

MARTINSBURG BOARD OF ZONING APPEALS
May 05, 2015 6:30pm
232 N. Queen Street
J. Oakley Seibert Council Chambers
Regular Meeting Minutes

With a quorum present, Legal Counsel, Catie Delligatti 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, Bridget Cohee, Shelly Schoppert, Brenda Casabona, Bill Blackburn and Martin Bales. Absent was: Doreane Mosser. Also in attendance were City Planner Tracy Smith, Legal Counsel Catie Delligatti and Planning Secretary Holly Hartman.

APPROVAL OF April 07, 2015 MEETING MINUTES

The minutes were approved by unanimous consent.

OLD BUSINESS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

- 1. CASE #SE 15-021. 500 N. High Street. Public Hearing.** Application requesting a Special Exception according to requirements of section 400.2 "Non-conforming Uses, Structures, and Lots" to change a legally non-conforming use for the purposes of operating a Thrift and Sundry Store in a former Market/Convenient Store location. J&R Thrift Store/Jessica Barrett, Appellant.

After being sworn in by Legal Counsel, Jessica Barrett and her fiancé Russell Hopkins, both of 435 G&E Circle, Inwood, introduced themselves and stated she is asking for a special exception to open a thrift store offering candy and soda.

Boardmember Casabona asked what the hours will be. Ms. Barrett stated the hours would be 9:00 A.M. to 7:00 P.M. Monday through Saturday and 12:00 P.M. to 5:00 P.M. Sunday.

Boardmember Schoppert asked for the current use of the building. Ms. Barrett stated that it was a Caribbean Market.

Chairperson Dulyea opened the Public Hearing at 6:33 p.m. As no one came forward to speak for or against the case, public hearing was closed at 6:33 p.m.

City Planner, Ms. Smith provided a staff report, stating that the building has been vacant for almost a year – the Caribbean Market closed but the property owner has still been paying renter's tax which leaves them approximately two or three months under their grandfathered legally non-conforming use. Ms. Smith explained the history of the property, mentioning that this is the only property in the city grandfathered under the legally non-conforming use as a convenience type of

store. The proposed use is practically the same as the previous market, the hours are similar, and the traffic impact should be no greater than before. The Building Inspector and Fire Marshal have both been in the building and it's in excellent condition. Ms. Smith advised the Board will be looking at section 400.2.

Boardmember Casabona asked if items would be displayed outside for the public. Ms. Barrett responded that no items would be outside; they would all be kept in the store. The only thing outside would be a sign.

Boardmember Casabona then asked how consignment items would be dropped off. Ms. Barrett replied that people are more than welcome to drop items off; the things dropped off will be physically brought in and not left outside.

Boardmember Blackburn asked if any food or drink items will be sold. Ms. Barrett answered that only soda and candy would be the only food items for sale.

Chairperson Dulyea opened the Public Hearing at 6:43 p.m.

- Gregory Riggs, 936 Trendy Church Road, spoke in favor of the appellant. He feels that the neighborhood needs a small place like this where people can purchase snacks and drinks.
- Tasha Webber, 531 W. John Street, spoke in favor of the appellant. She stated that it will be the only place in the area where people are able to walk to get a drink or other things they may need. She also noted that the appellant has put a lot of work into the property.

As no one else came forward to speak for, or against, this request, the public hearing was closed at 6:45 p.m.

Chairperson Dulyea read aloud for discussion the special conditions for the special exception in the Martinsburg Zoning Ordinance (MZO) section of 702.3. Discussion also included no goods being dropped off and accumulating outside. All Boardmembers agreed the application has met the requirements for the special exception.

Boardmember Casabona made the motion to approve the application requesting a special exception according to requirements of section 400.2 "Non-conforming Uses, Structures, and Lots" to change a legally non-conforming use for the purposes of operating a Thrift and Sundry Store in a former Market/Convenient Store location with the provision of no outside accumulation of merchandise. The motion was seconded by Boardmember Cohee and followed by a unanimous roll call vote of "aye". Motion carried.

2. **CASE #SE 15-019. 106 S. Louisiana 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 an addition. Bonnie M. Pitzer, Appellant.

After being sworn in by Legal Counsel, Timothy Schoppert, Ms. Pitzer's brother, 22 Seaton Lane, Charlestown, introduced himself and stated that Ms. Pitzer would like to put a twenty foot addition on her house.

Chairperson Dulyea stated that the lot appeared small. Ms. Smith stated that the lot isn't as small as it appears because the fence is not currently on the property line. The new fence will be on the property line which will show the larger size of the lot. She further mentioned that the only side of the property that would be impacted is along the alley. Ms. Smith advised that the purpose of the addition was due to Ms. Pitzer's age, she needs a bedroom and bathroom downstairs for easier access to allow her to stay in the home she loves.

Ms. Smith provided a staff report, stating that the house next door straddles the lot line and the lot cannot be sold as another parcel, so there is no possibility of a house being built on that lot behind Ms. Pitzer's lot.

Chairperson Dulyea opened the Public Hearing at 6:58 p.m. As no one came forward to speak for or against the case, public hearing was closed at 6:58 p.m.

Chairperson Dulyea read aloud for discussion the criteria for the special exception in the Martinsburg Zoning Ordinance (MZO) section of 702.31. All Boardmembers agreed the application has met the requirements for the special exception.

Boardmember Cohee made the motion to approve the application requesting a Special Exception pursuant to 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 an addition. The motion was seconded by Boardmember Casabona and followed by a unanimous roll call vote of "aye". Motion carried.

DISCUSSION

None

OTHER BUSINESS

- Next scheduled meeting: July 7, 2015
- Open Governmental Proceedings Act – legal counsel presented an overview presentation and discussion including (paper) power-point visuals (on file in Planning Department)
- AED Training – Cancelled - No fire department employee available.

ADJOURNMENT

The meeting was adjourned at approximately 7:35 pm by unanimous consent.

Mary Dulyea, Chairperson

Holly Hartman, Planning Secretary