

BOARD OF ZONING APPEALS

The regular meeting of the Board of Zoning Appeals was held on March 1, 2018, at 7:02 p.m. in the Public Safety Building located at 500 Quincy Street.

President Majic called the meeting to order at 7:00 p.m.

ROLL CALL OF MEMBERS

Present

President Majic
Board Member Shultz
Board Member Ragan
Board Member Bolyard

Absent

Board Member Deasy
Board Member Manchin

Board Member Shultz motioned to excuse **Board Members Deasy and Manchin** from tonight’s meeting.
Board Member Ragan seconded the motion.
Motion carried 4-0

City Staff Present

City Manager, Robin Gomez
Senior Staff Assistant, Maria Cipolla

APPROVAL OF MINUTES

President Majic asked for a motion to approve the minutes from December 7, 2017.
Board Member Ragan motioned to approve the minutes.
Board Member Shultz seconded the motion.
Motion carried 4-0.

PUBLIC HEARINGS FOR March 1, 2018

1. Mykron Inc. is requesting a rear yard setback variance for the construction of townhouses at 1115 Morgantown Avenue from 40 feet to 20 feet. The Neighborhood Mixed Use Zoning District requires a 40 foot setback. The property is identified as 5-3-35.

President Majic: Is there anyone here to speak in favor of this request?

Mike Staud: Thank you for allowing us to speak here tonight on this variance Ronnie [Nichols] and I had an opportunity to discuss this request with the folks here before the meeting. Just a little bit of background; Ronnie and I combined have over 50 years of experience in the construction business. Ronnie does the electrical work. I am a general contractor. We bring a lot of expertise into a project. We have done numerous projects in and around Fairmont. Our desire recently was to form a development company and we did so; Mykron Development. We purchased an old warehouse on Morgantown Avenue that had been vacant for over 10 years and converted it into very nice industrial lofts. We have great renters. They are professional people in the community. Recently, we also purchased May Brother’s Concrete Company. We have plans to run the plant and develop property we have around that area for residential use. We have been searching for properties along Morgantown Avenue. We have targeted that area. It is not where we are from, but it is an area that has very nice properties and has some houses that are a sad state and in need of repairs. We have been looking for properties when a property came up for sale. This is the same property that the City was looking at to put a fire station. Ron and I know the owner. We saw an opportunity for a house that was not worth salvaging once we walked through it. To flip this house, it is not feasible. The numbers don’t work. It is just too costly. The property is a beautiful property. It sits among some of the nicest homes in Fairmont; brick homes that are well kept. We began looking at it from a stand point of perhaps putting some townhomes on this property. We approached Maria [Cipolla] and Sandra [Scaffidi] and presented our idea. They told us we would need to go before the BZA and ask for a variance for the rear yard. We did tell them we wanted nine units. We want nine units because

financially that is what makes sense for us. I do want to say, and I don't know if everybody here heard me, it is not Ron and I's desire to force our way to get what we want. We want to work with the community. We live in the community. We bought a business in the community. We want to see our business thrive. We want to see this community thrive. As we look at it, we look at houses that are nearly falling down. We want to improve that situation, but not at the expense of what the community wants. At the end of this meeting, if this community says absolutely not. We are going to work with that and we will kindly step away. Unfortunately, we won't be able to see what we could use the property for. At this moment in time, if it is not this, maybe there is another purpose for it. We are here to seek a variance on the diagram I have drawn. This diagram is drawn to scale. The dotted line drawn along the back of the property is the forty foot setback. Currently the townhouses are setback at the maximum of 25 feet from Morgantown Avenue. We could bring them forward, but they would then get out of line with the neighbor. Therefore, I think it would not look as good from Morgantown Avenue, but does propose a problem in the rear of the lot. To address that, we are looking for a twenty foot variance in the rear of the property. I did speak to some of the community members here. It is not out of the question to add garages under these; taking away some of the concern for parking and a large paved area. That is all a numbers game, as well. If we go with the garages underneath, it would be likely that we won't need the variance, but right now, prior to building and/or making an offer, we want to make sure either way we go; we will be able to do so. I know I have heard some of the concerns about the water. Obviously, the City will tell us how to capture the water and how to discharge of it. I think one of the major concerns that even I have is the side setback [along the Williams property]. While the dotted line does represent five feet that is the minimum setback, I am showing ten feet. I can slide the units over and probably gain another five feet, but we are still close to a lot line. Ron and I understand that if this project were to move forward, we would work very closely with the neighbors to do what are feasible in their interest. With that said, we are looking for a twenty foot variance [rear yard]. If there are any questions or concerns, we are open to them.

