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Zoning Board of Appeals

Proceedings by Authority

State of New York,
City of Jamestown, ss:
Council Chambers

The regular meeting of the Zoning Board of Appeals of the City of Jamestown, New York, was held on Wednesday, March 1, 2017 at 3:30 p.m.

Members Present: Ellen Ditonto, Richard Hanson, Sally Martinez, Judith Sandson

Members Absent: Patricia Calanni, Robert Karbacka

Others Present: Larry Scalise

Mrs. Ditonto called the meeting to order.

Mrs. Ditonto: A couple of housekeeping items; we will read the petition first and then somebody who's representing the petitioner can step forward and sit here at the center. If you have questions or anything that you'd like to add to your petition request, you can do it at that time. It looks like we just have one today, so I ask that the petition be read.

ROBERT SANDERS 100-120 N. MAIN STREET 387.40-3-36

The petition of Robert Sanders, 1690 Foote Ave., Jamestown, New York 14701 for a use variance to operate a Tattoo Parlor, Tuesday through Saturday, Noon to 9 P.M., at 100-120 N. Main Street, Unit 2, parcel 387.40-3-36, owned by Brian J. and Kimberlee M. Taylor in a C-3 Zone. (Section 300-0310, Central Business District-Downtown (C-3) Tattoo parlors are not a permitted use in the C-3, Central Business District. The first permitted district is the Service and Highway Commercial District (C-M)).

Mrs. Ditonto: Two things that I have to tell you; you have to identify yourself by your name and your home address each time you speak as we will ask others in the audience to do as well and it does take four affirmative votes for any variance request to be granted, that's why they waited for me, they have to have four people here in order to vote. Go ahead, state your name, home address and then talk about your petition.

Mr. Sanders: Hello, my name is Robert Sanders. My home address is 1690 Foote Avenue Extension, Jamestown, New York. I brought some papers with me, some reviews of our business that we have currently and we've had open for about two years now, just outside of the Jamestown city limits. I also brought some examples of some of the art that we would like to display and some of the tattoos that we will also be providing. We're looking to move into the Downtown Jamestown community just to be more into the heart of the art district. I think that we have a lot to offer to the art community and a lot that can be offered to us in the art community. It's hard to provide; to be a part of that when we're so far out of the town. We're noticing that...

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Ms. Martinez: Could you speak a little louder, please?

Mr. Sanders: Yes, sorry, so far away from the mic. It's hard for us to be part of the community when we're so far out of the town. We've been there for a few years now and it's been very great. Business has been very lucrative for us and we're very grateful for that, but we would like to be closer into the heart of the art community which is what you'll notice, Main Street is, that there's a lot of fine art and that's what we'd like to move our direction towards is more fine arts, opposed to just tattooing. We don't want to limit ourselves. Art is such a broad spectrum and to limit just to tattoos, it's almost a shame. I like to paint, I like to be around other people who like to paint and share art, share it with the community. Right now, we can't really provide anything outside of tattooing. We're not looking to provide anything that's body piercing or modification. We're just strictly art. The tattooing will be more of an appointment only, private, in the back of our business. We'll only have two stations and we'll only provide for current clientele. So, the front of the business will be mainly fine art and art that we have to provide and from friends of ours from around the world and locally that'd we'd like to share with others.

Mrs. Ditonto: Mr. Sanders can I ask you? Are you considering this an art gallery in the front?

Mr. Sanders: Yes. A fine art gallery, yes. We were looking to lean towards – we'd also like to provide custom t-shirts. You'll notice that Fresh Press is next door and we'd like to maybe do some business with them. I've got a library full of custom designs that I have and I'd like to maybe make some prints of them and some t-shirts and clothing. The location that we're at; it's just not possible right now. So, we would like to hopefully move.

Mrs. Ditonto: Okay. Are there questions from members of the board?

Ms. Sandson: So, then, in a nutshell then, primarily the primary focus of your business would be the art gallery and then tattooing as a back end?

Mr. Sanders: Right. We've got a very extensive clientele who are looking for our tattoos. We provide fine art, but when somebody sees something, maybe they don't want to buy a canvas of it, they want it on their body, they want to carry it around. We'd also like to provide that.

Ms. Sandson: Okay, so would that work as a walk-in?

Mr. Sanders: Appointment only. Strictly appointment only.

Ms. Sandson: So if they came into the gallery and they're looking and they see something on canvas, they wanted to have that piece of work done, then you would set an appointment and that would be in the back end.

