

BOROUGH of GARWOOD
PLANNING BOARD

MEETING of November 12, 2014

Chair Steve Greet called the meeting to order at 7:30 p.m. and stated the following:

Meeting Notice:

Pursuant to the Open Public Meeting Law, this is to state for the record that adequate notice of this meeting has been provided to the public by publication in the Cranford Chronicle and by filing of said notice in the office of the Municipal Clerk. This is a regularly scheduled meeting of the Board.

MOMENT OF SILENCE AND SALUTE TO THE FLAG

ROLL CALL

Present: Stephen Greet, Mayor Patricia Quattrochi, Bruce Paterson, William Nierstedt, Robert Scherer, Kathleen Villaggio, Gene Jannotti, Albert DelConte, Michael Vena, Craig McCarrick (Alt II), Ileen Cuccaro (Alt III), Paul Tarantino (Alt IV)

Absent: None

Excused: Timothy Hak (Alt 1)

Also present were Board Attorney Donald Fraser and Board Secretary Adele Lewis. Board Planner/Engineer Victor Vinegra arrived at 9:00 pm.

MINUTES

• **MINUTES OF THE OCTOBER 8, 2014 REGULAR MEETING**

On a motion by Kathy Villaggio and seconded by Mike Vena, the Board voted by general consent to adopt the minutes of the October 8, 2014 Planning Board meeting.

Invitation to Address the Board- There were no comments from the public.

APPLICATIONS

Chair Greet announced that he would be changing the order of the applications as listed on the agenda. He called forward PB-14-04.

Case # PB 14-04 **92 Third Avenue** Block 204 Lot 29

Applicant: Dominic & Lucille Cepparulo

Request for Certificate of Non-Conformity for a two-family house

Jerome D. Petti, Esq. represented the applicant. He introduced Lucille Cepparulo who was sworn in and testified to the material submitted. She stated that she purchased the subject property in February 1969 with her sister and brother-in-law as a two-family. She eventually bought her sisters share of the property in 1986. She testified that the home has always been a two-family and has been continually rented.

MARKED INTO EVIDENCE

- A-1 Deed
- A-2 1974 Re-evaluation Assessment Card
- A-3 Oil Tank Certification dated 6/20/2005
- A-4 Oil Tank Certification dated 8/28/2014
- A-5 Old Zoning Ordinances from 1922 & 1974 and Maps showing 'B' zone

Lucille Cepparulo testified that since 1961 there have always been separate entrances, separate utilities and the apartments have always been maintained as separate units. Mr. Petti referenced the photographs included in the packet which depicted the separate entrances. She also stated that there are separate oil tanks and in 2005 the oil tanks were removed and the home converted to gas. Subsequently another oil tank was found on the property which was removed in 2014.

The Board asked questions of Mrs. Cepparulo. She reiterated that the two units have been continually rented and maintained as a two family. She never received a certificate of occupancy for the property. Mr. Petti stated that he was in possession of the deeds citing the transfer of ownership but there is no recitation of a two-family.

Mr. Petti reviewed the Zoning Ordinance from 1922 and 1974 both which depicts the subject property in the "B" zone which permits two-family homes to establish the use as permitted.

Mr. Greet called for questions from members of the public.
There were no questions or comments.

Mr. Petti called Mrs. Bucciarelli.

Roseanne Bucciarelli, 99 Third Avenue was sworn in and testified that she has resided at 99 Third Avenue from 1961-1982 and then 1989 to present. She recalls that 92 Third Ave. has always been a two family home and she babysat for the Cepparulo family many years ago.

The Chair called for questions from members of the public.
There were no questions or comments.

The Board thanks Mr. Petti and Ms. Cepparulo for the thorough presentation.

On a motion by Robert Scherer and seconded by Gene Jannotti, the Board voted Affirmative (9) Stephen Greet, Mayor Patricia Quattrochi, Bruce Paterson, William Nierstedt, Robert Scherer, Albert DelConte, Kathleen Villaggio, Gene Jannotti, Mike Vena, Negative (0) to grant the Certificate of Non-Conformity.

MOTION CARRIES 9-0

Mr. Fraser stated he would write a letter to expedite the closing before the adoption of the Resolution.

Case # PB 14-03 **304 Center Street- Block 407 Lot 13**
Applicant: Sandra Sep
Request for Certificate of Non-Conformity for a two-family house

Gene Jannotti recused himself from hearing the case due to familial relationship with the neighbor of the subject property and stepped down from the dais.

Sandra Sep residing at 340 Valley Road, Clark, was present on behalf of her Certificate of Non-Conformity request for her property on 304 Center Street and was sworn in.

Joan Giubippa, 443 Locust Avenue was sworn in and stated that she resided in the subject property from 1964 to 1973 approximately. She testified that there were always separate entrances and reviewed some of the previous tenants of the subject property though she could not recall their names.

Mr. Fraser clarified that Ms. Guibippa was a renter and she paid her rent by check and/or cash.

The Chair called for questions from the Board or members of the public.
There were no questions.

