

# **MINUTES**

## **BOARD OF ADJUSTMENT**

### **TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY**

Regular Meeting

August 24, 2023

The Regular Meeting of the Board of Adjustment was called to order at 7:30 PM.

It was confirmed that the meeting was being held in conformance with all regulations of the Open Public Meetings Act. Adequate notice of this meeting has been posted on the Township website and sent to the newspaper of record. The Agenda has been posted on the Township website and bulletin board at the Municipal Building at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue substantially past 10:30 PM.

#### **Oath of Public Officers – Newly Appointed Member**

Brian Deegan – Alternate No. 2 – unexpired term to end 12/31/2023

Mr. Deegan was sworn as a member of the Board.

#### **Roll Call:**

Members present were Mr. Sullivan, Mr. Coviello, Mr. Delia, Mr. Sylvester, Ms. West-Augustin and Mr. Deegan. Ms. Amanda Wolfe, Board Attorney, was also present.

#### **Adoption of Minutes:**

July 27, 2023 Regular Meeting

A motion was made by Mr. Coviello, seconded by Ms. West-Augustin, and carried 4-0-2 (Abstain-Mr. Sylvester, Mr. Deegan) to adopt the minutes of the July 27, 2023 Regular Meeting as presented.

#### **Adoption of Resolutions:**

##### **App.#23-0005: James & Clara Tome, 76 Old Cannon Rd., Bl. 2303, L. 34**

Proposed portico over the front door, replacement of existing front sidewalk from the new portico to the driveway. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for insufficient front-yard setback and for exceeding the maximum permitted Other Coverage of 10% and Total Lot Coverage of 25%.

Existing nonconforming issues are lot depth, Other Coverage, and Total Lot Coverage. (R-15 Zone)

Ms. Wolfe reviewed the Resolution.

A motion was made by Mr. Coviello, seconded by Mr. Sullivan, to adopt the above Resolution. The roll call vote was 3-0 with Mr. Sullivan, Mr. Coviello and Mr. Delia voting in favor.

**App.#23-0006: Cory Bussey, 880 Mountain Ave., Block 3001, Lot 14 (R-20 Zone)**

Proposed installation of a 685-sq. ft. patio. Relief is needed from Section 6.1.1B “Schedule of General Regulations” for exceeding the 10% maximum permitted “other” coverage. The existing “other” coverage percentage is nonconforming.

Ms. Wolfe reviewed the Resolution.

A motion was made by Mr. Coviello, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was 3-0 with Mr. Sullivan, Mr. Coviello and Mr. Delia voting in favor.

**App.#23-0007: Yakov Weiss, 48 Baker Ave., Block 903, Lot 5 (R-15 Zone)**

Proposed construction of a second story addition. Relief is needed from Section 6.1.1B “Schedule of General Regulations” for insufficient front yard setback to the new second story addition. Existing nonconforming issues are lot area, lot width, lot depth, principal front yard setback, combined side yard setbacks, building, other, and total lot coverage percentages.

Ms. Wolfe reviewed the Resolution with respect to the application.

A motion was made by Mr. Coviello, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was 3-0 with Mr. Sullivan, Mr. Coviello and Mr. Delia voting in favor.

Ms. Wolfe reviewed the Resolution with respect to the patio.

A motion was made by Mr. Sullivan, seconded by Mr. Delia, to adopt the above Resolution. The roll call vote was 2-0 with Mr. Sullivan and Mr. Delia voting in favor.

**Application for Review:**

**App.#23-0008: 106 Summit Avenue, LLC, 143 Summit Ave., Block 212, Lot 1**

Applicant is requesting the issuance of a certificate certifying that the existing two-family home operated as a two-family home before the adoption of the ordinance which allows only single-family homes in the R-10 Zone. Additionally, Lot 1 and the adjacent lot (Block 212, Lot 1.01) are subject to Section 3.1.5 of the zoning ordinance which would require that the two lots be considered as a single lot. This is because the two adjoining lots are under the same ownership and do not conform to the minimum area requirements for Zone R-10. (R-10 Zone)

Mr. Delia was recused from the hearing of the application as a resident within 200 feet of the property.

August Santore, attorney for the applicant, stated that he has two witnesses who will testify as to the operation of the home as a two-family home prior to the adoption of the ordinance allowing only one-family homes in the zone.

Anthony Manganelli, attending via Zoom, was sworn and stated that his family owned the home for many years and family members lived in the upstairs apartment during those years.

In response to questions from the Board, Mr.Santore stated that there are three kitchens in the home now but it is intended that one kitchen will be removed and the house will operate as a two-family home. Mr. Santore further stated that Mr. Manganelli's uncle recently passed away and the most recent tenant moved out. Mr.Santore has purchased the home.

August Santore, Sr., attending via Zoom, was sworn and stated that his parents lived in the upstairs apartment when they were married and members of his family lived next door. He is very familiar with how the house was used and there was always someone living upstairs.

Mr. Santore, attorney, presented Exhibit A-1 – tax record showing the house assessed as two-family, Exhibit A-2 – photographs of the exterior and interior of the home, Exhibit A-3 – lease dated 2010, and Exhibit A-4 – lease dated 2021.

**Open to Public**

The hearing was opened to the public for questions and comments.

Brian Sykes, 283 Washington Street, was sworn, and expressed his concerns with regard to the use of the property as a two-family home that is not occupied by the owner. Mr. Sykes stated that there are problems associated with a non-owner occupied situation including parking and property maintenance. Mr. Sykes further stated that there are many other neighbors who are concerned about this application, but they were not made aware that they could participate via Zoom and he suggested that the application be carried to a future meeting when that could be arranged.

Mr. Sullivan advised that Mr. Sykes should address his concerns regarding parking and property maintenance with the police department and the zoning official. It was noted that the Board has permitted testimony via Zoom in the past upon request in advance of the meeting.

Mr. Santore stated that he lives about nine houses away from the property and drives by the property every day. He intends to have a family relation occupy the upstairs apartment. He presented Exhibit A-5 – additional photograph of the house showing the driveway/parking area.

Robert Delia, Summit Avenue, was sworn and stated that he has lived in this neighborhood for 65 years and as far as he knows the home has always been a two-family home and he sees no reason that it should not continue as a two-family home.

Discussion took place regarding the merger of the two lots and it was acknowledged that the two lots should be considered as a single lot.

Mr. Santore stated that the application is for a certification of the two-family use and the distinction between an owner-occupied and non-owner-occupied home has no bearing on whether or not it is a two-family house. He further stated that he intends to update the house.

Ms. Wolfe reviewed the application and conditions of approval,

A motion was made by Mr. Coviello, seconded by Mr. Sylvester, with respect to App.#23-0008: 106 Summit Avenue, LLC, 106 Summit Ave., Block 212, Lot 1 to approve the issuance of a certificate certifying that the existing two-family home operated as a two-family home before the adoption of the ordinance which allows only single-family homes in the R-10 Zone, subject to the conditions discussed and subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board. The roll call vote was 5-0 with Mr.

Sullivan, Mr. Coviello, Mr. Sylvester, Ms. West-Augustin and Mr. Deegan voting in favor and none opposed.

**Open to Public**

The hearing was opened to the public for questions and comments. There were no members of the public who had questions or comments.

**Adjournment:**

A motion was made by Ms. West-Augustin, seconded by Mr. Delia, to adjourn the meeting. The voice vote was unanimous, and the meeting was adjourned at 8:50 PM.

Regina Giardina, Secretary Pro Tem