

A regular meeting of the Zoning Board of Appeals of the Village of Cooperstown was held in the Village Office Building, 22 Main Street, Cooperstown, New York on Feb 7, 2017 at 5:00 p.m. In attendance:

- Members: Chair, Susan Snell / John Sansevere / Ron Streek / Marcy Schwartzman
- Others: Zoning Enforcement Officer, Jane Gentile / Village Clerk, Mikal Sky-Shrewsberry / (8) members of the public

**Ms. Snell Opened the Meeting at 5:06 PM**

### **PUBLIC HEARING (1 ITEM)**

**Ms. Snell Opened the Public Hearing at 5:01 PM**

- **8 Glen Avenue, (Ed Landers)**, for a change in existing tourist accommodation special use permit from two one (1) bedroom transient apartments to three one (1) bedroom transient apartments.
  - **DISCUSSION**
    - Applicant (Mr. Landers) was present/participated
  - **PROPERTY / CURRENT USE DESCRIPTION**
    - Property originally approved as 2 short term + 1 long term rental + owner's residence
    - Reason change is being requested: long term tenant (who was residing on the premises when Mr. Landers purchased the home) died
    - Parking is determined to be adequate
    - Has at least 5 spaces that were previously approved- includes garage
  - **PUBLIC COMMENTS**
    - No public comments were made
    - Ms. Gentile stated that she had not received any objections from neighbors prior to the meeting
    - Hearing was kept open (while other agenda items addressed) to allow for possible additional comments by attendees arriving late
  - **PUBLIC HEARING CLOSED AT 5:23 PM**  
(after waiting until the end of Agenda-Item-#2 to provide time for additional comments)
    - No additional comments were made.

### **REGULAR AGENDA (7 ITEMS)**

1. **8 GLEN AVENUE, (ED LANDERS)**, FOR A CHANGE IN EXISTING TOURIST ACCOMMODATION SPECIAL USE PERMIT FROM TWO ONE (1) BEDROOM TRANSIENT APARTMENTS TO THREE ONE (1) BEDROOM TRANSIENT APARTMENTS. SECTION 300-17A. AND ARTICLE VII ACCESSORY PARKING AND LOADING REQUIREMENTS
  - **MOTION**
    - **To approve Ed Landers' application for a change in existing tourist accommodation special use permit from two one (1) bedroom transient apartments to three one (1) bedroom transient apartments**
    - Motion made by Mr. Streek / Seconded by Mr. Sansevere
    - Vote: AYES (4): Snell, Sansevere, Streek, Schwarzman / OPPOSED (0)
    - **MOTION APPROVED**

2. **THE PRELIMINARY HEARING OF JOANN HUBBELL, 157 MAIN STREET, FOR A SPECIAL USE PERMIT TO OPERATE A TWO BEDROOM APARTMENT TOURIST ACCOMMODATION AT 25 CHESTNUT STREET (MIXED USE OCCUPANCY - OFFICE AND TWO (2) BEDROOM APARTMENTS).**
- **2 APPLICANTS (JOANNE AND GLENN HUBBELL) PRESENT/PARTICIPATING**
  - **PROPERTY / CURRENT USE DESCRIPTION**
    - Commercial building in business district
    - Proposed use: downstairs=year-round dental office, upstairs =one long-term 2-bedroom apartment, one weekly rental (sleeps 4)
      - Weekly rental component is classified as Tourist accommodation not large enough to be classified as a motel (requires 5 sleeping units) or a hotel (requires >=8 sleeping units)
    - Private parking-(meets requirements)
    - Is not currently and will not be owner occupied
    - Joanne's son lives next door in bakery building and is available to manage the rental building in question
  - **DISCUSSION**
    - Does not meet official requirements for a tourist accommodation
      - no owner operator on premises (although the son acts as a manger he is not an owner and he does not live on the premises although he lives next door)
    - Because of location many of the concerns owner operator rules are intended to address are not relevant
      - Completely surrounded by businesses-no neighbors to disturb
    - Issues of precedent need to be considered
      - Rentals which do not meet all the requirements but have been granted motel status by the Trustees (Sal's?)
      - Requests that were denied because official requirements were not met (concerns about lawsuits)
      - Concerns that allowing this variance will open the door and set a dangerous precedent which will make it difficult to uphold the village tourist accommodation requirements
    - Steps which would be required for approval
      - ZBA needs to grant a variance for exception to the owner operated / occupancy regulation
      - Public notice needs to be sent out/hearing held
      - ZBA needs to grant a special permit for Tourist Accommodation
      - Ms. Gentile cited law Section 300-66(E)(1) (granting of variances for special permits by ZBA)
  - **NEXT STEPS**
    - Will talk to trustees to see how Sal's property was handled
    - Standard process will be followed
      - Public hearing to be set for next ZBA meeting (date is not certain because not expected to have a quorum in March)
      - Written public notice for an area variance will be sent out prior to the hearing.
      - Concerned residents will be able to attend or contact Ms. Gentile

