

DILLSBURG BOROUGH
ZONING HEARING BOARD MINUTES
JULY 22, 2010
7:00 PM

The Dillsburg Borough Zoning Hearing Board held their business meeting at the Dillsburg Borough Office on the above-mentioned date. Zoning Hearing Board Members in attendance were Chairman Ken O'Connor, Jeff Beitzel, 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.

The following visitors were present: Duane Stone, Jason Duncan and Brian Lisenbach from Duane Stone, Esq. and Associates, Dillsburg Planning Commission Representative Leon Zeiders, and Dillsburg Borough residents, George and Alyce Jackson.

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 January 28, 2010 meeting minutes. Greg Wonders moved to approve the minutes as presented. Jeff Beitzel seconded the motion. – Motion carried.

Stenographer Roxy Cressler had sworn in three people (Duane Stone, Jason Duncan & Brian Lisenbach).

Chairman O'Connor indicated the purpose of the meeting is Duane Stone, Esq. Duncan & Associates requesting a variance from Zoning Ordinance Chapter 27, Section 511.2.B. (3), location of signs.

Chairman O'Connor asked the Borough Manager if the meeting was properly advertised. She indicated it was advertised, all the neighboring residents were notified by mail and the property was posted.

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

Mr. Duane Stone, Managing Partner of Stone, Duncan & Associates, indicated they have been located at 8 North Baltimore Street for five years and for the most part they would like to put a sign which hangs out over the sidewalk a little bit because neighbors tell them they didn't know there was a lawyer located at this location. Mr. Stone indicated their customers/clients sometimes have difficulty finding their office because they can't see the current sign when they are driving. He stated there was an article in the Dillsburg Banner recently indicating there were no lawyers in Dillsburg that do municipal law; which isn't true because they have been at the current location for five years. Mr. Stone stated if your sign can't be seen, you don't get as much business as you should.

He indicated if they would get more business, it would be good for the community.

Chairman O'Connor stated the ZHB received an illustration of the sign design by Graphic ID Studios and asked Mr. Stone to describe the illustration. Mr. Stone stated the sign would be bolted into the brick and carbon steel that's welded which the sign will hang from. The sign will be made of wood or composite material and carved in and inlaid with 24 carat gold leaf. He stated it's a very classical look and pretty; it won't hinder the community. Mr. Wonders asked how high the sign would be mounted above the street. Mr. Duncan indicated according to "Ray" the designer of the sign, it would be ten feet to the bottom of the sign; this would prevent kids from vandalizing it. Mr. Duncan stated the sign would be similar to what is currently there except instead of being flat up against the wall it will be hanging. Mr. Wonders indicated the information provided stated the sign would be a doubled face 12 square foot face and asked if this is the sign itself; a 3 foot by 4 foot sign. Mr. Stone stated yes, this is what they have been told by the designer. Mr. Wonders asked if its four feet from the top point to the bottom point of the sign. Mr. Duncan indicated the proposed sign is the same size as the current sign. Mr. Stone illustrated the dimensions of the sign. Mr. Wonders asked if the sign would be placed up around the second story windows. Mr. Stone stated yes.

Chairman O'Connor asked the applicants what their general opinion about the ordinance which they were applying for variance was and their thoughts on the reasons why the planners would have opposition to these types of restrictions. Mr. Duncan indicated it's because the Borough doesn't want to see tasteless signs going up with neon dancing girls on it. He also stated it's a recent change to the ordinance as some of the other signs that are in town that do hang currently have been grandfathered in because they have been there for so long. His understanding is 1) for safety reasons, obviously if there is a sign which hangs too low, someone might hit their head and 2) for appearance, to make sure the appearance isn't tasteless and tacky.

Chairman O'Connor asked how far from the building would the sign protrude and what is the distance from the curb side. Mr. Stone stated it would be four to five feet from the building and he didn't take an exact measurement from the street but assumed it would be approximately twelve feet. Mr. Duncan indicated the sidewalk was wide in front of their office and the sign shouldn't stick out much over their front stoop, which is about four feet out from the building.

Chairman O'Connor stated in reviewing the town center area, there are three other businesses that have signs that hang off the front; the Dillsburg Sheet Metal, House for U and Jackson Hewlett businesses. He indicated it predates his participation on the Board and asked the Borough Manager have any of these businesses applied for variances. Manager Deibler stated Jackson Hewlett did come before the ZHB about 2-3 years ago, the other signs may have changed

the wording, but the sign casements have been there before 1979. Solicitor Fenicle asked if they were granted the variance. Manager Deibler stated yes.

