

**Red Lion Planning Commission
Meeting Minutes
Monday, April 18th, 2016**

Members

Cindy Barley
Beth Nidam
Felix Milner
Robert Frutiger
Nevin Horne (arrived @ 7:01p.m.)
Wade Elfner

Others

Dan Shaw, Codes/Zoning
Dianne Price, Borough Manager
Mike Craley, Solicitor
Jeff Shue, Engineer
Stacy Myers, Recording Sec'y

Visitors

Troy Leiphart
Tina Frutiger
Peter Haldeman
Sandra Graham
Catherine Kokta

Laymon Mortorff
Dennis Klinedinst
Scott Thompson
Stacey MacNeal
Mark Hackler

1. The meeting was called to order @ 7:00p.m. All present participated in the pledge to the flag.
2. Ms. Nidam made a motion to approve the February 22nd, 2016 Meeting Minutes; Mrs. Barley seconded. All were in favor; motion carried.
3. **An application was submitted by ArthurLee, LLC for a Special Exception** to allow an automobile sales lot and a Variance to waive the requirement for a 1600-square foot display building. Peter Haldeman, attorney for Scott Thompson & Sandra Graham, said the property, located at 86 North Main Street is currently vacant. It was, most recently, an ice cream shop, but Mr. Thompson is having difficulty finding someone to occupy the property. Andy's Car Lot is next door at 80 North Main and Andy would like to occupy the parking lot at 86 North Main to park his overflow of vehicles. No car repair will be done there and the building at 86 North Main will still remain vacant. It will simply be used for parking cars.

The Special Exception is the use of the property for automobile sales and the Variance is from Section 27-605C for the requirement of a 1600-square foot display showroom. Mr. Haldeman stated this requirement would be an un-do hardship on his clients because they would not be able to build or provide that on this lot.

Section 27-605 A, B, D, E, F, G, H were discussed as requirements of the Zoning Ordinance:

- A & B regarding lot size--*Lot area should be a minimum of 12,000 square feet and have a width 80'*. Lot is 80' x 166', so it will meet requirements.
- D *requires all repairs to be done in an enclosed building*. No car repairs will be done; car parking/storage only.
- E *states no outdoor storage of parts, equipment, lubricants, fuel, or other materials used or discarded as part of the service repair operation shall be permitted*. Will be used for parking cars only.
- F *requires all exterior vehicle storage areas to be screened from adjoining residential zoned properties*. Andy's car dealership (80 North Main) is on one side of this particular property and there is a stockade fence, at least 6' high, on the other side.
- G. *The demolition or junking of automobiles is prohibited*. None of this will be done.
- H. *All vehicles shall be repaired and removed from the premises within a 2- week period*. N/A

Although Andy's Car Lot would like to occupy the parking area of 86 North Main, Mr. Thompson will continue to market the vacant house (the old ice cream shop) and should he find

someone to occupy it, depending on the proposed use, he will come back to Dan Shaw to discuss off-street parking and what the new tenant would need/want.

Discussion was held. It is understood that Andy will only be housing vehicles on this lot. While customers can come look at the vehicles, all dealership transactions will be done at his other location at 80 North Main. Mr. Craley stated this will be an extension of what Andy currently does; however, the application allows this to be a stand-alone business for a separate car lot business (under a different owner) if all conditions are met and the Variance is granted. The applicant can stipulate that this use would only be for Andy and when & if he leaves the property, the use discontinues, but that doesn't have to be the case.

Mr. Milner made a motion to recommend granting the Variance from Zoning Section 27:605C.

Mr. Horne seconded. Motion carried, with Mr. Frutiger opposing.

The requirement of a 1600' square foot display building in a Commercial Zone is one of a few Zoning Ordinance requirements that Planning Commission plans to eliminate; however, while it is still in the Ordinance, Mr. Frutiger believes it should be followed.

Mr. Horne made a motion to recommend approval of the Special Exception for use of an auto sales business. Mr. Milner seconded. A vote was taken; motion carried, with Mrs. Barley and Mr. Frutiger opposing.