3. **THE PRELIMINARY HEARING OF STEVEN KUZMIAK, 64 BEAVER STREET, FOR A SPECIAL USE PERMIT TO OPERATE A THREE BEDROOM HOUSE TOURIST ACCOMMODATION AT 64 BEAVER STREET (SINGLE FAMILY HOUSE).**
- **MR. KUZMIAK WAS NOT PRESENT**
    - His preliminary hearing was originally tabled until later in the meeting to allow him time to arrive
    - Towards the end of the meeting Ms. Gentile realized there was a mixup. Mr. Kuzmiak had gotten the date/time wrong and would not arrive in time. (Ms. Gentile unsuccessfully attempted to contact him during the meeting).
  - **DISCUSSION**
    - Is there a point in holding a hearing because Mr. Kuzmiak's property does not meet any of the parking or owner/operator requirements for being a tourist accommodation?
      - Approval would require extensive variances: 1. Parking, 2. Owner Operated 3. Owner Occupied (approval highly unlikely)
      - Ms. Gentile stated she explained everything to Mr. Kuzmiak but he still wants to apply
      - Mr. Kuzmiak is still entitled to apply & have the process followed
  - **NEXT STEPS**
    - Preliminary hearing will be put on the to agenda for next meeting (date TBD)
    - Notice will be sent out for the variance and Special Permit public hearing stating the property will not be owner occupied/operated
4. **THE PRELIMINARY HEARING OF JANICE EICHLER, 20 GLEN AVENUE, FOR A CHANGE IN EXISTING TOURIST ACCOMMODATION SPECIAL USE PERMIT FROM TWO BEDROOMS TO ONE (1) THREE BEDROOM TRANSIENT APARTMENT (TWO FAMILY HOUSE WITH CARRIAGE HOUSE).**
- **MS. EICHLER WAS PRESENT & PARTICIPATED IN THE DISCUSSION**
  - **PROPERTY / CURRENT USE DESCRIPTION**
    - 2 part rental property: house & barn located on Corner of Grove/Glen
    - Barn: 1 Bedroom (currently long term owner's residence) /  
House: 3 Bedrooms downstairs (currently-short term) +  
2 bedroom upstairs (currently-long term)
    - Parking is adequate for current setup
    - Property is Owner occupied/operated
  - **DISCUSSION**
    - Ms. Eichler wants to make an addition to her application: change both apartments in the house to short term rental
    - Board says application can be tweaked before the hearing to include the additional request
    - If change to long term is approved apartment can still be used as a long term rental
  - **NEXT STEPS**
    - Hearing is set for next ZBA meeting (date tbd)
    - Notice will be sent out to neighbors

