

**Borough of Clementon**

**Planning/Zoning Board**

**May 11, 2017 Meeting Minutes**

The May 11, 2017, 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 by Chairman Feldman.

Roll Call: Chairman Feldman, Secretary McKelvey, Mayor Weaver, Member Armbruster, Member Lofland, Member Kuns, Member Saunders, Member Naurath, Solicitor Rhodes, Churchill Engineers were present.

Absent V.C. Kunkel

Chairman Feldman: We have 6 Zoning Board members 8 planning board members. We can hear anything before us this evening. Has everyone had a chance to look at the April 13, 2017 minutes? If you are happy with them can I hear a motion?

Member Saunders made first motions, Member Armbruster Second motion.

Roll Call: Chairman Feldman, Secretary McKelvey, Mayor Weaver, Member Armbruster, Member Lofland, Member Saunders, Member Naurath all approved minutes. Member Kuns abstained.

Chairman Feldman: Carol Dilks can you step forward? Son will speak in my interest.

Solicitor Rhodes swears in son

Chairman Feldman: As I recall when we sold this Lot there was to be no construction on it.

Mr. Dilks: In 2004 when I purchased the lot I have the actual minutes of the meeting when approved. The Resolution I have. George Botches did my deed. I waited 3 years for the deed. I waited another year. I came before the board in 2007 to put up a Pole Barn. I then received a deed of correction following that meeting.

Chairman Feldman: What one is on file with the county?

Mr. Dilks: I have no idea. Do I have to go to Camden to get a copy?

Chairman Feldman: You can get on online.

Mr. Dilks: What was supposed to happen is that the back property was going to be added to the front property with the understanding that a house was not to be built on it. Not a garage a house. My whole reason for purchasing the property was to eventually put a garage on it because I restore cars. From 2008 until now I have had nothing but problems. The inspector has been on top of me, I am paying fines

because the property has to stay natural. If it has to stay natural it is woods. You can't fine me to keep the grass cut if it has to stay natural. I am being told to cut grass maintain it an all that. A few months ago I started clearing the lot again. I cleared half of the back lot on Cherry Lane. Now I have my neighbor complaining that it must stay natural. He is not paying my bills or taxes.

Chairman Feldman: was he noticed about this meeting?

Mr. Dilks: Yes

Chairman Feldman: That is why he is entitled to voice his opinion.

Mr. Dilks: I just want to use my property. So far since 2004 and now I can't park my car, put up a shed or anything. I paid over \$10,000 for it and it is not fair. I was also told by Botcheos and the old Mayor at a council meeting that I lost. Cause I never got my day in court. My attorney was disbarred. Mark Armbruster stood up and said he was never notified of the changes. Meaning Me (I) wasn't notified by the changes in 2004. So how can there be any changes when I bought the property in 2004 but receiving my Deed in 2006? I bought the property in 2004 and now I can't do what I want with it. I have been fighting this whole time.

Chairman Feldman: It seems like your problems are with Mr. Botcheos.

Mr. Dilks: It is not that. It is with Clementon itself. Clementon has this thing that it has to remain natural and your code enforcement Officer is going to keep in enforcing it. It is just not fair to me. Mark already said in a meeting that I was not notified at the time of purchase of any changes. There weren't any. You have to notify me by law. You can't make changes without me knowing.

Chairman Feldman: I am not sure of what changes you are talking about. Can you be more specific?

Mr. Dilks: When I bought this property, it was supposed to be added to my front property to make it one whole property. It stated that when I was here before the board. Botcheos went and reworded my deed to make it open space for it to stay natural. You can't do that.

Chairman Feldman: Again, that is between you and Mr. Botcheos. I can't answer for him. I don't even know if I can take it into consideration without documentation. It would certainly help if you had a copy of that Deed so we can see exactly what the deed says.

Member Armbruster: It would help if we had a copy of the resolution from the governing body about that.

Mr. Dilks: Here is the real deed. Here is what the Board gave me. There was a separate one stating the land had to remain natural.

