

TOWN OF KIRKWOOD
ZONING BOARD OF APPEALS
December 16, 2024

A Zoning Board of Appeals meeting was held on December 16, 2024 at 7:00 p.m. at the Joseph A. Griffin Town Hall on a use variance to build studio apartments in 5000 SF of unused space of the existing building regarding property located at 63 Barlow Road in the Town of Kirkwood known as Tax Map No. 162.05-1-22 and located in a Business Two District, on the application of T&M Ventures Binghamton, LLC.

Present: Duane Travis, Chairman Gina Middleton, Attorney
 Mike Maciak, Member Chad Moran, Building & Code Officer
 Marc Latini, Member

Chairman Travis called the meeting to order at 7:00 pm.

PUBLIC HEARING:

Chairman Travis read the notice of Public Hearing and commented we have the affidavit of posting by the Town Clerk, notice to property owners within 500 feet of the project, affidavit of publication in the Press & Sun Bulletin, Broome County Planning Department 239-m recommendations and a Short EAF has been filed.

Chairman Travis read the comments from Binghamton Metropolitan Transportation Study into the record and is included in the file. Broome County Health Department and NYSDOT have no comments.

Motion by Mike Maciak and seconded by Marc Latini to declare the Planning Board the lead agency and declare the action unlisted action for SEQR Review.

Roll Call Vote:	Marc Latini	Yes
	Mike Maciak	Yes
	Chairman Travis	Yes

Motion Carried.

Ms. Middleton, referring to Part 1 of the Short EAF, questioned #4, #5, #11, and #17. All questions were corrected and are included in the file.

Chairman Travis question #16 regarding if the project was located in a 100-year flood plain and Ms. Middleton explained it is in a growing flood hazard zone, which means Broome County has noted it as a potential area that may be a flood zone in the future. It is not currently in a 100-year flood plain. Mr. Milligan, property owner, referring to the picture of the building, explained the section of the building we are talking about is the far-right hand section. In 2006 and 2011 the water came into the ground level on the left side of the building, not where the project is located. The project is on the second floor.

Ms. Middleton read the questions in Part 2 of the EAF and the Board answered no or small impact on each question. A completed copy is included in the file.

Motion by Marc Latini and seconded by Mike Maciak to issue a negative declaration based on the SEQ review.

Roll Call Vote:	Marc Latini	Yes
	Mike Maciak	Yes
	Chairman Travis	Yes

Motion carried.

Chairman Travis opened the public hearing at 7:20 pm.

Dean Connell, 39 S. Woodhill Avenue, has concerns about the studio apartments, including what type of people will be targeted for them, the resale values of their homes, traffic in the area, safety issues. Studio apartments are not for families.

Mike Nowak, 16 S. Woodhill Avenue, questioned how many apartments there will be, what the size of them will be, and what the rent will be to see who they are targeting. If the entrance is on S. Woodhill there is a conflict with the address not being on Barlow Road. His property is approximately two hundred feet from this building, he has small children and there are many small children in the neighborhood. Studio apartments are typically for professionals or for people who want to live alone. He feels they are targeting this for people who are non-professionals, it will be another Del Motel, which caters to sex offenders and pedophiles. His house faces the back of that building and will see the dumpsters, the lights. He strongly opposes this project. There will be an impact on the water and sewer with ten more units, ten more showers. There will be issues with traffic as well.

Scott Culverwell, 43 S. Woodhill Avenue, is concerned that this will set a precedent. If they want to expand, will they have to come back to the Town for approval? He is concerned that it might go from 5-10 residents to twenty if they expand. This rezoning might impact the downstairs portion of the building. Making it mixed use may further restrict getting businesses on the commercial side.

Mary Nowak, 46 S. Woodhill Avenue, strongly feels this is a business area and should stay a business area. This would impact S. Woodhill Avenue, which is a residential area and should stay a residential area.

Hearing no other comments, Chairman Travis closed the public hearing at 7:29 PM.

Mike Maciak asked how big the units will be, and Mr. Milligan explained the studio apartments are going to be designed for two or three people, they are not designed for families. They will rent it to professional people, professors. The rent will be approximately \$1000 per month, will have level 2 charging stations, and will be all electric units. The units will be about 1100 SF. As far as dumpsters are concerned, they could use the existing one out front or one could be placed specifically for the units. No one, except for one house on the other side of the trees, can see the building. You do see it driving by on S. Woodhill, but the trees for the solar farm block most of it. There is no issue with water and sewer because there are significantly less people that would be in that building compared to previous years. It is a safe location; three sides of the building are on the second floor. The area around it has been and will continue to be maintained, including the solar panels, which are fenced in but were not required by the Town. They want to make these units nice; they do not want riff raff. There is office space available in the building, but they have been unable to rent it for quite some time. There is a need for apartments of this caliber, good quality units, with good quality people only. They will not rent to riff raff.

