

ONEONTA, NEW YORK - OCTOBER 17, 2012 - 7:00 P.M.

REGULAR MEETING OF THE PLANNING COMMISSION PG. 1

PRESENT: Chair Dennis Finn
Commissioner Gary Herzig (Vice Chair)
Commissioner Anna Tomaino
Commissioner Edmond Overbey
Commissioner Michelle Eastman
Council Member Maureen Hennessy

ABSENT: Commissioner Barry Holden

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

PETITIONERS

Chair Finn stated there were no petitioners for matters other than business listed on the agenda.

CORRESPONDENCE

City Clerk Koury stated there was no correspondence.

APPROVAL OF MINUTES

MOTION, made by Commissioner Herzig and seconded by Commissioner Tomaino, that the commission approves the minutes of the regular meeting held September 19, 2012.

Voting Ayes: Chair Finn
Commissioner Herzig
Commissioner Overbey
Commissioner Eastman

Noes: None

Abstain: Commissioner Tomaino

Absent: Commissioner Holden

MOTION CARRIED

PUBLIC HEARING

The following Notice of Public Hearing was sent to The Daily Star for publication on October 10, 2012 and the meeting agenda on the following items of New Business was faxed to the media. Proofs of said notifications are attached hereto:

1. *179 River Street, Oneonta, New York (Tax Map No. 299.16-2-16) – Short Environmental Assessment Form (SEQR) and Site Plan Review Application – Richard Weinberg wishes to erect a temporary structure of 165' X 65' (10,725 square feet) on the rear of the property. The structure will be used to store inventory that does not fit in the building.*
2. *10-20 Depew Street, Oneonta, New York (Tax Map No. 300.9-1-46) – Sketch Plan Conference and Site Plan Review Application – Opportunities for Otsego, Inc. wishes to add an 8' X 10' (80 square feet) garden shed in the back yard.*

NEW BUSINESS

1. **Richard Weinberg, 179 River Street (299.16-2-16) – Required Action: Short Environmental Assessment Form (SEQR) and Site Plan Review:** The applicant wishes to erect a temporary structure of 165' x 65' (10,725 square feet) on the rear of the property. The structure will be used to store inventory that does not fit in the building. These structures can last 15 years.
2. **Edwin Grigsby, 10-20 Depew Street (Opportunities for Otsego, Inc) (300.09-1-46) – Required Action: Sketch Plan Conference and Site Plan Review:** The applicant wishes to add an 8' x 10' (80 square feet) garden shed in the back yard.

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(New Business) continued

3. **Paul van der Sommen, 21 Sand Street (300.07-3-66) – Required Action: Sketch Plan Conference:** The applicant wishes to have a sketch plan conference to discuss what drawings to submit for the Zoning Code review for the proposed project at this property.
4. Discussion on the following proposed amendment to the Zoning Code as approved by the Community Improvement Committee and referred to the commission for comments:
§ 300-10. MU-1 -- Downtown Mixed Use District
G. Grade level dwelling units. Grade level dwelling units are prohibited within 50' of the public right of way on Main Street from Chestnut Street to Elm Street.

Chair Finn addressed the items of new business as follows:

Richard Weinberg, 179 River Street (299.16-2-16):

The following Memorandum, dated October 2, 2012, was received from Ordinance Inspector Ferris:

“SUBJECT: **PROPERTY ADDRESS:** 179 River Street
 PROPERTY OWNER(S): Richard Weinberg
 TAX MAP #: 299.16-2-16
 BUSINESS NAME: Rental Company One Inc
 APPLICANT(S): Richard Weinberg
 ZONING DISTRICT: C / I: Commercial / Industrial District

PROPOSAL: *The applicant wishes to erect a temporary structure of 165' x 65' (10,725 square feet) on the rear of the property. Structure will be used to store inventory that does not fit in the building. These structures can last 15 years.*

1. *SHORT ENVIRONMENTAL ASSESSMENT FORM (SEQR)*

300-75 F: Compliance with SEQR. The Planning Commission shall not take final action on any site plan proposal until all SEQR requirements have been addressed in accordance with 6 NYCRR Part 617.

