

EAST ROCHESTER PLANNING BOARD MINUTES

PLACE: 120 West Commercial Street, East Rochester Village Offices
DATE: November 12, 2013
TIME: 7:00pm

PRESENT:

Herb Allen, Chairman
Matthew Hogan, Member
Brandi Marino, Member
Barb Marr, Member
Molly Rountree, Alternate
Lafayette Eaton, Alternate

David Mayer, Attorney
David Smith, Building Inspector
Gary Smith, Parrone Engineering
Jennifer Raymond, Recording Secretary

NOT PRESENT:

Amy Monachino, Member
David Schultz, Member
John Alfieri, Member

The meeting was called to order at 7:00 pm and the Pledge of Allegiance was recited.

Molly Rountree and Lafayette Eaton participated as voting alternate members.

1st Item on Agenda:

101-107 West Commercial Street, parcel #139.77-4-37 Eagle Auto. Attorney Daniel McDonald acting as agent for 101-107 West Commercial Street Associates presented, seeking final Architectural Review for façade upgrades to upper portion of the building with EFIS (exterior finishing insulated system), and windows to be surrounded with white dryvit reliefs.

Mr. McDonald made a correction to the preliminary Architectural Review proposal, stating that the old shutters would not be replaced with new shutters. The windows will have white dryvit trim, to be consistent with the windows on the other (Main Street) side of the building.

David Smith asked if there were any plans of work to be done for the building next to it. He stated that Marty D'Ambrose (the Main Street Administrator) was under the impression that there would be façade work done on the building next to it too. Mr. McDonald stated that with this grant there were plans only for the 107 building.

Several board members asked for more information about the white trim dryvit around the windows (concerning dimensions, purpose of the trim verses having shutters). Comments were made about lack of depth and a boxy look to the building.

Mr. McDonald said the trim is decorative, intended to replace the shutters (new shutters were not included in the grant).

Suzanna Prong, 709 South Washington Street and committee member of the Main Street Grant Program, stated that based upon her discussions with Mr. D'Ambrose concerning this project, the purpose of the dryvit trim is to replace the old shutters. New shutters would stick out with the new EIFS façade.

Lafayette Eaton asked for the dimensions of the dryvit trim to help the board picture the final look, and mentioned that a photo of this trim on another building would be helpful.

Herb Allen asked David Smith if there is a grant deadline. Mr. Smith said yes, the December 9, 2013 deadline to complete all work for the Main Street Grant Program. Mr. Allen asked Mr. McDonald to contact the contractor for the trim's dimensions.

Mr. McDonald was able to contact the contractor, Chris Wegener from Lake Construction. The white trim is 6 inches on the top, bottom and sides. It protrudes out from the building 1 inch, for depth. If new shutters were to be installed, they would be next to the trim rather than over it (shutters 6 inches from the windows wouldn't look right). Mr. McDonald asked for final approval without shutters.

A motion was made by Matthew Hogan to grant final architectural approval as presented and amended by Mr. McDonald. Brandi Marino seconded the motion. Voting was 6-0, all in favor.

2nd Item on Agenda:

160 Despatch Drive, parcel #139.78-1-2 Diamond Pro Baseball. Gretchen Hicks as representative presented, seeking architectural review for a new 7'x7' externally illuminated wall-mount sign on the side of the building. Ms. Hicks stated that she had a correction to make from the proposal submitted. The landlord just informed her late last week that she would not be able to hang a sign on the front of the building (a building directory stating all the businesses would be used at the front entrance instead).

Therefore, the proposed sign would be hung on the side of the building where Diamond Pro's entrance is located. The sign would still be the same design, perhaps a bit smaller than 49 square feet.

Gary Smith asked about lighting. Ms. Hicks stated that there are 4 lights on the building that would provide external illumination for the sign.

A motion was made by Matthew Hogan to approve the sign proposed, not to exceed 49 square feet. Lafayette Eaton seconded the motion.

Voting was 6-0, all in favor.

3rd Item on Agenda:

309 West Ave, parcel #138.84-1-74. Lisa Buck, homeowner, presented, seeking a positive recommendation for a Use Variance to harbor more than two dogs, for the purpose of fostering homeless dogs (referred from different shelters and rescue organizations). There will be no more than two (2) rescue dogs at this residence at any given time.

NOTE: The homeowner does have two dogs of her own living on the premises.

David Mayer advised the board that the Town/Village is reviewing the current dog rules, and, looking amend the code. For the time being the procedure is to apply for a variance, the Planning Board to make a positive or negative recommendation, then the applicant presents to the Zoning Board to either have the variance granted or not granted.

Herb Allen stated that in the past, a Special Use Permit was used in this type of situation because it had a limited period of time. He asked if a caveat could be placed in the variance in case of problems that may arise. Mr. Smith mentioned having conditions applied. Mr. Mayer said that the conditions may not be enforceable.

Gary Smith stated that a use variance stays with the property forever, not just with the current property owner.

David Smith asked if a use variance could be granted with special conditions, and if there were problems (violations) if it could be revoked?

Mr. Allen stated that a special use permit is for a specific period of time with an option to renew or revoke. He said a variance on the other hand cannot be taken away. A variance can have conditions, but a Use Variance doesn't change (used the example of once a restaurant, always a restaurant).

