

Talking Points for Borough of Lewistown Zoning Hearing Board, March 6, 2003, 7:45 pm.

Introduce self, others representing Embassy.

1. Sentinel Article on Saturday.
  - a. We DID NOT instigate the article. The Sentinel picked up the story from the Public Announcement published in the “Public Notices” section of the paper.
  - b. Expressed concern to the Sentinel that the article could be construed as putting pressure or public influence on the Board. The decision to run this article was an editorial decision of the Sentinel and we did not have the power to stop it. The Sentinel routinely does articles in advance of public hearings, so this is not an unusual situation.
  - c. Therefore, we limited the parts quoted by Debbie and myself only to historical information concerning the marquee and the facts concerning the variance requests, and not to the emotion of it.
  - d. If the board feels that we were attempting to put pressure on them, please understand that we never intended this to happen this way. The Embassy project by its nature is newsworthy, and the Sentinel likes to keep it readers informed, which I believe was their sole motivation in running this article.
2. The Friends of the Embassy comes before you tonight, seeking relief from certain sections of the Borough of Lewistown Zoning Ordinance concerning signs in a commercial district.
3. Our requests concerns two issues:
  - a. The replica marquee will incorporate approximately 1000 lights, which are flashing, sequential, and animated.
  - b. The Friends desire the marquee and poster cases to carry public service messages, announcements community events, and “happy” messages.
  - c. If I may, I would like to present each request separately, as they are different in scope.
4. First, the issue over the marquee lights.
  - a. The marquee consists of several components: A steel support frame, a roof, ceiling, and panels that are mounted along the perimeter.
  - b. Under §807.4.C of the Zoning Ordinance, a *theatre marquee* is excepted from the prohibition that a sign or sign structure is not to project into or over a public sidewalk. This exception for a theatre marquee is based on the *historical acceptance* of a theatre marquee as the type of sign or sign structure or architectural feature that by custom, usage, and tradition projected over the sidewalk entrance to a theatre.
  - c. During the “Golden Age” of theatres (1920s – early 1950s), the better theatres were most always equipped with elaborate marquees incorporating hundreds and often thousands of lights. In Lewistown, the Rialto, Pastime, Miller, and Temple Theatres were equipped with elaborate marquees, but the Embassy’s was the most elaborate in town.

- d. The marquee was repaired over the years, and some of the individual bulbs were replaced with neon, however, much of the original lighting remained until the 1960s. As theatre revenue fell, little maintenance was done on the marquee. Photographic evidence indicates that at least some of the flashing lights remained in operation in the summer of 1972.
- e. Assuming for the moment that the marquee remained operational when it closed in 1981, and the Friends had purchased it shortly thereafter, and had effected repaired, the marquee would by this time be considered a non-conforming lawful use, and would have been “grandfathered” in concerning the codes.
- f. However, in 1991, when the Friends purchased the theatre, the marquee was in a state of advanced disrepair, and posed a public hazard. The marquee was removed for the safety of the public and placed in storage for eventual repair or replacement, when funds permitted.
- g. Further investigation of the panels at the time revealed that they were beyond repair, as they were too badly corroded. Replication was the only viable option. The panels were stored in the MCIDC plaza, but were inadvertently hauled away by a contractor cleaning out an adjoining building several years ago.
- h. This past year, we worked with State Senator Jake Corman to get a grant to replicate the marquee, which was successful. We received \$40,000, which, using local people to build it, will be enough. I should note that we received the check a couple days before Governor Rendell froze all such pending projects. We are able to spend our money since it was issued before the freeze.
- i. **THEREFORE, UNDER §807.4.F** The Friends request a variance based upon *historical preservation* grounds to install and operate a marquee that replicates the original lighted marquee at the Embassy Theatre with its various animated lighting patterns and sequences.
- j. I have researched in the Internet other theatre projects and have found a common thread concerning marquees. In every instance, zoning variances were required, and were granted based on *historical preservation* grounds.
- k. In justifying historic preservation grounds, the following should be noted:
  - i. The Embassy Theatre is a recognized *historic property*, and was listed on the National Register of Historic Places on July 23, 1998. The Embassy Theatre is recognized under two criteria, architectural significance and cultural significance. The nomination states in part, that the Embassy Theatre is “...an outstanding surviving example of a Georgian Revival motion picture/vaudeville theatre of the “golden era” of movie palaces of the 1920’s. The Embassy’s design was inspired by contemporary theatres in New York City, Philadelphia, Pittsburgh, and Chicago and enjoys the distinction of having been designed by renowned Theatre Architect Albert Douglas Hill. This theatre constitutes an example of metropolitan theatre architecture in a small town setting.” (*Embassy Theatre Nomination Form, Sec 8*)
  - ii. During the 1920s, when the Embassy was built, every element of a theatre was specifically chosen to be a part of a design that was summed up in a contemporary statement – *the fantastic and romantic spirit of the theatre*. This “ambiance” was specifically designed into a theatre to make the patrons feel like royalty, at least for a while.

