

Borough of Clementon

Planning/Zoning Board

August 13, 2020 Meeting Minutes

The August 13, 2020 meeting of the Clementon Planning/Zoning Board was called to order by Chairman Feldman. It was announced that the meeting has been properly advertised and posted Pursuant to N.J.S.A. 10:4-6, The Open Public Meetings Act. The meeting was then opened with a salute to the flag and called to order at 1913hrs by Chairman Feldman.

Roll Call: Chairman Feldman, Vice Chairman Kunkel, Secretary McKelvey, Member Armbruster, Member Lofland, Member Kuns, Member Saunders, Bach Engineer Anthony DiRosa, Solicitor Rhodes; Present, ; Mayor Weaver, Member Shover, Member Naurath; Absent

Chairman Feldman: I count 6 zoning 7 planning, we can hear everything on the agenda

Chairman Feldman: I assume everyone read over the minutes is there any questions or concerns? Hearing none can I get a motion to approve?

Vice Chairman Kunkle motioned to approve July 9th Minutes 2nd by Member Armbruster and motion was carried out with roll call, Chairman Feldman, Vice Chairman Kunkle, Secretary McKelvey, Member Kuns,; Ayes, Member Lofland, Member Saunders; Abstain

No old Business, going on to New Business:

All Things Video Games 1 Berlin Rd Brent Whealton

Chairman Feldman: It is my understanding you are applying for a Mercantile from this Board?

Brent Whealton: Yes, I am

Chairman Feldman: Can you tell us about the location and what you have in mind there?

Brent Whealton: It is located in plaza where Dominos is we buy trade and sell video games, fix equipment, hand held video games, consoles, retail toys action figures.

Chairman Feldman: When do you plan to open up?

Brent Whealton: Well the plan was to be open by Sept 4th I allocated 2 months to prepare but everything slowed down so I am not sure.

Chairman Feldman: When you plan to open up how many employees do you plan to have?

Brent Whealton: We are a family run business would be like 2-3 employees Mainly me and my wife maybe summer time a college student to help out

Chairman Feldman: I know the parking there is limited at that site are these employees plan to drive or take public transportation

Brent Whealton: I believe there will only be one car at any given time for employees. I believe the lot has 34 parking spaces.

Vice Chairman Kunkle: Are people able to come in and play these games?

Brent Whealton: It is mostly buy and sell but in the past we have had tournaments for kids, we do a card tournament night twice a week 15 people about 2-3 hrs. But that has ceased for now with the pandemic.

Vice Chairman Kunkle: Which door are you in in complex?

Brent Whealton: There's Dominos then a future barber shop going in and we are next to that the old PCS store.

Chairman Feldman: Have you made provisions for a sign?

Vice Chairman Kunkle: What type of sign are you putting up there?

Brent Whealton: I was looking into a lighted box sign, I reached out to a few places they were supposed to reach out to the township and they could give me quotes. I believe it is going to wind up being a lighted box sign

Chairman Feldman: You are aware you have to keep it less than 40 sq feet?

Brent Whealton: Oh, ok it has to be less than 40 sq feet.

Chairman Feldman: You can check the code book for the details and dimensions.

Member Armbruster: Explained to Brent he can go on the municipal website and go to ecode360 and get all the information he needs.

Chairman Feldman: Trash is a consideration or is it? Have you made arrangements for trash pick up

Brent Whealton: Will be using dumpsters provided by landlord

Chairman Feldman: Any additional question from the Board Members?

Vice Chairman Kunkle: The hours listed on your form that is what you are complying with you have open 7 days a week. We are going to leave it that way even if you decide to not open on Sundays now but in the future.

Chairman Feldman: If there are no more questions can I get a motion to approve and send onto Council?

Vice Chairman Kunkel motioned to approve, 2nd by Member Lofland and motion was carried out with roll call: Chairman Feldman, Vice Chairman Kunkle, Secretary McKelvey, Member Armbruster, Member Lofland, Member Kuns,; Ayes Lost video of Member Saunders on this motion

Chairman Feldman: Next we have Dr J's Barber Shop 1 Berlin Rd Mark Michael & Chastity Russell

I see two applications for the same site can you explain that? You will only be getting 1 Mercantile license

Mark Michael: It is because we are partners and all our legality forms we should do 2 separate applications

Chairman Feldman: Mr Kunkle I am having problems hearing and people hearing me, can you take over this application

Vice Chairman Kunkle: Ok we have 2 applications but it's a partnership correct? They both look the same except for the names.

