



THE **City** OF  
**Martinsburg**

For Official Use Only	
BZA Case #:	
Hearing Date:	
Ad Date:	
Amount Paid:	\$
Date Paid:	

Planning Department \* 232 N. Queen Street \* Martinsburg, WV 25401 \* 304.264.2131

**BOARD OF ZONING APPEALS  
SPECIAL EXCEPTION APPLICATION**

Please legibly print or type the following application in its entirety. Incomplete applications will not be accepted. Submit this application, any supporting information and appropriate fees by 3 pm of the application deadline date.

<b>APPELLANT INFORMATION</b> - OWNER'S AFFIDAVIT (page 3) MUST BE SUBMITTED IF APPELLANT IS NOT OWNER		
Contact Name:		
Firm/Company:		
Address:		
Phone:	email:	
<b>OWNER INFORMATION</b>		
Name:		
Firm/Company:		
Address:		
Phone:	email:	
<b>PROJECT INFORMATION</b>		
Project Location: (Street Address)		Tax Map / Parcel
Project Classification: (Residential, commercial, etc.)	Special Exception Type(s): (New Use, Change of Use, Change of non-conforming use, etc.)	
Current Zoning:	Current Transect:	Current Use:

All correspondence will be sent to the applicant. If the owner also wishes to receive a copy, please check box:

In the area below, specify the ordinance requirements(s) and the Special Exception(s) requested:

Ordinance Requirement:	Special Exception Request
Ordinance Requirement:	Special Exception Request
Ordinance Requirement:	Special Exception Request

<b>SPECIAL EXCEPTION FEES</b> (Residential/Commercial)	\$400
---	-------

**NOTE: A Special Exception shall be valid for two (2) years if the use is not acted upon, or a Subdivision and/or Land Development Plan has not received.**

I have read this statement and understand the time limits of my Special Exception if approved.  
Appellant Signature \_\_\_\_\_ Owner Signature \_\_\_\_\_

**Appellant: Read below then use the blank space on Page three to support your request.**

**Considerations for granting a Special Exception include, but are not limited to the following (Section 1.11.D.3.(a-e)):**

- a. The proposed use is in harmony with the purpose and intent of the City Comprehensive Plan and of this Ordinance;
  
- b. 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 Zoning District in which it is located;
  
- c. 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;
  
- d. 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;
  
- e. Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety; and
  
- f. 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.

**Nonconforming Uses (Section 5.08):**

Except where otherwise provided in this Ordinance, any Use of land, a Lot, a Building or a Structure (including Signs) lawfully existing at the time of the adoption of this Ordinance or at the time this Ordinance is subsequently amended shall be deemed a Legally Nonconforming Use that may be continued without prohibition by this Ordinance as long as such Use is maintained, subject to the following provisions:

1. Single-Family Detached Dwellings deemed Legally Nonconforming Uses in any Zoning District may continue to operate and expand on the same land area/parcel containing the nonconforming use on the date the use first became nonconforming provided that the expansion may not increase the degree of nonconformity. Such Dwellings shall be treated as principal Permitted Uses in that Zoning District;
2. All other Alterations or additions to, or replacements, enlargements, extensions or expansions of, or changes in, Legally Nonconforming Uses shall be subject to review and approval by Board of Zoning Appeals, subject to the provisions of West Virginia Code Chapter 8A-7-10(c) pertaining to agricultural, industrial, and manufacturing Uses. In all Zoning Districts the Board of Zoning Appeals may approve the alteration or addition to, or enlargement, extension, or expansion of, a Legally Nonconforming Use provided such change is restricted to an additional area not exceeding thirty-five percent (35%) of the area of the existing Use, with the exception that no such change may be permitted for Junk Yards;
3. Legally Nonconforming Uses may not change to a less appropriate Use or classification;
4. Legally Nonconforming Uses may continue to operate as such through change of Ownership;
5. If a Legally Nonconforming Use has ceased or been discontinued for one (1) year or more or otherwise been abandoned, then the nonconforming Use may not thereafter be reestablished and any and all Use of the land, Building, Structure (including Signs), or premises shall thereafter be in conformance with this Zoning Ordinance, subject to the provisions of West Virginia Code Chapter 8A-7-10(d) pertaining to natural resources extraction or harvesting, agricultural, industrial, and manufacturing operations, and duly designated Historic Landmarks, Sites, or Districts;
6. Nothing in these regulations shall prevent the restoration or the thirty five percent (35%) expansion allowed under Section 5.08(2) above of a Building or Structure destroyed by fire, windstorm, explosion, flood, act of public enemy, accident, or other casualty while a Legally Nonconforming Use, or prevent the continuance of the Use thereof as it existed at the time of such destruction provided that a Building Permit is obtained and restoration begun within one (1) year of said destruction;
7. When a portion of a property is deeded to a public entity for a public purpose it shall not cause the remaining portion of the property to be in violation of any part of this Ordinance; and
8. Nothing in this Ordinance shall be deemed to make legal any Use otherwise prohibited by or illegal under applicable law.

