

MARTINSBURG BOARD OF ZONING APPEALS
April 2, 2019 6:30pm
232 N. Queen Street
J. Oakley Seibert Council Chambers
Regular Meeting Minutes

With a quorum present, Chairperson Dulyea called the regular 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, Brenda Casabona, Tom Johnson, and Dena Morgan. Absent was: Doreane Mosser. 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 December 4, 2018 MEETING MINUTES

Board member Casabona made the motion to approve the December 4, 2018 minutes. The motion was seconded by Board member Johnson. Motion passed.

OLD BUSINESS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

- 1. Project SE#19-00007. 215 N. Tennessee Avenue. Public Hearing.** Special Exception application pursuant to Martinsburg Zoning Ordinance Section 513 "Urban Residential A District" to allow an Air bnb (tourist home) within the district. William Day, appellant.

After being sworn in by Legal Counsel, William Day, 215 N. Tennessee Avenue, explained that he is the owner of the residence. He stated that he is applying for a special exception to have an Air bnb at this same location. Mr. Day stated that there are 3 rooms available, 2 bedrooms and a relaxation room/reading room. He shared that all guests would share one bathroom and that there would be light snacks and drinks available in the foyer. Mr. Day stated that there would be a separate entrance for the guests and that with its close proximity to the hospital, he feels it will be a good location to attract nurses, etc. Mr. Day stated that this residence is also close to War Memorial Park, therefore, they would promote special events and promote downtown businesses for the City of Martinsburg.

Board member Johnson questioned how far into the process Mr. Day was. Mr. Day stated that they needed to install a wall and remodel the bathroom.

Board member Johnson questioned the parking of guests. Mr. Day shared that there was room for guests to park in the driveway beside the house and at most one car might need to park on the street.

Board member Casabona questioned whether the rooms would be rented together or separate. Mr. Day replied that the intent was to rent one room at a time in the beginning, but the goal is to rent one week at a time.

Board member Johnson questioned whether or not discussions were had with the neighbors regarding the intent for the property. Mr. Day responded that he has conversations with the immediate neighbors, but not anyone else.

Board member Casabona questioned what Mr. Day was going to do in regards to screening the tenants who want to rent rooms. Mr. Day stated that only people who book through the Air bnb website and only those with good ratings would be permitted to rent his rooms.

Board member Casabona questioned whether Mr. Day was permitted to reject potential tenants. Legal Counsel Kin Sayre stated that Mr. Day can legally reject tenants.

Board member Casabona questioned the number of nights per month Mr. Day was anticipating renting the rooms. Mr. Day stated roughly 15 nights per month with a maximum rental of 22 nights. This would allow for cleaning of the areas after use.

Board member Casabona questioned how much additional traffic this would generate. Mr. Day stated 2 additional cars at a time.

Board member Casabona questioned the "in and out" activity of the residence. Mr. Day stated that the front entrance would be the only one utilized and feels that this would primarily be at night as a lot of the tenants would probably be working during the day if they had the tenants they are hoping to attract.

Board member Casabona questioned whether this location was a tourist or semi-residence location. Mr. Day stated that he would not turn away either type of renter, however, he was hoping to capture people who rent weeks at a time.

Board member Casabona questioned if Health Department inspections were needed. Mr. Day responded that they are only serving cookies, teas, coffee, and light snacks, no food, so nothing is needed from the Health Department.

City Planner Dana Keith stated that although she could not confirm the numbers of existing Air bnb's in the City of Martinsburg and in Berkeley County, there are no staff concerns.

Board member Casabona questioned if all Air bnb's are required to have city business licenses, pay taxes, etc. City Engineer/Planning Director Kimberly Petrucci stated yes; they do.

Chairman Dulyea opened the Public Hearing at 6:41 pm.

Barbara Bratina of 116 N. Tennessee Avenue came forward and presented a petition with 19 signatures against the request. Ms. Bratina then read a prepared statement as to why she is against this request.

Dennis Clark of 804 Jerry Court came forward and stated that he resides one mile away from the location of the proposed Air bnb. Mr. Clark further stated that he owns a rental house next door. He stated that his rentals are leased for 1 year at a time and he has concerns with people being at the Air bnb on a short-term basis. Mr. Clark shared he has concerns about people staying up late at night or bringing in other people who are not renting a room at the Air bnb.

Cynthia Baynham of 1225 W. King Street came forward and stated that her daughter owns the house next door. She stated that both she, and her daughter, are against this request.

Chairman Duylea closed the Public Hearing at 6:50 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. Discussion included the nature of a residential neighborhood and the fact that the neighbors are all against this request. Also, the length of the rental contract, that a homeowner can legally rent their home for any amount of time they choose and that all current Air bnb's operating in the city are doing so without approval from the city. Planning Secretary Brianna Mann had a roll call vote for this condition and the majority voted no.

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. There was general agreement for no concern.

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 general agreement for no concern.

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. This condition was not agreed upon by the board.

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. There was general agreement for no concern.

All Boardmembers agreed the application has not met the requirements for the Special Exception.

Boardmember Casabona made the motion to approve the application requesting a Special Exception application pursuant to Martinsburg Zoning Ordinance Section 513 "Urban Residential A District" to allow an Air bnb (tourist home) within this district. William Day, appellant. The motion was seconded by Boardmember Johnson. Motion was denied.

DISCUSSION/ACTION ITEMS

None

OTHER BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 7:13 p.m. by unanimous consent.

Mary Dulyea, Chairperson

Brianne Mann, Planning Secretary