

Borough of Clementon

Planning/Zoning Board

October 8, 2020 Meeting Minutes

The October 8, 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 by Chairman Feldman.

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

Chairman Feldman asked the Board if any member has any questions or concerns regarding approval of the September 10, 2020 minutes? Hearing none, can I have a motion to approve?

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

James Kilmeyer 12 Atlantic Ave duplex

John Kosylo attorney represent Mr. Kilmeyer

John Kosylo: Can you please explain to the Board why you are hear this evening again?

James Kilmeyer: I am trying to sell my home, and went to get the CO and it was declined because of the zoning issue so I am here in front of the Board to file my application for the variance so I can sell my property

John Kosylo: And without this change you have to market this as a single-family home? Correct?

James Kilmeyer: That is correct

John Kosylo: Do you remember how much you purchased that property for?

Jams Kilmeyer: Yes, roughly \$171,000

John Kosylo: Members of the Board from Mr. Kilmeyer's testimony from tonight, and previously. The documentation we have presented, in our application I believe it's abundantly clear, that this property at least from year 2000, that is the only date that I can affirmably represent our position. This property was marketed and operated as a duplex. The Borough, at least parts of the Borough recognized this property as a duplex. The County at least in part, CCMUA recognizes this property as a duplex. There are other duplex's in the area that are operated similarly. The appraisal when my client purchased the property clearly indicated to him and to anyone that reads it that this was a legal non-conforming use in an R-1 zone. In the last meeting and as your Solicitor explained we are trying to get recognized as a pre-

existing non-conforming use. Unfortunately, I could not establish the preexisting situation operating as a duplex pre-dated the Ordinance. One of your Board members, probably a lifer in town, is familiar with the property, and he pointed out it was not always used as a duplex, at least 30 years ago, perhaps longer. But it is our representation, I think our uncontroverted position, that this property has always been represented as a duplex to my client and to the world for the last 20 some odd years as a duplex. He purchased it as a duplex, and it would be a great burden upon him, if it weren't permitted to continue to be used and recognized now as a legal duplex. I think that is about all I have to say.

Solicitor Rhodes: Can you give a little insight of the property? Are the utilities separate for the 2 units? Is there separate water and sewer? You know those types of things that would give indication that this is 2 separate units?

John Kosylo: Thank you, as it was explained previously each unit has their own water bill, it is billed that way. Locally and through the County. Mr. Kilmeyer are both units self-sufficient, and billed separately for utilities? Gas, Electric, etc.?

James Kilmeyer: Yes, they are. There are separate gas meters and electric meters for each unit, separate furnaces for each unit

John Kosylo: Ans each unit runs totally independent from the other? Correct?

James Kilmeyer: That is correct

John Kosylo: How is the layout, top bottom? Or side by side?

James Kileyer: It is a top bottom

Solicitor Rhodes: Does each unit have kitchens that are completely independent in the units?

James Kilmeyer: Yes sir

Vice Chairman Kunkle: And they have their own separate entrances?

James Kilmeyer: Yes, that s correct

Solicitor Rhodes: How many other duplexes are in your immediate vicinity?

James Kilmeyer: I was unaware until the last meeting one of the Board members mentioned that there were one or two others on my street, but I cannot confirm that

Solicitor Rhodes: At the time you purchased the property, did you apply for or get a Certificate of Non-conformity?

James Kilmeyer: I don't recall

John Kosylo: I can address that, it was again, represented to him that this was a legal non-conforming, and he was presented with a CO that encompassed both units. To his knowledge it was not required, since the CO had been issued by the town.

Member Lofland: Is their parking to accommodate both units?

James Kilmeyer: Yes, there is

Solicitor Rhodes: How many parking spaces do you have on the property that are off street?

James Kilmeyer: Off street there are 2 spots

Solicitor Rhodes: How many cars are currently being used by your tenants

James Kilmeyer: 2 cars one in each spot

Solicitor Rhodes: Is each unit 1 bedroom 2 bedroom?

James Kilmeyer: The upstairs is a 2 bedroom the downstairs is a one bedroom

Solicitor Rhodes: Those are the only questions I have does the Board have anything further?

Chairman Feldman: Does the Council have anything further before I ask the Board for questions? Does the Board have any questions about this application? Hearing none is there anyone from the public regarding this application? Hearing none I will turn this application over to the Board and ask for a motion regarding this application

Vice Chairman Kunkle motioned to approve this application as a duplex, 2nd by Secretary McKelvey and motion was carried upon with roll;

Chairman Feldman: I am pretty sure legally we have to get some benefit to the community, and I see none, and I also believe this application should not be detrimental to the zoning regulations, and or the master plan and in fact I think it is. So, based on that I will vote No.

Roll call was continued, Vice Chairman Kunkle, Secretary McKelvey, Member Lofland, Member Kuns, Member Saunders; Ayes, Chairman Feldman, Member Shover; No, Member Armbruster, Mayor Weaver; Abstain

Solicitor Rhodes: Based upon that you have 5 affirmative votes, you are granted a use variance, for the use of that property as a duplex, which will be memorialized in a Resolution, that hopefully we can adopt next month, but given the short comings of zoom meetings, it might be more like 2 months. I just want to give you the forewarning, that this decision can be appealed by any disgruntled persons within 45 days of the publication which will be about 30 days.

James Kilmeyer: Thank you very much good night

Chairman Feldman: Next on the agenda is a fence variance for 125 Chewslanding Rd

Advised the application was incomplete they are a scratch

Chairman Feldman: Ok then we have Jersey Crab Mercantile application 5 Gibbsboro Rd Lin Feng is anyone here for that application?

