

**Zoning Board of Appeals
Meeting Minutes
October 26, 2015**

Present: J. Wright, E. Morano, S. Sutton, R. Shackleton, G. Cleveland

Absent: B. Natoli, F. VanAlthuis

Staff: Amy Donnison, Todd Dreyer, Jason Lawrence

* Alternates with voting power are noted in **bold**.

I. Call to Order

The meeting was called to order at 7:00 PM by Chairwoman J. Wright. J. Wright stated that the Board is made up of volunteers to enforce the regulations put in place by the Common Council, and that they have up to 62 days to make a decision on the request before them. The decision that will be made is based solely on the information presented to them during the hearing process. There is 1 application before the board this evening. This hearing is a request for a Use Variance at 5 – 9 West Main Street.

II. Public Hearing: Ismael Ortiz – 5 – 9 West Main Street

The public hearing was opened at 7:00 PM. The following exhibits were entered into evidence:

1. Application from Ismael Ortiz.
2. Community Development report date October 23, 2015
3. Photographs of property
4. Photographs of other empty 1st floor commercial spaces
5. No correspondence received in support or opposition of this proposal.
6. No phone calls received in support nor in opposition of this proposal.
7. Property & School Tax Bills
8. Proposed floor plan and use
9. Tax map showing the parcel
10. Public hearing notice (mailed to all properties within 500 feet of the applicant).

A. Donnison read the Community Development report and noted that this action did not require 239 Review. Stated that there had been no phone calls nor letters received in support nor in opposition to the proposal.

Ismael Ortiz, 5 – 9 West Main Street, thanked the ZBA for hearing this request. Mr. Ortiz noted that as per the tax bills he submitted with his request in addition to the rising cost of insurance, water and sewer as well as maintenance on the building is making the building nearly impossible to keep as it is not supporting itself. Mr. Ortiz resides in the building with his wife (also present). Mr. Ortiz has stated that the market for rentals is limited for the professional people he targets and he has lowered his rents to keep the good tenants he currently has. The law library has left and Springbrook will likely be leaving at the end of 2015. Mr. Ortiz states he only is looking to make enough to maintain the building and is looking for opportunities to keep revenues flowing. A wall near the front west side windows is proposed so that no matter who is residing in the front apartment there will never be an unsightly view from the street. The proposed dwelling units will be of the same high quality as the ones on the upper floors that have already been redone several years ago. Mr. Ortiz states he doesn't want to sell the building and move as he loves the community.

J. Wright inquired if rents have been lowered for the commercial side of the business? Mr. Ortiz stated yes, the offer has been made to Springbrook to get them to reconsider leaving and also rents have not been increased for 5 years. J. Wright asked if the dwelling units were all full. Mr. Ortiz stated mostly – due in part because he has eliminated the one year lease and gone to a 6 month lease. G. Cleveland and how far from the window in the wall on the front west side. Mr. Ortiz stated that has not yet been determined and is open for suggestions as long as it will meet codes and prevent an eyesore. S. Sutton asked what the space between the window and wall would be used for. Mr. Ortiz stated nothing is planned to change. There are blinds on the entire front windows of building and there are no plans to change that at this time. J. Lawrence noted that these blinds in place and even the proposed wall is way better than sheets, etc. that we have seen used as “curtains” in other locations. S. Sutton asked if he has considered using the blank space for advertising. Mr. Ortiz stated he preferred not to do that as all that signage, etc. would detract from the character of the building and probably would not meet city signage requirements. S. Sutton suggest Mr. Ortiz consider reconfiguring the space so the entire front is kept commercial and then put dwelling units in the rear. J. Wright asked if he has considered making the entire 1st floor residential. Making a lobby area in the front so that area is not used for any dwelling which would eliminate any “unsightly” views from the street. S. Sutton believes the historic value of the building would be lost if 1st floor was all dwelling units. G. Cleveland stated he liked the residential idea put forth by J. Wright with a lobby in the front. G. Cleveland also stated that the more people living downtown meant more people shopping and eating downtown. Mr. Ortiz noted that he would rather just get what he has requested and keep some of the commercial space so that future options are still available. E. Morano states that it appears the financial hardship has been proven as we all know taxes are out of sight and there is definitely plenty of available 1st floor retail and commercial in the downtown area.

