

MINUTES OF THE ELIZABETHTOWN BOROUGH ZONING HEARING BOARD

September 8, 2014

The Elizabethtown Borough Zoning Hearing Board held a public meeting on Monday, September 8, 2014 at 7:00 P.M. at the Elizabethtown Borough Office, 600 South Hanover Street, Elizabethtown, PA. The meeting was attended by a quorum of the members of the Zoning Hearing Board.

The following matter was heard and oral decision rendered or other action taken:

I. Application of Elizabethtown Borough

1. The Board heard a request from the Borough of Elizabethtown for numerous Variances with regard to the Property located at 50 East Washington Street, Elizabethtown Borough. Elizabethtown Borough completed a condemnation process with regard to the Property on June 12, 2014, and proposes to demolish the existing structure. In order to facilitate the future use of the Property, the Borough sought the following Variances from the Zoning Ordinance:

- §807.1 and §807.2 ("Lot Area, Lot Width and Impervious Coverage Regulations"); and
- §808.A, §808.B, and §808.D ("Setback Regulations"); and
- §809 ("Off-Street Parking/Access"); and
- §1905 ("Discontinuance"); and
- §2008.G ("Variances"); and
- §2008.H ("Variances"); and
- §2011.2.H ("Standards").

The Property is located in the R-3 Residential Zoning District.

The initial Hearing on the Application was held at the Zoning Hearing Board Meeting on August 4, 2014, but was continued to the September 8, 2014 Zoning Hearing Board Meeting at the request of the Applicant. At the time of the Hearing on August 4, 2014, the following individuals appeared and requested party status, and were granted party status by the Zoning Hearing Board:

1. Andrew George
37 E. Washington St.
Elizabethtown, PA
2. Suzanne Noel
46 E. Washington St.
Elizabethtown, PA

3. Barry Hess
36 E. Washington St.
Elizabethtown, PA
4. Gladys Greiner
40 E. Washington St.
Elizabethtown, PA
5. Fumiko Hershey
104 Conoy Ave.
Elizabethtown, PA
(Owner of property situate 54-56 E. Washington St.)
6. Isaac Biler
123A Greentree Rd.
Quarryville, PA 17566
(Owner of 48 E. Washington St.)
7. Robert Brinser
284 Endsloew Rd.
Marietta, PA 17547
(Owner of 37 E. Washington St.)
8. Dan Murphy
100 Campus St.
Marietta, PA 17547
(Potential purchaser of 50 E. Washington St.)

In addition to the above parties, Cynthia Zinn, 580 Mulberry St., Elizabethtown, PA, appeared at the Hearing on September 8, 2014 and requested party status. Mrs. Zinn's party status was not opposed by the Borough, and the Board granted Mrs. Zinn party status. Mrs. Zinn's mother, Gladys Greiner, is also a party to the proceeding, and resides at 40 E. Washington St., Elizabethtown, PA.

Confirmation of posting and publication of Notice of the Hearing in conformity with the requirements of the MPC and the Elizabethtown Borough Zoning Ordinance was placed on the record at the Hearing on August 4, 2014, with the proof of advertising and posting marked collectively as Board Exhibit "1."

The Zoning Application of Elizabethtown Borough, which contained the Zoning Application, cover letter/narrative, photographs, and a schematic of the Property, was collectively marked as Applicant's Exhibit "1."

Testimony was presented on behalf of the Applicant by Rodney L. Horton, MPA, Planning and Zoning Director of the Borough of Elizabethtown. Mr. Horton testified as follows:

- A. The Subject Property is located at 50 E. Washington St., Elizabethtown Borough, and is located in the R-3 Zoning District.
- B. Elizabethtown Borough acquired title to the real estate via a condemnation process on or about June, 2014.
- C. The Property has been unoccupied since the death of the prior owner on or about 2010. The Property has fallen into significant disrepair as evidenced by the photographs in Applicant's Exhibit "1," and constitutes a blighted property.
- D. The Borough attempted to contact the family members of the deceased prior owner, as well as the mortgage lender/bank which maintained a lien against the Property, but neither the heirs of the decedent, nor the bank/mortgage lender were interested in acquiring title or possession of the Property.
- E. The Borough next attempted to enroll the Property with the Vacant Property Reinvestment Board. However, after review by the Board, investment in the Property was rejected because of the outstanding title/ownership issues.
- F. The Borough was left with no alternative but to seek a condemnation of the Property. The Borough has incurred Seventeen Thousand Dollars (\$17,000) in costs to date as part of the condemnation process.
- G. The Borough proposes to have the Property developed by transfer to a purchaser for the development of a two-family detached dwelling, which is permitted in the R-3 Residential District pursuant to §802.3 of the Ordinance.
- H. Neither the existing lot, nor the existing structure on the lot, conforms to the current dimensional regulations for the R-3 Residential District. The existing lot is thirty (30) feet wide and two hundred (200) feet deep, containing six thousand (6,000) square feet.
- I. The existing lot area complies with the requirements under §807.1 for the minimum lot area required for a two-family detached dwelling unit (three thousand [3,000] square feet per unit).
- J. The Borough requested a Variance from §807.1 and §807.2, for the required lot width, both at the street and at the setback. The current lot does not comply with these requirements.
- K. The Applicant requested a Variance from §807.2 relating to lot coverage and the requirement of a vegetative cover or natural state with at least twenty-five percent (25%) of the front yard area maintained as grass. The Applicant noted that the current lot and structure do not comply with this requirement.

- L. The Applicant requested a Variance from §808.A, §808.B, relating to setback regulations for front and side yards. The Applicant sought a modification of the front yard setback requirement from twenty (20) feet to zero (0). The existing structure currently has a zero (0) feet setback and the proposed replacement structure is to be built at the same location. Similarly, a side yard variance to permit a reduction in the side yard setback from eight (8) feet to two (2) feet was requested. The existing structure has only a two (2) foot side yard setback.
- M. The Applicant seeks a Variance from §808.D relating to required buffer yards/screening. The existing lot and structure do not contain any buffer yards or screening in accordance with the supplemental regulations set forth in the Zoning Ordinance, nor do any of the properties in the surrounding neighborhood.
- N. The Applicant seeks a Variance from §809 of the Ordinance, relating to off-street parking/access, which requires parking in accordance with the Part 16 of the Ordinance. Part 16 of the Ordinance requires two (2) parking spaces per dwelling unit. Accordingly, if the Property is to be developed with a two-family detached dwelling unit, a total of four (4) parking spaces would be required. The Applicant indicated that two (2) parking spaces can be provided at the rear of the Property, and requested a Variance to permit the second unit on the Property without any required off-street parking.
- O. The Applicant seeks a Variance from §1905 (“Discontinuance”), relating to discontinuance of nonconforming uses. The Applicant noted that the Property has been abandoned since on or about 2010, but has nonetheless maintained its residential use character, in conformity with the adjoining properties and surrounding neighborhood.
- P. The Applicant seeks a Variance from §2008.G, relating to the expiration of time for variances granted, and for completion of construction pursuant to authorized variances. The Applicant explained that completion of the demolition process and securing of building permits by a developer for the property is anticipated to require a longer period of time than provided for under §2008.G. The Applicant requested an extension of the time frame to not less than three (3), but no more than five (5), years.
- Q. The Applicant seeks a Variance from §2008.H and §2011.2.H, relating to the transferability of authorized variances to subsequent owners of the property. The Applicant explained that it intends to transfer the Property to a proposed developer, prior to completion of improvements to the Property, and accordingly, requests a waiver from the prohibition on transference of any authorized variances.
- R. The Borough proposes that any development of the lot, following demolition of the existing structure, would occur within the same footprint as the existing structure. The design of the detached two-unit dwelling would depend on a

particular developer, and may result in a duplex type structure, a “top and bottom” two-unit structure, or a “front and back” two-unit structure.

