

**Red Lion Borough Planning Commission
Meeting Minutes
Monday, September 17, 2018**

Members

Beth Nidam
Cindy Barley
Joyce Seabolt
Melanie Thompson
Nevin Horne

Others

Dan Shaw, Codes/Zoning
Mike Craley, Solicitor
Stacy Myers, Recording Sec'y

Visitors

Dianne Price
Stephanie Weaver
Emily Zelger
Trong Lieu
Nick Rhoads

Troy Leiphart
Dennis Klinedinst
Dave Zelger
Janie Katherman

Gregory Gettle
Gary LaTulippe
Lisa Zelger
Dennis Tyndall

1. The meeting was called to order @ 7:00p.m. Everyone present participated in the pledge to the flag.
 2. Ms. Seabolt made a motion to accept the July 16th, 2018 Meeting Minutes; Mrs. Barley seconded. All were in favor; motion carried.
 3. **Case No. 08-08-18—a Special Exception application** was submitted by Troy A. Leiphart Masonry, Inc. to permit an automobile garage (major) on property located in the Industrial Zone at 601 West Maple Street, Red Lion. Attorney Gregory Gettle (Gettle & Veltri-13 East Market Street, York, PA) represented Mr. Leiphart tonight. Mr. Leiphart purchased 601 W. Maple Street on June 28, 2018 from Family Heirloom Weavers. There are 3 parcels on the property; one on the North side (rear of property), one in the front of the property (group of buildings) and one parcel to the West. Family Heirloom Weavers still occupies the larger building on the property. The two other buildings are where Mr. Leiphart would like to operate an automobile/mechanic shop and Mr. Gettle stated it is a permitted use by Special Exception (Section 27:307-3X). The criteria needed to meet is:
 - Public water & sewer—*water is available, but Mr. Leiphart must determine where it is. It was used when Family Heirloom occupied the building. Dan Shaw & Mr. Leiphart are unsure if public sewer is there. There are sewer pipes there and a manhole to the back of the property; however, it may be a private septic system. This will need to be determined before Mr. Leiphart goes to the Zoning Hearing Board.*
 - Minimum lot area 10,000 sq. ft.—*has 205,415 sq. ft. (4.715 acres)*
 - Minimum lot width of 100 feet—*has more than 800 feet.*
 - Front setback is a 35-ft requirement—*Variance requested for this, although because these buildings have been here for many years, they are “pre-existing buildings” and Mr. Craley said, per Section 420-1B, pre-existing buildings do not require Variances.*
 - Each side setback is a 25-ft requirement
 - Rear setback is a 30-ft requirement
 - Building height cannot be more than 75-feet—*building is not more than 6-feet*
 - Open area, not less than 40% shall be devoted to open area—*more than 40% on this property.*
- Section 27:605—Specific Requirements for an auto repair garage in the Industrial Zone:
- Minimum lot area of 12,000 sq. ft.—*exceeds minimum requirement with 205,415 sq. ft.*
 - Minimum lot width of 80-feet—*exceeds minimum requirement with over 800 feet.*

- All service and/or repair facilities shall be conducted within a wholly enclosed building—*Mr. Leiphart proposes to do everything within the building.*
- No outdoor storage of parts, equipment, lubricants, fuel or other materials used as part of the service repair operation—*Mr. Leiphart understands & agrees to this.*
- All exterior vehicle storage areas shall be screened from adjoining residentially zoned properties—*on the West side of the property is a heavily wooded area, which provides a natural barrier. Mr. Leiphart is willing to install a fence on the property line across the front of the two proposed buildings, if required by the Commission or Zoning Hearing Board. Section 413:1A states “a fence, screen, or buffer planting acceptable to the Borough is required to be erected in the Commercial or Industrial Zone to screen from view (if the residential zone) the industrial or commercial use. Fencing/screening may be a condition but is not a requirement. Mr. Leiphart is willing to install a fence between the buildings (the main garage & building) to keep trespassers out (for his own preference). Commission members were amenable to not requiring a fence due to the heavily wooded area on one side and the buildings themselves provide a barrier.*
- The demolition or junking of automobiles is prohibited. *Mr. Leiphart understands & agrees to this.*

Dan Shaw calculated 4,000 sq. ft. of the two buildings proposed for the auto/mechanic shop and stated 10 parking spaces would be required. *Section 410:6 states “Paving. For commercial, industrial, and multi-family residential uses, all required parking areas shall be paved with concrete or bituminous paving material. A parking area for more than five vehicles must be approved by the Borough Engineer, relative to paving, grading, and drainage”.* Mr. Leiphart stated the parking lot is paved at the office to the edge of the building, but he does not want to put parking spaces on that area. He agreed to pave an additional area to accommodate at least 10 parking spaces but will probably pave more.

