

LUZERNE COUNTY ZONING HEARING BOARD MINUTES

May 1, 2018

ATTENDANCE

Present were Bill Harris Chairman and Dave Williams, members, Michael Butera, Solicitor, Angela Sallemi, Standing Commissioner, Kathy Wood, Recording Secretary and Interested Parties.

Absent was Leon Schuster, Board Member.

MINUTES.

A motion was made by Mr. Williams, seconded by Mr. Harris, and carried to approve the minutes of April 3, 2018.

Mr. Harris asked if the cases were properly advertised and posted, and if the contiguous property owners had been notified. Mrs. Wood answered that they were.

Case #1

Michael & Ledonne Kelly, 329 Wyoming Avenue, Wyoming, PA, request a **Front Yard Variance** – required 15 ft., requested 0.5 ft. to construct a rear warehouse addition to an existing commercial building on property to be combined with 329 Wyoming Ave. in Wyoming Borough, located in a Community Business District.

Attorney Angelo Terrana, Michael Kelly and Mike Dombroski were present.

Attorney Terrana stated to the Board that Mr. Kelly owns the NAPA Kelly Auto Parts store which is located on the corner of Wyoming Avenue and Eighth Street, in Wyoming Borough. Attorney Terrana stated that currently tractor trailer trucks servicing Mr. Kelly's business park on the corner of Eight St. and Wyoming Avenue. He stated that Mr. Kelly would like to build a warehouse addition with a loading dock in the rear of his property to eliminate the

traffic congestion when he receives deliveries at his business. Attorney Terrana also stated that Mr. Kelly owns two separate parcels and a reverse subdivision will be done to join the two parcels into one so the rear warehouse addition can be constructed. Attorney Terrana stated to the Board that a Land Development will also be required for the construction of the commercial addition.

Mike Dombroski, construction contractor for the new building, stated that after construction of the building and loading dock, trucks will be able to access Mr. Kelly's rear property to unload which will eliminate trucks parked on Eighth Street.

No objectors were present.

A motion was made by Mr. Williams, seconded by Mr. Harris, and unanimously carried, to approve a Front Yard Variance 0.5 ft. to construct a rear warehouse addition to an existing commercial building on property to be combined with 329 Wyoming Ave, in a Community Business District in Wyoming Borough.

Case #2

John Miller, 175-26 Henley Rd., Jamaica, NY, request a Special Exception to convert a building from commercial/residential to a three (3) unit residential structure at 810 Main St. Avoca Borough, located in a Community Business District

John Miller was present. He stated to the Board the building has an unused commercial space on the first floor and one apartment on the second floor. Mr. Miller stated that he

would like to convert the first floor into two apartments. He stated there is ample off street parking in the rear of the building.

Board Member Williams stated that one handicapped parking space will be required.

No objectors were present.

A motion was made by Mr. Williams, seconded by Mr. Harris, and unanimously carried, to approve a Special Exception to convert a building from commercial/residential to a three (3) unit residential structure at 810 Main St., in a Community Business District, in Avoca Borough.

Case #3

Christopher Grymko, 15 E. Turner St., Forty-Fort, PA, request a Special Exception – Section 4.04 of the Luzerne County Zoning Ordinance (Roomers or Boarders) to have six (6) unrelated persons occupying a dwelling at 411 Bennett St. In the alternative a Use Variance to establish a residential dwelling with more than three (3) unrelated individuals (Article 11 – Definitions), Luzerne Borough, located in a Two-Family District.

Attorney Mark McNealis representing Mr. Grymko, Christopher Grymko and Shannon Luton were present.

Attorney McNealis stated that a previous application for Mr. Grymko was denied without prejudice On March 6, 2018. Attorney McNealis stated Mr. Grymko was advised by the zoning office to appeal the definition of a Family as described in Article 11 of the Luzerne

County Zoning Ordinance. Attorney McNealis stated that roomers and boarders (6 unrelated persons occupying a dwelling) is permitted by Special Exception of the Ordinance.

Chris Grymko stated he owns a property at 411 Bennett St., Luzerne Borough and he would like to rent to a maximum of six (6) individuals which is in a R-2 (two-family) zoning district. He stated the surrounding area is residential.

Attorney McNealis stated there is a provision in the Ordinance that deals with rooming and boarding houses (Section 6.28).

Attorney McNealis asked Mr. Grymko if this will be a personal care boarding or domiciliary care house which would need to submit documentation of proof to the Pennsylvania Licensing Agencies Department of Public Welfare or Office for the Aging, and must conform to the Department of Labor and Industry Standards.

Mr. Grymko stated that that this will not be a nursing home, personal care home or domiciliary care home and it will not be licensed by the state.

Attorney McNealis asked Mr. Grymko if anyone that is going to reside at this property will be receiving any medical treatment or therapy from him.

Mr. Grymko stated no.

Attorney McNealis stated that these folks just need a home.

