

Minutes for the Ticonderoga Zoning Board of Appeals held on June 26, 2018 in the Community Building commencing at 7:00 p.m. regarding a Use Variance.

Present: Eric Stoddard, Joyce Barry, Doug McTyier, Andy Belkevich, Tonya Thompson, Amy Schryer.

Absent: Erik Leerkes

Others: Zoning Officer-Bill Ball, Tim Welch, Jay and Gemma Yaw.

Mr. Stoddard called meeting to order at 7:03 P.M.

Public Hearing Announcement

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Town of Ticonderoga will hold a Public Hearing and meeting June 26, 2018, commencing at 7:00 p.m. at the Ticonderoga Community Building's Conference Room, located in the Basement at 132 Montcalm Street, Ticonderoga, NY, regarding an application for an Use Variance submitted by Tim Welch, concerning a property located at 64 The Portage, tax map number 150.59-5-19.100. All parties interested maybe heard at such time. Amy L. Schryer, Deputy Town Clerk.

Mailings went out to all adjoining land owners, with no response.

Mr. Stoddard asked if there was any questions from the board at this time to the applicant, with no response. Mr. Stoddard opened the floor for any one from attendance would like to speak at this time.

Tim Welch, owner of the property, spoke at this time. Mr. Welch stated that a few of his concerns are that it says that he is adding an apartment to an existing garage. This was never a garage space. This has never been able to hold a motor vehicle since he has had it. When he purchased the property 5 years ago, this building had a sliding glass door, and has had the sliding doors from previous owners. Previous owners told him that it was zoned for an apartment, and was not able to get minutes from this. Mr. Welch stated the only thing he is asking for is to be able to have an apartment for his in-laws or any family member. He is not asking to be able to rent this out. His mother is moving here and is very ill and he would like to be able to put her in that space. This is all attached to his utilities , so there is no added utilities or cost to stay there. In his water/sewer bill, he is already paying for the third unit, and inside the main house there is only two units and to his knowledge there has never been a third unit, but has always paid land and water/sewer taxes for three units.

Mr. Belkevich asked Mr. Welch if he was paying water/sewer for the unit that is being talked about and Mr. Welch stated, that yes he is.

Mr. Belkevich also asked if this is not being used as an apartment, then why are you being charged for water/sewer.

Mr. Welch stated that it has been listed as a recreational area as long as he has lived there, and as far as he knew it had already been approved for an apartment.

Mr. McTyier asked what was in the house, and Mr. Welch stated that there is a two bedroom apartment upstairs and then a three bedroom apartment downstairs where he lives with his family, which is four kids, himself and his wife.

Mr. McTyier asked if the area was ever used as an apartment to his knowledge.

Bill Ball stated that it was used as one but never was approved as one.

Mr. Welch stated Keith Kuhl did all of the original work to the house, and his daughter Jaime Kuhl lived in the unit for awhile. There was a problem with the sewer line, so she always went inside to use the bathroom and shower. The only thing he fixed was, he dug up the sewer line, he went to Bill Ball and asked if he needed any permits to fix the sewer lines and Mr. Ball said No. Mr. Welch stated that he has tried to comply as much as he could, and the only thing that he changed was that he raised the floor off the concrete and fixed sheet rock.

Mr. Welch states that he has an occupancy permit from 1988, that states he has 3 multiple dwellings, not sure what 3 dwellings they are referring too, not specific, and the inspector that signed this is not around to ask. So there is no way for him to find out what units they are talking about. He was also told that there was an efficiency apartment there at one time, but when he bought this, there was only a bedroom and a laundry room.

Mr. McTyier stated that it is conceivable that the 3 units were all inside the one house at one time. Mr. Welch agreed. Mr. McTyier also asked if there was line going to the unit, and Mr. Welch stated yes there was water/sewer and the sewer line was old cast iron and was smashed in the ground. He had Derrick Fleury come out and run a camera down through the line and found that it was smashed in a part of the ground that he couldn't get to without having to dig it all up, so that is what he did.

Mr. Welch stated that from anyone that he knew had lived there or were from the area, that space was always used as a recreational area. He doesn't believe that it was ever an apartment, except for when Jaimie Kuhl lived there. He doesn't believe that it was ever updated since and when he purchased the property, he was led to believe from Century 21 that it was approved for an apartment and all he had to do was fix it up, and that it would be another form of income for him. He states that he doesn't want another apartment, he doesn't want to be a landlord anymore than he already is. He just wants to be able to rent

it to his family. He has a 16 year old daughter that when his mother passes away, the daughter would be able to stay in that unit when she goes to college.

Mr. Belkevich wanted to know if this was a valid certificate of occupancy in from 1988.

Bill Ball didn't know why it is saying it was built in 1988, because it was built in 1992.

Mr. Welch states that there was all kinds of work done to this, including sheet rock and electrical, all insulated and the attic was insulated, no conceivable reason why it would be used as a garage space.

Mr Welch, also states that there are two other properties that are close to his property, and they are Thomas Malaney at 74 The Portage, he has an apartment out back of his garage, and the other one is at 128 The Portage, Steve Patnode, and he has an apartment outback of his house that his daughter lives in.

Bill Ball says that Mr. Welch has a certificate of occupancy that states that he has a Multiple Dwelling, which would means 3 apartments or more, but Mr. Welch states it doesn't specify that. Bill says this is what it means though. Bill says that in 2007, this was listed as a 3 family residence and when you took it over it shows it as a 1 family residence with an apartment.