2. *SITE PLAN REVIEW APPLICATION*

300-12 D Projects requiring a site plan review. All new buildings and new additions to existing buildings require site plan review except buildings smaller than 200 square feet in floor area.”

Twenty-seven (27) letters were sent out by the Clerk’s Office to property owners residing within 200 feet radius of the property in question and no responses were received.

Mr. Rick (Richard) Weinberg, 11 Suncrest Terrace, Oneonta introduced his wife Irene and said she worked with him in his business and he introduced his General Manager Keith Wilber. He said the building at 179 River Street was fairly large and in addition to his business, he leases to two tenants in that building, UHS and Corning for warehouse space. He said his business was a multitude of things with renting apartments to mostly college students and manages properties for other people in town who own rental properties. He said in addition to that they rent refrigerators at colleges throughout New York State and use the warehouse portion for storing them. He said due to expansion and general growth there was no longer enough room to put the refrigerators in the warehouse when they come back from the colleges in May. He said he wants to put up a temporary structure behind the building. He said it was called a temporary structure, which was a fabric covered truss system but it would last 15 years. He said the structure did not need a foundation and

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(New Business – 179 River Street) continued

it could just go on blacktop or concrete. He said it was fairly attractive and was used for a multitude of things. He said he had 5 acres of property in an industrial area and he wanted to put the structure in the back. He said he also had approximately 25 full time employees and during their refrigerator delivery season it could go up to 50 employees. He said it was a fairly decent size operation and that was why he needed the building in the back.

Chair Finn asked Mr. Weinberg to explain where the building would be.

Mr. Weinberg stated there was a 40,000 square foot building in the middle of the parcel and he wanted to place this building in the rear of the building where it would not be visible to any residents on River Street and only visible to I-88. He said there was plenty of room for parking. He said it was not exceeding the 16% non-permeable surface zoning requirement.

Commissioner Overbey asked about how tall the building was.

Mr. Weinberg replied they vary in height and could be raised by putting the structure on cement blocks but he thought the basic height was 22'.

Commissioner Overbey stated there was a 40' limit in that zone.

Mr. Weinberg stated this would not be 40'.

Commissioner Overbey questioned if this structure would be in between the two concrete pads behind the existing building.

Mr. Weinberg responded he did not think it would be purely in between them because the space between the concrete pads was smaller than the width of the building and some of the building may be on each pad.

Commissioner Overbey questioned if Mr. Weinberg did not own the swale mentioned in the notes.

Mr. Weinberg stated he did not own the swale between the fence and I-88 but he did not imagine any water would get to that portion because he owned an area of grass at least 150' wide before the swale.

Chair Finn questioned this being called a temporary building.

Mr. Weinberg stated Code Enforcement Officer Chiappisi had another term for it.

Code Enforcement Officer Chiappisi stated that a temporary structure was under 180 days in the New York State Building Code. He said this was a fabric structure.

Chair Finn asked if Mr. Weinberg would be leaving this structure up for 15 years.

Mr. Weinberg replied this type structure could be erected in one week and taken down in one week and could be moved but his intention was to keep it up for quite some time.

Council Member Hennessy questioned what the snow load was this structure being it was fabric.

Mr. Weinberg stated it was engineered to have a 50 lb snow load and 90 mph wind load. He said he provided the website showing it was used for airplane hangars and were very sturdy structures

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(New Business – 179 River Street) continued

that were not unattractive. He said one of the motivations here was that his UHS tenants were hoping to expand and take the rest of the building or at least another portion of the building and as they expand in the building he would consider moving his business and just leasing them the building.

Commissioner Eastman stated in the length of time 15 years was conservative because that fabric could last even longer.

Mr. Weinberg stated that was correct. He said he was going by what the website said.

Chair Finn stated that a Site Plan Review was requested and on that application there were requirement set forth in it. He said if the commission would review the list of requirements on the Site Plan Review Application. He said if there were things not provided by the applicant the commission had the authority to waive certain items. He said the site plan had everything requested except the topography but must of the area was level.

Mr. Weinberg stated he did not feel a topography map was necessary because the slope was so gradual and almost flat.

Chair Finn asked if the commission had any comments or questions.