President Majic: Do any of the board members have any questions at this time?

There were none.

President Majic: Is there anyone to speak against this request?

Mike Williams: I live directly adjacent to the property. We have lived there for twenty-one years. We have watched with great sadness, this grand house fall into disrepair. It has been a very sad thing to watch. We were very disappointed whenever the Firehouse decided that they were unable to build on it because of several reason; the amount of water and whatever is going on at the lot couldn't support the Fire Department. That is my concern when we heard they are going to be putting in townhouses which should have more square footage than the Fire Department does. My biggest concern is that it all back fills and it has no drainage. If you went to my backyard right now, you would see I have water standing everywhere. My biggest concern is 'what will we do with all the water?' At looking at his plans, they are lovely. It looks like it would be a beautiful development. I do have a concern about parking. I understand the City is going to be making improvements to the park across the street which is a nice thing. My kids grew up here. I worked at East Park Elementary. I belong in that neighborhood. I know the lot needs to be developed. I have no problems with that. I just want it developed responsibly. Those are the issues that I have. I don't want to be sitting in my driveway and be unable to see to get out because of all the cars. I know full well that if there are 9 units there are going to be at least 18 -20 cars depending on who lives there. If you have teenagers, I know I have way too many cars in my backyard right now which is why it is all torn up. I am not planning on holding onto my house forever. When it comes time for me to let it go and let somebody else have it, I want it to maintain its value. Those are my concerns. If the water issues and those kinds of things can be addressed reasonably, I have no problem with the variance. The lot plan looks workable. I was more concerned that I would have the back of buildings up against my property and we know what the back of people's houses look like. I didn't want to have to look at that. I am pleased with the plan that they have. If we can address the parking and water issues ... [unfinished statement]

President Majic: I think we can. They had a DRC [Development Review Committee] meeting and Maria [Cipolla] has some information. I think she will be able to speak a little on that. (Mykron only had an informal office meeting)

Maria Cipolla: They are required to capture the water onsite. We [DRC Members] went over rain gardens, drainage systems, and different ways they can capture the water with them. They will have to show calculations and provide us with a report showing how they are going to do that right down to a one inch capture.

Mike Williams: What happens when a tank fills up? What happens then? It has to go somewhere.

Maria Cipolla: A lot of them are designed to absorb into the ground. I don't know all of the mechanics of how they work, but it will have to go into the City sewer or captured in the rain gardens/tanks, etc. We like to see it captured with rain gardens and natural solutions so that you are not putting huge tanks in the ground. The tanks can cause a problem and sometimes need to be replaced which is costly.

Mike Williams: The ground up there doesn't percolate very well. There is going to have to be a system to deal with that.

Aron Majic: They will have inspectors and engineers. They won't go out there saying 'maybe this will work'.

Mike Williams: I have a well underneath my back porch that we do not use. The water in my well is about sixty feet deep. There are deep wells and there is a lot of water in that area. The water does not percolate down so the rain gardens are not going to alleviate the water there. At some point in time, there is going to be water runoff.

Maria Cipolla: I know Mike Staud has built apartments, for another gentleman, literally on a hill side. There are no issues with water there. I am very confident that they know what they are doing. They City has its own engineers that will go through their proposal very thoroughly. If there are any water issues, they will be addressed. As far as parking goes, the townhomes that they are proposing are two bedroom townhouses. They are required to have a parking space per bedroom. The design they are proposing tonight has three extra parking spaces as well as what they are required to have to allow for visitors. That makes the City's requirements. Hopefully, that will suffice.

Mike Williams: I know I have very little to say about what goes on at that property.

