

Chairman David Moraski called the meeting or order at 7:30 pm with a state of compliance with the Open Public Meetings Act.

ROLL CALL

Mrs. Lawton called the roll as follows:

*Present:* Phil Mackey, Pat Pittore, Fred Eisenger, Georg Hambach, Dave Moraski.

*Absent:* John Leyman, Bill Seaman and Maura Fennessy.

*Also present:* Attorney William Shurts, Engineer Thomas Cundey and Planner Linda Weber

APPROVAL OF THE MEETING MINUTES

Phil Mackey made a motion to approve the March 25, 2010 minutes as submitted. Pat Pittore seconded the motion. A unanimous roll call vote in favor of the motion was taken by all members present. MOTION CARRIED.

PUBLIC HEARING

Jason Kliwinski, Block 1081 Lot 30, 71 York Street, Application is for a Use Variance and Site Plan Waiver Review.

The public hearing scheduled for April 29, 2010 was carried to the May 27, 2010 meeting due insufficient notification to the newspapers.

The applicant was advised in writing that he would need to re-notice the newspapers for the public hearing in May and that he was not required to send certified mailing to the surrounding neighbors again since the initial notices were sufficient.

The Board attorney, William Shurts, advised the Board members that there was one resident missing from the return receipts that were submitted by the applicant. This resident was Sharon Brown. He stated that he advised the applicant that this name was missing last month in writing.

Lia Nielson advised Mr. Shurts that she had not received his notification. Ms. Nielson stated that she had asked Mr. Shurts if there was anything else that she needed.

Mr. Shurts advised her that he was not representing her and that he was helping her as a courtesy and that ultimately the applicant is responsible to ensure all requirements are met.

Mr. Shurts advised the members and the applicant that they would be able to proceed with the public hearing if the applicant submitted an affidavit of service that they noticed Ms. Brown.

Georg Hambach asked Mr. Shurts if the board was to hear the public hearing and take action tonight, would that action be voided if it was determined that Ms. Brown was not served. Mr. Shurts stated that it would be void.

Mr. Kliwinski was asked if he understood the risk if they were to proceed. Mr. Kliwinski stated that he understood and wished to proceed with the public hearing.

This property is located in the R-2 zone (residential) and that the proposed use was not permitted in this zone. Therefore a D-Variance would be required.

Mr. Kliwinski was advised that he must show special reasons for the board to grant this approval.

Mr. Kliwinski stated that he owns the dwelling at 71 York Street and is currently using the property as a rental unit. This is not his primary residence nor does he intend it to be in the future.

The first floor of the property consists of a kitchen, living room, dining room and a half bath. The second floor has a full bath and 3 bedrooms.

Mr. Kliwinski currently rents the bedrooms to three separate tenants.

There are two entrances to this property as it stands today, the front door which faces York Street and the rear entrance that is accessed by a shared alleyway.

Should this application be approved, the only entrance for the tenant use on the second floor would be the rear entrance shared with the owner of 69 York Street. There would be no access to the front door by the tenants.

Mr. Kliwinski stated that he intends to show products on site for clients. The living room on the first floor, which is 21' W x 11' D, will be used as the studio.

He is also asking approval to close in the front porch to gain an additional 100 square feet of space.

The office will be manned by Mr. Kliwinski's wife, Lia Neilson three days a week with scheduled hours of operation. Most likely the hours would be regular business hours, 9:00 am to 5:00 pm, by appointment, however, he stated that he possibly have walk-ins.

Mr. Kliwinski stated that the space could hold five to seven people, including employees, comfortably. He may also schedule clients for meetings after hours.

He feels that this business would feed existing businesses in town.

He is asking for a full approval of this project at this time, however, this will be done in two phases.

Dave Moraski asked the applicant what entrance the tenants on the second floor would be using. Mr. Kliwinski stated that they would gain access from the rear entrance.

Mr. Moraski asked if the application was approved, could there be another entrance for the tenants.

Mr. Kliwinski stated that he would discourage the use of the front entrance for the tenants, however, he could construct a hallway to allow the tenants to use the front entrance rather than the rear.

Pat Pittore asked if this building was considered a boarding house since the applicant is renting rooms individually. Mr. Shurts read the ordinance and advised him that this property does not meet the criteria of a boarding house.

