

**Board of Zoning Appeals
City of Martinsburg
232 N. Queen Street
January 04, 2011
Regular Meeting Minutes
6:30PM**

With a quorum present, Chairman Coffey called the regular scheduled meeting of the City of Martinsburg Board of Zoning Appeals to order at 6:34 PM. The following Boardmembers were present: Matthew Coffey, Brenda Casabona, Kevin Knowles, Bill Blackburn and Donald Anderson. Not present was Lane McIntosh and Jim Castleman. Also in attendance were City Planner Tracy Smith, Planning Secretary Gena Long and Legal Counsel Kin Sayre.

Chairman Coffey reminded the alternates that they are welcome to ask questions, but are not always required to vote. Due to the absence of Boardmember McIntosh, Boardmember Knowles was asked to participate as a voting member.

APPROVAL OF December 14, 2010 MEETING MINUTES.

The minutes were approved by unanimous consent.

OLD BUSINESS

None

NEW BUSINESS

1. CASE # V 10-033(A). 653 Winchester Avenue. Public Hearing. Application requesting a variance from the requirements of Section 522.3 "Design Limitations" under Section 522 "Service Business District" to exceed maximum size requirements for business signs. Children's Home Society, appellant.

Ms. Deb Barthlow, Regional Director for Children's Home Society of West Virginia, presented this request. Ms. Barthlow stated that she would like to use the painted wood sign, currently in use at 445 Winchester Avenue, at the new facility. She explained that she would like to locate the sign at the "Y" in the driveway.

Chairman Coffey opened the public hearing at 6:38 PM. As no one came forward for or against the request, the public hearing closed at 6:38 PM.

City Planner Tracy Smith stated that staff has no concerns with the sign, that the property is in the BS (Service Business) Zoning District, which allows only for a one-square-foot non-illuminated plate per tenant and does not allow for free-standing signs at all. Ms. Smith explained that the BS District was designed to serve as a buffer zone between heavier commercial districts and residential districts. A size of the allowed size, Ms. Smith stated, would not be seen from the street and there is a definite need for a variance for a larger sign.

Boardmember Knowles moved, in CASE # V 10-033 to accept the request to move the sign. Boardmember Anderson seconded the motion.

Legal Counsel Kin Sayre suggested that the motion be amended to approve the variance.

Boardmember Knowles accepted the amendment. Boardmember Anderson seconded the amendment, which was followed by a unanimous vote of "aye." Motion carried.

2. CASE # V 11-001. Opposite the Northwest Corner of High Street and Terrace Street. Public Hearing. Application requesting a variance from minimum setback requirements of Sections 420 "Lot Area, Yard, & Building Requirements" to construct a single-family dwelling that will extend into a minimum required side yard setbacks. John and Deborah Cooper, appellants.

Mr. John Cooper presented this request for a variance from setback requirements as submitted. Mr. Cooper explained that this request had been approved as submitted in the past, but that he and his wife had not had the funds to build the home on the property, until their home was sold.

Discussion included that the home will be owner-occupied and the exact location of the home on the property.

Ms. Smith confirmed that the request had been approved in the past, allowing for 8-foot setbacks and that there are stormwater management ponds on the other side. She stated that there might be unique challenges during construction, which will be addressed during building permit review by the engineering department.

Chairman Coffey opened the public hearing at 6:47 PM.

One person came forward to speak in opposition to the request.

- Ms. Elaine Mauck, 1000 North High Street, discussed her concerns regarding storm water runoff. She stated that stormwater runoff is already an issue because of surrounding properties and that her property floods.

As no one else spoke for or against the request, the public hearing closed at 6:51 PM.

Mr. Sayre reminded the Board that the applicants are able to construct a residence on that site, by right, and that they are asking for a variance from setbacks, not permission to construct the dwelling.

Boardmember Blackburn moved to approve, in CASE # V 10-001 to approve the application requesting relief from setback requirements. Boardmember Casabona seconded the motion which was followed by a unanimous vote of "aye." Motion carried.

3. CASE # SE 11-002. 407 Bowers Street. Public Hearing. Application requesting a special exception according to the requirements of Sections 560 "Table of Zoning District Uses," to use structure as a child day-care facility. The Golden Rule/Deborah Fries, Appellant.

Ms. Angela McClain, 905 W. Martin Street, presented this request for a special exception. She explained that she is part owner of the daycare operation, which is licensed to care for no more than twelve children and intends to offer care for children from 6-weeks of age to twelve years.

Discussion included state certifications, times of drop-off and pick up (7AM-5PM), and parking at the facility. Chairman Coffey expressed concern about traffic flow in the residential neighborhood.

