

DILLSBURG BOROUGH  
ZONING HEARING BOARD MINUTES  
FEBRUARY 24, 2011  
7:00 PM

The Dillsburg Borough Zoning Hearing Board held its business meeting at the Dillsburg Borough Office on the above-mentioned date. Zoning Hearing Board Members in attendance were Chairman Ken O'Connor, Greg Wonders and alternate Doug Boelhouwer. Also present were Solicitor Linus Fenicle, Stenographer Roxy Cressler, Borough Manager Karen Deibler, and Borough Secretary/Treasurer Debbi Beitzel. ZHB Member Jeff Beitzel was absent.

The following visitors were present: Applicants Jack and Diane Panas, Gary and Carla Cook, Jack Connelly representing Panas, Insurance, Sean Malo representing Lorin Weigard, Borough Council President Jeff Griffin, and Dillsburg Borough residents John Payo, Lyn Hollinger, Adrian Piechowicz, Kathy and Paul Eurich.

The meeting was called to order by Chairman Ken O'Connor at 7:00 PM.

The first item on the agenda was the approval of the August 26, 2010 meeting minutes. Doug Boelhouwer moved to approve the minutes as presented. Greg Wonders seconded the motion. – Motion carried.

Stenographer Roxy Cressler had sworn in four people (Jack & Diane Panas and Gary & Carla Cook).

Chairman O'Connor indicated the purpose of the meeting was Jack & Diane Panas and Gary & Carla Cook requesting a variance from Zoning Ordinance Chapter 27, Sections 412.B. (3). He asked the Borough Manager if the application was filed properly, if the property was posted properly and was it advertised in the Dillsburg Banner. Manager Deibler stated yes and indicated letters were sent to the surrounding property owners. She also indicated Lorin Weigard, the present owner signed the paperwork.

Chairman O'Connor asked the applicants to present their case.

Mr. Panas indicated their business started in 1988 at 147 South Baltimore Street. The office was moved to Route 15 six or seven years later for more visibility and space. They are now looking to come back into town. They would like to purchase the property to use as office space with the ability to lease out small space to business owners.

Mrs. Panas stated the first variance in which they are asking relief on is the acreage requirement. The current zoning is RS-Residential Suburban and there is a conditional usage of a profession office complex, however the requirement of acreage is one acre; the property is .88 acres.

The second variance is the parking lot. They would like relief from having to pave the parking lot for two years due to expenses; they would like to gravel it.

The third variance is the setback of the garage doesn't meet the thirty foot setback requirement. Chairman O'Connor asked if the request for the thirty foot setback was for the garage. Mrs. Panas stated yes, the garage is right on the surveyed line and the proposed Rose Alley is behind it. The applicants were hoping to bring the traffic from Greenbrier Lane into the

parking by way of the alley. Chairman O'Connor asked what the garage was going to be used for. Mrs. Panas stated it may be used for storage. Chairman O'Connor asked according to Exhibit D is there going to be some additions made to the garage. Mrs. Panas stated yes, it would accommodate the handicapped accessible ramp, some additional rooms and a handicap bathroom. Solicitor Fenicle indicated there was no need for a variance on the garage because it has been there and is recognized as a nonconforming structure.

He stated the parking lot paving is controlled by the subdivision and land development ordinance and isn't something the ZHB can give relief on. Solicitor Fenicle indicated the zoning books stated the design, surfacing of off-street parking shall be in conformance with the related provisions of the subdivision ordinance. He indicated this is a provision of the zoning ordinance but it relates back to the surface as set forth in the subdivision ordinance. The surface of the parking may be a zoning issue. Manager Deibler indicated she thought when the applicants apply for the conditional use from the Planning Commission this issue would be discussed. Solicitor Fenicle asked if the SALDO defines what the surface had to be. Manager Deibler stated it reads "all off-street parking area, service drives, and access drives shall be paved with concrete or bituminous paving material and shall be graded for proper drainage and the parking spaces have to be a certain size. Solicitor Fenicle stated the applicants would have to meet the requirement for off-street parking. Chairman O'Connor asked if the applicants wanted to seek a variance for the paved parking lot, would they have to reapply. Solicitor Fenicle indicated no, they could deal with that at their conditional use hearing with the Planning Commission.

Solicitor Fenicle indicated to the ZHB, the key issue being the size of the lot for the professional/business complex which requires an acre; the applicants have .88 acres, which is the purpose of the hearing.