Mrs. Barley made a motion to recommend approval of the Special Exception for the automobile garage use with the requirement of at least 10 paved parking spaces being met; Mr. Horne seconded. All were in favor; motion carried.

4. **Case No. 08-09-18—a Variance application** was submitted by Emily Zelger to allow a two-family conversion on a property located in the Residential Outlying Zone at 617 Wise Avenue, Red Lion. Emily Zelger is the property owner of 617 Wise Avenue and she is proposing a two-family conversion on the property. She was present tonight with her father, Mike Zelger. She stated underneath the large back porch of the home is a structure with its own kitchen, bedroom, a full bath and an exterior exit of its own. This basement portion was added in 1967; the original home was built in 1959. She would like to rent the basement “apartment” area to supplement her income. Regarding available parking for a tenant, Mr. Zelger said parking is “workable”. Ms. Zelger (or the main-house resident) can park over to one side, allowing the tenant to drive around that car to park. Requirements of this type of dwelling are:

- Minimum of 4,000 sq. ft per dwelling—*has 10,000 sq. ft.*
- Existing structure must maintain characteristics of neighborhood—*OK*
- Parking—*tenant will have off-street parking*
- Structure will comply with all rules & regulations (fire, safety, building codes)—*OK*

Dan Shaw took measurements of the “in-law quarters” (rental area) and the bedroom measured 481 sq. ft. The requirement of a one-bedroom unit is 500 sq. ft. Mr. Craley stated the definition of a two-family detached dwelling is “a building used by two families with one dwelling unit arranged over the other and having two side yards.” As it exists now, Mr. Craley said this could be considered a nonconforming two-family detached dwelling. If this was built now, it couldn’t be done; however, since this property has always been used as a two-family dwelling (at least since the 1960’s), it could be considered a nonconformity. If so, a Variance would not be necessary.

Dan stated the Borough doesn't have record of the property being two dwelling units and having a registered tenant living there; however, Mr. Craley reported of a case law which states, "you don't lose a nonconforming status simply by not registering tenants". It would be up to the Zoning Officer if this would be a lawful nonconformity. Since this application was filed on 8/29/18, there is still time for the application to be pulled & Dan Shaw to decide whether a Variance is necessary. If a Variance is needed, there is still time (before the 60-day timeframe) to come before the Zoning Hearing Board.

Regarding the two side yards (required), Mr. Zelger said there are grass strips on both sides of the property which pass as side yards.

This application was pulled until the Zoning Officer does further investigating whether it meets the standards for a Variance.

5. **Case No. 09-10-18—a Variance application** was submitted by Trong and Elizabeth Lieu to allow relief of conditions from zoning case # 9908-1 that would not allow customer cars to be parked on the street. Janie Katherman, from Katherman, Heim & Perry (345 E. Market St, York, PA) represented Mr. Lieu, owner of Luc's Auto Service, 195 North Franklin Street. In 1999, this property (located in the Industrial Zone) was granted a Variance (for lot size) & a Special Exception to operate as a service station with a few conditions. The owner at that time (Scott Brady) operated the business as a quick service/oil change business, servicing 20-40 cars/day. One condition, noted in the 1999 Planning Commission minutes, was that no dismantled vehicles would be parked on the public street. The Zoning Hearing Board then, going off the recommendation of the Planning Commission, approved the SE with the condition of "no parking on the street for customers or customer cars". Ms. Katherman's assumption is the ZHB did not articulate the Planning Commission's condition as stated in their (PC) minutes. Requesting a Variance to have that particular condition removed, relating to the parking of the customer's cars on the property, is the reason for Mr. Lieu's application.

In 2006, Trong & Elizabeth Lieu purchased the property to operate as a regular repair/service shop, servicing approx. 6-8 cars/day. Mr. Lieu has continued to operate the business as a repair/service shop, with a dropbox for customer's keys when they're dropping off their car after hours. If cars for service are not parked on Mr. Lieu's lot, he immediately moves them to his lot when he opens the next business day. Mr. Lieu asks his customers not to park on the public street (and park instead on his lot); however, he cannot control what happens & where customers park after hours. There have never been any complaints from his neighbors on North Franklin, until now. The neighbor across the street had an issue with Mr. Lieu's customer parking on the street, stating that it impedes his ability to park in front of his home. Mrs. Barley stated that property has been notorious for having parking issues.

