

ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
OCTOBER 19, 2015

A **REGULAR MEETING** of the Zoning Board of Adjustment was held on Monday, October 19, 2015, in the Dorothy E. Harrington Municipal Council Chambers, 630 Avenue C, Bayonne, New Jersey.

Chairman Urban called the meeting to order at 6:12 p.m. and Secretary Egan called the roll. Present at the meeting were Chairman Urban and Commissioners, Adams, Egan, Ferrante, LeFante, Lombardi and Pellitteri. Commissioners Rivera and Weicker were absent.

Also present were Robert Russo, P.E., Consulting City Engineer, Anthony Rodriguez, P.P., Consulting City Planner, 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:

Chairman Urban called for the adoption of the minutes from the regular meeting held on September 21, 2015.

Commissioner Adams made a motion to adopt the minutes and Commissioner Lombardi seconded the motion. A unanimous vote of eligible members followed.

Communications:

None

Request for Interpretation:

Z-15-020 ALEXANDER PASIECHNIK – 107-109 Hobart Avenue in City Block 344, Lot 9.01 *[The applicant is seeking an interpretation as to an existing kitchen use related to the existing Tavern].*

William J. Finnerty, Esq., attorney for applicant, reminded the Board that in November 2012 the Board granted the applicant approval through a Certificate of Nonconformity for the continuation of a tavern use on the property. Mr. Finnerty also said that the Tavern has had an existing kitchen since 1969. Mr. Finnerty moved his exhibits into evidence and called his first witness.

Witness:

Alexander Pasiechnik, the applicant and owner of the Vick Tavern, was sworn to provide factual testimony in support of this application. Mr. Pasiechnik said that a kitchen previously existed at the tavern for many years and it was the intent of the applicant to continue with that use at the time the Board granted the Certificate of Nonconformity in 2012. He said that at this time, it is his desire to upgrade the kitchen and put it to full use.

Board questions:

There were no questions from the Board.

Audience questions:

There were no questions from the general public.

Closing remarks.

There were no closing remarks from either Mr. Finnerty or the general public.

Caucus

Chairman Urban said that he feels that the applicant has proven to his satisfaction that the kitchen facilities were a preexisting use at the tavern and that it could be included with the Certificate of Nonconformity previously granted by the Board.

Commissioners Adams, Ferrante, Pellitteri, Lombardi, LeFante and Egan concurred.

Commissioner Ferrante made a motion to include the kitchen as part of the Certificate of Nonconformity and Commissioner Le Fante seconded the motion. A unanimous vote followed.

Request for Interpretation:

Z-15-023 ROBERT STEPHEN QUEENAN – Site 23 West 48th Street in City Block 64, Lot 13 *[The applicant is seeking an interpretation as to the designation of this house as a two-family residence.]*

William J. Finnerty, Esq., attorney for applicant, said that Mr. Queenan is the Executor of the estate of his late father.

Witness:

The applicant, Robert Stephen Queenan, was sworn to provide factual testimony in support of the application. Mr. Queenan testified that his parents bought the house in 1981 as a two-family house and it has continuously been used as a two family. He stated that he does not know why his father signed certification with Building Department saying that the house was a one family. Mr. Queenan further stated that they presently have a signed contract to sell the property. It was then that he found out that the property was listed as a one family with the City.

Board questions:

Chairman Urban and Commissioner Adams questioned Mr. Queenan.

Caucus:

Chairman Urban said that the proofs provided by the applicant were sufficient enough in his opinion to prove that the home was always a two-family.

Commissioners Adams, Ferrante, Pellitteri, Lombari, LeFante and Egan concurred.

Commissioner Egan made a motion to prepare a resolution indicating that this home is a two-family home. Commissioner Lombari seconded the motion and a unanimous vote followed.

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.]*

Marc D. Policastro, Esq., attorney for applicant, marked his exhibits and called his first witness.

