabona questioned the square footage of leased spaced that will be used for retail. Mr. Cates shared that roughly 400 square feet will be used as retail space. Boardmember Casabona then questioned the total square footage of leased space. Mr. Cates stated that the remaining square footage will be used for production. Boardmember Casabona questioned the lease and if Mr. Cates was leasing the entire building or just the first floor. Mr. Cates stated that

the original lease is for just the office space but that he has the “Right of First Refusal” to lease the entire building. Mr. Cates further stated that the second floor of the building is roughly 10,000 square feet and he plans to use this as extractor and grow space.

Boardmember Casabona questioned if the first stage of Mr. Cates’ plans were clean up or immediate retail. Mr. Cates replied that he intends to have retail immediately. He will have Connor Institute out of Maryland swab the building and take samples for heavy metals and other materials and will provide a report for what needs to be addressed in the building for clean up purposes.

Boardmember Casabona questioned what was envisioned for the property and whether Mr. Cates thought the wholesale or the retail portion of the business would be larger. Mr. Cates responded that the wholesale side was a larger portion, but it would be a processing center for now. He stated that other farmers were interested in the process and possibly integrating hemp plants into their crops.

Boardmember Casabona questioned whether Mr. Cates anticipated a better revenue from the consultations and selling products to farmers or selling the extractions to other industries for medicinal purposes. Mr. Cates stated that he anticipates the revenue from the “co-op” would be better than the retail space, however, this would be dependent on the traffic of the Eastern Panhandle and surrounding areas to the store. Mr. Cates further stated that he hopes that the retail section of his business will do as well, if not better, than wholesale side.

City Planner Dana Keith stated that although there were no concerns with the distillation or retail space, she does have concerns about the lease and the section in the lease that states the property isn’t under any zoning ordinance. Ms. Keith stated she would like to see this changed in the contract since that was the reason that Mr. Cates needed to appear before the Board of Zoning Appeals.

Chairman Dulyea opened the Public Hearing at 6:42 pm.

Lyle Tabb of 695 Old Leetown Pike, Kearneysville, came forward and spoke in favor of the request. He stated that he is a crop farmer in Berkeley and Jefferson Counties and is interested in learning a lot about hemp and the opportunities that this niche farming may provide to farmers and other businesses who want to take the next step to process beyond what Mr. Cates is doing.

Charles Meister of 3970 Greensburg Road, Martinsburg, came forward and spoke in favor of the request. Mr. Meister stated that his grandson suffers from Chron’s disease which causes him a lot of pain and to not be able to eat, resulting in weight loss. His grandson uses cannabis oil to help with pain and ability to eat to assist in weight gain.

Noah Wells of 530 Consiler Lane, Hedgesville, came forward and spoke in favor of the request. He stated that he moved from Colorado to assist Mr. Cates in this process. He further stated that he has assisted in over 30 farms in 8 states and that Mr. Cates is, by far, the most

competent/successful farmer that he has worked with. Mr. Wells stated that this is a tremendous opportunity.

Jeffrey Martin of 1360 Specks Run Road, Bunker Hill, came forward and spoke in favor of the request. He shared that his father suffers from arthritis, as do many others, that the cannabis oil can be used for. Mr. Martin stated that this will also bring jobs to Martinsburg and he believes this is a positive thing.

Barbara Bratina of 116 N. Tennessee Avenue came forward and read a prepared statement as to why she is against this request. Ms. Bratina is the co-owner of L. A. Roberts Jewelers located at 146 N. Queen Street, Martinsburg.

Chairman Duylea closed the Public Hearing at 6:51 pm.

Chairman Duylea read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.32: The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it, are such that it will be in harmony with the appropriate and orderly development of the district in which it is located. Planning Secretary Brianne Mann provided a roll call vote for this condition and there was a unanimous roll call vote of "aye".

Chairman Dulyea read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.33: The location, nature and height of buildings, walls, and fences, and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings. Ms. Mann had a roll call vote for this condition and there was a unanimous roll call vote of "aye".

Chairman Dulyea read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.34: Operations in connection with any special use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, or other characteristics, than would be the operations of any permitted use not requiring a special permit. Ms. Mann provided a roll call vote and there was a unanimous roll call vote of "aye".

Chairman Dulyea read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.35: Parking areas will be of adequate size for the particular use, properly located and suitable screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety. Ms. Mann had a roll call vote for this condition and there was a unanimous roll call vote of "aye".

Chairman Dulyea read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.36: Public utility service (electricity, sewerage, storm drainage and water) will be adequate to service the proposed use and will have

suitable access thereto, and the proposal will not overburden existing facilities; or, any onsite water supply, sewage treatment, or storm drainage disposal system will be adequate to service the proposed use. Ms. Mann had a roll call vote for this condition and there was a unanimous roll call vote of “aye”.

All Boardmembers agreed the application has met the requirements for the Special Exception.

Legal Counsel Kin Sayre stated that the Special Exception needed to include that the facility needed to be licensed under the West Virginia Industrial Hemp Act and be in compliance with the West Virginia Industrial Hemp Act, if not licensed, they need to apply for licensing. Mr. Sayre also stated that the property must contain the retail component and that the lease for the property needs to be changed to address that the property is subject to the Zoning Ordinance.

Boardmember Mosser made the motion to approve the application requesting a Special Exception application pursuant to Martinsburg Zoning Ordinance Section 560 Table of Zoning District Uses and Section 523 Downtown Business District to allow vegetation extraction and distillation with the references aforementioned to apply only to the appellant. Dennis Cates, appellant. The motion was seconded by Boardmember Casabona. Motion was approved.

DISCUSSION/ACTION ITEMS

None

OTHER BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 7:01 p.m. by unanimous consent.

Mary Dulyea, Chairperson

Brianne Mann, Planning Secretary