

ZONING BOARD OF APPEALS
VILLAGE OF BUCHANAN
JANUARY 13, 2010

PRESENT: Kathy Kane, Chairwoman
Mike Chirico
Marco Pinque
Angelo Iacomini
Ed Mevec
Barbara Miller, Building Inspector
Stephanie Porteus, Village Attorney
Rosemary Martin, Secretary

OTHERS: Anthony Matra
Don Zern
Nick Zachary

CALL TO ORDER:

Chairwoman Kathy Kane informed all attending of the fire regulations and Marco Pinque led them in the Pledge of Allegiance. Chairwoman Kane called the regular meeting of the Zoning Board of Appeals to order at 7:00 p.m. on January 13, 2010.

APPROVAL OF MINUTES:

A motion was made by Marco Pinque, seconded by Mike Chirico, with all in favor, to approve as written the minutes of December 9, 2009.

CAL NO. 03-09-BZ: CONTINUATION OF PUBLIC HEARING FOR VARIANCE APPLICATION FOR PROPERTY AT 223 GALLAGHER STREET. (DRIVER)

The Drivers were not present at the meeting. Building Inspector Miller spoke with Scott Driver who advised her they had not sent the notices of hearing. He assured her his wife would get the list of names of all property owners within 250 feet and send the notices by certified mail; return receipt requested. The return receipts must be submitted at the hearing. He was advised that unless they could show hardship, next month would be the last chance for a continuation of the hearing. They would have to file a new application.

A motion was made by Marco Pinque, seconded by Angelo Iacomini, with all in favor, to adjourn and continue the public hearing on February 10, 2010 for variance application for Scott and Melissa Driver of 223 Gallagher Street.

CAL NO. 06-09-BZ: CONTINUATION OF PUBLIC HEARING FOR W.G. HOLDINGS AT 200 TATE AVENUE. (SCHUNK/MATRA)

Mike Chirico, seconded by Angelo Iacomini, with all in favor, made a motion to open the public hearing for 200 Tate Avenue.

Anthony Matra, who is a partner of William Schunk, appeared at the meeting. Mr. Matra advised they were asking for clarification as to what businesses they could consider as prospective tenants for 200 Tate Avenue. Last month Mr. Matra distributed a list of businesses for the Board's consideration.

Mr. Matra advised the notices of hearing were sent by certified mail, return receipt requested, to all those within 500 feet. The applicant sent approximately 40 notices, 24 receipts were returned, and 14 were returned undeliverable. The certified receipts were submitted for the file. It was determined that proper notification was made. It was noted that due to a misunderstanding between the two partners an application was obtained but was never filed and the fee was not paid. Mr. Matra will do this tomorrow morning.

Chairwoman Kane indicated they are asking for an interpretation of the language "food store" contained within Section 211-10 of the zoning code and more specifically whether a bakery or ice cream parlor or similar type stores are considered "food stores" within the meaning of the language of Section 211-10 and are therefore the type of retail uses that are permitted by right under the code. Take out pizza, deli, phone system repair, liquor store and restaurant are uses permitted by right. A candy or ice cream store would be viable.

Chairwoman Kane asked if there was anyone present to speak for or against the application. No one was present for this application.

Building Inspector Miller stated that it was explained to her that a possible use (bakery) was going to be a full-service bakery with food preparation (manufacturing) done on the premises.

Mike Chirico was concerned about parking and asked if the space they were addressing had its own address. He was advised by Mr. Matra that it was the same address. Addressing the Board's concern that the existing tenant could expand, Mr. Matra advised the space is oddly shaped, approximately 1,000 square feet, and is not contiguous to the existing deli. There is no place for expansion.

Since there were no further questions or comments, the public hearing was closed on a motion by Angelo Iacomini, seconded by Mike Chirico, with all in favor.

Mike Chirico, seconded by Ed Mevec, with all in favor, made an interpretation that retail food stores include uses where the food is primarily consumed off premises with no wholesale manufacturing. Motion carried.

CAL NO. 04-09-BZ: PRELIMINARY SUBMISSION FOR VARIANCE FOR PROPERTY AT 3208 ALBANY POST ROAD. (SARMIENTO/GUZMAN)

Building Inspector Miller received a telephone call today advising that a representative from Ed Gemmola's office was prepared to appear tonight but due to a medical emergency he could not attend tonight's meeting.

The Board members received a copy of the survey of the property. Building Inspector Miller advised that if an applicant who receives a violation appears before the Board to try to resolve the violation it "stays" the violation. There was discussion as to how much time to appear before the Board can be given to someone who is in violation. Village Attorney Porteus will review whether or not it can go on indefinitely.

CAL NO. 05-09-BZ: PRELIMINARY SUBMISSION FOR INTERPRETATION FOR PROPERTY AT 260 WESTCHESTER AVENUE. (MARBLE SPACE INC.)

Building Inspector Miller did not speak again with the attorney for Marble Space Inc, Robert Hilpert. A violation was issued on the property. Two huge dump trucks were on the property and complaints were received from neighbors about the noise from the trucks. The trucks are now gone. Building Inspector Miller stated it did not appear that anyone was doing any business in there. Marble Space tenants have materials in the space, however, no one has seen any movement, and it looks dormant. This will be removed from the agenda.

Variances were granted in 1990 for this location to United Wenco, and Chairwoman Kane will make copies of the decision and order. There is a precedent.

ADJOURNMENT:

Angelo Iacomini, seconded by Mike Chirico, with all in favor, made a motion to adjourn the meeting at 7:50 p.m. The next meeting will be February 10, 2010.

Respectfully submitted,

Rosemary Martin, Secretary