

MARTINSBURG BOARD OF ZONING APPEALS
August 7, 2018 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: Martin Bales, Doreane Mosser, Brenda Casabona, Mary Dulyea and Tom Johnson. Absent was: David Carroll. Also, in attendance were: Legal Counsel Kin Sayre and City Planner Tracy Sherman.

APPROVAL OF July 10, 2018 MEETING MINUTES

Boardmember Bales made the motion to approve the July 10, 2018 minutes. The motion was seconded by Boardmember Johnson. Motion passed.

OLD BUSINESS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

- 1. Project # SE 18-00033. 115 S. Queen Street. Public Hearing.** Application requesting a Special Exception pursuant to Martinsburg Zoning Ordinance 7-0-78 Section 523.2 to regulate the sale of alcoholic beverages. Berkeley Pottery, appellant.

After being sworn in by Legal Counsel, Mark Thompson, 115 S. Queen Street, explained that the plan in choosing Queen Street was because they live locally in town and want to add to the journey of becoming a vibrant, welcoming and creative community. He added that selling wine to their guests would be staying within in their business plan and achieving financial viability.

Chairperson Dulyea asked if they have contacted ABC about their alcohol license. Mr. Thompson answered yes and that they have been before the City Council. Chairperson Dulyea then asked if they would be serving food along with the alcohol. Mr. Thompson answered yes to that as well.

Boardmember Bales asked for the hours of operation. Mr. Thompson replied 10am to 7pm and possibly later on the occasional special event. The hours are for Sunday through Saturday.

Boardmember Casabona asked if the wine would be sold by the bottle or by the glass. Mr. Thompson answered that wine would be sold by the glass only during regular business hours.

City Planner, Tracy Sherman provided a staff report stating that there are no staff concerns.

Chairperson Dulyea opened the Public Hearing at 6:36 p.m. As no one else came forward to speak for or against the request, the public hearing was closed at 6:36 p.m.

Chairperson Dulyea led the discussion on Section 702.32. A written application for a Special Exception is submitted demonstrating all of the following points:

Chairperson Dulyea 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. There was general agreement for no concern.

Chairperson 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.

Chairperson 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. There was general agreement for no concern.

Chairperson 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. There was general agreement for no concern.

Chairperson 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 met the requirements for the Special Exception.

Boardmember Casabona made the motion to approve the application requesting a Special Exception pursuant to Martinsburg Zoning Ordinance 7-0-78 Section 523.2 to regulate the sale of alcoholic beverages. Berkeley Pottery, appellant. The motion was seconded by Boardmember Bales and followed by a unanimous vote of "aye". Motion passed.

2. Project # SE 18-00036. 139 S. Queen Street. Public Hearing. Application requesting a Special Exception pursuant to Martinsburg Zoning Ordinance 7-0-78 Section 523.2 to regulate the sale of alcoholic beverages. New Peking Restaurant, appellant.

After being sworn in by Legal Counsel, Mary Lewis, 518 W. Burke Street, explained that the chef from the previous owner bought the business. He plans to serve the same dishes with the addition of a few special dishes. Alcohol will be served to customers at the front bar only at this time and the rear bar would be there for any possible overflow. She added that the hours of operation will be Monday – Thursday, 11am to 10pm, Friday and Saturday, 11am to 11pm and Sunday, 12pm to 10pm. Ms. Lewis stated that these hours are consistent with the hours of the original Peking restaurant.

City Planner, Tracy Sherman provided a staff report stating that staff has no concerns.

Chairperson Dulyea opened the Public Hearing at 6:41 p.m.

- Hal Vanmetre, 522 W. Burke Street, stated that he was in favor of the application because Peking has been an iconic part of downtown and the New Peking would continue this tradition.

As no one else came forward to speak for or against the request, the public hearing was closed at 6:43 p.m.

Chairperson Dulyea led the discussion on Section 702.32. A written application for a Special Exception is submitted demonstrating all of the following points:

Chairperson Dulyea 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. There was general agreement for no concern.

Chairperson 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.

Chairperson 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. There was general agreement for no concern.

Chairperson 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. There was general agreement for no concern.

Chairperson 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 met the requirements for the Special Exception.

Boardmember Casabona made the motion to approve the application requesting a Special Exception pursuant to Martinsburg Zoning Ordinance 7-0-78 Section 523.2 to regulate the sale of alcoholic beverages. New Peking Restaurant, appellant. The motion was seconded by Boardmember Bales and followed by a unanimous vote of "aye". Motion passed.

- 3. Project # SE 18-00037. 123-129 N. Queen Street. Public Hearing.** Application requesting a Special Exception from Section 624.2 "Multiple-Family Dwelling Units in Combination with Business Use". Moby, LLC., appellant.

After being sworn in by Legal Counsel, Hal Vanmetre, 522 W. Burke Street, explained that the building was originally requested to have seven apartments and three commercial spaces downstairs. He is asking to be allowed eight apartments. Mr. Vanmetre stated that a tenant moved and the apartment is very large so he would like to add the eighth unit.

Boardmember Casabona asked for the layout with the new unit compared to the other units. Mr. Vanmetre stated that the unit spanned the entire three storefronts and it goes back about fifty feet which means they will be comparable in size.

Boardmember Bales asked if there would be a tub in the new bathroom as it is not shown on the schematics. Mr. Vanmetre replied yes. He added that the building is sprinkled for safety purposes.

Boardmember Casabona asked if there were a problem at this point with the spaces being full. Mr. Vanmetre responded not at this time.

Chairperson Dulyea asked for the size of the units. Mr. Vanmetre answered that the two-bedroom is 900-square-feet and the one-bedroom is 650-square-feet. He added that the other apartments are all two-bedroom units at about 800-square-feet.

City Planner, Tracy Sherman provided a staff report stating that back in 2006 there was a request to put the apartments in upstairs but there was a tenant at the upper front who has since gone out of business and left the vacant space. Ms. Sherman advised that the rental housing inspector will inspect each unit and that a building permit will be need for the renovation which will then be inspected by the building inspector. As the building is zoned BD there are no parking requirements, but there is a parking lot in the rear of the building that will support all of the units.

Chairperson Dulyea opened the Public Hearing at 6:50 p.m. As no one came forward to speak for or against the request, the public hearing was closed at 6:50 p.m.

Chairperson Dulyea led the discussion on Section 702.32. A written application for a Special Exception is submitted demonstrating all of the following points:

Chairperson Dulyea 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. There was general agreement for no concern.

Chairperson 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.

Chairperson 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. Boardmember Bales asked that any demolition be done during the day as to not disturb the other tenants. There was general agreement for no concern.

Chairperson 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. There was general agreement for no concern.

Chairperson 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 met the requirements for the Special Exception.

Boardmember Casabona made the motion to approve the application requesting a Special Exception from Section 624.2 "Multiple-Family Dwelling Units in Combination with Business Use". Moby, LLC., appellant. The motion was seconded by Boardmember Bales and followed by a unanimous vote of "aye". Motion passed.

DISCUSSION/ACTION ITEMS

None

OTHER BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 6:56 p.m. by unanimous consent.

Mary Dulyea, Chairperson

Holly Hartman, Planning Secretary