DEVELOPMENT REVIEW BOARD MINUTES

WEDNESDAY, SEPTEMBER 18, 2024 @ 6:00 PM
RUTLAND CITY HALL, ALDERMAN'S CHAMBERS

ATTENDANCE

DRB MEMBERS PRESENT:
Mike McClallen, Chair
Al Paul
Jim Pell
Steve Wilk

STAFF PRESENT:
Andrew Strniste, Zoning Administrator
Luke Alexander, Asst. Zoning Administrator

OTHER CITY OFFICIALS:
Ed Bove, Executive Director of Rutland Redevelopment Authority

24 WALES STREET:
Matthew Branchaud 26 Court St, Appellant
Sussera Properties, LLC 10 Dam Rd Chittenden, VT Landowner

OTHERS IN ATTENDANCE:

Gordon Dritschillo, Rutland Herald

- Members of the Rutland City Development Review Board and the public convened in the Aldermen's Chambers at Rutland City Hall, 52 Washington Street, around 5:55 PM.
- No members of the public were resent to provide public comment.

PUBLIC HEARING – APPEAL OF ADMINISTRATIVE OFFICER ***6:04 PM***
APPELLANT: Matthew S Branchaud
LANDOWNER: Sussera Properties, LLC
ZONING DISTRICT: DOWNTOWN BUSINESS DISTRICT (DB)

[6:04] Chair M. McClallen called the hearing to order and provided an overview of the hearing procedures. The subject of the evening's hearing relates to an appeal of the Zoning Adminsitrator's issuance of Zoning Permit #: Z-25-0002 relating to the conversion of six (6) office units (Office Use) to seven (7) residential units (Multifamily use) via § 31-311(C)15 of the City's *Land Use Development Regulations* (relating to the permitted use – multifamily). Chair M. McClallen swore in all those who were in attendance wishing to provide testimony during the evening's public hearing. The Appellant, Matthew S. Branchaud was before the Board to present his appeal. In addition, a representative of the Landowner (Sussera Properties, LLC), Clair Purcell, was present to provide testimony.

[6:06] To commence with the evening's hearing, Assistant Zoning Administrator, Luke Alexander, provided an overview as to why he had approved the permit. Specifically, Assistant Zoning Administrator, L. Alexander advised that the Multifamily use was a permitted use in the Downtown Business District and that there were no limitations relating to the size of the property, as with other zoning districts. In addition, the project related to interior renovations, and therefore, the permitting process was largely a documentation exercise. Chair M. McClallan asked a clarification questions as to whether three or more units qualified as multifamily, which was answered in the affirmative.

[6:08] Appellant M. Branchaud advised that he was an attorney whose legal practice was in the subject building – that the practice he was a part of occupied multiple units. He informed the Board that the building was sold to Sussera Properties in June of 2024 and that he was expecting to occupy the units until September 30. Appellant M. Brancahud then advised that he was in a dispute with the landowner, as he opined that he had reach a deal to occupy the units until the end of October, which would give him and his legal practice enough time to move from 24 Wales Street to a new location. In August, he had received an eviction notice, and that bad feelings had led to the appeal of the permit.

[6:11] Appellant M. Branchaud then stated that the permit was issued in error since the project was incorrectly described in the permit materials. Specifically, the listing for the building ranged from 5,500 sq. ft. to 5,800 sq. ft., whereas the permit advised that 6,900 sq. ft. would be converted; thus, the condominium association appears to own some of the area being renovated. Appellant M. Branchaud informed the Board that the association owns the hallways, and that he opined that the Landowner did not have the legal authority to renovate that area since there would be renovation of the commonly owned area. Therefore, the permit was issued in error. Appellant M. Brancahud then advised that the downstairs units are also part of the condominium association. He opined that the project does not seem appropriate given the lack of parking.

[6:15] Chair M. McClallen asked the Appellant if he was waiving the other issues that he raised in his written appeal since he did not talk about those issues. The Appellant advised that he was not waiving the issues; however, the Appellant did not provide any additional materials for the Board to consider relating to those issues.