4. **An application was submitted by Mark Hackler for an interpretation of the past use as an automotive machine shop** and a Variance to change the prior existing non-conforming use as an automotive engine rebuilding business to an automobile sales business. Mr. Hackler recently acquired the property at 510 Wise Avenue and he would like to turn it into a used specialty car shop. Stacey McNeal, attorney for Mr. Hackler, stated they are looking for clarification of a couple areas of the Zoning Ordinance. Two approaches were discussed:

- Is the interpretation that it IS actually a change of existing non-conforming use to go from automotive machine shop to a used car sales lot. Because there's no change and it's still the category of non-conforming use, no zoning relief would be required.

- Per the current Zoning Ordinance, any change of the non-conforming use, even a less-intensive use, still requires a Variance. This is why, Mr. Hackler is requesting a Variance.

The property is approx. 14,000 sq. feet with a double-frontage lot, with a 3600' sq. ft. building fronting both Lemon Lane and Wise Avenue. Initially, it was constructed for a painting business, then changed to a sewing business, then a book bindery. Most recently, in 1995, it housed an industrial polishing & grinding business and in 1998, was Barnett Automotive (machine shop).

As these two recent uses would be considered light manufacturing, Mr. Hackler proposes a specialty used car shop with mostly online sales and advertising to take place. He currently owns Hackler & Son in Dallastown; however, because the roof collapsed at that location, he is looking for a new building. He deals in rare models of vehicles that collectors or a certain group of people would be looking for. The business is only he & his wife and he averages sales of approx. two cars/week. It's possible, he would have up to 10 cars on site at one time.

The building actually sits more on Lemon Lane than Wise Avenue; it sits back 98' from Wise Avenue. There is an existing gravel parking lot/access drive so there is ingress/egress on both streets. Because of the grade of the site, it is a two-story building (two-stories on Wise; one-story on Lemon). Overhead garage doors (on Lemon) will allow cars to be brought in & out and five existing parking spaces are along Lemon Lane. Bottom floor of the building is accessible by Wise Avenue and this will be used for limited servicing when he obtains a vehicle before selling. The rough drawing of the lot showed there is 1,768 sq. feet on both the first floor and the second floor (the showroom/display space).

Ms. McNeal stated per Zoning Ordinance Section 27-605, a use that is permitted in the Commercial Zone is "automobile and/or trailer sales, automobile body shop and/or automobile garage (Major)". The Special Exception criteria for that use is the same for all these areas because it's lumped together as one use.

Ms. McNeal stated Mr. Hackler believes that the automotive machine shop that was there previously would be the same as “automobile repairs (major)”. Per the Zoning Ordinance, automobile sales would be the same use.

Mr. Craley stated he does not believe the use is the same. This is actually an appeal of Dan Shaw’s decision as Zoning Officer that this use was not allowed because his interpretation is that the use Mr. Barnett had was light manufacturing. The Zoning Hearing Board is being asked if Dan’s interpretation of light manufacturing is correct.

If the Commission finds that Dan’s decision is correct, that what was permitted was light manufacturing, then they need to make their recommendation on allowing Mr. Hackler’s proposed use through a Variance.

Ms. McNeal stated through her conversation with Dan, he didn’t feel that what was happening at the location was auto repairs (major). But the applicant is here to get clarification.

The work that Mr. Barnett had previously performed there was engine work. The Ordinance of “automobile repair” anticipates the car actually being present. The uses of book bindery and polishing and grinding would all be considered light manufacturing.

A Variance from the use was discussed next. For over 50 years, the property had been used as a light industrial or commercial property. Mr. Hackler believes it would require a minimum of \$100,000 to demolish the structure, as it is a solid cement-block building. As he is cleaning the property, the floor in the basement is covered in car oil. In addition, because of chemicals previously used, they do not believe it would be suitable as a residential property. Therefore, Ms. McNeal does not believe it could be used in strict conformity with the Ordinance and this hardship was not created by Mr. Hackler. While the neighborhood is predominantly residential, with the history of uses in the building, they don’t feel the proposed use would alter the character of the neighborhood. There are other commercial operations right across and down the street. As Mr. Hackler plans to clean up the property inside and outside, this very-limited family-owned business would have less of an impact on the neighborhood than any previous light manufacturing operation.

