A Regular Meeting of the Zoning Board was held on Thursday, February 27, 2014 at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY 14472 at 7:00 p.m.

PRESENT: Kevin Wright – Chair

Meribeth Palmer

Bruce Peckham

Liz Sciortino

Donald Thorp

ATTORNEY: Douglas Jones

OTHERS: John Rooney, Town Board

Mary Fletcher, ZBA Secretary

3 Others

Minutes were taken by Cathy Hoose.

Mr. Wright began the meeting at 7:03 p.m.

**VALIUKAS USE VARIANCE PUBLIC HEARING**

Steven Valiukas, 133 Daffodil Trail, Rochester, NY, appeared before the Board for a use variance at 3906 Rush Mendon Road, Mendon, NY, consisting of 0.20 acres, bearing Tax Account No. 216.07-1-6, located in a Business zone, to convert the existing first floor beauty shop into an apartment which will result in both the upstairs and downstairs being apartments, therefore an apartment building, which is not an allowed use in the Business District.

Mr. Wright noted that the affidavit for posting of the sign was in the file and then waived the reading of the Public Notice because it was published in the Sentinel. Mr. Wright asked if all members of the Board had seen the property in question and all members stated that they had.

Mr. Valiukas provided a brief history of the property. He has owned the property for about 3 years; his mother owned the property the 30 years prior to him. Mr. Valiuskas’s mother operated a beauty salon on the first floor when she owned the property. When Mr. Valiukas became the property owner, there was a tenant operating a beauty salon in the commercial space and a tenant in the upstairs apartment. The beauty salon tenant has moved to another location and the property has been vacant since January 2014. The first floor space has a full bathroom and 3 separate rooms and thus renovations to convert the space to an apartment would not be extensive.

Mr. Valiukas has had rental signs in front of the property and has advertised the available beauty salon on Craigslist. He has not received any inquiries from the Craigslist posting and all inquiries about the rental property have been to inquire about apartment rental.

Mr. Wright asked if Mr. Valiukas has advertised the property for other commercial use or employed the use of a realtor. Mr. Valiukas stated that he has not.

Mr. Peckham inquired about parking for the property. Mr. Valiukas stated that apartment renter has a driveway for parking and that customers of the beauty salon parked on the street. Mr. Valiukas stated that the previous beauty salon tenant noted that parking issues were a reason for moving location.

Mr. Wright referred to the parking requirements for the Town of Mendon. Residential housing must allow for 2 parking spots per dwelling unit. If a use variance were to be granted, the property would require 4 parking spots, 2 for each unit. Mr. Valiukas stated that the current tenant uses the driveway on the right and that the driveway on the left would be used by the downstairs tenant; both driveways can park 2 cars.

Ms. Sciortino asked if there are plans to build a garage. Mr. Valiukas stated no.

Ms. Palmer asked how many bedrooms in each unit. Mr. Valiukas stated that the current apartment is a 1 bedroom unit and plans are for a 1 bedroom unit downstairs.

Mr. Jones noted that the applicant has already talked with Mr. Voorhees about renovations and bringing the property up to code.

Mr. Wright reminded the applicant that unnecessary hardship must be demonstrated to get a relief from the current status of the property.

Mr. Wright asked if competent financial evidence was available for change of use. Mr. Jones noted that the property did not work for the previous tenant because of parking. Mr. Jones highlighted parking requirements for the Town of Mendon noting that 1 off-street, parking space must exist for every 150 square feet of retail space. Mr. Jones stated that the current property is not able to fulfill the parking requirements for the 1100 square feet of commercial space.

Mr. Wright asked if hardship is unique to the property. Mr. Valiukas stated yes. Mr. Jones stated that insufficient parking space is available to support commercial use.

Mr. Wright asked if the change in use would alter the character of the neighborhood. Mr. Valiukas stated that it would not as there is already an existing apartment in the building.

Mr. Wright asked if the hardship has been self-created. Mr. Valiukas stated no.

