

Deja-vu: 306 S. New St. (1)

The Bethlehem Gadfly 306 S. New St., Gadfly's posts, Serious Issues December 26, 2018
(1st in a series of posts on 306 S. New St.)

Ryan Kneller, "ZEST, Grille 3501's upcoming sister restaurant, to feature spectacular views of Bethlehem." Morning Call, September 24, 2018.

We think of December 7th as the "day which will live in infamy."

For some people in our town, it will be December 4th.

On December 4, 2018, there was a 3hr. City Council meeting on the 2 W. Market St. controversy, which the Gadfly, as you know, has covered in the range of 70 posts.

When Council finally voted 4-3, virtually all of the packed house swept up what little was left of their shredded emotions and headed for watering holes or wailing walls, depending.

Little did they know Council was playing a double-header that night. There was a whole other game to be played.

The drama moved from 2 W. Market St. to 306 S. New St. – from West to Zest (the new restaurant atop the new building). But the drama tasted like deja-vu. Council was again tasked with making a decision on a deal that was done.

One of the key factors in the 2 W. decision was that the property was already beautifully renovated – it was there, you could see it. For many the legal issue paled because of that.

Now, though not quite as definitively, a similar circumstance obtained at Zest, the restaurant on the 6th floor (top floor) of 306 S. O, my. Lucky Council.

Take a look at these two photos (I believe the one is a photo not an artistic rendition). Can you see the difference between the two on the 6th floor facing you. (Bigger photos at bottom.)

Before and After photos:





As always in Gadflyville, let's lay it all out first then come back and discuss. Gadfly doesn't like to influence opinion in the first inning. Let's all think about what's going on here. Who's in charge of neighborhoods? Who makes decisions? How are those decisions being made?

AUDIO RECORDINGS UNAVAILABLE IN THIS ARCHIVE

Gadfly always suggests that you go to the source. So please listen if you can. Start to recognize the voices of your elected officials as well as the way they think. But here is a summary of the discussion. See if Gadfly got it right. Anything left out or misrepresented?

- The controversy over 306 S. New goes way back before Gadfly got his wings, just like 2 W. Market did; in like manner, a heated history over the building precedes this episode that Gadfly is not privy to and not involved in.
- The property is in the Southside Historical district and therefore had to first secure approvals from the advisory, all-

volunteer citizen Historic Conservation Commission (HCC), and such approvals were ratified by City Council.

- Among many other things, of course, the HCC is concerned with the height of new construction in this district and approved a 6-story building with the 6th floor set back 12ft proposed by the architect in order to soften the appearance of height.
- That's the "then" picture you see above; the 12ft setback is a patio; there is a covered area on the left (New St.) side.
- The total closed area in the "now" picture not set back 12ft is, I would say, approximately 50% of the 3rd St. length of the building; the "new" at-issue area has sliding windows and will be open in good weather.
- The Zesters submitted plans for an "interior fit-out," which was reviewed per normal by the City, permits were issued, construction began.
- At some point while construction was under way (dates not certain), it was noted by the HCC chair that the HCC guidelines for the 12ft setback were not being followed, and after consultation with the contractors, the chair asked for work to halt but that steps be taken to protect the area from the weather.
- The issue went back to HCC which voted 8-0 to deny the Certificate of Approval because of this violation of the original terms and without discussion of a remedy or some option or solution to provide a path forward.
- That brought the issue to Council December 4 after the lengthy discussion on 2 W. that we all weathered.
- The city admitted dropping the ball: the interior fit-out review went through several hands without noting the impact on the exterior, the city – though admitting when pressed that the development community is "savvy" about procedural matters and shouldn't be let off the hook entirely – feels responsible for permits issued inadvertently, and the city will review its internal process for the future, giving assurance that they will be evaluating the process, they do thousands of permits a year.
- The owner pleaded not guilty, did not seem aware of the HCC decision (not clear), said the restaurant owner was not pulling a fast one, he has spent \$2.5m, said the change could only be

seen from the bridge (I guess saying he didn't understand the HCC rationale), had followed proper procedure, the leasing agent did the negotiating not him, the architect drew up the plan.

- The restaurant owner pleaded ignorance too: wife a long-time resident, he's "this close" to opening, will be "ruined" if it doesn't happen (\$2.5m spent), is a finalist for an "Opening Night" tv show that will be good for everybody, had no bad intentions, was not doing anything sneakily.
- **What's Council to do? Have the work already done taken down? Or approve the work, reversing the HCC, now that the work is (almost) done?**
- General consternation: "less than ideal circumstances" in which to decide, hard going back, no roadmap for going forward.
- CM Callahan: not extruding, minimal change, developer went through process, mistake on city part, work already done, didn't do anything improper, give thanks to owner for investing in city and spending \$25m, lot empty for 10 years, only city income minimal taxes, unbelievable project, congratulate you, unbelievable how difficult we make it, there were so many meetings, owner was kind enough to move the plants that were there, there was a lot of compromise, has bent over backwards, the city will have internal discussions about the oversight, Council follows HCC 99% of the time, false to say that we are sliding past rules, "getting a little tired" of negative talk about Southside, Southside worse now than 25 yrs ago?, you have "no clue," Southside is "alive" (arts, charter schools, restaurants), Hayes St. revitalized, negative stuff "beyond me."
- CM Colon: asked about responsibility, City?, was there something the applicant should have known?, people will be standing out there on the patio.
- CW Van Wirt: ticked, has a "problem with the problem," if the developer should have been aware, then the City is not totally to blame, should have been discussion between owner and restaurant guy on HCC guidelines, no conversation about what was allowed — hard to believe, the set back was intentional by HCC, tough to go against them.

- CM Waldron: can't see it from front of building, only from across the street, restaurant guy not responsible for knowing about HCC, building bumps out anyway (that section on the left in parallel with bump-out on other floors), problem results from miscommunication, lot to ask to tear it down, not easy to cut out the section at issue, change is *de minimis*, normal thing is to approve HCC, this is unusual case and Council must act responsibly.
- CM Reynolds: HCC denial without further conversation an option makes this an impossible decision, nothing to do outside of scuttling the project, City needs to provide more help for the decision, no other decision to make but approve, not given alternatives.
- CW Negron: against building from the beginning, now this, will it never end, very disappointed, but there is still an opportunity for conversation, just like 2 W. Market, who cares about Southside, why have the rules, HCC has an important role, this is so wrong.
- **Again: What's Council to do? Have the work already done taken down? Or approve the work, reversing the HCC, now that the work is (almost) done?**

*This is the point where you pause, reflect, and give your answer!!!!!!!
What would you do?*

- Vote 5-2 to “respectfully reverse” (CM Waldron) the HCC and to approve the Certificate of Approval (Van Wirt and Negron in the negative).

A perfect storm. Everybody throws up their hands. And throws the issue into Council's lap. December 4 would have been a good day to call in sick.

We still need to have final discussion on 2 W. Market, but 306 S. New is so similar in content and in its demonstration of Council decision-making that I'd thought we'd lump them together.
Is 306 S. another category 5 or just a tempest in a teapot?

