



City of Bayonne
DEPARTMENT OF MUNICIPAL SERVICES
DIVISION OF PLANNING & ZONING
MUNICIPAL BUILDING
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JAMES M. DAVIS
MAYOR

TO: Zoning Board of Adjustment

FROM: Tracey Tuohy
Zoning Officer

DATE: September 15, 2021

RE: *Appeal to the Zoning Officer's Decision*
Mr. Yakov Burakovsky
112 Kennedy Boulevard; Block 335, Lot 16

The above-referenced matter has been scheduled for hearing before the Zoning Board of Adjustment on Monday, October 18, 2021. Attached please find documents from my office regarding how I came to my decision in this matter.

I have reviewed the letter from John A. Zucker, Esq. dated August 10, 2021 relative to the above referenced application. The following comments are offered with regard to the same for your review:

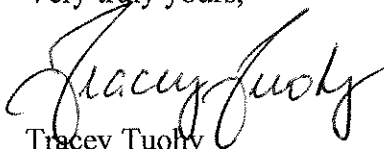
A. GENERAL SITE OVERVIEW

1. The site, located at 112 Kennedy Boulevard in the City of Bayonne, in the R-2 (Detached/Attached Residential District), contains two buildings on one lot. The current use of the property is a ground floor commercial use with two (2) dwelling units above and a detached residential unit for a total of one (1) commercial and three (3) residential units.
2. A change of use permit was never obtained for the conversion of the detached commercial unit to residential. Furthermore, a Certificate of Nonconformity was never obtained for the use of the principal structure. There is no record of a Change of Use Zoning permit application on file for the intensified use of this property to change from a 2 residential/1 commercial use to a 3 residential/1 commercial use. In short, there is no documentary evidence supporting a change from commercial to residential use nor is there a use permit on file for the Express Gourmet Deli (occupying the ground floor commercial space).
3. In accordance with Section 35-16.2.d of the City of Bayonne Zoning Regulations, no nonconforming use shall be substituted with another nonconforming use.

4. Certificate of Continued Occupancy #335/16 was granted by Michael J. Feuer of the Building Department on September 25, 2008 for 2 dwelling units and 2 commercial units. I have no further documents relating to the "instructions" from the then-Zoning Officer and Building Department Official resulting in the issuance of Certificate of Occupancy # 09-12-011.
5. Certificate of Occupancy #09-12-011 was granted by Michael J. Feuer of the Building Department on July 20, 2010. Said document reads: "Description of Work/Use: INTERIOR ALTERATION(S) MAKE EXISTING APARTMENT CODE COMPLIANT". This CO does not stipulate or reference a Change of Use from a 2 residential/1 commercial use to a 3 residential/1 commercial use, nor does it stipulate what existing unit was being altered.

I remain reliant upon the determination set forth in my letters dated August 4, 2021 and August 13, 2021 wherein I concluded an application to the Zoning Board of Adjustment for a d(1) Use variance along with site plan review and approval is required.

Very truly yours,



Tracey Tuohy
Zoning Officer

/tt

cc: John A. Zucker, Esq.
Mr. Yakov Burakovsky