If this were a Special Exception, the requirements were discussed and found to be met:

- Lot area shall be 12,000 square feet, minimum. *The lot is 14,000 sq. feet.*
- Lot width shall be 80 feet, minimum. *The lot has 100’ frontage on both Lemon Lane & Wise Avenue.*
- For automobile sales, the lot must be improved with an automobile or trailer display building having not less than 1,600 square feet devoted exclusively to the display of automobiles or trailers. *1700’ sq. ft. upstairs of the building will be used to store vehicles before they sell.*
- All service and/or repair facilities shall be conducted within a wholly enclosed building. *Service and repair facilities will be enclosed in the downstairs of the property.*
- No outdoor storage of parts, equipment, lubricants, fuel, or other materials used or discarded as part of the service repair operation shall be permitted. *Everything will be stored inside the building.*
- All exterior vehicle storage areas shall be screened from adjoining residentially zoned properties. *Ms. McNeal said Mr. Hackler is amenable to screening, whether it be fencing, vegetation, or landscaping.*
- The demolition or junking of automobiles is prohibited. *N/A*
- All vehicles shall be repaired and removed from the premises within a 2- week period. *Because of the nature of the business, it’s possible the cars may be there longer than two weeks; however, Mr. Hackler will not be performing any work besides his own.*

The Variance has been applied for as an alternative to the appeal. The Variance admits agreement with the Zoning Officer’s interpretation and so a Variance is required to change the use from light manufacturing to this proposed use. A Use Variance is stating this property cannot

be used for any permitted use in the Residential-Town Zone. What does the Commission feel is the minimum use change necessary to allow the applicant to have reasonable use of the property? And what conditions, if any, should be applied to minimize any adverse impact it may have on neighborhood, i.e. screening, hours of operation, maximum cars, outdoor lighting, etc.

The Commission already knows he can meet the requirements of Section 27-605.

Mr. Hackler stated there is currently sufficient outdoor lighting on the property; he does not plan to add any additional lighting. There are paved parking spaces in the front; the rest of the lot is gravel. With stormwater runoff restrictions, Mr. Hackler wants to keep the surface pervious. The Zoning Ordinance requires paved surfaces for 5 or more cars but if necessary, he may use grids to keep the surface pervious.

Conditions outlined by the Commission were:

- Hours of operation will be Mondays-Fridays, 9-5p.m. Tuesdays & Thursdays till 7pm, by appointment.
- No additional lighting to be added.
- Screening will be added, perhaps shrubs or landscaping items.
- Owner will only work on his own vehicles that he purchases for resale.
- No more than 10 vehicles will be stored (exterior) on the Wise Avenue side. A few vehicles may be stored (interior) in the display room.

Ms. Nidam made a motion to recommend approval of the Variance with the conditions listed above. Mr. Milner seconded. All were in favor; motion carried.

Mrs. Barley made a motion verifying the Planning Commission is in agreement with the Zoning Officer's interpretation that the previous use was light manufacturing, not related to automobile repair (major). Ms. Nidam seconded. All were in favor; motion carried.

5. **A Land Development application was submitted by Troy A. Leiphart Masonry, Inc. for a mini-storage** in the Industrial Zone at Neff Street Extended. A Special Exception was granted by the Zoning Hearing Board to allow mini storage use and Variances were granted waiving public water and sewer requirements, paving of access drives and paving of parking area. Per the Zoning Ordinance, Jeff Shue's comments were discussed:

- A lighting plan has not been provided; however, a note on the plan indicates lighting will be shielded to not be intrusive on neighboring properties. *Jeff suggests illumination of the lighting plan be added to the Land Development Plan.*
- No proposal has been submitted to address screening and buffers. This was discussed at the Zoning Hearing and Dan Shaw stated the main buffer/screening would be along the Rail Trail. *This needs to be added to the LDP.*
- The Borough's Rail Trail is shown with a right-of-way within the property. The Borough obtained all rights of the railroad in a Quit Claim in the 1980's, but it didn't specify if the railroad had ownership or right-of-way. Jeff's office was able to obtain the Quit Claim to the Borough. *The surveyor should address ownership of this corridor as it will impact the grading within the area and the location of setbacks on the property. This would be the Borough's decision whether or not to allow grading in the right-of-way.*

Regarding the Subdivision and Land Development Ordinance, the following are outstanding items on the plan:

- Certification, signature, seal and date by registered professional.
- Statement of ownership must be signed, dated & notarized.
- Certification of Planning Module for Land Development waivers.
- An erosion & sediment control plan, approved by York County Conservation District, if applicable.
- Any conditions imposed by the Zoning Hearing Board should be noted on the plan.

- Waivers are required for:
 - The preliminary plan must be recommended by the Planning Commission (or move directly to the Final Plan).
 - Plan scale to be permitted as submitted
- Financial security is needed once all issues are resolved regarding stormwater.
- Clarification of note #5 on cover sheet should be provided. *OK.*
- The proposed intersection of the privates drives onto Locust Lane should be consolidated to provide a single access. *As this currently does not meet any ordinance standards of an access drive, Jeff suggested Byron (Trout) cleanup this area on the plan to make it more defined. (where public access ends & private road starts).*
- Turning templates for emergency managements vehicles to ensure allowance for emergency access. *Should be enough room for access; getting into the area is no problem; getting out is more difficult. Applicant should review turning templates with fire department.*

General comments discussed:

- Stormwater Management Plan was reviewed. No major issues, just some details to work out with Engineer (Byron Trout).

Two major items that need addressed are the grading in the Rail Trail area and cleanup of the Locust Lane intersection.

With Jeff Shue's suggestion for Mr. Leiphart, along with his Engineer, to address the outstanding issues, Mrs. Barley made a motion to table this plan until the May meeting to allow Mr. Leiphart time to do so. Mr. Frutiger seconded. All were in favor; motion carried.

6. **An application submitted by Catherine Kokta for a Variance to allow a tattoo shop at 140 East Broadway.** The property is located in the Residential Town Zone. The proposed shop would be in an area where other family-owned businesses are operated and near town center, boosting economy in the borough. Ms. Kokta does not believe this use would alter the nature of the neighborhood nor impair the use of the adjacent properties. She also stated the adjacent property owner approves their efforts to operate the tattoo shop. If the Variance is not granted, the applicant will no longer be able to make reasonable use of the property. The Variance would grant relief in order to run a successful business. Ms. Kokta had a list of signatures from neighboring residents who are not opposed to the opening of a tattoo shop in the area.

At the last revision of the Zoning Ordinance, tattoo shops were added under the definition of "Adult Facility", and allowed only in the Industrial Zone by Special Exception.

Mr. Craley stated that part of the burden of someone seeking the Use Variance is that the use they seek is the minimum relief necessary to justify relief, unless this property is vacant for a long time and no one can put in the lesser intrusive uses than what would typically be in a Commercial Zone or Borough Center Zone. Mr. Craley doesn't feel the applicant has met the burden for a Use Variance; he recommends the Commission recommend denial.

Because the Planning Commission has made a concerted effort to only allow this use in the Industrial Zone, Mrs. Barley made a motion to recommend denial of the Variance; Ms. Nidam seconded. Motion carried, with Mr. Milner opposing.

7. Zoning Hearing for tonight's applicants will be held May 17th, 2016 at 6:00p.m.
8. **Planning Commission will review the list of proposed Zoning Ordinance revisions** at their May meeting.
9. **Adjournment**—Mrs. Barley made a motion to adjourn the meeting @ 8:25p.m.

Respectfully submitted by:

Stacy Myers, Recording Secretary