EPHRATA BOROUGH
ZONING HEARING BOARD MINUTES
November 18, 2015

MEMBERS PRESENT:	Jim Kiefer, David Martin, Glen Mellinger, and Dennis Rowe Greg Zimmerman absent
STAFF:	Nancy Harris, Zoning Officer John Goodman, Goodman & Kenneff, Attorneys CRS Reporter
VISITORS:	Sherri Pogwist, 114 West Fulton Street Mark A. Pogwist, 114 West Fulton Street Damien Kalpokas, 104 West Fulton Street

Chairman Kiefer called the meeting to order at 7:00 PM in the Council Chambers of the Borough Office, 124 South State Street, Ephrata, PA.

Mr. Kiefer said there is one item on the agenda tonight.

The first hearing is for a special exception to change from one non-confirming use to another at 121 West Fulton Street, the former EARS building.

The first hearing is to consider a special exception application to change from one non-conforming use to another – warehouse. Relief is requested under section 319-115 of the Code of the Borough of Ephrata. The subject property is located at 121 West Fulton Street in a Residential High Density zoning district. The applicant and equitable owner is Lester Bowman of 1094 East Pieffer Hill Road, Stevens, PA 17578.

<u>121 West Fulton Street</u>

Nancy Harris, Ephrata Borough Zoning Officer, was sworn in.

Mrs. Harris said on October 22, 2015 the application and attachments were received which will be marked collectively as Exhibit 1.

As a result a public notice was prepared stating the time, date, and location of the hearing. The public notice will be marked Exhibit 2. A mailing list was prepared of all the property owners within 200 feet; they were sent a copy of the public notice by regular mail. The mailing list will be marked as Exhibit 3. A copy of the public notice was given to The Ephrata Review for publication. It was published November 4 and November 11, 2015. The proof of publication will be marked as Exhibit 4. A copy of the public notice was posted on the property and that posting was verified November 10, 2015.

Mr. Lester Bowman was sworn in.

Mr. Bowman's home address is 1094 East Pieffer Hill Road, Stevens, PA 17578.

The address of the property in question is 121 West Fulton Street, Ephrata. That property is located in a residential high density zoning district.

Mr. Bowman has the property under an agreement of sale with this hearing pending.

The property owner at present is the Ephrata Area Rehab Services.

Mr. Bowman is not familiar with EARS but he understands that they used the building for manufacturing something for handicap people.

Mr. Bowman would like to use the building for a very low impact warehouse for Bowman Stove and Patio.

Mr. Bowman read the impact statement he prepared

Lester Bowman, himself, will be the owner of the building and lease it to Bowman Stove & Patio, which he is President of. Bowman's Stove will use the facility to warehouse patio furniture. They expect approximately 10-15 tractor trailer trucks a year to deliver product to that location and then 4-6 times a week their small delivery trucks will be picking inventory up for local delivery. The building will not be manned except when receiving or picking up furniture to deliver. The neighborhood will be impacted positively because the building will be better maintained than previously. There will be much less vehicle traffic in an out of that property. There will be no changes in footprint of the building or the parking lot.

The property is about 0.72 acres. Mr. Bowman said there is one building with two separate little sheds that are not on a foundation; they are portable sheds.

Mr. Bowman has no immediate plans for the sheds. The square footage of the building is listed as 12,400 square feet. Mr. Bowman said a portion of the building is two-story – a very small portion on the east side.

There is more than adequate parking at the site for Mr. Bowman's use. Mr. Bowman would guess there are about 25 parking spaces.

Mr. Bowman said when a truck arrives it's usually a container truck 40 foot long and then people are brought down in one to two vehicles to unload it to the facility. There might be 6 people. That would be for unloading the larger trucks. The local delivery trucks are small box trucks, single axle street trucks. One is 14 foot long and 24 foot long.

The outdoor lighting would remain the same; Mr. Bowman has not seen it at night.

The sign that was at the building has been removed. Mr. Bowman does not have immediate plans to put a sign up.

Mr. Bowman said there would be much less traffic and there would be no noise, smoke, dust, fumes, vapors, gases, heat or odor as a result of the warehouse.

There will be no outdoor storage.

Mr. Bowman said the waste that they would generate would be taken back in their trucks to their dumpsters at the current location.

Mr. Bowman would like to improve the outward appearance of the property over the years.

Mr. Bowman believes his proposed use would be less objectionable than the existing non-conforming use.

Mr. Martin said his concern is there will be nobody there but you will have this big empty parking lot.

Mr. Bowman did not make any immediate plans for the use of the parking lot other than everyone saying they know where they can park for the parade.

Mr. Martin's concern is that there will be no one there monitoring it. Mr. Kiefer is concerned about it becoming a congregation place for people; you need to do something to secure it.

Mr. Bowman does plan on putting cameras up, because of the quality of the product that will be stored there. It needs to be protected. Mr. Bowman said putting cameras up would be the first thing he would do. That usually deters congregations.

Mr. Rowe asked if it can be posted "unauthorized vehicles will be towed at owner's expense"?

