

APPROVED

**SPRINGETTSBURY TOWNSHIP
ZONING HEARING BOARD
APRIL 4, 2013**

The Springettsbury Township Zoning Hearing Board held a regularly scheduled meeting on the above date at the Township offices located at 1501 Mt. Zion Road, York, Pennsylvania 17402.

MEMBERS IN

ATTENDANCE: Dale Achenbach, Chair
John Schmitt
Michael Papa
Sande Cunningham
Kevin Hevner, Alternate
David Seiler

ALSO IN

ATTENDANCE: John Elliott, ZHB Solicitor
Angela Liddick, Deputy Zoning Officer
John Luciani, Township Engineer
Sue Sipe, Stenographer

NOT PRESENT: James Deitch

1. CALL TO ORDER:

Mr. Papa called the meeting to order at 6:00 p.m., since Chairman Achenbach was delayed. He introduced the members of the Board, noting that Mr. Seiler will serving as a voting member due to the absence of Mr. Deitch for this meeting.

Mr. Papa led the Pledge of Allegiance.

2. ACTION ON THE MINUTES:

- A. September 6, 2012 Zoning Hearing Board Meeting**
- B. October 4, 2012 Zoning Hearing Board Meeting**
- C. January 3, 2013 Zoning Hearing Board Meeting**

MOTION MADE BY MR. SEILER, SECONDED BY MR. SCHMITT TO APPROVE THE MINUTES OF SEPTEMBER 6, 2012, OCTOBER 4, 2012 AND JANUARY 3, 2013 AS PRESENTED. MOTION UNANIMOUSLY CARRIED.

Mr. Papa asked Ms. Liddick whether or not the case had been properly advertised. She responded that notification had been made.

3. OLD BUSINESS - NONE

4. NEW BUSINESS

A. Case Z-13-01 Michael Caltagirone

Michael Caltagirone, Property Owner

Jon Paul Terwilliger

All witnesses were sworn in.

Mr. Schmitt recused himself from the case since he is a property owner in the area of the property in discussion.

General Case Summary: 325-32. N-C Permitted Uses

Comments: The applicant is requesting a variance to allow the use of a brewery/taproom to be located in the Bloomingdale Shopping Center. The principal use of this business is alcohol sales, therefore it is categorized as a bar. A bar is not a permitted use in the N-C zoning district. The Nano-Brewery & Taproom will produce beer on-site, as well as make it available for on-site consumption and carry-out. The business is planning to operate between the hours of 6:00 p.m. and 12:00 a.m.

Recommendations: If the findings of Fact and Conclusions of Law meet with the approval of the Board, staff would not oppose the applicant's request.

Mr. Caltagirone stated he is the owner of the property at 3410 East Market Street, consisting of a small strip shopping center. He noted he has a space for rent and submitted an application on behalf of Mr. Terwilliger and his company to have a brewery at this location; 300-400 sq. ft. is intended for public use with the remaining 1,200 sq. ft. reserved for production.

Mr. Terwilliger indicated his partners are Michael Terwilliger, Daniel Lee Park and Jarrod Dement. He noted the proposed plan for the property is a brewery. The beer would be made on site with part of the facility as a tasting room where the beer would also be sold to take out. Mr. Terwilliger stated the hours would be 6-10 on Thursday and 6-12 on Friday and Saturday. Mr. Terwilliger indicated this is a part-time venture for him and his associates so only a limited amount of time can be spent on developing and selling their product. He also noted the beer is brewed on weekends to supply to other bars and restaurants in the area. No food will be served in their establishment.

Mr. Luciani, Township Engineer, indicated due to the vacancy of the zoning officer position he is filling that role until a new zoning officer is selected. He noted he and Ms. Liddick held a meeting with the applicant. Mr. Luciani provided the Board with a summary of the discussion as well as photos of the property, noting the applicant is requesting a variance to allow a brewery and tap room at this location in the Neighborhood-Commercial zone. Mr. Luciani stated restaurants are allowed in the N-C zone, however bars are not allowed.

Discussion was held regarding parking for this location. Mr. Luciani explained that for a restaurant or a bar, the requirement for parking is 10 spaces for every 1,000 sq. ft. He noted a bar, tavern or microbrew has a higher parking penalty. The brewery/tap room as proposed is 1,200 sq. ft. A floor plan of the facility revealed that approximately 50% of the area towards the west parking lot would be used for public parking, requiring 34 parking spaces. The entire area will require a quantity of 80 spaces. Based upon the information provided by Mr. Caltagirone it was determined they meet the minimum requirement of parking specified by the Ordinance.

