

ZONING BOARD OF APPEALS

PUBLIC HEARING

February 13, 2014

CONVENED: 7:03 p.m.

BOARD MEMBERS PRESENT: Wade Davis
Edward Komara
Mary Cabral

BOARD MEMBERS ABSENT: Eleanor Rosenthal
Bill Vitek (alternate)

A public hearing of the Village of Potsdam Zoning Board of Appeals was held on Thursday February 13, 2014 in the Civic Center Board Room, Park Street, Potsdam, New York.

Wade Davis, Chairman, stated that the Public Notice of this hearing was published in the February 7, 2014 edition of the Courier Observer. He then proceeded to read the Legal Notice.

Davis then explained the procedure to be followed for the meeting.

Use Variance Application #2013-12-12 submitted by Marc Leuthold for 1 Market Street.

BUILDING INSPECTOR'S REPORT: Gregory Thompson, Code Enforcement Officer, introduced the application stating the applicant is seeking a use variance to establish a residential use on the ground floor of his building in the B1 Central Overlay District. This use on the ground floor is prohibited by Village Code.

APPLICANT AND/OR APPLICANT'S AGENT: Robert Bogdan, attorney for the applicant, distributed and submitted into record exhibits to the Board that included a CD of the PowerPoint presentation the applicant would present later in the public hearing, a copy of the zoning files from the property folder kept in the Code Enforcement Office that he received after foiling the information from the Village, a copy of the SEQRA review that was prepared by Fred Hanss and later distributed to the Board for their review, comments and approval, a copy of the 239-M Review prepared and previously submitted to the Board from the St. Lawrence County Planning Board, financial statement pertaining to 1 Market Street prepared by Marc Leuthold, a copy of an email that was sent to Leuthold from a prospective tenant for the commercial space, and a complete packet of all the information aforementioned above.

Bogdan started his presentation as representative of the applicant by mentioning a use variance that was applied for and received in June 2000. Bogdan stated if this is true, then the whole meeting is mute as a use variance runs with the land and not the owner. But, he continued, he would continue on with his presentation as he does not factually know whether this variance did get approved.

Bogdan continued by stating Leuthold purchased the building in November 2004 and paid \$69,000; added Leuthold is current on his taxes. Bogdan stated the property is in three Zones including the B1 - §180-15, Overlay - §187, and §180-17.1 - Ground Floor Residential (the latter is not a zone but one of many regulations governing the zones mentioned). The building is a three story building (not including the basement); there is one apartment on the third floor, two apartments on the 2nd floor, and commercial space on the first floor.

In April 2013, Leuthold was granted a building permit by then Village of Potsdam Code Enforcement Officer Larry Colbert to convert the ground floor into a residential use; the cost of the project was estimated to be around \$25,000. Subsequently, Leuthold spent \$15,000 to have the work start. On July 19, 2013 a stop work order was issued by the Village of Potsdam reason being that the building permit was issued erroneously because of the inexperience of the Code Enforcement Officer who had not researched the fact that this use is not allowed in the zone the building resides. Leuthold stopped work and the ground floor sits vacant. Subsequently, a use variance was applied for by the owner. Bogdan stated the applicant would like to use the rear portion of the first floor as residential; he noted that plans submitted with the application for a building permit shows what Leuthold's reconfiguration of the first floor would look like. The front portion of the first floor (or that portion that fronts on the side-walk) would remain commercial space. The rear portion to be converted to residential is described as a studio apartment with a kitchen, bath, and storage area; this is where Leuthold would live.

Bogdan stated that the Zoning Board of Appeals members know they can grant a variance with conditions and/or restrictions; a split use of commercial/residential is being sought.

Bogdan then talked about the four use variance considerations the Board must review; realization of reasonable return, the hardship for which the variance is being sought is unique, the use variance being sought will not alter the essential character of the neighborhood, and the hardship was not self-created. Bogdan stated the property falls under three specific chapters of the zoning ordinances. Bogdan stated out loud each use that is allowed in the B1 zone and noted that some of the uses such as a motel or funeral home are not viable for the first floor.

