

**BEFORE THE ZONING HEARING BOARD**  
**OF**  
**SCHUYLKILL COUNTY**

**RE:** Request for a Special Exception made by Daniel I. Quiroz, Original Italian Pizza.

**BEFORE:** Daniel Daub, Scott Thomas, Mary Jo Moss, Dave Ambrose and Eric Seitzinger, Members of the Schuylkill County Zoning Hearing Board (the "Board").

**MINUTES OF HEARING**

Name of Applicant	.	.	.	.	Daniel I. Quiroz d/b/a Original Italian Pizza 177 S. Tulpehocken Street Pine Grove, Pa 17962
Location of Subject Property	.	.	.	.	0 South Tulpehocken Street/177 South Tulpehocken Street Pine Grove, Pa 17962 UPI No. 58-07-0087.000
Owner of Property	.	.	.	.	Daniel I. Quiroz
Zoning Classification	.	.	.	.	TC – Town Center Commercial District
Date of Hearing.	.	.	.	.	April 7, 2016
Place of Hearing	.	.	.	.	Commissioner’s Board Room Schuylkill County Courthouse Pottsville, PA
Appearances (for Board)	.	.	.	.	Shane H. Hobbs, Esq.
Appearances (Applicant)	.	.	.	.	Pro Se
Witnesses (for Applicant)	.	.	.	.	Gary Hitzemann, Architect
Protestants	.	.	.	.	None

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**FINDINGS OF FACT**

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

1. Daniel I. Quiroz (“Applicant”) is the owner of the subject parcel and property (“Property”) located at 177 S. Tulpehocken Street, Pine Grove, Pennsylvania, uniform parcel identification number 58-07-0087.000.
2. Applicant purchased the Property in 2015 intending to establish a Restaurant named Original Italian Pizza, which would be owned and operated by the Applicant.
3. The Property’s appearance and pre-existing use is a Church or Place of Worship, as defined in Article 2 of the Schuylkill County Zoning Ordinance. (“Ordinance”).
4. The Property is located in a TC – Town Center Commercial District under the Ordinance.
5. The Applicant seeks a special exception for relief from Article 3, § 306.H.2.a. of the Ordinance which, if granted, would allow Applicant to change the use of the building to a Restaurant.
6. Public notice of the Hearing was given by advertisement in the Pottsville Republican Newspaper on March 21, 2016 and March 28, 2016.
7. Notice of the Hearing was posted on the property on March 21, 2016.
8. Notice of the Hearing was given by mail to the last known primary owner of each lot that is abutting or immediately across the street from the Property.
9. The application, Zoning Board file, and exhibits introduced during the hearing were accepted and made part of the record.
10. Applicant testified that he plans to renovate the first floor of the building into a Restaurant with a small mezzanine area for extra dining.
11. Applicant intends to install accessible bathrooms, an entrance with a ramp, and an exterior storage shed measuring 16 feet by 30 feet that will be attached to the main building and not used by customers.

12. Applicant's Adaptive Reuse of the Property - as stated - will not alter the essential character of the neighborhood, and the renovations made will not pose any conditions adverse to the area.
13. The Property, in its existing state, is suitable for Applicant's construction plans and business.
14. Applicant requested from the Board permission to retain the Property's existing off-street/on-street parking space requirements.
15. Applicant stated, in conjunction with his application, that the proposed change in use will not impact traffic or parking in the surrounding area.
16. The Property is a Church containing one (1) free-standing sign and one (1) bulletin board ( collectively, "signs"), both appearing to be compliant under the Ordinance.
17. Applicant stated that any use of the Property's signs would be compliant with the Ordinance and relevant regulations.
18. Applicant stated that he was not aware of any complaints or objections to his plans and the potential use of the Property from any neighbors in the area.
19. Gary Hitzemann, Architect, drafted construction designs for the Applicant and testified as a witness during the hearing. Mr. Hitzemann provided a business address of 25 Scenic Mountain Road, New Ringgold, Pa 17960.
20. Mr. Hitzemann offered into evidence his building plans and specifications in relation to the Property, all of which were accepted by the Board and made part of the record.
21. No objectors appeared at the hearing.

#### **CONCLUSIONS OF LAW**

1. The Board is empowered with exclusive jurisdiction to hear and render final adjudications in Special Exception Use requests. Ordinance, § 116.
2. The Board shall only permit a special exception that is authorized by the Ordinance, and it may attach reasonable conditions and safeguards in granting the special exception request. Ordinance, § 111 D.4.

3. An Adaptive Reuse of a Former Place of Worship may be granted as a Special Exception if the Applicant satisfies the necessary criteria outlined in Section 402 of the Ordinance. Ordinance, § 306.H.2.a., § 402.A.1.
4. The Board finds that the Applicant satisfies the pertinent criteria outlined in the Ordinance to approve the Adaptive Reuse of the Property.
5. Upon request of an applicant, the Board may modify off-street parking requirements as part of its approval if the applicant demonstrates that the modification will not create a serious shortage of on-street parking in the neighborhood. Ordinance, § 402.A.1.d.
6. Section 601 of the Ordinance states that a “Church” must provide one (1) space per five (5) seats in the room of largest capacity, whereas a “Restaurant” must provide one (1) space per four (4) seats. Ordinance, § 601.B.1., § 601.C.17.
7. The Board finds that applying the pre-existing parking requirements under Section 601.B.1 does not create a serious shortage of on-street parking, and therefore, Applicant’s request to modify off-street parking is approved.
8. Article 7 “Signs” of the Ordinance is intended to “promote and maintain overall community aesthetic quality[.]”. Ordinance, § 701 A.
9. The Board Grants Applicant’s special exception request with the attached condition that the Property’s signage not be used in a derogatory fashion or in a manner that goes against the underlying purpose found in Article 7 of the Ordinance.

**DECISION**

AND NOW, this 5<sup>th</sup> day of May, 2016, the Schuylkill County Zoning Hearing Board hereby **GRANTS** and **APPROVES** the Special Exception request made by Daniel I. Quiroz - Original Italian Pizza ("Applicant"). This approval shall be consistent with the requests made in Applicant's application and in accordance to the Findings of Fact and Conclusions of Law.



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**DANIEL DAUB, Chairman**



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**SCOTT THOMAS, Vice Chairman**



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**DAVE AMBROSE, Member**



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**ERIC SEITZINGER, Member**