Manager Deibler stated she provided a copy of a letter to the ZHB members which were received today from a neighboring resident that wasn't able to attend. Chairman O'Connor asked if the applicants had seen a copy of the letter. Manager Deibler stated no; Secretary Beitzel supplied them with one. Manager Deibler stated the Calabria's, neighbors to the north of the property indicated they didn't have any objections as long as the property stays the same.

Chairman O'Connor asked if the alley runs all the way back behind all the properties. Mr. Boelhouwer stated he thought it went all the way to Lefever's. Mrs. Panas stated the driveway would only run to the empty lot where the parking lot would be located. Manager Deibler indicated the alley behind the property is a paper alley and not maintained by the Borough.

Mr. Paul Eurich stated he had lived in the neighborhood for 42 years and the alley has never been opened. He indicated the residents which live directly behind the garage were concerned about using the alley for traffic due to having small children. He stated if the alley would become an open alley, the Borough should have to maintain the alley.

Solicitor Fenicle stated whatever the board would decide; their sole focus is on the provision of the requirement of one acre opposed to the size lot being .88 acres. After this decision, the applicants would have to get the approval from Borough Council in order to move forward with the project. He indicated the concerns mentioned would be very important at the Planning Commission meeting.

Solicitor Fenicle stated the Board needs some testimony regarding the lot to consider the variance request. Mrs. Panas indicated the lot which houses a two story Cape Cod home on it is 60 X 190 and the house was built in the 1930's. The lots sold together are 100 X 190. The applicants provided an exhibit which was marked as Applicant's Exhibit #1.

Chairman O'Connor indicated one of the items the ZHB has to decide is hardship, the unique physical characteristics of the lot that are imposing a hardship in which the variance is being sought for. He stated it fairly straight forward with irregularity, narrowness or shallowness of the lot size or shape, or exceptional topographical or other physical conditions. Chairman O'Connor stated he didn't know if the hardship in which the applicants are requesting isn't self imposed, because of the decision to buy this particular sight versus some other sight.

Mrs. Panas stated they have looked at a few other lots in town and even put an offer on one but it is hard coming to an area to get ample parking.

Chairman O'Connor asked where the main entrance would be located. Mrs. Panas stated it was debatable because there is a front entrance but since the parking lot and the walkways are going to be in the rear of the property, the entrance will probably be in the rear.

Chairman O'Connor indicated there are some expectations to expand the vacant lots like putting another structure on it. Mrs. Panas indicated that could be in the future, but keeping it more looking like the residential. Chairman O'Connor indicated the dilemma is its undersized now for what the applicants are seeking; and with some plans to expand the offices/facilities may further aggravate the space constraints. Mrs. Panas stated if she was to make the property as a rental, which would be allowed she could actually develop the vacant lot. The type of building they would place on the lot wouldn't be a large commercial like building; it would be a building that would fit in. Chairman O'Connor asked how large the expansion would be that was shown on Exhibit A. Mrs. Panas stated she didn't have the exact figures; they would have to sit down with some structural engineers and figure out what would work there. Mr. Panas stated it basically would expand the second floor and bring it down, because they would have to put handicap requirements in.

Mr. Greg Wonders stated there are no sidewalks along Greenbrier Lane and asked if there was a requirement to have them put in for this type of use. Manager Deibler indicated this could be one of the stipulations which Council and Planning Commission request to be done. Solicitor Fenicle indicated if Council considers this to be a conditional use they have the right to place reasonable conditions on any grant of the conditional use. He stated the ZHB has rights to put conditions on the variance request. There were several conversions going on regarding the sidewalks.

Mr. Boelhouwer asked if the applicants received the measurements for the property. Mrs. Panas stated yes the property was surveyed. Mr. Boelhouwer asked what the measurements were. Manager Deibler thought they said the total lots were 100 X 190. Mr. Boelhouwer indicated 100 x 190 isn't nearly 4,000 square feet. Solicitor Fenicle indicated the tract figures on Exhibit 1 added up to only .71 acres. Manager Deibler indicated the .88 acre figure came from York County. Mr. Boelhouwer asked if the figures were from a current survey. Mrs. Panas stated yes, it was given to us be the current owner. Chairman O'Connor stated the survey was dated July 29, 2010. Solicitor Fenicle indicated the inconsistent figures could be very important.

Chairman O'Connor stated his opinion was the residential property was being taken over and trying to force fit a business into it.

