

**Board of Zoning Appeals
City of Martinsburg
232 N. Queen Street
April 03, 2012
Regular Meeting Minutes
6:30 pm**

10A

With a quorum present, Chairperson Coffee 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, Donald Anderson, Kevin Knowles, Matthew Coffey and alternate members Frank Bradley and April King. Also in attendance were City Planner Tracy Smith, Planning Secretary Windy Miller and Legal Counsel Kin Sayre.

APPROVAL OF February 07, 2012 MEETING MINUTES.

The minutes were approved as presented by unanimous consent.

OLD BUSINESS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

1. CASE #V 12-011. 200 N. Tennessee Avenue. Public Hearing. Application requesting a variance from minimum setback requirements of Sections 420 "Lot Area, Yard, & Building Requirements" to construct a handicap ramp that will extend into the required front yard setback. Angela Bush, appellant.

Angela Bush, 200 North Tennessee Avenue presented the request to install a handicap ramp at her residence. Ms. Bush explains to the board that she has a paralyzed son and elderly mother who is bedridden who lives with her and the ramp is necessary to make sure there is a way to get them in and out of the home. Ms. Bush stated she also cares for an elderly woman who comes to her house on a daily basis. She went on to say that she just recently purchased the home and was unaware that she did anything wrong she has come before the board to get caught up on the approvals that are needed.

The public hearing was opened at 6:34 pm. As no one came forward to speak for or against the request, the public hearing was closed at 6:34 pm.

City Planner, Tracy Smith provided a staff report and stated that she and the Building Inspector have been out and there is no other way for the ramp to come out of the house. She went on to say it does meet all building codes and requirements.

Ms. Smith states that the applicant family member had constructed the ramp for Ms. Bush at no charge. She went on to say that since, she and the building inspector informed the home owner of the rules and regulations, the applicant has been cooperative on all things necessary to be in compliance, to get the Board of Zoning Appeals approval and needed permit to have

inspections done to assure that it has been constructed in compliance with the current building codes.

Discussions included but were not limited to width of the ramp, why the work was done without prior approval, how long the applicant has lived at that address, clarification of who lives in the house, and that a care facility was not in operation.

Boardmember Knowles made the motion to approve the application as presented. Boardmember Anderson seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

Discussions included but were not limited to width of the ramp, why the work was done without prior approval, how long the applicant has lived at that address, clarification of who lives in the house, and that a care facility was not in operation.

Boardmember Knowles made the motion to approve the application as presented. Boardmember Anderson seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

2. CASE # SE 12-021. 819 N. Queen Street. Public Hearing. Application requesting a special exception according to the requirements of Section 410.3 "Non-Conforming Uses" to expand an existing residential use in a multiple-family dwelling building to lower level commercial spaces. Valley Properties of Hagerstown, LLC., appellant.

Ted Weaver, 819 North Queen Street manager for Valley Properties of Hagerstown presented the request to convert the current rear commercial space into two (2) residential units, reduce the existing upstairs unit into a one-bedroom unit and an efficiency apartment, as well as adding a one-bedroom unit in the commercial space in the basement. Mr. Weaver went on to say there is adequate parking for this request.

When asked for a staff report, City Planner, Tracy Smith stated that, to the best of her knowledge, the upper level of the building has always been residential, the ground floor has always been commercial, and the basement space was previously used as a store some time in it's past. Ms. Smith stated the Building inspector and Fire Marshall *have* done a walk-through inspection of the structure. Ms. Smith stated that the upper floor apartment can easily be divided into two (2) units and noted the new unit would have a separate entrance. She mentioned that construction (without building permits) had been observed during a routine use and occupancy inspection for Valley Properties office space. At that time, a stop work order was issued. It was noted that the property management team had recently registered the structure as nine (9) rental units, when it had historically been four, showing the intent for this conversion. The parking area is sufficient for twenty-four (24) spaces including one (1) handicap space. The electrical panel would need to be split for the two middle units, currently there is one controlling both sides. She noted a door has been installed in the side of the wall without a permit to make access to the middle units. Ms. Smith also mentioned an existing deeded right of way for the neighboring property which would need to be legally removed, as, while the right of way exists, the building department cannot allow an egress platform or stairs in this right of way. The building inspector has stated that a sprinkler system will need to be installed if the residential units are increased which will eliminate the need for egress windows.

The public hearing was opened at 7:03 pm. As no one was come forward to speak for or against the request, the public hearing was closed at 7:03 pm.

Boardmember Casabona stated her opinion as to why this request isn't necessarily a good idea, items included but were not limited to: the issues inherent with carving up larger spaces into smaller rental units especially buildings are usually designed with a density in mind; current practices and standards of maintaining a "neighborhood"; and she noted, there is not a shortage of low income rental properties in the Martinsburg area. She concluded by stating that increasing residential density neither improves the value of properties or neighborhoods nor does it do anything for the city - it would add density to an already dense area and that would be causing inappropriate growth.

Discussions included but were not limited to: how long the applicant has been working in Martinsburg; when the inspection was performed and work found in progress; relationship of the applicant to Steve Sagi; the layout of proposed units and upper level split; extent of work that had been done; who initiated the work and conversion of the units, parking, and reasons to why the changes were made and why permits were not obtained; and the side alleyway that is a dedeed right-of-way for the neighboring property.

Boardmember Casabona made the motion to approve the application as presented. Boardmember Anderson seconded the motion, which resulted in the following split roll call vote: Boardmembers Casabona, Knowles, Blackburn, and Coffey, "nay," and Boardmember Anderson, "aye." Motion denied.

DISCUSSION

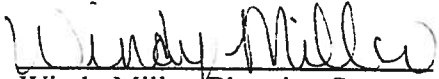
- Legal Counsel Kin Sayre presented the board the Open Meetings Law, he provided all Boardmembers with a packet of his PowerPoint presentation.

ADJOURNMENT

The meeting was adjourned at 7:46 pm by unanimous consent.



Matthew Coffey, Chairperson



Windy Miller, Planning Secretary