Mr. Grymko stated yes, they just need a home.

Attorney McNealis stated that no one else except the six (6) individuals will be residing at the property.

Board Member Williams asked if there will be full time on site management.

Mr. Grymko stated he has a house manager, Shannon Luton, who will collect rent and keep him informed if any repairs are needed and if any tenants are acting in an unreasonable manner.

Attorney McNealis asked Mr. Grymko about parking.

Mr. Grymko stated there is on street parking in front of the building and a rear yard for off street parking.

Attorney McNealis presented to the Board a few cases that have been resolved in Commonwealth Court.

The first case is the Martin case which was a Special Exception for a rooming house for women in drug recovery. The Commonwealth Court specifically held that the building was a rooming house permitted by Special Exception.

The second case is the Repko case which deals with domestic violence victims.

The Commonwealth Court specifically held that the building was a rooming house not a nursing home and that the Board did not abusive it discretion in proving that it was a rooming house being used for domestic violence victims.

The third case was for a boarding house to be used as a college fraternity. The case states that neighbors complained that this would ruin the peace and quiet of their neighborhood. In this case the court recognized the concerns of the population that their peace and quiet would be somewhat affected, but that does not justify denying a fraternity to come in.

Attorney McNealis stated to the Board that his client has a facility that is going to have not more than six (6) now sober women that are not under the control of any agency (criminal or social) reside at the property and Attorney McNealis feels his client has no further burden in this case legally.

Attorney McNealis stated that the folks who are not in favor of this application, it is their burden to essentially prove that this will destroy their neighborhood.

Natalie Goodman, 536 Miller St. said she is a resident and a taxpayer of Luzerne Borough and does not live near the residence in question.

Attorney McNealis stated that Ms. Goodman does not have standing in this case because she will not be personally affected.

Ms. Goodman stated she is not opposed to people getting help. She wants to know if there is any licensing required and how will Mr. Grymko be getting the residents. She stated that recovery houses must be licensed by the state.

Attorney McNealis stated no licensing is required by the state because this is just six (6) unrelated persons sharing living space. He also stated that there is a great demand for sober living in the area and people do contact Mr. Grymko and Ms. Luton about housing.

Ms. Goodman stated that the owner of the property will have to register every tenant and pay a fee to Luzerne Borough. She also stated that a boarding house requires a person to live on site.

Chairman Harris stated that rooms can be rented in a boarding house and the property owner does not have to live there.

Patricia Campas, 476 Bennett St. asked, why does Luzerne Borough even need a rooming house. She stated she believes it will open the door for more to come into town and she also stated she thinks this will lower the property values in the town and tax the police force.

Ken Malys, 417 Bennett Street stated he is not in favor of the boarding house. He stated that at a Council meeting he attended a statement was made that a parole officer would be allowed to go into the house to see a tenant and that is a concern to him.

Jim Keller, Mayor of Luzerne Borough asked if the building is up to code.

Attorney McNealis stated that would be the job of the Luzerne Borough's code enforcement officer to check the building.

Mayor Keller spoke about a woman who overdosed stated that she lived at 411 Bennett Street.

Ms. Luton stated that this woman was brought to the Bennett Street property after leaving a facility and an internal background check was done. Ms. Luton stated she arrived on the

30th and on the 12th she was asked to leave the property because she had a relapse on her birthday. She left the property and stayed with her boyfriend and that is where an overdose occurred. Ms. Luton stated she is in touch with the woman's family trying to help them get a placement in a facility for the young woman.

Mayor Keller asked if criminal background checks are being done on the women who will be residing at the property.

Ms. Luton stated she does not do criminal background checks.

Attorney McNealis, addressing Ms. Luton, stated that she should be a landlord and do your best to operate the building in such a way that everyone is acting within the rules and regulations that Mr. Grymko and you set.

Corey Klenfelder, Councilman, Luzerne Borough asked if everyone residing at the property has to sign a lease and if so there is a legal process you must go thru before you can evict a person from the property.

Ms. Luton stated that the people residing at that property sign a waiver that if they do not obey the rules and regulations of the house they must leave.

Attorney McNealis presented to the Board the layout of the interior of the building and he stated it meets all the requirements of Section 6.28 Rooming or Boarding Houses.

The Board entered into Executive Session at 8:09 P.M.

The Board resumed at 8:19 P.M.

A motions was made by Mr. Williams, seconded by Mr. Harris, and carried to approve a Special Exception - Section 4.05 of the Luzerne County Zoning Ordinance (Roomers or Boarders) to have six (6) unrelated persons occupying a dwelling at 411 Bennett St., in a Two-Family Residence District in Luzerne Borough.

ADJOURNMENT.

A motion was made by Mr. Harris, seconded by Mr. Williams and carried to adjourn the meeting.

RESPECTFULLY SUBMITTED,



**KATHY WOOD, RECORDING SECRETARY
LUZERNE COUNTY ZONING HEARING BOARD**