Bogdan then skipped ahead to addressing the financial hardship the applicant is suffering. Bogdan noted the financial data submitted by Leuthold and stated that for the 111 months that he has owned the property the commercial space on the first floor has been vacant for 24 months; in summary the first floor has been vacant 27.7% of the time Leuthold has owned the building.

Bogdan then stated Leuthold purchased the building for \$69,000 and has since invested \$87,500 in to restoring the property. Bogdan added that the property was in severe disrepair when purchased and has spent a total of \$156,000 into the building. Gross rent received from unit 1 over the 10 years owned by Leuthold is \$42,132.00; Bogdan stated his client feels this is not a reasonable return.

Regarding the uniqueness of the property, Bogdan stated Leuthold's PowerPoint presentation will show the uniqueness some being that 1 Market Street is located at intersection of three streets, behind the building is a river, on his only side is a bridge, no side or back yard (other properties adjacent have small pieces of rear land), there is no on-street parking directly in front of his building and the closest on-street parking is more than 50 feet away and therefore there is

no service area for commercial business, no dumpster area, and no delivery area, and therefore unique compared to other buildings in the zone.

Bogdan then stated the variance, if granted, would not affect the character of the neighborhood. The applicant is looking to utilize 520 sq. ft. of the rear portion of the ground floor as residential. The space is already constructed and a wall separates the commercial space from the residential space; from Market Street all you see is the commercial space. Bogdan continued stating if you look towards the building from the bridge you see three new windows that were installed. Bogdan then described what the front façade looks like after it was rehabbed.

Bogdan again talked about the application for use variance from 2000 and that the applicant at that time wanted it all to be residential.

Bogdan then spoke to the hardship and that it was not self-created; Leuthold did not create the lack of parking or the lack of rear access or land area, or lack of no service area. Bogdan then stated that in today's society – a motorized society, people don't like to walk. Bogdan concluded stating taking all that has been stated into consideration, Leuthold has been suffering a hardship; Leuthold lives at that building and he needs to get his money back.

Bogdan handed out a complete summary of his presentation along with copies of the exhibits he already submitted to the Board.

Marc Leuthold, the applicant, then spoke. Leuthold thanked the community for attending the meeting and then presented his PowerPoint presentation. (The PowerPoint presentation is on CD and affixed to the original application.) A couple of things mentioned throughout the presentation is that he investigated the idea of creating one or two parking spots on the side of the building next to the bridge and the Department of Transportation said no because there wasn't enough land; garbage storage is on the second floor in the hallway which has to be carried down once a week to be put out by the road; he's the only owner-occupied building in downtown; he feels what he is doing and requesting will enhance the character of the area.

THOSE IN SUPPORT OF THE APPLICATION: Scott Langlois, Poplar Street, stated he is a 15 year resident and as a contractor has worked on numerous buildings in the Village. Langlois stated he has never met anyone like Leuthold in regards to his interest in preserving the history of the building. Langlois has worked with Leuthold on the restoration of the building including new sewer lines. Langlois fully supports what Leuthold is trying to do at 1 Market Street.

Kimberly Deschamp, former Economic Developer for the Village of Potsdam, spoke to Leuthold's idea of have the small commercial space in front for local artists to display their work and feels the arts culture is critical to keeping downtown viable. Deschamp states the project serves the Comprehensive Plan by bringing people into downtown; feels it's a perfect solution and adds to downtown.

Laura Passmore, 415 State Highway 11B, Potsdam, business owner in the Village of Potsdam. Passmore talked about the history of Potsdam and that the Village was originally designed for horse and buggies. Then came the automobile and downtown became congested and became almost inaccessible by car and eventually a bypass was built that also led to increasing the business district to the north. Passmore stated downtown Potsdam is not convenient anymore for

a business district; most all income is derived from renting apartments overtop of the commercial units. Passmore feels that destination businesses will keep the downtown viable. Continuing she stated downtown should be about the arts, culture, entertainment and dining. People will walk to a destination place. Passmore compliments Marc on what he is doing and states that all the buildings have problems but he's got more. Passmore credits Marc for the care, time, money and interest he has invested in this property and is happy he's willing to fight the battle. Passmore added reverence for his artistry and his willingness to give up his 3rd story residence (in that building) to live in the studio on the 1st floor to try and make his investment work.