Mr. Rowe said you wouldn't want to end up getting a forty foot truck in there and have to try to figure out who the cars belong to.

Mr. Goodman said he would think that the parking lot is an accessory use to the non-conforming use.

Mr. Bowman said his staff would be there 4-6 times a week. In their busy season for patios it would be more than that. Off season it would be less.

Mr. Bowman anticipates receiving deliveries and sending employees to the facilities between 7:00 AM to 5:00 weekdays and Saturdays 7:00 to 4:00. Typically no Sundays. There will be no sales out of this building.

Mr. Goodman said if Mr. Bowman wants to rent all the spaces in the future he will have to check with the Zoning Officer before he does that. At that time the Zoning Officer can make a decision as to whether you need a hearing.

<u>Audience Questions</u>

Damien Kalpokas lives at 104 West Fulton Street. He is not the owner but has lived there eight years.

Mr. Kalpokas said this would be a truck turning issue into that parking lot where parking is because parking is right by the telephone pole and if you're pulling a 40 foot vehicle. Mr. Goodman said this is a statement.

Mr. Damien Kalpokas was sworn in. Mr. Kalpokas said his concern is this. If they're going to bring in a very big 40 foot vehicle there's a turning radius there to go into the one alleyway. There's obviously a way in and a way out. How are you going to stop a big rig vehicle from going into the car that's parked there by the telephone pole, because that parking is probably within 10 feet or less of that entry way going in? And there is parking in between both entry ways or exit ways.

Mr. Bowman was under the impression there were tractor trailer trucks delivering to that location prior.

Mrs. Harris has seen tractor trailer trucks on site but doesn't know the frequency.

Mr. Bowman said the drivers would have to pull west on Fulton and back in at an angle off the street. You can't come in from the other end.

Mr. Kalpokas said trucks backing in will hold traffic at the intersection. Mr. Bowman said that's why they have a half dozen people come to block the traffic to get the truck in.

Mrs. Harris said she would include not accepting deliveries Fair Week when that is the detour route.

Mark Pogwist was sworn in.

Mr. Pogwist resides at 114 West Fulton Street and has been there 15 years. Mr. Pogwist said he has some concerns. Last Friday there were signs out that there would be truck loading, not to be parked in the parking lot.

Mr. Bowman said he didn't take possession of the building yet so it was not him.

Mr. Pogwist was parked on the east side going to Oak Street to go to work at 6:10 AM. A tractor trailer, right before the hard turn on Fulton Street, the tractor trailer being an unfamiliar driver is parked not knowing where to back up kind of around the turn. Traffic was backed up until this truck driver figured out how to maneuver to get back in. Everyone uses Fulton as a short cut not to go up Main Street. The amount of traffic is amazing.

Mr. Kalpokas agreed with what Mr. Pogwist said. Mr. Kalpokas said not with just the traffic; it is very tight. You're asking to have a rig drive down there and then have another car and have them wait without being blind sighted. Even when you turn left from Oak Street onto Fulton Street there's that – it is so quick visibility wise. You do have the potential of a police officer driving down the street to a call and that truck is obstructing that view and someone is turning left onto Fulton Street from Oak there will definitely be a collision and probably somebody's life. The speed limit is 25.

Mrs. Harris asked if any of the employees would be on site to help control the traffic in the roadway? Mr. Bowman said they would be stopping traffic in both directions. Which isn't very long.

Mr. Bowman currently warehouses his products at the old Jemson Cabinetry building.

Mr. Pogwist said it's good to see the building used for something. It sits vacant, it's deteriorating, and the property value goes down.

Mr. Pogwist said he is concerned about unloading on Saturdays.

Mr. Bowman said the big trucks would usually be Monday thru Friday. Saturdays would not be before 7:00-8:00 AM.

Mr. Bowman said there won't be any forklifts. There are no beepers on the trucks either.

Mr. Pogwist said he has never seen kids hanging out there and doesn't think that will become an issue.

Mr. Martin said he has a hang up about big open parking lots sitting there without anyone monitoring it where anything can happen at any time. Mr. Martin said from his standpoint why wouldn't you just fence it in and if you want to use it for parking you could still use it for parking.

Mrs. Harris said she's heard from the Police Department fences don't deter people. If they want in they're going up and over.

Motion by Mr. Rowe, seconded by Mr. Martin to close testimony. Motion passed unanimously

Motion by Mr. Rowe, seconded by Mr. Mellinger to grant the special exception for code 319-115 for the property located at 121 West Fulton Street subject to the following conditions:

a) The applicant shall comply with these plans and promises as presented at the Zoning Hearing Board.
b) The applicant shall obtain any necessary occupancy permits from the Zoning Officer.
c) The applicant shall comply with all applicable building code requirements.
d) A violation of any of the conditions shall constitute a violation of the ordinance.
e) This decision shall bind the applicant, its heirs, successors, grantees, and assigns.

Motion passed unanimously.

Motion by Mr. Rowe, seconded by Mr. Martin to adjourn. Motion passed unanimously.

The meeting was adjourned at 7:45 PM.

Respectfully submitted,

Nancy E. Harris
Zoning Officer