

MINUTES OF THE ELIZABETHTOWN BOROUGH ZONING HEARING BOARD

February 2, 2015

The Elizabethtown Borough Zoning Hearing Board held a public meeting on Monday, February 2, 2015 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 Keith and Diana Myer

1. The Board heard a request from Keith and Diana Myer for a Variance with regard to the Property located at 226-228 E. Orange Street, Elizabethtown Borough, Pennsylvania. The Property is currently vacant, but was previously used as a three-unit dwelling with a four-car garage in rear of the Property. The Property is currently owned by Bank of New York, Mellon Trust. The Applicant proposes to establish the Property as a functional multi-family dwelling unit. In order to facilitate the proposed use of the Property, the Applicant sought the following relief from the Zoning Ordinance:

- Chapter 27, Part 16 §1602.A.16 (“Specific Parking Space Requirements”);
and
- Chapter 27, Part 19 §1905 (“Discontinuance”).

The Property is located in the Residential (R2) Zoning District.

At the time of the Hearing on February 2, 2015 the following individuals appeared and requested party status, and were granted party status by the Zoning Hearing Board:

Joseph Connovitch
Anne Ketchum
234 Orange St.
Elizabethtown, PA 17022

Anjela Vago
525 S. Spruce St.
Elizabethtown, PA 17022

Travis Garver
Jennifer Garver
545 S. Spruce St.
Elizabethtown, PA 17022

Carl King
520 S. Locust St.
Elizabethtown, PA 17022

Barbara Andrews
201 Orange St.
Elizabethtown, PA 17022

Dennis Karalfa
Linda Karalfa
245 Orange St.
Elizabethtown, PA 17022

Jay R. Parrett, Jr.
Tana Parrett
306 E. Orange St.
Elizabethtown, PA 17022

Jill Gebhart
231 Arch St.
Elizabethtown, PA 17022

Victoria Rowe
225 Arch St.
Elizabethtown, PA 17022

The Applicant was advised by legal counsel Holly S. Filius, Esquire, at the time of the zoning hearing, although Attorney Filius did not formally enter her appearance on behalf of the Applicant, nor did Attorney Filius conduct any formal direct or cross examination of witnesses. Attorney Filius indicated on the record that she was appearing on behalf of the Applicant only in an advisory capacity.

Testimony was presented on behalf of the Applicant by Tricia Como, a realtor with Coldwell Banker Residential Brokerage serving the Elizabethtown area. Ms. Como has been licensed in Dauphin and Lancaster County since 2004. Additional testimony was presented by the Applicant Diana Myer. The testimony presented was as follows:

1. Tricia Como is a realtor serving areas including Elizabethtown, Pennsylvania, and has been licensed in Dauphin and Lancaster County as a realtor since 2004.
2. Ms. Como represents the Myers in their proposed purchase of the Subject Property. The Property is currently owned by Bank of New York, Mellon Trust. The Agreement of Sale with the Myers contains a zoning contingency.

3. Prior to ownership by the Bank of New York, the Property was owned by James and Anna Conniff, who purchased the Property as a three-unit multi-family dwelling on or about 2006.
4. The Applicant presented an exhibit to the Zoning Hearing Board which was marked as Applicant's Exhibit "1". The Exhibit consisted of 27 pages, containing various information with regard to the Subject Property.
5. The most recent Borough rental inspection of the Property occurred in 2010. The mortgage foreclosure action by the Bank of New York was commenced on or about August, 2012.
6. The Property has been vacant for a period of over one year.
7. The Bank of New York took title in November, 2014, pursuant to the foreclosure action.
8. The Property has been under Agreement with the Myers since January, 2015.
9. The Property requires significant exterior repairs.
10. The Property existed as a three-unit residential rental property for at least 25 years. According to utility billing records, the Property was last used as a three-unit rental on or about December, 2013.
11. There are existing separate electric meters for each of the three units in the Property.
12. The Property has three separate units, with separate utilities, kitchens, baths and bedroom facilities. There are two egresses for each unit in the front/rear of the building. There are no common hallways, entrances/exits or accessibility between the units or from downstairs to upstairs.
13. Historically, mail is delivered to three separate addresses at the Property (Unit Nos. 101, 201 and 202).
14. Unit 101 consists of three bedrooms, two baths, living room and kitchen.
15. Unit 201 consists of one bedroom, one bath, living room and kitchen.
16. Unit 202 consists of one bedroom, one bath, living room and kitchen.
17. To be utilized as a single-family dwelling unit, the Property would have to be converted to a nine bedroom, four-bath home.