Chairman Feldman: These are minutes. Not the resolution. We don't know what the resolution says because we do not have that handy. Do you have the resolution that was published in the newspaper? This is the resolution," To hold a land sale." I think we are discussing the erection of a fence. Mr. Rhodes.

Solicitor Rhodes: Tell us about the fence.

Mr. Dilks: I want to put a fence up on my property. That contains the front property with the back property. It will become a problem because that property has to stay natural. If it has to stay natural I can't put a fence up! I am trying to address this the right way. Without bring lawyers in if I don't need to.

Member Kuns: When you were talking with Botcheos was he representing the Borough or you?

Chairman Feldman: Did you pay Mr. Botcheos?

Mr. Dilks: Yes he represented me at the time. Then you hired him as your Solicitor.

Chairman Feldman: He has been a Solicitor for as long as I can remember.

Mr. Dilks: Not since 2004, you had another Solicitor.

Chairman Feldman: No.

Member Armbruster: George would've handled the deed for the governing body. Peter would have handled it for this board.

Mr. Dilks: From the time I purchased the property until now my taxes show that front property and the back property as one property.

Solicitor Rhodes: Tell me about the Law suit. You mentioned you had a lawsuit and never got before the court, that your attorney was disbarred. Did your case get dismissed? Did a judgement get entered?

Mr. Dilks: My Lawyer never represented me the right way. I found out that he was disbarred at the time of my situation.

Solicitor Rhodes: How did the case turn out? What happened?

Mr. Dilks: What I understand the Judge dismissed the whole thing. Under prejudice, I talked to three other lawyers and they said I didn't have my day in court. Four years later I am finding out that I can't use my property. You should've told me that in 2004. I am talking \$10,000. I am also paying \$1,600, in fines right now because I have two sea boxes on the property. Where my neighbor has 3 on his property and he has not moved that yet.

Solicitor Rhodes: What is the purpose of the fence?

Mr. Dilks: I want to make my property look nice. I want to use my back property.

Solicitor Rhodes: You will need to provide sufficient justification to the board. You have to come up with legal criteria I would be interested in what you would have to say.

Mr. Dilks: My house sits up on top of a hill. My front driveway is a slope. I have an F350 Dually quad cab I can't park in the driveway. My plans are to turn my house around so it faces Cherry Lane. If I can't put a garage on the back lot, I will put it on the front lot which is buildable.

Solicitor Rhodes: It looks like you are proposing to put the fence on the street side of Cherry.

Mr. Dilks: No it is 10 foot leeway to the street.

Chairman Feldman: That is not what this plan shows. Also these deeds are both dated 2/14/2006.

Mr. Dilks: That is what they say, but I purchased this property in 2004. I have receipts showing that.

Solicitor Rhodes: It looks like they did a deed of correction. These two deeds are the same.

Chairman Feldman: Did you say you had one done in 2004?

Mr. Dilks: It took two years to get my deed back.

Chairman Feldman: That takes you to 2006. When did you edit and revise this deed?

Mr. Dilks: In 2007.

Chairman Feldman: I do not have that Deed here.

Chairman Feldman: These deeds are Feb of 2006. If there was a deed of correction, we don't have it. These two deeds are marked Feb, 2006 and are not marked Deed of correction anywhere.

Solicitor Rhodes: With a deed restriction we don't have the authority to override the restriction.

Chairman Feldman: This says no building a structure.

Mr. Dilks: No building a house. He re wrote my deed. I am looking to put up a fence.

Solicitor Rhodes: We cannot determine whether the deed was inappropriate or not.

Mr. Dilks: I am trying to put a fence up to park in my driveway and use my back lot.

Solicitor Rhodes: In that respect you can proceed. I suggest that you present sufficient justification. If you get shot down tonight, you would not be able to bring that application to the board again. We can give you the opportunity to get your other issues resolved. Have you talked to a lawyer about this?

Mr. Dilks: I spoke with two. I need to go back to someone.

Solicitor Rhodes: There may be remedies accorded to you if you speak to someone.

Chairman Feldman: Mr. Rhodes is suggesting you might want to get a Lawyer and suspend this for another meeting. Then come back to the board to get this resolved.