Barb Marr asked how many dogs Ms. Buck owns, ages and asked Mr. Smith if there were any known complaints or violations. Mr. Smith confirmed that there are no complaints for Ms. Buck's property or dogs.

Matthew Hogan stated that while he applauds Ms. Buck's cause for wanting to foster dogs, he has a concern for the neighborhood's well-being and feels somewhat uncomfortable with the use variance. Lafayette Eaton agreed and also commented that a future homeowner at this property could then also have up to four dogs if this variance is granted. Mr. Eaton asked Mr. Smith what is the recourse of action if variance is granted and then the neighbors are not happy. Mr. Smith stated that all violations are still enforceable. A special use permit is revocable, unlike a use variance which is not revocable.

Brandi Marino expressed concern with approving and then dealing with any problems that may arise.

Mr. Allen shared his own thoughts: in good conscience, unless there's a legally enforceable condition applied to the variance, he cannot vote to approve this. He is looking down the road.

Ms. Buck expressed to the board that she is a gainfully employed teacher with a Master's degree, keeps up her house, yard and property, her own two dogs were registered with the town as soon as she moved here, she has never had any violations and approached the town to follow the correct process to legally foster dogs. She has seen other properties and dogs around town that are not well taken care of and that have violations (and continue to do so). She feels that she is trying to do the right thing, but is getting penalized; meanwhile others around town are getting away with not following the rules.

Mr. Eaton mentioned lobbying to the Town Board to allow conditions for a special use variance. David Mayer agreed it is something to look into doing. Mr. Smith agreed the current code is poorly written and that the town is already working on amending it. He mentioned that there is a list of codes that are being reviewed to possibly change.

Mr. Hogan inquired whether there would be any harm to the Planning Board for giving either a positive or negative recommendation to the Zoning Board (setting the board up).

Mr. Smith said he is comfortable with special use permits because he has control; he can revoke it if needed. Without the same ability for a use variance he is uncomfortable. He re-iterated that Ms. Buck has not come into any trouble with the town, her dogs are registered (she was the one to approach the town to follow the correct procedure).

A motion was made by Barb Marr for a positive recommendation for a use variance to harbor more than 2 dogs, but not to exceed 4 dogs. Molly Rountree seconded the motion.

Mr. Mayer said he is reasonable confident the town can enforce that condition (not to exceed 4 dogs).

Gary Smith mentioned that a citation could be issued.

Mr. Hogan said that the issue isn't always the number of dogs, rather it's the owner. Sometimes even one dog is too much for some owner's to take care of.

Ms. Buck confirmed she'd prefer to have only 1 rescue dog at a time, but never more than 2 rescue dogs.

Voting was 3-3:

Matthew Hogan, Barb Marr and Molly Rountree voted in favor of a positive recommendation to the Zoning Board.

Herb Allen, Lafayette Eaton and Brandi Marino voted against giving a positive recommendation to the Zoning Board.

A tie vote, with less than 4 votes does not count as a valid vote. No Recommendation given to the Zoning Board for this application.

4th Item on the Agenda

807 Garfield Street, parcel# 151.28-3-23. Prospective new homeowner, Kirsten Fleckenstein, seeking a positive recommendation for a use variance to harbor more than two dogs.

This application has been withdrawn at the request of the applicant.

5th Item on Agenda:

133/135 West Commercial Street, parcel #139.77-2-42,-43 Bistro. Jim Schumacher, acting as agent for Brenda and David Romilly, presented seeking Architectural Review for improvement of exterior aesthetics to conform with adjacent buildings (replace the white stucco with brick), the installation of a 5 foot parapet (to screen roof mounted HVAC components), installation of replacement front entry door (to be ADA compliant), two new (separate) awnings.

Gary Smith mentioned that engineering drawings for the parapet will need to be submitted for review.

Mr. Schumacher agreed to submit the drawings for review. He advised the board that the new awning design #3 (submitted for review) is the final choice.

A motion was made by Barb Marr to approve the application as submitted and approval of design #3 for the new awnings. Lafayette Eaton seconded the motion. Voting was 6-0, all in favor

New Business:

Barb Marr expressed concern and confusion among the board members with the dog codes process going forward and asked about going to the Zoning Board and Town Board to present these concerns.

Lafayette Eaton advised that when the codes are reviewed for amendment, to see about having the law allow a variance to be granted with enforceable conditions.

Matt Hogan added that the case for Ms. Buck to be brought to light before the Town Board to get corrected or have a decision made on this code, then to advise the Planning Board and Zoning Board as to what they are supposed to do.

Herb Allen discussed the 'explosion' of the dog population in the town over the past few years. David Smith said approximately 900 dogs licensed in 1 square mile, and who knows how many unlicensed dogs there are.

Herb Allen brought up a mailing he received for anyone interested to sign up for the NYS DEC FEMA training for the flood zone risk map on November 19, 2013 at 9:30am. Anyone interested to contact Jennifer Raymond in the building department to sign up.

Mr. Allen also briefly summarized the new guidelines for training classes, payment and refund policy.

A motion was made by Barb Marr to approve the October 8, 2013 Planning Board minutes. Brandi Marino seconded the motion. Voting was 6-0, all in favor.

Brandi Marino made a motion to adjourn at 8:31 pm. Lafayette Eaton seconded the motion. Voting was 6-0, all in favor.

Respectfully submitted,

Jennifer Raymond
Recording Secretary