

BOARD OF ZONING APPEALS

The regular meeting of the Board of Zoning Appeals was held on April 6, 2017 at 7:00 p.m. in the Public Safety Building located at 500 Quincy Street.

President Joe Manchin, Jr. called the meeting to order at 7:00 p.m.

ROLL CALL OF MEMBERS

Present

President Joe Manchin, IV
Board Member Shultz
Board Member Majic

Absent

Board Member Deasy
Board Member Ragan

City Staff Present

City Planner, Sandra Scaffidi
Planning Dept. Secretary, Maria Cipolla

APPROVAL OF MINUTES

President Manchin asked for a motion to approve the minutes from February 2, 2017.

Board Member Majic motioned to approve the minutes.

Board Member Shultz seconded the motion.

Motion carried 3-0.

PUBLIC HEARINGS FOR April 6, 2017

1. **Regina Simes is requesting to substitute one non-conforming use, limited video lottery, for another equal or less intense conforming use at 1406 Morgantown Avenue (Tax Map 05-01, Parcel 42). Section 8.8.2.E of the Fairmont Zoning Code states that the Board of Zoning Appeals may authorize a non-conforming use to be changed to another equal or less intense nonconforming use.**

President Manchin asked if there was anyone to speak in favor of this request.

Steven Mark Zeck: I am the owner of the property at 1406 Morgantown Avenue. My Dad owned the property since 1985. It was Cooper's Pool Room at first. It became the Cozy Nook in 1996. When my Dad passed away in 2000, I took it over until I went to work for State Farm in 2004. I have leased this property since 2004. This location has always been a private club. It has had video lottery units and a restaurant/lounge since 1996. From 2009 to 2013, it was Hoops East. After that, it became Winston's Hot Spot. His license is still current to run both the video lotteries and a restaurant/lounge. Regina is looking to continue running the same type of business.

President Manchin asked if there was anyone here to speak against this request.

There were none.

President Manchin asked for a motion to close the public hearing.

Board Member Majic motioned to close the public hearing.

Board Member Shultz seconded the motion.

Motion carried 3-0.

President Manchin asked the **City Planner, Sandra Scaffidi**, for her staff report.

Sandra Scaffidi: Based on our investigation, it appears that 1406 Morgantown Avenue has continually operated as a

Restaurant/lounge with limited video lottery. We also spoke with the West Virginia Lottery Commission that also confirmed that there was an existing license for five machines at this location. The utilities are not disconnected. There is no known property maintenance or building code violation to exist. However, a business inspection will be completed once we have a business license application. Since the non-conforming use does not appear to have ceased at any time and the property has not been vacant for more than a year, it is my recommendation that we grant the non-conforming use.

President Manchin: After hearing all the information that has been presented, we will do two separate motions on part one and part two. I am taking a motion on part one which is requesting one non-conforming substitute for another of equal or less intense non-conforming use. Do I have a motion to approve?

Board Member Majic motioned to approve.
Board Motion Shultz seconded the motion.
Motion carried 3-0.

2. The applicant is also requesting a conditional use permit pursuant to Fairmont Planning and Zoning Code 3.1.3.D for a restaurant/lounge at the same location. The subject property is located in the Neighborhood Mixed Use Zoning District.

President Manchin asked if there was a motion to approve.
Board Member Majic motioned to approve.
Board Member Shultz seconded the motion.
Motion carried 3-0

DISPOSITION OF PAST CASES
None

OTHER BUSINESS
None

ADJOURNMENT

President Manchin asks for a motion to adjourn.
Board Member Majic motioned to adjourn.
Board Member Shultz seconded the motion.
Motion carried 3-0.