

# VILLAGE OF ROCKTON ZONING BOARD OF APPEALS

Thursday, October 11, 2018  
7:00 P.M.

## Minutes

Chair Gary Kovanda called the meeting to order at 7:01 p.m.

### I. Roll Call

Present: Ryan Gailey, Tom Herschlag, Gary Kovanda, Tom Polaski, Caitlin Pusateri, Sheila Ritter and Ryan Swift.

Absent: None.

Staff Present: Patricia Diduch.

### II. Approval of September 13, 2018 Minutes

Motion made by Ms. Ritter. Second by Mr. Swift. Motion approved by voice vote, 7-0.

### III. Request for a Special Use Permit for a Tattoo Parlor in the CR Commercial Retail District – 118 W. Main St., 'N Style Studio

Mr. Kovanda swore in Ms. Nicole Rausch-Stokes and Ms. Cassandra Nelson, the applicants. Ms. Nelson gave a description of the request. Mr. Kovanda asked for clarification regarding the property ownership. Ms. Diduch replied that Mr. Anthony Pipitone of PMM Real Estate, LLC is the property owner.

Mr. Polaski asked about the signage. Ms. Rausch-Stokes replied that it would compliment Erica's Board Creations. He then asked if there were catering to the bar crowd based upon the proposed closing times, and Ms. Nelson stated that it would probably do so as they finished up tattoos. Mr. Swift asked if they are practicing tattoo artists currently, and they replied that they are. Mr. Kovanda asked where they tattoo now, and Ms. Nelson replied they both are at the House of Luxx. Ms. Pusateri asked if they have owned a business before, and Ms. Nelson replied they have not.

Mr. Kovanda swore in Mr. Kevin Darrah. Mr. Darrah stated he owns the Rubies 'n Rust building next door. He said he is seeing Rockton change for the better. He questioned why tattoo shops are allowed as a special use permit. Ms. Diduch gave a description of the special use permitting process. Mr. Darrah said he did not think the tattoo shop was appropriate. He said he has been on Main St. for 35 years, and a lot of progress had been made into making the downtown family-friendly. He asked if they were licensed. Ms. Diduch replied that Ms. Rausch-Stokes had previously stated that she would apply for the State licensing once she has zoning approval as she the licensing is very expensive. Ms. Diduch explained a proposed condition regarding meeting these requirements as a condition of the special use permit. Mr. Darrah ended his statement that he is not in support of the request at all.

Ms. Shelly Day, employee of the Gem Shop & Diamond Source, LLC, spoke on behalf of the Gem Shop and the business and property owner, Kevin Mueller. She stated that it does not fit in with the retail

atmosphere of downtown, and it goes against the changes the Village and businesses have been trying to implement into the downtown. She also said it is not a retail-orientated use. She added that the Gem Shop does not have a bias towards tattooing and piercings as their marketing manager has many tattoos and facial piercings, but that the Shop feels strongly it is not a good fit for the retail area.

Ms. Rausch-Stokes addressed the concerns raised by the public. She stated although they will not sell any retail, they do more than tattoos, including medical and cosmetic tattoos. Mr. Herschlag asked what services make up the majority of their business, and Ms. Rausch-Stokes replied that it primarily body art and piercings.

Ms. Pusateri asked if Ms. Rausch-Stokes thought there was anything they could do to make the tattoo shop fit in more with the downtown. Ms. Rausch-Stokes replied by asking for any suggestions as they would gladly take them. Mr. Swift asked if they had already signed their lease, and Ms. Rausch-Stokes said yes. Mr. Gailey asked if the lease is contingent upon zoning approval, and Ms. Rausch-Stokes replied that they are bound to the lease. Mr. Swift asked what their contingency plan is, and Ms. Rausch-Stokes replied that she honestly does not know.

Mr. Kovanda asked for clarification regarding the proposed exterior photos. Ms. Diduch stated the photos showing the signs are as a result of the Planning Commission asking for signage details. Mr. Kovanda asked Ms. Rausch-Stokes if they were in operation and when she had found out she needs a special use. She replied that they were not tattooing and that she spoke with Ms. Diduch to learn they needed the special use they permit. She added that prior to signing the lease, she had asked a lady at Village Hall if there were any restrictions.

Mr. Polaski asked for clarification regarding a negative recommendation and how it affects the proposal. Ms. Diduch replied that it would trigger the need for a super majority approval at Village Board. Mr. Polaski expressed concern about the petitioner being given false information from Village Hall. He added he is on the fence as he felt it is hypocritical when there are all the slot machines along Main Street. He felt the petitioners should have applied with a contingency in their lease and a better business plan presentation on the part of the petitioners as it would have helped the ZBA make their decision. Ms. Rausch-Stokes stated she agreed.

Ms. Diduch described the Planning Commission's discussion regarding the social acceptance of tattoos themselves, and that the discussion centered around not knowing how the business would operate and what would be visible from the sidewalk. Ms. Diduch added that the lack of clarity did not inspire confidence in the Planning Commission when the proposed use could be viewed as controversial.

