Village of Spencerport

Zoning Board Meeting

February 17, 2011

Board Members Present	**Board Members Absent**
Chairman John Dole	Dale Kellerson
Michael Flavin	
Mark Unvericht	

Others Present

Trustee Carol Nellis Ewell

Building Inspector Jack Crooks

Attorney Bridget Fields

Donna Stassen, ZBA Secretary

Jim Barton

Richard Puffer

Ann Aulenbacher

Richard Stowe, Esquire

Mike Lopresti

Bill Rutter

Dave Versteeg

Andy Cole

Joan Quigley

At this time Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of Ogden Rental Inc., 2800 Spencerport Road, Spencerport NY or approval to convert an existing building into 6 single family apartments on property located at 115 Clark Street, Spencerport NY. Such approval is required pursuant to Chapter 340-16.A in an R-3 District, application shall be made to the Zoning Board of Appeals for approval of any remodeling or construction of any types of dwellings in residential districts other than single family which approval by the Zoning Board of Appeals shall be in conformity with the following setback requirements:

1. Front yard setback of 14' whereas the minimum is 50'.

2. Side yard setback of 0.6' whereas the minimum is 25'.

3. Rear yard setback of 8.9' whereas the minimum is 40'.

These variances are pursuant to Chapter 340-16.1 (c) [1], [2] and [3] respectively.

Area variance for a lot area of 10,608 square feet whereas the minimum area required is 3,500 square feet per unit of 21,000 square feet total, pursuant to Chapter 340-16A. (1)(b).

Pursuant to Chapter 340-16.A (1) (j) upon receipt of an application as provided herein, the Zoning Board of Appeals shall refer such application to the Planning Board.

Pursuant to Chapter 340-16.A(1)(k), the Planning Board shall within 45 days after receipt of an application, notify the Zoning Board of Appeals that the Planning Board recommends approval, approval with modifications or conditions or disapproval.

Mike Lopresti developer for 115 Clark Street stated the following:

- The project has been in front of the Planning Board for concept review.
- Building was used for heating and cooling business looking to renovate into 6 unit apt building.
- Planning board had issues with parking those have been resolved.

Chairman Dole: There doesn't appear to be much green space.

Mike Lopresti: That is right the building occupies ½ the other ½ is pavement.

Chairman Dole asked what age bracket Mr. Lopresti was targeting.

Mike L opresti: These will be 2 bedroom townhouse units there is a demand for this type of housing for young professional couples.

Chairman Dole: Will the units be 2 stories?

Mike Lopresti: Yes, probably adding only 4-5 ft to the overall height of the building

Discussion arose regarding the private driveway which runs behind Mr. Hotchkiss's property and directly into the back parking area of 115 Clark Street and owned by the applicant with lifetime use given to the Hotchkiss property at 105 West Ave.

Jim Barton: The driveway he has spoke about is exactly across the street from my house. Mr. Hotchkiss uses that driveway and I am sure the tenants will be using the driveway through their property it will run right into the proposed garages. That road should not be used at all coming by his house. Mr. Hotchkiss feels this is a safety issue. I didn't take a ruler out but there can't be more than 10 ft. between the side door of that house and the driveway it they have grandkids playing there could be safety issues. There will be an awful lot of traffic going in and out.

I don't think that road should be used at all by those tenants.

Doug Berry: I own 111 West Ave and agree with Jim Barton regarding that road; my tenants have children that play in the yard very near to where that driveway is.

Ann Aulenbacher stated her biggest concerns are the large variances. Rules are put into place for reason these are very substantial variances. I own a single family home there are many rentals already in that area.

Chairman Dole: This is not a very large lot.

Ann Aulenbacher: Mike, why would you jam so many apartments in that small area?

Dave Versteeg: Are you changing the foot print of the building?

Mike Lopresti: Nothing other than adding the garages.

Dave Versteeg: By code 12 parking spaces will be needed.

Mike Lopresti: The plan shows 12 spots,

Dave Versteeg owner of the dance studio across the street stated that he does not want tenants using their parking lot for parking or as a cut through.