After numerous times trying to get applicant to connect they went offline

Chairman Feldman: Do we have anything to report from Zoning Officer?

Miles Dumbleton: No, I don't have anything to report right now

Solicitor Rhodes: Joe can we do the resolutions? I have 5 I sent out

Chairman Feldman: No, we have to do this other matter first regarding the lot on Wilson Ave. Is there anybody here regarding that? Hearing no one at this point Pete do you want to go ahead with the resolutions?

Solicitor Rhodes: Sure, I circulated to all of you 5 resolutions all of them are fence variances for 6ft solid fence in violation of our Ordinance, they were all pretty much generic, hopefully you have a chance to review them, they are 2020-02, 2020-03, 2020-04, 2020-06, and 2020-07. Has everyone had a chance to look at those? I can tell you Mr. Kuns called me indicating that one of those Resolutions had a condition in the minutes that I did not include in the Resolution, which I will modify, Jack do you remember which one?

Member Kuns: It's the last one, its for Wayne Vanderpool, regarding land purchase.

Solicitor Rhodes: If you guys would prefer to read them before we adopt them tonight, we can hold off till next month, but I think they are pretty generic.

Chairman Feldman: I have not had a chance to look at them yet, I would like to before I vote on them

Solicitor Rhodes: Ok, then let's put them off till next month

All in agreement

Chairman Feldman: we have an Alex on line purchase of land Wilson Ave blk 113 lot 7

Alex Marinaccio: Sorry I am late joining

Chairman Feldman: What can we do for you?

Alex Marinaccio: yes, I received a violation for putting a driveway in, I wasn't aware that my property line stopped at a certain point, besides that we have an application in to purchase the land. They are estimating that the cost is \$3,600. I don't mind paying that but part of the land actually goes into the street. Obviously, we can't do anything with it. I was wondering if there is anything we can do to adjust the price? What is the process to maybe get a few bucks off? We are expecting our first child and anything you can do to help with the cost.

Chairman Feldman: Unfortunately, the price is set by the tax accessor, and I think his decision is final. You may wish to speak to him he is available on Wednesdays. You want to talk to Mr. Warrington, and see if he would be willing to adjust that price at all. This Board has no sway over that at all.

Alex Marinaccio: I understand

Chairman Feldman: This Board will still have to approve that sale before it goes to auction. Did you make a formal application yet?

Alex Marinaccio: Yes, I filled out the formal application, Miles did you receive that?

Miles Dumbleton: I did, it was in the packets

Chairman Feldman: Would you like us to vote on it at this time or would you like to wait to see if you can get the price down?

Alex Marinaccio: I mean would you be willing to still approve it if I get price down after the fact?

Chairman Feldman: Is everyone aware of this property? It is a 25 ft lot on the corner, the only problem I see it has a hydrant and a curve radius on it that may be encroaching, if we decide to sell that lot, has to be part of the packaging, can't be rectified, or charged to the Borough in the future. Is that all generally clear? Any additional questions about this property I may be able to answer?

Miles Dumbleton: I just want to point out on the tax map the real sides of the street as how its paved right now is not on the tax map. There is about a 5ft right of way, which would give the Borough access for the fire hydrant, I assume that is why the curve was cut in, made part of the street when they were paving.

Chairman Feldman: I remember when the curve was installed, it was installed improperly, I talked to the Engineer at that particular time, he had a 10ft radius there it was impossible to get around the corner. I was not aware that that lot was owned by the Borough. I made them aware of the size of the radius so now it is drivable.

Vice Chairman Kunkle: Is that hydrant on Wilson Ave or is it on Delaware Ave?

Chairman Feldman: It is on Wilson Ave

Member Armbruster: Joe, if will do select to sell it and since it is a nonconforming lot doesn't it have to be offered to the contiguous neighbor, and since it's a corner lot and he is the only contiguous neighbor, so it would have to be offered to him first?

Chairman Feldman: I think it has to go up for auction, and anyone that wants it can bid on it.

Member Armbruster: I thought if it was nonconforming it would have to go to adjoining properties first.

Chairman Feldman: No, not unless someone owns it and no one owns it but us. If it was owned by the property owner then it would have to be combined if it was nonconforming

Solicitor Rhodes: Yes, that is correct it is never going to be a conforming lot.

Member Armbruster: It would be a conforming lot if he bought it and combined it

Solicitor Rhodes: It's no longer a lot it merges with existing, for Alex it would be better for his property and will solve his driveway problem.

Chairman Feldman: The sale of the lot would benefit everybody, the borough and the property owner. There is no detriment in selling it is useless to the Borough. So, based on that can I have a motion to agree on this sale?

Vice Chairman Kunkle motioned to agree to the sale 2nd by Secretary McKelvey and motion was carried upon roll; Chairman Feldman, Vice Chairman Kunkle, Secretary McKelvey, Member Lofland, Member Kuns, Member Saunders, Member Shover: Ayes; Mayor Weaver, Member Armbruster: Abstain

Chairman Feldman: We approved the sale of the lot if you want to speak to Mr. Warrington about the price. I don't think there will be anyone to bid against you. The first step has been taken. Good Luck

Alex Marinaccio: Thank you guys very much

Chairman Feldman: Any questions, comments, or concerns from any of the Board members?

Can I have a motion to adjourn.....All in favor

Adrianne Guernon