

DENTON BOARD OF APPEALS
MINUTES
February 9, 2015

Present: Troy Livingstone, Dallas Lister, Florence Doherty and Brian Tyler

Recording: Thomas Wilkes, Town Engineer
Donald H. Mulrine, Jr., Town Administrator

Visitors: Joe Amalfitano

Called to Order: The meeting was called to order at 6:30 p.m. by Chairperson Livingstone

Attendees stood for the Pledge of Allegiance.

Election of 2015 Officers:

Troy Livingstone was nominated for Chairperson and Dallas Lister was nominated for Vice Chairperson. The motion passed unanimously.

New Business #1 – BOA-15-001 A One Rentals LLC/ Special Exception:

Chairperson Livingstone read the notice of public hearing into the record that was properly noticed in the Times Record.

Chairperson Livingstone swore in the applicant, Joe Amalfitano.

Mr. Amalfitano gave a brief introduction of the request for the continuance of the nonconforming use at 810 Market Street. The property was purchased in September 2014, and the multifamily structure was vacant for at least ten years from the result of an estate settlement. Prior to the property becoming vacant, it was a two unit structure. The electric remained on with Delmarva Power. The Town water and sewer remained current. It is more cost effective for the structure to remain as two units. The site does accommodate the parking requirements.

Mrs. Doherty confirmed the nonconforming use is a multifamily structure and interior alterations were allowed for safety.

Vice Chairperson Lister commented on the determination for an abandoned property. If the electric, water, and sewer are maintained, should the structure be considered abandoned?

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Was the structure unoccupied due to the settlement of the estate which may not allow occupancy?

Chairperson Livingstone stated he resides in close proximity to 810 Market Street, and it has remained unoccupied.

Mr. Mulrine stated the Town Council adopted legislation recommended by the Planning Commission to allow the resumption of a nonconforming use by the Board of Appeals.

Chairperson Livingstone stated there were no comments received from the public.

The Planning Commission made a favorable recommendation to approve the special exception.

Vice Chairperson Doherty motioned to grant the special exception for the property located at 810 Market Street for the resumption of the nonconforming use for a multifamily structure.

Vice Chairperson Doherty read the requirements to grant the special exception:

In granting a special exception, the Board shall make findings of fact consistent with the provisions of this chapter. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the standards listed for the proposed uses. The Board shall, among other things, require that any proposed use and location be:

- a) In accord with the Town's Comprehensive Plan and consistent with the spirit, purposes, and intent of this Chapter 128, Zoning.

Request is consistent with the spirit, purposes, and intent of Zoning Chapter 128. The Planning Commission made a favorable recommendation, therefore, it was keeping with the intent of Chapter 128, Zoning.

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- b) Suitable for the property in question and designed to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.

The request will not change the appearance or character of the vicinity.

- c) Suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.

Street traffic will not change and adequate parking is accommodated on site.

- d) Not detrimental to the property values of adjacent development, do not adversely affect the health, safety, and general welfare of residents of the area, and will not adversely affect the area and surrounding property with adverse environmental effects such as undue smoke, odor, noise, improper drainage, or inadequate access.

The property will remain residential and will not affect property values, area residents, or the surrounding environment.

The Board may impose whatever conditions regarding layout, circulation, and performance it deems necessary to insure that any proposed development will secure substantially the objectives of this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter. The Board shall consider recommendations of the Planning Commission prior to rendering a decision. The Planning Commission shall review and comment on all applications for special exceptions prior to review and decision by the Board. The applicant for a special exception shall have the burden of proof on all points material to the application, which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party, if the Board finds such evidence not to be credible.

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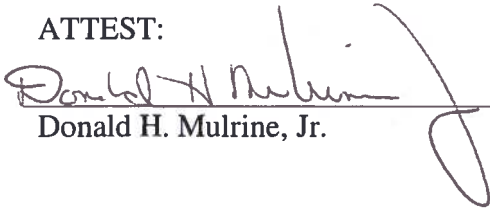
The Board finds that the applicant has met the criteria for the resumption of the nonconforming use of a multifamily structure at 810 Market Street.

Vice Chairperson Lister seconded the motion. The motion passed 3:0.

Staff Item: None.

The public hearing adjourned at 6:45 p.m.

ATTEST:



Donald H. Mulrine, Jr.

DENTON BOARD OF APPEALS:



Troy Livingstone, Chairperson



Dallas Lister, Vice Chairperson



Florence Doherty, Member

Brian Tyler, Alternate