Karen Sclama 553 Pierson Street, Westfield, NJ was sworn and stated that she recalls the tenants residing in the home, the Sansolone Family. She spent a lot of time in the upstairs apartment. Her Aunt and Uncle purchased the home approximately in 1956 or 1957 when she was about 10 yrs. Old. She recalls that it has always been a two-family home.

The Chair called for questions from the Board or members of the public.
There were no questions.

Ms. Sep explained her circumstances of the fire that destroyed her home at 304 Center Street two years ago to this date. She said the property has never been sold since 1957, it has been handed down for years through family members. She cited the ordinances which states she can rebuild the home. Mr. Fraser recommended that Ms. Sep focus on the information on proving that it was always a two-family and that it was a legal use at some point.

She reviewed the booklet of materials she prepared. She stated the separate utilities although she stated that she cannot prove it was built as a two-family although the 1974 reevaluation acknowledges the subject property as a two-family.

Board members asked questions of Ms. Sep. The home is in the R/A zone. She stated it was fire inspected as a two-family. The lot size 33 ½ X 100 ft. She does not have a Certificate of Occupancy for the home and there are other 2 family's on the block; however the lots are not as small as her lot.

Mr. Vena stated that in the 1922 Zone Map depicts the subject property in Residence B which permit two family homes. Ms. Sep the house was built in approximately 1904. The first deed that Ms. Sep was able to provide was February 14, 1955. Ms. Sep retracted her previous incorrect statement that this was always a one-family zone

MARKED INTO EVIDENCE

A-1 Deed dated February 14, 1955

A-2 Deed from Rosco to Drummer Realty

The Chair called for questions from members of the public.
There were no questions.

Ms. Sep stated that concluded her case.

The Chair called for comments from the public.

Vincent Kearney, 306 Center Street was sworn in and stated that the lot is substandard and the smallest lot in the neighborhood. Also being one block from the central business district, parking is already a challenge and will create a hardship. He also noted that he purchased his home in October of 2011 and 304 Center Street was unoccupied for at least six months. He continued that the ordinance requires a two-car garage for a two family and the lot cannot accommodate the required parking spaces. He opined that there has been no evidence provided of there ever being a legal two-family occupation

Board members asked questions of Mr. Kearney.

The Board discussed the easement on the shared driveway. Mr. Fraser reviewed the previous application and dispute between the Kearney's and Ms. Sep. Mr. Fraser stated that there should be a recorded easement that burdens both tracts.

Ms. Sep added that there is present pending litigation regarding the easement as the easement was not attached to 306 Center Street. Mr. Fraser reviewed the written agreement as the result of his mediation which he provided pro bono.

MARKED INTO EVIDENCE

- K-1 Deed conveying property to Ms. Sep with easement noted- dated April 30, 2012
- K-2 *appears to have been inadvertently omitted*
- K-3 Verified Complaint w/ attached exhibits including metes and bounds prepared by Harbor Consultants/Victor Vinegra

Ms. Sep explained reasons for the verified complaint. Mr. Fraser stated that the easement which emanated from his mediation appears to have never been filed. Mr. Fraser asked if the property was vacant when Mr. Kearney moved in. Ms. Sep stated that the property was vacant for a few months for necessary repairs to the two apartments. She could not recall the tenants' names, nor did have the lease with her. Mr. Fraser inquired if she had proof in the form of tax returns to prove the rental income for the two apartments. Ms. Sep stated that she had a cash receipt book and provides the information to her accountant.

The Board deliberated the merits of the case. The consensus of the Board was that there was sufficient proof that this was a legal two-family at one time; however a more thorough presentation would have been beneficial. Many of the ancillary matters have no bearing of the request for the Certificate of Occupancy.

Mayor Quattrochi and William Nierstedt were of the opinion that there are too many unanswered questions. Mr. Nierstedt stated that he is unclear how a certificate of non-conformity can be granted to a structure and use that no longer exists. He continued that the lot is substandard and once the use is destroyed the objective is to get to conformity. The applicant should be permitted a single family home on this property. Also the easement leads to parking and there is no parking on this property. Mr. Nierstedt stated that Ordinance Section 106-122 D- 2 states the **structure** could be rebuilt. He continued that the intent was to protect the foundation and any pre-existing c/bulk variances. Mr. Nierstedt does not feel that the ordinance was crafted to protect the use.

Mr. Fraser reviewed the criteria for the granting of a certificate of non-conformity and stated that because Ms. Sep was directed to come back to the board does not mean an automatic approval. The Board discussed possible conditions which could be placed, including the requirement of a two car garage. Victor Vinegra opined that the lot could not accommodate a two car garage and would create an impervious coverage variance. Victor Vinegra stated that the applicant has not noticed for site plan. The consensus of the Board was that a one car garage must be constructed with an

additional parking space at the rear of the property to accommodate a second car.

On a motion by Robert Scherer and seconded by Kathy Villaggio, the Board voted Affirmative (7) Stephen Greet, Bruce Paterson, Al DelConte, Robert Scherer, Kathleen Villaggio, Mike Vena, Craig McCarrick, Negative (2) Mayor Patricia Quattrochi, William Nierstedt, to grant a certificate of Non-conformity with the requirement to construct a one car garage and provide an additional required parking space at the rear of the property.

