

BEFORE THE ZONING HEARING BOARD
OF
SCHUYLKILL COUNTY

RE: Application of Michael Cope for a Variance.

BEFORE: Eric Seitzinger and David Ambrose, Members of the Schuylkill County Zoning Hearing Board (the "Board").

MINUTES OF HEARING

Name of Applicant	Michael Cope 625 East Mahanoy Avenue Girardville, PA 17935
Location of Subject Property	106 East Main Street Girardville Borough Schuylkill County, Pa UPI No. 45-06-0229.000
Owner of Property	Applicant
Zoning Classification	C-1 (Local Commercial District)
Date of Hearing	July 11, 2013
Place of Hearing	Courtroom No. 2 Schuylkill County Courthouse Pottsville, Pa
Appearance (for Board)	Christopher W. Hobbs, Esquire
Appearance (for Applicant)	Karen L. Domalakes, Esquire
Protestants	None

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FINDINGS OF FACT

After hearing all interested parties and consideration of the evidence presented, the Board finds as follows:

1. Michael Cope ("Applicant") is the owner of the subject property ("Property") situate at 106 East Main Street, Girardville, Schuylkill County, Pennsylvania and identified by UPI No. 45-06-0229.
2. The Property is located in a C-1 (Local Commercial) District under the Schuylkill County Zoning Ordinance ("Ordinance").
3. The Applicant applied for a variance to §604.A of the Ordinance which, if approved, will permit the Applicant to use the Property as a retail establishment without the required off-street loading facilities.
4. A hearing on the variance request was scheduled for and held on July 11, 2013 in Courtroom No. 2, Schuylkill County Courthouse, Pottsville, Pennsylvania.
5. Public notice of the hearing was given by advertisement in the Pottsville Republican Newspaper.
6. Notice was given by mail to the parties.
7. Notice was posted on the Property.
8. Notice was given by mail to the primary last known owner of each lot that is abutting or immediately across the street from the Property.
9. At the hearing Applicant testified on his own behalf and submitted numerous exhibits marked as Applicant's exhibits 1-9 which, along with the application and file, were made part of the record.
10. Applicant testified that the Property sits along the main thoroughfare in Girardville in a neighborhood which consists of a mix of commercial and residential properties.
11. Applicant has been operating a grocery/retail store since April, 2013.

12. The physical characteristics of the Property prevent the possibility of constructing off-street loading facilities to the Property.
13. Most if not all of the other commercial establishments located along the commercial district in Girardville receive deliveries without off-street loading facilities and in a manner similar to the way Applicant receives deliveries.
14. Generally, the Applicant receives delivery by way of box truck or van but not eighteen wheel tractor trailers.
15. Generally, the delivery truck will park in duly designated parking spaces along the street and the deliveries do not take more than 15-45 minutes.
16. The deliveries do not cause any interference with traffic on Main Street or with pedestrian traffic on the sidewalk.
17. The relief requested will not alter the character or the neighborhood where the Property is located.
18. Protestants did not appear to contest the application and indeed, one resident, Joseph Wayne, testified that he fully supports the requested relief and that the street-side deliveries will not cause any negative impact to the Borough of Girardville.

CONCLUSIONS OF LAW

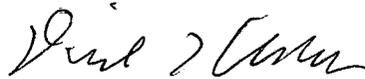
1. The Board is empowered with jurisdiction to hear and render final adjudications in variance requests.
2. Applicant seeks relief from §604.A of the Ordinance that requires off-street loading facilities for any use in a C-1 District.
3. The requested relief is in the nature of a dimensional variance thus reducing the burden upon the Applicant from that of a use variance.
4. The Applicant has shown that the physical characteristics of the Property cause him a hardship which he did not create and cannot be cured but for the award of a variance which, if granted, will not cause a change to the characteristic of the district or neighborhood where the Property is located nor be detrimental to the general health, safety, and welfare of the residents or other property in the district where located.
5. The Board **GRANTS** the Applicant's request consistent with his application.

DECISION

AND NOW, this 1st day of August, 2013, the Board **GRANTS** the Applicant's variance request consistent with his application and directs the Zoning Officer to issue a permit consistent with this decision.¹



ERIC SEITZINGER, Chairman



DAVID AMBROSE, Member

¹ After hearing the evidence presented, the Board voted to grant the variance request at the public hearing held on Thursday, July 11, 2013.