

**Minutes
City of Huntington Board of Zoning Appeals
November 21, 2023**

A meeting of the City of Huntington Board of Zoning Appeals was held on November 21, 2023 at 5:30 p.m. in the City Hall Council Chambers. *Mr. Earl* called the meeting to order.

Members Present: Dan Earl, Gina Browning, Izzy Cross, Sara Loftus

Members Absent: Jacqueline Proctor, Steven Yates

Staff Present: Cade Williams, Planner II
Bre Shell, Planning Director
Sam Ransbottom, Assistant City Attorney

Hearing no corrections or objections, *Mr. Earl* approved the October Minutes, and all present were in favor.

Hearing no corrections or objections, *Mr. Earl* approved the October Orders, and all present were in favor.

BZA 23-C-38

A petition for a conditional use to permit for a tattoo parlor to be established in the C-3 Central Business District. The property is located at 1111 4th Avenue.

Petitioner: Golden Dagger LLC/John Thompson, 503 County Road 115, Chesapeake, OH 45619

Property Owner: Marshall Matters LLC, P.O. Box 8176, Huntington, WV 25701

Ms. Shell presented the Staff Report.

John Thompson, 503 County Road 105, expressed he would like to move to this location as his business needs more space.

Mr. Earl questioned the sanitary requirements needed to be met. Ms. Shell referred to the acknowledgment of the requirements needed to be met with the local health department. Mr. Earl questioned beautification efforts mentioned in staff report. Ms. Shell emphasized the active storefront of this business in terms of its appearance as the board does not know what the aesthetics will be until the business opens.

Ms. Browning – Are you going to be able to have people to see tattooing from the window?

Mr. Thompson explained their logo will be on the window and art in the background. He confirmed it will be hard to see customers being tattooed.

Ms. Cross – Are you going to try to recreate what you did on 20th Street?

Mr. Thompson confirmed this is the idea on a larger scale.

Ms. Cross questioned fundraising idea. Mr. Thompson explained he wants to design his tattoos and part of his business around fundraising initiatives to help the community.

Ms. Loftus makes a motion to approve BZA 23-C-38. Ms. Browning seconds motion.

Roll Call BZA: Ms. Cross, Yes; Ms. Loftus, Yes; Ms. Browning, Yes; Mr. Earl, Yes.

BZA petition was approved with a vote 4 Yes to 0 No.

BZA 23-V-39

A petition for a variance for a 6 ft. high fence in the area considered the front yard of a house in an R-2 Single-family Residential District. The property is located at 1116 3rd Street West.

Petitioner/Property Owner: Justin Livingood, 1116 3rd Street W, Huntington, WV 25701

Ms. Shell presented the Staff Report.

Justin Livingood, 1116 3rd Street W, expressed he had no clue until earlier today that the permit issued for the fence was done in error as it is in the public right-of-way. He mentioned he did not want to do any modifications to the fence until he could add additional wooden planks. He also provided to the board examples of fencing in the city where fencing is in the public right-of-way. He stressed the fencing was installed as a security and privacy measure, including for his children.

Chuck McGill, 101 Belford Avenue, expressed support for this petition. He stated he was happy to hear this fencing project was great news to him. He added Mr. Livingood has made various improvements to his property that has made the neighborhood look good. He acknowledged the need for a privacy fence for his children to have a safe place to play in as a parent.

Jenna Misiti, 1200 3rd Street W, expressed support for the petition and thinks the project looks great. She is a neighbor of Mr. Livingood. She was confused on why this fence should have not been permitted and alluded as a parent she would want children to have the opportunity to have a safe area to play in.

Travis Austin, 331 11th Avenue W, expressed support for the petition. He agreed with the viewpoints of other supporters. He mentioned the sidewalk (in the public right-of-way) was interesting as sidewalks in the city are terrible and Mr. Livingood paid to have the sidewalk in front of his home repaired from his own funds.

Jennifer Wheeler, 635 Ridgewood Road, expressed her support of this petition in a typed statement. She likes his plans for the fence and personally has witnessed the improvements he has made to his property. She noted many who are directly impacted by the improvements are in support in this petition from her perspective.

Don Gossett and Jan Gossett, 323 12th Avenue W, expressed their opposition of this petition jointly in a typed statement. They are concerned with the appearance and the lack of visibility for pedestrians as well as vehicles traveling along the alley and 3rd Street W due to its height: the fence is already located on the corner of the lot.

Additionally, the Planning and Zoning Department received a call from a citizen who resides at 300 12th Avenue W expressing opposition to this petition. They spoke highly of Mr. Livingood, but had various concerns including aesthetics, visibility, and the privacy of the fence amongst other thoughts.

Mr. Earl – “Is there an obstruction to traffic as a result of the fence?”

Ms. Shell considered traveling from the alley may be a possibility but could not confirm this rationale. Additionally, Mr. Livingood added he did take this into consideration as he uses that alley to get in and out of his driveway. He was considerate of the view for travelers as he would not want anyone to put anyone in danger.

Ms. Loftus asked for clarification of the fence in terms of its proximity to the public right-of-way. Ms. Shell confirmed part of it seems to be in the public right-of-way but this can only be confirmed with a survey.

Ms. Browning questioned if the fence matches the lining of fencing on surrounding properties. Ms. Shell explained it is in close range of lining up with surrounding fences.

Ms. Loftus makes a motion to approve BZA 23-V-39 with the condition the fence is moved if it is in the public right-of-way. Ms. Browning seconds motion.

BZA Roll Call: Ms. Loftus, Yes; Ms. Browning, Yes; Ms. Cross, Yes; Mr. Earl Yes.

BZA petition was conditionally approved with a vote 4 Yes to 0 No.

BZA 23-C-40

A petition for a conditional use to permit for a bar to be established in the C-3 Central Business District. The property is located at 418 8th Street, Suite B.

Petitioner: Jeff McKay, 419 9th Street #301, Huntington, WV 25701

Property Owner: Progress LLC, P.O. Box 8, Barboursville, WV 25504

Ms. Shell presented the Staff Report.

Jeff McKay, 419 9th Street #301, explained he would like to pursue this conditional use as he cannot participate in PODA due to the state's bartending regulations, wants to be able to provide tasting options and can only serve up three ounces of three different wines due to state law, and he plans to provide food to be compliant with state code.

Ms. Cross – “Is your main goal to participate in PODA...?”

Mr. McKay confirmed that was one of many, but he also wants to provide a café type experience. He explained the seating is available for this and patrons may consume coffee or tea if they desire.

Ms. Cross – “So if I come in to shop for a bottle of wine or beer I'll be able to taste it and go on my way?”

Mr. McKay explained a license for tasting does not exist in West Virginia and approving this conditional use would essentially allow her question to become a reality.

Ms. Loftus questioned food being served. Mr. McKay explained his business is a retail establishment first and food is being offered to be able to serve alcohol.

Ms. Cross makes a motion to approve BZA 23-C-40. Ms. Loftus seconds motion.

BZA Roll Call: Ms. Browning, Yes; Ms. Cross, Yes; Ms. Loftus, Yes; Mr. Earl, Yes.


BZA petition was approved with a vote 4 Yes to 0 No.

Good and Welfare

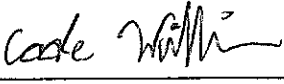
Ms. Browning wished a Happy Thanksgiving to all.

Mr. Earl adjourns the meeting at 6:35 p.m.

Date approved: 2-1-24

Chairperson: 

Dan Earl, Vice Chair

Prepared by: 

Cade Williams, Planner II