

Town of Kingsbury
6 Michigan Street, Hudson Falls NY 12839
Phone: (518) 747-2188 Ext. 3008 Fax: (518) 747-9115
OFFICE OF CODE ENFORCEMENT AND PLANNING

MINUTES OF THE ZONING BOARD OF APPEALS

Minutes of September 22, 2016

MEMBERS PRESENT:

Hank Lafountain, Chairman
Rich Hogan
Sondra Michaud
Bill Whipple
Scott Winchell
Michelle Wood

MEMBERS ABSENT:

Brian Heasley – (Excused)
Katherine Henley – (Excused)

CODE ENFORCEMENT OFFICER / ZONING ADMISISTRATOR:

Francis “Ross” Cortese

TOWN ATTORNEY:

Mary-Ellen Stockwell Esq.

The meeting was called to order by Chairman Lafountain at 7:00 pm

Roll call of all members

Chairman LaFountain entertained a motion to approve the minutes from May 26, 2016 meeting.

ON A MOTION BY MR. WINCHELL, seconded by Mrs. Wood the minutes of the May 26, 2016 were adopted.

AYES: 6

NAYES: 0

ADSTAIN: 0

MOTION CARRIED

THEODORE CHITTENDEN, contract vendee for 1037 State Route 196, Hudson Falls, NY and Tax Map # 154.11-6-16, is seeking an area variance to permit a conversion of a vacant doctor’s office to a multidwelling (3 units). This application was denied by the Code Enforcement Officer pursuant to Chapter 280, Article VI, Section 280-22 C of the Town of Kingsbury Code. The required density allows one dwelling unit for 25,000 square feet of lot size in the LDR-25 Zoning District. Applicant is asking for 61,000 square feet of relief for three (3) units. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

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Chairman Lafountain opened the Public Hearing at 7:05.

Chairman Lafountain stated Mr. Chittenden is asking for 61,000 square feet of relief for three (3) units. This application was referred to the Washington County Planning Board on their September 13, 2016 meeting. At this meeting they stated it was a matter of local concern and referred it back to the Kingsbury Zoning Board of Appeals.

Chairman Lafountain introduced Ethan Hall, Ruciniski-Hall Architecture, who will be representing Ted Chittenden.

Mr. Hall stated Mr. Chittenden is the contract vendee for the property located at 1037 State Route 196. The building was formally a dental office and optometrist office. This property has been vacant for the past five (5) years. Mr. Chittenden would like to purchase this property and put in two (2) studio apartments and a one (1) bedroom apartment for his mother. His intention is to remove most of the black top that is there now and change the drainage so that it all stays on this lot and create a significant amount of green space in front of the building. They have been on the site with IBS Septic checking the existing septic system. They inspected the line going to the septic system, opened the septic tank and had it pumped. They inspected the dry well also. Everything is in good working condition.

Mr. Hall stated all three units will be handicapped accessible. There will not be a need for ramps to get into the apartments or stairs or a handicap rail. Mr. Hall stated they will be putting in a stone filter strip to help with the drainage on the neighbor's lot.

Mr. Hogan questioned if it was all sand in this area.

Mr. Hall stated yes it is all sand with the back of the lot being a sand pit.

Mrs. Wood stated the plans stated 3 or 4 people living there but you could get a couple that could move into each unit in the future. Potentially you could have 6 people living there unless you say there is some kind of restriction stating there can only have 3 or 4 people living there. There will not be enough parking for 6 people.

Mr. Hall responded by the nature the studio units are approximately 400 square foot and the one bedroom unit is approximately 600 square foot. The apartments are small but yes there could be 2 people in them. Mr. Hall gave a description of the parking plan.

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Chairman Lafountain questioned if there was a fire lane for this project.

Mr. Hall stated it is fully accessible from State Route 196 and if there were a single house fire he does not believe the fire truck would pull into the driveway, they would fight it from the road.

Chairman Lafountain questioned what the setback from the building to the road.

Mr. Hall stated the building is 40 +/- feet from the road.

Mr. Hogan questioned the size of the septic system.

Mr. Hall stated based on NYS Health Department the septic system is calculated by the number of bedrooms and not the number of people living there. This being a three unit building it is based on 110 gallons per day, per bedroom. This project requires a 1,000 gallon septic system according to the State Health Department.

Chairman Lafountain questioned if that is based on how many people are living there.

Mr. Hall stated the state health code is based on how many bedrooms there are and not how many people live there. Basically what the state is saying is 55 gallons per person based on two people in the bedroom. This code would be the same for a single family house with three bedrooms. The house would still require a 1,000 gallon tank.

