

**MINUTES  
BOARD OF ZONING APPEALS  
CASE A-226**

Mrs. Vickie Watts, Chair of the Board, called the hearing to order at 8:00 p.m. The following Board Members were present: Mrs. Vickie Watts, Mrs. Diane Barrett and Ms. Tracy McCoy. Board Member Michael Joseck was absent. Staff members present were: Tammi Ledley, Zoning Administrator and Lorena Vaccare, Assistant Zoning Administrator. Michelle Ostrander, Town Attorney, was also present.

Guests present: Michelle Long, Kevin Atticks, Holly Oertel, Council Member Marlene Duff, Ashley Cassell, Kelly Shaffer, Matt Cassell, Jesse Johnson, James Garman, Angela Garman, Todd McGrew, John Rund, Jr., Michael Ralph, Zach Tomlin, Kate Smith, Brian Smith, Pete Garey, Leah Rogers, Steve Rogers, Megan Micriotti, Ron Bynaker, Planning and Zoning Commission Member Sharon Callahan, Council Member Jim Roark and Mayor Chris Nevin.

**CASE A-226**

On April 16, 2019, the Board of Zoning Appeals heard testimony and received evidence concerning the appeal Case A-226, a request by L&S Enterprises, Steve and Leah Rogers, for a Conditional Use to operate a restaurant at 1300 N. Main Street in a Local Business zoning district, a Variance to reduce the setbacks, and a Variance to reduce required parking at the same location.

The Board heard a statement by the Zoning Administrator regarding the current usage of the subject property and the available parking. The statement conveyed the zoning classification of the property as Local Business and that per the Town Code a Conditional Use for a restaurant may be granted by the Board, pursuant to Chapter 135-113.H. The statement listed the setbacks as mandated by Town Code and the proposed setback reductions, as well as the required parking mandated per the proposed square footage. The statement also conveyed that Carroll County Department of Planning did not have any objections to or comments regarding the case other than should the Board approve the Conditional Use and Variances, a site plan submission will be required. The statement noted that said site plan approval will need to be obtained from the Planning and Zoning Commission and that for such a vote Mr. Rogers, a member of the Commission, will need to recuse himself.

The Appellants' presentation was given by Mr. Rogers, a managing member of L&S Enterprises along with his wife Leah, and also of the dba Outlaw BBQ Smokehouse. Mr. Rogers gave a brief summary of the history of their business, as well as the history of their purchase of the property at 1300 N. Main Street and the placement of that lot and the surrounding lots. He summarized the drawings he had submitted to the Board with his application, showing the property lines, current and proposed building lines in relation to neighboring building lines. Mr. Rogers discussed the parking requirements in relation to the 30 to 50 seats inside the proposed restaurant. He also discussed ADA requirements and how they plan on accommodating them. Pertaining to the parking, Mr. Rogers stated that though they will have a total square footage of 3,122, only about 1,000 of that will be for seated dining space. He cited Town Code Chapter 135-204.B. regarding parking within the Main Street Revitalization Area, as well as Chapter 135-205.C. which offers the option of reducing the required parking spaces by 15% by utilizing nearby shared parking. He stated that their current carry-out operation served over 500 meals on

Saturday and 600 meals the Saturday before and there was no traffic impact, and referenced the Sunset Inn tavern which had a small parking area that didn't conform to Code and did not create an impact on traffic. He stated he hopes that by investing in the property they will encourage others to invest in other downtown properties. Mr. Rogers stated that they employ about 12 persons which will increase, but that the hours will not change much. He stated that they will apply for a Class D liquor license for beer and wine, and that they have even spoken to Pipe the Side Brewing Company about obtaining and serving some of that beer, but that the restaurant will not be a full-out bar or tavern. He stated that he had his builder present, as well as Mike Sichel, an adjoining property owner, if the Board had any questions for them.

Mrs. Vaccare asked Mr. Rogers if there are any proposed handicapped parking spaces on his parking lot; Mr. Rogers replied that he does not and does not know if the County will require any since the front access from Main Street will be ADA compliant. He then showed the Board on the submitted drawings the walkway between his building and Mr. Sichel's building and explained how they want to install a new walkway that will benefit both properties.

Mrs. Barrett asked if the setback reduction is really to just accommodate where the straight building line approaches the angle of the property line; Mr. Rogers stated that yes, this is the case.

Ms. McCoy asked what the time frame for construction is; Mr. Ron Bynaker of Hanover Building Systems stated that once Mr. Rogers obtains his approvals and is ready to begin construction it will be about three to four months until the project is completed. Mr. Rogers added that once the approvals are obtained he will have architectural drawings completed which will then be submitted to the County for review so that the builder will know what's required.

There were no Protestants.

Mike Sichel, owner of 1302-1304 N. Main Street, spoke in support of the restaurant, stating that Mr. Rogers has been very open about his building plans and that they have worked well together. He stated that he, as the adjoining property most affected by the proposed changes, is in full support of them and hopes that the Board approves the requests.

There were no other public comments.

No rebuttals were required.

The Board deliberated the case. Mrs. Barrett stated that she did not have any exceptions, and asked if the other Board members had any concerns about the space between the building and the boundary lines. Mrs. Watts replied no, and that she believes the uniqueness of the property has been demonstrated to grant a variance, and that all the parties involved have a vested interest in making sure the structure is aesthetically pleasing and that people are able to easily navigate between buildings. The Board agreed that the property owners seem to have a very good relationship and seem to be working well together, and that it's anticipated that this will continue.

Discussion ensued regarding site plan requirements, and whether the Board could make a recommendation on site plan requirements.

Mrs. Barrett made a **motion to approve the Conditional Use to operate a restaurant in a Local Business zoning district at 1300 N. Main Street.** Mrs. Watts seconded the motion. The motion passed with three votes for, no votes against and no abstentions.

Mrs. Barrett made a **motion to approve the Variance to reduce the front yard setback at 1300 N. Main Street to nineteen feet and the side yard setback to six inches.** Ms. McCoy seconded the motion. The motion passed with three votes for, no votes against and no abstentions.

Ms. McCoy made a **motion to approve the Variance to reduce the required parking spaces to fourteen at 1300 N. Main Street.** Mrs. Watts seconded the motion. The motion passed with three votes for, no votes against and no abstentions.

Mrs. Watts made a **motion to adjourn the hearing.** Mrs. Barrett seconded the motion. The motion passed with three votes for, no votes against and no abstentions.

Submitted by:

Approved by:

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Lorena Vaccare  
Assistant Zoning Administrator

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Vickie Watts  
Chair