

ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
JUNE 15, 2015

A **REGULAR MEETING** of the Zoning Board of Adjustment was held on Monday, June 15, 2015, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Chairman Urban called the meeting to order at 6:10 p.m. and Secretary Egan called the roll. Present at the meeting were Chairman Urban and Commissioners, Adams, Egan, Ferrante, Rivera, Lombardi and LeFante. Commissioners Calcaterra, Weicker, Pellitteri and Coletta were absent.

Also present were Richard N. Campisano, Esq., Board Counsel and Lillian Glazewski, Land Use Administrator.

After the Pledge of Allegiance to the Flag, Chairman Urban declared a quorum and advised that the Board had complied with the Open Public Meetings Act/Sunshine Law.

Adoption of Minutes:

Communications:

- None

Public Hearing:

Z-15-007 DELTA STORAGE – Site 69-71 New Hook Road in City Block 416, Lot 1
[The applicant is appealing the Zoning Officer's Decision to allow the expansion of an existing nonconforming use at the site.]

Board counsel Campisano advised the Board that the applicant, Delta Storage, will not be proceeding on the appeal to the Zoning Officer's decision. The applicant will be filing a use variance application with the Board. The matter was dismissed without prejudice.

Public Hearing:

Z-15-004 NJD DEVELOPMENT, LLC/Raceway Petroleum, Inc., Site: 753-764 Avenue E in City Block 393, Lot 16 *[The applicant is appealing the Zoning Officer's decision requiring the applicant to file for major site plan review with the Zoning Board of Adjustment for certain proposed improvements to the site.]*

Charles Harrington, Esq., attorney for the applicant, sent a letter to the Board requesting another adjournment of this matter to the July 20, 2015 regular meeting. Mr. Harrington indicated that he is tolling the time on this matter until July 20th. Board counsel Campisano advised Mr. Harrington that notice would have to be given again for the next meeting.

Commissioner Adams made a motion to grant the applicant's request for an adjournment to July 20, 2015 and Commissioner Lombardi seconded the motion. A unanimous vote followed.

Public Hearing:

Z-15-011 KNA ENTERPRISES, LLC – Site: 340 Broadway in City Block *[The applicant is seeking a Certificate of Nonconformity for a designation of an eight (8) unit mixed use dwelling.]*

Pasquale Agresti, P.C., attorney for applicant, gave a brief opening statement and called his only witness to provide factual testimony in support of this application.

Witness:

Sam Sucato, accountant for the applicant, was sworn to provide factual testimony. Mr. Sucato testified that he has been the accountant for the applicant for approximately 30 years. He said that he is familiar with the property. Mr. Sucato said that he has been collecting the rents on two commercial and six residential units for the past five years. He further testified that the Department of Community Affairs (DCA) green card shows six (6) residential units. Mr. Sucato further testified that the applicant had six (6) residential units for approximately twenty (20) years.

Board questions:

Chairman Urban, Commissioners Adams and Egan questioned Mr. Sucato.

Chairman Urban asked Zoning Officer Donna Ward to shed some light on this application. Ms. Ward advised that the Zoning Ordinance provides that residential units in the commercial district are to be located above ground level and commercial units are to be located at the first floor level. Ms. Ward said that there is a Zoning Board resolution from 1986 showing two (2) commercial and four (4) residential units at this site. She said that the applicant has provided no proof of ground level tenant residents from 1969.

Audience Questions:

There were no questions from the general public.

Closing Remarks:

Mr. Agresti did not wish to give a closing statement and relied on the testimony given.

Audience Remarks:

There were no closing statements from the general public.

Closed Caucus:

Chairman Urban said that he supports the Zoning Officer in that a use variance is required. He did not feel that the collection of rents is sufficient evidence to grant the Certificate of Nonconformity.

Commissioner Egan said that the Zoning Board resolution from the 1980's allowed for four residential units and two commercial units in the building. He asked the applicant if they had another resolution that expanded on the number of units. Mr. Egan further stated that a

Certification of Nonconformity would not be appropriate and the applicant because there was insufficient evidence.

Commissioner Adams agreed that the Zoning Officer's ruling should be upheld. There is no record of approval for the additional two units since the resolution of the 1980's.

Commissioners Ferranti, Rivera and LeFante also upheld the Zoning Officer's decision. The applicant has not shown proof that two (2) residential units have been continuously located on the ground level since 1969 and the Zoning Officer's decision is affirmed.

Commissioner Adams made a motion to approve this application and Commissioner Le Fante seconded the motion. A unanimous vote to deny the applicant's request for a Certificate of Nonconformity was cast.

Adoption of Resolutions:

None

A motion was made to close the meeting at 6:35 p.m.

Susan Bischoff, Certified Shorthand Reporter, took a transcript of the meeting.

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