Chastity Russell & Mark Michael: Yes

Vice Chairman Kunkle: Ok Mark on your application June 3rd your hours state Mon – Sat 8am-8pm and Sunday by appointment only? So, there is a possibility you will be open 7 days a week

Mark Michael: Yes, yes

Vice Chairman Kunkle: What type of signage are you putting up?

Chastity Russell: There is a sign out there already we are just changing it

Vice Chairman Kunkle: Just so you are aware it can't be over 40 sq feet. What are you doing about trash?

Chastity Russell: We have our own dumpster coming next week

Vice Chairman Kunkle: How many employees are you going to have at this establishment?

Mark Michael: Between 8-10 reason being NJ Dept of Cosmetology based on your sq footage and how many seats we have 6-10 not all will be on the same shift. They will be staggered

Vice Chairman Kunkle: You are aware there are only 34 spots there limited parking

Mark Michael: Yes, I am aware, but the employees will not be there at the same time. Every employee may or may not have a car.

Member Kuns: How many chairs are you going to have?

Mark Michael: Per the State allowance we can have between 6-10 when they approve you, you have to have so many feet between stations. And be ready to open right then and there.

Vice Chairman Kunkle: Any other questions from the Board?

Secretary McKelvey: Can you tell me what unit it is?

Mark Michael: 1 Berlin Rd Suite 4

Member Armbruster: Mr. Michael besides normal barber shop things what other services will be provided?

Mark Michael: Just regular barber shop and hair salon services, no tattoos, tanning, nails, multi-cultural hair salon We were hoping to get approval soon since we still need state to come out and they come out 4 weeks after approval so we are shooting for end of September.

Solicitor Rhodes: Is this men and women?

Mark Michael: Yes

Member Armbruster: Have you had any other business's elsewhere?

Mark Michael: Yes, I am from Atlantic County and my partner from Camden County and I have had 2 successful salons in Atlantic County, but sold them Chastity came to my last location as a partner

Vice Chairman Kunkle: Any other questions from the Board? Can I get a motion to approve this applicant? Member Armbruster motioned to approve, 2nd by Secretary McKelvey and motion was carried upon roll: Chairman Feldman, Vice Chairman Kunkle, Secretary McKelvey, Member Armbruster, Member Lofland, Member Kuns, Member Saunders; Ayes

Chairman Feldman: Is James Killmeyer here?

Solicitor Rhodes: Yes, he is represented by council

James Killmeyer 12 Atlantic Ave variance for Duplex

Yes, Mr. Killmeyer is here my name is John Koslow I am his counsel

Solicitor Rhodes: John welcome as you know we have less then a full Board here tonight we have 5 maybe 6 depending on who keeps connected. You know for a use variance you need at least 5.

John Koslow: I think this is not the wisest thing to do

Solicitor Rhodes: I see your application is for a certificate of non- conformity based upon prior use, your application in that regard is a little light on what you are attempting to provide, it shows this use was prior to the adoption of the Ordinance so, I don't know what your intent is there but up to you.

John Koslow: Per my letter dated June 19th of this year, I am asking for 1 of two things for the Board to recognize these properties preexisting non-conforming use as a duplex if the Board is not comfortable with that then the full use variance request, if the Board would entertain it I am not looking to go before the Board with a 5-0 vote. If that's the case I would ask for an adjournment.

Solicitor Rhodes: It is up to you, my suggestion would be to postpone it, so we can get a full Board for an important application. Where does client stand? Looks like he bought this as a duplex. Does he have tenants occupying? Has he had violations?

John Koslow: No, not at all, he had property under contract as a duplex and buyer went for zoning permit that was denied.

