

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
PUBLIC HEARING
FEBRUARY 5, 2013

A Public Hearing was held by the Board of Trustees on Tuesday, January 5, 2013 at 7:30 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Peter Swiderski, Trustee Bruce Jennings, Trustee Marjorie Apel, Trustee Nicola Armacost, Village Manager Francis A. Frobel, Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto

ABSENT: Trustee Meg Walker

CITIZENS: Nine (9).

Mayor Swiderski declared the Board in session for the purpose of conducting a Public Hearing in accordance with the legal notice that appeared in the January 25, 2013 issue of *The Rivertowns Enterprise* to consider the advisability of amending the Zoning Code to adopt Proposed Local Law No. 1 of 2013 to add permitted uses to the Multi-Family Residence/Commercial (MR-C) District and Proposed Local Law No. 2 of 2013 to exempt certain retail uses and restaurants in the MR-C district from parking requirements.

(See Attached)

Mayor Swiderski: Anyone from the public want to comment?

John Kaftor, 19 Washington Avenue: I have a business proposal for a ground floor studio facing out to the sidewalk. The zoning on 19 Washington Avenue falls under residential zoning. I would like to change the zoning to business zoning, perhaps under a restaurant or coffee shop, whatever the town council thinks is best. The goals are to renovate the space into a coffee shop that has a theater adjacent to it that shows films, mainly classic, independent and family-friendly films. The ticket prices will be lower than most theaters to pay for costs of running the coffee shop and movie theater. Parking, I heard, could be an issue. I live next door to the car wash that closes around 5 or 6 p.m. If it is that big of an issue I could talk to the owner, who is my neighbor, who I know, and maybe rent the parking lot. Then there is a parking lot where the train station is, which is empty at nighttime. The solution to this would be to serve beverages with food, and give some kind of entertainment where everyone is welcome, but keeps a low profile. It is not going to be your typical theater, where you will get lot of business. It will have a low profile, mostly locals.

Mayor Swiderski: This particular public hearing is to review proposals to change the zoning to certain uses. So your approaching the microphone is with the intent of ensuring that your proposal is covered within the proposed changes?

Mr. Kaftor: Yes, sir.

Village Attorney Stecich: The timing on this is really coincidental. Susan called me to say that he was in the office, and did a theater fit within the uses. It does not; a theater does not fit within the uses. Mr. Kaftor is here to talk to the Board about maybe coming up with a use that would encompass his use. Obviously, you would not want to allow any sort of a movie theater because of the parking demand.

Trustee Armacost: Can we ask a few questions about the size? If it is a tiny space, then it is not going to be a typical movie theater anyway.

Mr. Kaftor: The theater would fit about 25 to 30 at most. It is not a big space. I tend to be creative when it comes to space, but also safety is most important. It will not have that much room for that many people. Parking may be an issue, but not as big of an issue as a big corporate franchise.

Village Attorney Stecich: I think the parking could be dealt with. You probably would have to go to the Zoning Board for a variance. The code provides that if you cannot provide parking on-site, if you get a lease for parking spaces someplace else it could cover your parking within a certain number of feet. So that is probably doable. The issue is trying to fit the use in there. I assume you are doing it by also having a restaurant there. How much of it is the restaurant and how much is the theater? Is it mostly restaurant and then a little theater, or is mainly theater and you are providing some food?

Mr. Kaftor: It is going to be both. Probably most profits will come out of the restaurant because the theater will not be high in price. It is just to make some sort of income to pay off the theater and cover the rent. It will not be a large staff. But we need some sort of income.

Village Attorney Stecich: What would be the size of the whole space?

Mr. Kaftor: Like 600 square feet.

Village Attorney Stecich: For the food and where you are showing the movies and everything?

Mr. Kaftor: Everything.

Trustee Armacost: Our maximum is 2,500 so it is a little over a third of the maximum size. It sounds like it is a coffee shop which happens to have this dimension of the attractive,

unusual aspect of showing films in the coffee shop. It is a bit of a stretch to call it a theater if it only fits 30 people and if they are sitting around small tables. To me, it is a small restaurant.