18. The rear of the Property contains a 48' x 22' four-car detached garage, with entry from Flint Alley. There are four off-street parking spaces available in the garage area.
19. The Applicant requests utilization of two on-street parking permits, as a substitute for the additional two off-street parking spaces required for a three-unit rental under the Zoning Ordinance.
20. The Applicant intends to make some minor interior upgrades, but primarily intends to make significant improvements to the exterior of the building. The Applicant estimates that the exterior modifications and upgrades would cost approximately \$50,000.
21. The Applicant asserts that the cost to convert the existing property to a single-family dwelling unit would exceed its sale value as a single-family dwelling unit. The approximate cost to convert the Property from a three-unit to a single-family dwelling unit would be \$129,900.
22. The Applicant asserts that the Property has unique physical circumstances and conditions, in that the Property has had three fully functioning and separated apartment units that have been in existence for an excess of 20 years, with no detriment to the community.
23. Converting the Property to a single-family dwelling unit would create a property with approximately 3800 square feet, approximately nine bedrooms, four bathrooms and a four-car garage.
24. There are no known properties in Elizabethtown with such specifications currently for sale. Most five-bedroom, 4 to 5 bath properties sell for approximately \$650,000.
25. There are no comparable sales records to support a sale price of \$320,000-\$650,000 for a single-family dwelling property on Orange Street.
26. The Applicant asserts a single, one-unit dwelling of this size would be virtually impossible to rent for a profitable investment.
27. The Applicant asserts that the unnecessary hardship is due to the conditions as described in the testimony, and not to the circumstances generally created by the Zoning Ordinance.
28. The Applicant asserts that, for a period in excess of 20 years, the Property was utilized as a three-unit, including all issues related to such operation, such as parking and traffic.

29. Parking in the garage at the rear of the Property would be accessed via Olive Alley and Flint Alley, as depicted on Page 15 of Applicant's Exhibit "1".
30. The Applicant testified that, should the zoning variance request be approved, the Applicant's son would occupy one of the three units. However, the Applicant's son will not manage the Property; the Applicant will manage the Property.
31. The Applicant has owned and managed other rental properties without incident, including four properties in Lancaster, a seven-unit in Newport, Pennsylvania, one unit in Huntington, Pennsylvania, and one unit in West Lampeter Township.

The various parties/objectors to the Application raised the following concerns via cross-examination of the Applicant and Applicant's witnesses, or in direct testimony to the Zoning Hearing Board:

1. The objectors expressed concerns over the number of college students that a three-unit might be rented to.
2. The objectors expressed concerns regarding the traffic flow and traffic safety issues for utilization of Olive Alley and Flint Alley to access the detached garage in the rear of the Property. The objectors stated that there are young children in the vicinity, who utilize and/or play in Olive Alley and Flint Alley.
3. Most, if not all, of the other rental units in the area are single-family dwelling rental units, and not multi-units.
4. Lack of parking on Orange Street, and in the vicinity, is a significant problem. The addition of a three-unit property to the neighborhood would create significant additional parking problems, particularly if all of the required parking, as set forth in the Ordinance, is not provided. Past tenants of the Property, when it was operated as a three-unit, would speed through Olive and/or Flint Alley, and would block the alleys by parking their cars. These problems did not cease until the occupation of the three units was discontinued. Allowing reversion of the Property back to a three-unit would negatively impact the character of the neighborhood, which primarily consists of single-family dwelling units.
5. The current zoning regulations in the R-2 Zoning District do not permit a three-unit dwelling. The zoning district clearly favors single-family dwelling units, and not multi-family units.
6. Permitting the use of the Property as a three-unit may increase noise and vandalism.

7. The provision in the Ordinance (§1905) providing for discontinuance of a non-conforming use as a procedural mechanism meant to maintain the integrity of the R-2 Zoning District.
8. The Borough received five letters from adjoining or nearby property owners, some of whom became parties to the Zoning Hearing, generally objecting to the proposed zoning relief of the Applicant. These letters were marked as Board Exhibit "2".

Greg Gobrecht, Borough Code Enforcement Officer, testified that the Property was posted in advance of the Hearing, and notice of the hearing was published and mailed to adjoining property owners. The proof of publication, proof of posting and copies of correspondence to adjoining property owners were collectively marked as Board Exhibit "1".

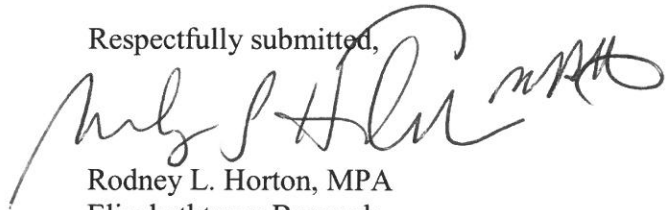
Elizabethtown Borough was represented at the time of the Zoning Hearing by Rodney L. Horton, M.P.A., Planning and Zoning Director. Mr. Horton testified that the Borough took no position either in favor of, or in opposition to, the zoning request.

Following the close of testimony, the Board deliberated in Executive Session. Following the Executive Session, the meeting was reconvened, and the following Motions were made:

1. Motion to approve the variance request from §1905, conditioned upon the Applicant complying and conforming to all other requirements of the Elizabethtown Zoning Ordinance, including current off-street parking regulations. The Motion was unanimously approved by the Zoning Hearing Board; and
2. Motion to deny the requested variance from §1602.A.16, mandating two off-street parking spaces per dwelling unit. 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", with a stylized flourish at the end.

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