Mr. Chittenden stated this property has been on the market for approximately five years. The units are specifically designed for one handicap senior adult per unit. This project is in his neighbourhood right around the corner from where he lives.

Mr. Chittenden repeated what Mr. Hall had said with the units all being on one floor. There is not a single step on the property. You will go right from the black top to the sidewalk over a threshold to get inside the unit. This building is on a slab. There will be a security system installed and a washer and dryer located in a common area for the residents to use.

Mr. Chittenden stated he feels this is a good use for a building that has sat for a long time vacant. There are many vacant properties located in this area. He does not feel this property will be converted back to a single family home. The asking price added along with the cost of renovating this property would cost of a quarter million dollars in an 840 square foot building.

Mr. Hogan questioned if there were any other multi-dwellings in this area.

Mr. Chittenden stated there are other multi-family dwellings.

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Chairman Lafountain asked for comments from the public.

Paul and Yvonne Rock, 1033 State Route 196, spoke against this project. They do not feel there will be enough parking for the tenants and are worried about water from this property draining on to their property. They have concerns with the septic system not being large enough. They want to know who is living in their neighbourhood.

Diana Carlisle, 1041 State Route 196, was against the project. She stated when the dentist office and optometrist office were located at this property they had good neighbors and the staff all went at the end of the day. She feels if this gets approved there will be people there all of the time.

Ms. Carlisle stated she had a shed fire on her property a year ago and she had to literally move her car so that the fire truck could get into her driveway.

Stephen Redmond, S&M Redmond Inc., 1037 State Route 196 current owner of the building. He stated he felt this project is a well needed. It is very difficult to find handicap accessible apartments for people. As far as turning it back into a single home, that is not going to happen. He has paid insurance and taxes on this building for the last five years. He had two interested parties for this property other than Mr. Chittenden. One group wanted to a community recreation center for trouble youths and the other group wanted a center for drug counselling. Mr. Redmond stated neither one of these would need a variance being it zoned for a commercial use.

Mr. Redmond stated to both of these people he did not feel this is the right property or community for them. He pushed these offers away for the better because of his neighbors.

Kathy Gage Bain, Hebron, NY was against this project. She feels the property is too small for a three unit multi-dwelling and it may change the neighborhood.

Barbara Smania, 1043 State Route 196 was against this project. She doesn't like the idea because you can't think the people will be there for a long time. She does not want it to become a transient neighbourhood. The people living near here have been in their homes for a long time.

Chairman Lafountain read letters from the following residents:

Mike and Terry Bigelow, 1047 State Route 196, they do not feel it's a proper location for that kind of housing in reference to the proximity of the neighbors.

Joseph Gonyea, 1048 State Route 196, is against this project due to this is a single family dwelling area.

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Keith Stark, 54 Cogan Street, Plattsburg, NY owner of 1037 State Route 196, is opposed to this variance. The neighborhood is a single family resident and feels that a multi-family is not conducive to maintaining the character of this quiet neighborhood. It also should be noted that the closeness of private residences on both sides of this proposed apartment would have a negative impact on these single family homes.

Discussion ensued among the Board.

The Board reviewed the Short Environmental Assessment Form (SEQRA) and made the following comments.

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

The Board stated it would be a moderate to large impact.

2. Will the proposed action result in a change in the use or intensity of use of land?

The Board stated it would be a moderate to large impact may occur. Yes because it was an active doctor's office previously and not people there 24 hours a day.

3. Will the proposed action impair the character or quality of the existing community?

The Board stated it would be a small impact of the existing community.

4. Will the proposed action have an impact on the environmental characteristics that cause the establishment a Critical Environmental Area (CEA)?

The Board stated no it would be a small impact of the existing community.

5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?

The Board stated no, it would be a small impact of the existing community.

6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?

The Board stated no, it would be a small impact of the existing community.

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7. Will the proposed action impact existing:

a. public / private water supplies

The Board stated no, it would be a small impact of the existing community

b. Public / private wastewater treatment utilities?

The Board stated no, it would be a small impact of the existing community

8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?

The Board stated no, it would be a small impact of the existing community

9. Will the proposed action result in an adverse change to natural resources?

The Board stated no, it would be a small impact of the existing community.

10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?

The Board stated no, it would be a small impact of the existing community.

11. Will the proposed action create a hazard to environmental resources or human health?

The Board stated no, it would be a small impact of the existing community

There were two questions answered that Moderate to large impact may occur.