Maria Cipolla: Your concerns and our concerns, as well as theirs [Mike Staud and Ron Nichols]. Even if they are within the Code, we still want everybody to try and work this out. We know you have to live with it every day. We are going to make that this certainly doesn't cause any more water issue than you already have on your property. I am sorry that you do have a water issue there.

Audio is inaudible resident speaking from his seat.

President Majic: Can you step to the podium and stay this, my friend?

Ron Nichols: I understand what their concern is. They live at the bottom of the hill and all the water is going to run down. Essentially, what Mike and I are going to do is, we are more or less building a bowl on top of the hill because we are going to have to control that water. Basically, it will be in the middle of the parking and then get out from the City of Fairmont's ways to get out. It may help your problems and your issues.

Unidentified neighbor of property below: That is not going to stop the spring at the bottom of the hill. We already have stuff that is running off. You could ride a canoe through our yard. In the winter time, my drain down the street is ice. In the Summer time, it is water. It does not stop; 365 days a year.

Unidentified neighbor below's wife: You guys don't realize what you are getting into.

Ron Nichols: Truthfully, this is the super beginning stages of the project.

Unidentified neighbor of property below: We brought it to the City several times. We have had them look at all the water they are putting on us. I have had to take money to do work on my house. I have had FEMA wanting to give us stuff when we had the floods down there. It just doesn't stop.

Unidentified neighbor below's wife: There are springs.

President Majic: I can appreciate what you are saying. However, what they [Mykron] will not add to your current problem. It probably won't fix it. This meeting is more about their variance. I think what you [Mykron] are saying is that it certainly won't make it worst for anyone.

Ron Nichols: If anything, it will help it.

Inaudible: Ron and residents are talking to each other.

Ron Nichols: This plan is what we came up, but we will be glad to work with the neighborhood. We are not saying we are stuck with this plan.

President Majic: And like Maria [Cipolla] said, the City is going to have engineers and inspectors on the site. If it is deemed that it is not doable, than it's not doable. Like you said, this is the beginning stage. We are just trying to figure out about your twenty foot variance request.

Ken Hacker: I live directly across the street from this proposed development. Obviously, coming here tonight I was for or against this development. This is the first I knew of it really; seeing the conceptual plan. What I have seen before you tonight looks great compared to what is there now; what I have to look at every day. I am all for this. I would push Mr. Staud towards putting the garage parking underneath these. I think that would cater the more high-end that he is shooting for. It just seems it would look better for the neighborhood and not just a big parking lot in the middle of the neighborhood. I feel like I need to say something. My background is a civil engineer for the State of West Virginia. I pretty much only work with storm water at this point. I worked for the City of Fairmont for a couple of years. Now I work for the City of Morgantown. I know about the Indiana Avenue problem with the drainage and spring. This project isn't to address the spring issues. They are a tough thing to address for a municipality because a storm water utility is not meant to address springs. Springs are very difficult to find the source of it and capture the water. With the run off and this site, these types of development do make things better as far as surface runoff goes. They do have to capture a large amount of water. The rain gardens that sometimes used are more in place for uptake from vegetation and different landscaping. Rain gardens are not specially for infiltrating water into the ground. They are more for a rain water reuse. Something like that would be beneficial. They cannot add to water problems down the hill. There are hundred different ways they can manage the storm water on this site. That is between them and the City of Fairmont how they do that. I would love to know how they are going to do that because I'm a nerd like that. Honestly, it will improve the runoff issues, if there are runoff issues for the neighbors down below from this area. It will improve the surface runoff. They will have to capture surface runoff; not the springs. There are two separate issues there. If they run into a spring during excavation, they will have to deal with that. I am not familiar with Mill Street and whether or not there is a storm sewer there. If there is, more than likely, that would be their discharge point. The State of West Virginia says you have to try and infiltrate water into the ground. If it won't infiltrate, you can dewater it through an underdrain; essentially big French drain. It can dump into a storm sewer which will be taking water off of the people down below. It will help because they are going to control that site and manage that. That is up to the how they do that, but I am really excited that somebody is looking at this to keep the neighborhood looking better. I don't know if there is drainage in the alley behind this. Maybe they can look at improving the alleyway with some piping coming out. It would be an easy way for you to tie in your system.

