

**PLANNING COMMISSION
CITY OF MARTINSBURG
232 N. QUEEN STREET
Regular Meeting Minutes
April 6, 2016
J. Oakley Seibert Council Chambers**

With a quorum present, President Jim Rodgers called the regular meeting of the Martinsburg Planning Commission to order at 6:00 p.m. The following Commissioners were present: Jim Rodgers, Mark Palmer, George Reichard, Scott Hamilton, Yvonne Jenkins, Jeffrey Molenda, and Reenie Raines. The following Commissioners were not present: Matt Coffey, Chris Ross and Greg Wachtel. Also in attendance were Legal Counsel Kin Sayre, City Engineer/Planning Director Michael Covell, City Planner Tracy Smith and Planning Secretary Holly Hartman.

ROLL CALL (and microphone check)

APPROVAL OF January 2, 2015 MEETING MINUTES

Commissioner Raines made the motion to approve the January minutes as presented. Commissioner Hamilton seconded the motion followed by a unanimous vote of “aye”. Motion carried.

UNFINISHED BUSINESS: None

NEW BUSINESS: None

DISCUSSION/ACTION ITEMS:

- a. **Home Occupation request. 125 Jackson Place.** Request by James Delawder, owner.

James Delawder stated he is requesting to operate his fine art studio at his residence on an appointment only basis.

President Rodgers asked why this request was an exception to the zoning ordinance. City Engineer/Planning Director, Michael Covell, stated that the current definition of home occupation requires the work being done primarily within the residence, which is why staff brought the request before the Commission to discuss; also, to recognize it as a fine arts studio because it goes beyond the realm of a traditional fine arts studio. Mr. Covell stated that in going with the times, this would be considered fine art, but the final judgement is up to the Planning Commission.

President Rodgers asked if this request would be setting a precedent. Legal Counsel, Kin Sayre replied that it would be. This would expand the medium of the definition of art. Commissioner Palmer asked if a precedent was being set because of the work being done in the detached garage instead of directly in the home. Mr. Sayre answered yes.

President Rodgers compared the art studio to a hair studio and stated that there would be no issue with the hair studio. Mr. Delawder stated that his business would be by appointment only and that he has a driveway and a fenced yard for privacy. He also stated that the neighbors surrounding his home have no issues with the business being there.

The Commission discussed if there was a difference between having the work done in the home or in a detached office space and agreed there was no difference and no precedent being set.

Justin Whitman, silent business partner and brother-in-law, explained that there would be no business signs as Mr. Delawder lives at the location and wants it to feel like home, not work. Mr. Whitman explained that some of his brother's work is not done at home at all, giving examples of body painting and magazine work that Mr. Delawder has to travel to locations and work. He further described the types of Mr. Delawder's art, such as graphic design, painting, tattooing, body art, airbrushing etc.

Commissioner Reichard asked what recourse the city has if it becomes a walk-in situation or because a nuisance. Mr. Sayre referred to the definition of home occupation and stated that if those specifics were not followed the city would be able to take action.

Commissioner Molenda made the motion to accept the home occupation request as submitted. Commissioner Jenkins seconded the motion followed by a unanimous vote of "aye". Motion carried.

b. Berkeley Medical Center. Development update by Planning Director.

Mr. Covell provided a review of the proposed plan noting an addition to the existing building. Mr. Covell explained that in a reaction to legislation passed in the most recent session, there were modifications of state code, with effective dates, that would make proceeding with our standard Site Plan process timeline extremely difficult. The Planning Department was contacted to determine the ability to have a footprint established in advance of the effective dates of legislation. Mr. Covell stated that the city's processes would not allow them to meet this effective State Code date in June. As this is an unusual situation, it was discussed with legal counsel prior to giving permission to start the shell. In addition, as this is the only hospital in the city, there are no unfair advantages being given to one and not the other. Mr. Covell advised that staff is reviewing the building plans and that most likely by fall, the commission will be reviewing the full site plan. Mr. Sayre added that this allowed the work to continue in a timely manner. The Commission agreed that this was in the best interest for our only hospital.

c. Martinsburg Zoning Ordinance Article IV, Section 440 Signs. Ordinance review of draft amendments for authorization to proceed as text amendment case or return for further revisions.

Mr. Covell advised that this change was ready to proceed as a text amendment. Staff waited for more input, but MainStreet Martinsburg had no other concerns to add. From this point, it will be a new business item as a text amendment to be sent to the City Council for approval.

Commissioner Molenda asked about on and off premise advertising, giving examples of signs, banners and balloons. Mr. Sayre stated that most of the sign regulations would have to be revisited separately from this change due to Supreme Court decisions regulating wording and intent of signs. Commissioner Molenda suggested that continued work on the sign regulations be added into the workflow now, particularly with the upcoming comprehensive plan review.

Commissioner Raines asked if the HPRC had any concerns with the proposed change. Mr. Covell replied they are aware of and in support of the change.

Commissioner Molenda made the motion to allow the draft amendment to proceed as a text amendment. Commissioner Raines seconded the motion followed by a unanimous vote of "aye". Motion carried.

d. Martinsburg Zoning Ordinance Article VI. Recently adopted amendments by City Council.

Mr. Covell explained that the ordinance went before City Council and was approved with a few modifications, shown in the copies provided. Mr. Covell advised that he will update the Zoning Ordinance with this change and a few other recent changes and provided the commission with an updated copy.

Commissioner Molenda asked about the use of temporary structures in commercial and industrial areas. Mr. Covell replied that it is limited; there is not a go-to section to clarify limitations other than examples from other businesses with temporary structures, such as Wal-Mart and Lowes, who show parking and note that the location can be subject to seasonal displays.

Commissioner Molenda mentioned that there are four donation boxes located at Martin's on Foxcroft Avenue and none of them meet the requirements because none of them have a phone number listed. Mr. Covell stated that they would most likely self-resolve once the owners of the boxes are contacted.

e. Comprehensive Plan. Status update by Planning Director.

Mr. Covell provided an explanation of the steps in this update process noting it will begin with a request for qualifications. Once the city has all of the submittals, they are narrowed down to a few of the most qualified firms who are then interviewed and narrowed down even further to begin negotiations which will hopefully end with an agreement. Mr. Covell advised it might work best to form a committee to review and work with the chosen company. The ideal is to have three members of the Planning Commission and one to three City Council members to gain input from the other commissioners and elected officials to bring to the committee. Mr. Covell explained that this committee would work with staff during input periods with the consultant.

OTHER BUSINESS:

Commissioner Palmer asked if the definition of a public building could be added on the next agenda as a discussion item as there were questions he had about it. Mr. Sayre responded that it could be placed on next month's agenda.

ADJOURNMENT

The meeting was adjourned by unanimous consent at 6:55 p.m.

Jim Rodgers, President

Holly Hartman, Planning Secretary