Attorney Elliott confirmed this is a use variance and the applicant has the burden to show they meet all the requirements of §325-190.F3 which includes proving if they are not able use the property for the proposed use, it would result in an unnecessary hardship. He noted the issue with a use variance is to show that property could not be used for any other permitted use under the ordinance. He stated it is the Board's task to make a determination if the applicant has met that criteria and if the use is appropriate for this zone.

The applicant was questioned if he has determined if this location would be ideally suited for his business with sufficient room and layout. Mr. Terwilliger stated there is enough room and the layout is satisfactory with the brewery in the back and the tasting room in the front.

The applicant was questioned if they will obtain a liquor license. Mr. Terwilliger responded they do not require a liquor license, since they will not be serving liquor or wine. They are in the process of obtaining a brewery license through the state board licensing agency.

Public Comment

Mr. Ben Frecon - Business Manager for Lela's Bridal Boutique located next door to the brewery.

Mr. Frecon stated the following concerns:

- A brewery in this location could potentially cause problems for the bridal boutique since they are located behind the brewery location.
- They will be sharing a sidewalk which the brewery will use to transport the kegs down the sidewalk going past the back of their business where their customers park. There is a big display window at that location as well.
- The brewery will have delivery trucks going in and out of the area, which could become more frequent as the business expands.
- The truck traffic will put wear and tear on the parking lot surface which will generate repairs. Since the bridal boutique shares the parking lot they would be responsible for half of those costs incurred.
- Smells or flammable dangers from operation of the brewery could be detrimental.
- Parking issues.

Diana Sauder – Owner of Lela's Bridal Boutique

Ms. Sauder stated the bridal boutique has been at this location for 28 years. The bridal boutique is open Friday-Saturday 10-6, Sunday 12-4 and Monday-Thursday 10 – 8. She noted her customers are mostly young customers. She had a concern about alcohol in the immediate area with young people in her area every day. She also had concerns about parking which she noted is already full. She indicated she shares the back entrance with Mr. Caltagirone's property, and the parking lot takes a lot of wear and tear with large food service trucks.

Chairman Achenbach asked Mr. Terwilliger to describe the activity that would occur at the back of their location. Mr. Terwilliger stated their capacity would be producing 18 kegs per month, with some kegs remaining in house for the tasting room. They are expecting to ship out a maximum of 12 kegs each month. They will be delivering via a standard size pickup truck only on the weekends. Mr. Terwilliger noted their 5 year plan is to double capacity to 36 kegs per month in 2016.

Dr. Jonathan Spanos – Owner of the Paddock Restaurant on 3406 East. Market St

Dr. Spanos indicated their restaurant has been at this location since 1947. Dr. Spanos referred to Mr. Caltagirone's comment that the rest of the building was office space. Dr. Spanos noted that currently there are 11 suites for rent, four of which are vacant so there are seven businesses currently there, none of which are offices in his opinion. Mr. Spanos expressed a major concern about parking and a potential for the intended use of the proposed business creating a public safety fire hazard. Dr. Spanos was concerned that the use was not suited for this location.

Further discussion was held regarding the parking issue. Mr. Luciani reiterated the calculations determined for the location from the information provided by Mr. Caltagirone, indicating for a retail center every 1000 sq. ft. would require 4½ spaces - for restaurant 10 spaces per 1,000 sq. ft. In regards to the proposed brewery which is 1,200 sq. ft., even though only half of that 1,200 sq. ft. is used, 12 parking spaces are required.

Ms. Sauder clarified that the parking spaces for the bridal boutique are on the bridal shop property, so it is separate from Mr. Caltagirone's property. Ms. Sauder noted her back entrance is shared but the side with her business is on in the back of the parking lot in her area. She noted that other businesses park in her area, resulting in her customers not having a place to park.

A clarification of the Ordinance for the Neighborhood-Commercial District revealed that restaurants are not a permitted use in the N-C district. It was noted that the existing restaurants in that location, however, were grandfathered in.

Attorney Elliott reiterated his stance that the Board would need to determine from the applicant's testimony and evidence presented that it would be a hardship to require them to comply with the strict mandates of the ordinance and also to determine that space would not be appropriate for some other permitted use.

It was the general consensus of the Board that there are potentially other uses for this particular unit in the strip mall and furthermore, from a factual and legal point of view it was determined this would not be the most logical location for a brewery in this district.

MS. CUNNINGHAM MOVED IN THE CASE OF Z-13-01 TO DENY THE USE VARIANCE FOR THE BREWERY/TAP ROOM. SECONDED BY MR. PAPA. MOTION UNANIMOUSLY CARRIED.

5. ADJOURNMENT

Chairman Achenbach adjourned the meeting at 7:00 p.m.

Respectfully submitted,

Secretary

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