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

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.
   1st 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

   2nd 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
   3rd 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

4th 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
Avalone: 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: Avalone    Second: Ashman                All in favor
7:46pm
Roll Call

5th 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.
Avalone: 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.
Avalone: 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?
Avalone: 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

Avalone: comments from the board?

Harris: burden 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. What’s 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

Avalone: 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

Avalone: 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.

Avalone: 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, Avalone

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

Avalone: Specifically 4 family use

1st 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

Avalone: 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

Avalone: can’t dispute witness. Any comments from board?

Beekman: Submit to Boards discretion

Avalone: Lack of evidence, leaning towards 4 family

Motion to approve as non-conforming use as 4 family: S. Hunnell                        Second: Avalone
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
1st 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