

Zoning Board of Adjustment MINUTES (Draft)

Tuesday, August 8, 2017 7:00 p.m.
Enfield DPW building, 74 Lockehaven Rd.

Board Members and Staff: Cecilia Aufiero, Tom Blodgett, Mike Diehn (Chairman), Kurt Gotthardt, Scott Osgood, Planning & Zoning Administrator

Excused: Ed McLaughlin

Guests: Tim Sedore, Ledgeworks; Ryan Aylesworth, Town Manager; Bruce Hettleman, property owner

Others: Annabelle Bamforth, minutes

Gotthardt moved to open the meeting at 7:06 p.m.

Public Hearing- Special Exemption Application for 60 Main Street

Scott Osgood read the special exception application submitted by Tim Sedore and Ledgeworks, Inc, aloud to the board. The application requests to convert two commercial storefront spaces into residential apartments.

Scott stated that the proper notices had been posted within the required time frame in the local newspaper and personal notices were also mailed to property abutters. Bruce Hettleman told the board that he hadn't received one and heard about the hearing from a person in town.

Presentation:

Tim Sedore of Ledgeworks spoke on behalf of Michael Davidson, the owner of Ledgeworks, Inc. and owner of several properties in downtown Enfield including 60 Main Street. Sedore stated that there are two storefront spaces at 60 Main St. Sedore said that Ledgeworks has sought to attract commercial renters to these spaces, but several years of vacancies at these properties indicates that the demand is greater for housing. Sedore added that Ledgeworks is consciously and actively updating its properties.

Chairman Mike Diehn asked about the photos Sedore presented that appeared to depict cluttered rooms. Sedore responded that those photos were of the existing storefronts that he is seeking to convert to residential space. Mike asked Sedore to confirm that the other photos show recent remodeling of other apartments, and Sedore confirmed. Sedore said he appreciated the board's consideration, and added he also met with Kim Quirk of EVA as well as Osgood regarding this proposal.

Diehn asked what was on the upper floor of the property. Sedore said there were apartments. Sedore said that the proposed units include a studio and a 1-bedroom apartment. Mike inquired about the idea of added parking in light of the proposed units.

Rebuttal:

Bruce Hettleman emphasized that there have been ongoing issues related to limited parking spaces due largely in part to the buildings owned by Michael Davidson. Hettleman said cars belonging to individuals renting from Davidson's properties are often parked on his property at 64 Main Street, and the issue has persisted despite placing "no parking" signs on his property. He added that dumpsters for his property are often blocked by vehicles, preventing scheduled trash pickups from Casella and leading to rodent activity.

Hettleman continued to express concern, adding that he believes overall available parking spaces in the downtown area insufficient. Diehn suggested talking with nearby property owners; Hettleman said he has contacted other owners but the issues have not been resolved. Hettleman maintained there is simply not enough parking in and around Main Street.

Diehn questioned if the proposed increase of residential units would in turn significantly increase the demand for parking and pointed out that parking has been a persistent issue prior to this proposal.

Hettleman noted that he is unsure if there's assigned spaces for Davidson's units. Hettleman said that he believed that Davidson and Ledgeworks are doing a good job with it property renovations. However, he said it's important to take into account the issue of parking.

Deliberation:

Diehn said that the board cannot speak to parking issues. Gotthardt said that parking would be an issue for the selectboard and went on to read aloud Page 23, Article 401.4, Section V of the zoning ordinance:

"Within the downtown area, defined as those properties abutting Main Street and Blacksmith Alley and between High and Oak Grove Streets, lot size, development and the placement of non-residential and mixed-use structures are exempted from dimensional (with the exception of building height), and parking requirements. The use of all floors of all structures directly accessible to grade, except areas used to access upper floors, shall be nonresidential, except by special exception. Parking may be leased or owned, on or off site. Planning Board site plan approval is not exempted."

Cecilia asked for more information regarding problems related to commercial rentals. Sedore responded that trends have been indicating that people are seeking downtown apartments close to amenities.

Diehn said that for special exceptions, the board must review 4 criteria and determine if each of them are true; exceptions cannot be granted if any are found to be untrue.

Diehn stated findings of fact:

-- There are 16 apartments collectively at 60 and 62 Main St. Tim noted the units are a mix of studios, 1-bedroom units, 2-bedroom units and 3-bedroom units.

--At 60 Main Street, the first door accesses first floor apts; the second door on the right accesses stairs to the upstairs units, and the third door accesses the storefront units. Cecilia asked how those first floor apts were approved. Tim said they have been in existence for quite some time, and Gotthardt said he believed it was grandfathered.

--There are two ground floor units on 62 Main St. as well.

Diehn prepared to close public hearing, asked Hettleman if he had any more input. Hettleman reiterated the parking issue and that he was unsure how these additional units would work out, as parking has been a problem for a while. Diehn indicated the issue might need to be resolved between him and Davison.

