Zoning Board Minutes

March 21, 2013

Present **Absent**

Chairman Dole
Michael Flavin
Mark Unvericht
Dale Kellerson
David Wieme

Others Present

Jack Crooks, Building Inspector
Eric Stowe, Village Attorney
Pam Gilbert, Deputy Clerk
Carol Nellis Ewell, Village Board Liaison
Matt Brooks
Gary Inzana
Ross Gates

Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of Matt Brooks/MGB 89 S Union Street, Spencerport NY for the following:

1. A special permit to renovate a second floor into an apartment on property located at same. Whereas, a residential use secondary to a primary commercial use is permitted in a B-1 District upon the granting of a special permit by the Zoning Board of Appeals pursuant to Chapter 340-19-B.(6).
2. A special permit to operate an Irish Pub/restaurant on property located at same in a B-1 District. Whereas a restaurant shall only be permitted in a B-1 District subject to the granting of a special permit by the Zoning Board of Appeals pursuant to Chapter 340-21-B.(1).
3. Variance to permit parking spaces on any lot within 500 ft of the building pursuant to Village of Spencerport Code 340-29-B.
4. A special permit to install metal fencing 5' x 16' on the sidewalk on property located at same. Whereas fences in non residential districts shall not be erected within a special permit from the Zoning Board of Appeals pursuant to Village of Spencerport code Chapter 340-32-B.(1)(2).

Matt Brooks: The second floor renovation will be a one bedroom apartment 600 sq feet with access to the alley lane on the right hand side of the building. For security reasons you will be able to exit off the back of the building there will be egress doors. There will be a second story deck about 18ft x 20 ft. The sq footage is small enough it will be brand new because the building is basically a shell. We talked about allocating that alley to help out with some parking but we can use it for drop off but not for overnight parking. In the big picture the apartment is really a small piece of revenue it is a piece of property on the top and I would like to access the space and it will actually shorten the amount of parking needed vs. if

the pub was brought upstairs as a party room. The construction/building businesses need diversity for the slow times.

Jack Crooks confirmed that even though a ladder truck could not turn into those fire lanes equipment and firefighters would need access at all times for safety purposes and those 2 alleys can only be used for loading and unloading purposes.

Matt Brooks: I absolutely agree with everything Jack is saying and I am ok with that. The fire lane is roughly 15 – 18 ft wide I have a mansard roof over the side door access the other side door for the pub will have the same thing it still leaves about 10-11 ft after the stairway. I will still be able to drive thru very nicely.

John Dole: An open stairway?

Matt Brooks: Yes, we really have to look at budget but I would like to use steel with a really tight knit grate and paint it properly yellow for safety purposes.

Matt Brooks: Now that this is a fire lane during business hours and there was an influx of people I would rather keep the overflow in there rather than having vehicles come in and out. The front of the pub is basically to keep this building as original as we could. I would like to install steel canopies and wrought iron in front of the windows. Since the doors are going to swing open in the summer time I think that will look quaint. There will be two exits from the pub.

John Dole: Number 3 is a variance to permit parking within 500 ft of the building.

John Dole: We know that 2 onsite parking spaces are required for the apartment.

Attorney Stowe: That also applies to the restaurant so the parking is for both.

Chairman Dole: What is the seating for the restaurant?

Matt Brooks: 60

Dale Kellerson: How much parking do you think you will need?

Matt Brooks: I am guessing 10 -12 parking spots turning over throughout the day.

Dale Kellerson: I think the code has a suggestion of one space per table you have at least 8 booths I think about 15 cars. Would you be using the village lots?

Matt Brooks: We will be promoting business to the boaters too and will be utilizing the lot towards the canal too. As soon as you get past Hi Qual there are a lot of spaces that are empty a lot of the time.

Mark Unvericht: Will you just be doing dinners or lunch too?

Matt Brooks: We will be open for lunch and dinner and maybe midnight on weekends.

John Dole asked about the fence request in front.

Matt Brooks: I think that Jack Crooks brought up a good point if I come out five ft I can take care of the sidewalk and the walk around it there definitely is room for the tractor they come down thru with. I usually do up against the building anyways. We could definitely pull it out in the winter it will really only be used in the summertime anyway. I would come up with a system that would be 5 ft out in the summer and mount something up against the door for the look. The fence will look like the diagrams I submitted maybe just a couple little details different.

Attorney Stowe read aloud DPW Superintendent Tom West's letter dated March 19, 2013. Such letter listed the following concerns:

1. In order to maintain the sidewalk in the right of way I would require the fence to be removable to facilitate repairs, tree maintenance or repairing utilities. Fence removal would be the responsibility of the property owner.
2. I would like the fence removed from November 1st to April 15th every year. It would be the responsibility of the property/store owner. This would be due to snow removal.
3. The village will not be responsible for any damage to the fence caused by the village trees or the maintenance of the area.
4. I reserve the right of final approval to how the fence is secured to the sidewalk.
5. Fence maintenance is the responsibility of the property owner and should be kept presentable at all times.

Attorney Stowe suggested giving a one year permit for the fence and come back and reevaluate in a year to make sure everything is going ok. The village has to reserve the right of way.

Matt Brooks: I am going to try and keep off the right of way that is how much wider the sidewalk is.

Attorney Stowe: What does the liquor authority say about the fence?

