

Zoning Board Minutes of
April 9, 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, Dan Harris, Russell Lewis, Brittany Ashman, Stephanie Hunnell, Eric Galipo,

Members Absent: Melanie Chongolola-Nester, Chris Gonzales

Staff: Jack Serpico, Esq., Donna Miller, (CCH), Jason Fichter, Doug Clelland, (InSite), Michele MacPherson, (State Shorthand), Barbara Van Wagner (Bd Secy)

Meeting begins at 7:00 pm

A. Minutes: Approval of Minutes of Meeting of March 26, 2019
Motion: Chris Second: Russell All in favor

B. Applications:

**1. Clearview Equities, LLC (carried from January 22, 2019)
1400 Mattison Avenue, block 1006 lot 9, R1A Zone**

Zoning Determination for the use as three residential units and in the alternative, any variance required.

Stephanie listened to tape and is eligible to vote and will sign the verification

All Members present are eligible to vote

Daniel Popovitch, Esq for the applicant,

Joshua Frankel, owner- there are three separate buildings and has been assessed as three separate buildings

Exhibit A-2 – Tax record

Building is 78 years old and was constructed around 1940

Exhibit A-3 – Water and Sewer bills – three pages

Exhibit A-4 – Utility account

Addresses: 1400 Mattison, 217 DeWitt, 219 DeWitt

Exhibit A-5 – JCP & L bills – three pages

Barbara – sworn in – reviewed documents in the Zoning Department files

Exhibit A-6 – NJNG bills

Popovitch – no leases on apartments, month to month lease, Mr Frankel bought in a Sheriff's sale. Ahern owned it from 2006-2016, prior owner owned for 20 years. Mr. Ahern testified that the units were occupied but there were no leases. Tenants were there when property was acquired. Own as a mortgage foreclosure. There are separate meters.

Chris – struggling that the three sites were used continuously for three legal units

Popovitch – not abandoned use. Three units on one property. Based on 1940 tax records, built as three separate units and appear as three individual units, approximately 600 square feet each. Taxed as three units

Chris – there is not one CO and not one inspection

Jack – Popovitch assessed of Law is correct, for abandonment, time is not a factor. Constant problem, some were converted legally. We use 1987 as a baseline since that was when there was the first real overhaul of the Zoning Ordinances, can't go back too far. Some of the records

from departments have been shredded but Barbara does a great job keeping the Zoning Documents together.

Dan – is there any proof of insurance?

Frankel – pay for three structures on one policy (addresses were discussed)

Jack – assessed as three separate residential structures, not as a garage, could be evidence of use

Popovitch- gas company from 1992-1994 shows three separate units in the 90s. physical evidence of building – looks like houses built in the 1940s. MLUL first adopted in 1964. Ample evidence presented that there are three separate buildings and no intent to abandon. Ahern had a mortgage, so he had insurance, which shows a continuing use. Owner will get COs on all of the buildings and do landscaping.

Frankel – could bring the 92 year old tenant, Mr. Harris, who is a long time tenant

Public Questions: Ernest Mignoli

Popovitch – did not look at the County records. Urge approval of prior non-conforming use.

Russell – wish there was better evidence, some strong evidence with the utility bills showing that it has been three units for quite some time, hard to determine status.

Eric – is there a detriment?

Jack – central issue is continuity, doesn't stay in current condition

Stephanie – in light of the shredding of some documents, they have shown the use as three units for an extended period of time. The utility bills show three separate units and have different addresses and had the testimony of the prior owner.

Chris – am a little reluctant, but there is little evidence to the contrary and agree with the Board that it is a non-conforming use for three family structure.

Jack – no public comment necessary

Motion to approve: Stephanie

Second: Chris

In favor: Stephanie, Chris, Russell, Dan, Eric, Brittany

Opposed: none

Application approved for pre-existing non-conforming three units.

2. Jemal's National Guard Armory (carried to May 28, 2019)

637 Lake Avenue, block 2402 lot 11, CBD Zone

Certification of non-conformity for parking lot use

Motion to carry to May 28: Chris Second: Russell All members in favor

3. Wells Fargo, N/A c/o Aaron M. Bender, Esq (carried to May 28, 2019)

140 Ridge Avenue, block 1003 lot 11, R1A Zone

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

Motion to carry to May 28: Chris Second: Russell All members in favor

C. Discussions/Old Business:

Boys and Girls Club, 1201 Monroe Avenue/1500 Sewall, block 1503 lots 7 & 8

Request to amend approval to remove a condition in the resolution for the parking lot

Jennifer Porter, Esq. for applicant – the parking lot on the site is contaminated from the prior use as a coal manufacturer and is in the process of remediation. The applicant agrees to the conditions of the resolution of approval, the request is regarding compliance with a comment in the resolution.

InSite has two items that are outstanding and we seek to have the items closed.

Jason – sworn in – believe all of the items in the resolution have been addressed

Porter – regarding the producing the lease and environmental remediation – at the hearing, we brought in people to testify, Frank Lawson from JCP & L and believe his testimony satisfies the lease and environmental remediation items. Thought the testimony from JCP & L and the Boys and Girls Club, was sufficient rather than providing the documentation.

Jason – LSRP – ongoing designation which is continuing. #10 – have no issue if additional findings. #7 – lease agreement- at the hearing, they were to provide the lease.

Jack – JCP & L stated on the record that there was a 99 year lease

Jason – access agreements? Do we need to see the lease agreement

Jack – rather have the testimony on the record but the Board needs to give Jason direction (Board is satisfied that the testimony is sufficient)

Motion to approve that the testimony will satisfy resolution compliance:

Second:

In Favor: Chris, Russell, Dan, Eric, Brittany, Stephanie

Opposed: none

Motion to adjourn: Chris

Second: Eric

All in favor none opposed

Meeting adjourns at 8:40 pm

D. Resolutions: none

E. Executive Session: none

Motion to adjourn: Chris

Second: Russell

All vote in favor

Meeting adjourned: pm