

**ZONING BOARD OF APPEALS
TOWN OF MONTAGUE
ONE AVENUE A
TURNERS FALLS, MA 01376**

NOTICE OF DECISION & VOTE

Case No. 04-31

Date November 23, 2004

Applicant:

Mark Kislyuk as Creative Developers, Inc.
72 Mountain View Dr.
Belchertown, MA 01007

Owner:

Kosudaville LLC C/O Gary A. Kosuda
2010 NW 35th Street
Fort Lauderdale, FL 33509

Premises Affected:

11 & 15 Power Street
Turners Falls, MA 01376
Assessors' Map 3 Lot 27
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Variance Application (40A) ()
 Site Plan Review (X)
 Special Permit (X)

After a public hearing held on:

Tuesday, October 12, 2004
And Wednesday, October 27, 2004

THE BOARD OF APPEALS FINDS:

The building at 11 Power Street is in a state of distress with roof, wall and internal structural systems in specific areas in significant decay. Fire signaling and fire suppression systems are not functional. The building has often been found unsecured. Proposed rehabilitation and re-use of this building will have a modest impact on town infrastructure except for the projected traffic over the one lane Sixth Street Bridge. The preferred full commercial re-use of the building may be unfeasible considering the condition of the building and the timeframe in which repairs must be started.

Approximately 50+¹% of the floor area of the two buildings is proposed for residential use with the remainder to be developed for commercial use that includes 15 Power Street.

The number of approved Market Rate residential units is based on the applicants market research conclusion that full or substantial commercial re-development is financially infeasible and that the proposed residential components is needed to subsidize the commercial development component of the project.

THE BOARD OF APPEALS VOTED:

To grant a Special Permit with conditions for multi-family residential and commercial mixed use that allows for the conversion and rehabilitation of the existing Railroad Salvage Buildings to 88 dwelling units, including 75 one bedroom or studio units and 15 two bedroom units at 11 Power Street and full commercial use at 15 Power Street.

Special Permit Conditions:

- Substantial Compliance: The buildings and site shall be developed in substantial compliance with the plans and proposals submitted.
- Mixed Use: Commercial use is the preferred development option and the residential component is approved for the purpose of facilitating that objective. The commercial spaces must be constructed and complete to the point where it is available and marketable to prospective commercial tenants for interior leasehold improvements prior to residential occupancy. Commercial use for the purposes of this approval shall be office, retail, craft workshop w/retail and light assembly. Other uses shall require the specific approval of the Board of Appeals. The commercial use at 15 Power Street is unspecified.
- Parking Allocation Plan: Allocation of parking lot spaces is 134 residential spaces and 54 commercial spaces. A parking allocation and location plan shall be submitted.
- Management Plan: Prior to final inspections the owner shall provide the Management Plan acceptable to the Board as required by the Zoning By-laws.
- Bond: Due to the condition of the building the developer or owner shall provide a Bond or other acceptable surety to the Town, prior to the issuance of a Building Permit, in the amount of 500,000.00 dollars to provide for securing the site and buildings in a safe and stable condition should the developer fail to stabilize the building by performing the needed structural repairs, make the building weather tight or otherwise leave the Site in an unsafe condition or fail to perform work for a period of three consecutive months.

The Board of Appeals may, upon notice of failure to perform, use the bond to secure the site, complete tasks deemed to be a Public Health and Safety hazard, complete the needed structural repairs, make the buildings weather tight or if condition warrant and deemed in the Town's best interest, demolish the building and restore the site.

THE BOARD OF APPEALS VOTED:

To approve with conditions the Environmental Impact Statement and Site Plan for approximately 50+% of the two buildings floor area to be developed for stated residential use with the remainder to be developed for commercial use. Infrastructure, parking, drainage, utility services, landscaping, building facade, sidewalk and site lighting shall be developed in substantial compliance with plans and proposals submitted.

Conditions:

- Drainage: 100% of the on-site drainage from the three drainage areas & roof shall be captured and infiltrated unless otherwise permitted. (Conservation Commission and/or DPW)
- Site Development: A sidewalk shall be constructed at the owners expense on Power Street from the Parking Lot to 6th Street in coordination with the Town of Montague DPW. A detailed final site lighting and site landscaping plan shall be submitted to and approved by the Board

- Traffic Study: Within 3 months and prior to construction except for structural and roof repair a detailed Traffic Study shall be completed to assist the Town in determining the appropriate remedies to alleviate congestion on the 6th Street Bridge, provide for Public Safety access to the site and alleviate minimize traffic impacts to surrounding neighborhoods.
- Canal Seepage Collection and Discharge System shall be repaired.
- Sewer Ejector: A new properly sized Sewer Ejector shall be installed and the ejector line capacity shall meet engineering standards.
- Building Design and Development: The exterior of the buildings shall be cleaned by power washing or other non-destructive method and re-pointed, painted in an approved color if required and all new windows installed.
At 11 Power Street the initial work shall focus on stabilizing the building and performing structural repairs, replacement of the roof system and repair and replacement of the damaged floor sections. An interior environmental assessment shall be performed to determine what steps may be required to remediate possible flooring contamination and lead paint conditions.

Modification and Approval: The Board of Appeals Chairman or his designee shall review any changes to the plans or permit conditions. The Chairman or designee may approve changes if in conformance with the intent of the Special Permit and Site Plan Approval or may refer it to the Board. The Board without further hearings may allow changes consistent with the purpose of this approval. Further hearings shall be at the discretion of the Board. Approval shall not be unreasonably withheld.

The vote of the Zoning Board of Appeals was as follows:

1. <u>Ernest L. Brown, Chairman</u>	YES	4. <u>John Reynolds</u>	YES
2. <u>John Burek, Vice-Chairman</u>	YES	5. <u>Mark Bander</u>	YES
3. <u>Dennis Booska</u>	YES		

IMPORTANT: Any appeal from the decision of the Town of Montague Zoning Board of Appeals can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (MGL) as amended, and must be filed in the office of the Town Clerk within twenty (20) days after the date of filing of the decision with the Town Clerk.

Board of Appeals

By _____
Ernest L. Brown, Chairman

Karen M. Casey, Clerk