



LOWER NAZARETH TOWNSHIP

ZONING HEARING BOARD

306 BUTZTOWN ROAD
BETHLEHEM, PA 18020-9718
TELEPHONE: 610-759-7434
FAX: 610-746-3317

Zoning Hearing Board
Manouel Changalis, Chairman
Michael Gable, Vice Chairman
Zachariah Cobrinik

Zoning Hearing Board Minutes May 27, 2014

Chairman Manny Changalis called the meeting to order at 6:30 p.m. Also in attendance: Board Member Mike Gable and Zach Cobrinik; Zoning Hearing Board Solicitor, April Cordts; and Lori Seese, Planning & Zoning Administrator.

MINUTES

Approval of the January 28, 2014 minutes was moved by Michael Gable and seconded by Manny Changalis. Zach Cobrinik abstained. The motion carried.

Approval of the April 30, 2014 minutes was moved by Zach Cobrinik and seconded by Manny Changalis. Mike Gable abstained. The motion carried.

There was no CORRESPONDENCE to entertain.

HEARINGS

ZA2014-02 – Keystone Shed Co. t/a Amish Marketplace

The advertisement for the hearing was read aloud and all parties who would testify in the hearing were sworn. Present for the Application: Jacob Hayward, Applicant; Gary Fox, Property Owner; and Andrew Schantz, Solicitor.

The Zoning Administrator's file was entered into the record as Exhibit Z-1. True and Correct copies of the minutes of the Board of Supervisors and Planning Commission were entered into the record as follows:

- Z-2 April 10, 1991 Board of Supervisors Minutes
- Z-3 May 22, 1991 Board of Supervisors Minutes
- Z-4 August 14, 1991 Board of Supervisors Minutes
- Z-5 September 11, 1991 Board of Supervisors Minutes
- Z-6 October 9, 1991 Board of Supervisors Minutes
- Z-7 July 15, 1991 Planning Commission Minutes

Township Solicitor, Gary Asteak, also requested to enter the following file correspondence into the record:

- Z-8 May 15, 1992 letter from the Board of Supervisors to Attorney Joseph Fitzpatrick
- Z-9 September 9, 1991 letter from Attorney Fitzpatrick to Attorney Gary Asteak
- Z-10 September 18, 1991 letter from Attorney Gary Asteak to Attorney Joseph Fitzpatrick
- Z-11 December 6, 1991 letter from Attorney Fitzpatrick to Attorney Gary Asteak

A pause was taken to allow the ZHB opportunity to review the minutes.

Attorney Schantz entered his objection to the entrance of the Zoning Exhibits in that there is no relevance for the Zoning Hearing Board to base a decision. They can only base their decision upon the Zoning

Ordinance. He believes that interpretation of Ordinance #110 by the Zoning Hearing Board is inappropriate.

Discussion followed regarding the question of perceived contract zoning enabled by enactment of Ordinance #110. Attorney Cordts acknowledged their objection is noted.

Attorney Schantz provided a summary of the Special Exception application.

Attorney Schantz questioned Planning and Zoning Administrator Lori Seese regarding the current zoning ordinance and the current zoning map. Applicant's Exhibit A-1, Zoning Map was entered into the record. Attorney Schantz further questioned the Zoning Administrator regarding language in the Zoning Ordinance. April Cordts objected to the questioning about the Zoning Ordinance.

Discussion followed regarding the constitutionality of Ordinance #110 and who has the ability to interpret enforceability of that ordinance.

Mike Gable inquired about when the concept of an overlay district became popular. Attorney Asteak stated he does not believe that the concept was in play in 1991. The importance of entry of his exhibits was to show that this was an idea proposed by the Applicant, not by the Township, as it was submitted by a Curative Amendment.