Ms. Smith explained that the Building Inspector and State Fire Marshal have been working with the family on this project, as one of the owners lives right next door. She stated that she is satisfied with parking requirements and the property has room for more parking to be developed if needed. Ms. Smith said she believes the daycare will be a good thing for the area, that the City needs more daycare operations and she is satisfied with the credentials of the applicants.

Chairman Coffey asked for confirmation that no one will be living in the structure, which the applicant confirmed.

Chairman Coffey opened the public hearing at 7:07 PM. As no one came forward for or against the request, the public hearing closed at 7:07 PM.

Ms. Jody Bailey, co-owner, explained that, in her experience, the care of twelve children does not cause a large influx of traffic, as pick-up and drop-off times stagger. Ms. Smith added that she has been informed that employees will be parking next door at their mother, Deborah Fries' house, and that extra parking can be added if nuisance complaints come in from residences from the neighborhood.

Boardmember Casabona moved in SE 11-002, to approve the application requesting a Special Exception according to the requirements of Section 560 to use structure as a child day-care facility. Boardmember Blackburn seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

4. CASE # V 11-004. 803 W. King Street. Public Hearing. Application requesting a variance from the requirements of Section 522.3 "Design Limitations" under Section 522 "Service Business District" to exceed maximum size requirements for business signs. Home Instead Senior Care, appellant.

Mr. Aaron Blight presented this request for a variance. Mr. Blight explained that he would like to install a 2'x 4' freestanding business sign as a one-foot-square non-illuminated plate. Mr.

Blight stated that the location is an administrative office from which to dispatch caregivers to the homes of clients in the Martinsburg area.

Ms. Smith stated that she was under the impression that the sign will be low to the ground and in a flowerbed. Mr. Blight confirmed this, stating that he sign will be two-sided and be perpendicular to the street. The sign, he explained, will be one foot from the ground at its highest point.

Ms. Smith stated that staff has no issues, and that the variance is to allow a freestanding sign at all, as the Martinsburg Zoning Ordinance (MZO) does not allow them without a variance, not for the size of the sign.

Chairman Coffey opened the public hearing at 7:17 PM.

One person spoke in opposition to the request.

- Ms. Cynthia Baynham, 1225 W. King Street, stated that she believes that the sign is too large for the residential neighborhood. She stated that she owns four houses opposite this address.

As no one else came forward for or against the request, the public hearing closed at 7:19 PM.

Ms. Smith reminded the Board that if this were a non-conforming business in a residential district, it would be allowed a 15 square-foot sign, by right. Because this is a BS district, Ms. Smith explained, a variance is needed to allow a freestanding sign, which has no regulations in place.

Discussion included the wood-like appearance of the sign and that it will not be lighted at all, as well as the hours of operation (9AM-5PM).

Boardmember Blackburn moved, in CASE # V 11-004, 803 W. King Street, that the Board approve the request for a variance from requirements of Section 522.3 "Design Limitations" under Section 522 "Service Business District" to place a sign not to exceed 3-feet in height. Boardmember Casabona seconded the motion. Boardmembers Blackburn, Casabona, Anderson and Coffey voted "yes." Boardmember Knowles abstained as he works for Berkeley Senior Services, a competing organization.

OTHER

Election of Officers

Boardmember Knowles moved to open nominations. Boardmember Casabona seconded the motion, which was followed by a unanimous vote of "aye." Motion carried.

Boardmember Casabona nominated Chairman Coffey for Chairman.

Boardmember Knowles voted to close the nominations. Boardmember Blackburn seconded the motion.

With a unanimous vote of "aye" Chairman Coffey was voted Chairman of the Board of Zoning Appeals.

Boardmember Blackburn nominated Boardmember Casabona.

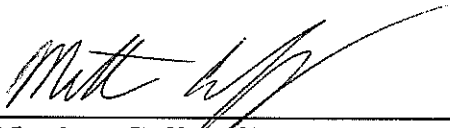
Boardmember Knowles moved to close nominations. Boardmember Blackburn seconded the motion.

With a unanimous vote of "aye," Boardmember Casabona was voted Vice Chairman of the Board of Zoning Appeals.

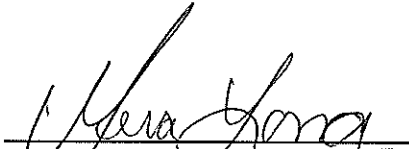
The Board was informed there are no agenda items for the February agenda and the next regular meeting is March 1, 2010.

ADJOURNMENT

The meeting was adjourned at 7:31 PM by unanimous consent.



Matthew Coffey, Chairperson



Gena Long, Secretary