

## Zest: the final chapter (15)

The Bethlehem Gadfly 306 S. New St., Gadfly's posts, Serious Issues February 27, 2019  
*(15th in a series of posts on 306 S. New St.)*

As Gadfly wraps up this mini-series, he asks you to remember what he's been trying to do.

There are people who think about, wonder about, worry about, complain about City dealings involving developers.

There are other people who scoff at the first group as obstructers, as exaggerators, maybe even as liars.

It's an important issue of public trust.

What Gadfly is trying to do here is lay out in detail his personal perspective on one specific case to support the position that there is a solid foundation for that worrying and complaining.

The 306 S. New case simply wouldn't "settle" in his mind.

It just felt all wrong.

He has given you 18 troubling observations about the case in general. Now he ends with a close look at the behavior of the developer. Up to you to judge. Reactions and counter-views welcome.

- At Council the developer introduces himself and the restaurateur in this manner: "I'm here tonight in a representative capacity to Grille 3502, it's an LLC. With me tonight is \_\_\_\_\_. He's the owner of that restaurant. I can tell you that \_\_\_\_\_ is not skilled in development work or building work" (5). The developer poses as a "representative" not as a person directly involved. He portrays himself as – as he is in real life – a lawyer representing a client, as if he has no personal responsibility for the violation that has occurred nor personal stake in how it is adjudicated. The developer seeks to shift focus to the restaurateur, whom he portrays as an

innocent, inexperienced, hapless victim of sudden, unforeseen, and dire circumstance poised to ruin him. Surely this is not the true state of affairs. Which PVW immediately senses. And angrily denounces. The developer is without question a central figure here. He as well as the restaurateur will be in quite a gnarl if Council supports HCC and denies the COA. Can a lessee/tenant make a (I assume) permanent structural change to the building he leases without the full prior knowledge of and permission of the owner? If I am renting a house, can I knock out a wall and build an extension without informing the landlord? I don't think so. So the developer has craftily attempted to stage the interaction with Council so that the focus is not on him but on an innocent person hard to "punish."

- But how does the developer portray himself? At Council the developer makes it sound as if he was not aware of the HCC recess stipulation (5,8). This is virtually impossible to believe. The building had three solid rounds of discussion before the HCC: 4/27/15, 12/21/15, and 8/15/16. Newspaper and City records show that the height of the building was a major subject of discussion at each meeting. HCC minutes show that both the architect and developer were present at the first two meetings; no records survive for the third. In the 4/27/15 minutes, we find: "The height of the building is the most incompatible feature of the new building in relation to its immediate surroundings. Most of the surrounding buildings are three story. However, the design has incorporated several features to reduce the impact of its height. As previously stated the upper 2 levels are set back to reduce their impact on the streetscape." In the 12/21/15 minutes, we find: "The design still incorporates an upper level setback that helps to reduce the impact of the height on the streetscape." Thus, the developer was present at important meetings in which this "most incompatible feature" of the proposed building was discussed/debated, and his architect was responding to the HCC concerns. City files show pertinent letters from the City Clerk to the developer after both those meetings.

- Not only does the developer feign ignorance of the HCC stipulation itself, at Council the developer feigns ignorance of the reason for it when he became aware (5). After all, he says, it happened “way back” (two years before). But, to the contrary, incredibly, during this same formative design period – from March 2014 to May 2015, ending virtually at the same time as the 4/27/15 HCC meeting – the developer was involved in a very similar and very public dispute over the height of another building at 4<sup>th</sup> and Vine, a dispute that ended in a law suit. For instance, the newspaper reported one “very contentious, standing-room-only meeting that lasted more than five hours.” In March 2014 a member of the HCC felt “there has to be some approach to mitigating the feeling of some monolith sitting on the corner of Vine and Fourth,” and the suggestion offered was “setting the top floor back from the rest of the building.” The developer said that “while he will consider the suggestions and apply them where possible, he doesn’t think the building will look as big as it sounds.” The developer said the exact same thing about similar recess suggestions a month later, and then in November 2014 he produced a new design with a “tapered top floor” and “a rooftop garden to create an airy effect in an attempt to downplay the height.” Thus, the developer was not only well aware of HCC height concerns and the way to address them but publicly commenting on them and then implementing answers to them in a revised design. AW recognized the developer role of playing dumb here and pushed back against this guise of ignorance (8).
- After clouding his awareness both of the HCC stipulation and a reason for it, at Council the developer not only disputes the rationale for the HCC decision but says that what the City did was not an error but good judgment! “There is only one place that you can even see this piece of construction and that’s coming over the bridge and when you come over the bridge you see the entirety of the 6<sup>th</sup> . . . When this is completed, and when the tarps are off, it’s going to look like it’s been there forever. And you don’t see dimension when you look at it from the north coming to the south. It looks like it’s been designed

right along with the building. . . . I think [the City] was right in doing what they did [in approving the plans]” (5).

Unbelievable. The approved 6-story height of the building was a compromise by the HCC to begin with, but that does not stop the developer from disputing the judgment of the group duly appointed to make such judgments. An argument he could not engage, much less win, with the HCC, so he did not even bother to go to the November 19 meeting, but an argument that could sway elected officials who were in a difficult-impossible-terrible position and who march to a different drum. Think of it – the real error here according to the developer was the HCC’s!

- By two weeks after Council, a total of \$3000 from the developer and members of his company appears in the coffers of one of the Council persons. Legal. One would hope innocent and/or coincidental. But, at the very least, optically lethal.