- iii. In 1927 and 1930, a set of books was published called *American Theatres of Today*, detailing proper theatre design. Within the volumes, about 130 theatres are featured as outstanding examples of theatre design. The Embassy is featured in Volume 2 as an example of small town theatre design. Out of those theatres, very few survive today.
- l. An essential element of this design included an elaborately lit multi-colored marquee, incorporating approximately 1,000 lights that could be animated in various patterns and sequences.
- m. When it was installed in 1927, The Lewistown Sentinel stated that it was the largest marquee between Altoona and Harrisburg. (*August 25, 1927*); and that only several signs on Philadelphia theatres rivaled it. (*August 26, 1927*).
- n. So as you can see, the marquee was an essential element of the original design of the Embassy. I should also note that the Embassy is largely intact architecturally, which was a necessary criterion for listing on the National Register.
- o. We are planning to install a marquee that in detail, design, and function replicates the original, with only minor modifications. The only changes will be to its construction (to allow easier access for repairs and maintenance) and the use of aluminum rather than galvanized steel for the casings. This is the next step in restoring the façade of the theatre.
  - i. Past work has included: rebuilding the marquee roof; restoring the doors, door artwork, and box office; chemically cleaning and repointing of the front, and restoration of the windows.
- p. As previously stated, we have funds from a grant to build it, pending a favorable outcome on our requests. If we are unable to get the variance on the lights, we may have to turn the grant money back to the state, as it was specifically received for the marquee.
- q. The marquee, without lights, could be installed, as that would be allowable under the code, however, it is the lights that make the marquee special. Please keep in mind that our marquee is unique, and that uniqueness includes the lights.
- r. By requesting this variance on *historic preservation* grounds, it is a way of allowing the Zoning Board to grant the request to the Friends while at the same time not setting a precedence for other businesses to install similar signs. To the best of my knowledge, there is only one other business in which this issue might arise, and I stress might, and that is the Miller Theatre. No other business could claim *historic preservation* for a marquee.
- s. While examining the provisions of the Zoning Code for this proceeding, we considered the logical reasons why such a prohibition was placed into the code. To the best of our knowledge, no legislative history is included within the code.
  - i. Perhaps it was thought that flashing, animated, sequential lights, would be a distraction to drivers, and possibly be confused with a traffic light. While conducting research on the Internet, I read a story where a new theatre installed a flashing multi-colored marquee. In this instance, it was placed on an intersection corner, where traffic actually faced the theatre from one of the roads. This placed the traffic light directly in front of the marquee, which caused several accidents when drivers failed to see the traffic light.

1. Locally, in an incident a few years ago, a flashing star was placed upon the “Dairyland” building. On a foggy night, a driver mistook it for a flashing construction sign, and swerved to avoid it, thereby wrecking.
  2. We have examined the intersection and traffic patterns on and around Monument Square on this point. In no instance do we find, considering both current traffic patterns or possible future patterns, that the marquee would be in the direct line of sight for a driver, therefore the marquee should not pose a hazard to drivers on this point.
- ii. Another possibility is that the town fathers did not want the downtown to look like Las Vegas, with its crass commercialism of flashing signs.
1. While theatres are and were commercial enterprises, these marquees were rarely thought of in the same “light” as the Las Vegas casinos, no pun intended.
- t. We do not intend to operate the marquee 24/7 in today’s parlance. In fact, the marquee will be operated rather infrequently and only for short periods of time. Beyond the fact our electric bill would be sky high, it is generally only used when people would be arriving at the theatre, or to bring attention to something at a specific time. Detail concerning the operation plan is included with the variance application.
- u. Around the nation, historic theatres are preserving and replicating their historic marquees, to preserve part of the American downtown landscape, and to preserve the “ambiance” of going to a classic theatre.
- v. To restore the Embassy without the replicated marquee would be a disservice to its original design. The theatre just would not be the same.
- w. The granting of this request would not be injurious to the public interest, and would have no adverse impact to the community. Rather, it would be of benefit to the public by restoring a part of the historic landscape and possibly increasing tourism and patronage to the downtown.
- x. It would be unique in the downtown, as no other business would have a like marquee.
- y. The variance requested would be small and limited, not a total repeal of the provision, and would allow only a narrow corridor of permission to meet our needs, based on historic *preservation grounds*, which could be of great enjoyment to the community.
- z. This request represents the least possible relief needed.
- aa. Debbie and Jim responses.
- bb. Before moving to Issue #2, I will answer any questions concerning Issue #1.