Mr. Stoddard asked, Why did it change from 2 family and Bill stated that they did away with one of the apartments.

Mr. Welch states that the town has been charging him for the last 5 years for an extra water/sewer charge.

Mrs. Thompson explained that when you do away with an apartment, you have to get together with the assessor and the water/sewer department to have this taken off the bill, and it appears that was never done.

Gemma Yaw was here tonight to discuss boundary lines and dirt being dispersed on their property. She was informed by Mr. Stoddard that this meeting was to discussing a Use Variance not boundary line and dirt. Mrs. Yaw wanted to bring up that there is a garage at this location

Mr. Welch stated that the garage they are speaking about is a 9x20 space and the floor was built on top of sand and when they pulled the car into it, it blew the floor apart. None of the neighbors have spoken to him about having a problem with this.

Mr. Stoddard agreed that there wasn't any correspondence from any of the neighbors sent in.

Mr. McTyier stated that there is no real proof that there is an occupancy, and you are here for a Use Variance. There are several things that you have to supply for burden of proof for a Use Variance and one of the things is a hardship.

Mr. Welch did file for a hardship.

Mr. McTyier said the way to do this is that you have to have things documented and very detailed documentation to prove a hardship.

Mr. Welch stated he didn't realize that he had to provide all of this information. There are apartments that are near by that were there before the zoning laws went in to effect according to Mr. Ball. Mr. Welch asked if Steve Patnode's place was there before these codes were developed, and Joyce Barry stated that Mr. Ball was talking about the 8 unit apartments across the street from Mr. Welch.

Mr. Ball wanted it to be known that Mr. Welch was denied because it was not an acceptable use in this zone. His 60 days ran out and he is here just looking for a Use Variance.

Mr. Welch stated that Mr. Ball had told him that it was ok for the unit to be there for his daughter as long as he didn't have a kitchen in it, he did put a kitchen in it and he put a stove and some cupboards, which he has now taken out completely. He plans on having his mother just come inside to have dinner with them.

Mr. McTyier states that you claim in your description that you are unable to fulfill some financial obligations. These use variance are not very easy to get. You either meet the requirements or you don't.

Mr. Welch stated that when he got the application, he was under the assumption that the garage was already approved for an apartment, and that he did have a certificate of occupancy for that unit. He has seen nothing by the Town that it is not. Mr. Welch states that is where his hardship comes from, he has been paying taxes since he owned the property on 3 units and there is no way to get his money back but is being told he can't have what he has been paying for.

Mr. McTyier asked if you took the efficiency apartment out, didn't you question why you were paying for 3 when it was only listed as 2 apartments.

Mr. Welch stated that when he bought the house, he was told it was a 3 unit house and that it was zoned and the garage was ready to go and he could fix a few things and rent it out. It was rented for about 8 months and then they moved out and that is when Mr. Ball came over and told him that he had to shut it down.

Mr. Ball stated that there was a garage door on the building and then they were in violation because they put garbage in there, so they put sliding glass doors in and it became a recreational area not a garage. You can't convert anything without a building permit and expect to get a CO.

Mr. Welch stated that Bill said it was ok to rent this out to his daughter.

Bill said that this can't have a kitchen or bathroom and no one can live in there.

Mr. Yaw spoke up and said he has lived in the neighborhood his whole life and that property has always had 3 units. He had played inside this house. Upstairs there was an efficiency apartment and side apartment. The garage thing is not the issue it is what goes on there. All he asks is that things be done in the proper manner, that they are suppose to be done.

Mrs. Yaw asked if you have a house with a garage can you add another dwelling to this per codes?

Mr. Ball stated no, unless it is an allowable use, and you must have enough property.

Mr. Stoddard asked if there were any other questions or thoughts.

After discussing a decision with the Board, it was decided to pass a resolution for a completed application.

Resolution#3-2018 brought by Joyce Barry, seconded by Doug McTyier to declare this as a completed applications for Tim Welch's request for a Use Variance. **All in Favor** 4-Aye, 0-Opposed, Carried.

Mr. Stoddard closed the Public Hearing at 7:45.

Mr. Stoddard stated that this application does not meet the criteria for a Use Variance.

Resolution#4-2018 brought by Joyce Barry, seconded by Andy Belkevich to deny Tim Welch's application for a Use Variance. **All in Favor** 4-Aye, 0-Opposed, Carried

Mr. Welch tried to ask a few questions, and Mr. Stoddard advised him that that the public hearing was closed and advised him of such.

Resolution#5-2018 brought by Joyce Barry, and seconded by Doug McTyier to accept the new forms for a Area Variance as presented with a change of 7 copies instead of 11 copies. **All in Favor** 4-Aye, 0-Opposed, Carried.

Resolution#6-2018 brought by Doug McTyier, seconded by Joyce Barry to accept the new forms for a Use Variance as presented with a change of 7 copies instead of 11 copies. **All in Favor** 4-Aye, 0-Opposed, Carried.

Discussion was held about approving minutes from previous Zoning Board Meetings, and decision was made to approve minutes going forward by board resolution.

Meeting Closed at 7:50 P.M.

Respectfully submitted by Amy L. Schryer, Deputy Town Clerk