Solicitor Rhodes: That is what I suggest. But if you want to go ahead and put your case before the board, I don't think you have sufficient justification.

Mr. Dilks: Then I will table it.

Chairman Feldman: Onto the site plan for TAL management. Is there anyone here for that?

Frank Tedesco, Esq. I am from Dilworth Paxson here representing LUDOSA Enterprises, LLC. The property I am talking about is 216 White Horse Pike Block 75 Lot 22. Existing on the property is a two story building. The first floor is being used by Ludosa Enterprises for storage. The owner is Luigi Basile he owns three or 4 restaurants in the area. The second floor when he purchased in 2010, had an apartment. I believe at the time the apartment was constructed prior to his buying the property. There was also an office in front of the building. They are asking that an apartment replace the office. The foot print of the building will not be changed. I have the architect Deborah Anderson to present the plans for the apartment. We are applying for a use variance to expand for a non-conforming use. We have the drawings of the two bedroom apartment. We have submitted a site plan. With the boards permission I will just let her go through both the layouts and the reason for the variance. I believe Miss Anderson has been qualified before the board before.

Chairman Feldman: You may proceed.

Mr. Tedesco, Esq.: For the record Miss Anderson you are a licensed Architect in the state of New Jersey and a professional planner. Is that Correct?

Miss Anderson: Yes. Miss Anderson along with the aid of her plans shows the existing apartment how it is now and her drawings of the additional space she has created along with the new entrance for access from the street into this new space.

Luigi Basile Owner of Ludosa is sworn in and explains what the property looked like when he purchased. The reason he wants to build another apartment and get rid of the office is to house employees.

Solicitor Rhodes: Miss Anderson you were talking about the entrance to this new apartment.

Miss Anderson: We have a stairway coming down the side going to a gravel walk. The other apartment has an entrance to the paved parking area. You can park 5 vehicles there.

Solicitor Rhodes: It does have 5 spaces. Will the second floor have an exterior staircase?

Miss Anderson: It is actually 1100 square feet.

Solicitor Rhodes: How do they get to the second floor?

Miss Anderson: The entrance is on the side. They would go up the steps to the second floor and exit the same on the way back.

Solicitor Rhodes: How is the existing apartment connected? Same kind of thing?

Miss Anderson: Yes.

Mr. Tedesco: Mr. Chairman, and board I have pictures of a 180 degrees look of what this building would look like. The pictures were passed around to the board members to look at.

Chairman Feldman: Mr. Hughes: I am confused about the sign elevations.

Miss Anderson: These are the two dormers we will be putting in.

Chairman Feldman: These dormers are for the new building. There are no dormers in the existing apartment? Can you tell me why this apartment should be?

Mr. Tedesco: There are 57 apartments on one side and an asphalt business on the other we had an office and storage area what we plan on doing doesn't seem to interfere with the existing zones of the borough. Based upon what is there now. Positive criteria on a 24 hour basis there is always someone there. The first floor is all storage. This will also give someone in town housing that they would not have. Miss Anderson, as the professional planners do you see this as detriment to the overall zoning plan to a particular town when you apply it to this area?

Miss Anderson: No.

Chairman Feldman: Are you sure you are not leasing or plans sell it to the Condo Development? No consideration to do this at all.

Mr. Tedesco: No.

Chairman Feldman: There are two bedrooms? I am having trouble picking out the width.

Miss Anderson: It may be 19

Chairman Feldman: 19x9 and the other one is 15x8?

Miss Anderson: Yes. There will be a 4 burner stove.

Gary Saunders: That is the only vehicle entrance off of the White horse pike right? It is not going to be used to go through the back?

Mr. Tedesco: Yes. You can't go through the back.

Unknown speaker: There is a road that goes back to Higgins that is owned by the county. It backs to the asphalt company.

Member Armbruster: That will not be used as a road.

Chairman Feldman: Any additional questions or comments?