5. **THE PRELIMINARY HEARING OF WILLIAM DYKSTRA, 130 CHESTNUT STREET,** FOR A SPECIAL USE PERMIT TO OPERATE A FOUR BEDROOM TOURIST ACCOMMODATION (THREE (3) SEPARATE APARTMENTS - 2 ONE BEDROOM AND 1 TWO BEDROOM) AT 130 CHESTNUT STREET. IT IS A FOUR UNIT APARTMENT BUILDING AND MR. DYKSTRA WILL LIVE IN ONE APARTMENT
- **MR. DYKSTRA WAS PRESENT & PARTICIPATED IN THE DISCUSSION**
  - **PROPERTY / CURRENT USE DESCRIPTION**
    - 4 units
    - 5 parking spaces
    - Mr. Dykstra will live in of the 1 bedroom units
    - Packet of photos/floor plans
  - **DISCUSSION**
    - Basic requirements for Tourist accommodation seem to be met
    - Mr. Dykstra is not currently residing on premises but will move in as soon as construction is completed
    - Hearing will probably need to wait until April because there will not be enough board members for a quorum in March
    - Mr. Dykstra asked if hearing could be held in February because of concern about effect on renting for the summer. (Board explained it would not be possible because there would not be enough time to meet the legal notification requirements)
6. **THE PRELIMINARY HEARING OF RICHARD ABBATE, 3 WESTRIDGE ROAD,** FOR A SPECIAL USE PERMIT TO OPERATE A THREE BEDROOM HOUSE TOURIST ACCOMMODATION (SINGLE FAMILY HOUSE WITH SEPARATE AREA FOR OWNER).
- **MS. ABBATE WAS PRESENT & PARTICIPATED IN THE DISCUSSION**
  - **PROPERTY / CURRENT USE DESCRIPTION**
    - 3 Bedroom existing house with new addition that includes a separate bedroom
    - Ms. Abbate stated that she expects the property to be rented as a single entity rather than as separate units
    - Parking includes a garage and a large paved area in the front of the house and one side space=3 spaces that meet guidelines for required parking
  - **DISCUSSION**
    - Needs 4 spaces but there are only 3 that meet the requirements
      - Parking in the front Yard setback can be used but does not count toward the required number of spaces
      - Parking cannot be stacked
      - Parking needs to include spaces for the residing owner/operator even if they choose to park elsewhere (if the house is sold, the board will have to apply the same decision criteria will need to apply to the new owner who may need to park on the premises)
    - Parking variance will be needed before Tourist accommodation permit can be granted
      - Can avoid need for parking variance if decide that only 2 bedrooms will be rented out (instead of 3)
    - Mentioned that all tourist accommodation permits last for 1 year and need to be applied for annually
    - Ms. Snell stated that she is hesitant to set precedent that varies the requirements

- **NEXT STEPS**
  - More detailed information about the property layout and possible parking plans is required for decisions to be made
    - Board members will go to the property to view it in person
    - Ms. Gentile will go the property, measure and work with the Abbates to create a parking plan that deviates as little as possible from the requirements
  - Hearing will be set at the next meeting ( which may be in April due to lack of quorum in march) for both the parking variance and Tourist accommodation permit
  - Hearing for the parking variance will be canceled if it is not needed

#### 7. REVIEW OF MINUTES FOR JANUARY 3, 2017 ZONING BOARD OF APPEALS MEETING

- No discussion or objections
- **MOTION**
  - **To approve the minutes as submitted**
  - Motion made by Mr. Sansevere / Seconded by Mr. Streek
  - VOTE: AYES (3): (Snell, Streek, Sansevere) / OPPOSED (0)
  - **MOTION APPROVED**

#### **OTHER BUSINESS**

- Standard meeting date in March won't work -Next meeting date needs to be rescheduled
  - Discussion revealed that 3 Board members (Mr. Sansevere, Mr. Leo, Ms. Schwartzman) will not be able to attend the March meeting
    - Ms. Snell requested that board members who will be absent submit the dates they will be out of town
  - Currently the ZBA does not have an alternate
  - With 3 members absent there will not be a quorum
  - March meeting will need to be skipped.
  - Next meeting will be scheduled for the regularly scheduled date on the 1<sup>st</sup> Tuesday in April (April 4, 2017) unless a rescheduled date can be determined for a March meeting
  - All hearings discussed today and set for the next meeting will likely be held in April

**MEETING CLOSED 5:58PM**