

BOARD OF ZONING APPEALS

MINUTES

6:30 p.m.

May 20, 2020

By Electronic Means

MEMBERS PRESENT: Chris Benison, Garrett Tomblin, Heidi Cook and Kevin Meehan

MEMBERS ABSENT: Harrison Case

STAFF: John Whitmore, City of Morgantown

A. CALL TO ORDER AND ROLL CALL: Mr. Case was absent, and Mr. Meehan, who is Vice Chair, called the virtual meeting to order and read the explanation of how the Board remotely conducts business and rules for public comments.

B. MATTERS OF BUSINESS:

Minutes for the April 15, 2020 hearing were postponed.

C. UNFINISHED BUSINESS: None.

D. NEW BUSINESS:

A. V20-12 / WinCor Properties LLC / 215 Beechurst Avenue: Request by Don Corwin on behalf of WinCor Properties LLC or variance relief from Section 1347.04 of the Planning and Zoning Code regarding side yard setbacks for a rear porch/deck feature.

Whitmore presented the Staff Report and noted the petitioner is present.

Don Corwin stated that 215 Beechurst Avenue property is a house that is approximately 100 years old. This property is right on Beechurst close to the intersection of Beechurst and Campus Drive. The lot is a parallelogram, the way the house sits makes the lot askew resulting in the house being a non-conforming structure as many houses are within the city limits. At the rear of the house an enclosure was added not long after the house was built. The structure on the rear of the house was an aluminum sided structure. In the course of remodeling the property we made the determination that was not usable space as it was not stable and had to remove it. The proposal is to replace using the same footprint with a multi-level deck. Therefore, we are here today to request approval.

Meehan asked the Board if there were any questions or concerns. There were no questions. Meehan opened the public hearing.

Whitmore stated that he had received an email on May 18 at 11:36 a.m. Craig Corwin, Corwin properties, stated they were in favor of granting Win Cor Properties a variance for the unit located at 215 Beechurst Avenue. They have no doubt that the variance

would be used to increase the value of their property as well as all our properties in the neighborhood.

Meehan deemed the public hearing closed.

Whitmore presented the staff recommendation.

Benison asked Mr. Whitmore to explain the difference between residential districts and B2 service district with regard to the setback encroachment allowances in zoning regulations. Whitmore stated that all of the residential districts that permit single family residential dwellings appear to allow for these encroachments to occur. Whitmore explained higher level uses, especially in the B-2, District, there are a lot of different business uses than these higher density residential. This is request for 3 feet away from property line would be different than a car wash 3 feet away from the property. This explains the general idea. In the B-2 residential district, the setbacks are designed for the service businesses proposed in the district.

Meehan asked if there was a motion. Tomblin moved to accept the findings of fact, seconded by Benison. Decision was unanimous.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Reconstruction of the rear deck will not have adverse effects as it will use the footprint of the original structure. This work will have no impact on pedestrian safety and does not encroach on any adjacent structure. Replacement is necessary due to the removal of the old porch/deck addition which was in a dilapidated and unstable condition and had to be removed for safety reasons. The new deck will be constructed based on current building requirements. This new structure will be safer and more aesthetically pleasing.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

215 Beechurst Avenue property is approximately 100 years old. The rear porch/deck addition was added approximately 60 years ago. The house is “non-conforming” based on the current code and side setback requirement. The interior of this property has been reconditioned and inspected. It meets all occupancy code requirements. Replacement of the deck is necessary to finalize this work.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

It is necessary to reconstruct the deck to provide an entrance into the ground floor of the structure. The second floor has doors allowing access to the outside deck. Reasonable land usage applies as this work is wholly consistent with adjacent houses that have exterior decks. This usage of the land is consistent with the neighborhood aesthetic and allows for continued use of the property and providing a finished look to the house.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The rear deck’s encroachment into the side setbacks appears to be consistent with development patterns along the Beechurst Avenue corridor. This property is zoned B-2, Service Business District and has two-additional overlay districts providing heightened

development requirements related to building and site design. At issue, is a side-yard setback for a rear feature which will not interfere with increased urban density encouraged for this area, and will allow for the continued use of a considerably older structure which may provide some continued benefit to the neighborhood and larger community.

Cook moved to grant the variance as stated in the packet, Tomblin seconded. The vote was unanimous. The variance was unanimously approved.

- B. V20-13 / Mountain Heights Church / 318 Chestnut Street:** Request by Bryant Noble on behalf of Mountain Heights Church for variance relief from Article 1369 concerning signage.

Whitmore presented the Staff Report and noted the petitioner is present. Whitmore apologized a filing mix up and noted changes for the future to avoid this from happening again. Nobel will be leaving the call early, and Amy Bond who is also a representative of Mountain Heights Church and will take over any questions.

Bryant Noble, Mountain Heights Church, 318 Chestnut Street. Stated that they were a new church in the Morgantown area and have leased office space on Chestnut Street. Would like to get signage on the building for wayfinding. He is hoping the sign would be big enough to be seen from the upper deck of the PRT station so that students would be able to see it. He stated they already have a sign main, tastefully designed in woodgrain.

Meehan asked if there were questions from the Board. Benison asked if the sign would stick out or be flush with the building. Noble stated it would be flush.

With no further questions Meehan declared the public meeting open and then closed the hearing when Whitmore stated there were no comments received. There being no public participants Meehan closed the public hearing.

Whitmore presented the staff recommendation.

Benison asked for clarification, are there any plans to illuminate the sign. Mr. Noble stated that possibly in the future, but not now.

Meehan asked for a motion. Cook motioned to accept the findings of fact. Seconded by Benison. The vote was unanimous.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The tenant is seeking a signage variance from the maximum sign area standard to enable property wayfinding. The physical size of the sign does not conflict with surrounding signage and is designed to appear similar to traditional wooden sign with permitted materials.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The tenant is located along the northwestern side of the building along Chestnut Street. The property is oriented to Walnut Street creating a visual challenge for property advertising. The signage will be located along Chestnut Street and will not be readily visible to pedestrians along Walnut Street and will not be visible to motor vehicle traffic on Walnut Street. The proposed signage allows for Chestnut Street wayfinding.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because

The tenant will be able to provide wayfinding opportunity to the general public while maintaining a similar style of signage as is seen in the neighboring properties, particularly the Old Stone House Gift House, the closest neighboring tenant.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The variance arises from the location of the tenant in a multi-use building in relationship to the pre-existing traffic areas. The Planning and Zoning Code does not provide practical methods to allow for increased wall sign areas in instances where proper advertising /wayfinding cannot be physically or practically achieved.

Cook moved to grant the variance; Tomblin seconded. The vote was again unanimous.

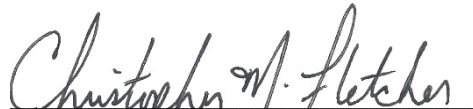
ANNOUNCEMENTS: BZA will not be meeting in June.

ADJOURNMENT: 7:10 p.m.

MINUTES APPROVED:

July 15, 2020

BOARD SECRETARY:


Christopher M. Fletcher, AICP