Village Attorney Stecich: Will you be open for food separately? Will you have food at other times? Would it be open for coffee other times, or just while the movies are going on?

Mr. Kaftor: Just like a regular business, it would have certain hours.

Village Attorney Stecich: I know. But would there be a time where you are just serving coffee and snacks and whatever when it is not a movie theater, where the theater would not be operating?

Trustee Armacost: For example, in the morning. If people are coming in the morning will you be showing films, or will you just be serving coffee? Or you might not know yet?

Mr. Kaftor: I will say that I do not know. But I would like to show movies as much as I can while that is going on.

Trustee Apel: It sounds like it is just part of the coffee shop.

Trustee Armacost: It is a gimmick which I really love. It is a fantastic gimmick to have. There are couple of hotels in Washington and various other places where it is a similar kind of thing. You have a lobby area, and old films are being shown as a way to project the image of that hotel. It feels like it is a similar kind of an idea. But to me, it does not feel like a theater. I understand why you want to call it a theater, but for zoning purposes it is not sounding like a theater to me.

Trustee Apel: It is just a restaurant, it is a coffee shop.

Mayor Swiderski: But it is a change to the use.

Village Attorney Stecich: Yes, but that would fit within one of these uses. You should just call it a restaurant. The coffee shop in the train station has entertainment sometimes, but it is still a coffee shop.

Mayor Swiderski: There area a couple of places in Greenwich Village, or they used to be when I was younger, that had a movie going on in the background on a wall and you could have coffee up front.

Trustee Jennings: We have a set of categories here, and we will be presented with innovative uses of space, and we will have to make a judgment about how to shoehorn something into the categories. That is inherent in the nature of zoning laws. I understand the analogy with a restaurant. I was thinking of the analogy with artists' studios. Several times I have gone to the dance studio, not recently to be sure, but over the years. There have been performances there. They set up chairs up in the studio space, and they had an audience and we watched kids dance. It was an audience, it was a performing art. I do not see any difference between 25 people watching a dance and 25 people watching a Marx Brothers movie. But this says artist studios, and that is different from what this gentleman is describing to us. We have to be a little flexible in the way in which we approve this.

Village Attorney Stecich: One thing you could do is, rather than call it artist studios, if you called it fine arts studios it is, I think, broader, because when you think of artists studios you think of painting.

Trustee Armacost: Fine arts is more restrictive. To me, fine art is painting, whereas artists could be other kinds of artists.

Village Attorney Stecich: No. I believe fine art covers movies.

Trustee Armacost: I have never heard it do that. But if legally it does, then that is different.

Trustee Armacost: To me, it is a restaurant.

Village Attorney Stecich: Just by the way, I will tell you the two most artistic theaters in the area, and Scarsdale is closed now, are the fine arts theater. That was also the one in the city. Being a big movie person, I think generally movies are considered fine art.

Trustee Armacost: That is great if it is, but it would be nice to check.

Village Attorney Stecich: But I do think a term fine arts studio might be broader. I think music falls into the fine arts.

Trustee Jennings: I am not suggesting wording here, but I am suggesting the problem of interpretation which we come up against. One other thing occurs to me, then, out of fairness or procedure. Who is going to be doing the interpreting – I guess the Zoning Board.

Village Attorney Stecich: No, the Building Inspector.

Trustee Jennings: My point is, whoever is doing the interpreting of the words we have to be careful that our applicants who do not understand the nuances of this do not come forward and describe their proposal in a way that seems common-sensical but gets them denied because of the way they have formulated it. So we need to have some guidance. I am not saying that every person should hire their own lawyer. But we have got to be fair and careful so they do not trip themselves up. I am not suggesting that we tripped you up in any way, shape or form. I am just saying that so much of this turns on the semantics of words that one has to be careful in how one describes it.

Mayor Swiderski: Marianne, if you can take a look at it. I agree with the concern about fine arts. It is going to be interpreted finely, so to speak, with no pun intended. So whatever the common definition is, make sure that it is broad enough.

