

CM Callahan on “the 2” (49)

The Bethlehem Gadfly 2 W. Market St., Gadfly's posts December 12, 2018

(49th in a series of posts about 2 W. Market St.)

CM Callahan Dec 4, 2018 “Yes”

BC’s approval of the text amendment has three legs. The first is the deeply rooted and still existent commercial presence in the neighborhood. In fact, it’s impossible to define a residential neighborhood on that block. Not only is 2 W. Market a mixed-use property, but the neighborhood is mixed use as well. The street – “Market” St. – has always historically had businesses operating there. The commercial use of that specific lot predates incorporation of the city, predates the zoning plan, and should govern in this decision. BC’s second basis for approving the text amendment is the character of Mr. Rij – whom he mentions by name and wishes success – and of business people like him, that is, investors in the city. Mr. Rij has done “as much as he could to be a neighbor.” He’s a “good citizen.” He’s bent over backwards to do the right thing, even to the point of remodeling a piece over the front door to restore the original design. BC worries that we are pushing away investors like Mr. Rij. In fact, he knows business people who have gone elsewhere. Mr. Rij could have gone too and had nicer office space, say in Allentown, at less cost. But he chose to stay. We can’t keep pushing away businesses. The third factor in BC’s affirmative decision is the sense of community he experienced in the neighborhood. BC lived on Market St. for four years apparently in the 90s, met his wife there, had a child there, leaving when the child was two. His favorite times and memories are of neighborly gatherings during snows/blizzards, of going down to 7-11, down to Ripper’s, of bonding with Jimmy Broughal. BC “knows the neighborhood well. . . . It’s a great neighborhood and hasn’t changed.” Is the text amendment good for the city? It “absolutely is.”

Let’s think about and ask questions of each of the parts of BC’s position in turn

1) Rejecting the residential

The striking thing about BC’s first point is his total disregard for the zoning ordinance! Right off the top, it’s out the window. Replaced by his own vision of the 2 W. Market neighborhood. Wild!

Trust me – look at BC’s identification of the “main question”:

I think what it comes down to is, the main question is this, where does the residential neighborhood begin and where does it end? And the bottom line is

it doesn't. It doesn't. There's nobody that can tell me where the residential community in that neighborhood on that block begins and ends.

The zoning code says 2 W. Market is in an area zoned residential. BC says, in effect, there is no residential area there. *And nobody can tell me any different!*

BC makes a powerful assertion of his superiority, his primacy to the zoning code in this first leg of his thinking. Zoning authority resides "in his eyes" not in the researched, studied, debated, discussed, voted upon, published, and litigated city ordinances.

So, for BC, if there is no residential area there, then there is no issue with 2 W. Market being a business.

Problem solved.

BC does not only disregard the specific city zoning ordinance, but he has a – shall we say – somewhat unconventional comprehension of the nature and function of a zoning ordinance in general. He sees the 2 W. Market neighborhood as it was and as it is – mixed use – while one of the functions of a zoning ordinance is to foster the gradual movement of a neighborhood to where we want it to be.

Normally, one thinks of zoning areas not simply as static definitions of what they are now but aspirations for what we want them to be. In probably more cases than not, zoning maps come after existing neighborhoods are formed, even after they are well and long formed, and are not necessarily simply a mirror of the current "is." Zoning maps are a projection of can be, want to be, will be. BC apparently does not see them that way.

Wow! What are we to make of this iconoclastic train of argument?

Is such an extra-legal, independent attitude exciting, freeing, liberating, refreshing – enabling us to do, without compunction, what we consider a good thing when we feel/know we have good reason to do so?

Or is it that that way madness lies?

Is it ok for a Councilperson to be a zoning-denier? What happens if zoning classifications are subordinate to the personal views of one or another or a combination of Council persons who change on a regular basis? What is the consequence of subjective disregard for lawful, established zoning areas?

Should you base legal decisions on your heart or your head?

2) Mr. Rij is a good guy

Over the course of the three meetings we've had on 2 W. Market, a line of worshipful witnesses longer than autograph seekers at a Carson Wentz book signing filled Town Hall with praise for Quadrant Wealth. In his vote-supporting statement, BC put himself unabashedly at the head of that line. BC canonizes Mr. Rij, patriarch of Quadrant Wealth and symbolic representative of a class of investors Bethlehem needs but, BC fears, is losing. Yes, BC canonizes Mr. Rij. We must please him, hold on to him, and others like him. Not that he doesn't deserve our gratitude and admiration, of course. He is truly a good guy.

But should the "good guy" rule trump all other considerations? How far does the "what's good for business is good for the city" principle go? Should the era of good feeling Mr. Rij generates be determinative in a legal proceeding? Is it ok to single him out for special treatment? Are not the people on the "other side" good guys too? They have as well done the right thing, renovated their houses, spent big money, adhered to historical design, paid their taxes, and so forth. How do you choose the good guys? Might it be an insult to the "other side" to so visibly focus a wish for success (business success) on Mr. Rij instead of, say, Mr. Haines or Mr. Diamond? Might it look like blatant favoritism – that you are in cahoots with the business class? (The reference to buddying with the co-owner of Atty Preston's firm is likewise somewhat awkward.) What should govern in a decision like this – the individual personalities or the rules/laws? Isn't law blind? Should law be the paramount consideration? Aren't residential neighborhoods good for the city? Are "we are really pushing away people who want to invest in the city"? Are there no fine locations in Bethlehem business districts for investors like Mr. Rij? Would there be no suitable option for him but a move to Allentown or Easton?

This can of worms that voting on likability opens is such a tricky issue that I am going to republish Breena Holland's provocative past post (#29) precisely on this subject.

3) It's a great neighborhood

BC does a curious thing in this third leg, though one totally consistent with the attitude we see in his take on the zoning ordinance. He sets himself up as an authority on the quality of present life in a neighborhood in which he hasn't lived for almost a generation. BC "knows the neighborhood well," he says, "It's a great neighborhood and hasn't changed." One wonders how people on both

sides of this issue feel about BC as spokesman for, as definer of *their* neighborhood.

For this controversy started back around 2013. Side v. side has been literally pitted against each other over microphones and maybe over front porches and back fences for as long a time as it took my oldest granddaughter to graduate high school, finish college, get a job, and max out her credit cards. There will be four marathon meetings just in this month. There were two or three court cases – who can keep track? There have been veiled threats of continuation of one kind or another on both sides regarding the outcome of this decision. It feels like a war in the Middle-East or something like that. One testifier cogently said, “nobody’s going to quit until they feel a victory.” Which might not be until the other side is dead. Sigh.

So BC remembers kumbaya moments in the past on Market St., and not once but twice he hopes for such moments to happen again after the decision in the current instance. But these feel-good sentiments are tricky without providing some mechanism for their achievement. Has BC offered an olive branch to those opposing the petition? Has he recognized them in his commentary? Is there a basis for peace if the petitioners win? Without a bridge of some kind such kumbaya sentiments, well intentioned as they are, run the risk of sounding empty or shallow.

This is our third deep dive into the votes and position statements of Council members, something you probably have not seen done before, but certainly a good way to know your Council members in a way completely differently than before.

Gadfly has the story of this Dec 4 meeting in today’s *Bethlehem Press* in front of him right now, comparing the coverage with what we are doing. Big difference.

So, you know the drill!

On to CM Martell–