

ONEONTA, NEW YORK – APRIL 22, 2013 - 7:00 P.M.
REGULAR MEETING ZONING AND HOUSING BOARD OF APPEALS PG. 1

PRESENT: Commissioner Karen Geasey
Commissioner Louis Shields
Commissioner John Rafter
Commissioner Paul Robinson

ABSENT: Chair Ed May
Commissioner Joseph Ficano
Commissioner Robert Lawson
Council Member Bob Brzozowski

Vice Chair Robinson called the regular meeting to order and asked the Clerk to call the roll.

APPROVAL OF MINUTES

The board approved the minutes of the regular meeting held February 25, 2013 without benefit of a motion.

Commissioner Robinson asked if anyone wished to address the board on a matter other than what was on the agenda. Hearing none, he stated the board would consider the variance request for 261-267 Main Street.

He stated that Ms. Lizabeth Rose was seeking an area variance to install an upper directory sign on the second floor of the building that faces Ford Avenue. The sign is to advertise the business located on the first floor of the building and a business owned by the property owner not located in the property.

CORRESPONDENCE

The following Memorandum, dated March 11, 2013, was received from Ordinance Inspector Ferris:

SUBJECT: PROPERTY ADDRESS: 261-267 Main Street
TAX MAP #: 300.06-1-25
APPLICANT: Lizabeth Rose
PROPERTY OWNER: Wilber & Clark Enterprises
ZONING DISTRICT: MU-1: Downtown Mixed-Use District
OF DWELLING UNITS: 11
OF BUSINESSES: 8

PROPOSAL: The applicant wishes to install an upper directory sign on the 2nd floor of the side of the building that faces Ford Avenue. This sign will be used to advertise the businesses located on the 1st floor of this building and a business owned by the property owner that is not located in on this property.

AREA VARIANCE:

300-88 C (4): Area variance. In cases where relief is sought by area variance, the Zoning board of Appeals may grant such area variance as defined by New York State Law.

<i>CODE SECTION(S)</i>	<i>PERMITTED / REQUIRED</i>	<i>EXISTING/PROPOSED</i>
<i>§ 300-19 A</i>	<i>Off-premises signs are not permitted in any district.</i>	<i>1 of the businesses on the proposed sign is not located at this property.</i>
<i>§ 300-23 A (4)</i>	<i>Upper directory signs are for businesses located on the 2nd floor of the building where the sign will be located only.</i>	<i>1 of the businesses on the proposed sign is not located at this property. 8 of the businesses on the proposed sign are located on the 1st floor of this building.</i>

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The surface area of the sign can be 8 of the proposed individual business signs no larger than 1 square foot per business. will be approximately 4.8 square feet. 1 of the proposed individual business signs will be approximately 15.7 squarefeet.

The entire sign is not to exceed 12 square feet in total area.

The entire proposed sign will be approximately 56.8 square feet.

Commissioner Robinson said the variance relates to 300-19 which states that off-premise signs are not permitted in any district as well as to 300-23 (A) that states that upper directory signs are for businesses located on the second floor of the building where the sign will be located only. The surface area of the sign can be no larger than one square foot per business and the entire sign is not to exceed twelve square feet. Commissioner Robinson then recognized Lizabeth Rose and asked if she would like to address the board.

Ms. Rose said she had some color photographs for the board. She said the first floor had many windows so you could not put a sign on it. The proposed sign would need to be on the second floor. There had always been a sign on the Ford Avenue side and they were trying to overlay it with the proposed sign. They would like it on the Ford Avenue side so that it is visible while walking down Main Street. Historically Main Street ended at Ford Avenue and it was difficult to pull people past that point to the new establishments located in the area of Main Street where her business was located.

Commissioner Robinson asked if anyone wanted to add anything.

Peter Clark introduced himself and his wife Mary and said they had been trying to advertise that Peter Clark Student Rental was not just student rentals but also did other things. There were 19 rooms upstairs in this building available to rent. Those rooms allowed the downstairs to be an incubator type situation. The rents to businesses on the first floor were very low; the building provided the heat, electricity and advertising. When this building was purchased, the building at 9-11 Elm Street had also been purchased. There were two businesses now in that building.

Commissioner Robinson then asked the board for their input.

Commissioner Geasey asked if there were plans to put something similar on the front of the building where there was sidewalk space between some windows. She said that would address the problem with the code and the level of the sign.

Ms. Rose said it would be wonderful to have one there but the problem with that location remained it could only be seen from down at that end of the street.

Commissioner Geasey said because that was the problem with 300-23 (A), as all of these were first floor businesses displayed on the second floor. If the signs were on the front of the building on the first floor that would be permitted.

Liz Rose said they would love to have one there as well but you really would need to be almost in front of the building to see that. The idea was to get people down to that end of Main Street.

Commissioner Geasey said there had been sandwich board signs there.

