

**Board of Zoning Appeals
City of Martinsburg
232 N. Queen Street
December 04, 2012
Regular Meeting Minutes
6:30 pm**

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

APPROVAL OF November 13, 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.

Legal counsel Kin Sayre swore in the applicant.

Brenda Nalley, 317 Gussie Avenue, Martinsburg, WV 25404, presented the request to construct a deck in the rear of her house. Ms. Nalley went on to say that the deck would be constructed in the rear of the house and stay in line with the wall of the existing structure. Ms. Nalley stated that the existing steps in the rear are dangerous and would like to make better use of the space.

Chairperson Coffey asked City planner Tracy Smith for staff report.

Ms. Smith stated that the house sits on a very narrow lot; the deck would be constructed so that it would be in line with the wall of the existing house. Ms. Smith went on to say that when the deck is constructed it would not exceed lot coverage. Ms. Smith stated that after doing an on-site visit with the Building Inspector, confirming that the existing exit stairs do not provide good egress that there is no other location that the deck could be constructed. Ms. Smith stated that with the approval of a Special Exception staff would have no concerns with the request.

The public hearing was opened at 6:36 pm. As no one came forward to speak for or against the request, the public hearing was closed at 6:36 pm.

Discussions included, but were not limited to, lot size, how the deck would be constructed, safety concerns with current egress, lot coverage with and without the deck, if the deck would extend further into the setbacks, and how far the structure is away from the property lines.

Boardmember Blackburn made the motion in CASE # SE 12-074. 317 Gussie 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 constructing a deck, to approve the application as presented. Boardmember King seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

2. CASE #SE 12-088. 417 W. Burke 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 constructing a rear deck and handicap ramp. Hugh Harvey, Appellant.

Chairman Coffey asked legal Counsel Kin Sayre if the next two cases could be discussed together.

Legal Counsel Kin Sayre stated that the two cases could be discussed together, have the same public hearing, but would need to have two separate motions, one for the Special Exception and one for the Variance.

3. CASE #V 12-089. 417 W. Burke Street. Application requesting a variance from Section 420 "Lot Area, Yard and Building Requirements" to construct a utility shed, deck and a handicap ramp that will exceed maximum allowed lot coverage. Hugh Harvey, Appellant.

Legal Counsel Kin Sayre swore in the applicant.

Hugh Harvey, 417 West Burke Street, Martinsburg, WV 25401, presented the request to construct a handicap ramp and deck to provide a safe structure for his disabled elderly father to enjoy the back yard and to provide a safe way for him to get in and out of the property. Mr. Harvey also presented the request to construct a 10'x 8' storage shed in the rear yard of his property. Mr. Harvey went on to say that he needs the shed because there is no storage except in the basement which is very dangerous to access.

Chairperson Coffey asked City Planner Tracy Smith for staff report.

Ms. Smith stated that the property is considered legally non-conforming as it is an undersized lot; the house is situated within the setbacks and currently exceeds lot coverage. Ms. Smith went on to say that the deck would be constructed in the rear and is to stay in-line with the existing house; the ramp would run down the east side of the house and would be built so at any time it could be removed. Ms. Smith stated that staff has no concerns with the request after doing an on-site visit with the Building Inspector.

The public hearing was opened at 6:55 pm. As there was no one present to speak for or against the request, the public hearing was closed at 6:55 pm.

Discussions included, but were not limited to, current lot coverage, why there is a need for a ramp, where the deck would be constructed, how long the applicant has owned the house, where the handicap ramp would be located, size of the storage shed, how the shed would be constructed, if the neighbors are supportive of the requested modifications, and considerations noted in sections 702.3 through 702.5 of the Martinsburg Zoning Ordinance (MZO).

Boardmember Bradley made the motion in CASE #SE 12-088. 417 W. Burke 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 constructing a rear deck and handicap ramp, to approve the application as presented. Boardmember Blackburn seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

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, where the shed would be constructed, size of the proposed shed, current lot coverage, why there is a need for a storage shed, and the aforementioned MZO criteria for a Variance.

Boardmember Blackburn made the motion in CASE #V 12-089. 417 W. Burke Street. Application requesting a variance from Section 420 "Lot Area, Yard and Building Requirements" to construct a utility shed, deck and a handicap ramp that will exceed maximum allowed lot coverage, to approve the application as presented. Boardmember King seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

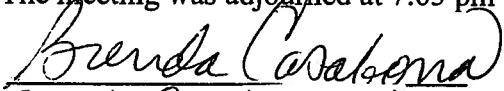
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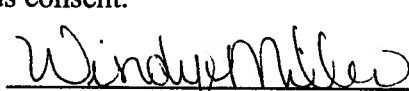
- Confirmation of January 08, 2013 Meeting.

All Board members were notified that there will not be a January 08, 2013 meeting, there have been no applications received in our office.

ADJOURNMENT

The meeting was adjourned at 7:03 pm by unanimous consent.


Brenda Casabona - Vice-Chairperson


Windy Miller, Planning Secretary