Brian Lisenbach stated the reason they have the sign designed like this is because all the foot traffic we have coming in; people are looking for our office. The sign that is currently there now is flat on the wall and usually the people who are driving pass by the office. The parking is limited, so we want the people to see where our office is located when they are coming through the square so they can figure out where to park. He indicated the visibility is the main reason for the new sign.

Chairman O'Connor asked if there were any other sign designs considered. Mr. Duncan stated yes, they talked with Ray a lot and he came up with a lot of different designs. He indicated their building is a historical building and they tried to keep it as period as possible both inside and outside with our designs and furnishings. We felt the sign reflected the classic architectural classic kind of look the old lawyers shingles would have. Mr. Duncan indicated this was why they decided to go with something more classical rather than contemporary. Mr. Stone stated the other reason was because 'Ray' wanted to put 24-carat gold on the sign because then not as much light is needed because gold takes light and when the light hits the sign it would reflect inside the gold and be easily seen. Mr. Wonders asked if there would be illumination on the sign. Mr. Stone stated he would like to. Chairman O'Connor indicated the illumination approval is beyond the scope of the variance; the variance is for the sign location only. Solicitor Fenicle stated the illumination would be controlled by another ordinance or by the building code. He stated the variance request was strictly for the sign and there was no mention of illumination in the variance request. Mr. Stone indicated there was, but then was mistaken. Solicitor Fenicle asked the Borough Manager if there were any Borough requirements or restrictions regarding the lighting. Manager Deibler stated no and since it's not a neon light and the lights are directed only at the sign and wouldn't hurt any residents; it would be fine. Mr. Stone indicated on the application for the sign permit, which was filed at the same time as the ZHB application is where it references illumination. Doug Boelhouwer asked if the lights would shine all night. Mr. Duncan stated no, he usually is the last one to leave the office and the light gets shut off when he leaves. Mr. Stone indicated the lights could be put on a timer. Mr. Boelhouwer asked if the lights would only be used for evening office hours. Mr. Duncan stated yes.

Chairman O'Connor asked if the applicants have external advertisements elsewhere. Mr. Duncan stated in the phone book, newspapers, and websites. Chairman O'Connor asked any signage outside. Mr. Stone stated no.

Mr. Beitzel indicated he lived in Dillsburg all his life and he didn't know the applicants had an office downtown. He stated if someone walks on the same side of the street as the applicants' office, you would have to be looking up in the air to see the sign and if someone walks on the other side of the street, the sign isn't readable. Mr. Beitzel stated the applicants take extremely good care

of the property and with everything the Borough has going on downtown with the revitalization; the sign fits in well.

Chairman O'Connor indicated in his mind what works for the applicants is the location, a relative openness and being as close as they are to the square (center of the Borough). He indicated this works for the applicants from an advertising angle because there isn't a lot of obstruction for people to see the sign. Chairman O'Connor stated on the other hand for people that want to enjoy the center of town and aren't in the market for a lawyer, a sign becomes an obstacle.

Chairman O'Connor stated he had a question on a point of clarification regarding Section 27-511.2.B (2). He stated the Town Center is zoned as such, but there are references to distance from residential spaces and asked if Town Center is commercial, residential or mixed-used. Solicitor Fenicle stated Town Center is a separate zoning district which has certain permitted uses and assume professional offices are a permitted use. Mr. Stone stated they are and that was why he bought the building. Mr. Stone indicated everybody that is zoned Town Center can open up a business. Solicitor Fenicle stated that was correct and can be found on page 27-40 of the Zoning book.