Chairman Feldman: This is a 2-part application where the first part is you want to see if this Board recognizes this as a grandfathered usage, is that not correct? I think we can consider that aspect and if

that is not successful on your behalf, then we can come back for use change at another time is that reasonable

John Koslow: Yes, I agree with you both

Solicitor Rhodes: If you are willing to proceed I think the Board is willing to hear you

John Koslow: ok again proceed on the request of pre-existing non-conforming recognition not use variance yes, I would like to proceed with that.

Chairman Feldman: Do you have any witnesses?

John Koslow: Yes, the owner of the property, James Killmeyer

Solicitor Rhodes, swore in witness

John Koslow: James are you the owner of 12 Atlantic Ave in the Borough of Clementon? Identified blk 63 lot 20 , did you buy June 5 2009? What attracted you to buying? Did you live in a unit when you bought? Was the other unit occupied?

James Killmeyer: Yes, and Yes, the house was listed as a duplex a 2-family dwelling my intent was to rent out 1 and live in downstairs, the upstairs was occupied at time of sale, he moved out about a month in and I got a new tenant.

John Koslow: So, when you bought it was the intent to rent, and it was advertised for sale as a duplex? There were also other listings back in 2000 this house was listed as duplex. Part of our application does list all 3 prior listings. When you took over property in 2009 was the unit listed as a rental property with the Borough? Did you obtain all necessary CO's? And landlord certifications for that property?

James Killmeyer: Yes, the property is listed as a rental and registered. Yes, I have a rental fee was paid and CO was obtained before purchase.

Solicitor Rhodes: Lets use your exhibits in package you are referring to as Exhibit A for the record has a number of multiple listings in addition to application.

John Koslow: How does the Borough and the utilities bill you? As Two units? So, the Borough water and sewer and the Camden County MUA bill you as 2 bills is that correct?

James Killmeyer: As 2 units, yes 2 bills is correct.

John Koslow: Another exhibit in application shows the Borough and County MUA shows they bill 2 units and recognize as 2 units.

Vice Chairman Kunkle: Are there two separate electric hook ups and two furnaces? Two hot water heaters?

James Killmeyer: Yes, sir each unit has separate utilities and hook ups

John Koslow: Did you have the property appraised? Pages of appraisal are in packet recognizes as a duplex

James Killmeyer: Yes, I did

John Koslow: Did you have any reason in your 11-year ownership of property believe this was non-compliant with Borough? To your belief prior to 2000 do you believe it was anything other than a duplex?

James Killmeyer: No, I did not, and No I do not, I talked to neighbors it has always been a duplex.

John Koslow: For these reasons for the Board this property has always been ran as a duplex, that the government agencies have always treated as a duplex and should continue and be recognized as a legal duplex in accordance with all evidence that was presented.

Vice Chairman Kunkel: He did his research with the neighbor next door and to their knowledge it's always been a duplex, 30 years is that correct?

James Killmeyer: From what they told me yes

Chairman Feldman: Do you have any idea when zoning regulations came into effect?

Miles Dumbleton: I have here in the old zoning book January 21, 1971 it came into effect. R-1 and R-2 zones were designated as a one family residential zone.

John Koslow: We can't go back that far on this property it is our only weak spot argument we can't go back to 1970. We chased title to 1990's.

Chairman Feldman: I went back to 1978, unfortunately for you guys I happened to be friends that lived there, and I can testify it was not a duplex when our zoning was created. I'm inclined to think that it wasn't grandfathered

Member Armbruster: Joe for clarification, the applicant it at 12 and number 17 is also a duplex A&B unit across the street.

Solicitor Rhodes: that might be relevant for a use variance, not to application for certificate for non-conformity

John Koslow: At this point I agree with your Solicitor and we would request adjournment for a full use when there are more Board members. I hope that you will remember this we will redo in a subsequent meeting but I think there is no mal fissions on my client's part.

Solicitor Rhodes: Just so the Board understands in order for the applicant to succeed in this application would have to demonstrate to you his burden of proof to show the use as a duplex existed prior to the Ordinance that restricted it from a single-family home. He has provided an abundance of evidence at least for the last 25 30 years, it has been used as a duplex, but not back to 1971, that Council has candidly acknowledged they have not been able to procure evidence dating back that far. As your Solicitor, you would look at this, look at the evidence is he able to prove to you with a reasonable degree of certainty or even more likely then not, it was used as a duplex prior to 1971. They candidly admit they can only go back about 30 years, doesn't bring us to that point. As they attorney acknowledges that is the weakness to their argument.