Mr. Sanders: Yes. We would set that for a different date. We'd get it designed. They would come in and review the design and then we would go into our sterile area. We recognize

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that we can't have the entire area sterile, especially if people are coming in and out looking at art, they wanted to buy art, especially when it gets into the slushy seasons. So, we want to have a separate sterile area in case somebody comes in and maybe they don't like tattoos. We don't want to push tattoos on anybody; just share art. But we are tattoo artists, so we do want to provide for our clients who are looking to have it permanent on their skin.

Mrs. Ditonto: Other questions? Can you tell me, who is employed at this business? Is it somebody besides yourself?

Mr. Sanders: My business partner, Adam Hoopes. We each operate our own separate businesses. He provides his own art and is very good at it. He does portraits for people who want to maybe get a memorial for a passed love one or a child, an animal. He's very good at replicating that kind of stuff. But, he also has painted for - commissioned paintings for clients who want to get a painting of a loved one on a canvas. That's also a medium that we'd like to explore more.

Mrs. Ditonto: I'm sure that you were provided with the use variance format and what you have to go through in terms of questions and things that we would ask and one of those is; is there nowhere else that you could place this in terms of within the context of the correct area that's set up, C-M, for tattoo parlors that would work. That you needed to come into what we would call this downtown central district?

Mr. Sanders; We've explored a lot of different areas and none of them will work to what we're looking for. We really want to be right in the heart of the art district and there's just not anywhere else like that area. It just seems to be one kind of long strip of fine art studios and it's just kind of something that we want to be a part of.

Mrs. Ditonto: Would you say it's unique because of the combination of fine art and tattooing? Is that what makes your request unique, I guess, for that area?

Mr. Sanders: Yes, I think it's very unique. It's the historic district also and tattooing is something that's kind of a forgotten, historic thing. Humans have been tattooing themselves since the beginning of time; well human's time, 5,000, 6,000 years and I want to bring that more to the light. It's got kind of a shadow on it right now; a stigma. I'm hoping that I can kind of change that a little bit over time.

Ms. Sandson: I believe there is already one operating tattoo parlor downtown, isn't there?

Mr. Scalise: The one on Cherry Street. They're closed.

Ms. Sandson: I don't think they're closed. They're pretty active on Facebook.

Mr. Scalise: I thought they were closed. He could tell you better than I. They're still open?

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Mr. Sanders: As far as I know, they're open, yes.

Mr. Scalise: For some reason I thought they'd closed. They'd changed ownership and closed is what I thought.

Ms. Sandson: I know they changed ownership...

Mr. Scalise: But, they've been there, a tattoo parlor has been there for a number of years...

Ms. Sandson: Right, it was grandfathered in.

Mr. Scalise: That's why they brought the regulation about was when they went in years ago. That was long before I came to the city. It's been about twenty years at least.

Ms. Sandon: I believe they do by appointment only also. In the evenings, when I work late at the restaurant I notice. I see people going in and out. That's why I was just curious.

Mr. Scalise: That's the only one in downtown.

Ms. Sandson: That's the only one in downtown.

Mr. Scalise: There was the one that was approved down on Fairmount Avenue by Station 5 a couple of years ago; I never see him open. It just might be when I drive by he's not open, but it looks like he's still in there.

Ms. Martinez: That one does look closed all the time.

Mrs. Ditonto: Can you tell us about your hours? When you say by appointment only for tattooing, could somebody say the only time they can come is midnight and you would open your storefront at that point?

Mr. Sanders: No ma'am. Our hours of operation would be Tuesday through Saturday, 12:00 pm to 9:00 pm.

Mrs. Ditonto: I saw that in your notes, I just wanted to make sure that was for both tattooing as well as the art gallery.

Mr. Sanders: Yes ma'am. And that's something that we've kind of molded. We've walked around, we've talked to all the owners of businesses around in the area, of downtown, and they all seem to have the same hours which seemed to be around 12:00-9:00 every day except for Sunday and Monday. We want to fit the same hours of operation. Everybody seems to be really welcoming of it. I think it would be a great thing for downtown.

Mrs. Ditonto: You mentioned the art district. The property that you're looking to rent is on Main Street versus Third Street or Second or First, but would you consider that really part of

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the art district? I just want to make sure that, I mean, I consider Third Street and Second a little bit more of the art district.

Mr. Sanders: Just from my perception from walking around and driving around downtown, I've seen a lot of the fine art. There's a lot of art galleries and art vendors around downtown, but I've noticed a lot of the fine art and artists have a lot of their shops open on Main Street. I think that's pretty cool.

Ms. Sandson: Dykeman Young, right? Michael Dykeman's.