Mike Lopresti: If that turns out to be the case we won't allow it.

Andy Cole: I live at 83 West Ave I am pro business and have an in-law apartment. I know in business there is a statement that says you shouldn't create your own hardship in other words you shouldn't buy something assuming that you will get variances and approvals to make it perhaps more than what really should be allowed there. Really the town or village should not bend those rules to force someone's business to work and I think that is important. Also the following items are of concern:

- Already a lot of traffic with dance studio.
- Tenants have guests more parking issues.

- Most concerning is simply the volume of people with 6 units .Make a reasonable number of units to fit into the area.

There is certainly a precedent set by Gary Inzana with the existing 8 unit building

We have had a lot of problems with that rental the point being the developers don't have to put up with this but we do. We have seen police remove guns from there.

We chose to live next to Inzana's rental not another 6 unit my recommendation would be to scale this down.

Dave Versteeg: I like Andy's thoughts about scaling the units down.

Mike Lopresti: Prior to me this was a commercial business in business 5 -6 days a week with commercial trucks up to 15 a day. We are not proposing to run a business. Traffic will be much less. We can price structure our units. Gary Inzana's tenants pay a lot less a month. You asked if I was going to only rent to 55 and older, I can't legally not rent to anyone; when you have higher rent you have a much different class of people. I have 2 properties that border you on the other side I don't think that you have ever had a problem with those tenants. That is why we are building townhouses and not apartments to draw attractive tenants I have an interest in this Village I own a lot of property and take pride in all of them. We won't put up with riff raff we don't now and we won't in the future.

Ann Aulenbacher: Can you speak to the volume of variances?

Mike Lopresti: This building has been here a long time other than the garages we aren't doing anything to create these variances these are preexisting.

Ann Aunlenbacher: Are you tearing this building down?

Mike Lopresti: No, we are using the whole building other than the roof. We are going to take the roof off of the existing building installing a 4 -5 foot knee wall on top of the existing roof raising the roof. Were adding garages to the west end for 4 cars, inside parking is always more desirable. There are 2 spaces under the deck at the east end of the building which allows shelter for the vehicles also.

Jim Barton: Where are the rest of the parking spaces?

Mike Lopresti: There are five spaces in front of the garages and one more at the east end of the building.

Mike Lopresti: The private drive is an issue and it can certainly be mitigated were not talking about a road this is still considered a driveway. We are maybe talking about 4-5 cars. If the board saw it fit to have this one way, we could have everyone going out this road and anyone coming in would use Clark Street.

Jim Barton: What is this board going to rule on tonight?

Chairman Dole: On the variances only.

Attorney Stowe: My reading of your code says this starts here and you refer this application to the Planning Board and they report back their findings within 45 days.

Jack Crooks: Yes, the Planning Board within 45 days of receipt of application recommends approval, approval with modifications or conditions or disapproval back to the ZBA.

Attorney Stowe: Closing that road will hurt the fire dept in their ability to make an emergency exit or entrance on to that property.

Attorney Stowe: This property was zoned from B-2 to R-3.

Andy Cole: Who initiated that change?

Attorney Stowe: Mike Lopresti.

Andy Cole: What is the difference between B-2 and R-3?

Jack Crooks: Multi family residential vs. commercial.

Andy Cole: And is there no need for a hearing to do that?

Donna Stassen: A hearing was held.

Attorney Stowe: I don't want to loose track of the fact that a process was followed and the Village Board decided that R-3 was a good fit for the district.

Jim Barton: Can you clarify what an R-2 is?

Jack Crooks: Single family or up to a four family.

Jim Barton: So, the village knew that they were looking at this many units.

Jack Crooks: I cant say what movie they were playing in their head, but what I would suspect from experience is that the Village Board made a decision to get rid of that commercial zone and that district because if you look at what is allowed in a commercial district there could significantly be a lot of opportunities for manufacturing etc. . I think in their review of this it made more sense to make that plot more restrictive than to expand a commercial use. This is more consistent with what is in the area.