Member Armbruster: I remember when you were in before to get the initial approval for the apartment. I thought the original testimony at the time was the use for the apartment was for

employees from your restaurant and also have security for the building. Whereas now it use will become rentals.

Mr. Basile: I have had the same guy for 3 years now.

Member Armbruster: A building such as this does add to your COAH number.

Member Saunders: Will each of these units be metered for gas and electric?

Mr. Basile: Not sure about the water but electric and gas definitely.

Member Saunders: In the proposed new space I would imagine you would have to renovate because it was office space? You will be adding bathroom kitchen kitchenette?

Mr. Basile: Yes, I will be coming in for all the permits.

Chairman Feldman: Is there anyone that would like to speak from the public.

Dewey Marks: I just have a question regarding the opening of the door.

Miss Anderson: There is a three foot door on the side and it swings out.

Member Lofland: Do you own the property next door?

Dewey Marks: Yes I do.

Chairman Feldman: May I have a motion?

Solicitor Rhodes: We are voting to grant a motion for the variance of the applicant as a standard non-conforming use to add the additional second floor apartment.

Secretary McKelvey: Made first motion.

Member Saunders: Made second motion

Roll Call: Chairman Feldman No, Secretary McKelvey, Yes, Mayor Weaver, Member Armbruster Abstained, Member Lofland, Yes, Member Kuns, No, Member Saunders, Yes, Member Naurath Yes.

Chairman Feldman: You received four votes and needed five, so the application is denied. Zoning Officers report?

Gene Richards Zoning Officer: Nothing new to report only that they have sold more units at Rowand Pond. The banks have released 7 properties that are now on the market for sale. I have done 16 CO For purchases. I have been doing the inspection at this point they have been immaculate.

Bill Fleming: I reviewed the Hideaway application I believe the application is almost the same as the application the board heard back in 2012. I did not pull out the old files. There could be a question of res judicata. That is not something that an engineer would have to make. That would be something Pete

and the board would have to decide when they hear the application. . The review letter brings up the same issues that we brought up the last time. I don't believe from a site planning stand point that there is anything that is a deal breaker. There are things that I would want them to provide like lighting and storm drainage. None of it is from a site planning stand point would be a problem. As we explained back in 2012, it would be a board will grant a use variance. It is a pre- existing, non- conforming use a bar and grill in a residential zone. I do remember telling them back then to first get the Use variance and forget about the site plan. It is hard to do that because the board needs something to look at. I think we went through 3 different reviews of the site plans.

Chairman Feldman: That's because the there were three different plans and they didn't match.

Bill Fleming: They came in 3 different times according to my letters and everything. They are back in front of us and site plans but more importantly are you willing to grant the use variance.

Chairman Feldman: I would like to take a look at the old plans and review them.

Bill Fleming: NJDEP storm water design seminar and found enlightening. There are a lot of changes and is very complicated.

Member Armbruster: Read the resolution regarding Mr. Dilks property. That it must remain open spaced and not be developed at any time. In the event the property is developed or there is an attempt to develop the property it shall revert back to the Borough of Clementon. The property shall be used as residential use only subject to the condition it is not buildable or developed.

Secretary McKelvey: So he can't put a fence on the property.

Gene Richards Code Enforcement Officer: He stated I was picking on him for his grass. Well, there were two sea boxes, pallets of junk, and five cars six truck bodies.

Chairman Feldman: I am not sure if this is an appropriate discussion while we have and open application.

Member Armbruster: We still do not have a resolution for the property on Brand Ave. We are still waiting for final court document. That has been slowed down because of the bankruptcy. Things are still up in the air. We did approve the extension, but it doesn't really matter as the courts are the ones that are deciding.

Solicitor Rhodes: Reads the resolution for the fence variance heard April for 135 Silver Lake Ave.

Roll Call: Chairman Feldman Yes, Secretary McKelvey Yes, Mayor Weaver yes, Member Kuns Abstained Member Armbruster Yes, Member Lofland Yes, Member Saunders Yes, Member Naurath Yes.

Chairman Feldman: May I have a motion to adjourn?

Member Armbruster made first motion, second motion Secretary McKelvey.