Ann McLaughlin, 892 Butternut Ridge Road, Canton, is a property owner in the Village. McLaughlin stated that Leuthold knew the limitations of the building when he purchased it but that it is not realistic. She talked about the challenges of customers, suppliers, and services not having access to the building. McLaughlin fully supports his project and request and added she doesn't believe Leuthold has any intention on selling art from that small commercial space proposed but she disagrees stating if people see the art in the windows and go inside to view the art they will buy it.

Steve Markinson, 2 Drumlin Drive, stated he is a forty year resident, works at SUNY Potsdam and knows Leuthold very well. Markinson supports Leuthold for two reasons; one being that Markinson is an archeologist and feels that "the older the better"; with what Leuthold has done to restore the building is incredible. Markinson stated Leuthold has earned the right to use the building in a way that will not affect the surrounding area and the requested use will help Leuthold financially. Second, Markinson believes what Leuthold wants to do with the space will bridge the elitist college and the regular community. Markinson continued stating Leuthold is a world renowned ceramicist with a recent opening in New York City where people came from all over to see his work. Bringing this kind of artistry to downtown will allow the community to better appreciate art and what colleges can provide as well as experience a local prestigious artist. Markinson ended by stating he is in full support of the request and the project.

John White, White's Hardware owner at 1-11 Maple Street, across the bridge from 1 Market Street, stated his corporation is in full support of Leuthold and hopes he can complete what he has started.

Matt Hafer, KMA Construction 33 ½ Main Street, stated he has felt very lucky to have the opportunity to work with Leuthold and reminds the Board that they too have that opportunity.

THOSE IN OPPOSITION OF THE APPLICATION: None

PUBLIC COMMENT: None

COMMUNICATIONS: St. Lawrence County review - returned for local action.

QUESTIONING OF SPEAKERS BY BOARD MEMBERS: Edward Komara asked Leuthold if the same conditions of the property were present at time of purchase. Leuthold stated yes.

VOTE REQUIREMENTS: Davis read the vote requirements.

The Public Hearing ended at 8:36 p.m.

ZONING BOARD OF APPEALS

REGULAR MEETING

February 13, 2014

A Regular Meeting of the Village of Potsdam Zoning Board of Appeals was held on Thursday, February 13, 2014 in the Civic Center Board Room, Park Street, Potsdam, New York.

The meeting was called to order at 8:37 p.m. and roll call taken:

MEMBERS PRESENT: Wade Davis
Edward Komara
Mary Cabral

MEMBERS ABSENT: Eleanor Rosenthal
Bill Vitek (alternate)

APPROVAL OF MINUTES: None due to lack of appropriate quorum.

COMMUNICATION: None

PUBLIC COMMENT: None

OLD BUSINESS: None

NEW BUSINESS: Use Variance Application #2013-12-12 submitted by Marc Leuthold for 1 Market Street.

Wade Davis stated the four tests that need to be met in order to grant a use variance. If the applicant does not meet any one of the four tests the application must be denied. Davis stated the four tests as per §180-33 (C) (2) (b) [1]-[4].

Komara stated he'd like to take advantage of the provision of the 62 days allowed to render a decision to look at all the information that was submitted. Komara also stated that at the next meeting they may have a couple more members to weigh in on the application and would also like to review the variance that was supposedly granted in 2000.

MOTION MADE by Edward Komara to table Use Variance Application #2013-12-12 to review all the new documentation that was submitted to the Board and the reflect on the PowerPoint presentation the applicant conducted.

MOTION SECONDED by Mary Cabral.

ALL IN FAVOR – NONE OPPOSED – MOTION CARRIED

Bogdan asked when the next meeting would be held. Clerk stated the next meeting would be March 8, 2014. (This date was wrong; the meeting will actually be held on March 13, 2014 – the applicant and representatives were notified on February 14, 2014 via email.)

OTHER BUSINESS: None

MOTION WAS MADE by Edward Komara to adjourn.

MOTION SECONDED by Mary Cabral.

The meeting adjourned at 8:41 p.m.