

306 S. New St: the decision (6)

The Bethlehem Gadfly 306 S. New St., Gadfly's posts, Serious Issues January 2, 2019
(6th in a series of posts on 306 S. New St.)

Audio of the 306 S. New St. portion of the December 4 City Council meeting is unavailable in this archive.

Rather craftily, Gadfly thinks (is he wrong to see conscious strategy here?), the developer has made the restaurant the focus of attention not him. The developer describes himself as a “representative” of the restaurant whose job it is to ask Council to hear from the restaurateur who, “not skilled in building or development work,” is someone innocently caught in a perplexing bureaucratic gnarl. That seems a bit ingenuous to Gadfly. Gadfly cannot understand why the developer is not the central figure here. Surprising to Gadfly, it was the contractor who applied for the Certificate of Appropriateness for the dining room extension and appeared before the HCC on Nov. 19. What standing does the contractor – an employee – have? Why wasn’t the owner of the building the “applicant” for the COA? And even the restaurateur would seem a more logical applicant for the COA than the contractor. But that leads to the question – can a lessee/tenant make a (I assume) permanent structural change to the building he leases without the full 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 it seems to Gadfly that the developer has craftily hidden himself behind several layers of camouflage.

Anyway.

In front of you, there’s a restaurateur, who may be innocently caught in this situation, who has a \$2.5m investment in a business at 306 S. New. He’s close to opening, basically begging for mercy, claiming that an adverse decision will “ruin” him, will be “catastrophic” (this last term Prez Waldron’s, agreed to by the restaurateur).

The city admits the mistake in authorizing the permits.

Even the HCC chair said that because of the structural steel involved, going “backwards” would be very difficult.

Do you make him go backwards?

Do you follow the HCC rules or break them?

Like with 2 W. Market, the need to make this tough decision tells us a lot about how our elected officials think, how their minds work. Which is one of the goals of the Gadfly project. Let’s take them in order of their involvement in the dialogue. Always remember that Gadfly wants you to hear and see your elected officials when you can, so the numbers in parentheses refer to the pertinent minute in the above audio of the meeting. You can learn a lot about someone from tone of voice.

Prez Waldron (21:07): votes to approve the extension of the dining room to the edge of the building.

AW remembers well the original discussion of the parameters of the building, remembers the “point of contention,” remembers the position of the HCC as “very clear.” Since the restaurateur comes on scene well after the original HCC decision, AW agrees he has what the theologians call invincible ignorance, what the politicians call plausible deniability about that decision. But AW does not let the developer off that knowledge hook. The developer should have known about the HCC stipulation, AW indicates. Looking at the proposed extension itself, however, AW finds *de minimis* impact, pointing to an already existing bump-out on the northeast corner, a fin already adding additional height, and the unremarkable look of the addition from the main vantage point on the Fahy bridge. AW’s conclusion is to “respectfully reverse” the HCC decision.



CM Reynolds (7:07) (28:30) (40:35): votes to approve the extension of the dining room to the edge of the building.

JWR strikes Gadfly as a careful, process kind of guy. He questions the city rep and the HCC chair to make sure he is “clear” on the nature and sequence of events. He references another process and decision as context. He frames the options of a decision as either take down the work authorized by permit or approve since the applicant was



not told to do what he got the permit for. He highlights the difficult situation, the “impossible position” Council is in because of lack of guidance from the city and the HCC. He sees “no other choice” but to approve the work done. JWR feels it’s hard to support the HCC, he even feels that HCC recognizes there is nothing else to be done outside of scuttling the project. He sounds a bit frustrated by and resigned to the position in which Council has been put.

CM Callahan 1 (11:54) (36:54) votes to approve the extension of the dining room to the edge of the building.