- S. Mr. Horton testified that the hardship necessitating the requested Variances is created by the unique lot size, location, and configuration. As previously noted, the current lot and existing structure do not comply with numerous dimensional requirements of the R-3 Zoning District. The proposed Variances will permit the Borough to address the blighted condition of the Property, which is negatively impacting the neighborhood and Zoning District. The Variances will permit an improvement to the Property, which will improve the character of the neighborhood. Mr. Horton testified that the Applicant has requested only the minimum Variances necessary to permit the reasonable development of the Property in conformity with the Ordinance.
- T. Mr. Horton referenced in his testimony various studies, including a study from the City of Philadelphia, which demonstrated that a single blighted property on a neighborhood block results in an average reduction in market value of Six Thousand Seven Hundred Twenty Dollars (\$6,720) to the remaining properties in the neighborhood.
- U. Barry L. Hess, 36 E. Washington St., Elizabethtown, PA testified that he lives two (2) houses away from the Subject Property, and discussed in detail the current parking problems experienced by the neighborhood for on-street parking. Mr. Hess indicated that the addition of two (2) new units to the neighborhood would exacerbate the problem further.
- V. Andrew George, 37 E. Washington St., Elizabethtown, PA testified that he has lived in the neighborhood for seven (7) years, and confirmed the significant on-street parking problems which are experienced by the local residents. Mr. George indicated that parking in the wintertime is particularly difficult. Mr. George indicated that he would be in favor of development of the Property with a single family dwelling, but not a two-unit dwelling. Mr. George also testified that the requested time extension from three (3) to five (5) years for the completion of development of the Property was too long, in his opinion.
- W. Cynthia Zinn, 580 Mulberry St., Elizabethtown, PA testified that her elderly mother lives at 40 Washington St., Elizabethtown, PA, and that it is generally very difficult to either find parking along Washington Street, or to pick up or drop off her mother for physicians’ appointments or grocery shopping. Mrs. Zinn indicated that she preferred not to see the Property develop with two (2) units.
- X. Dan Murphy, 100 Acanthus Street, Marietta, PA, testified that he is a developer interested in purchasing the Property from the Borough and developing the Property as a detached two-unit dwelling. Mr. Murphy said he would not be interested in purchasing the Property if he were restricted to developing the Property with a single-family dwelling unit. Mr. Murphy testified that there is

room at the rear of the Property for at least two (2) spaces, and possibly three (3) spaces, ten (10) feet in width. However, there was some concern that utilization of the rear of the Property for more than two (2) spaces may result in difficulty in ingress and egress to the spaces. Mr. Murphy also testified that he did not believe it would take five (5) years to complete the project. Mr. Murphy indicated that if he were to develop a property, he would not sell the developed unit, but rather, would continue to own the property and would rent the property to residential tenants. Mr. Murphy also noted that on-street parking congestion is a perennial problem in small boroughs and cities.

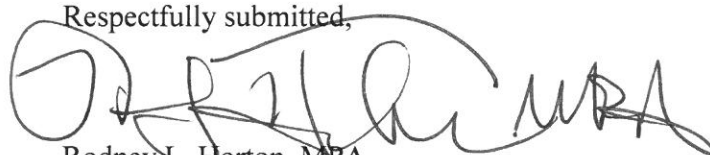
Following the close of testimony, the Board deliberated in Executive Session. Following the Executive Session, the meeting was reconvened, and a Motion was made to approve the Variances requested by the Applicant, as enumerated above, subject to the following conditions:

- A. Two (2) off-street parking spaces must be provided at the rear of the Property. If the Property is utilized as a rental property, any lease agreements with residential tenants must include a provision requiring at least two (2) of the tenants to utilize the parking spaces at the rear of the Property; and
- B. The time frames required under §2008.G of the Ordinance for obtaining a building permit (one year), and completion of construction (two years), are each extended by a period of only one (1) year; and
- C. The Applicant shall comply with all of other requirements and standard conditions imposed by the Zoning Hearing Board in its written Decision, to be issued within forty-five (45) days of the date of the close of the Hearing.

The Motion was unanimously approved by the Zoning Hearing Board.

At the conclusion of the Hearing, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rodney L. Horton", written over a horizontal line.

Rodney L. Horton, MPA
Elizabethtown Borough
Planning and Zoning Director