Village Attorney Stecich: Let me look through some other code language to see whether there is something else. Sometimes I have seen studios for music, dance, fine arts, something like that.

Trustee Armacost: Or performance space. I do not know if such a thing exists.

Village Attorney Stecich: I will see if I can find a more inclusive term. To me, artist studio looks like painting. But I will see if I can find another one. Maybe it will not be just two words, maybe it will be six words to encompass it more. But I will find a better term. I know where the Board is on it.

Mayor Swiderski: This is not a significant enough change to require another public meeting?

Village Attorney Stecich: No.

Mayor Swiderski: And once this is passed, make your acquaintance with the Building Inspector soon, just for your own sanity's sake so your guesses about how many tables will fit in a space, etc. That is all driven by code. That you are not disappointed, and find out you can only put a single table in there.

Jim Metzger, 427 Warburton Avenue: I am here to talk about my favorite subject in this neighborhood, which is parking. I have no idea what this project is so everything I am going to say pertains to parking as a conceptual idea, and not on any specific project. I love the idea of new types of businesses coming into the Village, especially something that would be unique that could draw people in from outside. We need to be concerned about the type of business and its associated parking. When Hastings House was going to be a steak house I

did not have a problem with the idea of it being a restaurant. People tend to come in and leave at staggered times, so there is a constant turnover of parking. When it became a project that involved a catering hall, all of a sudden you were going to have a very large group of people coming into the Village and staying for three, four, five hours with no turnover of parking, and then leaving en mass. So we need to understand what the concept of the business is before we can determine whether the parking would be appropriate or not. Also, there is a project that is going to be coming before the Board, if it has not already, and I know preliminary plans have been drawn up, for affordable housing on the corner of Warburton and Washington.

Village Attorney Stecich: It is no longer an affordable project.

Mr. Metzger: But even if it is not, if they are still looking to put 16 units of housing on that, all of a sudden we have 16, probably 18 to 20, cars coming into that corner again. This is going to become another issue. We are talking about trying to shoehorn another potential 25, 30, 40 cars into that one little corner of Hastings where we do not have associated adjacent parking. That becomes an issue for our neighborhood. One of the things we have talked about is the idea of raising fees for parking at Zinsser lot. I know the Board has not discussed that; people have been discussing that as a means of freeing up some parking. As those rates go up, the potential for people parking in the neighborhood increase. And, of course, there is always the talk of increasing the number of parking meters to generate income for the Village. That reduces the amount of parking for the people that already live in the neighborhood. So it is not a simple, let-us-look-at-this business model. We have to look at the entire neighborhood as we make these decisions.

To eliminate the off-street parking requirement for retail businesses of less than 2,500 square feet: is that 2,500 square feet per business, or 2,500 square feet per building? If you have a smaller building that may have three commercial tenants in it, does that parking affect the whole building or just the individual tenants? It could generate some additional parking issues. We need to define that before the proposal gets passed.

Village Attorney Stecich: The way it reads is, it says a restaurant, a retail use with a gross floor area. I think Bruce asked it in the context of maybe several small restaurants, and if they are all in one building, the entire thing is a restaurant use.

Mr. Metzger: Let us say there is a restaurant on the ground floor. *This gentleman* comes in, and I am hoping every business that comes into Hastings is wildly successful. If he puts that in, and then someone decides this is a great location, I am going to move my office space above, and I have four employees. Now you have two different uses in the building; they are both commercial. Is it a building foot print, or it is a per-commercial use?

Mayor Swiderski: Per use.

Mr. Metzger: So potentially, we could have two or three commercial uses that would not fit the letter of the law as I think most of us are envisioning it. I would like to make sure that that gets clarified before the Board takes a vote.

Hearing no further comments, Mayor Swiderski asked for a motion to close the Public Hearing.

CLOSE OF PUBLIC HEARING

On MOTION of Trustee Armacost, SECONDED by Trustee Apel with a voice vote of all in favor, Mayor Swiderski closed the Public Hearing at 7:50 p.m.