Zoning Board of Appeals
Minutes
April 17, 2014

Present	**Absent**
Chairman John Dole	Diana Powell Keery
Michael Flavin	
Mark Unvericht	
Dale Kellerson	

Also Present

Village Attorney Eric Stowe
Building Inspector Patrick Smith
Donna Stassen, Secretary ZBA

Joan Quigley
Ted Rauber
Kris Schultz
Kris Oakes
Jamie Rich
Rich Mogab
Glynne Schultz

Chairman Dole led the Pledge of Allegiance.

Public Hearing

The appeal of Kris Oakes, 202 Hinkleyville Road, Spencerport NY 14559 for a special permit to convert the 2nd floor of an existing commercial building to 2 residential apartment units on property located at 147 S Union Street, Spencerport NY. Such use shall be permitted in a B District subject to the granting of a special permit by the Zoning Board of Appeals pursuant to Chapter 340-19. B (6) in a commercial B-1 District.

Kris Oakes the applicant and owner of the building stated that he just purchased 147 S Union Street and is looking for a special permit to convert the upstairs into 2 three bedroom apartments. The bottom of the building will remain commercial.

Chairman Dole opened up the public hearing at this time.

Kris Schultz stated that he had no issues with the rentals but he raised concerns about the parking. The biggest issue we have had is early in the morning in the winter because the village plows and the apartment dwellers are still parked there and that space in front gets missed. It is not a big deal but just something to be mindful of. The other thing which is important is to please make sure your tenants know that they are coming into a business district; they can't barbecue in the parking lot, repair their

cars or use that parking lot for a playground. With three bedroom units you are apt to have children living there. It can be dangerous at times people fly in off of West Avenue into the parking lot. I support the change it is better than having a business that takes nine spaces. When I rented that space I had 12 people with 12 cars. It is just one of these thing please just pass this on to your tenants the things that are going on. The property line is like 1 ft around the building there isn't any blacktop that comes along with it. A tenant with three vehicles and they are only driving one people will notice if a car is sitting there day after day in a spot especially if it is in front of the cake lady's parking spots. This is really only common sense stuff and welcome to the neighborhood.

Ted Rauber: I own the property up the street at 117 S Union Street and respectfully submit to the board that during the process of building my building we removed a prior building and I used at that time the Planning Board process and it was determined at that point and time that I had to provide parking on site for my apartments in my building. I had to right size my building to accommodate that and also in the Planning Board process with a mixed use building I had to provide a sprinkler system. I wish Mr. Oakes a lot of luck I would like to level the playing field. During my building and new construction I had to provide onsite parking for my tenants I did not have the luxury of using public parking. Four years ago I came to this board to get that process in place. That is my opinion I followed the process I went to Planning and Zoning and had some variances I had to mange through and I did all that. If we are going to alter that process now and not require onsite parking that may help me out moving forward in the future. If you look at the code it is pretty spelled out that you need to have onsite parking.

Kris Oaks: Is there a difference between a new construction site and utilizing an existing building as Mr. Schultz stated that parking is used for the businesses too.

Ted Rauber: I wanted to use the entire footprint and was told I had to have on- site parking otherwise you would be seeing a bigger building there today. I wish you well I think it is a good model people above and business below. I was held at task and I am just asking that this board consider what the current code is as you move forward on this project.

At this time the Public Hearing was closed.

Patrick Smith: Stated that there are 2 issues one for the parking which this board can grant a variance and also the code states that this application needs site plan approval from the Planning Board.

Attorney Stowe: We did this last year with McColley's when they wanted to do the bar with tenants over the bar. As part of that parking did come up and I think that fell under being within 500 ft of municipal parking. The distinction being new construction vs. existing build I think that was the distinction both board made. Site plan review will be required and the parking is another issue which will need to be addressed from this board.

Kris Oaks: As far as site plan review, the foot print of the building can't change in terms of the site it can't be changed at all. I am asking what the Planning Board would be reviewing.

Attorney Stowe: The change in use from commercial to residential Chapter 263 in the code book if you want to take a look at it we have it here.

Richard Mogab: So why did he come here first and not the Planning Board first why is he getting the run around?

It was explained to Mr. Mogab that both boards would need to review and give their approvals the order in which that is done is not relevant.