S. Sutton asked what the square footage of the 1st floor is. Approximately 1,800 square feet. Mr. Ortiz did not ask to convert the entire 1st floor to residential because he is trying to be conservative and optimistic in his request. Mr. Ortiz has not received even 2 calls of inquiry ever since the law library moved out 5 years ago. G. Cleveland inquired about available parking. A. Donnison stated there is the Hayes St Municipal lot at the rear of this building. R. Shackelton stated he agreed we need more classy apartments in the area. Also noted that this parcel is in the BID and would the BID payments change. A. Donnison stated no – Mr. Ortiz would have to continue to make BID payments as a use change doesn't take him out of the district. S. Sutton asked who drew up the floor plan – Mr. Ortiz did it himself so it is not to scale. R. Shackelton asked about forms of egress for the proposed dwelling units. J. Lawrence stated that there are some windows there and if the proposal is approved Mr. Ortiz is aware the construction plans would have to meet code. J. Lawrence stated the other units Mr. Ortiz renovated came out beautiful and he even restored a very old elevator as well. E. Morano asked that since a hardship seems to be proven what are you running in currently, the red or the black. Mr. Ortiz stated it varies month to month and that vacancies have caused some hard times. S. Sutton asked what he gets for commercial vs. residential rents. Mr. Ortiz stated \$1,700 per month from law library which was covered by an allowance and Springbrook pays \$2,100 per month which is partially at least covered by grants. The residential side rents vary based on how many bedrooms but that he gets what he thinks is the average market value. Mr. Ortiz stated that he has been involved in real estate for over 20 years and then he and his wife decided to retire to Norwich.

S. Sutton repeated his earlier statement that he thinks this proposal would take away from the historical aspects of the building and that every building should be kept and used for what it was originally designed for. J. Lawrence stated that the original brickwork on the building has already been restored and that all building codes will be met. E. Morano asked what present of occupancy has been determined is needed to meet expenses. Mr. Ortiz stated he has allowed for 5% vacancy. S. Sutton asked if only 50% of the request was approved how much of a hardship would that create? Mr. Ortiz stated his crystal ball isn't working but that his experience indicates his request is the most optimal.

Chairwoman J. Wright asked if there were any additional questions or comments. There being no further questions or comments, the public hearing was closed at 7:50 pm.

III. Findings and Determinations: 5 – 9 West Main Street:

1. Request for a Use Variance due to the hardship of renting 1st floor space for commercial use only.
2. No calls or letters in support nor in opposition to proposal

3. Parcel is located in a B1 zone.
4. Only the rear and west side of the 1st floor would be converted to residential space.
5. 2nd and 3rd floors were remodeled for residential space several years ago.
6. Photos showing at least 7 spaces comparable to this address with space for rent and is still sitting empty.
7. Losing the one commercial tenant (Springbrook) at the end of the year but hopes to find a new commercial tenant for that space.
8. Tax bills provided showing rising cost to maintain the building
9. Previous renovations did not change the character of the building or the neighborhood.
10. Sketch submitted is not to scale
11. No 239 review required
12. Surrounding neighborhood is primarily commercial with upper floors being used as some residential.
13. Applicant cannot realize a reasonable return on his building
14. Alleged hardship to the building is unique and does not apply to a substantial part of the district or neighborhood.
15. Requested variance will not alter the essential character of the neighborhood.
16. Alleged hardship has not been self-created.

Motion made by G. Cleveland to approve the use variance request as submitted which includes a wall as well as blinds in place on the west side. Seconded by E. Morano.

Discussion: S. Sutton inquired about the distance of the wall on the west side from the window and stated again he felt these old buildings should be used as designed and this building was not designed to be a residential building. E. Morano stated the ZBA is not a design board and also noted that there have been no interested parties looking to rent the vacant commercial space. G. Cleveland also noted that no one has been bothered by the blinds in the front windows for the past 15 years so sees no issue with it continuing. R. Shackelton stated he feels it helps that Mr. Ortiz wishes to keep a portion of the building for commercial use.

S. Sutton stated he felt he should abstain from voting because he has a similar building nearby. E. Morano stated that maybe we have to look forward and make some changes and that preserving the past may not be the path to the golden gateway.

Motion Approved: 4 ayes; 0 nays.

Ayes – J. Wright, E. Morano, G. Cleveland, R. Shackelton

Nays – None

Abstained – S. Sutton

IV. Other Business

J. Lawrence stated that the Planning Commission reviewed the current Sign Ordinance. Specifically the residential zone square footage where maximum allowed by right is 4 square feet. It was determined that each residential area has its own character and felt that at this time to leave the current dimensions in place and let the Zoning Board review each one on a case by case basis.

V. Adjournment:

There being no further discussion, the meeting was adjourned at 8:25pm on a motion made by R. Shackelton, seconded by S. Sutton. Ayes All. Carried.