

**MARTINSBURG BOARD OF ZONING APPEALS**  
**June 7, 2016 6:30pm**  
**232 N. Queen Street**  
**J. Oakley Seibert Council Chambers**  
**Regular Meeting Minutes**

---

With a quorum present, Chairperson Schoppert 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: Mary Dulyea, Brenda Casabona, Bridget Cohee, Shelly Schoppert, Doreane Mosser, Martin Bales and Tom Johnson. Also in attendance were City Planner Tracy Smith, Legal Counsel Chris Peterson and Planning Secretary Holly Hartman.

**APPROVAL OF May 3, 2016 MEETING MINUTES**

Boardmember Dulyea made the motion to approve the May 3, 2016 minutes. Boardmember Casabona seconded the motion that was followed by a unanimous vote of “aye”. Motion carried.

**OLD BUSINESS**

None

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

- 1. CASE # SE 16-031. 1505 Raven Boulevard. Public Hearing.** Special Exception request to use existing structure for child day-care facility. Little Bear’s Child Care LLC. /Ashley Sadler-Gomez, appellant.

After being sworn in by Legal Counsel, Ashley Sadler-Gomez, 1505 Raven Boulevard, explained that she has been a licensed childcare provider in West Virginia for nine years. Ms. Sadler-Gomez stated that she needs to be able to care for seven to twelve children in order to service her current clients once school lets out. Without the Special Exception, her clients will have to find another provider for the school aged children. Ms. Sadler-Gomez explained that she has room for seven cars in her parking area, but she rarely has more than two clients there at a time.

Chairperson Schoppert asked if Ms. Sadler-Gomez had all necessary approvals from the State, Mountainheart and the Fire Marshal. Mr. Sadler-Gomes responded yes.

Boardmember Dulyea asked for the hours of operation. Ms. Sadler-Gomez answered that the hours were from 6:00 am – 11:00 pm and weekends.

City Planner, Tracy Smith, provided a staff report stating that the request is for a Special Exception. Ms. Smith advised that the State Fire Marshal is in charge of childcare facilities and have given the location proper approval as well as DHHR and Mountainheart. There is ample parking on paved surfaces for at least six people and there are no concerns with drop off and pick up times. Ms. Smith added that eight direct neighbors have signed a petition stating that they do not object to an approval from the board.

Chairperson Schoppert opened the Public Hearing at 6:36 p.m.

- Tonya Rivera, owner of Treehouse 1 and 2, spoke in favor of the request. She stated that she has been an acquaintance of Ms. Sadler-Gomez for several years and has gotten to know her on a professional and person level. Ms. Rivera stated that they work closely together with networking and children's activities. She feels that an approval tonight would be good for Martinsburg as there are not enough adequate and knowledgeable childcare providers in the area.
- Michael Goldberg, Health and Safety/ CPR instructor, spoke in favor of the request, stating that he teaches both Ashley and Tonya CPR and other safety techniques. Mr. Goldberg advised that he has frequented Ms. Sadler-Gomez's home and the children are safe and well taken care of.
- Angelica Royal, employee of Little Bear Childcare, stated that her son loves going to daycare and hates leaving at the end of the day. Ms. Royal stated that she volunteered at the daycare to receive her work credits in order to graduate high school and she is currently Ms. Sadler-Gomez's backup babysitter in case of sickness or emergencies.
- Megan Mason, current client of Little Bear Childcare, stated that her children have been at the facility for over one year and if this is not approved for the Special Exception, she will have to find another provider for her children in school. Ms. Mason stated that her children love going to this daycare facility.

As no one else came forward to speak for or against the case, public hearing was closed at 6:41 p.m.

Legal Counsel, Chris Peterson read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.32: 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 district in which it is located. There was general agreement for no concern.

Legal Counsel, Chris Peterson read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.34: 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. There was general agreement for no concern.

Legal Counsel, Chris Peterson read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.35: Parking areas will be of adequate size for the particular use, properly located and suitable screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety. There was general agreement for no concern.

All Boardmembers agreed the application has met the requirements for the Special Exception.

Chairperson Schoppert asked if the approval would be specific for only this business at this location. City Planner, Tracy Smith stated that it would be specific to Ms. Sadler-Gomez and the current location.

Boardmember Dulyea made the motion to approve the application requesting a Special Exception request to use existing structure for child day-care facility. Motion was seconded by Boardmember Bales and followed by a unanimous vote of “aye”. Motion approved.

**2. CASE # SE-032. 125 W. Martin Street. Public Hearing.** Special Exception request to use existing structure for single-family residential purposes. Michael A. Jacobus and Cory Barbin, appellant.

After being sworn in by Legal Counsel, Michael Jacobus, 125 W. Martin Street, stated he has been interested in this property for quite some time. Mr. Jacobus stated that he would like to renovate the home and then use it as his private residence.

Boardmember Dulyea asked if during the conversion to a single family home the sprinkler system would be removed. Mr. Jacobus stated that the home has basically been gutted. There is no heating, radiators, AC system, or plumbing.

City Planner, Tracy Smith, provided a staff report, referencing sections 621.1 and 702.3 of the Zoning Ordinance. Ms. Smith stated that the use is compatible and no off street parking is required.

Chairperson Schoppert opened the Public Hearing at 6:55 p.m.

- Helen Henderson, 211 W. Burke Street, spoke in favor of the request. She stated that she is delighted it will be a single family dwelling and not broken into apartments.
- Chris Baker, 735 W. John Street, spoke in favor of the request. He feels it should be returned to a single family residence.

As no one else came forward to speak for or against the case, public hearing was closed at 6:56 p.m.

Legal Counsel, Chris Peterson read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.31: The proposed use is in harmony with the purpose and intent of the Martinsburg Comprehensive Development Plan and of this zoning ordinance. There was general agreement for no concern.

Legal Counsel, Chris Peterson read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.32: 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 district in which it is located. There was general agreement for no concern.

Legal Counsel, Chris Peterson read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.33: 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. There was general agreement for no concern.

Legal Counsel, Chris Peterson read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.34: 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. There was general agreement for no concern.

Legal Counsel, Chris Peterson read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.35: Parking areas will be of adequate size for the particular use, properly located and suitable screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety. There was general agreement for no concern.

Legal Counsel, Chris Peterson read aloud for discussion the special conditions for the Special Exception in the Martinsburg Zoning Ordinance (MZO) section of 702.36: 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. There was general agreement for no concern.

All Boardmembers agreed the application has met the requirements for the Special Exception.

Ms. Smith stated that if this were a Special Exception for a business it would have been tailored to that specific applicant and use at the location. If the owner were to sell, it would be grandfathered in as a single-family residential use.

Boardmember Casabona made the motion to approve the application requesting a Special Exception request to use existing structure for single-family residential purposes. The motion was seconded by Boardmember Cohee and followed by a unanimous vote of “aye”. Motion approved.

**DISCUSSION/ACTION ITEMS**

None

**OTHER BUSINESS**

None

**ADJOURNMENT**

The meeting was adjourned at approximately 7:01 pm by unanimous consent.

---

Shelly Schoppert, Chairperson

---

Holly Hartman, Planning Secretary