Jacob Hayward, President of Keystone Shed Co., testified on behalf of the Applicant. They sell approximately 220 sheds per year; tractor trailer trucks make delivery 2-3 times per week. They are open 6 days per week, Monday-Saturday: 10-5 Monday-Thursday, 10-4, Friday and Saturday. They have 2 full-time employees, including 2 officers. The Sales Office is on-site. The intention is to shift the operation to the new site.

This parcel is 22 acres; however they only intend to occupy 1.66 acres. The agricultural and residential uses will remain, along with the existing hair salon.

Directly across the street are commercial uses, to the rear are residential and to the north are commercial. They propose no deliveries to the lot overnight. Only during business hours due to limitations imposed for oversized loads.

They intend to display approximately 100 inventory units on the site, having the buildings out in the open, making them easier to view. Display area will be off Route 191 as identified on the submitted plan. A small selection of product, such as 5 sheds, will be displayed in the front. The maximum size shed is 14x40. Anything larger is shipped direct to the customer.

There are no alterations of the buildings proposed other than what may be required in order to effect a change of use from a restaurant use to a retail use.

Mr. Asteak inquired if the map was submitted to the Planning Commission, which it has not. The Applicant confirmed they will have multiple uses: agricultural uses, residential uses, and seven retail units with only one presently occupied. They are proposing to add the retail use plus outdoor storage. They will continue to seek to rent out the other uses, keeping the residential uses and the agricultural uses. No production of sheds on-site. They will come complete pre-fabricated. No exterior lighting is proposed, unless required.

Attorney Cordts clarified that they intend to fill the vacancies in the retail building plus add their shed business to the property, keeping the agricultural and residential uses. That was unclear to her based upon earlier testimony.

Mike Gable inquired about the location of the septic systems on the property. The Applicant stated there are 5 systems.

A short break was taken from 8:30-8:45 p.m.

Ron Bennett, 179 Butztown Road, adjoining owner inquired if there will be any restrictions on the other 20 acres. He was advised that the zoning hearing board cannot restrict any other uses.

Maureen Reinert, 155 Butztown Road, asked if the previously approved covenants would carry through for this project. Mike Gable stated that the covenants go with the land. She pointed out that there isn't 1.66 acres of level land to place these sheds without something changing. She also asked to take traffic into consideration due to the existing hill. Mike Gable suggested that they could make them get a new PADOT permit to ensure they are in compliance.

Attorney Cordts suggested that it is premature for the board to vote on any issue this evening. She pointed out that the sketch does not depict what is proposed for the entire property, dimensions, details, etc.

Attorney Asteak suggested that the application be denied because no site plan was provided. The Board has not been provided enough information to form an opinion. The burden is on the applicant to prove that there can be compliance. Attorney Schantz argued that they have met the burden of proof thru their testimony.

Mike Gable asked to see more details before them before they make a decision. April Cordts reminded the Board that they always have the opportunity to seek an advisory opinion from the Planning Commission. Mr. Gable also stated that they no testimony has been provided regarding stormwater management and how they are going to comply with State requirements.

Dale Reinert 155 Butztown Road, recalled when development was proposed for this property in the past, that berms were required, they would have to install a stop light, etc.

The requirements for a Site Plan and Planning Commission review were discussed.

The Zoning Hearing Board stated they want them to comply with the ordinance by submitting the required documents.

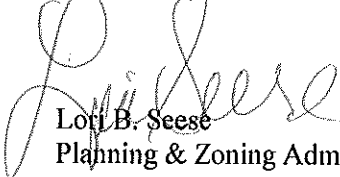
The applicant asked for the opportunity to continue the application so they can provide a plan. Further discussion followed, citing the requirements for Site Plan as outlined in the Zoning Ordinance.

The Applicant agreed to a time extension as outlined in the PA Municipalities Planning Code.

The motion to approve a continuance was moved by Mike Gable and seconded by Zach Cobrinik. The motion carried unanimously.

The meeting adjourned at 9:40 p.m.

Respectfully submitted,



Lori B. Seese
Planning & Zoning Administrator

/lbs