Commissioner Overbey stated this building would create some runoff. He said he was not 100 percent sure that the grassy area between the building and the fence was enough to assure that the building would not contribute to a runoff. He said he would like to see a swale in between that building and the other swale. He said he was suggesting anything deep but just something about 2' or 3' deep to where water would have some place to accumulate and percolate. He said according to the NYS Department of Environmental Conservation the commission was not suppose to let any project contribute any runoff of a property when a structure is put up.

Mr. Weinberg stated he had another idea to offer. He said in the back of the building was a large drain that goes to a large storm drain and it would be very simple to slope this toward the storm drain if the commission preferred. He said a swale was not a problem either but any blacktopping or concrete work they do could go to the storm drain.

Commissioner Overbey stated putting it in the storm drain was still contributing runoff from this property. He said the property owner was responsible for keeping the runoff within the property's boundaries.

Mr. Weinberg stated he understood and he could make a swale.

Chair Finn asked if anyone had any other comments.

Hearing none the Chair asked the Clerk to lead the commission in the review of the Short Environmental Assessment Form on the project.

The commission held a brief discussion on the matter.

Chair Finn asked Code Enforcement Officer Chiappisi if he any questions about taking the "temporary structure" off of this request and just leave it as a fabric structure.

Code Enforcement Officer Chiappisi replied that would be fine.

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(179 River Street) continued

MOTION, made by Commissioner Herzig and seconded by Commissioner Tomaino, that in the review of the application from Richard Weinberg for 179 River Street (299.16-2-16), the commission approves the site plan as presented and discussed and issued a Negative Declaration as per all applicable and appropriate SEQR regulations to erect a fabric structure of 165' x 65' on the rear of the property with a swale between the building and the existing swale.

Voting Ayes: Chair Finn
Commissioner Herzig
Commissioner Tomaino
Commissioner Overbey
Commissioner Eastman

Noes: None

Absent: Commissioner Holden

MOTION CARRIED

Edwin Grigsby, 10-20 Depew Street (Opportunities for Otsego, Inc) (300.09-1-46):

The following Memorandum, dated October 2, 2012, was received from Ordinance Inspector Ferris:

“SUBJECT: *PROPERTY ADDRESS:* 10-20 Depew Street
PROPERTY OWNER(S): Opportunities for Otsego Inc
TAX MAP #: 300.09-1-46
APPLICANT(S): Edwin Grigsby
ZONING DISTRICT: MU-2: Gateway Mixed-Use District
OF DWELLING UNITS: Homeless Shelter

PROPOSAL: *The applicant wishes to add an 8' x 10' (80 square feet) garden shed in the back yard.*

1. SKETCH PLAN CONFERENCE

300-74 E: At the request of the applicant, a sketch plan conference may be held ... to review the basic site design concept and generally determine the information to be required on the site plan.

2. SITE PLAN REVIEW APPLICATION

300-11 D Projects requiring Site Plan Review. All new buildings and new additions to (1): existing buildings.

300-11 D (2) (d) (iii): Projects requiring Site Plan Review: Intensity thresholds requiring site plan review: Surface and subsurface drainage: Impervious surface coverage of more than 60%.

<u>CODE SECTION(S)</u>	<u>PERMITTED / REQUIRED</u>	<u>EXISTING / PROPOSED</u>
300-11 D (2) (d) (iii)	4,977 square feet	Approximately 7,473 square feet

PLEASE NOTE: *This property is registered as a residential rental property. At this time, there is a valid Certificate of Substantial Compliance for this property.”*

Twenty-eight (28) letters were sent out by the Clerk’s Office to property owners residing within 200 feet radius of the property in question and no responses were received.

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(New Business – 10-20 Depew Street) continued

Mr. Edwin Grigsby, 156 River Street, Oneonta stated he was the Facilities Manager for Opportunities for Otsego (OFO). He said the 10-20 Depew Street property was owned by Opportunities for Otsego and was a homeless shelter. He said OFO needed a small storage shed in the back yard to keep some storage items in. He said drawing indicates where the shed would be placed between the fence and the rear of the building leaving room to repair the building if they needed. He said the shed would directly off from a door in the back of the building to be easily accessible when shoveling snow in the wintertime.