Mr. Wright asked if there were any additional comments from the Board or from the Public. No additional comments.

**MOTION**

Mr. Wright moved, seconded by Ms. Sciortino, to close the public hearing.

**ADOPTED**

Mr. Wright – aye; Ms. Palmer – aye; Mr. Peckham – aye, Ms. Sciortino – aye; Mr. Thorp - aye

**Discussion: Recommendation to Town Board for Zoning Board of Appeals Vice Chair.**

Mr. Wright stated that a recommendation for the Vice Chair of the Zoning Board needed to be made to the Town Board.

**MOTION**

Mr. Wright nominated, seconded by Ms. Sciortino, Bruce Peckham for Vice Chair of the Zoning Board.

**ADOPTED**

Mr. Wright – aye; Ms. Palmer – aye; Mr. Peckham – aye, Ms. Sciortino – aye; Mr. Thorp - aye

Ms. Fletcher asked Mr. Wright to send an email to Mr. Moffitt with the recommendation.

**MEETING MINUTES**

**MOTION**

Mr. Wright moved, seconded by Mr. Peckham, to approve the meeting minutes of the

December 12, 2013, meeting, as amended.

**ADOPTED**

Mr. Wright – aye; Ms. Palmer – abstain; Mr. Peckham – aye, Ms. Sciortino – aye;

Mr. Thorp - aye

**VALIUKAS DETERMINATION**

Mr. Peckham moved, seconded by Mr. Wright, that the use variance requested by Steven Valiukas, 133 Daffodil Trial, Rochester, NY, 14626, to convert an existing first floor beauty shop into an apartment at 3906 Rush Mendon Road, Mendon, NY, consisting of 0.20 acres, bearing tax account no. 216.07-1-6, which will, because of a pre-existing apartment on the second floor, result in the establishment of an apartment building under Town of Mendon Code, be granted on the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Steven Valiukas appeared before the Zoning Board of Appeals on February 27, 2014.
2. 3906 Rush Mendon Road is a former residential structure modified to be commercial space on the ground floor, with a second floor apartment with a separate entrance on Rush Mendon Road. The commercial space was used as a hairdressing establishment in the Hamlet of Mendon for many years, but is currently unoccupied.
3. Mr. Valiukas has been unable to rent the first floor commercial space as a hairdressing establishment due to parking restrictions under Mendon Town Code. Mr. Valiukas cannot operate a retail business at this location. This restriction prevents Mr. Valiukas from achieving a reasonable rate of return on the property.
4. Mr. Valiukas intends to convert the former commercial space to an apartment. Prospective tenants have already shown an interest in renting the proposed apartment. The parking requirement under Mendon Town Code for residential dwellings is met by two driveways, one on each side of the building.
5. Mr. Valiukas submitted a financial summary for the property as part of his application. In that statement, he indicated that the lost rent on the commercial space is $840/month, and that he rents the second floor apartment for $525/month.

**CONCLUSIONS OF LAW**

1. Mr. Valiukas has demonstrated that the commercial space on the first floor of 3960 Rush Mendon Road is no longer usable as a beauty parlor and that its only economic value is an apartment.
2. The alleged hardship is unique due to the size and configuration of the lot as it relates to parking.
3. The granting of this variance would not alter the essential character of the neighborhood.
4. The hardship has not been self-created.
5. This is a Type II action under SEQR.

**MOTION**

Mr. Peckham moved, seconded by Mr. Wright, to approve the determination.

ADOPTED

Mr. Wright – aye; Ms. Palmer – aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Thorp – aye.

**MOTION**

Mr. Wright moved, seconded by Ms. Sciortino, to adjourn the meeting.

**ADOPTED**

Mr. Wright – aye; Ms. Palmer – aye; Mr. Peckham – aye, Ms. Sciortino – aye; Mr. Thorp - aye

The meeting was adjourned at 8:16 p.m.