Ron Nichols: Really, Mike [Bragg] (City of Fairmont's Storm water Engineer) is the one who is going to tell us what we have to do. We are not here to tear up the neighborhood.

Ken Hacker: I love that you are local and from the area. You bought a business right down the road. In Morgantown, we deal with a lot of people coming in from Texas building developments. You don't know who to call if you have an issue. We would be fortunate to have a local developer on a site like this. I'm still not 100% for it or against it. I would like to know more about it. I have only known about for an hour now. If we could get more information on it as it is available and work together on something that will make the neighborhood look better, that would be better for everybody.

Roger Anderson: Thank you for letting me have this opportunity to speak tonight and to meet the developers of this project. I do understand the Zoning Committee is here just for the zone. I am not here to beat a dead horse on the water issues. One of the main reasons I wanted to come this evening is to let them know we know what water issues we have today. After speaking with these gentlemen about their plans, it sounds like it is going to be a good thing for all of us. What we need to know, if it gets worst, which do we come and see. Do we come to see the City or the developers? It is a little bit of a fact finding issue for us; just so we know what to do. Hopefully, like everyone has said, it is going to be better. We are all for that. We want the City to grow. We want it to prosper. I think the plan these gentlemen have is a great plan. If it gets worst, we are going to know who to talk too. If it gets better, we already know who to talk too. We will buy these gentlemen a steak dinner. Thank you for your time.

President Majic: Do I have a motion to close the public hearing?

Board Member Ragan motioned to close the public hearing.

Board Member Bolyard seconded that motion.

Motion carried 4-0.

President Majic: Maria [Cipolla], can we have the staff report?

Maria Cipolla: The applicants are requesting permission to construct nine townhomes (5-3-35) on a lot at the corner of Morgantown Avenue and Mills Street. The applicant is requesting a variance from Development Standard 3.1.1.F which requires a rear yard setback of 40 feet minimum. By code, each townhome needs to be at minimum 20 feet wide and at least 1200 square feet in size. The proposed location for these townhomes is a corner lot which is 138 feet by 180 feet in length. Each townhome is required to have a minimum of one parking space per bedroom as well as landscaped greenspace. The applicant would like to reduce the rear yard setback requirements from 40 feet to 20 feet to enable the property to be containing a certain number of townhomes. There are five questions here that the Board has to be able to answer in order to grant this variance request. 1.) Will not adversely affect the public health, safety or welfare of the rights of adjacent property owners, residents or the neighborhood. Staff Analysis: A townhouse development will not adversely affect the public health, safety or welfare of the adjacent property owners or residents. 2.) Arises from special conditions or attributes which pertain to the property seeking the variance. Staff Analysis: The property is not quite deep enough to provide space for up to the 10 townhouses that the applicant is hoping to construct. 3.) Would eliminate an unnecessary hardship and permit a reasonable use of the land. Staff Analysis: There does not appear to be a hardship, however, it would allow a reasonable use of the land. 4.) Will allow the intent of the Zoning Ordinance to be observed and substantial justice done. Staff Analysis: Yes. We have a need for quality housing in Fairmont and this zoning district allows townhome development. 5.) Is the minimum variance that will accomplish this purpose? Staff Analysis: Yes. It appears so. It is my recommendation that the variance for the rear yard setback be granted as long as the other zoning requirements are met (including parking, landscaping, trash, etc. There must be a 10' landscaping buffer adjacent to the property and in between the single family home and the townhouses. There is an unopened right of way of 15 feet behind the property that provides an additional buffer to the next adjoining property owner on Mill Street.

Board Member Ragen motioned to approve this variance has request.

Board Member Bolyard seconded the motion.

Motion carried 4-0.

DISPOSITION OF PAST CASES

None

OTHER BUSINESS

Election of officers was tabled because of the absence of Board Members Joe Manchin IV and Goa Deasy.

Staff Update:

Maria Cipolla: I would like to welcome Anne Bolyard as our newest member to the Board as an alternate.

Anne Bolyard: I am a resident of Morgantown Avenue.

President Majic: Welcome aboard.

ADJOURNMENT

President Majic asked for a motion to adjourn.

Board Member Shultz motioned to adjourn.

Board Member Ragen seconded the motion.

Motion carried 4-0.