

**Board of Zoning Appeals
City of Martinsburg
232 N. Queen Street
February 05, 2013
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, Bridget Cohee, Mary Dulyea 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 December 04, 2012 MEETING MINUTES.

The minutes were approved as presented by unanimous consent.

Due to Boardmember Coffey not being present, Vice-Chairperson Casabona elected alternate member Mary Dulyea to serve as a voting member.

OLD BUSINESS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

1. CASE # V 13-001. 309 N. High Street. Public Hearing. Application requesting a variance from Sections 420 "Lot Area, Yard and Building Requirements" to use structure as a two-unit residential dwelling ("Duplex"). Carlos Niederhauser, Appellant.

Legal Counsel Kin Sayre placed the applicant under oath.

Carlos Niederhauser, 202 South Princess Street, Shepherdstown, WV 25443, presented the request to convert an original single-family structure into a two-unit duplex. Mr. Niederhauser stated that there are currently four (4) electric meters, four (4) bathrooms, and four (4) kitchens. Mr. Niederhauser went on to say that he recently purchased the property and before it was purchased he was told it could be used as a four (4) unit dwelling. Out of consideration for the neighborhood and parking regulations would only like to make the structure into a two (2) unit duplex.

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

Ms. Smith stated that all records indicate that the structure had been used as (4) units, but due to the structure being vacant for the past ten(10) years it has lost its grandfathered status to be used as four(4) units. Ms. Smith went on to say that she and the Building Inspector went on-site to do an inspection and feel the requested conversions can be done, and the lot has adequate parking for the requested two (2) units.

The public hearing was opened at 6:37 pm. As no one came forward to speak for or against the request, the public hearing was closed at 6:37 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, the layout of the building, how big each unit would be, parking, how long the building has been vacant, how the units would be accessed, when the applicant purchased the building, lot size and the aforementioned MZO criteria for a Variance.

Boardmember Blackburn made the motion in CASE # V 13-001. 309 N. High Street, Application requesting a variance from Sections 420 "Lot Area, Yard and Building Requirements" to use structure as a two-unit residential dwelling ("Duplex"), to approve the application as presented. Boardmember King seconded the motion, which was followed by a roll call vote. Boardmember Blackburn, Bradley, Dulyea, and King vote of "aye," and Boardmember Casabona vote of "nay." Motion carried.

DISCUSSION

Election of officers

Boardmember Dulyea made a motion to open the annual election of officers. Boardmember Blackburn seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

Boardmember Blackburn made the motion to nominate Boardmember Casabona to serve as Chairperson. Boardmember Bradley seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

With a unanimous vote of "aye," Brenda Casabona will serve as Chairperson for the Martinsburg Board of Zoning Appeals.

Boardmember Blackburn made the motion to nominate Boardmember Bradley to serve as Vice-Chairperson. Boardmember King seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

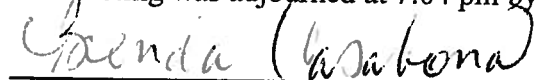
With a unanimous vote of "aye," Frank Bradley will serve as Vice-Chairperson for the Martinsburg Board of Zoning Appeals.


All members were made aware of the March meeting and stated they would be in attendance except Boardmember Cohee.

Boardmember Bradley also made note that he would be out of town up until the date of the meeting and it wouldn't be necessary to deliver a packet, he would get it on the night of the meeting.

ADJOURNMENT

The meeting was adjourned at 7:04 pm by unanimous consent.


Brenda Casabona, Chairperson


Windy Miller, Planning Secretary