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August 31, 2021

Richard N. Campisano, Esq.  
Counsel, Bayonne Planning Board  
1081 Ave C.  
Bayonne, NJ 07002

Alicia K. Losonczy  
Planning / Zoning Board of Adjustment Administrator  
City of Bayonne - Division of Planning and Zoning  
630 Avenue C (Room 13)  
Bayonne, NJ 07002

RE: 112 Kennedy Blvd., Bayonne, NJ  
Lot 16, Block 335

Dear Mr. Campisano and Ms. Losonczy:

This Firm represents the appellant, Yakov Burakovsky, owner of the premises at 112 Kennedy Boulevard, Bayonne, New Jersey

By this letter I am requesting an appeal to the Zoning Board of Adjustment of the determination letter of the Bayonne Zoning Officer dated, August 13, 2021. The Zoning Officer's letter further clarifies her prior letter dated August 4, 2021. The Zoning Officer's letters together serve as a denial of my client's request to continue to use his property as currently configured. I am requesting that the Board consider the history and facts surrounding this matter and affirm the current use.

By way of background, my client acquired the premises May 16, 2008. The lot is improved by a main house with a commercial unit at ground level and 2 residential units above. A second structure, perhaps originally a garage, sits in the rear accessible from the side street, West 4<sup>th</sup> Street. To the best of applicant's knowledge the rear unit had been used once as a social club but was now vacant. As this is an R-2 zone, the structure and use were pre-existing but non-conforming.

When my client acquired the property, there were a number of violations attached to the property. He applied for a permit to add required fire escapes and otherwise complete the code compliance for the building. He then received a Certificate of Continued Occupancy from the City of Bayonne for 2 commercial and 2 residential units.

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Subsequently, my client contacted the then current Zoning Officer, Mr. John Zgola, and Construction Official, Mr. Mike Feuer about conversion of the rear structure to a residence. He was advised to apply for permits and to pay a registration fee to the Passaic Valley Sewage Commissioners. Both were done and he received a Certificate of Occupancy for the new residential unit. Since 2009, the premises has been utilized as one (1) commercial unit and three (3) residential units.

This year (2021), my client entered into a Contract of Sale to sell the premises. Upon inquiry from the Buyer, the Zoning Officer investigated the building's records and history and concluded that because a change of use variance had not been requested or granted in 2009, the building could not be sold as it is currently used and furthermore the current use must cease. A full application to the Zoning Board of Adjustment was offered as a potential remedy. Such a remedy would be costly, time consuming, and, in our judgment, unfair to the applicant.

My client maintains that he acted in good faith throughout this process beginning in 2008 and had permission from the relevant City officials to convert the vacant space in the rear. In hindsight he agrees with the Zoning officer that mistakes may have been made in this process but it would be manifestly unfair to ask him to shoulder the full burden of fixing any mistakes given that the City officials at the time guided him and the City issued a Certificate of Occupancy with knowledge that it would be relied upon by the applicant and future owners.

As we stated in our letter to Ms. Tuohy dated Aug. 10, 2021, all property owners and developers in Bayonne and in every town logically and reasonably rely upon the issuance of a Certificate of Occupancy as evidence that they have municipal approval to act in accordance with their stated purpose. Parties that rely on that representation by a City can suffer grievous harm should the City renounce or revoke that representation by fiat.

We respectfully request that the Bayonne Zoning Board of Adjustment review the history of this matter and provide an equitable and just remedy affirming the current use of the premises as three (3) residential and one (1) commercial unit.


We enclose for the Board's consideration:

- A-1 Owner's Deed
- A-2 Certificate of Continued Occupancy dated 10/22/2008
- A-3 Permit application dated 6/19/2008 addressing building violations
- A-4 Passaic Valley Sewage Commissioners receipt
- A-5 Certificate of Occupancy 09-286, dated 7/20/2010
- A-6 Correspondence from Tracey Tuohy, Zoning Officer, dated Aug. 4, 2021
- A-7 Correspondence from John A. Zucker, Esq., dated August 10, 2021
- A-8 Correspondence from Tracey Tuohy, Zoning Officer, dated Aug. 13, 2021
- A-9 Property Survey dated July 6, 2009

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Kindly advise us of the earliest hearing date so that we may service Notice to neighboring residents.

Very truly yours,

  
BY: John A. Zucker

JAZ:dak  
Encl.  
Cc: Y. Burakovsky