

MINUTES
MARSHALL CITY ZONING BOARD OF APPEALS
Regular Meeting Tuesday, May 13, 2014
7:00 P.M. – COUNCIL CHAMBERS

CALL TO ORDER

This meeting was called to order by Board Member Feneley at 7:05 p.m.

ROLL CALL

Members Present: Board Members Galloway, Karns, Byrne and Feneley

Members Absent: Board Members DeGraw and Beach

Staff Present: Natalie Dean Director of Community Services

APPROVAL OF MINUTES

Motion by Karns, supported by Byrne, to accept the minutes of the September 19, 2013 regular meeting as submitted. On a voice vote; **Motion Carried.**

APPROVAL OF AGENDA

Motion by Karns, supported by Galloway, to accept the agenda of the May 13, 2014 regular meeting as submitted. On a voice vote; **Motion Carried.**

AUDIENCE PARTICIPATION

No public comment.

NEW BUSINESS

Case #14.02

Staff stated that a few months ago the petitioner contacted her and presented her with plans to build a 20-unit Assisted Living Facility for the elderly at 208 Winston Court, which is currently a vacant lot. The lot is zoned B-4, which allows for medical offices but does not allow the living facilities. Staff stated the petitioner is requesting a use variance so he can build the Assisted Living Facility which will incorporate a mix of these two uses.

Public Hearing Open

Scott Morrison, S. Allen Design, 49 A West Chicago, Coldwater, stated he would like to build a 20-unit Assisted Living Facility. He discussed the surrounding doctor's offices and how this location would be a good fit for the facility. Mr. Morrison stated the facility would also provide in-house rehabilitation. He would like the older residents of Marshall to be able to stay in Marshall when they can no longer live alone in their home.

(official)

Dustin Burritt, Owner & Operator of the Coldwater facility, stated the facility is family oriented, will offer in-house rehabilitation along with assisted living amenities. He stated that a short term resident typically stays for three months or under, but the facility is a permanent home as well. Mr. Burritt further stated that there will usually be three full time staff at the facility during the day and a nurse will be on call. The facility will provide meals, grooming, rehabilitation, and health services to their clients.

Zoning Board members asked Mr. Burritt if the residents will have their own room. Mr. Burritt stated that each resident will have their own room and each room is equipped with a kitchenette, a bathroom and they will have their own temperature controls. Mr. Burritt also stated that the facility will be family oriented so families can hold parties for their loved one, there are in-house meals, and activities will be planned that family members can attend.

Public Hearing Closed

MOTION by Karns, supported by Byrne, to approve the Use Variance Request #14.02 filed by Scott Morrison of S. Allen Design, to build an Assisted Living Facility at 208 Winston Court in the B-4 District.

Using the Use Variance Worksheet, the board cited the following items pertaining to this variance:

- The current zoning ordinance prohibits the property owner from securing any reasonable economic return or making any reasonable use of the property. Under this standard, the ZBA must find that the property (land, structured and other improvements) is not suitable for uses permitted in the zoning district. ***Members discussed that multi-family residential zoning districts is the only allowed location for this business. Board Members further stated that the current zoning ordinance prohibits the property owner from securing any reasonable economic return or making any reasonable use of the property.***
- The landowner's plight is due to unique circumstances peculiar to the property and not to the general neighborhood conditions. Circumstances common to the larger neighborhood may reflect the unreasonableness of the zoning itself, which should be addressed through a rezoning or other legislative action. ***Board Members agreed that there is a unique situation with this type of business.***
- The use variance, if granted, would not alter the essential character of the neighborhood. This standard requires consideration of whether the intent and purpose of the chapter and zoning district will be preserved, and the essential character of the area will be maintained. ***Board Members agreed that this facility will fit in well with the surrounding businesses and will not cause any more vehicular traffic than is already present.***
- The hardship is not the result of the applicant's actions. Under this standard, the ZBA must determine that the hardship that led to the use variance request was not self-created by the applicant. Purchase of a property with a pre-existing hardship does not constitute a self-created hardship. Financial hardships that would prevent reasonable use of the property shall be considered, but shall not be the only determining factor in granting a use variance. ***Board Members agreed that there is not likely any other reasonable location for the petitioner to build his assisted living facility in the City.***

On a roll-call vote-ayes: Byrne, Feneley, Karns, and Galloway; nays: none. **Motion Carried.**

(official)

Officer Election

MOTION by Galloway, supported by Byrne, to appoint Board Member Feneley as Chair of the Zoning Board. On a voice vote; **Motion Carried.**

MOTION by Galloway, supported by Karns, to appoint Board Member DeGraw as Co-Chair of the Zoning Board. On a voice vote; **Motion Carried.**

OLD BUSINESS

None

REPORTS

Staff stated that there will be at least one case for the next June meeting and possibly 3 more coming.

ADJOURN

Meeting adjourned at 7:56 pm.

Respectfully submitted,

Colleen Webb