Mrs. Ditonto: Right on Second. Third on Third.

Ms. Sandson: And then on Third.

Mr. Scalise: Mason Fine Arts.

Mrs. Ditonto: Mason Fine Arts is in the block above that.

Mr. Scalise: It's between Third and Fourth.

Ms. Sandson: So, it's coming up past my stores. Going that way.

Mr. Scalise: You've got the Winter Garden Plaza there which they have bands and art and it's a cultural...

Mrs. Ditonto: And then on Third we have the – there's really the art gallery along the Willow Bay structure as well. On third. Okay. Any other questions from members of the board?

Ms. Sandson: There's two tattoo artists. That would be yourself and your business partner?

Mr. Sanders: Yes ma'am.

Ms. Sandson: And then each one of you operate under your own permits. Is that how that works?

Mr. Sanders: Yes ma'am

Ms. Sandson: Okay. And then, you would both, then, also be in charge of the art gallery as well?

Mr. Sanders: Yes ma'am. We each have our own clientele and we each have our own clientele of artists who would like to display their art. We don't really disclose that information to each other. We kind of keep it separate. It keeps it easier. We each do our own thing. We're doing pretty good, I think.

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Ms. Sandson: And then you said, there's no piercing.

Mr. Sanders: No ma'am.

Mrs. Ditonto: Any other questions? At this point, we would be looking for anyone in the audience who would like to speak either for or against this petition. You would have to go to the microphone to the far right, state your name and home address.

Mr. Olson: They can use that one as well.

Mrs. Ditonto: Okay. You can use this one over here to my right, your left. Name, home address, please limit your remarks to the issue at hand, which is a tattoo parlor and art studio.

Mr. Parsons: Yes, ma'am. My name is Mark Parsons. I live at 402 Lafayette, apartment 7, right here in Jamestown. My main concern is, if you allow one more tattoo parlor in, all of the rest are going to attempt to get a variance as well. I know everybody's kept to the outskirts as it is and there's one allowed downtown because it's been grandfathered in. That's my main concern. Do you really want every tattoo shop in Jamestown and surrounding areas trying to get in a spot downtown while you're trying to bring in more high-end businesses?

Mrs. Ditonto: Okay. Thank you very much. Anyone else in the audience who would like to speak for or against the petition, please state your name and home address. Make sure you go to one of the microphones. One more time, if there's anyone in the audience that would like to speak for or against the petition, now is the time. Seeing none, we will move on to correspondence. There was a number of correspondence that was included in our packet and I believe that was from you Mr. Sanders. A number of signatures of support from people who were, I guess, frequenting your business. They weren't all area residents. I mean, they weren't Jamestown residents all of them.

Mr. Sanders: Yes ma'am. All of them are Jamestown residents as far as I know. I believe there are a few pages of signatures from the businesses surrounding downtown and then there are a few signatures of some doctors and EMTs that we wanted to make sure to get and then just other clients who support our petition.

Mrs. Ditonto: So that will go into the record as being part of the packet. I don't know if you had any other correspondence?

Mr. Olson: No.

Mrs. Ditonto: I have correspondence that came to my home that I am going to ask you to read into the record.

Mr. Olson: Please accept this letter in support of the relocation of Prophecy Fine Arts and Tattoo to 100-120 North Main Street as a property I own in the city. Their location is in the Town of Kiantone and has operated successfully and professionally for the past two years. They want to sell artwork on a commission basis, however, the tattoo part of the business provides a

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steady income stream. They do not do any type of body piercings and they operate a very clean and inviting business. This would be a good fit to the building. They would operate next to Fresh Press and would provide a positive atmosphere to an area that has empty storefronts and nothing open past five. I commend them for their effort and willingness to open a business downtown together with the financial commitment it entails. Since I know both of you, Mrs. Ditonto and Ms. Martinez, I wanted to reach out with my thoughts and what I believe will be a positive for the area. Signed, Brian Taylor.

Mrs. Ditonto: Thank you. You said there was no other correspondence. Okay. At this point I guess it's open to final questions from the board and I just had one about your lease. Is this a multi-year lease that you set up for this business?

Mr. Sanders: It will be a year lease I believe, yes. It will be through Brian Taylor and he's been real lenient with us and really wants to be in that location, so he's willing to do whatever kind of lease that we want to do. Whatever is within reason of what you guys are looking for.

Mrs. Ditonto: Any other final questions from members of the board?

Mr. Hanson: Yes. I have one. Would you say that the primary business would be the art studio as opposed to the tattoo business?