Solicitor Fenicle suggested the applicants go through the requirements for a variance. He indicated the applicants addressed them to some extent. Chairman O'Connor asked about the hardship and physical circumstances. Solicitor Fenicle stated yes and indicated the applicants have already addressed the hardship. He indicated the hardship is the visibility in the way the building sets. Solicitor Fenicle indicated for the record, who owned the building. Mr. Stone stated he and his wife owned the building. Solicitor Fenicle asked the applicants if the sign was needed to make reasonable use of the property for a professional law office. Mr. Stone stated yes. Chairman O'Connor asked if the physical circumstances of the structure don't allow the sign to be located somewhere else. Mr. Stone stated no, the sign can't be put on the side of the building because it would be blocked by the neighboring building and the other part of the building is owned by a neighbor. The only way the sign can be seen from both directions is to protrude off the building. Chairman O'Connor asked if the applicants foresee this altering the character of the town center area. Mr. Stone stated no; the reason being is there are already plenty of signs that can be seen up and down the street. There are numerous light poles that are going to be install that would block view, so he doesn't see a sign making much of a difference. He stated its planned to have light posts on their side of the square and he didn't see it being a sight issue. Mr. Stone indicated most of the residents in their general vicinity like them being there because we maintain our property, re-faced the front of the building and try to make and present a historical type of building with historical flags. They are also very involved in the community. Mr. Lisenbach stated the sign hanging off the building fits in historically with the way town centers were developed back then.

Chairman O'Connor asked the Manager if there were any recent issues discussed by the Borough Council as far as the town center area with obstructions, beautification projects or things that are related to signage. Manager Deibler stated Council has discussed this and they have no problems with tasteful signs that are within the time period.

Mr. Boelhouwer stated there is vandalism in this area and asked if there has been any damage to the present sign. Mr. Stone stated there has never been anything done to the sign except for a piece of bubble gum stuck to it.

Mr. Boelhouwer indicated there is an item within the ordinance of signs which states no sign may be over a public sidewalk or over a public street, unless specifically authorized by other Borough or State regulations. He asked if the applicants had searched any regulations and did anything come up that is something on the books from preventing the applicants from being here. Mr. Lisenbach stated no, the only thing that would allow them is being granted the variance. He also indicated it wouldn't be hanging out over the street. Manager Deibler stated she had talked with the building codes official and he pulled up the UCC codes and found nothing in the UCC that states you can't do this, however it does make suggestions how to hang it on to the building; Mr. Shelley would make sure it does meet all the codes. The sign must be eight foot off the ground unless it covers over two thirds of the sidewalks then it has to be 15 foot off the ground. Manager Deibler indicated this sign wouldn't cover more than one third of the sidewalk. She stated she doesn't see the sign covering any part of the area where the people walk; if they walk under the sign they would run into the stoop.

Solicitor Fenicle asked the applicants if this was the minimum variance they would need to give them relief. Mr. Stone stated yes.

Solicitor Fenicle asked if the variances were forwarded onto the Planning Commission. Manager Deibler stated the Planning Commission was made aware of it and there were no negative feelings regarding the sign as long as it was installed properly and tastefully. Chairman O'Connor asked if an alternate design or smaller design was considered. Mr. Stone stated yes, but then you couldn't see it from the street. He indicated what they were trying to prevent is someone looking at our sign and slamming their brakes on and going through the red light. We wanted to make it large enough to see for safety reasons. Mr. Duncan stated what was happening is people with GPS systems in their cars; end up in Franklinton because there is another 8 North Baltimore Street.

Chairman O'Connor asked if there was any more discussion. Mr. Boelhouwer stated his only concern was that the sign didn't light up all night; it then would become an attractive nuisance. Manager Deibler stated there are codes regarding lighting that will be given to the applicants which they must follow as part of their sign permit.

Chairman O'Connor indicated it's a difficult issue for him because it affects the applicants professionally and personally; for every inch we give on the variances on the codes over time say ten years from now you may see

nothing but signs hanging over all the sidewalks and you then lose the sense of our small community. He stated he does understand why the applicants are applying for the variance; he continues to struggle with how the ZHB does this in a way that he feels good in granting the variance tonight and then in six weeks or more, we have another meeting to deal with.

