

## **MINUTES OF THE ELIZABETHTOWN BOROUGH ZONING HEARING BOARD**

February 1, 2016

The Elizabethtown Borough Zoning Hearing Board held a public meeting on Monday, February 1, 2016 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.

At the commencement of the meeting, the Board reorganized for 2016. Following a nomination and second, Rick Jones was unanimously elected as Chairman of the Zoning Hearing Board for 2016; following a nomination and second, Vaughn Nissley was unanimously elected as Vice Chairman for 2016.

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

### **I. Application of 226-228 East Orange Street, LP**

- A. The Board heard a request from 226-228 East Orange Street, LP for a Modification of Condition(s) imposed by the ZHB Decision dated August 20, 2015 for the Property located at 226-228 East Orange Street, Elizabethtown, PA 17022. The Applicant specifically sought modification of Conditions Number 2 and Number 4, as set forth in the prior Decision.
  1. The Property is located in the R-2 Zoning District.
  2. The Elizabethtown Zoning Hearing Board issued a previous Decision to the Applicant with regard to the Subject Property dated August 20, 2015, in which the Board granted certain variance requests by the Applicant, subject to six (6) conditions, set forth in the Decision.
  3. The Applicant has requested a Modification of Condition Number 2, requiring the placement of "No Parking" signs at Olive Alley, Flint Alley, and Squash Alley.
  4. The Applicant has requested a Modification of Condition Number 4 of the Decision, which required that the Applicant enter into a written Use and Maintenance Agreement with any adjoining property owners who are legally entitled to use Olive Alley, Flint Alley, and Squash Alley, to provide for the orderly use and maintenance of each of those alleys. A copy of the Use and Maintenance Agreement was required to be provided to Elizabethtown Borough.

5. The Applicant presented testimony from Curt Tomlinson, principal of 226-228 East Orange Street, LP, and Mr. Keith Good, architect of Good, Calabrese Architects.
6. The Applicant testified that, following issuance of the August 2015 Decision, the Applicant made a good faith effort to enter into a Use and Maintenance Agreement with the other property owners for the three (3) alleys, but that none of the adjoining property owners were interested in executing a formal, legal document for the use and maintenance of the alleys.
7. Eventually, one of the adjoining property owners (Anne Ketchum) presented a letter-type agreement to the Applicant, simply providing that, in the event of any dispute, the various impacted owners and parties, including the Applicant, would attempt to resolve any dispute by "neighborly" negotiation. The letter/agreement did not provide any specific details or requirements with regard to the regular use and maintenance of any of the alleys adjoining the subject property.
8. Only seven (7) out of the eight (8) properties which adjoin the alleys eventually agreed to execute the letter/agreement. One of the property owners, Jean Ulrich (208 East Orange Street), refused to execute either the letter/agreement or any other form of agreement with regard to the use and maintenance of the alleys.
9. The Applicant also testified that all of the neighbors to whom the Applicant had spoken preferred that there be no placement of "No Parking" signs at any of the alleys, because the neighbors believe that such signs would deter from the overall aesthetic appearance of the area.
10. The following individuals appeared at the hearing and requested, and were granted, party status:
  - a. Anne Ketchum  
234 E. Orange St.  
Elizabethtown, PA 17022
  - b. Jill Gebhart  
231 Arch St.  
Elizabethtown, PA 17022
  - c. Jean Ulrich  
(by and through her daughter, Sandra Koser)  
208 E. Orange St.  
Elizabethtown, PA 17022

11. The parties which appeared at the hearing confirmed the assertion by the Applicant that the parties and other adjoining property owners were not willing to enter into a written use and maintenance agreement for the three alleys, and that adjoining property owner Jean Ulrich, refused to execute any document, including the proposed letter/agreement that had been prepared by Anne Ketchum.
12. The Applicant noted on the record that, in addition to seeking a modification of Condition Number 4 of the prior Decision, it was also seeking a modification of Condition Number 2, relating to the placement of "No Parking" signs.

Rodney Horton, Elizabethtown Borough Zoning and Planning 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".

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 requested Modification of Conditions, by complete elimination of Conditions Number 2 and Number 4 set forth in the prior Zoning Decision dated August 20, 2015.

