

**BOARD OF ZONING APPEALS  
Special Meeting**

**MINUTES**

**6:30 p.m.**

**May 19, 2021**

**Virtual/Electronic Meeting**

**MEMBERS PRESENT:** Harrison Case, Chris Benison, Heidi Cook, Garrett Tomblin

**MEMBERS ABSENT:** Kevin Meehan

**STAFF:** Rickie Yeager, City of Morgantown

**I. CALL TO ORDER AND ROLL CALL:** Case called the meeting to order and read the pre-meeting announcement.

**II. MATTERS OF BUSINESS:**

Approval of minutes from the April 12 and April 21, 2021 meeting. Being there were no changes or additions, the minutes will be entered as approved.

**III. UNFINISHED BUSINESS:** None.

**IV. NEW BUSINESS:**

**A. V21-09 / Mountaineer Glass and Mirror, LLC / 230 Willowdale Road:** Request by Drew Reveal on behalf of Mountaineer Glass and Mirror, LLC, for variance relief from Article 1363 concerning front setbacks; Tax District 12, Tax Map 14, Parcel 322; R-1A, Single-Family Residential District.

Yeager presented the staff report and noted that the petitioner was present.

Drew ReVeal, owner of Mountaineer Glass and Mirror. ReVeal stated that he is requesting to enclose a front porch to limit noise and dirt for the customer. He further stated that the footprint of the home will not be changed, and that there will be no reflective glass. Sliding windows and a door will be installed, using Simonton products.

Case asked the board for questions. Being none and no public comments, he asked for the staff recommendation.

**STAFF RECOMMENDATION:**

It is the duty of the Board of Zoning Appeals to determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the petitioner. If the Board disagrees with the petitioner's "Findings of Fact" and determines the proposed request does not meet the standard criteria for a variance, then the Board must state findings of fact and conclusions of law on which it

bases its decision to deny the subject variance petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Addendum B of this report provides staff suggested edits to the petitioner's Findings of Fact responses (deleted matter struck-through; new matter underlined). Staff edits should not be considered or construed as supporting or opposing the subject variance petition. Staff provides no recommendation regarding the requested variance relief.

Case asked members of the board if there were questions or comments. Being none Case asked for a motion. Case moved to adopt the four findings of fact in the staff report. Tomblin seconded. Vote was unanimous. Case also noted this variance was not subject to conditions.

Cook moved to grant the variance, seconded by Case. Vote was unanimous. Case informed the petitioner that the request for variance has been granted and that he will receive something in writing from the Development office in the next several days.

- B. V21-10 / Hooshyar / 1816 Sturgiss Avenue:** Request by Daryoush Hooshyar for variance relief from Article 1347 concerning parking lot design requirements; Tax District 14, Tax Map 33, Parcel 47.1; B-2, Service Business District.

Yeager presented the combined staff report and noted the petitioner was present. Yeager also noted there were two members of the public present on the call.

Case asked the petitioner to identify himself. Daryoush Hooshyar, 1816 Sturgiss Avenue. Mr. Case wanted to confirm that there would be one public hearing for all four variances, Mr. Hooshyar agreed. Case asked that everyone mute their microphones because there is a lot of feedback and difficulty hearing Mr. Hooshyar.

Mr. Hooshyar began to speak. (-----) Mr. Case informed him there was bad feedback from his line and we are unable to hear him. Mr. Case asked him to rejoin the meeting at 7:15 and maybe we will be able to hear better. Case announced recess until 7:15.

Case resumed the meeting noting it was 7:21 p.m. and we are now back on the record. Case reminded the board and callers that we were attempting to listen to Mr. Hooshyar, but with background noise could not hear him. Mr. Hooshyar did not appear to have rejoined the call and would try again after hearing other cases.

Mr. Keepers, public speaker, asked if the cases were postponed or if we would wait to resume later in this meeting. Case explained that we would attempt again after the next case and go from there. Mr. Keepers was ok with that.

At 7:38, Case asked if Mr. Hooshyar was on the line. He was on the line, but still experiencing extreme feedback.

Case noted that since we are not able to hear the applicant, that we postpone this hearing due to technical issues.

Mr. Hooshyar wanted to try to present his case. Case stated that the board would try as best they can to hear the case.

Mr. Hooshyar stated that he is opening a smoke shop. Case stated that he is requesting relief from four different requirements and asked Mr. Hooshyar to explain his requests. Starting with the parking islands. Mr. Hooshyar spoke (-----) and was indecipherable.

Due to continued technical issues, Mr. Case asked the board for recommendations on postponing the case. A unanimous decision was made to postpone.