John Koslow: I would ask at this point for the matter to be adjourned, for a full Board to hear our use variance application

Solicitor Rhodes: I think we all feel that is a reasonable under the circumstances to come back to the Board.

Chairman Feldman: Peter did you advise that we are not going to be required to any time regulations

Solicitor Rhodes: The council elected to proceed only on the application for the certificate of non-conformity or designation as a non-conforming use, essentially conceding the adjournment of the use variance he's now asked openly for adjournment of that, and we do agree to a tolling of any requirements from us that act under the MLUA, in a certain time from is that correct Counsel?

John Koslow: Yes, that is correct and we ask that we not be required to re notice we did comply for tonight's meeting.

Chairman Feldman: That is fine, no re notice is required, we will make an announcement tonight for the audience that it will be heard at the next possible meeting.

If there is anyone here regarding this application tonight no new notice will be required for this applicant. It will be heard at the next meeting second week in September.

119 Silver Lake Ave fence variance Maydalit Reyes

Chairman Feldman: What can we do for you tonight?

Maydalit Reyes: I am asking the Board for permission to install a 6ft fence, privacy on the rear yard

Vice Chairman Kunkle: what is your concern to have this 6ft fence?

Maydalit Reyes: There has been some issues with the neighbor just coming into yard without permission, and then the other hand the kids jump the fence all the time.

Vice Chairman Kunkle: What type of fence are you looking to install?

Maydalit Reyes: Wood Fence standard stockade fence

Vice Chairman Kunkle: You have a chain link fence around your property now are you going to remove it?

Maydalit Reyes: Yes, we will be removing it.

Vice Chairman Kunkle: So, fence is going side yard back to rear of property back down other side to rear of house is that correct? I see one gate on the left side of house is there going to be one on the right side of house also?

Maydalit Reyes: Yes, only gate is to left of house

Vice Chairman Kunkle: Any other questions from the Board Members? Is there any body in the audience regarding this application?

Solicitor Rhodes: I have one question are you going to put the stockade side out to the neighbor's side?

Maydalit Reyes: The good side out to the neighbors.

Member Kuns: Miles did we get all the proper notifications?

Miles Dumbleton: Yes, we did all of them

Vice Chairman Kunkel: Any other questions from the Board? Hearing none can I have a motion to approve?

Chairman Feldman motioned to approve 2nd by Secretary Mckelvey and motion was carried out through roll; Chairman Feldman, Vice Chairman Kunkle, Secretary McKelvey, Member Lofland, Member Kuns, Member Saunders; Ayes, Member Armbruster; Abstain

Vice Chairman Kunkel: You are aware of the 45-day denial?

Maydalit Reyes: Yes, we are aware

Chairman Feldman: Any zoning reports?

Miles Dumbleton: I wanted to see if anyone was aware if we could go about filling alternate positions

Chairman Feldman: States we have enough members we can't do anything without resignations or not appointing

Member Armbruster: Miles I have a zoning question 105 white Horse Pike Nu 2 U

Miles Dumbleton: I spoke to them last week there are still cars on lot, they got rid of some, the grass is getting high again

Member Armbruster: Why are they even there? We need to light a fire under them to remove vehicles

Miles Dumbleton: The owner is storing them there I explained you can't store in that zone or permitted in town he has not been cited as of now. According to Joanne the property has sold this is someone different and she doesn't have the new owner's information. We can't site don't know who to site

I had Gambale scheduled in court yesterday but it has been postponed.

Member Kuns: What's the latest on the Park? And the silt fence 168 WHP?

Miles Dumbleton: I haven't heard anything from the park I sent them a notice on Monday for high grass violation. The silt fence was put up

Chairman Feldman: Inquired about 168 WHP and the escrow and inspections.

Anthony DiRosa: We have yet to receive a call yet to start work we reached out to start pre-construction meeting to get their schedule and that was last I heard from them

Chairman Feldman: Hearing nothing else can I get a motion to dismiss?

All in Favor for adjournment 2035hrs