Ms. Rose said yes but if there were eight of those sitting out front, it would not be attractive.

Peter Clark stated the reason the sign was first going to go up there was when the Sampson Floor sign was removed the word "floor" in blue was still visible. The purpose of the proposed sign was to try to hide that. They had inquired and thought this could be done and then found out there were complications with the code. They would like to have one down in the center of the building. There was a space there that had some old graffiti on it they had not been totally able to hide and that would hide that.

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Commissioner Geasey asked if at some point in time a request would be made for that as well.

Peter Clark said they had not wanted to ask for too much at once.

Commissioner Geasey said there was the size issue. If the entire sign went up as proposed it was four times the allowable space and there was always the problem with setting a precedent. If the board allowed this, then everybody else would get to do it.

Liz Rose said she thought the board approved the Clinton Plaza for an oversized sign.

Commissioner Geasey asked four times to big.

Liz Rose said yes.

Commissioner Geasey said that was probably before her time on the board.

Peter Clark said if someone were down at Ruffino's the sign would not be visible. There were three signs that were in place now. They were put up on that side of the wall because they could go up if the stores did not have windows. It seemed it was okay to blast signs all over the building but to put them up in an organized fashion would not meet code.

Commissioner Geasey asked Code Enforcement Officer Chiappisi for his input.

Code Enforcement Officer Chiappisi said well yes and no. This was a unique building. It was not so much the building itself but the use the building that has made it unique. He thought the board had to look at what the code was for the entire area and needed to look at specific circumstances surrounding the use of a particular place. Then the board should make a determination whether it fit in that particular instance and whether to change the code in that particular instance if it made sense. Because of the way the building was designed with 8 businesses, the alternative was to plaster 8 individual signs all over.

Peter Clark stated the yellow brick had been left and the yellow canopies had been added to make the building look as nice as possible. He said the building looked good and stood out and once again, they wanted to draw people down the street.

Commissioner Rafter said if this particular sign was approved what would happen if the businesses that were on the first floor, the nature of the building itself should change does the permission for the sign just extend to whatever square footage is up there to say whatever would be put up there

Code Enforcement Officer Chiappisi said once this sign was approved, it would be.

Commissioner Rafter asked this particular sign or could any sign replace it.

Ordinance Inspector Ferris said there would have to be a new application filled out so Code Enforcement would know what was changing to confirm that it was not changing things previously approved.

Commissioner Rafter stated there were many variables involved such as the size and number of businesses. He asked what if it turned out there was one type of business that was occupying the building or it became entirely Mr. Clark's advertising. He was looking for what kind of latitude there would be to change the sign of these dimensions.

Code Enforcement Officer Chiappisi said the sign would be grandfathered in. It would go with the building and the use of that building at that size with the placement on the second floor.

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Commissioner Rafter said it would be grandfathered no matter who owned the building; the variance would go to the building. The proposed sign and the purpose of the sign would just become part of the building.

Code Enforcement Officer Chiappisi said if everything went under after two years he could order the sign removed in which case the grandfathering would go away.

Commissioner Rafter said what latitude over time would attach to that sign, if the building hypothetically was sold and another owner said they wanted to change what is up on that sign now.

Code Enforcement Officer Chiappisi said as long that it advertised a viable business within the building. If it ceased to do that for a period of two years then he could order it removed.

Commissioner Rafter said it would continue to a new owner and the sign could be changed.

Commissioner Geasey asked could that be a condition of the approval.

Code Enforcement Officer Chiappisi and Commissioner Rafter both stated it would not go to the owner. It would go for the building.

Commissioner Geasey said if these businesses where no longer in there, if it only had one business it would be huge.

Ms. Rose stated it was a directory sign and asked if it could it be changed from a directory to a regular sign, since there were panels that slid in and out?

Code Enforcement Officer Chiappisi said that was an interesting point he would have to look into that.

Ms. Rose said it was a directory sign. It was not a big sign so they could not cover it with a big sign.

Commissioner Rafter stated he liked the incubator concept and wanted the businesses in that enclosed area to succeed. He thought that advertising would bring in people. That was a very desirable thing for the owners of the building and the people that occupied that space. He was just concerned about the long term where the granted variance would go with the building itself.

Code Enforcement Officer Chiappisi said the point was that Ms. Rose was asking for a directory sign, which was separate from a regular wall sign. If that was one business advertising it would be a wall sign. If someone came in to change the sign, he would have the authority deny it and require a new variance.

Commissioner Rafter said there were a lot of variables for this space. He wanted to see what the implications were of a variance that would now permit this sign if the building ever sold.

Commissioner Shields said he was not opposed to the sign. He thought it was a fine directory sign. He understood the difficulty of advertising and still trying to reach an audience. He liked the idea of the Ford and Main location and hoped they would pursue advertising on the front at some point. He could not imagine advertising all that was in that building any other way. They wanted people to know they were there, find them and to shop there. He applauded their efforts; it was a great building.