At this time the following resolution was offered:

Resolution No 239 **Introduced by John Dole**
April 17, 2014 **Seconded by Michael Flavin**

Resolved, that the application of Kris Oaks, 202 Hinkleyville Road Spencerport NY 14559 for a special permit to convert the 2nd floor of an existing commercial building to 2 residential apartment units on property located at 147 S Union Street, Spencerport NY.
Such use shall be permitted in a B-District subject to the granting of a special permit by the Zoning Board of Appeals, pursuant to Chapter 340-19.B (6) in a commercial B-1 District.

Such special permit is granted contingent on site plan review from the Planning Board and a variance from the Zoning Board of Appeals for off street parking.

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

Next on the agenda is the appeal of Richard Mogab, 122 S Union Street, Spencerport NY 14559 for a temporary and conditional permit to install a proposed 10' x 10' accessory building on property located at same. Whereas the Zoning Board of Appeals may in a specific case after due notice and public hearing and subject to appropriate conditions and safeguards, grant special exceptions to the regulations of this chapter pursuant to Chapter 340-64 in a Commercial B-1 District.

Richard Mogab: We have a lot of equipment tools and stuff like that we need the shed for storage.

Mike Flavin asked if he would be using the shed for his wood pile.

Richard Mogab: No the woodpile is outside.

Kris Schultz: I am in favor of the shed it keeps the area cleaned up.

Ted Rauber: There is one across the alley way from him that holds stuff too. There is already a precedent set.

Building Inspector Patrick Smith didn't have any issues with the shed.

Attorney Stowe: This is different whereas it isn't permitted and it isn't prohibited so the cleanest way to go was with a temporary permit. The section of the code states that this is a temporary permit subject to renewal every two years.

The board discussed the location of the shed it was agreed upon to install the shed as shown on survey map prepared by Schultz Associates dated April 1, 2014.

At this time the Zoning Board of Appeals offered the following resolution.

Resolution No 240 **Introduced by Chairman Dole**
April 17, 2014 **Seconded by Mark Unvericht**

Resolved, that the application of Richard Mogab, 122 S Union Street, Spencerport NY 14559 for a temporary and conditional permit to install a proposed 10' x 10' accessory building on property located at same is approved.
Such approval is granted pursuant to Chapter 340-64 which states that the Zoning Board of Appeals may in a specific case subject to appropriate conditions and safeguards, grant special exceptions to the regulation of this Chapter.
Such approval is granted subject to such accessory building passing an inspection every two years from the Building Inspector.

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

Next on the agenda is the appeal of Jamie Lynn Rich, Velocity Xtreme Cheer LLC, 61 Julianne Drive, Rochester NY 14624 to open an indoor recreation (cheerleading practice facility) at property located at 14 Slayton Ave, Spencerport NY 14559 whereas such use shall be permitted in this district subject to the granting of a special permit by the Zoning Board of Appeals after a public hearing.

Jamie Lynn Rich stated that the business will be open in the evenings only from 5:00 pm until around 9:30 pm.

There were no comments from the public regarding this application.

At this time the following resolution was offered:

Resolution No 241 **Introduced by Dale Kellerson**
April 17, 2014 **Seconded by Mark Unvericht**

Resolved that the application of Jamie Lynn Rich, Velocity Xtreme Cheer, LLC, 61 Julianne Drive, Rochester NY 14624 for a special permit to open an indoor recreation (cheerleading practice facility) at property located at 14 Slayton Ave, Spencerport is approved.
Such special permit is granted pursuant to Chapter 24-S and 340-19. B (7). Whereas, such use is permitted in an Industrial District subject to the granting of a special permit.

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

Old Business

Attorney Stowe: Last month was the application of McColley's to extend the fence permit the issue came up with whether it is a hold harmless or an indemnification for the Village and the map that was provided to the board was not an instrument survey map but an architectural rendering showing where the fence was located. I have been working with Mr. Brooks regarding this and once he submitted this instrument survey it showed it pretty clearly that it appeared to be a lot different than what we saw with the fence touching the right of way though not encroaching. I want to check with Tom West to make sure that he has reviewed this and that the fence truly is out of the right of way. We are headed towards resolution.

Dale Kellerson: Is there anything about the café portion? I noticed there are tables and chairs outside.

Attorney Stowe: This board can't issue a permit I don't know where we are at with the sidewalk café.

Approval of Minutes

Motion made by Chairman Dole seconded by Dale Kellerson and carried unanimously to approve the March 20, 2014 minutes as written.

Adjournment

Motion made by Chairman Dole seconded by Mark Unvericht and carried unanimously to adjourn the meeting at 7: 45 pm.