

BOARD OF APPEALS

November 28, 2011

7:00 PM

ATTENDANCE: Board Members: Chairman William Malesh, Bob Matthews, Mike Salmon, Tim Thompson, Town Attorney Susan Ford, Court Reporter Carol Beresh, Town Planner Mary Ann Skilling and Planning and Zoning Coordinator Dianna Battaglia.

Mr. Malesh called the meeting to order at 6:30 PM.

MOTION made by Mr. Matthews and seconded by Mr. Salmon to adjourn the November 28, 2011 hearing at 6:30 p.m. to a closed executive session to consult with counsel to obtain legal advice pertaining to the Pasquale Italian Grille application. **All in Favor. Motion Carried.**

MOTION made by Mr. Matthews and seconded by Mr. Salmon to adjourn from closed executive session at 7:00 p.m. to resume scheduled hearing. **All in Favor. Motion Carried.**

APPROVAL OF MINUTES

Motion was made by Mr. Matthews and seconded by Mr. Salmon to approve the September 26, 2011 meeting minutes as written. **All in Favor. Motion Carried.**

NEW BUSINESS

- A. File No. AP2011-02- Appeal of Zoning Certificate denial for signage** at Pasquale's Italian Grille, 648 Broad Street; PROPERTY OWNER: Beyer, Chiapparelli Enterprises, LLC, c/o Kenneth Beyer, Sr., 400 North Union Avenue, Havre de Grace, MD 21078-0000; APPLICANT: Pasquale's Italian Grille, LLC; LOCATION: 648 Broad Street, Perryville, MD 21903; Tax Map 801, Parcel 232, Zoned TC.
- B. File No. V2011-01 – Request for Variance for signage** at Pasquale's Italian Grille, 648 Broad Street; PROPERTY OWNER: Beyer, Chiapparelli Enterprises, LLC, c/o Kenneth Beyer, Sr., 400 North Union Avenue, Havre de Grace, MD 21078-0000; APPLICANT: Pasquale's Italian Grille, LLC; LOCATION: 648 Broad Street, Perryville, MD 21903; Tax Map 801, Parcel 232, Zoned TC.

Mr. Dwight Thomey represented Pasquale's Italian Grille and the owner, Mr. Ken Beyer of Beyer, Chiapparelli Enterprises, LLC.

In opening statement, Mr. Thomey stated there are two issues to address, the roof sign, which just says Pasquale's, and the two flat signs on the sides of the building.

Witnesses Dwight Thorney, Ken Beyer and Mary Ann Skilling were sworn in by Ms. Beresh.

Mr. Thomey introduced the following exhibits: 1. Picture of the old Grist Mill sign which he said showed the name Pasquale's is actually not as large as the old sign.

Mr. Thorney and Mr. Beyer provided oral testimony regarding the size of the new roof sign, property size and traffic attributes, and the characteristics of the neighborhood.

Ms. Skilling presented the City of Perryville Planning and Zoning Staff Report.

Ms. Skilling testified based on the evidence that has been provided by the applicant it appears that the signage that originally had been presented to us where the Grist Mill sign existed prior, was not eighty (80) square feet. At this point, it would be considered a nonconforming use and for the continuation, we suggest they submit that to us as Staff can make that determination on the nonconformity with the Zoning Certificate application.

Counsel advised if the Board finds the testimony believable or chooses to adopt as factual finding that the roof sign is thirty square feet, then it would be a conforming sign and the applicant would not need a variance for it. Under Section 31.3.a. the Board of Appeals can direct the Zoning Administrator to issue a Zoning Certificate.

MOTION made by Mr. Thompson and seconded by Mr. Matthews to accept as factual finding the new information provided by applicant for the roof sign as thirty square feet that meets current regulations and direct the Zoning Administrator to issue a Zoning Certificate. **All in Favor. Motion Carried.**

MOTION made by Mr. Thompson and seconded by Mr. Salmon that the Board accept the City's original denial of the application for the roof sign based on the information that was provided at the time of eighty square feet and the Board grant that a Zoning Certificate is issued with the new information provided this evening that the actual size is thirty square foot. **All in Favor. Motion Carried.**

MOTION made by Mr. Thompson and seconded by Mr. Salmon for File No. 2011-01 to grant the variance as per Section 259.2 to the two signs that are attached to the building in lieu of a freestanding sign, for the reasons as set forth in the Staff report as well as based upon the evidence produced by the applicant to be confirmed in a written opinion to be adopted by the board. **All in Favor. Motion Carried.**

MOTION made by Mr. Matthews and seconded by Mr. Thompson to adjourn the meeting at 7:50 p.m. **All in Favor; Motion passed.**

Respectfully submitted,

Dianna M. Battaglia
Planning & Zoning Coordinator