

Minutes of the Asbury Park Zoning Board of Adjustment  
Regular Public Hearing of  
**May 28, 2019**

Announcement by the Chairman that the meeting is being held in accordance with the Open Public Meetings Act, Chapter 231, Public Law 1975. Adequate notice of the meeting has been provided to the Coaster and the Asbury Park Press. All notices are on file with the Board Secretary. Official action may be taken on matters listed below.

Roll Call

Members in Attendance: Chris Avallone, Daniel Harris, Russell Lewis, Brittany Ashman, Melanie Chongolola-Nester, Stephanie Hunnell, Eric Galipo, Chris Gonzales

Members Absent: none

Staff: Jack Serpico, Esq., Donna Miller (CCH), Jason L. Fichter (Insite), Douglas D. Clelland (InSite), Michele MacPherson (State Shorthand), Irina Gasparyan (Board Secretary)

Meeting begins at 7:05pm

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- A. Minutes:** Approval of Minutes of Meeting of May 14, 2019  
Motion:Avallone                      Second: Lewis                      All in favor

Announcement by Chairman that APTV is filming this meeting.

**B. Applications:**

1.            **Jemal's National Guard Armory      (carried from December 11, 2018)**  
**637 Lake Avenue, block 2404 lot 11, CBD Zone**  
Certification of non-conformity for parking lot use

E. Galipo recused himself from this application

Serpico: 3 members present today have listened to testimony & are eligible to vote

Andrew Karas, Esq. for applicant. Will call additional witnesses tonight.

1<sup>st</sup> witness: Patrick Schiavino, resident and broker- sworn in

Schiavino: As long as remember has been a parking lot since 1980s.

Hunnell: VFW use the lot for personal?

Schiavino: VFW workers manned it. I parked there & arranged for others to park there. There was a booth

Avallone: know Taka was using parking without proper permission

Karas: utilization of lot as public

Avallone: Open to public Q's for witness?

Werner Baumgartner: where was the parking booth?

Schiavino: towards back of lot

Exhibit A-1 aerial photo from CBD plan

Karas: Pointed out booth

2<sup>nd</sup> witness: Peter Siegel; Resident & work since 2000

Lewis: paid to park there? If not manned, didn't pay? Remember any signage there?

Siegel: sign that VFW assoc., pay for lot

No additional Qs

3<sup>rd</sup> witness: George C. Reed, VFW vet- sworn in

Member, 11 positions VFW, since 2003-2004. Managed the parking lot. First come first serve basis. Was used for gen public parking long before I started. Knowledge of photos of VFW archives showing a mobile booth on wheels. Any Qs for witness? None

4<sup>th</sup> Witness: Douglas Jemal, property owner-sworn in

Visit and worked in Asbury since 60s

Exhibit A-2: 90-day parking lot lease

Exhibit A-3: Annual parking lot lease: Dec 2017 between VFW & Nat gas co

Avallone: what is your plan for building?

Jemal: Possibly site put together w Corbo & make something large for that entire corner. VFW did not buy 2 lots together. I bought what they had together. Allowed VFW to stay there no charge

Karas: identified as separate lots

Motion for 5 min recess: Avallone

Second: Ashman

All in favor

7:46pm

Roll Call

5<sup>th</sup> Witness: Lewis Parisi; VFW early part of century. When got here was a dirt parking lot; Bldg. was armory 1920s

Ashman: when was lot turned into parking lot

Not sure. 2003-2004 paved it for parking lot

Fred Raffetto, City Attorney representing Michele Alonso : timeline- prior to 2005, any sign or what it said? Any sign indicating public parking? Any sign for towing? Did u tow?

Parisi: No signs for public parking, yes, on occasion towed cars. Gas co had section of lot. Only when could keep attendant. If got there when no attendant, could park free.

Public Q's: none

Michele Alonso, City planner- Sworn in: Back in Aug signs went up for pay for parking using an app in VFW parking lot, went thru city records, no tot, spoke to someone from Jemal's company, sent him email, issued summons for parking lot & zoning officer issued summons for signs. Not refuting it as a parking lot, no record of it being public parking lot, its use as accessory.

Exhibit C-1: map of CBD

Do not have any documents permitting as public parking lot.

Ashman: what kind of permit or documentation need for parking lot? Bus permit, bus certificate.

Alonso: interim parking for VFW. Ordinance states 30-59.8 parking requirement may be met by parking lot within 1000 ft. argue use of parking app is intensification of use.

Exhibit C-2 exhibit: email from Alonso citing city code

Karas: any documentation that lot is deemed as accessory to VFW. Any personal knowledge how parking lot used in past? What documentation would be needed?

Exhibit:

Andover twp vs. Lake: pg 13 nonconforming use – whether license is necessary. Failure to obtain license doesn't adversely affect business as nonconforming use.

Karas: under Lochner doctrine- lots do not merge.

Ashman: what does it mean under one deed?

Serpico: deed doesn't merge lots, just use one document

Exhibit C-3A: CBD plan

Qs from public:

Robert Jaminson, VFW Comander- in your observation, you've never seen paid parking?