The Motion was unanimously approved by the Zoning Hearing Board.

## **II. Application of Jon Norman**

The Board heard a request from Jon Norman for a variance from Chapter 27, Part 17, Attachment-1 "Table of Sign Requirements – Individual Business Projecting Signs," to permit the placement of a second individual business projecting sign, to be located on the front façade of the Property located at 28 South Market Street, Elizabethtown, PA.

The Property is located in the Central Business District (CBD) Zoning District.

1. The Applicant is Jon Norman, a principal in the business known as Funk Brewing Company, which operates at 28 South Market Street, Elizabethtown, PA.
2. Funk Brewing Company is a tenant of the Property. The Property is owned by Ryan McKinley and Brad Alexander, whom the Applicant testified have authorized the zoning request for the placement of an additional sign on the Property.
3. Mr. Norman has been a seven year resident of Elizabethtown Borough. Mr. Norman operates, in conjunction with business partners, a small brewery in Allentown, Pennsylvania, and wished to bring the products of the brewery to

be served in Elizabethtown, along with a restaurant at the location at 28 South Market Street, Elizabethtown, PA.

4. The entity known as Funk Brewing Company operates from the Property at 28 South Market Street. There is a current projecting business sign located on the corner of the building.
5. The existing business sign is hidden by trees and other visual impediments. Mr. Norman has received a number of inquiries from out of town patrons, who have difficulty finding the location of the Property on Market Street, due to the lack of visibility of the existing sign.
6. Notwithstanding the lack of visibility of the existing sign from Market Street, the existing sign does serve a purpose, in that it provides notification of the location of the business to individuals utilizing the walking path through Elizabethtown, or utilizing the municipal parking lot, located directly across Market Street.
7. Mr. Norman proposes to place a second projecting sign, to be located above the main entrance to the Property on Market Street.
8. Mr. Norman presented Applicant's Exhibits "1" and "2", showing a depiction of the current property and signage, as well as a photo simulation of the proposed second sign location and appearance.
9. The proposed second projecting sign will not interfere with pedestrian or vehicular traffic, nor will it interfere with the right of way of South Market Street.
10. The proposed sign will comply with the dimensional limitations for individual business projecting signs as set forth in the Ordinance. The Applicant testified that the second projecting sign will not exceed 18 square feet (the Ordinance permits projecting business signs of up to 24 square feet).
11. Two (2) interested parties attended the hearing, and requested party status, which was granted by the Zoning Hearing Board, as follows:
  - a. Andrew Schoenberger  
Managing Partner, Pita Pit  
28 South Market Street  
Elizabethtown, PA 17022
  - b. Robert Addams  
51 South Market Street  
Elizabethtown, PA 17022.

12. Andrew Schoenberger testified that he is the managing partner at Pita Pit, which is the commercial establishment located immediately next door to Funk Brewing Company. Mr. Schoenberger stated that Pita Pit also has a projecting sign on Market Street, and further advised the Board that, without the projecting sign on Market Street, his business establishment would be difficult to locate for patrons. Mr. Schoenberger stated that he has no objection to the proposed placement of the second projecting sign by the Applicant, and in fact, believes that placement of the projecting sign creates a favorable business aesthetic for both the building, and Market Street in general.
13. Mr. Addams did not offer any testimony.

Rodney Horton, Elizabethtown Borough Zoning and Planning 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 "2".

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 variance request from Chapter 27, Part 17, Attachment-1, "Table of Signs Requirement-Individual Business Projecting Signs," to permit the placement of a second individual business projecting sign at 28 South Market Street for Funk Brewing Company, subject to the following conditions:

1. The Applicant shall comply with all evidence and testimony presented, including the depiction of the design and location of the proposed second projecting sign as shown on Applicant's Exhibit 2; and
2. The Applicant shall comply with all dimensional limitations for individual business projecting signs as set forth in the Zoning Ordinance; and
3. The Applicant shall obtain any and all necessary permits from Elizabethtown Borough for the placement of the second individual business projecting sign.

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 dark ink, appearing to read "Rodney L. Horton", followed by a smaller, less legible signature or set of initials.

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