Mr. Kovanda asked Ms. Diduch for explanation behind her interpretation of the special use permit criteria and the Commercial Retail District special purposes. Ms. Diduch gave a brief explanation. She highlighted the historic character and tourist special purpose of the CR District. Ms. Diduch added that the lack of information did not leave her confident the proposed tattoo shop would meet that criteria.

Mr. Swift stated he was on the fence as well. He added that the Village is trying to make downtown family-friendly and that this shop has a lot of windows. He asked for more clarification regarding what would be viewed from the sidewalk and if what is viewed from the sidewalk can be a condition of the permit. Ms. Diduch replied that it could be added as a condition. Ms. Rausch-Stokes replied that she would be okay with having tattooing not visible through the windows.

Ms. Pusateri asked what factors came into play with choosing this particular location. Ms. Rausch-Stokes stated she was attracted to the location as it is family-friendly, and she has kids. Ms. Pusateri added a comment about Ms. Rausch-Stokes wanting to live in the area, Ms. Diduch asked if she lives there, and Ms. Rausch-Stokes replied that she lives in Shirland. Ms. Diduch added that if she decides to live there, that requires a special use permit.

Mr. Herschlag asked about the clientele. Ms. Nelson gave a description of a very diverse clientele. She said their current location has three bars in the immediate vicinity. She added they would participate in community events and whatever is expected of downtown business owners. She also added at the current location she works in, they use privacy screens for customers.

Mr. Swift asked if it would be operated similar to a salon where artists rent out chairs and how many employees would there be. Ms. Rausch-Stokes replied that it would just be her and Ms. Nelson in the beginning. Ms. Nelson said she has a clientele base and has been an artist for over seven years. She added they are certified through the Health Department and have their blood-borne pathogens license. Ms. Diduch asked for clarification if it is State of Wisconsin certification, and the petitioners replied yes. Ms. Diduch looked through her file and stated to the ZBA that they did provide their State of Wisconsin license.

Ms. Pusateri asked about the process if the proposed tattoo shop was denied. Mr. Polaski added his concern about the exterior façade, and Ms. Diduch stated the owner just received approval for a façade grant. Ms. Diduch then explained the difference between tabling the decision and denying the special use permit, stating if denied, the applicants could not reapply for one year.

Mr. Polaski repeated his concern about the exterior. Mr. Herschlag added the owner needs to remove the sign of the tenant who has been gone for six months. Ms. Diduch explained the owner is going before the Village Board for final approval of his façade improvements on the following Tuesday.

Ms. Day asked Mr. Kovanda for permission to address the applicants. Mr. Kovanda granted it. Ms. Day stated her son has tattoos and that she is not biased towards them. She asked the applicants about how they would compliment the downtown and its community events when it is doing the trick or treat or passport events that involve lots of children. Ms. Day added that there are bars downtown but that they all serve food and serve a dual purpose. Ms. Nelson replied it would not be an issue as Ms. Rausch-Stokes has four kids of her own, and she would want to keep it family-friendly for her own kids. She added that in their Beloit location, the Beloit parades go right past their location and there are not any problems.

Mr. Kovanda asked where the current business is, and Ms. Nelson described that is across from Domenico's on E. Grand Avenue in Beloit. Ms. Nelson added they have put a lot of time and effort into the interior of the business.

Ms. Diduch stated she spoke to the Village attorney earlier in the day to make sure any conditions placed on the special use permit are legal based upon the Planning Commission's discussion. She briefly discussed the conditions that all health department regulations would be followed, the maximum hours of operation, the special use permit be re-applied for on a yearly basis, and that the use be tied to the business owner and not the land. Mr. Herschlag asked how long of a lease they had signed, and Ms. Rausch-Stokes replied it is for one year.

Mr. Kovanda explained the Findings of Fact procedure. Mr. Gailey made a motion to approve the Findings of Fact as presented by Ms. Diduch. Second by Ms. Pusateri. Mr. Gailey explained he has tattoos and

thanked the petitioners for making valid arguments for their business. He added he would remove all reference to the lack of family-friendliness towards tattoos but that the proposed location is in such a small, defined downtown area. Ms. Pusateri added that more information about the business would have been helpful. Mr. Polaski added there should be an expectation of providing a design layout, including the fine details of what the windows would like. Mr. Swift stated he agreed with Mr. Gailey, and if there was nothing viewable from the street, he would have been fine. Mr. Gailey added that he hopes the petitioners can find a location that is more easily approved. Mr. Kovanda then stated that he did not think the Village attorney is incorrect that the special use condition can be tied to an individual nor having to reapply on a yearly basis. Findings of Fact approved, 7-0. Mr. Kovanda made a motion to approve the special use permit. Second by Mr. Gailey. Motion not approved, 0-7. The special use permit received a negative recommendation.

#### V. Old Business

None.

#### VI. New Business

None.

#### VII. Adjournment

Motion made by Mr. Gailey. Second by Mr. Polaski. Motion approved by voice vote, 7-0. Meeting adjourned at 7:49 p.m.