[6:16] Board Member Wilk asked a clarification question relating to the landowner of record of the common area; the Appellant advised that the Landowner subject to the application was not the landowner of the common area, but rather, the condominium association. A discussion ensued about what areas of the building are deeded to whom. Chair M. McClallen asked the Appellant, in its current configuration, as the occupant and tenant, was there a distinction between the common space and other space. The Appellant answered yes and no. For example, he uses the entrance space, which is common area – owned by the condominium association. Chair M. McClallen then inquired as to the ownership percentages, as well as if any other owners in the condominium association had signed off on the project. Appellant M. Branchaud advised that the issues were raised, it was up to the Board to decide if they thought they were important. Chair M. McClallen then went through the various issues that were raised. Appellant M. Brancahud informed the Board that there were times where parking spaces were not available, and there could be as many as 14 cars associated with the proposed dwelling units.

[6:27] Representative of the Landowner (Sussera Properties, LLC), Clair Purcell, informed the Board that she had come to Rutland five years ago and that she was looking to invest into Downtown Rutland. She then explained that she ran into the previous landowner, Gene, and that he wanted to sell the property at 24 Wales Street. On May 31, she purchased the property with the Appellant being the attorney who represented Gene, the seller. C. Purcell advised that the seller and condominium association were of what she was proposing. C. Purcell then advised that the she had an agreement with the association – that if she covered the cost with renovation of the common area, the association was fine with the project, and that once the plans and designs were confirmed, they would be submitted to the association. C. Purcell then informed the Board that she disagreed with the Appellant regarding the lease, and that Gene requested that the Appellant stay until they could vacate. At the day of the signing, C. Purcell contended that the Appellant wrote into the lease that he and his firm would be able to stay in the unit until October 31.

During the summer, C. Purcell provided a notice to terminate to the Appellant, who advised that those were not the terms of the lease – that they did not intend to vacate until September 30. At that time, C. Purcell had already lined up the contractors and that the Appellant refused to meet in person to discuss options. If the Appellant was not going to physically occupy the space, the Landowner would be unable to commence demo. As a result of the appeal, the contractors had to be cancelled. C. Purcell did confirm that the renovation project did involve common areas, that the other owners had approved of. While some work has commenced, that work was covered under a building permit, not a zoning permit.

[6:33] Executive Director of the Rutland Redevelopment Authority, Ed Bove, was before the Board on behalf of the Rutland Redevelopment Authority requesting a quick decision by the Board. He opined that the issue seemed to be a dispute between two private parties; that the Rutland Redevelopment Authority was in support of the project and the City had even awarded money for the project. In looking through the zoning regulations, E. Bove opined that there was no justification for the appeal. Furthermore, the Downtown Strategic Plan and Master Plans both support housing in Downtown. He further stated that there use to be housing units in the building, and instead of celebrating a groundbreaking event, the matter seems to be tied up in a private matter.

[6:36] Chair M. McClallen asked for closing arguments. Appellant M. Brancahud rebutted that a September 30 date would have given his practice more time to move to the new location. He questioned the legality of the minutes from the condominium associations' meeting that acquiesced to the renovations, and said that it should be done correctly. A discussion between the Board, Appellant and Landowner ensued about the minutes and what that means from a legal perspective. A discussion then commence about the purchase and sale agreement, and whether September 30 or October 31 was the end of the lease. Appellant M. Branchaud opined that there was a disregard for someone's legal rights. Board Member Wilk inquired as to whether the Appellant thought he was entitled to September 30; the Appellant opined that September 30 was legal upon initial impression. Chair M. McClallen advised that evaluating the legality of the lease was not an appropriate topic for the Board to address.

[6:45] The Board had no other questions, nor did the Appellant or Landowner provide additional testimony. Chair M. McClallen adjourned the hearing and provided an overview of the process going forward.

OTHER BUSINESS — *6:28 PM*

[6:50] The Board entered into closed deliberation to discuss the evening's hearing.

[7:15] The Board adjourned the evening's meeting.

Respectfully Submitted by Andrew Strniste, Planning & Zoning Administrator