Ms. Katherman presented a Google Earth image of 195 North Franklin Street showing the length of the street & availability of parking shown on the image. Substantial parking is available & Mr. Lieu does not have any customer cars parked in front of the neighbor's property at the date/time the image was taken. Another photograph, taken by Mr. Lieu, was presented showing 8-9 cars parked on his triangular, odd-shaped lot which verifies Mr. Lieu parks as many cars on his property as possible to avoid parking any on North Franklin. A third & fourth picture show ample parking on North Franklin on other dates/times for other residents and shows Mr. Lieu's lot with customer cars parked on it.

According to Pennsylvania Case Law, Ms. Katherman stated the standard to remove a condition that was previously placed, is to either show the grounds for a traditional Variance or change circumstances, which render the condition inappropriate and also an absence of injury to the public interest. When this was approved in 1999, it was approved as a fast lube/oil change service shop, serving 20-30 cars/day. It has operated since 2006 as a more traditional operation, serving 6-8 cars/day, which does not hold the same level of concern for street parking as it used to previously. Ms. Katherman believes the ZHB's decision from 1999 was erroneously, as there was no reason or evidence for placing the condition of no customers being allowed to park on the

public street. There is substantial parking on North Franklin, as depicted in tonight's pictures. Many residents along the street have off-street parking.

Since 2006, Mr. Lieu has been a respected and respectful neighbor of the community and anticipates some neighboring support at the Zoning Hearing. He is not present tonight to ask for more parking or because he wishes to park dozens of cars along North Franklin Street. He is present because, if & when a customer does park on North Franklin (after hours), he is asking for relief from that 1999 condition. He utilizes the space he has on his lot to the best of his ability. One of tonight's pictures showed approx. 10 cars in the front of the property & 4-5 in the back. Of note, the neighbor lodged the complaint after two customers paid for their car servicing & obtained their keys from Mr. Lieu. They stated they would return later for their cars. Mr. Lieu went out of town for a long weekend and the cars were still parked there when he returned on Sunday. Mr. Lieu has no control over this after the customers have already paid him and he no longer has the keys to move them. He went out of town and had no control over the situation and the cars were parked on a public street. The neighbor had gotten quite aggressive over the situation. Mr. Lieu said this situation (that customers don't move their cars immediately) happens very seldomly. Another time, someone parked in front of this neighbor's house and he complained to Mr. Lieu, assuming it was a customer of his; it was not. It was someone visiting someone on North Franklin Street.

Gary LaTulippe (resident of West Broadway) was present tonight saying he occasionally has parking issues when the Red Lion Elks have events, but it's a public street and complaints aren't lodged to the Borough about it. Mr. LaTulippe has had Mr. Lieu as a client & customer and can speak for his outstanding & respectful character.

Dennis Tyndall (resident of First Avenue) was present tonight stating this parking shortage issue happens on several streets around the Borough.

Another neighbor from First Avenue spoke fondly of Mr. Lieu and has no problem with Luc's Auto Service.

Mr. Craley stated this triangular piece of property (up to First Avenue) used to be zoned Commercial. Ken's Catering used to operate there, but caught fire & was destroyed in the late 80's. The area was rezoned and the piece of First Avenue, North Franklin Street & the alley was zoned Residential, but because the catering property had a propane tank on it, it couldn't be left Commercial, so it was rezoned Industrial.

In addition, for an automobile repair service station, one off-street parking space is required for every 400 sq. ft. of ground-floor area. Mr. Lieu has approx. 1,200-1,600 sq. ft. of space, so his property meets the requirements for off-street parking.

Mrs. Barley made a motion to recommend allowing relief from the condition from the 1999 ruling; Mr. Horne seconded. All were in favor; motion carried.

The Zoning Hearing for tonight's applications will be October 9th at 6:00p.m.

6. **Adjournment**—Mrs. Barley made a motion to adjourn the meeting @ 8:10p.m. Ms. Thompson seconded. All were in favor; motion carried.

Respectfully submitted by:

Stacy Myers, Recording Secretary