Mignoli: You don't know the person attending the lot?

Werner: what is actual issue, what are we here for?

Avallone: Decide whether lot was nonconforming use or accessory use to VFW

Karas: indicted that drove by & didn't see anyone collection money. Did you make notation of money collection?

Karas: 2003, CBD mixed use district allows parking lot as use. Doesn't distinguish between paid parking. Argument is that its accessory to VFW bldg., however no documentation as such. Lots don't merge.

Lewis: is there a reason don't go thru proper channels to make parking lot?

Refetto: Alonso clear that lot was accessory. Leave issue to the board

Avallone: comments from the board?

Harris: burdon of proof- testimonies have proved that it was used as a parking lot.

Hunnell: not whether parking lot, but whether public parking lot. Still not convinced that paid public parking lot.

Also testimony that leased lot, used it for personal use. Whats bothersome is that sometimes used as public lot, sometimes used for special events, sometimes leased out.

Lewis: since 2004, never parked in lot, always been a sign there saying that it was VFW lot

Avallone: agree w/ colleagues tend to agree that it was a private lot

Lewis: personal opinion that best for applicant to go through proper channels to use the lot as public parking.

Planning Board & city council would welcome parking lot

Avallone: There is another avenue to take?

Donna Miller: board planner- sworn in- accessory vs standalone use. Offer recollection as zoning officer that it was paid, signs for VFW, principally as VFW lot. Accessory to VFW, other parking was incidental to that, and new owner put up signs and used as paid lot.

Avallone: Motion to approve as or motion to deny:

Motion to approve: Harris            Second: Chongolola-Nestor

In Favor: Harris, Chongolola-Nestor

Opposed: Ashman, Hunnell, Lewis, Gonzales, Avallone

Application **DENIED**

Roll Call

**2. Wells Fargo, N/A c/o Aaron M. Bender, Esq. (carried from April 9, 2019)**

**Ridge Avenue, block 1003 lot 11, R1A Zone**

Interpretation – Certificate of non-conformity for use as a multi-family dwelling

Christopher Beekman, Esq. for the applicant

Continuation of prior hearings

Avallone: Specifically 4 family use

1<sup>st</sup> Witness: Tony Chambrovich, witness for applicant- sworn in  
previous owner purchased in 87 as investment property

Beekman: it was foreclosed in 93. No actual sale of property to trigger TOT

at time of purchase was all utilities separate

recall name of renters?

Exhibit A-2: writ of execution

Avallone: Did you provide leases? Recall having inspections, CO?

Exhibit A-3: OPRA document

Exhibit A-4: tax records

Harris: do you remember having fire inspections?

Beekman: earliest have record of 4 family is 1995. Converted prior to 1987. Boiler installed

Q's for witness? none

Hunnell: find writ helpful to show tenants

Avallone: can't dispute witness. Any comments from board?

Beekman: Submit to Boards discretion

Avallone: Lack of evidence, leaning towards 4 family

Motion to approve as non-conforming use as 4 family: S. Hunnell

Second: Avallone

In Favor: Harris, Ashman, Chongolola-Nestor, Lewis, Hunnell, Avallone

None opposed

Application **APPROVED**

Motion for 10 minute recess: Avallone      Second: Gallipo      All in favor

Roll Call

9:33pm Call to order

Brittany Ashman recused

**3. 300 Sixth Ave, LLC**

**300 Sixth Avenue, block 3606 lot 5, R2 Zone**

**Bulk and FAR variances to construct a two-unit structure**

Andrew Karas, Esq. for applicant

Lot area, far, lot width, bldg. covg, height stories

1<sup>st</sup> witness: Michael Savarese, arch for applicant-sworn in

Exhibit A-1: photo of site

Exhibit A-2: dated 3/4/19 plans site plans & zoning data

Miller: board planner- sworn in

Clelland, board engineer- sworn in

Exhibit A-3: adjacent properties

ZB has jurisdiction in infill area

Galipo: 2 family is permitted use. Describe circulation-

Avallone: did u try to reduce # of variances & try to design something that would fit the lot better?

Galipo: can place 2 family on lot, but issues w orientation & having access come off of Webb. Already asking for bulk variances.

Hunnell: drainage sewer where proposed curb cut

Miller: calculate height, designed garage to sink 2' describe how grade works w/ retaining walls; describe patio side.

Lewis: flood area?

Miller: prelim vs. effective maps

Galipo: in floorplan showing separate entrances & circulation. Did u explore combined entrance?

Avallone: Table this for now, let Karas read planners report, and carry.

Karas: on record to waive all time constraints

Motion to carry to July 9, 2019: Avallone      Second: Lewis      All in favor

**C. Discussions and Correspondence:**

Calendar application for 405-409 Sewall for July 9, 2019

**D. Resolutions:**

1. Clearview Equities, LLC 1400 Mattison Ave.

Motion to approve: Avallone      Second: Gallipo

In favor: Avallone, Harris, Lewis, Gallipo, Hunnell

Motion to adjourn: C. Avallone      Second: Lewis      All in favor

Meeting adjourned: 10:39pm