MOTION CARRIES 7-2

RECESS 9:15 to 9:25 pm

Gene Jannotti returned to the dais.

Case #PB 14-02 **336 North Avenue** Block 111 Lot 21
C/B -Central Business Zone
Applicant: 336 NORTH AVE., LLC
Site Plan Approval with variances for building coverage & parking

Mr. Fausto Samoes, Esq. represented the applicant. Mr. Vinegra stated that he did not prepare a review letter as he had some questions on the intended use of the second floor apartment and the existing conditions. He wanted to hear the testimony.

Mr. Samoes explained that the development involves existing two-story mixed use building, first floor is currently being used as a restaurant and the second floor is being used as a dwelling unit. A change of use is proposed from restaurant and one apartment into a restaurant and two apartments. The existing deck on the second floor will be removed. A new first floor rear addition to be used as walk-in cooler is proposed which requires a de minimus increase coverage. He stated that his client purchases the property several months ago and they are proposing upgrades to the property.

Daniel Angel Roma, R.A. of Artek Studio, LLC was sworn and qualified. He reviewed the plans he prepared and stated that they are proposing to plant a new tree in the front of the building.

MARKED INTO EVIDENCE

- A-1 Color Photo Board – existing conditions
- A-2 Survey

He continued that the existing front facade will be renewed with stone face and new vinyl siding for the remainder of the building. New folding doors (Na-Na doors) will be installed at the front seating area. A new canopy with Spanish tiles, new light fixtures and new signs (one blade sign and one mounted along canopy) are proposed, and requires the granting of relief from zone requirements that require site plan approval and variance approval and parking. The applicant originally applied for a building coverage variance however it was determined that it was not required as this is the Central Business District. Mr. Samoes amended the application accordingly.

Mr. Roma stated that current apartment is 1600 sq. ft. and poorly laid out. It will be redesigned and divided into two apartments, one bedroom each -one will be 720 sq. ft. and one in the back will be slightly larger at 840 sq. ft. Both the apartments will have skylights. The garbage will be relocated to per the request of an adjacent property owner. The HVAC will be moved to the top of the addition for the freezer.

Mr. Roma added that that entire building will be sprinklered and one tree will be added to the site. He opined that there is no parking increase as the site is going from no current parking to one

parking space. Additionally, the close proximity to the train and bus station will alleviate the parking demand.

Mr. Samoes reviewed the survey and explained that there is a house at the rear of the site which is landlocked. An easement is provided for access. Mr. Fraser reviewed the parking area. Mr. Roma stated that there is still sufficient room for a car to park in the newly created space and not block the access to the landlocked home. The space will be as far east as the space can be located.

Mr. Roma stated that they are providing the one space that is being added for the new apartment. There is a pre-existing non-conforming sideyard setback. The deck at the rear is also being removed. It was noted that there is an incorrect notation regarding the parking on the plans as two parking spaces were originally contemplated. One was removed for the placement of the freezer but the notation of two was inadvertently left on the plans.

The Chair called for questions from members of the public. There were no questions.

Carlos Mendoza, 43 Smithfield Ct. Basking Ridge, NJ was sworn in and stated that he operates a restaurant in Dunellen in 2001 and will be operating this restaurant which will serve Peruvian Food. He will have approximately 4 employees. The restaurant will be eat in or take out- no delivery. The Board inquired if any inquiries have been made to provide additional parking for the pre-existing parking conditions. Mr. Mendoza stated that he will contact St. Anne's Church and the Garwood Plaza Mall to provide additional parking. Mr. Mendoza stated that they would agree to the stipulations of the Garwood Fire Department review.

The Chair called for questions from members of the public. There were no questions.

On a motion by William Nierstedt and seconded by Kathy Villaggio the Board voted Affirmative (9) Stephen Greet, Mayor Patricia Quattrochi, Bruce Paterson, William Nierstedt, Robert Scherer, Albert DelConte, Kathleen Villaggio, Gene Jannotti, Mike Vena, Negative (0) to grant Site Plan Approval with variance for parking conditioned upon the complying with the recommendations of the Fire Dept., the planting of a street tree and conformity with the Borough's sign ordinance and lighting per the Borough ordinance.

MOTION CARRIES 9-0

CLAIMS

On a motion by William Nierstedt and seconded by Gene Jannotti the Board voted to approve the following payments to Victor Vinegra/Harbor Consultants:

- *from Westfield Senior Housing- 2nd Ave escrow account for Inv. # 20685 in the amount of \$862.50 and Inv. #20363 for \$522.50*
- *from Arsis, 302 New St. escrow account for Inv. # 20402 in the amount of \$240*
- *from the escrow account of Marano -Inv. # 20739 in the amount of \$420*
- *from the escrow of 325 South Ave- Inv. # 20714 for \$590.00, and Inv. #20385 for \$172.50*

There were no negative votes or abstentions.

ADJOURNMENT

There being no further business, the Board adjourned 10:35 p.m.

Respectfully Submitted,

Adele C. Lewis, Board Secretary