

**Board of Zoning Appeals  
City of Martinsburg  
232 N. Queen Street  
November 13, 2012  
Regular Meeting Minutes  
6:30 pm**

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 pm. The following Boardmembers were present: Brenda Casabona, Bill Blackburn, April King and Frank Bradley. Not present was Matthew Coffey. Also in attendance were City Planner Tracy Smith, Legal Counsel Kin Sayre and Planning Secretary Windy Miller.

**APPROVAL OF October 02, 2012 MEETING MINUTES.**

The minutes were approved as presented by unanimous consent.

**OLD BUSINESS**

None

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

1. **CASE # SE 12-074. 317 Gussie Avenue. Public Hearing.** Application requesting a special exception according to the requirements of Section 410.6 "Special Exception to Enlarge a Non-conforming Use or Structure" to expand a legally non-conforming structure for the purposes of constructing a deck. Brenda Nalley, Appellant.

There was no one present to present the case; it will be put back on the agenda for the December meeting.

2. **CASE # SE 12-080. 400 S. Illinois Avenue. Public Hearing.** Application requesting a special exception according to the requirements of Section 410.6 "Special Exception to Enlarge a Non-conforming Use or Structure" to expand a legally non-conforming structure for the purposes of enclosing an existing porch that extends into the minimum side-yard setback and for relief from section 422.6 "Projections into Yard Spaces." Teressa Smith, Appellant.

Teressa Smith, 400 S. Illinois Avenue, Martinsburg, WV 25401, presented the request to enclose an existing side porch to use the space as a recreational room. Ms. Smith went on to say that she had recently purchased the property last May.

Vice- Chairperson Casabona asked City Planner Tracy Smith for staff report.

Ms. Smith stated that the request is to enclose an existing side porch, she went on to say that if the property was situated in between other properties it would be allowed to do the enclosure by right, but because it is on a corner lot we (the city) has to make sure there is not visibility problem for traffic. Ms. Smith stated that after doing an on-site visit, staff has no concerns with the request as the structure is already situated within the 25-foot side-yard/corner lot setback and that enclosing the porch will cause no additional non-conformity.

The public hearing was opened at 6:40 pm. As no one came forward to speak for or against the request, the public hearing was closed at 6:40 pm.

Discussions included, but were not limited to, what the enclosed porch would be used for, type of materials that would be used, how long the applicant has owned the property, and visibility problems for traffic.

Boardmember Blackburn made the motion in CASE # SE 12-080. 400 S. Illinois Avenue, Application requesting a special exception according to the requirements of Section 410.6 "Special Exception to Enlarge a Non-conforming Use or Structure" to expand a legally non-conforming structure for the purposes of enclosing an existing porch that extends into the minimum side-yard setback and for relief from section 422.6 "Projections into Yard Spaces," to approve the application as presented. Boardmember Bradley seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

- 3. CASE # SE 12-081. 800 Winchester Avenue. Public Hearing.** Application requesting a special exception according to the requirements of Section 410.6 "Special Exception to Enlarge a Non-conforming Use or Structure" and for relief from section 422.6 "Projections into Yard Spaces" to expand a legally non-conforming structure for the purposes of enlarging the side porch, constructing a deck, and enclosing the existing porch which extends into the minimum side-yard setback. Miller's Residential Creations, LLC., Appellant.

Brian Miller, 578 Heavenly Drive, Hedgesville WV, 25427, owner of Miller's Residential Creations presented the request to expand and enclose an existing side porch, build an addition and construct a deck to be partially covered. Mr. Miller went on to say that the proposed addition/ modification to the structure would not impede on the property line any further than what currently exists.

Vice- Chairperson Casabona asked City Planner Tracy Smith for staff report.

City Planner Tracy Smith stated that the applicant would like to enclose an existing side porch, and construct a deck that would extend further into the rear and side yard setback. Ms. Smith went on to say that the modification would stay within the property lines and would not exceed lot coverage including the existing structures. Ms. Smith stated that staff has no concerns with the request.

The public hearing was opened at 6:49 pm. As no one came forward to speak for or against the applicant, the public hearing was closed at 6:49 pm.

Discussions included, but were not limited to, where the modifications would be located on the structure, lot coverage, where the property lines would be located when the constructions takes place, how much space is in between the neighboring property, what would be visible from the neighboring structure's window.

Boardmember Bradley made the motion in CASE # SE 12-081. 800 Winchester Avenue. Application requesting a special exception according to the requirements of Section 410.6 "Special Exception to Enlarge a Non-conforming Use or Structure" and for relief from section 422.6 "Projections into Yard Spaces" to expand a legally non-conforming structure for the purposes of enlarging the side porch, constructing a deck, and enclosing the existing porch which extends into the minimum side-yard setback, to approve the application as presented. Boardmember Blackburn seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

**4. CASE # SE 12-082. 301 Wilson Street. Public Hearing.** Application requesting a special exception according to the requirements of Sections 560 "Table of Zoning District Uses," to use structure as a welding shop, contractor's storage yard, and machinery storage yard. D&L Weld Inc., Appellant.