Jack Crooks: I think the Planning Board is going to have a lot to say in this and how it is constructed and what is done. And Attorney Stowe is correct when he says the Fire Marshall looking at the NYS building code was really anxious to have the possibility of 2 entrances for that many units. I did talk to Mr. Hotchkiss by phone today I am going to recommend that perhaps the driveway be gated. A lot of properties are gated with access to the fire dept either by key or if need by bolt cutter etc when needed

to get in there. We don't want to get rid of that second entrance but we also understand the concerns of people who live across the street and next door.

That gate could be removed in such a way that perhaps you could still have a reasonable access to get into those 8 spaces directly at west end of property.

Whether that happens or not will be at the discretion of the Planning Board. This Board is here to look at the zoning issues /variances, they will have to work with this parcel as it exists and some of these things are pre existing non- conforming. We have changed the code as Attorney Stowe stated and now the rules have changed

Andy C ole: What notification was made to the neighbors for the rezoning?

Donna Stassen: A public notice in the Suburban News.

Attorney Stowe: The only other point I want to make is that on the plans the numbers are miniscule as to what is there now and what Mike is proposing and I think that is important.

Jack Crooks: One issue of clarification is the square footage required per code is per unit and by adding 6 units vs. 3 units really makes that variance more significant.

Jack Crooks: There was an error in the advertising not that it is going to make a whole lot of difference in what we are doing but there is a fourth item in the setback requirements noted in a letter. The section of the code is 340-16.c.4 which says that when abutting any district other than R-3 that the setback requirement for side and rear is 50 ft we will need to re-advertise.

Jack Crooks: I suggest that the ZBA keep the Public Hearing open.

Doug Berry stated his concern that if the private drive was gated that would affect his tenants who use that access now.

Jim Barton: There would be plenty of room on the south side. It would be easy to have that gate swing.

Jack Crooks: A gate might be part of the solution. You say you don't want the through traffic but you also don't want to have the gate because it might hurt my people and where they park. There needs to be some give and take and we need to have the fire marshal take a real look at this. But again this is a Planning Board issue.

Jim Barton: Will the Planning Board meeting be advertised?

Jack Crooks: It is not a public hearing; it is a public meeting but not a public hearing.

Jim Barton: Can I speak at it?

Jack Crooks: No, the Planning Board will see the minutes from this meeting and will read your concerns.

Donna Stassen stated that Bill Rutter a member of the Planning Board was here this evening. This application is on the March 2, 2011 Planning Board agenda.

Jack Crooks: A couple comments were brought up regarding renting to 55 or older currently the Village Code unlike the Town of Ogden does not have a senior zoning therefore there is no zoning that provides for strictly 55 or older. And as Mike Lopresti said for him to regulate his tenants by age would be discriminatory and probably leave him open for a lawsuit.

Jack Crooks: I look at the new building that Mr. Lopresti built on Pinecrest there was some pushback on that and it turned out to be a very nice unit and the rent is substantial.

John Dole agreed that the meeting should be held open.

At this time the following resolution was offered:

Resolution No. 206 **Introduced by Chairman Dole**

February 17, 2011 **Seconded by Michael Flavin**

Resolved to table the application of Ogden Rental Inc., 2800 Spencerport Road, Spencerport, NY 14559, for approval to convert an existing building into a 6 single family townhouses on property located at 115 Clark Street, Spencerport NY 14559.

Such application has been tabled for the following reasons:

1. To allow the Planning Board time to address Section 340-16.A (1) (k), whereas the Planning Board shall within 45 days of receipt of an application, notify the Zoning Board of Appeals that the Planning Board recommends approval, approval with modifications or conditions or disapproval.

2. To amend the requested setback variance requirements to include 340-16-1 (c) {1}, {2}, {3} and {4} respectively.

Furthermore Public Hearing shall remain open.

Ayes: Dole, Flavin, Unvericht

Nays: none

Approval of Minutes

Motion made by Mark Unvericht seconded by Michael Flavin and carried unanimously to approve the November 18, 2010 minutes as written.

Adjournment

Motion made by Chairman Dole seconded by Michael Flavin and carried unanimously to adjourn the meeting at 7:55 p.m.