

**Red Lion Planning Commission  
Meeting Minutes  
Monday, September 19<sup>th</sup>, 2016**

**Members**

Cindy Barley  
Robert Frutiger  
Nevin Horne  
Wade Elfner  
Felix Milner

**Others**

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

**Visitors**

Peter Haldeman  
Scott Thompson

1. The meeting was called to order @ 7:00p.m. All present participated in the pledge to the flag.
2. Mrs. Barley made a motion to approve the August 15<sup>th</sup>, 2016 Meeting Minutes; Mr. Milner seconded. Everyone was in favor; motion carried.
3. **Brief discussion was held regarding the Zoning Hearing** on Wednesday, September 14<sup>th</sup>, 2016. The Zoning Hearing Board denied the Special Exception submitted by Barrick Enterprises, Inc. for an Eating Establishment at 401 East Broadway. It was rejected due to the fact that the building where Domino's Pizza would be operated from (Boxwood Road) is currently not a main (arterial) road and an eating establishment must be on an arterial road. Mr. Barrick was anticipating that Boxwood Road would be vacated by the Borough and Boxwood would become an access road for the businesses back in that area; however, that hasn't happened yet. Once it's vacated, Domino's Pizza (401 East Broadway) would be accessible through Boxwood Road and Redco Avenue. Mr. Craley had commented at the August meeting it may be premature for Mr. Barrick to go to the Zoning Hearing Board; however, he (Barrick) wanted to move forward with the Zoning Hearing.
4. **Appeal of Zoning Officer's decision (Case No. 09-08-16)** that the accessory structure is in a front yard and a Variance is needed if it is determined that it is and a Variance is needed to allow an accessory structure be less than 10 feet from the principal structure. The property belongs to and the appeal was submitted by A. Scott Thompson regarding his structure at 1 Vulcan Road. The property is in the Industrial Zone. Mr. Thompson owns the industrial building, where metal fabrication takes place. The accessory structure is 10' x 16' and is used as office space. On June 3, 2016, Mr. Thompson received a letter of violation from Dan Shaw stating that the accessory structure was attached to the principal structure (the large industrial building). A Land Development Plan is needed for an attached accessory structure in the Industrial Zone, so Mr. Thompson unattached it from the primary structure. What Mr. Thompson and his Attorney Peter Haldeman are now trying to determine is whether or not this accessory structure meets the requirements of Section 27:401-2. Mr. Thompson will apply for a Variance should the Planning Commission determine the accessory structure is in the *front or side yard* of his property rather than the rear, where it is required to be per Zoning Ordinance.  
*Section 27:401-2 states for Nonattached Structures: An accessory structure standing apart from the principal structure is permitted only in a rear yard; provided, however, that it is at least 3 feet from the rear lot line, 3 feet from one side lot line and at least 10 feet from the principal structure. For all other requirements, a nonattached structure is considered the same as a principal structure.*

Mr. Haldeman presented a site plan of Mr. Thompson's property and the buildings/structure in question. When Mr. Thompson purchased the property in 1989, the entrance to Vulcan Road was

off of Springwood Road and Vulcan Road wrapped around Mr. Thompson's property. His property actually faced Vulcan Road on two sides. (Vulcan Road used to continue to the sewage treatment plant, but that has since been changed).

Mr. Thompson admitted the pre-fab structure was placed on the property without a permit.

Mr. Haldeman stated the buildings surrounding Mr. Thompson's property are Borough-owned buildings and also in violation of the Zoning Ordinance. The same standards should apply.

Mr. Thompson wants to keep the structure where it is currently located. He needs an inspection office that is climate-controlled in accordance with his metal fabrication business. He and Mr. Haldeman believe it is harmonious with the surroundings as it is an industrial area. It does not change the characteristics of the neighborhood. In fact, Mr. Haldeman said the office space is hardly noticeable at all. Mr. Thompson stated the accessory structure is only temporary. He does not foresee needing the office space more than five years.

At this point, Mr. Thompson and Mr. Haldeman are conceding the violation that the accessory structure is in the side yard of the property, so it is out of compliance with the Ordinance. A Variance is necessary if the structure is not moved because it needs to be in the rear yard and 10' from the principal structure. The lot is unusual being that it has two fronts & two sides where it sits on Vulcan Road.