Chair Finn stated that the application indicates a request for a Sketch Plan Conference. He said he would ask the commission if it could go right to a Site Plan Review for this project.

The consensus of the commission was to do a Site Plan Review.

Chair Finn questioned what the building material would be and what would it be built on.

Mr. Grigsby stated that the building was going to be purchased pre-made. He said it would have a gable-type roof, double doors in the front and a single window in the back. He said they have not decided on the vendor to buy it from yet but have been getting prices on the same size building.

Chair Finn stated the commission would review the requirement list on the Site Plan Review Application. He said the commission had the authority to waive a requirement if it felt it was not needed.

Chair Finn stated there was no grading because it was kind of flat in that area.

Mr. Grigsby stated that area was all level.

Chair Finn stated he would request that when Mr. Grigsby decides on the storage building to purchase that he submit a drawing or picture of it to the Code Enforcement Office before purchasing it. He said that illustration could then be put with this approval. He said this approval would be based on Code Enforcement's approval of the intended building.

Mr. Grigsby stated he had images of the building from the vendor that he could email Code Enforcement.

Chair Finn suggested that Mr. Grigsby email Code those images because that would be a requirement of the commission's approval.

Hearing no further comments the Chair entertained a motion that upon the approval of the Code Enforcement Office of the illustration detailing the unit.

MOTION, made by Commissioner Overbey and seconded by Commissioner Eastman, that in the review of the application from Edwin Grigsby to place an 8' x 10 garden shed in the back yard of Opportunity for Otsego's property located at 10-20 Depew Street (300.09-1-46), the commission waives the Sketch Plan Conference and approves the site plan contingent upon the approval by the Code Enforcement Office of the illustration detailing the unit to be submitted by Mr. Grigsby.

Voting Ayes: Chair Finn
Commissioner Tomaino
Commissioner Overbey
Commissioner Eastman

Noes: None

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(Voting) continued

Abstain: Commissioner Herzig
Absent: Commissioner Holden

MOTION CARRIED

Paul van der Sommen, 21 Sand Street (300.07-3-66):

Chair Finn stated that the commission would not consider this request due to there being no one to speak on behalf of the property. He said because of this request he had invited Engineering Technician Mattice to the meeting and he asked him if there was anything down in that area that Mr. van der Sommen would need to build a single-family house.

Engineering Technician Mattice suggested that the applicant contact him and they could work through the plans and then the details could be presented to the commission.

City Clerk Koury stated that Mr. van der Sommen was sent a meeting agenda informing him that the he was on the agenda.

Code Enforcement Officer Chiappisi showed the board a plan from Mr. van der Sommer regarding his subdivision which included the Sand Street property. He said the subdivision was not part of this initial review. He said presently Mr. van der Sommer would like a Site Plan Review for the Sand Street property to build a single-family home. He said the vague part of the project was he did not know where it was going to be in terms of the proposed apartments.

Chair Finn stated the commission could advise Mr. van der Sommen what was required when the commission does a Sketch Plan Conference for this project. He asked Code Enforcement Officer Chiappisi to inform the applicant when he contacts the Code Enforcement Office about this.

Commissioner Herzig suggested that this was the construction of a new building and the commission was not going to waive any of the requirements therefore the applicant would need to submit a full set of requirements for a Site Plan Review.

Code Enforcement Officer Chiappisi asked if the commission wanted him to tell the applicant that or did the commission want to send him a letter telling him that.

Chair Finn suggested to Code Enforcement Office that if Mr. van der Sommen contacts the Code Enforcement Office that he be informed what the commission saw was not enough to barely start to talk to him about this project.

Discussion on the following proposed amendment to the Zoning Code as approved by the Community Improvement Committee and referred to the commission for comments:

§ 300-10. MU-1 -- Downtown Mixed Use District

G. Grade level dwelling units. Grade level dwelling units are prohibited within 50' of the public right of way on Main Street from Chestnut Street to Elm Street.

Chair Finn stated that propose amendment has been sent to the commission for comments.

Code Enforcement Officer Chiappisi stated that this amendment was written by City Attorney Merzig and himself and it was approved by the Community Improvement Committee as discussed.