Diehn closed the public hearing at 7:33 p.m.

Diehn stated aloud four criteria, and requested the board to speak up if any were not holding true:

1. The site is appropriate for proposed use
2. Converting these spaces will not affect property values
3. Adequate facilities will be provided
4. The proposed use will comply with regulations

Gotthardt asked where those 4 criteria came from. Diehn identified page 62 of the zoning ordinance. Diehn said he believed #3 may be the only criteria at risk of not being met. Diehn added that there were other regulations for zoning that need to be followed.

Diehn opined that the parking issue on Main Street is an already-existing problem, and that he does not believe that the addition of 2 small units will exacerbate the problem much more or make much of a difference.

There was discussion of a situation years ago in which a property owner was not able to rent a space commercially and requested a special exception. The ZBA allowed it based on consideration of the property owner's mother who was seeking to dwell in the proposed converted space. After time had passed, the ZBA expected the unit to convert back to commercial space. Aufiero said that it appeared the ZBA has granted these exceptions with a longer term goal of returning to commercial use as soon as the market allows for it.

Sedore read a statement that pledged to make these proposed units easily re-convertible to commercial/office space.

Osgood said the planning board will have a say in this proposal if the ZBA votes to grant this exception.

Diehn asked can if the board could attach conditions to approval of exceptions. Aufiero said yes. Diehn said that the board could attach a recommendation to the planning board to the approval.

Gotthardt noted that the parking issue is out of the ZBA's hands due to zoning regulations. Osgood disagreed; Gotthardt referred to Page 23, Article 401.4, Section V of the zoning ordinance, noting that the text reads "parking may be leased or owned offsite." Diehn said he interpreted this wording as a relaxing of restrictions, but not necessarily that restrictions cannot be made.

Gotthardt said that the phrase "exempted from parking requirements" may mean that Ledgeworks was not required to offer parking.

Aufiero pointed to the criteria. Gotthardt said zoning regulations supercede criteria. Diehn said he was unsure if that was in fact always true. Osgood said that the phrase "may be leased or owned offsite" is followed by "Planning Board site plan approval is not exempted."

Gotthardt said that trash collection was mentioned and that his understanding was that the dumpsters are placed on a separate lot, not connected to the proposed apartments. Hettleman confirmed and said trash from his property goes into the dumpsters. Hettleman said that cars parked in front of the dumpsters was an issue and that he had called Casella in the past, who responded that the cars blocking the dumpsters caused a delay in removal of trash. Diehn said that issue could be relevant to the "will not adversely affect property values" criteria.

Motion: **Chairman Diehn moved** to grant the special exception application. **Gotthardt seconded** the motion.

Discussion: Aufiero said that a special exception had been granted in that neighborhood on the condition that the units be reviewed in 2 years to convert back to commercial space to adhere to the long-term goal of facilitating commercial business. The board asked Sedore if the rents would be more beneficial as commercial or residential units. Sedore said residential units are more beneficial. Gotthardt said it may be hard to determine demand for commercial space and that any business that requires considerable parking spaces is going to think twice about renting space at these units.

Aufiero expressed concern over making this exception permanent.

Diehn asked if the board should amend the motion to require that the exception be reviewed in 2 years. Gotthardt said 3-5 years might be more feasible. Tim noted that most tenants at Michael Davsdon's properties are long-term. Bruce said 2 of 3 of his tenants are long-term.

A motion to attach a 2-year review to the special exception was defeated 3-1.

Diehn said he was not in favor of putting a condition like that because of the likelihood of a long-term tenant moving in and having to move out due to a review of the exception.

Aufiero said this exception is going against the town's zoning ordinance. Diehn disagreed. Gotthardt said he believed it has been the wish of the town to have commercial space on Main Street, but the reality is that it has not been happening. Kurt said Main Street may not be the best location to operate a retail business. Gotthardt asked how long those storefronts have been vacant. Sedore responded that they've been vacant since 2011.

The motion to grant the special exception application submitted by Tim Sedore, Ledgeworks and Michael Davidson **passed** in a 3-1 vote.

Approval of minutes:

Motion: Diehn moved to accept the draft minutes of the June 27th meeting, and Aufiero seconded. Diehn suggested the following correction: the bylaws needed no signature and are in effect, and thus the signature section should be stripped.

The minutes with the correction were approved unanimously with no votes against.

Other business:

Speaking about the posting requirements for the special exception, Osgood maintained that the requirements had been met and while he understood Hettleman's concern about not receiving the notice, he had proof from the USPS that it had been sent and the issue appeared to be between the USPS and Hettleman's mailing address, which is outside of Enfield.

Diehn adjourned the meeting at 8:20.

Minutes prepared and submitted by Annabelle Bamforth.

NOTICE: The preceding minutes are in draft form and have not been reviewed or approved by the Zoning Board of Adjustment.