Case asked Mr. Yeager, from a staff perspective, if he recommended postponing. Mr. Yeager was in agreement and would contact Mr. Hooshyar to make accommodations for a future meeting.

Case moved to postpone these cases, seconded by Cook. Vote was unanimous. Case addressed Mr. Hooshyar and apologized for not being able to hear, and that the Planning office will help with technical accommodations for a future meeting.

Mr. Keeper, a member of the public, asked if they would receive notification of the future meeting. Mr. Yeager confirmed that there would be a legal notice for the next meeting and members of the public present would be directly notified.

- C. **V21-11 / Hooshyar / 1816 Sturgiss Avenue:** Request by Daryoush Hooshyar for variance relief from Article 1347 concerning sidewalk requirements; Tax District 14, Tax Map 33, Parcel 47.1; B-2, Service Business District.

Postponed due to technical issues.

- D. **V21-12 / Hooshyar / 1816 Sturgiss Avenue:** Request by Daryoush Hooshyar for variance relief from Article 1367 concerning landscape buffer requirements; Tax District 14, Tax Map 33, Parcel 47.1; B-2, Service Business District.

Postponed due to technical issues.

- E. **V21-13 / Hooshyar / 1816 Sturgiss Avenue:** Request by Daryoush Hooshyar for variance relief from Article 1367 concerning parking lot design requirements; Tax District 14, Tax Map 33, Parcel 47.1; B-2, Service Business District.

Postponed due to technical issues.

- F. **V21-14 / Summers / 1101 Munsey Street:** Request by Dolores John on behalf of Kevin and Audrie Summers for variance relief from Article 1331 concerning a proposed accessory structure's location; Tax District 15, Tax Map 6, Parcels 28 & 28.1; R-1, Single-Family Residential District.

Yeager presented the staff report and noted the petitioner was present.

Audrey Summers, 1101 Munsey Avenue, property owner. Ms. Summers stated they are attempting to put in a swimming pool and small pool house. She stated there is no back yard per se, so the only place to put the pool is in the side yard. Ms. Summers stated the pool would be around 15' by 30' with a 15' x 20' pool house on the corner of the property. She stated that the neighbors to no appear to have issues with this.

Case asked the board if there were questions. Mr. Benison asked about the pool house, asking if it would interfere with site lines. Ms. Summers stated this would not be an issue, that this has been gone over with the architect. Ms. Cook asked if the project would be fenced. The petitioner noted the entire property is already fenced and that she may add additional fencing around the pool due to child fostering regulations.

Being no other questions, Mr. Case asked Mr. Yeager that if parcels are later combined, would this affect the case. Yeager noted that there was a minor subdivision application to combine and the pool house is an individual parcel. Case thanked for the explanation. He further noted that the plans that were submitted were quite detailed as are the pictures in the packet. The petitioner noted the fences are six feet high.

Case opened the public hearing. Being no one present, Case noted there was an email received from Dr. Joan Gibson of Koontz Ave in regard to this application. She stated that she had no problem with the installation of the pool. Case closed the public hearing and asked for Staff Recommendation.

Staff Recommendation. The Board of Zoning Appeals must determine whether the proposed requests meet the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the petitioner. If the Board disagrees with the petitioner's "Findings of Fact" and determines the proposed request does not meet the standard criteria for a variance, then the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject variance petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Addendum B of this report restates the petitioner's submitted findings of fact responses. Staff recommends variance relief from Section 1331.08(a)(4) be granted as requested without conditions as there is no rear yard available on this parcel that would permit an accessory building to be built on-site in compliance with the Planning and Zoning Code.

Case mentioned that the staff report was well done, and the applicant's information presented explains the details of the project very complete.

Case asked the Board if there were questions. Being none, he asked for a motion. Cook moved to accept the findings of fact presented in the packet. Benison seconded. The vote was unanimous.

Case asked for a motion to approve the variance. Motion by Cook, seconded by Harrison. Vote was unanimous.

Case noted the request for variance has been granted. He further noted that the applicant will receive written notification from the Planning office in the next few days.

**V. ANNOUNCEMENTS:** Yeager noted we will have a meeting on June 16 with a large agenda. He further stated that he wanted to thank John Whitmore for his service, his last day is next Thursday with a cake reception from 1-3:00 if the board would like to participate. Case was in agreement with him being missed and will reach out to him before he leaves. Benison and Cook agreed that John Whitmore will be missed.

**VI. ADJOURNMENT:** Meeting adjourned 7:51 p.m.

MINUTES APPROVED:

BOARD SECRETARY:

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Rickie Yeager, AICP