Commissioner Herzig stated he dug up an interesting item on this that went back to June 2011 that was a discussion including Council Member Hennessy, all members of the Zoning Task Force and

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(Discussion on the MU-1 proposed amendment) continued

the Mayor discussing this very issue. He said there was a discussion on this and the consensus of the Zoning Task Force and the Mayor was to allow residential dwellings throughout the MU-1 District however to have that require a site plan review so that the Planning Commission could make determinations as to the appropriateness to the locations.

Council Member Hennessy questioned even if this takes in Main Street.

Commissioner Herzig responded yes.

Commissioner Herzig stated the code allows this but it does not specify site plan review. He said apparently what happened was that asterisk was not included, which was a communication oversight, but the intention of the Zoning Task Force was to allow it but require a site plan review so the Planning Commission could make determinations as to the appropriateness of the locations.

Code Enforcement Officer Chiappisi questioned if in that case if the Planning Commission did not approve a site plan review the project could not go forward.

Commissioner Herzig responded correct. He said he thinks the thought was that MU-1 was a big district and that this intent was to limit it to inappropriate Main Street locations so that the Planning Commission could approve locations on streets like Market and Dietz.

Council Member Hennessy stated if she could go back she would say limit it, not to Main Street.

Commissioner Herzig stated none of this matters because it did not make it into the new Zoning Code. He said what did make it in the Code was that it was an allowable use without required site plan review.

The commission held a brief discussion on the matter.

Commissioner Overbey stated if this change was made part of the permanent law he questioned at what point was the city going to decide it was a good idea to let the property owners on Main Street put residences on the first floor. He asked what the tipping point was in terms of the percentage of empty storefronts. He said he hoped the city never came to that point but if it did it would need to write a new law whereas if the change was made to require a site plan review or special use permit each case could be judged on its merits.

Code Enforcement Officer Chiappisi stated a special use permit was an interesting idea because if there were unintended consequences the permit could be revoked and the property could revert to its original use.

Commissioner Herzig stated that the Task Force had considered the Planning Commission doing a site plan review.

Commissioner Overbey asked if the commission should send a negative recommendation on the proposed amendment and forward a copy of what Commissioner Herzig presented to the commission of the original intention. He said the Task Force spent a lot of time talking about that issue.

Commissioner Eastman stated she agreed.

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(Discussion on MU-1 District proposed amendment) continued

MOTION, made by Commissioner Overbey and seconded by Commissioner Eastman, that the Planning Commission send a negative recommendation on the proposed amendment to the MU-1 – Downtown Mixed Use District discussed at the Community Improvement Committee and consider the original intent and forward a copy of what Commissioner Herzig presented of discussion on this and that the consensus of the Zoning Task Force and the Mayor was to allow residential dwellings throughout the MU-1 District however to have that require a site plan review so that the Planning Commission could make determinations as to the appropriateness to the locations.

Voting Ayes: Chair Finn
Commissioner Herzig
Commissioner Tomaino
Commissioner Overbey
Commissioner Eastman

Noes: None

Absent: None

MOTION CARRIED

PETITIONERS (revisited)

Code Enforcement Officer Chiappisi stated there were petitioners who wished to speak.

Chair Finn revisited the petitioners section and recognized petitioners.

Mr. Michael Stolzer stated he wanted to comment on the last meeting he attended at which he was maligned. He said a petitioner, Mr. Peter Friedman, had said that his properties were not maintained up to a standard of other houses around and that he did not deserve to be in the commission's good favor and that he was only doing a good job on this particular house in question because he was in need of the commission's good favor. He said he had been working on that house for the last year and it was only a month and a half prior to coming to the commission that he had been made aware of the issue. He said as it turned out he did not but if in the future he did he did not want someone whose voice was authoritative and experienced. He presented photos of the house at 31 Cherry Street and other properties he purchased. He invited any of the commission members to contact him if they wanted to see his properties.

The commission acknowledged that the property photos presented by Mr. Stolzer were very attractive.

There being no further business to come before the commission, Chair Finn adjourned the regular meeting at approximately 8:00 p.m.

JAMES R. KOURY, City Clerk

JRK/pab