Donald Dehaven, 4073 Apple Harvest Drive, Glengary, WV 25415, presented the request to move his business into the Wilson Street location. Mr. Dehaven went on to say that the space would be used as a storage yard for his cranes and other large equipment, welding, storage, as well as doing steel fabrication work. Mr. Dehaven stated that he would not bring in sea crates for any storage, that there is plenty of storage in the building.

Vice Chairperson Casabona asked City Planner Tracy Smith for staff report.

Ms. Smith stated that the applicant would like to use the space as a welding shop and storage yard, there is existing off street parking, but would like the applicant to have designated parking for employees. Ms. Smith went on to say staff would like to know if there will be any additional lighting on the existing gravel lot, but has no concerns with the request.

The public hearing was opened at 7:20 pm. As no one came forward to speak for or against the request, the public hearing was closed at 7:20 pm.

Discussions included, but were not limited to, what type of services would be offered at the Wilson street location, what type of equipment would be stored on the property, if there would be any type of storage containers brought in and set up on the property, explanation of what the crane service involves, and if any other exterior lighting would be installed on the existing gravel lot.

Boardmember Blackburn made the motion in CASE # SE 12-082. 301 Wilson Street. Application requesting a special exception according to the requirements of Sections 560 "Table of Zoning District Uses," to use structure as a welding shop, contractor's storage yard, and machinery storage yard, to approve the application as presented. Boardmember Bradley seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

**5. CASE # V 12-083. 301 Wilson Street. Public Hearing.** Application requesting a variance from Section 422.2 "Fences, Walls, and Hedges" for construction of a 7- foot high security fence within a front yard area of a corner lot. D&L Weld Inc., Appellant.

Donald Dehaven, 4073 Apple Harvest Drive, Glengary, WV 25415, presented the request to install a seven-foot fence around the property for security purposes. Mr. Dehaven went on to say that there is an existing fence, but would like to extend it around the entire property to make it harder for vandals to get in.

Vice-Chairperson Casabona asked City Planner Tracy Smith for staff report.

Ms. Smith stated that there is already an existing seven foot fence around a portion of the property and does not have any concerns with the additional fence being put up. Ms. Smith went on to say that there are no concerns with visibility with traffic.

The public hearing was opened at 7:38 pm. As no one came forward to speak for or against the request, the public hearing was closed at 7:38 pm.

The Board proceeded to evaluate the request for a Variance according to the four criteria found in the MZO Section 903.21 and referenced within the official application (criteria generally include: existence of special existing conditions/ circumstances; ordinance deprives rights commonly enjoyed by others; special conditions/ circumstances are not a result of the applicant; granting a Variance does not confer special privilege otherwise denied to others). Discussions included but were not limited to visibility for traffic, where the fence would be located on the property, what type of fencing materials would be used, how the fence would be erected, where the existing fence is located, if there would be barbed wire installed on the fence, and why there is a need for a fence.

Boardmember Blackburn made the motion in CASE # V 12-083. 301 Wilson Street. Application requesting a variance from Section 422.2 "Fences, Walls, and Hedges" for construction of a 7- foot high security fence within a front yard area of a corner lot, to approve the application as presented. Boardmember Bradley seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

**6. CASE # SE 12-085. 127 Sycamore Street. Public Hearing.** Application requesting a special exception according to the requirements of Section 410.6 "Special Exception to Enlarge a Non-conforming Use or Structure" to expand a legally non-conforming structure for the purposes of enlarging an existing front porch. Monster Decks, Appellant.

Brian Lickey, 542 Pinnacle Drive, Bunker Hill, WV 25413, owner of Monster Decks, presented the request to construct a ground level deck with four different levels to gradually meet existing front porch, to make it easier for the home owner to climb.

Vice-Chairperson Casabona asked City Planner Tracy Smith for staff report.

Ms. Smith stated that the request is to enlarge an existing front porch. Ms. Smith went on to say that the property has no room for a ramp, allowing the front porch extension will allow gradual steps for easier access for the homeowner to get into their house safely. Ms. Smith stated that staff has no concerns with the request.

The public hearing was opened at 7:47 pm. As no one came to speak for or against the request, the public hearing was closed at 7:47 pm.


Boardmember Bradley made the motion in CASE # SE 12-085. 127 Sycamore Street. Application requesting a special exception according to the requirements of Section 410.6 "Special Exception to Enlarge a Non-conforming Use or Structure" to expand a legally non-conforming structure for the purposes of enlarging an existing front porch, to approve the application as presented. Boardmember King seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

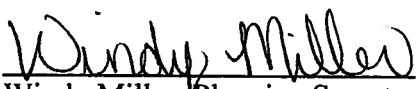
## **DISCUSSION**

All Board members were notified of the December 04, 2012 meeting and stated they would be in attendance.

## **ADJOURNMENT**

The meeting was adjourned at 7:52 pm by unanimous consent.

  
Matthew Coffey, Chairperson

  
Windy Miller, Planning Secretary