**STATEMENT OF APPELLANT**

**TO: THE BOARD OF ZONING APPEALS**

Referring to the application for Special Exception(s), I submit the following factual statements to support the required granting the Special Exception (s):

I hereby attest that the information provided on and attached to this application is complete and correct.

\_\_\_\_\_ Sworn to me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
\_\_\_\_\_  
Notary

\_\_\_\_\_  
Signature of Appellant / Date

**AFFIDAVIT OF OWNERSHIP (To be used if the Appellant is not the Owner.)**

STATE OF WEST VIRGINIA,  
COUNTY OF BERKELEY, as: \_\_\_\_\_ being duly sworn deposes  
(Owner's name)

And says that he resides at \_\_\_\_\_ in the City and State of \_\_\_\_\_,  
and

(1<sup>st</sup>) that he is the owner of all that certain lot, place or parcel of land situated, lying and being in the County of Berkeley aforesaid and known and designated as \_\_\_\_\_,

(2<sup>nd</sup>) that the statement of fact contained in the annexed application are true, and

(3<sup>rd</sup>) that he hereby authorizes \_\_\_\_\_ to make said application in his behalf.  
(Appellant's Name)

Sworn to me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
\_\_\_\_\_  
(Owner's signature)

\_\_\_\_\_  
(Notary)

**CITY OF MARTINSBURG  
BOARD OF ZONING APPEALS**

**STAFF REPORT**

Compiled from the Record Prior to the Public Hearing

---

**LOCATION (Incl. Tax Map & Parcel):**

**APPEAL NUMBER:**

**DATE FILED:**

**HEARING DATE:**

**NAME OF APPELLANT:**

---

**PURPOSE OF APPEAL:**

**DESCRIPTION OF EXISTING BUILDING OR USE:**

**DESCRIPTION OF PROPOSED USE:**

---

**ZONING DISTRICT:**

**TRANSECT:**

**SIZE OF LOT:**

**EXISTING LOT COVERAGE:**

**EXISTING OFF-STREET PARKING SPACES:**

**PRIOR CASES:**

**STAFF REPORT:**

**ZONING FEES  
FOR THE CITY OF MARTINSBURG**

**ZONING FEES**

Site Plan (Commercial/Industrial plans, Residential Subdivision plans)

Less than 1 acre	—	\$400
1 or more acres	—	\$400 + \$100 per acre

**PLANNED DEVELOPMENT DISTRICTS**

Preliminary Concept Plan	—	\$800 + \$50 per acre
Preliminary Concept Plan Amendments (assessed on changed areas)	—	\$400 + \$25 per acre
Final Plan	—	\$800 + \$50 per acre
Final Plan Amendments (assessed on changed areas)	—	\$400 + \$25 per acre

Storm Water Management (design review deposit)

Less than 2 acres	—	\$1,500
More than 2 acres	—	\$2,000 + \$150 per additional acre

Subdivision

Sketch plat	—	\$50
Preliminary plat over 50 lots	—	\$800 + \$100 per lot
Preliminary plat from 3 to 50 lots	—	\$400 + \$100 per lot
Preliminary plat less than 3 lots	—	\$200
Final plat	—	\$50 per lot
Corrective plat	—	\$25 per lot

Map Amendment	—	\$500
Text Amendment	—	\$500
Variance	—	\$400
Special Exception	—	\$400
Special Exception (nonconforming use change)	—	\$600
Special Exception (flood plain)	—	\$600
Administrative Appeal	—	\$600

Wireless Facility

New tower	—	\$5,000
Co-locate	—	\$2,000
Escrow Account	—	\$8,500

**CITY OF MARTINSBURG**  
**BOARD OF ZONING APPEALS**  
**APPLICATION and MEETING DATES for 2023**

*The applicant, or a representative thereof, is expected to attend the meeting at which their case will be heard in order to answer any questions Boardmembers may have.*

**SPECIAL EXCEPTIONS & VARIANCE APPLICATIONS**  
**January 2023 - December 2023**

<b>MEETING DATE (6:30PM)</b>	<b>APPLICATION DEADLINE (3PM)</b>	<b>TO THE JOURNAL (12PM)</b>	<b>POSTING &amp; / or PUBLICATION DATE</b>
1/3/2023	11/25/2022	11/30/2022	12/5/2022
2/7/2023	1/6/2023	1/11/2023	1/16/2023
3/7/2023	2/3/2023	2/8/2023	2/13/2023
4/4/2023	3/3/2023	3/8/2023	3/13/2023
5/2/2023	3/31/2023	4/5/2023	4/10/2023
6/6/2023	5/5/2023	5/10/2023	5/15/2023
7/11/2023	6/2/2023	6/7/2023	6/12/2023
8/1/2023	6/30/2023	7/5/2023	7/10/2023
9/5/2023	8/4/2023	8/9/2023	8/14/2023
10/3/2023	9/1/2023	9/6/2023	9/11/2023
11/7/2023	10/6/2023	10/11/2023	10/16/2023
12/5/2023	10/27/2023	11/1/2023	11/6/2023