

TOWN OF EDEN  
ZONING BOARD OF APPEALS  
2795 EAST CHURCH ST, EDEN, NY 14057

PUBLIC HEARING DATE: December 20, 2018

BOARD MEMBERS PRESENT: Kristin Kent, Chair  
Phil Muck  
Drew Riedel  
Curtis Neureuter  
Doug Scheu

TOWN BOARD LIAISON Gary Sam

BOARD MEMBERS EXCUSED: Joseph Winiecki  
Candice Pineau

APPLICANT PRESENT: Richard Minekime  
Gary Eye

CODE ENFORCEMENT OFFICER David Rice

RESIDENTS PRESENT: Michael Mackey  
Edward Krycia – Eden Chamber

RE: **Appeal No. 2018-13**  
**Eden Center, LLC**  
**8558 North Main Street**

Ms. Kent called the hearing to order at 7:02 p.m.

**Mr. Riedel made a motion to approve the minutes from the September 20, 2018 meeting for Scheu; seconded by Ms. Kent; all members present voted “Aye.” The minutes were approved.**

Ms. Kent then read the Legal Notice for this matter published in the “The Sun”:

**Eden Center, LLC. Application for a variance at 8558 North Main Street, under Code section 225-18 A(12), to allow part of a commercial building’s ground floor storefront space to be used as residential space.**

Ms. Kent stated that our secretary, Ms. Diane Herzog, reviewed the proof of Notice given, and it is in substantial compliance with our Code requirements. Ms. Kent then explained the order of hearing and appeal process. The decision of this board will be filed with the Town Clerk.

Ms. Kent then asked the applicant why they seek a use variance for ground floor storefront space to become apartment spaces, and Mr. Minekime explained that Eden Center hasn’t been able to secure commercial tenants for some time, even though the rent has been reduced and despite consistent

advertising. They would like to keep the property viable and not leave the first floor mostly vacant. (He described the need of the one remaining office to have a smaller first floor space.) He emphasized that the building is one of five historic buildings in Eden and that the demand for commercial space just isn't there. There are steady, unsolicited calls inquiring about apartment availability, however.

Mr. Eye added details about the building's vacancy rate, noting that they are losing \$17,000 a year because no commercial tenants have expressed interest. He said that he and Mr. Minekime are planning to put about \$350,000 into remodeling for apartments, which would bring in revenues needed to keep maintaining the property. He provided lists of their advertising efforts and recent commercial rent computations.

Mr. Scheu commented that the board understands the problems, but noted that a use variance could set a precedent for other storefronts, and that Eden has expressed a desire to work towards a "walkable community" which in his opinion views this building as a key business property.

Mr. Minekime described the improvements they made for 25 years ago to rehabilitate and maintain the building. He indicated that if commercial demand picks up, Eden Center would be willing to convert the apartments to office space once again. Mr. Eye explained that willingness to change is based on the higher rents from commercial tenants.

Mr. Neureuter asked the applicant about the advertising efforts, which Mr. Minekime said "like always" consisted of a sign on the building and ads in the Pennysaver. Mr. Neureuter, Mr. Scheu and Mr. Riedel described and discussed the dramatic change in ad focus to digital platforms rather than print ads in recent years. 99% of all property buyers (for example) start their search online. They suggested the applicant consider a new advertising approach. Mr. Minekime opined that traffic on Route 62 should produce a tenant if any businesses want to locate in Eden, and that was discussed as well.

Mr. Minekime and Mr. Eye were then asked questions required for Use Variance review (other than financial hardship, which was discussed earlier): *(answers are in italics)*

- **Is your hardship unique?** *Yes, we have the best rentable business space in Eden. For 9 months we have tried to rent it out with no interest.*
- **Will the use variance, if granted, alter the essential character of the neighborhood? What about appearance – tenant boxes, clutter on the front porch?** *The neighborhood won't change a bit, it is all interior renovations. We take great pride in the appearance of the building and won't allow tenant clutter.*
- **Is the alleged financial hardship self-created?** *We have done what we can financially to make it work. We have lowered the rent and are willing to negotiate price but there still has been no interest.*

Ms. Kent read the following Town objectives into the record, and asked the Board to consider whether they might help inform the decision in this matter:

A. The Zoning Code's Purpose language, which includes a town goal of **“. . . encouraging the development of a balanced variety and quantity of sound housing opportunities for all segments of the population.”** (Code section 225-2 F.)

B The updated 2018 Master Plan, which says that an objective for the Hamlet is to **“Promote a vibrant central business district through a mix of uses, including those within a single building, to expand affordable housing options, provide greater flexibility in existing buildings, and allow more investment and development opportunities.”** (Master Plan p. 26)

David Rice, representing the Building Department, noted there's no business coming into Eden except for R & R Barbeque on S. Main Street; and the mattress factory building has beautiful vacant office space.

The board and the applicant reviewed the drawings for the proposed apartments. Mr. Scheu said that he has no objections to residential on the first floor, but apartments fronting Main Street are a concern. He suggested interior design changes that could “buffer” views into the front apartment from the street. The applicant and the board discussed at length the placement of an interior buffer wall, to create an open lobby, or gathering space for all tenants, and its possible dimensions and location. Mr. Minekime said a buffer wall wouldn't be feasible because it would reduce the size of the front apartment's living room too much, and said “no” when asked if they could compromise regarding the front apartment.

Mr. Michael Mackey of E. Church Street spoke in favor of the variance and expressed his belief it won't harm the neighborhood.

Mr. Muck noted that if business tenants become available, there would be no need for a permanent variance. Ms. Kent confirmed a variance can be limited in time, and the Board discussed that idea.

Mr. Edward Krycia, President of the Eden Chamber of Commerce, voiced approval for the variance. He emphasized the historic importance of the building; the extensive maintenance the applicant has performed over the years; and the known need for apartments in Eden. He also noted that the prohibition against first floor apartments 25 years ago was to prevent “undesirable” people on Main Street, and that has proved not to be a problem. Mr. Krycia said that changes to the Zoning Code that should help attract business to Eden are underway, but it's a gradual process, and attracting new residents into apartments should be helpful for business recruitment.

Mr. Riedel noted that he would prefer to table the application because there may be ways less than the proposed \$350,000 cost of renovations for apartments. He understands the hardship of \$17,000 in lost rents, but also expressed concern about the standard we may set for other businesses. Would other options – new floor plans or internet advertising - produce business tenants? Should those be explored and then a fresh look taken in a month or two? Hardship to the town (loss of commercial space) is the big picture.

Mr. Minekime concluded his remarks by stating that without the variance, and the renovation investment they propose, the building can't survive; the town needs enough population to support businesses; the applicant has both its own economic interest and the interest of the town at heart; businesses must be profitable or they won't be there to support local charities and the town's initiatives.

Ms. Kent proposed the following motion, based on the building's recognized historic character, the impact of the presence of the building on Main Street, the continual work of the applicant to keep the building vital, and the sense of the Board that the variance should not be permanent:

**Approval of a use variance at 8558 N. Main Street to allow part of the ground floor storefront space to be used as residential space, as shown approximately on the applicant's sketches, which variance will expire 5 years after the date of this meeting (December 20, 2024).**

**The motion was seconded by Mr. Neureuter. All members voted "Aye" and the motion was approved. Ms. Kent- Aye, Mr. Muck- Aye, Mr. Riedel- Aye, Mr. Scheu-Aye, Mr. Neureuter-Aye.**

Respectfully submitted,  
Diane Herzog, Secretary, Eden Zoning Board of Appeals  
January 9, 2019

The above minutes were reviewed and approved on \_\_\_\_\_, 2019 by:

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