

MARTINSBURG BOARD OF ZONING APPEALS
July 10, 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 David Carroll. Absent was: Tom Johnson. Also, in attendance were: Legal Counsel Kin Sayre, City Planner Tracy Sherman and Planning Secretary Holly Hartman.

APPROVAL OF June 5, 2018 MEETING MINUTES

Boardmember Bales made the motion to approve the June 5, 2018 minutes. The motion was seconded by Boardmember Casabona. Motion passed.

OLD BUSINESS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

- 1. Project SE 18-00031. 318 W. Burke Street. Public Hearing.** Application requesting a Special Exception according to the requirements of Section 632.2 "Professional Offices" to use structure as a professional office. Daysha Everhart, appellant.

After being sworn in by Legal Counsel, Daysha Everhart, 47 Weese Pt., Shepherdstown, explained that she is asking to be allowed to operate her therapist office out of this location. She added that she will not be putting any signage up to protect the confidentiality of her clients.

Boardmember Casabona asked how many employees she will have. Ms. Everhart responded that she would have no employees. Boardmember Bales asked if there were adequate parking. Ms. Everhart replied that there was street parking. Boardmember Bales also asked what the upstairs space would be used for. Ms. Everhart replied that it would be her personal office space with no clients in that area. Boardmember asked if there would be group counseling. Ms. Everhart answered that the most she will have at a time is a child and their parents.

City Planner, Tracy Sherman provided a staff report stating that if approved, the owner would be able to create a parking space in the back of the building. She added that the upstairs is for use by the business owner only, no clients will be upstairs.

Chairperson Dulyea opened the Public Hearing at 6:35 p.m.

- Emmy Decker, Palmer Investments, stated that she was in favor of the application and that they have spoken to the neighbors and they are in favor of her business being there as well.

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 702.31. 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 702.31: 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.

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 as this is not applicable.

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 according to the requirements of Section 632.2 "Professional Offices" to use structure as a professional office. Daysha Everhart, appellant. The motion was seconded by Boardmember Bales and followed by a unanimous vote of "aye". Motion passed.

- 2. Project SE 18-00032. 220 S. Georgia Avenue. Public Hearing.** Application requesting a Special Exception according to the requirements of 410.6 "Special Exception to enlarge a legally non-conforming use or structure" for the purposes of enlarging an existing garage. David Rinker, appellant.

Boardmember Bales asked to recuse himself from this case as the applicant is a personal friend.

A motion was made by Boardmember Casabona to allow Boardmember Bales to recuse himself from this case. The motion was seconded by Boardmember Mosser. Motion Carried.

After being sworn in by Legal Counsel, David Rinker, 220 S. Georgia Avenue, stated that he is requesting permission to demolish the existing (12x18) one car garage and replace it with a (24x30) two-car garage on the existing concrete pad. He stated that the current garage was built when the house was and is too small for current day sized cars.

Chairperson Dulyea asked for clarification on if the Special Exception was needed or a Variance.

Ms. Sherman provided a staff report stating that a Special Exception was needed to allow the enlargement of a legally non-conforming structure.

Chairperson Dulyea opened the Public Hearing at 6:46 p.m. As no one came forward to speak for or against the request, the public hearing was closed at 6:46 p.m.

Boardmember Casabona made the motion to approve the application requesting a Special Exception according to the requirements of 410.6 "Special Exception to enlarge a legally non-conforming use or structure" for the purposes of enlarging an existing garage. David Rinker, appellant. The motion was seconded by Boardmember Mosser and followed by a unanimous vote of "aye". Motion approved.

DISCUSSION/ACTION ITEMS

None

OTHER BUSINESS

None

ADJOURNMENT

The meeting was adjourned at 6:48 p.m. by unanimous consent.

Mary Dulyea, Chairperson

Holly Hartman, Planning Secretary