Mr. Boelhouwer indicated looking at the tract which the home is currently occupying, he read somewhere it would be permissible to put offices in that building under RS. Solicitor Fenicle indicated the use is allowed in this district for a profession Office complex as a conditional use. Mr. Boelhouwer indicated he thought he read the home could be converted into office. Chairman O'Connor stated there is no question that the use is allowed, but there are space constraints and lot size constraints. Mrs. Panas stated the Borough told them they couldn't use the home for just office space. Manager Deibler stated she didn't see anything in uses by right

for office space. Mr. Boelhouwer asked what would be included in Public/Semi-Public Buildings. Solicitor Fenicle stated libraries and non-profits. Manager Deibler stated borough offices.

Solicitor Fenicle asked what surrounds the property. Mrs. Panas stated the neighborhood is quiet; there are residents behind and beside the property and one house down is a chiropractor. Mr. Panas stated across the street is the Dill's Tavern and across the street from Greenbrier Lane is Met-Ed. Solicitor Fenicle asked what was right beside the vacant lot. Manager Deibler stated it was a home owned by the Calabria's. Chairman O'Connor asked where the property was for the person who sent in the letter. Manager Deibler stated right behind the garage. Solicitor Fenicle asked if that was a home. Chairman O'Connor stated yes. Manager Deibler stated the Uni-Mart and the PNC Bank is across the street from the property. Solicitor Fenicle asked if residents' faced the public alley in the back. Someone stated yes.

Mr. Boelhouwer asked the applicants if they ever thought to put a driveway entrance in at the back of the property as opposed to the alley. Mrs. Panas stated if they needed to do that, they could. Chairman O'Connor indicated the proposed driveway location is a concern of the residents. Mr. Cook asked if the alley was vacated. Solicitor Fenicle stated the information would be in the Borough records; it may have never been open, it may have been officially vacated. Mr. Cook stated it is borough property. Solicitor Fenicle stated not necessarily. Mr. Eurich stated the alley has never been opened; there is growth in the alley and ends at Lefever's parking lot. Solicitor Fenicle stated there could be private rights with a paper street. Mr. Boelhouwer asked what the solicitor meant by private rights. Solicitor Fenicle indicated when there is a paper street that has never been opened; the property owners that abut the paper street have some legal rights. Chairman O'Connor asked if the intention is to open the alley for the main entrance and exit. Mrs. Panas indicated that is what they are asking, but if they had to they could have the driveway entrance before the garage.

Mr. Boelhouwer asked if there was an official way to measure the property because everyone had sidewalks and curbs in town and yet as homeowners we are responsible for maintaining them; is that square footage included in the measurements and if it's not could it be. Solicitor Fenicle stated the board would have to accept the survey, which was probably done off the description in the deed.

Manager Deibler asked would the ZHB look at what York County has taxed them on or what was surveyed. Solicitor Fenicle stated he didn't know where York County comes up with their figures. Chairman O'Connor indicated it didn't really make a difference; it was still less than an acre.

Solicitor Fenicle asked if the variance was granted would it alter the character of the neighborhood in any way, would it impair the use of adjacent properties or be detrimental to the public welfare. Mrs. Panas stated the current view they have is they can't see it not fitting in with the neighborhood. If another structure was added onto the empty lot it would look like another house and the change to the existing structure would be just adding some square footage on the back of the house. Mr. Panas stated the only mentioned concern was regarding the alley way and if this was a major concern they could entertain by bringing in the driveway from the other side. Mr. Cook asked what the solicitor considered the neighborhood. Solicitor Fenicle stated what the property uses were in the area. Mr. Cook stated there are only two lots on Baltimore Street which aren't commercial in the area. Mrs. Panas stated they were 300 and 304 North Baltimore Street.

Lyn Hollinger, 21 Impala Drive, owner of the property directly behind the vacant lot stated putting a twelve or more parking area in would definitely change the character of the neighborhood; the area is a residential area with house and driveways, not parking lots.

Mrs. Cook stated she had worked in Dillsburg for forty years and was familiar with attorney offices that have take over residential houses and are in the Borough. She stated for the most part the property fronts Baltimore Street and doesn't take away the value of anyone's property that is behind the proposed property. Chairman O'Connor indicated what the Board needed to consider was if the applicants were existing property owners of the space and converting it into offices, there wouldn't be any problems because of the hardship. But what the applicants are trying to do now is to move into the space and creating the hardship.