Mr. Wonders stated it comes back to being tasteful or not, we have to determine whether it's appropriate for the area, which he feels it is. Mr. Beitzel agreed. Chairman O'Connor indicated he has no concerns about the design or the ecstatic to the facility, he loves the looks of the building the applicants are in, but his problems is how does he approach the next sign. Mr. Stone stated part of it is the value of the sign itself; we're talking about a few thousand dollars to build a sign. He stated the other thing to consider is it's better to have a few business signs for professional people making the town look good, than empty buildings with rent signs in the windows. Chairman O'Connor agreed. He indicated the applicants have to understand the waiver is going to live with the property from now on. He indicated as the Manager stated the Borough has buildings that have the structure for a hanging sign therefore those residents and owners were able to put new signs up on those. Chairman O'Connor stated what he was trying to stress to the rest of the Board is these decisions should be hard. Mr. Lisenbach indicated he thought Mr. O'Connor was right with the fact the Board has to take a look at the variance request themselves and each one has to do with a unique property and a unique situation. The Borough has the process of the variance application hearing to cut back on a lot of signs going up. He stated this is why the Borough has a ZHB in place to protect this measure and if this situation becomes out of control; the Borough then needs to make a stricter ordinance. Mr. Duncan stated they moved to Dillsburg and don't want to see this little town they love themselves change too much. He indicated from their perspective they aren't going anywhere anytime soon and the sign would help the downtown area look more successful and more attractive to other people and help to draw in other business.

Chairman O'Connor asked Solicitor Fenicle if the Board would decline the application, and knowing there are four other businesses with similar signs, would there be a probability the applicants could take it to litigation or a high court. Solicitor Fenicle stated he didn't want to go there and what the ZHB needed to do was to focus on the application that was presented before them, going through the variance requirements in the ordinance and determining if the specific request has met that in the Board's opinion and to determine whether to grant or deny the variance. He indicated the Borough Manager did state there was one other similar application which was approved by the ZHB a few years ago, but he didn't want to try to answer Chairman O'Connor's question or even try to because at this point the Board's focus is whether this particular application meets the standards to grant a variance or deny it. Solicitor Fenicle stated the Planning Commission reviewed the application and didn't object to it and the Borough Council had no objection to the application as long as the sign

is tasteful. He stated the Board has a sign design before them and if they would grant the variance; they could put conditions on it. Chairman O'Connor stated the problem he was struggling with was the Board approves 99 sign waivers and on the 100th sign, we decline it; there are other actions the applicants can take. Mr. Beitzel stated he understood Chairman O'Connor was struggling but the applicants take very good care of the building and the sign fits into the downtown area and the sign that is currently on the building isn't a big sign. He stated the Borough has lost businesses and he didn't have any issues granting the variance. Chairman O'Connor asked the applicants if they were keeping both signs. Mr. Duncan stated the sign against the building would be removed. Mr. Stone stated it would be removed because the name has changed. Mr. Beitzel indicated he could understand why Mr. O'Connor was struggling with this because of down the road, but the application before us isn't down the road, it's before us today. Chairman O'Connor stated he agreed the Board should evaluate what is in front them; because they can't predict what is forthcoming.

Chairman O'Connor asked if there were any more comments or questions. There was none.

Mr. Jeff Beitzel moved to grant the variance from Chapter 27, Section 511.2.B (3) with the condition the sign be as submitted in the variance application. Mr. Lisenbach asked if the condition could say as similar as possible, in case there is little design change or the distance from the building. Solicitor Fenicle stated it doesn't set forth the distance from the building as opposed to the actual sign itself. Manager Deibler stated the condition pertains to the wording and can't add a dancing girl. Mr. Duncan stated the only thing that may change is the tone of the colors vs. the actual picture; the color will still be blue. Greg Wonders seconded the motion. Chairman O'Connor asked Mr. Beitzel to amend his motion to include the constraints in Section 27-511.2.B (4) which states sidewalks signs shall be placed in such a manner so as to not extend more than three feet from the building line. In any event, a minimum four foot pedestrian area must be maintained from the curb to the sign so as not to obstruct pedestrian traffic. He indicated it's the latter part of this clause he is interested in that there is a space free above the pedestrian traffic so thirty years from now when the anchors fall out the sign doesn't fall on someone. Solicitor Fenicle indicated this type of sign isn't a sidewalk sign. Manager Deibler stated a sidewalk sign is a tri-fold sign. Chairman O'Connor suggested when the sign is being put up to take some care that there is some space along the curbside for people to walk along. Mr. Duncan stated that was one of their concerns automatically when they were designing the sign; we didn't want it sticking out too far over the sidewalk because of vandalism purposes. Chairman Ken O'Connor opposed the motion. – Motion carried by a 2 to 1 vote.

Chairman O'Connor stated there wasn't any new business but there was a meeting next month on August 26th.

Chairman Ken O'Connor moved to adjourn the meeting at 7:47 PM.

Respectfully Submitted,

Debbi L. Beitzel

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