

# Neighborhoods are worth fighting for

The Bethlehem Gadfly 2 W. Market St., Neighborhoods, Northside, Serious Issues September 11, 2019

*(82st in a series of posts on 2 W. Market St.)*

**Zoning Hearing Board, Wednesday, September 11, Town Hall,  
6PM**

**PLEASE BE THERE!**

Gadfly finally with a little more time to go through the “history” of the 2 W. Market case in the 80+ posts and refresh himself on the details in case he should speak tonight at the hearing.

He encourages you to browse the posts. This is really a very interesting, informative, and widely relevant case.

Lots of citizen comments are recorded here — text, audio, video — democracy in action!

Gadfly himself was not in on the beginning of the case, which goes back 5-6 years and has been through the Courts at least twice (ultimately resulting in rulings against the Marketers).

There’s an epic battle of wills going on here.

Always remember, “Neighborhoods are worth fighting for.”

Here’s the spot where Gadfly enters the history.

The 2 W. Marketers seek to amend the “Streetcorner ordinance” (1304.04) to permit the use of their property as a professional office. 1304.04 then read, in part, thus:

***Reuse of Corner Commercial Uses Allowed in the RT and RG Districts. The following uses shall be allowed in addition to uses allowed under Section 1304.01:***

*(a) As a special exception, uses that are small in scale, such as but not limited to a professional office, barber/beauty shop, retail store, nail salon, coffee shop, retail bakery, art gallery, real estate office, photography studio, green grocer, cafe, or antique store may be approved by the Zoning Hearing Board (“the Board”) provided all of the following requirements are met:*

*(1) The lot shall be at the corner of 2 streets. The primary building shall have an existing storefront character. This shall include such features as large first floor commercial window(s) and a main entrance at the corner or along one of the street facades abutting the commercial windows.*

*(2) At least a portion of the proposed business space shall have been occupied at one time by a principal lawful business use. This subsection 2 may allow a business use to be established even when a nonconforming use has been considered to have been abandoned.*



The ordinance, as Gadfly understands it, was to enable corner properties such as the one on the left with once storefront commercial uses (which abound in our town when you think about it) to become commercial again (most have been turned into living space). The ordinance was not meant to apply to corner properties like 2 W. Market on the right.

The difference in the properties is obvious, isn't it?

The 2 W. Marketers proposed an amendment to 1304.04 to make a commercial use there legal. Council approved the amendment. Then the Zoning Hearing Board ruled that the new amended ordinance applied to 2 W. Market and their business therein.

Not game-set-match yet. The neighbor group has filed a "Validity Challenge": [Validity Challenge redacted-filed JAN-19-10-hearing 9-11-2019-3](#) (always go to the primary source and see for yourself in Gadville).

Here are some of the points in the challenge. The amendment:

- has no rational relationship whatsoever to the corner store provision, 1304.04 of the Zoning Ordinance which pertains only to those corner properties that have an existing store front character and other unique architectural characteristics
- has no rational relationship whatsoever to the spirit and intention of the corner store provision of 1304.4 to “Reuse” a former commercial use of a property; rather the Zoning Amendment impermissibly introduces an entirely new use of commercial office space into the RT and RG residential districts
- reverses the progress in the historic neighborhood of converting commercial and multi-family dwellings to single family residential uses and otherwise violates the spirit and intention of the Comprehensive Plan

The legal challenge of course throws everything including the kitchen sink (tired x-English prof depending on clichés) at the Marketers, but to Gadfly the key points are a charge of a quid pro quo, a split between the City Planning Staff (withholding approval) and the Mayor (approval), serious deficiencies in the amendment of which the Council was aware (successfully fighting an end preposition — good work, Gadfly!) but voted anyway, and — the big gun — illegal “spot zoning” (the placing of a small area of land in a different zone from that of neighboring property).

Gadfly can not speak of a quid pro quo from any knowledge (though he would love to — how sensational!).

But the other points of the challenge make perfect sense to him.

Hence his position on the side of the neighbors.

There might be new Gadfly followers who weren't here when the original thread was playing out — would you want to make comments?