Witness:

Nicholas Kambitsis, the owner of Raceway Petroleum, Inc. and NJD Development, LLC, was sworn to provide factual testimony. Mr. Kambitsis pointed out that the Board had previously granted the applicant a Certificate of Nonconformity with regard to the use of the property. He began describing the proposed improvements.

Mr. Campisano suggested that the applicant schedule a technical review meet with the City Engineer and Zoning Officer regarding the proposed changes and he suggested that he contact the City's Land Use Administrator to schedule the meeting.

A short break was taken at 6:55 p.m. to allow the applicant a few minutes to discuss the matter with his attorney. The meeting resumed at 7:00 p.m. and the roll was called.

Mr. Kambitsis requested the Board table this matter to allow him time to arrange for a technical review meeting with City Officials.

Commissioner Adams made a motion to table the matter to the December 21, 2015 meeting and Commissioner Lombardi seconded the motion. A unanimous vote followed.

Public Hearing:

Z-15-019 DOROTHY GLOMB – Site: 40 East 15th Street in City Block 253, Lot 31 *[The applicant is seeking a Certificate of Nonconformity to continue the use of the residence as a five-family dwelling.]*

Paul Weeks, Esq., attorney for applicant gave a brief opening statement, moved exhibits into evidence and called his first witness.

Witness:

Dorothy Glomb, the owner of property in question, was sworn to provide factual testimony in support of the application. Ms. Glomb said that she inherited the property from her uncle, Walter Mgloski, when he passed away. She stated that the property was built in 1915 and from personal knowledge it has been used as a five-family residence since at least 1955. There are five separate utility meters as well. Ms. Glomb stated further that she has been managing the property since she acquired it in 2009. All five apartments are rented.

Board:

Chairman Urban and Commissioner Adams questioned Ms. Glomb.

Caucus:

Chairman Urban said that the applicant has provided sufficient proof to grant the Certificate of Nonconformity.

Commissioner Adams, Ferrante, Pellitteri, Lombardi, LeFante and Egan concurred.

Commissioner Adams made a motion to grant the Certificate of Nonconformity and Commissioner LeFante seconded the motion. A unanimous vote followed.

Public Hearing:

Z-15-008 KARIM SAWERIS – Site: 30 East 37th Street in City Block 121, Lot 35
[The applicant is seeking preliminary and final major site plan approval, use and bulk variances, to convert his two-family residence into a three family residence.]

William J. Finnerty, Esq., attorney for applicant, gave a brief opening statement, offered exhibits into evidence and called his first witness.

Witness:

Raffaele Persico, AIA, was sworn to provide expert architectural testimony in support of the application. Mr. Persico testified that he was retained by the applicant to prepare the architectural plans for this application. He described the plans prepared by his firm. He indicated the interior changes were to create an additional residential unit. Mr. Persico described the layout of each of the three (3) units and the addition of a deck and fire escape. It was his testimony that the property would not change because the additional unit already exists. He opined that the driveway parking configuration will work.

Board questions:

Chairman Urban and Commissioners Egan and Lombardi questioned Mr. Persico.

Witness:

Karim Saweris, applicant and owner of the property, testified that he owned the property since 2000 and that he had occupied the upper two floors with family members but they no longer lived in the house. He described the home and how the units were configured. He described how the parking worked in the past and offered his opinion that he would make it work for the new tenant if the application was approved.

Board questions:

Chairman Urban questioned Mr. Saweris.

Audience questions:

There were no questions from the general public.

Witness:

Michael Pessalano, PP, was sworn to provide expert planning testimony in support of the application. Mr. Pessalano testified that it was his opinion that the location of the property and

the nature of the improvement is consistent with the local zoning scheme (residential in character) and melds with the surrounding neighborhood. He said that the parking and usable open space deficiencies are existing conditions and not increased by virtue of the application. He pointed out that there is a variety of mass transit available to the residents including light rail and buses. He said that the many recreational facilities available in the City mitigated the negative effects of the variances. Mr. Pessalano further testified that it his professional opinion that a use variance is justified because of the unique structure of the home.