Mr. Craley stated the two criteria necessary for the Variance in this situation, even though it's a dimensional Variance and has a lesser degree of proof are:

- The applicant must show some type of hardship that makes the property worthless, or that it can't be used properly without a significant loss of value or significant improvement.
- The applicant can show a "frustration of business" purpose (something needed in order to keep the business in operation without the Variance)

Since the business has been in operation since the 1980's, has something in the business changed that the accessory structure (shed) is necessary? Mr. Thompson stated a long-term contract has been received; a contract not to exceed five years, but the office space (shed) is required to make inspections of the product. The inspections cannot take place in the environment of the shop. It would definitely make a hardship if the office was not there. Mr. Thompson also stated the entire back of the principal structure is utilized for production; there is no place to put the shed back there. The shed was put in the most reasonable location on this double frontage property.

Dan Shaw stated the rear of the property would either be towards Maple Street or towards Cherry Street, depending on which frontage you're viewing. The old site plan was again viewed. The entrance to Mr. Thompson's building is along Vulcan Road and has been since the 1980's.

Nothing has changed with the principle structure layout and Council approved the site development plan at that time.

Mr. Craley stated the standard definition of hardship is "lack of ability to use your property"; however, he doesn't feel that is the situation in this case. The Planning Commission would need to be satisfied that without the Variance, the business would shut down and in turn, would meet the "frustration of business" criteria. Mr. Craley stated it substitutes for the economic hardship, in that if Mr. Thompson can show the frustration of business purposes would result in a shutdown or potential shutdown of the business, the law says he is entitled to the Variance. Mr. Thompson stated that without the office space he could not satisfy the long-term contract and without the long-term contract, the business would certainly shut down.

Mr. Horne made a motion to recommend approval of the Variance with the condition that Mr. Thompson has offered and agreed to, the removal of the accessory structure within five years and that the Variance is needed to avoid frustration of business purposes. Mr. Milner seconded this motion. Motion carried with a 4-1 vote; Mrs. Barley opposing.

Dan Shaw stated the Zoning Hearing is scheduled for October 13<sup>th</sup>, 2016 at 6:00p.m.

5. **Discussion on Zoning Ordinance changes**—Mr. Craley presented the following draft review of the proposed changes:
- 27:639-1B—Public and semi-public parking lots—lot width has to be 80’ and everywhere else in the General Requirements in the zone, it has to be 60’. *Reduce it from 80’ to whatever the zone generally requires; a Special Exception being criteria.*
  - 27:605-C & H—Removing 1600’ sq. ft. display area (C) and having to remove the vehicles within the two-week period (H)
  - 27:629—Mini-storage. *Add section that no public water & sewer is required (unless an office is at the facilities). More review on this item.*
  - 27:409-9—Termination of enterprise. *Keep the words “pertaining to” and add “and identifying”.* Pre-existing buildings/businesses would not be affected, going forward.
  - 27:410—Parking for mini-storage. *Add under “Parking” as the “type of uses” listed. Adding mini-storage facility, one parking space per each story of a building or 5,000 sq. ft. of mini-storage building area, whichever is greater.*
  - 27:504-B1—typographical error
  - 27:414—typographical error
  - “Restaurant” to include all that a restaurant encompasses.
- Mr. Craley will put the above Ordinances in numerical order, and then get the authority from Borough Council to present them to York County Planning Commission. Once YCPC reviews them, Borough Council will hold a public hearing to decide whether or not they want to enact them.
- Mrs. Barley made a motion to recommend the above changes; Mr. Horne seconded. All were in favor; motion carried.
6. **Other business**—Dan Shaw mentioned an upcoming course, “Effective Community Planning” to be held at York Township’s Municipal Building. It will be held on three separate Wednesday evenings, from 6-9:30p.m. for \$35/person. Mrs. Frutiger & Mrs. Barley will attend. Anyone else interested? Let Dan know.
7. **Adjournment**—Mr. Frutiger made a motion to adjourn the meeting @ 8:02p.m.

Respectfully submitted by:

Stacy Myers, Recording Secretary