Jabez Partners, Inc.

9410 Elizabeth Lake Rd.

White Lake, Mi 48386

8/5/14

To: The White Lake Board of Zoning Appeals

Brent Bonniver; Building Inspector

**Re: Appeal to strike illegal administrative order 11/21/13 issued by Sean Oneil, Planning Director**

**Dear Honorable Members of the Board of Zoning Appeals (hereafter referred to as BOZA);**

Now comes the aggrieved Doug and Deb Hankes, land contractors, of a building at the above address. Owner of record, Gertude Biddock.

And to maintain this is a timely appeal, I have submitted a cd disk of my repeated appeals to the executive branch of White Lake dating back to February, 2014, requesting a review of this order based on my research, and the opinions of several of the best zoning attorney's in Michigan, and in fact the entire US.

Comments concerning other WL offenses, not related to BOZA, have been edited out for ease of review.

Since 11/21/13, **I have not been able to have a review of this executive order by anyone, at the executive branch, including Sean Oneil..AND Lisa Hamameh.**

Not realizing until recently that Sean Oneil is actually appointed by, and is answerable to BOZA, I wrote to the Board of Trustees twice. (letters included, and even asked for Sean's resignation, because, to appeal for a review for over six months, with absolutely no action is nothing less than gross incompetence).

My apologies to BOT for my oversight.

As of yet, I have received absolutely **no reply** from anyone at WL, including the Board of Trustees, I might claim that the entire legislative branch of WL is dysfunctional in this situation.

For example, Sgt. Holland of the WL Fire Dept, recently informed Lisa Hamameh, WL acting WL attorney, that my building was not in compliance because of four 34" egress doors, (all the rest are 36") that had to be enlarged to 36", plus the building needed hard wired inter connected smoke alarms. I therefore received a letter from Lisa threatening to sue over the issue. However, a review of the codes seemed to reveal, those laws did not apply to my building. A request to Brent Bonniver to review the codes on these items was answered **IN TWO DAYS,**  that in fact, these claims did not apply to my building. Case over. Thank you Brent. I think this is how it is supposed to work. **not six months** of begging and pleading, as with the Zoning Department. And still **NO RESPONSE.**

In fact, twice, Gregg Baroni had told me to meet with Sean and go over my appeal, and just get this settled. Sean would not agree to meet with me on either occasion, and therefore prompted me to go to the Board of Trustees. (BOT)

I think most of Sean's problem is that:

1. He does not understand, that virtually all zoning law applies to the land and it's use, unless otherwise noted. He therefore fell into a trap of trying to make zoning law, "shall not be expanded in any fashion" apply to the interior use of my building. As you may read, that does not work, as once again, zoning codes are written to reference the land and it's use, so when they say, non-conforming use cannot be expanded, it is talking about the footprint of the structure on the land, cannot be expanded, not what is going on inside.

As we all should realize, the Building Inspector is responsible for structures on the land, NOT THE PLANNING DIRECTOR.

For obvious example, if a piece of land has a fenced in oil well on it, but is zoned residential, the zoning director has no authority to tell the oil company, that they cannot add more production equipment, or that they cannot increase the flow of the well. This actually is the domain of the DNR. The zoning commissioner is only concerned that the land has a pre-existing non conforming use ON IT! Now if the oil company wants to increase the fenced in area, then the zoning commissioner gets involved. RIGHT! However, Sean did not realize the domain of zoning, vs building structure, and therefore went directly to Lisa, to have me shut down, and thereby circumventing Brent altogether. Part of that problem is that Lisa is used mainly as a legal hammer, rather than a legal expert. And so she threatened to sue with no understanding of the law Sean was citing.

However, returning to my appeal, I am therefore appealing to BOZA for only a striking of Sean's administrative order to restrict the interior use of my building, based on section 3.

I can than go to Brent, as section 7 dictates, for whatever permits I require to re-open my vacated apartment, and resume construction of the other two.

This is a no brainer for Brent, as the code states;

"7.26 NONCONFORMING USES OF

STRUCTURES

B. Any nonconforming use may be extended

throughout any parts of a building which

were manifestly arranged or designed for

such use at the time of adoption or

applicable amendment of this Ordinance,

but no such use shall be extended to

occupy any land outside such building.

My building is designed with approximately 300 square foot units surrounding the building. Each has its own plumbing, electrical service, etc. In fact, throughout the history of the building these spaces have been used by anyone who wanted to rent a 300 foot space, for business, residence, storage or whatever they could fit in that space. The plumber actually took two of these spaces to make his storage unit, and in fact DTE has a record of the extra electrical meter, being removed from his combined spaces at the time of his rental.

So you see, I say a no brainer, because virtually every space in the building has already had multiple uses including residential. In fact the space in question, already had an apartment in it for over four years. So it is obvious, the building is manifestly arranged for this use. No structural changes were made to re-accommodate this use. I say re-accommodate as it has been used as an apartment in the distant past.

Here I should also point out, that having large windows in the front of the building, and a garage door on the side, have not restricted the building use as apartments. They were sided in, including the garage door, and then re-opened as the need required. In fact our apartment 8, took advantage of the large window for a panoramic view. Cool

And also remember, section 7 talks about "**the building"** is manifestly arranged. Here, once again the building refers to the "**structure"**. Windows, and utilities are not part of the building. The building would still stand, if all these "utilities" were removed. RIGHT!

Also, I will point out, that the "mixed" use, allows the non-conforming use to increase or decrease within the structure. I emphasize this fact, as Sean might say, OK, so there was once an apartment in the plumbers space, but you lost that right when converted to a business. Not so.

Re- read section 7."Can be expanded through any parts of a building manifestly arranged for that use. Obviously, there is no challenge changing an apartment to a business use, as this is the current zoning...RIGHT! But section 7 says that same space can be "extended" back into an apartment. RIGHT! So this therefore means that the mixed uses can ebb and flow throughout the building as demand requires. This was explained in previous writings to Sean. This is actually the essence of the mixed use **THAT IS PROTECTED UNDER THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.**

**As said at the outset. I have made copies of all correspondence furnished to the executive branch at WL on the enclosed disk. And while, all this information, may be overkill, I want everything "on the books" if I have to appeal your decision to the circuit court.**

**Although I will personally say there is no conceivable way to allow Sean's order from November to stand. However, I had no conception that Sean's order would never be reviewed** by anyone, including Lisa at the executive branch, so I'll just plan for the worst case scenario.

I should add, that if I have not provided enough information for BOZA to STRIKE SEAN'S ILLEGAL ORDER, that the circuit court would consider BOZA dysfunctional along with the executive branch. Not exactly where you want to go.

I always figure, STAND ON ROCK OF THE LAW, AND YOU'LL BE OK!

And just one more note. Because I am requesting a striking of an administrative order, I do not believe a community meeting is required. It's just an administrative review that does not concern any residents other than me and Deb. There is no zoning change proposed or required. However, if you would like me to appear before the board, I will gladly accept, as will any neighbor, or concerned persn(s), I can get there.

Thank you all so much for the privilege of this appeal, and I will look forward to your most expedient reply.

Truly;

Doug and Deb Hankes

Jabez Partners, Inc.