Board questions:

Commissioners Adams and Egan questioned Mr. Pessalano as did City Planner Anthony Rodriguez, PP.

Audience questions:

There were not questions from the general public.

Closing Remarks:

William Finnerty, Esq., said that the house has all of the characteristics of a three family house. Mr. Finnerty respectfully requested the Board approve this application.

Caucus:

Chairman Urban said he thinks the application can be approved without being intrusive to the surrounding area.

Commissioner Adams said that parking is always an issue. He commented further that the applicant has maintained his home in thoughtful and appropriate way. He further commented that the mass transit available in the City mitigates any negative factor.

Commissioners Ferrante, Pellitteri, LeFante and Egan concurred.

Commissioner Ferrante made a motion to approve the application subject to the conditions spread across the record. Commissioner Pellitteri seconded the motion,

Commissioners Urban, Adams, Ferrante, Pellitteri, LeFante and Egan voted in favor of the application. Commissioner Lombardi voted against the application.

A short break was taken at 8:25 pm and the meeting resumed at 8:35 pm. Secretary Egan called the roll. It was noted that Chairman Urban has recused himself from the next application due to a conflict of interest.

Public Hearing:

Z-15-010 NAGI and MAGDA BOUTROS – Site: 273 Avenue C in City Block 271, Lot 7 *[The applicants are seeking preliminary and final major site plan approval along with use and bulk variance relief to add a third dwelling unit at the rear of the first floor behind the existing commercial unit.]*

Stephen S. Rose, Esq., attorney for the applicant, moved exhibits into evidence and called his first witness.

Witness:

Mark Boutros, son of the applicant, was sworn to provide factual testimony in support of the application. Mr. Boutros said that the property is owner occupied with the apartment on the first floor having three (3) rooms. The applicant was notified that the existing ground floor dwelling unit was constructed illegally.

Board questions:

Commissioners Adams and Egan questioned Mr. Boutros.

Audience:

There were no questions from the general public.

Witness:

Al Sambade, PP was sworn to provide expert testimony in support of the application. Mr. Sambade stated that a d-2 variance is needed for the expansion of a non-conforming use and it is the commercial unit that brings this before the Zoning Board. It was his testimony that when the applicant became aware of the illegal use the tenant vacated the property. He also testified to the variances needed and that the property is suitable for the mixed-use and would not be a substantial detriment to the neighborhood. He testified that the Zone Plan was satisfied as the granting of the variance will not impair the intent and purpose of the Zone Plan and Zoning Ordinance

Board questions:

Commissioner Adams questioned Mr. Sambade.

Audience questions:

There were no questions from the general public.

Closing Remarks:

Mr. Rose respectfully requested the Board look favorably upon this application.

Audience Remarks:

There were no closing remarks from the audience.

Caucus:

Commissioner Adams said that he feels the applicants met their burden of proof and that the relief being sought should be granted.

Commissioners Egan, LeFante, Lombardi, Ferrante and Pellitteri concurred.

Commissioner Egan made a motion to approve the application subject to the conditions spread across the record. Commissioner LeFante seconded the motion and a unanimous vote followed.

Adoption of Resolutions:

• **Z-15-015 – 998-1000 BROADWAY BAYONNE, LLC – Site: 998-1000 Broadway in City Block 66, Lot 50.**

○ Commissioner LeFante made a motion to adopt the resolution and Commissioner Lombardi seconded the motion. A unanimous vote followed.

• **Z-15-014 DELTA SELF-STORAGE, LLC – Site: 69-71 New Hook Road in City Block 416, Lot 1.**

○ Commissioner Egan made a motion to adopt the resolution and Commissioner Lombardi seconded the motion. A unanimous vote followed.

A motion was made to close the meeting at 9:00 p.m.

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

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