

MARTINSBURG BOARD OF ZONING APPEALS
June 5, 2018 6:30pm
232 N. Queen Street
J. Oakley Seibert Council Chambers
Regular Meeting Minutes

With a quorum present, Vice-Chairperson Casabona 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, Tom Johnson, Brenda Casabona, Mary Dulyea and David Carroll. Also, in attendance were: Legal Counsel Kin Sayre, City Engineer/Planning Director Kim Petrucci and Planning Secretary Holly Hartman.

APPROVAL OF February 6, 2018 MEETING MINUTES

Boardmember Bales made the motion to approve the February 6, 2018 minutes. The motion was seconded by Boardmember Johnson. Motion passed.

OLD BUSINESS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

- 1. Project V18-00019. 306 S. Kentucky Avenue. Public Hearing.** Variance application requesting relief from Section 420 "Lot Area, Yard and Building Requirements" to install a shed that will exceed maximum allowed lot coverage. Mark B. McDonald, appellant.

After being sworn in by Legal Counsel, Mark McDonald, 306 S. Kentucky Avenue, explained that he is requesting permission to place a shed on his property that will exceed the allowable lot coverage. Mr. McDonald stated that he does not currently have room to store his outdoor lawn equipment and is currently storing them in his basement. Therefore, he has to take the equipment through his living space to be able to maintain his lawn.

City Engineer/Planning Director Kim Petrucci provided a staff report stating that there were no staff concerns and no open code violations.

Vice-Chairperson Casabona opened the Public Hearing at 6:39 p.m. As no one came forward to speak for or against the request, the public hearing was closed at 6:39 p.m.

Vice-Chairperson Casabona led the discussion on Section 903.21. A written application for a Variance is submitted demonstrating all of the following points:

a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district. All Boardmembers agreed the application has met this requirement for the Variance.

b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance. All Boardmembers agreed the application has met this requirement for the Variance.

c. That the special conditions and circumstances do not result from the actions of the applicant. All Boardmembers agreed the application has met this requirement for the Variance.

d. That granting the Variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same zone. No nonconforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a Variance. All Boardmembers agreed the application has met this requirement for the Variance.

All Boardmembers agreed the application has met the requirements for the Variance.

Boardmember Dulyea made the motion to approve the application requesting a Variance application requesting relief from Section 420 "Lot Area, Yard and Building Requirements" to install a shed that will exceed maximum allowed lot coverage. Mark B. McDonald, appellant. The motion was seconded by Boardmember Bales and followed by a unanimous roll call vote of "aye". Motion passed.

- 2. Project SE 18-00021. 127 W. Commerce Street. Public Hearing.** Application requesting a Special Exception according to the requirements of Sections 560 "Table of Zoning District Uses," to use structure located as an automobile repair and service shop. Joshua Karns, appellant.

After being sworn in by Legal Counsel, Joshua Karns, 127 W. Commerce Street, stated that he is requesting permission to allow him to use his commercial space as an automobile repair shop.

Vice-Chairperson Casabona asked if it is a one-bay shop. Mr. Karns replied that it has two garage doors.

Boardmember Bales asked if heavy tools would be used. Mr. Karns stated that the only large tool would be the impact wrench.

Ms. Petrucci provided a staff report stating that Mr. Karns has requested to open a service station with no gas sales and provided 702.3 as the applicable section to review.

Vice-Chairperson Casabona opened the Public Hearing at 6:45 p.m. As no one came forward to speak for or against the request, the public hearing was closed at 6:45 p.m.

Boardmember Dulyea asked if there would be any overnight parking of vehicles. Mr. Karns replied no.

Vice-Chairperson Casabona 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.

Vice-Chairperson Casabona 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.

Vice-Chairperson Casabona 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.

Vice-Chairperson Casabona 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.

Vice-Chairperson Casabona 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.

Vice-Chairperson Casabona 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.

Vice-Chairperson Casabona asked if the hours were as stated in the application. Mr. Karns answered yes. Vice-Chairperson Casabona also stated that she would like to make mention of cars not being able to stay overnight as a stipulation in the motion. Legal counsel advised that with the Special Exception the board could put a restriction on the motion to not allow cars to sit at the business for more than thirty days.

Boardmember Johnson made the motion to approve the application requesting a Special Exception according to the requirements of Sections 560 "Table of Zoning District Uses," to use structure located as an automobile repair and service shop with the addition that any vehicles not be allowed to remain on the property for more than thirty days. Joshua Karns, appellant. The motion was seconded by Boardmember Bales and followed by a unanimous roll call vote of "aye". Motion approved.

- 3. Project V 18-00025. 200 W. Burke Street. Public Hearing.** Application requesting relief from the requirements of Section 440.63(A) "Projecting Signs" to exceed the maximum height requirement. The Peppermill, appellant.

Boardmember Dulyea recused herself from decision making on this case as she is representing The Peppermill.

Boardmember Johnson made the motion to allow Boardmember Dulyea to recuse herself from the case. The motion was seconded by Boardmember Bales followed by a unanimous roll call vote of "aye". Motion passed.

After being sworn in by Legal Counsel, Mary Dulyea explained that she is requesting permission to hang an overhanging sign at the restaurant. She stated that as this building was originally used as a residential space, that the cornice level is lower than on a commercial structure. This makes it impossible to place the sign below the cornice level and still meet the height requirements.

Boardmember Johnson stated that the sign would be an improvement to the building.

City Engineer/Planning Director Kim Petrucci provided a staff report stating that there were no concerns.

Vice-Chairperson Casabona opened the Public Hearing at 7:01 p.m. As no one came forward to speak for or against the request, the public hearing was closed at 7:01 p.m.

Vice-Chairperson Casabona led the discussion on Section 903.21. A written application for a Variance is submitted demonstrating all of the following points:

- a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district. All Boardmembers agreed the application has met this requirement for the Variance.

b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance. All Boardmembers agreed the application has met this requirement for the Variance.

c. That the special conditions and circumstances do not result from the actions of the applicant. All Boardmembers agreed the application has met this requirement for the Variance.

d. That granting the Variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same zone. No nonconforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a Variance. All Boardmembers agreed the application has met this requirement for the Variance.

All Boardmembers agreed the application has met the requirements for the Variance.

Boardmember Mosser made the motion to approve the request of relief from the requirements of Section 440.63(A) "Projecting Signs" to exceed the maximum height requirement. The Peppermill, appellant. The motion was seconded by Boardmember Bales and followed by a unanimous roll call vote of "aye". Motion passed.

DISCUSSION/ACTION ITEMS

None

OTHER BUSINESS

- Election of Officers

Mr. Sayre opened the floor for nominations for Chairperson.

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

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

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

ADJOURNMENT

The meeting was adjourned at 7:09 p.m. by unanimous consent.

Brenda Casabona, Vice-Chairperson

Holly Hartman, Planning Secretary