



Linda D. Thompson, Mayor



## PLANNING BUREAU REPORT

### Variance Application

**PROPERTY ADDRESS:**

231 State Street

**APPLICANT(S):**

Dan Deitchman & Derek Dilks,  
representing Lux I, LP

**APPLICANT STATUS:**

Owners

**PID:**

04-007-004

**ZONING:**

Special Planned Development  
(SPD), Special Intensity District  
No. 2 (SID-2)

**HPC DATE:**

July 10, 2013

**ZHB CASE #:**

2231

**ZHB DATE:**

July 22, 2013

**SITE VISIT DATE(S):**

June 20, 2013

**HISTORIC DISTRICT:**

Olde Harrisburg National &  
Municipal Historic District(s)

**FLOODPLAIN:**

Zone X (No Floodplain)

**PURPOSE:**

To establish restaurant and/or commercial retail uses inside of the Barto building.

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**PROPERTY DESCRIPTION:**

This eight-story, masonry, semi-detached structure of the Neo-classical architectural style, was built in 1904. Character-defining features include the stone and brick exterior, large fenestration openings, and formal elevations on the east and north elevations. The fenestration and current roof-top addition are alterations from the original construction as is the awning over the State Street entrance. The building was previously used as a Masonic temple along with offices.

**VARIANCE REQUEST DESCRIPTION:**

To establish restaurant and/or commercial retail uses inside of the Barto building. Per Section 7-311.6 of the Planning & Zoning Code, restaurants and/or commercial retail are not permitted uses in the SPD zone.

**VARIANCE REQUIREMENTS PER SECTION §910.2  
OF THE PA MUNICIPALITIES PLANNING CODE:**

1. **There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located.**

There are no unique physical circumstances or conditions that prohibit developing the property in conformance with the Zoning Code. The hardship that the Applicant seeks relief from was created by the regulations of the SPD zone in the Planning and Zoning Code. However, due to the relative obsolescence of the regulations as they relate to establishing commercial business uses, the Applicant does face a hardship in establishing a viable business on the property. Furthermore, a proposed retail establishment would serve existing and future residents (some of whom will be residing in the same building), who currently have limited commercial retail options in downtown Harrisburg.

2. **That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable reuse of the property.**

Such physical circumstances do not exist.

3. **That such unnecessary hardship has not been created by the appellant.**

Any hardship created has been created by the Applicant during the redevelopment of the building. However, as previously mentioned, the obsolescence of the Zoning Code places unnecessary constraints on the use of the property, particularly as it pertains to retail establishments in the downtown area.

4. **The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.**

The variance, if authorized, would not alter the essential character of the neighborhood or district which is predominantly residential, institutional, and commercial.

5. **The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.**

If granted, the variance would represent a minimum variance, since minimal changes are required to the structure beyond the current rehabilitation work being undertaken.

**CITY STAFF RECOMMENDATION(S):**

The City Engineer, Codes Bureau, Fire Bureau, Police Bureau, Water Bureau, and Law Bureau did not have any comments.

**PLANNING BUREAU RECOMMENDATION:**

<b>Approval With Conditions</b>
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The Planning Bureau staff recommends the request be approved with the following condition(s):

1. The Applicant shall submit for a health inspection and receive approval from the Health Inspector for any proposed restaurant use.
2. The Applicant shall abide by the hours of operation applicable to businesses in the Residential Mixed Vertical (RMV) zone, specifically Monday through Saturday, from 7:00 AM to 9:00 PM, or as amended by the Zoning Hearing Board.

The Planning Bureau staff recommends the request be approved for the following reason(s):

1. The variance would not alter the essential character of the neighborhood.
2. The applicant has indicated that there is support for the proposed business and has furnished letters of support from local business, neighbors, and neighborhood groups.
3. The proposed use(s), particularly commercial retail, will increase the shopping options for current residents of downtown Harrisburg and future residents of the upper seven floors of the Barto Building.

**REVIEW PROCESS:**

1. Harrisburg Planning Commission
2. Harrisburg Zoning Hearing Board

**ATTACHMENTS:**

1. Application
2. Cover Letter
3. Building Plans – Ground Floor
4. Elevation Plans