Mr. Sanders: Yes sir. Very much so. The tattoo business would be more for appointment only, private clientele who are looking strictly to get something that is our art. Everything is custom. We're trying to lean more toward the fine art. We love to tattoo. I've been tattooing for a long time around the world and I'm looking to push my horizons. I don't want to limit myself and I know a lot of other artists in the area, and not in the area who are looking to do the same and get their art out there. I would like to be part of the community and be able to share that.

Mr. Hanson: Thank you.

Mr. Sanders: You're welcome.

Mrs. Ditonto: Just to follow up on that question. Could you tell us if it would be a 60/40, art to tattooing; 70/30, 80/20? What would you say in terms of your revenue stream?

Mr. Sanders: I would say that probably an 80/20 with 80 more towards fine art and 20 more towards tattooing. I stay busy with tattooing, but I stay a lot more busy with art. And that what I was doing long before I was tattooing, is art. I like to be able to express what's in my head as well as what's in other people's heads. In all mediums.

Mrs. Ditonto: As an art gallery, I take it that you'd be using the window space to display the art that would be yours or people that you would bring in to sell their art on commission. Is that correct?

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Mr. Sanders: Yes ma'am.

Mrs. Ditonto: And I have a question about that because it is in the Central Business District in terms of the type of art. Would it be like the samples you brought us today? Would it be more graphic, more risqué?

Mr. Sanders: It would be all very appropriate and very classy art. We don't really go into the mediums of, for example, blood paintings. We don't do any of that kind of painting. It is strictly canvas mediums and we want to display stuff that is beautiful art. When you look at it, it makes you want to walk in, it's inviting and warm. We don't want to do anything that's going to hinder the historic look of downtown.

Mrs. Ditonto: And how do you plan to advertise the business?

Mr. Sanders: We have a pretty good media following as it is. We'll probably use social media, such as Instagram, Facebook, Twitter and display our art via pictures; high resolution pictures of nice art that catches people's eyes. Add in the walk-in flow of people walking by, looking in the windows, seeing some beautiful art, they'll walk in and want to look at the rest of the art, that's something that we really want to strive for.

Mrs. Ditonto: Because you mentioned that it's a unique request because of the location in the art district, would there be any attempt to link to the other galleries so that there would be either events that could be run at the same time, or have you talked to any of the other galleries about that?

Mr. Sanders: Yes ma'am. We've talked to a few of the galleries and I'm friends with a few of the galleries that work around the areas and we would want to definitely do some art classes and definitely expand our teachings and our knowledge to the people that don't know that much about art and art history; make that more acceptable and easy to get than it is right now. Especially with the history of tattooing, just alone has very deep history in all different cultures. I think that will benefit the area a lot.

Mrs. Ditonto: Okay. Any other questions?

Ms. Sandson: You said that you feel on the revenue end, it would be 80/20, the 80 leaning more toward the artwork. Where have you been selling the artwork prior?

Mr. Sanders: We've been selling the artwork mostly online right now. We don't have any kind of clientele that walks by in the location that we have. People drive by, but they can barely see us. So, I'd say 100% online right now.

Ms. Sandson: I'm curious, how would it be categorized then? Would he actually be opening an art gallery, or...

Mr. Scalise: An art gallery is allowed use, so that's really not an issue. It's just the tattooing is the only reason we're here.

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Ms. Sandson: Is because of the tattooing.

Mrs. Ditonto: Because that's part of the business. It's under the same...

Mr. Scalise: Yes. It's whether 1% or 100%, it's tattooing which, according to the zoning code, isn't permitted in the C-3.

Ms. Sandson: Right. Because the only one that we have downtown is the one that was grandfathered in.

Mrs. Ditonto: Any other questions or clarification needed? Seeing none, we'd be looking for a motion on the petition request for a use variance by Robert Sanders and Prophecy Tattoo to open an art gallery/ tattoo parlor in the downtown district in the 100-120 North Main Street block. Is there anyone willing to make a motion on this variance request? Is there anyone who would like to make a motion for or against approval of the petition?

Mr. Hanson moved to approve the request with the stipulation that the tattoo and art gallery portions of the business be in separate areas. Seconded by Ms. Martinez.

Denied 3-1 (Sandson – nay)

Mrs. Ditonto: Unfortunately, you need four affirmative votes and it was three to one. So, at this point, you can talk to Larry Scalise about coming back with a modified proposal or doing something different, or finding a place that would not require a use variance. I'm sure that his office will work closely with you. Thank you.

Mr. Sanders: Thank you.

There being no further business, the meeting was adjourned.

James N. Olson, Secretary
Zoning Board of Appeals