5. The second issue deals with the proposal to use the marquee and poster cases to carry public service messages, announcements community events, and “happy” messages.
  - a. The Borough Ordinance, previously referenced, defines a sign as such:
    - i. §201.2.45 A Sign...Any outdoor devise, structure, or surface that is arranges, designed, or used to carry a visual message, such as an advertisement, announcement, direction, identification, regulation, or the like.
    - ii. §201.2.52 A Structure...Any man-made object which requires stationary location on the ground or which is attached to something having stationary location on the ground. By way of example, the word “structure” would include such objects as buildings, fences, monuments, water tanks, and utility poles.
  - b. The marquee and poster cases, under this definition, are “signs.” I would like to key in on two parts of the definition of a sign, dealing with the message.
    - i. Messages as ADVERTISEMENTS, and as ANNOUNCEMENTS. In the ordinance, they appear to be separate and distinct terms.
    - ii. The Webster American Family Dictionary defines these terms as follows:
      1. ADVERTISEMENTS – (advertise) verb – to tell about or praise (a product, service, etc.) in some public medium in order to induce people to buy or use.
      2. ANNOUNCEMENTS – noun – a public or formal notice of something; (announce) verb – to make known publicly or officially, proclaim.
    - iii. Under §807.1, residential districts, the code makes a distinction between “announcement” and “advertising” signs, indicating that the borough considers advertising and announcing signs as separate and distinct types of signs.
    - iv. §807.2 Commercial Districts “subsection A” refers to 807.1, indicating that this distinction also holds true for commercial districts.
    - v. Subsection C of the same section further defines advertising signs as: the good sold, the services rendered, or the activities located on the premises.
    - vi. None of these codes specifically defines the content of “announcement signs.” However, it is and has been common practice for many years for clubs, schools, non-profit organizations, and community event organizers to place temporary paper or cardboard signs in store windows, which faces the sidewalk.
      1. As far as we can tell, the content of these signs is not dealt with in the code. Perhaps the writers of the code did not think about these types of signs. Again, there is no legislative history concerning the content of announcement signs.
      2. To the best of my knowledge, these types of signs have been permitted, or at the least never objected to, because they are perceived to be in the public interest. In fact, the friends have placed these types of signs on the door window glass not only for our own events, but also for other public events as

well, without objection. Therefore, we can assume that these types of announcements are generally accepted as permissible under the code.

3. Additionally, the Borough has generally allowed, and in some cases, even helped, to erect banners for certain events in Lewistown, such as the “Clash of the Cleats.”
  - vii. The Friends propose to use the marquee and poster cases for the placement of the same or similar types of public service messages, announcements of community events, and “happy” messages.
  - viii. In the situation of the poster cases, we would likely use posters like are already placed around town, or other artwork created for the event.
  - ix. On the marquee, the changeable letters would be used to write simple messages like “Kid Connection/April 26.”
  - x. The Friends also propose to use the marquee for the placement of “happy” messages, as a fundraiser for the project. These would be limited to birthday, anniversary, or special commemorations for individual, school clubs, etc. only, not for businesses.
  - xi. As to ADVERTISING, The Friends WILL NOT sell or rent space on the marquee for business to advertise their products or services. That is not our function or purpose.
  - xii. Advertising would be limited to the scope of §807.2.C. in which we would only advertise movies, shows, and other venues IN THE THEATRE, when it is operational.
  - xiii. This request would be of the least to no injury to the public good. Again, it would serve to benefit the community and public by providing a place to announce events. As to the “happy” messages, these would not injurious, as they are usually considered “innocuous.”
- c. THEREFORE UNDER **§807.2.B & C** The Friends request a variance that would permit the marquee letterboards and the poster cases to carry “signs,” that is, announcements and messages for community events and special occasions of the types described.
- d. Debbie and Jim responses.
- e. I will now take questions on the second request.

In Summary, the Embassy requests your due consideration of our requests for relief from the codes cited. We believe that these requests would be of benefit to the community, by preserving and returning a historic landmark to the downtown landscape. These requests are not injurious to the public good, and will not adversely affect the community.