Matt Brooks: What they want from me is a nay or yeah from here.

Attorney Stowe stated that any approvals be made subject to Tom West's review.

Matt Brooks agreed to sign a waiver stating that the Village would not be responsible for any damages done to the fence.

At this time the Public Hearing was opened 7:30 pm

Ross Gates: I am from the Galley Restaurant my only question is about the parking it is a problem most of the time before we add 15 more spaces. I don't understand what this parking permitted within 500 ft means.

Attorney Stowe: It does not give the patron the right to park in private parking spots, it is meant for municipal parking.

Gary Inzana: I was listening about the egress from the apartment and one concern that I would have is if there is going to be delivery trucks going into the alley it will necessitate getting closer to our building and I would have a concern that at some point someone will hit the end of our building. Another concern I have is parking, as the attorney mentioned we own the building on either side of this. Policing where people park is an impossible task. My concern would be if they started parking where the gun shop and Splatters is. Maybe you are aware or not aware of is the village lot where the gazebo is the first 10 or 12 parking spaces are actually owned by us and leased to the Village for$1.00 a year which has been 15 years and I haven't gotten one dollar yet. We can rescind our lease right now with 30 -60 days notice. Right now it works out good and everybody parks there the village maintains the lot, plows and stripes it. I would be concerned if businesses that depend on that parking were affected. If there is seating and fencing you need to consider what impact that may have on future businesses that might come in. Most of the properties own five ft of the sidewalk and if there is seating outside that would affect me also. Those are my concerns as a business owner that owns property on either side.

Public Hearing was closed at 7:39 pm.

Chairman Dole: Frankly I don't see an issue with the apartment again because of the parking the pub will be an issue.

Dale Kellerson: The apartment seems to be a no brainer I kind of wonder if that size apartment is considered an apartment or a studio but that isn't much of a big deal. The Irish Pub will look really nice coming over the Canal I don't have an issue with the Pub either
The parking spaces is an interesting concept that was how the code reads but I do know with the people that have businesses close by this will be an issue.

Michael Flavin: Parking is going to be a big issue sometimes you come over the bridge and both sides of the street are full and it is a pain getting in and out of the car. The apartment I don't have a problem with.

David Wieme agreed that the apartment is not a problem.

Mark Unvericht also agreed that the apartment is not a problem. Mark stated that parking is iffy but they will walk if they want to go there.

After discussion the Board offered the following resolutions.

Resolution No 225 **Introduced by Chairman Dole**
March 21, 2013 **Seconded by David Wieme**

Resolved, that the application of Matt Brooks/MGB 89 S Union Street, Spencerport NY for a special permit to renovate a second floor into an apartment on property located at same be approved. Whereas a residential use secondary to a primary commercial use is permitted in B-1 District upon the granting of a special permit by the Zoning Board of Appeals pursuant to Village of Spencerport code Chapter 340-19-B.(6). Such approval is subject to applicant obtaining a Certificate of Occupancy and continued compliance with all applicable codes.

Resolved, that the application of Matt Brooks/MGB 89 S Union Street, Spencerport NY for a special permit to operate an Irish Pub/restaurant on property located at same in a B-1 District be approved. Whereas a restaurant shall only be permitted in a B-1 District subject to the granting of a special permit by the Zoning Board of Appeals pursuant to Chapter 340-21-B.(1). Such approval is subject to the applicant complying with all local, NYS and Health Department regulations.

Ayes: Dole, Flavin, Unvericht, Kellerson, Wieme
Nays: none

Resolution No 226 **Introduced by Chairman Dole**
March 21, 2013 **Seconded by Michael Flavin**

Resolved, that the application of Matt Brooks/MGB 89 S Union Street, Spencerport NY for a variance to permit parking spaces within 500 ft of building located at same pursuant to Village of Spencerport Code 340-29-B. be approved. Such approval granted whereas there is no available parking on site and municipal lots are located within such 500 ft to provide ample parking.

Ayes: Dole, Flavin, Unvericht, Kellerson, Wieme
Nays: none

Resolution No 227 **Introduced by Chairman Dole**
March 21, 2013 **Seconded by David Wieme**

Resolved, that the application of Matt Brooks/MGB 89 S Union Street, Spencerport NY for a special permit to install metal fencing 5’ x 16’ on the sidewalk on property located at same in a non residential district pursuant to Village of Spencerport Code 340-32-B. (1) (2) be approved. Such approval granted subject to the following conditions:

1. Applicant to address all comments from Superintendent Tom West’s letter dated March 19, 2013. (Attached)
2. Before issuance of a special permit for proposed fence a written hold harmless agreement must be agreed and in place.
3. Special permit granted for one year and must be renewed at that time.

4. Tom West has final approval as to how the fence will be secured to the sidewalk.

The ZBA based their approval for such fencing on the wide sidewalk in front of applicants building. Furthermore the ZBA does not feel that such fence will have an adverse effect on vehicular and pedestrian passage or the safety and welfare of pedestrians.

Ayes: Dole, Flavin, Kellerson, Wieme
Abstain: Flavin

Approval of Minutes

Motion made by Chairman Dole seconded by Michael Flavin and carried unanimously to approve the minutes of December 20, 2012 as written.

Adjournment

Motion made by Chairman Dole seconded by Mark Unvericht and carried unanimously to adjourn the meeting at 8:16 pm.