

# **CITY OF RUTLAND, VERMONT**

## **Development Review Board Minutes**

### **Wednesday, December 5, 2018**

Development Review Board Members: Stephanie A. Lorentz, Al Paul, Jim Pell, Steve Wilk and Mike McClallen.

Members present: Lorentz (arrived 6:10 PM), McClallen, Paul, and Pell. Also present, Zoning Administrator Tara Kelly and Gordon Dritschilo from the Rutland Herald.

At 6 PM Chair McClallen called to order the hearing on an Appeal of the ZA's decision to issue a Notice of Violation at 35 Lincoln Avenue. Appellant is contesting that the 5<sup>th</sup> unit was a pre-existing use at 35 Lincoln Avenue in Rutland VT.

John Ruggiero, Agent, was present to give testimony for the hearing and was sworn in by McClallen. Mr. Ruggiero testified that he was withdrawing the appeal based on his research that turned up a lack of evidence to support the appeal.

Chair McClallen called to order a Variance application asking for the DRB to allow the creation of a fifth unit at 35 Lincoln Avenue in Rutland, VT. John Ruggiero, Agent, was present as applicant for 35 Lincoln LLC and was sworn in by Chair. Mr. Ruggiero provided copies of a document entitled "Summary of Evidence" dated Dec. 5, 2018. Member Lorentz joined the meeting shortly after Mr. Ruggiero was sworn in at 6:10 PM.

Mr. Ruggiero gave the following testimony:

- The property is located in the IHM neighborhood which is zoned MR1 Mixed Residential which allows for multi-family homes.
- The property has 4 apartments, 2 1-bedroom and 2 2-bedroom with parking available for five vehicles.
- The property was foreclosed in 2015 and squatters occupied the abandoned house which included a basement apartment with an entry door at ground level.
- The basement apartment was built by the previous owner with a toilet, sink, kitchen sink and beginnings of a shower.
- The basement apartment was flooded when heating pipes burst.
- Improvements were made to the property including removal of mold and installation of a new shower.
- The lot size of approximately 6,000 sq. ft. does not permit the fifth apartment and a Variance is requested to establish the unit as legal so that a Zoning Permit and Certificate of Occupancy can be obtained.
- The fifth apartment is for a single occupant.
- No residents of the building currently own vehicles.
- No structural changes to building needed for the unit.
- During clean-up of the property there was substantial clean-up of the neighboring properties.

Member Lorentz calculated there could be six or more cars at the property for five parking spaces. Mr. Ruggiero explained that his leases restrict parking to one vehicle per household and that additional parking is available off site on Grove Street. Mrs. Lorentz asked for a sketch of the site. Chair McClallen provided copies from the application file.

Upon review of the photos, Mr. Ruggiero said the parking area is located on the left side of the property and is gravel, fenced in and the snow is plowed to the fence. No parking is permitted in the driveway.

Member Paul asked if the apartment was currently occupied. Mr. Ruggiero said yes. The tenant was given a notice to vacate but failed to do so and an eviction has been started. He has tried to relocate the tenant to another property but no other apartments are available. He added that the remaining 4 apartments at 35 Lincoln Avenue are currently rented with C.O.s.

Chair McClallen asked if the property was purchased in 2017 in foreclosure. Mr. Ruggiero said yes. There was discussion of the timing of when the C.O.s were issued for each of the apartments. Mr. Ruggiero said the tenant moved into the basement apartment in October of 2018. Chair McClallen asked if a C.O. was obtained at the time and Mr. Ruggiero said "no."

Chair McClallen asked if the Division of Fire Safety has inspected the apartment. Mr. Ruggiero said "no." He added that the Building Inspector had provided him with notice of a number of things that needed to be fixed and the need to inspect the unit to ensure that the violations have been corrected.

Mr. Ruggiero testified that all of the non-compliance issues in the basement apartment have been corrected including the hardwired photoelectric smoke/co detector, fire protection between basement and living space, the step between kitchen and bathroom, and the electric heaters were removed following the repair of the circulator on the furnace. The tenant provides their own cook top.

Member Lorentz asked about the going rent for a 300 sq. ft. studio apartment. Mr. Ruggiero said this apartment is \$600 per month and includes everything. He discussed the benefits of studio apartments vs. boarding or rooming houses that do not have a private bathroom, kitchen or entrance and charge \$150 per week. Studio apartments are more affordable for fixed income individuals and the eviction rate is much lower.

Chair McClallen asked what caused the pipes to burst. Mr. Ruggiero said the pipes froze while the house was abandoned. Additionally, there were issues with water in the basement due to rot at the foundation along the side of the house. This has been repaired with rubber added to the foundation and no problems currently exist.

Chair McClallen asked if there was any additional testimony that Mr. Ruggiero would like to present. Mr. Ruggiero said that in the Summary of Evidence packet he included copies of three similar variances issued by the DRB. He said this request for a Variance is consistent with the Board's past decisions.

Chair McClallen adjourned the meeting. He stated the DRB has 45 days to issue a decision. There is a 30 day appeal period that follows the date of the decision. The hearing was adjourned at 6:30 PM.

Respectfully submitted,

**Barbara Spaulding**

**For: Tara Kelly, Development Review Board Clerk**