Mr. Milligan explained that they have tried various things since 2017 to get businesses there including a Dave & Buster's style business, laser tag and a gym. It is not their intention to build more than the four units, they want to fill the other sections of the building with other businesses.

Chairman Travis asked if they have hazardous materials in their shop now and Mr. Milligan stated yes but none are volatile. Adam Milligan explained no, the extent of it is they have IPA for cleaning up at the shop, nothing the EPA has ever had an issue with. Mr. Milligan explained they had a special explosion-proof room built that stored alcohol for the printing business. Now they just have normal cleaning solutions.

Mrs. Nowak asked if the variance is granted does it stay with the property and Ms. Middleton explained this is a variance and the board can say this variance is granted for this purpose in this specific area and if at any point that use stops it is still zoned the same as what it is currently. This is not a zoning change; it is a use variance which would allow for a specific use for a very specific reason if granted and if that use stops then it would revert back to automatically being zoned B2. It will run with the land until such a time as the specific granted use allowance is no longer occurring.

Mike Maciak asked in order for him to expand it he would have to come back and Ms. Middleton explained if the board wanted to grant a use variance for a specific square footage or a specific number of units you can do that but noted we would want a slightly more detail diagram to know what variance we are hypothetically granting. She would advise you have that information in front of you but you can grant a use variance for a specific use in a specific area and if there is a request for an expansion at any point they would come back for another use variance for that portion of the building.

Ms. Middleton explained it is zoned B2 which allows hotels and motels, so if they wanted to turn it into a hotel or motel, they could do that without a variance request. Mr. Milligan explained they had talked about an Airbnb, but they do not want that, they want to be able to control who is going in and out of that building. They want to know who is in their apartments and they intend to do that with contracts with the individuals.

Marc Latini asked what kind of a precedent would be set if this is allowed and Chairman Travis explained we would be allowing a mixed use on that property which is not part of the B2. Other people could come in and ask for it also. Ms. Middleton explained that the approval that you would be granting hypothetically would have very specific reasons for why it was granted. There are a certain number of factors, area variances are much easier to get than use variances. Use variances the answer to each question has to be in a certain direction otherwise you can't grant it where area variance you can have yes and no as long as there is a balancing act because use variances are much more difficult to get because it tries to prohibit this type of use. Hypothetically, if the board were to grant it based on a specific analysis of this specific location it still does set some degree of precedent.

There was a discussion regarding whether the board needed more information before the board could proceed. Ms. Middleton recommended more information is needed simply because you need to know what you are granting the variance for. The board does not need to make a decision tonight. If there is additional material the board needs to make a recommendation or a decision you can ask the applicant to provide that information, and we can push this to another meeting. A preliminary site plan would be needed which would show two forms of egress, certain size windows for the bedrooms, fire safety, etc. Mike Maciak asked if the downstairs were sprinkled and Mr. Milligan explained no because they would get skids of paper delivered, which is what they printed on, and water is the worst thing for them. There is no need for them, they do not use that kind of paper anymore. Chad Moran commented depending on who is going to design it you would have to either sprinkle the upstairs or have some sort of off sets, fire blocks between each of the apartments. Mr. Milligan questioned what would be needed, could they do the drawings themselves or does a professional have to do the drawings and Chad Moran commented they would need professional drawings. Mr. Milligan was concerned about the amount of money this would cost even before they knew if it would be approved. Chairman Travis explained we have to know it is up to code, we need more information.

Mr. Adam Milligan commented that the solar panels they put in went beyond what they were required to do, tried to make it look nice, larger shrubs that required, installed fencing with signs so kids cannot get in. They have put an investment in this property and continue to do what they can as they can so the thought that they do not care about this piece of property is not sitting well with him.

Motion by Mike Maciak and seconded by Marc Latini to table this project to await additional submissions from the applicant.

Roll Call Vote:	Marc Latini	Yes
	Mike Maciak	Yes
	Chairman Travis	Yes

Motion carried.

APPROVAL OF MINUTES:

Motion by Mike Maciak and seconded by Marc Latini to approve the minutes from the November 18, 2024 meeting as submitted. All voted in favor. Motion carried.

Motion by Marc Latini and seconded by Mike Maciak to adjourn the meeting. The meeting was adjourned at 8:12 pm.

Respectfully Submitted,

Mary Kay Sullivan, Secretary
Zoning Board of Appeals