Chairman O'Connor asked what the office hours were and what the traffic flow would be. Mrs. Panas stated the office hours are 8:30 am to 6:00 pm and they have six employees and one outside person that comes to visit occasionally; currently they average one to two other vehicles per day. She indicated a lot of their business isn't done by people running in and out of the office; it is usually done through the internet. Chairman O'Connor asked what the current activity from the coming and goings were at their current office. Mrs. Cook stated on an average not more than four to five people a day. Mrs. Panas stated two to three people a day, four to five would be a large visitation day.

Mr. John Payo asked the applicants what the business was. Mr. Panas indicated they have an insurance agency. Chairman O'Connor asked if Mr. Payo was an adjacent property owner. Mr. Payo stated yes, he lives at 11 Impala Drive.

Mrs. Panas stated Mr. Weigard's father had a small insurance business like theirs.

Mr. Boelhouwer asked for a definition of minimum gross area and where would it start and end mentioned on page 27-33, #3. Solicitor Fenicle stated gross areas might include easements or right-of-ways. He stated the Zoning book states based on the entire area of development including all structure area and all open space, such as, but not limited to, yard areas, water areas, parking areas, internal streets and drives, and one-half the width of boundary streets not including any limited access highways. Solicitor Fenicle indicated to the applicants they have some additional square footage. Chairman O'Connor indicated the Board wasn't going to determine that tonight. Mr. Boelhouwer stated correct, but they couldn't make a decision without knowing the definition of the code and that has to be established before a decision can be made. Solicitor Fenicle asked if there was a surveyor present. Mrs. Panas stated no. She indicated she talked with a surveyor and they told her they couldn't use more than 30% of the land which is usage requirement. Solicitor Fenicle stated as the definition reads they consider gross area to include part of the streets which border the property which would add considerable square footage. Mr. Cook stated that is the way the taxes are based.

Mr. Boelhouwer stated he couldn't vote on this until a certified licensed surveyor does it according to the definition of the ordinance. Manager Deibler stated the applicants might have an acre at this point until the survey is completed. Mr. Boelhouwer stated he had no idea, but the applicants are way short with the surveyor that did it for the owner; the property wasn't surveyed according to code. Chairman O'Connor indicated the Applicants might not need the variance. Solicitor Fenicle stated if the applicants take the definition of gross area according to the zoning code, he wasn't sure what they might end up with. Mrs. Panas asked if they should have the property resurveyed according to the definition. Solicitor Fenicle stated they should have someone look at the lot based on gross area and provide the Borough with the new measurements.

Solicitor Fenicle indicated the Board could continue the hearing at this point in time. Chairman O'Connor asked do they make the decision to continue the hearing or does it based on

the recommendation of the applicants wanting to get new measurements. Mr. Boelhouwer stated he couldn't vote on the variance because the Board doesn't have all the information. Solicitor Fenicle stated someone had to get the gross area measurements and want to continue the hearing until the fourth Thursday in March.

Chairman O'Connor asked the applicants if there was anything else they wanted to say.

Solicitor Fenicle asked if the applicants had any objections to continuing the hearing until March 24, 2010. Mrs. Panas stated that was fine.

Chairman O'Connor asked if they could get more definition of the signage. Mrs. Panas indicated they were asking if they could place a sign in the eve of the building and the other one would be illuminated and place between the two properties. Chairman O'Connor asked if the Board could receive a sketch with the dimensions on it.

Solicitor Fenicle stated if the applicants would redo the measurements and they reach a gross area of one acre, they wouldn't need a variance. Manager Deibler stated the applicants would still have to go to a conditional hearing with the Planning Commission. Solicitor Fenicle indicated the Board could continue the hearing but if the applicants find they meet the requirements they can withdraw the variance request.

Mr. Wonders moved to continue the hearing until March 24, 2010. Mr. Boelhouwer seconded the motion. – Motion carried.

Doug Boelhouwer moved to adjourn the meeting at 8:05 PM. Greg Wonders seconded the motion. – Motion carried.

Respectfully Submitted,



Debbi L. Beitzel,  
Secretary/Treasurer

cc: Zoning Hearing Board Members  
Solicitor Fenicle  
Dillsburg Borough Council Members  
Dillsburg Borough Planning Commission  
Mayor Snyder  
Manager Deibler  
Solicitor Allshouse  
Engineer Knoebel