

EAST ROCHESTER ZONING BOARD OF APPEALS MINUTES

PLACE: 120 West Commercial Street, East Rochester Village Offices
DATE: October 18, 2011
TIME: 7:00pm

PRESENT:

Frank Barbero, Chairman
Matthew Fox, Member
Margot Gilhart, Member

NOT PRESENT:

Tony Gonzalez, Member
Eric Schoenhardt, Member
Gary Smith, Engineer

Jim Herko, Assistant Building Inspector
Rob Leni, Village Attorney
Tracie Miller, Recording Secretary

Mr. Barbero called the meeting to order at 7:00pm.

1st Item on the Agenda: 20 Ontario Street, parcel #139.79-1-3.2. Building owner, Tom O'Brien stated that he owns an industrial zoned building and when he bought it the owner was living there, so he assumed he could rent it out. He is trying to get a use variance for his property to have apartments.

Frank Barbero told Mr. O'Brien there was a reason his property is zoned industrial and not residential. He asked Mr. O'Brien if there was a lot of traffic in the area. Mr. O'Brien said there wasn't and it was "peaceful and quiet." Mr. Barbero asked how long Mr. O'Brien has owned the property and if there was another business there when he purchased it. Mr. O'Brien said he's owned the property for two years and when he purchased it there was a kitchen cabinet business there and the owner was living in the building, but not really working anymore.

Mr. O'Brien asked Mr. Leni to confirm that if a business rents his property, then the owner can live there. Mr. Leni told Mr. O'Brien that the only residential uses that are permissible in an industrial zoned district are resident caretakers or watchmen employed on the property by a valid industrial business. He also said the only way for Mr. O'Brien to use his property as a residential rental would be to get a use variance from the Zoning Board. Mr. Leni told Zoning Board Members that the Planning Board made a negative recommendation for a use variance.

Matt Fox said he was not comfortable granting Mr. O'Brien a use variance because it would set a precedence. Mr. Leni pointed out that the use variance would stay with the property permanently. Mr. Barbero asked for public comments. Herb Allen, who was in the audience, said he came to the meeting in case the Zoning Board needed any clarification from the Planning Board.

Margot Gilhart told Mr. O'Brien that keeping the area industrial serves a purpose and if the Zoning Board allowed an apartment there it would go against that purpose. Ms. Gilhart also feels there is a lot of traffic in the area and granting the variance would set precedence. She asked Mr. O'Brien if he has tried to get an industrial tenant. Mr. O'Brien said he hasn't tried yet, but he will now.

Margot Gilhart made a motion to deny the use variance. Matt Fox seconded the motion. Voting was 3-0, all in favor of denying the variance.

Old Business: There was no old business to discuss.

New Business: Matt Fox brought up the fact that an alternate member is needed for the Zoning Board and he would like to nominate Christina Belles. Mr. Fox said she is an architect and lives on Filbert Street in the Village. Mr. Leni advised Mr. Fox to contact Marty D'Ambrose regarding this matter.

A motion was made to approve the September 20, 2011 meeting minutes by Matt Fox and seconded by Margot Gilhart. Voting was 3-0, all in favor.

A motion to adjourn was made by Matt Fox and seconded by Margot Gilhart. Voting was 3-0, all in favor. The meeting adjourned at 7:18 pm.

Respectfully submitted,

Tracie Miller
Recording Secretary