

*DENTON BOARD OF APPEALS
MINUTES
May 11, 2015*

Present: Troy Livingstone, Florence Doherty and Brian Tyler

Absent: Dallas Lister

Recording: Christopher Drummond, Town Attorney
Donna Todd, Planning and Codes

Visitors: Michael McCrea
Donald H. Mulrine, Jr., Town Administrator

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

Attendees stood for the Pledge of Allegiance.

New Business #1 – BOA-15-002 406 Market, 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, Michael McCrea.

Mr. McCrea gave a brief introduction of the request for the combination use at 406 Market Street. Mr. McCrea is the principal owner of 406 Market, LLC. Due to the economic climate of downtown Denton and to make the retail/commercial units more viable, the request for the addition of an apartment for onsite management is necessary. The applicant's daughter will be living in the apartment and operating one of the retail shops.

Mr. McCrea is not interested in converting the primary structure to apartments. The apartment will be located on the second floor of the main structure, and the first floor will remain a retail/commercial unit that is currently Joviality.

Mrs. Doherty asked if there was a kitchen on the second floor or would there be any major remodeling?

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Mr. McCrea confirmed there would be a kitchen on the second floor and that the kitchen currently on the first floor will be removed.

Mr. Mulrine stated fire extinguishers would be required for fire suppression. Sprinklers are not required by the Building Code.

Mr. McCrea noted future plans will include the renovation of the carriage house.

Chairperson Livingstone asked if there were any comments or concerns received from the public.

Mrs. Todd confirmed no comments or concerns were received from the public.

Mr. Mulrine stated the Planning Commission made a favorable recommendation to approve the special exception at its meeting on April 28, 2015.

Chairperson Livingstone stated the neighboring structure is a multifamily apartment building.

Chairperson Livingstone requested clarification for the parking in the rear of the property.

Mr. McCrea confirmed there is parking in the rear of the property. The County owns the property in back of the property.

Mrs. Doherty moved to grant the special exception for the property located at 406 Market Street for the combination use of residential and retail/commercial units without conditions.

Mrs. Doherty read the requirements to grant the special exception and offered findings of fact for each (in italics below):

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

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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, and therefore found that the proposed use was keeping with the intent of Chapter 128, Zoning. The proposed combination use is consistent with the goal of encouraging viable uses in the Central Business District (CBD).

- 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 property and is suitable and consistent with nearby structures and their residential and commercial uses.

- 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 this change will not contribute to congestion or traffic hazards.

- 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.

There is no evidence this change will affect property values, area residents, or the surrounding environment.

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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.

The Board does not find extra conditions are necessary to secure compliance with the objectives of Chapter 128.

Mr. Tyler seconded the motion. The motion passed 3:0.

Staff Item: None.

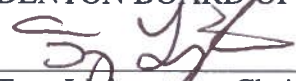
The public hearing adjourned at 6:40 p.m.

ATTEST:

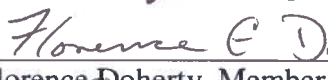


Donna Todd, Planning and Codes

DENTON BOARD OF APPEALS:



Troy Livingstone, Chairperson



Florence E. Doherty, Member



Brian Tyler, Member