BC immediately judges the extension work itself. It is not protruding, it went through the city permit process, it was the city that made the mistake, it does not extend even 1/2 way along the 3rd St. side, it will have sliding windows and thus open in good weather, nothing was improperly done – all in all there is minimal change. BC also, as is his wont, strokes the developer: “Thank you, Mr. Benner, for investing in our city.” It’s an unbelievable project, the view is spectacular, it will be a very successful restaurant. There’s been a “lot of compromise,” you have “bent over backwards.” \$25m has been invested in a lot vacant and not tax productive for 10 years. The issue of the plants [there was a garden on the vacant lot] was the first attempt to stop the project. Why do we make it so difficult to get anything done here? (see below for another BC comment)

CM Colon (13:50) (26:40) votes to approve the extension of the dining room to the edge of the building.



MC is typically on the quiet side of the Council audio spectrum, along with CM Martell (who did not speak during this discussion). But he asks a key question about responsibility on the part of both the city and of the applicant. He draws a long, substantial response from the city rep. The development community is generally well versed in city ordinances, but she does feel a “sense of responsibility” for the mistake that occurred here. His question about the patio on the 6th floor seems important to his decision, since, with people visible there, it’s not a matter of not realizing that there is a 6th floor.

CW Van Wirt (16:38) (30:58) votes to side with the HCC and deny the extension



PVW questions the city about whether an exterior modification is usually on an interior fit-out, and, if not, then she can't assign the city full blame. PVW is anxious to focus on the responsibility the developer has in this instance. The city rep describes a "savvy development community" but still takes responsibility. PVW is "completely lost" about how this "huge mistake" happened between two good, strong, smart businessmen. Negotiation should have been about squarely what was covered. Set-back was required with "great thought and intent." Building owner has a role in overseeing how the restaurant would be outfitted. Hard to go against HCC.

CW Negron (33:09) (44:12) votes to side with the HCC and deny the extension



Frustrated. Disappointed. Against this building from the beginning – too tall, unhistorical. Feels there is still time for a conversation between the developer/restaurateur and the HCC, the conversation that normally happens after a denial but didn't here. For instance, we could do what other Bethlehem places do – have tables and chairs outside, and heaters in the chill weather. So she offers an option that would work with HCC guidelines. Sees the similarity with 2 W. Market. "But this is Southside, who cares, right?" HCC has an obligation, a role, and this issue should go back to them. Don't make the building uglier than it is. We have the HCC, we have rules, and we're not supposed to break them. What's the point of having an historic area? Average people must abide by the rules but not those who have big money in their pockets. This is so wrong. Ridiculous. (ON's passionate statement was answered by AW pointing out that Council had today and had always supported the vast majority of recommendations of the HCC.)

CM Callahan 2 (46:06) response to CW Negron



CW Negron tapped what Gadfly has called in a previous post the Great Divide with CM Callahan over the Southside, and we quote him in full: "We are following the rules. They [HCC] are advisory. And 99.999% of the time we do follow their advice. Sometimes we don't because maybe we have a different opinion. You obviously were against this project from the beginning, and the majority of Council was, and that's the way Democracy works, and to state that we are not following the rules, and someone is trying to get by the rules or

slide by the rules is false. And I wanted to leave it at that, but I do want to make a couple things. Number 1, I'm getting a little tired of, and I wish Mr. Antalics was here, you know, this idea that the Southside is this disgusting place to live is beyond me. I grew up here, I spent time on the Southside, way before you [CW Negrón] moved here, ok, and you're telling me right now that the Southside is worse now than it was 25-30 years ago, you don't have a clue. The investment in that Southside, the Arts, the Charter Schools, the restaurants, it's alive, it's alive down there, and it's in beautiful condition, a lot better condition – you don't think it's in better condition than it was 25 years ago? I had a property on Hayes St. If you talked to Alan Jennings, they did at least 10-12 properties all new on the outside. Hayes St. was not in good condition. But if you drive up Hayes St. now, it's starting to get revitalized. So to keep on hammering, we're ruining the Southside, it's beyond me.”

So the decision went 5-2 to approve the extension in opposition to the HCC decision. Smart money was not surprised.

December 4. What a night. 3 hours on 2 W. Market. Another hour on 306 S. New. Nothing easy. There were some bleary eyes next morning. But something here will not quite settle with Gadfly. So, while he seeks some further information on some things, let's do a thought experiment next.

What would it look like if the vote was reversed? What if the Council sided with the HCC?

For the helluva it, let's try to think that through.