The Board explained why they determined question number 1 was moderate to large impact:
61,000 square feet of density and is an overwhelming difference in size.

The Board explained why they determined question number 2 was moderate to large impact:

Mr. Winchell stated this property was used as a commercial property previously. There are multiple-dwellings in this area already and he feels this should be no or a small impact may occur.

Mr. Whipple stated he still thinks this should be moderate to large impact because Dr. Redmond had hours of operation, and speaking from a landlord of rental properties problems happen day or night. There is a change in the property with converting this into a three unit multi-dwelling.

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ON A MOTION BY MR. WINCHELL, and seconded by Mr. Hogan the Kingsbury Zoning Board of Appeals declares lead agency status and having reviewed the short form SEQRA submission and having taken a hard look at the potential environmental impacts finds positive impacts and that further environmental studies would need to be done if requested by the board.

Chairman Lafountain asked if the Board had any more questions. The Board did not have any other questions.

Chairman Lafountain entertained motion to close the public hearing.

ON A MOTIION BY MR. WINCHELL, seconded by Mrs. Wood the Public Hearing was closed.

After further discussion among the Board the following resolution was put forward.

**ZONING BOARD OF APPEALS OF THE TOWN OF KINGSBURY
COUNTY OF WASHINGTON, STATE OF NEW YORK**

Resolution No. 1 of September of 2016
Adopted September 22, 2016

Introduced by BILL WHIPPLE
who moved its adoption

Seconded by MICHELLE WOD

**RESOLUTION DENYING
AREA VARIANCE REQUEST OF
THEODOR CHITTENDEN**

WHEREAS, pursuant to the Chapter 280 of the Code of the Town of Kingsbury, the Town of Kingsbury Zoning Board of Appeals (hereafter the "ZBA") is authorized and empowered issue variances in accordance with said Zoning Ordinance and Section 267-b of the Town Law;

WHEREAS, Theodore Chittenden (hereafter the "Applicant"), has requested an area variance to permit a conversion of a vacant doctor's office to a multi-dwelling (3 units) located at 1037 State Route 196, Town of Kingsbury, identified as Tax Map 154.11-6-16. The required density allows one dwelling unit for 25,000 square feet of lot size in the LDR-25 Zoning District. Applicant is asking for 61,000 square feet of relief for three (3) units; and

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WHEREAS, the Applicant is requesting relief for 61,000 square feet of relief, where the current requirement pursuant to Section 280-22 is 25,000 square feet of lot size in the LDR-25 Zoning District; and

WHEREAS, in accordance with the State Environmental Quality Review Act (hereafter "SEQRA"), the requested variance is a Type I action for which a positive declaration has been issued by the ZBA; and

WHEREAS, a public hearing was duly held on the requested variance at which time the Applicant and members of the public were entitled to comment on the requested variance; and

WHEREAS, the ZBA has reviewed the Application and supporting materials, and has taken into consideration the comments from the public, and has reviewed the criteria found in Town Law Section 267-b.

NOW THEREFORE BE IT RESOLVED:

Section 1. Considering the area variance requirements: in considering the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, while noting that the ZBA must grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community, the ZBA **DENIES** the application and finds the following:

- (a) Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by the granting of the area variance?

Yes, the applicant is asking 61,000 square feet of density.

- (b) Can the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than through an area variance?

Yes, the applicant has alternatives. There are many single family homes in this area. There are other areas that this project would fit better in. There are other ways of accomplishing this.

- (c) Is the requested area variance substantial?

Yes, the applicant only has 14,000 square feet of density and is asking for 61,000 square feet of the 75,000 square feet required.

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- (d) Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Yes, the proposed variance could create drainage problems for the neighbors.

- (e) Was the alleged difficulty self-created?

Yes, the difficulty was entirely self-created. The applicant is creating something that does not exist. It is not proposed for the neighborhood.

Section 2. This resolution shall take effect immediately.

ROLL CALL VOTE

Hank Lafountain, Chairman - Aye
Rich Hogan - Aye
Sondra Michaud - Aye
Bill Whipple - Aye
Scott Winchell - Nay
Michelle Wood - Aye

AYES: 5

NAYS: 1

ABSTAIN: 0

ABSENT 2 (Katherine Henley and Brian Heasley)

ON A MOTION BY MR. WINCHELL, seconded by Mrs. Wood all in favor, the meeting was adjourned at 8:30 pm.

Michelle Radliff
Secretary