

Village of Ellenville
Planning Board Commission
February 16, 2011

Meeting called to order at 7:00 p.m. by Commissioner Steinhoff. Also present: were Commissioners Cafaro, Maizer and Zelnik.

Also present: Code Enforcement Officer Brian Schug, Planner Dan Shuster and Village Attorney Peter Berger

Backman Avenue Ellenville, LLC – 85 N. Main Street – Special Use Permit for accessory apartment. Alan Eisman, owner of this property, was before the board tonight to request a Special Use Permit for an accessory apartment on the second floor which would be owner occupied at this site. Mr. Eisman stated that on the second floor he has an office and would like to have a living facility which would encompass a bedroom, bath and a five foot kitchen. There would not be any cooking facility in this apartment.

Attorney Berger recused himself due to the fact that Mr. Eisman is a client of his firm.

Planner Shuster reviewed with board members Section 227-28 a & b of the Village Code which clearly states Mr. Eisman's request would violate this section.

The board did not take any action on this request.

Robert Ramos – 11 – 11 ½ Maple Avenue – advisory opinion to the Zoning Board of Appeals regarding a use variance request.

Mr. Schug reviewed with board members his memorandum dated January 24, 2011 which this parcel is located within the R-1 Residential District. As per the code of the Village, no apartments or apartment buildings are allowed within the R-1 district. Mr. Schug further stated that prior to October 16, 2002 the structure located on the parcel contained a total of three apartments. Two apartments were in the main house and a third was above the detached garage to the west of the main building. At that time and according to the Village Code they were considered legal non-conforming users. The Certificates of Rental Safety expired in 2003 and the owner did not attempt to renew them. Since all three apartments were vacant for more than one calendar year they were no longer entitled to the benefit of a legal nonconforming use.

It was reviewed with commissioners the necessary criteria that a board must consider before a use variance is to be granted. That criteria is as follows:

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. That the alleged hardship has not been self created.

Motion by Commissioner Zelnick, seconded by Commissioner Maizer that the opinion of the Planning Board is that the applicant does not satisfy the criteria necessary to grant a use variance.

All in favor – 3; Nay 1 – Commissioner Cafaro

Motion passed.

Minutes – Motion by Commissioner Cafaro, seconded by Commissioner Maizer to accept the minutes of December 15, 2010 as presented.

All in favor - Aye - motion carried

Discussion – Requirement for public hearings for Special Use Permit for Accessory Apartments.

The Village Board requested that the Planning Board review the section of the Village Code in reference to the requirements of holding a Public Hearing before a Special Use Permit could be issued. Discussion ensued about means to modify the law that the Planning Board could decide if a Public Hearing is necessary. Planner Shuster reviewed the reasons that require a Public Hearing to be held and the Planning Board did not take any action on this matter.

Architecture: What's Legal, What's Not & Construction or Alterations of Buildings: What's Legal, What's Not – Commissioner Zelnik requested that Attorney Berger review a law that he has given to commissioners and give his opinion on this matter. Commissioner Zelnik requested that this matter be placed on a future agenda and discussed in length.

Adjourn – Motion by Commissioner Cafaro, seconded by Commissioner Zelnik to adjourn at 8:15 p.m.

All in favor - Aye - motion carried

Respectfully submitted,

Noreen Dechon
Village Clerk