Commissioner Geasey stated she understood Mr. Clark's point about wanting to get credit for being more than student rentals but was there another way to get credit under the shops at Ford and Main other than advertising for a separate business. She asked if the part that was colored with pictures would not be there and inquired if something else by Wilber and Clark could be placed in the spot.

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Code Enforcement Officer Chiappisi said that was an interesting question and he did not know the answer. There were rentals in that building. If there were no apartments in the building that would be off-site advertising. However, there were apartments in the building so it could be argued either way.

Commissioner Robinson asked were there any more questions.

Commissioner Shields asked if Mr. Clark was to decide to rebrand his business would he still have with this directory sign to display the new brand if he chose to do that.

Commissioner Robinson said the applicant had labeled it a directory for shops at Ford and Main They were calling it a directory sign. He then asked if there was a motion.

Commissioner Shields said he made a motion that the board approves all or should they be done one at a time.

Commissioner Robinson said the board could take them all at once if everyone agreed. He then asked was there a second on the motion.

Commissioner Geasey said she would second.

Commissioner Rafter said regarding the language of the motion.

Code Enforcement Officer Chiappisi stated it should state specifically directory sign.

Commissioner Rafter said there was one other question. He asked if this set up in such a way that the signage could change depending on the occupancy and the spaces. He asked if this sign had that kind of flexibility.

Peter Clerk replied the signs that were up now were actually the signs that could slide in and slide out; it would be able to be adjusted quickly and easily.

Commissioner Shields asked for a point of clarification. He wanted to know if the signs that were freestanding by themselves would come down when the directory sign went up.

Peter Clark stated yes and they would then be in the directory sign.

Commissioner Geasey said the board had to be clear that this was as it was proposed and was what was going to go up and wanted to be sure that no changes can be made unless it came back to the board.

Ms. Rose replied that was what she had been told.

Peter Clark said they wanted to be able to slide new names in without coming to the board.

Commissioner Geasey said she was not referring to the businesses, but the part underneath, the Peter Clark Rental part. She wanted to know if that was exactly the way it was going to be. She thought it would have to remain like that unless he came back before the board.

Commissioner Shields said he thought that was a slide in sign.

Ms. Rose said that was not a slide in sign.

Commissioner Robinson said if there were going to changes, that they should specify it.

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Commissioner Geasey said that was what she was saying either they had to make a quick decision to keep it or come back.

Ms. Rose said because of the apartments upstairs that they should keep it.

Commissioner Geasey said she was not clear as to whether or not the board was voting on specific tiles only. She asked could the applicant change that part of the sign also.

Commissioner Rafter said the thing he thought would be relevant, if Project Anthology should go out of business and replaced by something else, they would not need to come before the board.

Commissioner Geasey said she was talking about the top piece.

Commissioner Robinson said it was being used as an example.

Commissioner Rafter said if this was just the verbiage and an image on the sign if the nature of the business changed.

Commissioner Robinson said he thought they could change that.

Commissioner Rafter asked if Catskill Area Hospice became an animal hospital, there would be no need to come before the Zoning Board to get permission to take one of the slabs out and put in another. He did not see what was different with the top side. Should Mr. Clark change the name of his business the top part goes with, he did not see where it would be germane to anything. Commissioner Rafter thought this needed to be clear so the board members would agree it was a sign. The board will have agreed to the size of it and to the pieces of it as well.

Code Enforcement Officer Chiappisi said his understanding of sign laws was that the city could not regulate what was on them.

Commissioner Rafter said the board was saying that a singular sign could not replace this sign.

Code Enforcement Officer Chiappisi said correct; this was a directory sign.

Commissioner Robinson said it had to remain a directory sign; it was called a directory sign in the motion.

Peter Clark said if the board voted on the eight removable signs and the Peter Clark Student Rental as presented to the board, he would have to come back before the board if in fact he decided to change that part of the sign.

Commissioner Robinson asked did anyone have any other comments. Hearing none he asked City Clerk Koury to call the vote on the motion.

MOTION, made by Commissioner Shields and seconded by Commissioner Geasey, that the board grants an area variance to install an upper directory sign on the 2nd floor of the building that faces Ford Avenue.

Voting Ayes: Commissioner Geasey
Commissioner Shields
Commissioner Rafter
Commissioner Robinson

Noes: None

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(Voting on 261-267 Main Street motion) continued

Absent: Commissioner May
Commissioner Ficano
Commissioner Lawson

MOTION CARRIED

Peter Clark thanked the board for their time on behalf of himself and the businesses involved.

Commissioner Robinson thanked board members for their time.

There being no further business to come before the board, Vice Chair Robinson adjourned the regular meeting at approximately 7:30 p.m.

JAMES R. KOURY, City Clerk

JRK/vpw