

**MARTINSBURG BOARD OF ZONING APPEALS**  
**January 3, 2017 6:30pm**  
**232 N. Queen Street**  
**J. Oakley Seibert Council Chambers**  
**Regular Meeting Minutes**

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With a quorum present, Chairperson Schoppert called the regular scheduled meeting of the City of Martinsburg Board of Zoning Appeals to order at 6:30 pm. The following Boardmembers were present: Mary Dulyea, Brenda Casabona, Shelly Schoppert, Doreane Mosser, Martin Bales and Tom Johnson. Also in attendance were City Planner Tracy Smith, Legal Counsel Chris Peterson and Planning Secretary Holly Hartman.

**APPROVAL OF** December 6, 2016 **MEETING MINUTES**

Boardmember Dulyea made the motion to approve the December 6, 2016 minutes. Boardmember Johnson seconded the motion that was followed by a unanimous vote of “aye”. Motion carried.

**OLD BUSINESS**

None

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

- 1. CASE # SE17-002. 200 W. Burke Street. Public Hearing.** Special Exception request pursuant to Martinsburg Zoning Ordinance 7-0-78 Section 523.2 to regulate the sale of alcoholic beverages. The Peppermill, appellant.

After being sworn in by Legal Counsel, Cody Sheppard, 959 Weaver Lane, stated that he is the General Manager and Executive Chef of The Peppermill and that he is requesting permission to sell alcoholic beverages.

City Planner, Tracy Smith, provided a staff report, advising the sections that need reviewed and stating that the other restaurants in the same location were approved Special Exceptions for the on-site consumption of alcohol and there were no issues. Ms. Smith asked that if an approval is given that it be contingent upon the owner being Dan Dulyea or Cody Sheppard as Mr. Sheppard plans to purchase the restaurant in a few years.

Chairperson Schoppert opened the Public Hearing at 6:34 p.m.

- Helen Henderson, 211 W. Burke Street, spoke in favor of the project and inquired as to the proposed hours of the restaurant.

Boardmember Casabona responded that the application lists the business hours as Monday through Thursday 11am - 9pm, Friday and Saturday 11am - 10pm and closed on Sunday.

As no one else came forward to speak for or against the request, the public hearing was closed at 6:35 p.m.

Legal Counsel Chris Peterson read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.31: The proposed use is in harmony with the purpose and intent of the Martinsburg Comprehensive Development Plan and of this zoning ordinance. There was general agreement for no concern.

Mr. Peterson 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.

Mr. Peterson 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.

Mr. Peterson 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.

Mr. Peterson 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.

Mr. Peterson 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 Dulyea recused herself from voting on this case as it is a conflict of interest. Alternate member Tom Johnson was appointed to vote on this request.

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 contingent upon either Dan Dulyea or Cody Sheppard as owner. The motion was seconded by Boardmember Johnson and followed by a unanimous vote of "aye". Motion approved.

## **DISCUSSION/ACTION ITEMS**

### **ELECTION OF OFFICERS**

Mr. Peterson opened the floor for nominations for Chairperson.

Boardmember Bales nominated Boardmember Schoppert to remain as Chairperson seconded by Boardmember Casabona. Boardmember Schoppert respectfully accepted. With no other nominations, Mr. Peterson moved to close the floor for nominations. Nomination passed by a unanimous vote of "aye." Boardmember Schoppert was re-elected as Chairperson.

Mr. Peterson opened the floor for nominations for Vice-Chairperson.

Boardmember Casabona nominated Boardmember Dulyea as Vice-Chairperson seconded by Boardmember Schoppert. Boardmember Dulyea respectfully accepted. With no other nominations, Mr. Peterson moved to close the floor for nominations. Nomination passed by a unanimous vote of "aye." Boardmember Dulyea was elected as Vice-Chairperson.

### **OTHER BUSINESS**

None

### **ADJOURNMENT**

The meeting was adjourned at approximately 6:40 pm by unanimous consent.

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Shelly Schoppert, Chairperson

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Holly Hartman, Planning Secretary