

City of Port Jervis, New York



ZONING BOARD OF APPEALS

August 13, 2013

Attendance

The following Board members were present:

Tim Simmons, Chairman
Allie Acoveno
Hermann Barth
Earl Miller
Lisa Randazzo
Tom Sexton
Robert Fink, Attorney

Members absent: Dan VanKleeck

Also present: Councilman Liaison Carl Hendrick, Building Official Wayne Kidney, and Planning Board Chairman Tom Vicchiariello

Public Hearing
continued—165
Jersey Avenue
SBL: 19-2-10

Mr. Sohag Shah
165 Jersey Avenue
SBL: 19-2-10

Convert mixed use commercial to a single family dwelling

The public hearing was continued at 7:00 p.m.

Mr. David Bavoso, representing the applicant, provided the Board with an income and expense statement for Mr. Shah and information submitted by Hawks Nest Realty to show competent financial evidence that there cannot be a reasonable rate of return on this property.

Mr. Richard Roberts, of Hawks Nest Realty, spoke about three (3) comparable properties recently sold. The fair market value for the Jersey Avenue parcel is \$112,200, which does not include expenses that would be incurred at the time of closing. The rental value of this parcel, according to Mr. Roberts, is difficult to calculate but is estimated to be approximately \$500 per month.

Mr. Simmons asked what type of business Mr. Shah could expect to have as a potential renter. Mr. Roberts stated that a service-type business could rent the space and added that the available square footage is too small for a retail-type business. Mr. Shah and Mr. Bavoso discussed Mr. Shah's attempts to rent to FedEx and a florist. Both were unsuccessful due to the limited size. Mr. Roberts added that businesses are seeking 300 to 400 ft² with a bathroom. Mr. Miller asked if a bathroom was available. None is available for that space. Mr. Roberts noted that a 190 ft² space would be difficult to rent.

Mr. Miller commented that the building is not handicap accessible. Mr. Kidney noted that federal law governs handicap accessibility.

Mr. Bavoso noted that Mr. Shah did not purchase the property with the intent to seek a zone change and requested the Board find in favor of the use variance and approve the application.

Mr. Fink asked if the lack of handicap accessibility, the limited available square footage, and lack of a bathroom would make this unique. Mr. Bavoso stated that these factors would make it unique, adding that this parcel is also one of only a few in that area that are owner-occupied.

Motion by Ms. Randazzo, seconded by Mr. Barth, to close the public hearing at 7:12 p.m.

AYE: 6 ABSENT: 1 (VANKLEECK) ABSTAIN: 0 NAY: 0 CARRIED

Regular Meeting Chairman Simmons called the regular meeting of the Zoning Board of Appeals (ZBA) to order in the Council Chambers, 20 Hammond Street, Port Jervis, New York on Tuesday, August 13, 2013 at 7:12 p.m.

Minutes of 7/2/2013 approved Motion by Ms. Randazzo, seconded by Mr. Barth, to approve the minutes of the July 2, 2013 meeting.

AYE: 5 ABSENT: 1 (VANKLEECK) ABSTAIN: 1 (MILLER) NAY: 0 CARRIED

Discussion of Public Hearing— 165 Jersey Avenue SBL: 19-2-10

Mr. Simmons stated that he had concerns about creating precedence in that area, but after listening to the information presented and reviewing the documentation, he believes the applicant has demonstrated a need for the use variance. He added that the Board looks at each application individually prior to making a final decision.

The Board had reviewed the criteria of a use variance at the July 2, 2013 meeting and approved all but criteria number one, which states the following: the applicant cannot realize a reasonable return provided that lack of return is substantial as demonstrated by competent, substantial evidence. The Board feels Mr. Bavoso and Mr. Shah have provided adequate evidence and documentation to meet this criterion.

Motion by Mr. Miller, seconded by Mr. Sexton, to declare the Port Jervis Zoning Board of Appeals lead agency and the application constitutes an unlisted action under SEQR with no adverse environmental impact.

AYE: 6 ABSENT: 1 (VANKLEECK) ABSTAIN: 0 NAY: 0 CARRIED

Motion by Ms. Randazzo, seconded by Mr. Miller, to approve this application as advertised.

AYE: 6 ABSENT: 1 (VANKLEECK) ABSTAIN: 0 NAY: 0 CARRIED

Pre-Submission(s) There were no pre-submissions before the Board.

Old Business No old business was discussed by the Board.

New Business No new business was discussed by the Board.

Planning Board Report given The application for 100 Pike Street (Rite-Aid) was approved with conditions. Mr. Vicchiariello anticipates signing the final site plan within the next couple of weeks. There are no items on the agenda for the August meeting, so there will be no Planning Board meeting held in August.

Code Enforcement's Report given Mr. Kidney noted that after only one (1) week of full compliance with removing graffiti from the rear of the 100 Pike Street building there is again extensive graffiti on the structure.

Mr. Kidney stated that the proposed zone change from CBD/SC to RO has been forwarded to the City planner and attorney. He discussed the thirty-nine (39) parcels affected, which includes thirty-one (31) within a CBD zone and eight (8) within a SC zone. These properties are and have been residences and cannot be realized as viable investments for commercial use. The change to RO district would, hopefully, end the blighting in this area and would be a positive step for the City. He added that the change may be adjusted somewhat during the public hearing and that the properties within an RO zone could also be used as offices. Mr. Kidney noted that the process could take approximately four (4) to six (6) months and commented that the properties currently not maintained by the owners or property managers have become a burden to the City to maintain.

**Council Liaison
report given**

Mr. Hendrick commented on the proposed local law modifying §535 and §215 of the City Code pertaining to animals and kennels. It has been referred to the Planning Board for review and comment. The proposed changes will, in part, eliminate the necessity of pet owners to come before the ZBA for a variance and move that section of the code from zoning to animal ordinances. The code will refer to laws set by Agriculture and Markets and enforcement will move to the Animal Control Officer.

Adjournment

Motion by Mr. Sexton, seconded by Mr. Acoveno, to adjourn the meeting at 7:31 p.m.

AYE: 6 ABSENT: 1 (VANKLEECK) ABSTAIN: 0 NAY: 0 CARRIED

The next meeting is tentatively scheduled for Tuesday, September 3, 2013 at 7:00 p.m.

*Respectfully submitted,
Robyn Hendershot
Secretary*