Mr. Moraski asked if there were plans for phase two. Mr. Kliwinski stated that they are on the existing plans that were submitted.

Fred Eisenger asked in the second phase would the sole access to the apartments be the alleyway. Mr. Kliwinski stated yes the

alleyway would be the sole access. Mr. Eisenger expressed concern for the access & egress for the apartment and tenants.

Mr. Kliwinski presented pictures of parking on York Street. He stated that the pictures were taken at 10:00 am on a weekday. In the pictures there were eight empty spots on the street for parking. He stated that this is typical during regular business hours on average.

Phil Mackey asked if there were no parking spots available, would he have submitted pictures showing that.

Georg Hambach stated that this property is grandfathered and that this application would not have been approved.

Mr. Kliwinski stated that at his informal hearing he presented the board members with a proposed sign of 2x3. He is now proposing a 3x4 sign, which is allowed in the CBD. He stated that the new sign would not extend past the adjacent property and would hang over the sidewalk in front of this property.

The applicant is asking for permission to access the bathroom on the first floor. He stated that a term of the lease for the tenants allows them access to the first floor bathroom during regular business hours. They would have to go through the kitchen to gain access to this bathroom.

Mr. Pittore asked Mr. Kliwinski how he expects to secure the possessions of the tenants if they are allowed access to the studio. Mr. Kliwinski stated that the door between the spaces will be fire rated and locked.

In the second phase of this project, the tenants would not be able to gain access to the first floor studio at all.

Mr. Moraski asked Mr. Kliwinski when he intends to complete phase two. He stated that with the economy the way it is, he predicts a couple of years. Mr. Kliwinski stated that phase two requires removing the existing kitchen on the first floor and relocating to the second floor.

The kitchen that is proposed for the second floor apartment will be an eat in kitchen. There will be no dining room. Mr. Kliwinski stated that the tenants would have to eat in the living room.

Mr. Pittore asked the applicant if he thought about renting another space for his business. Mr. Kliwinski stated that it is not economically feasible to do that.

Dave Moraski stated that the function of the board is to ensure health and safety of the public and that the bathroom situation does not meet those requirements.

Mr. Kliwinski stated that it would be possible to add a small bathroom in the kitchen, however, he is trying to avoid unnecessary costs.

Mr. Kliwinski stated the width of the alleyway of 5' x 2". There are no items on his side that would obscure access to the rear entrance.

Mr. Eisenger stated that the ordinance requires a 5' side yard setback. Mr. Kliwinski stated that this property is grandfathered and therefore does not obtain to this project. Mr. Eisenger stated that this is a new use and must follow the new codes.

Mr. Moraski asked Ms. Weber what the minimum standard is for commercial use show rooms. She stated that there is nothing in the ordinance.

If this application is approved, this property will forever be a commercial and residential use. This approval would go with the property.

Perry White of 69 York Street, expressed concern for the maintenance of the property. She stated that her property floods during rainstorms because Mr. Kliwinski does not clean out his gutters.

Merle Citron of 72 York Street, stated that she has been a resident for 20 some years and has seen businesses come and go and does not want to see a business in a residential area. She stated that parking is a major issue on this street.

Ms. White stated that the backyard of 71 York Street is landlocked and she is concerned about the safety of the tenant should there be a fire or another emergency.

Mr. Kliwinski stated that the character of the business would have a low impact on the neighborhood.

Mr. Hambach stated that the intended business is commendable, it is just the wrong location.

It was moved by Phil Mackey and seconded by Georg Hambach to deny this application. A unanimous vote of all ayes was taken by all members present. Motion Carried.

#### PAYMENT OF BILLS

Motion: It was moved by Georg Hambach and seconded by Fred Eisenger to approve the payment of bills on the listing attached to these minutes, subject to availability of funds. The motion was approved unanimously. Motion passed.

#### ADJOURNMENT

Motion: It was moved by Phil Mackey and seconded by Georg Hambach that the meeting be adjourned at 9:30 PM. The motion was approved unanimously.

Respectfully submitted,

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Crystal Hartpence  
Administrative Officer

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Dave Moraski  
Chairman