

CITY OF BURLINGTON

LAND USE BOARD MEETING MINUTES

AUGUST 28, 2013

The City of Burlington Land Use Board held their regular monthly meeting on Wednesday, August 28, 2013 in the City Hall Complex, 525 High Street, Burlington, New Jersey.

Members present: Chairwoman Claudine Conaway, Vice Chairman Samuel Richter, Victor Carnivale, Officer Matthew Mercuri, Councilwoman Helen Hatala, Michael Johnson and Charles Johnston (7). Absent: Messrs. Ballard, Schobert and Tishler (3).

Also present: Board Solicitor M. Lou Garty, Board Planner Bob Perry and Board Secretary Diane Burns.

APPLICATIONS

Application #677-13

Philip and Mary Anne Augustyn

307 High Street (Block 135, Lot 3)

Change of use / 2nd & 3rd floors residential living space

Solicitor Garty swore in Mrs. Augustyn. Mrs. Augustyn stated her husband was unavailable this evening. The applicant stated she and her husband propose to change the 2nd and 3rd floors of their building into living space. She explained their business will still operate on the first floor. The 2nd floor at present is utilized as their businesses showroom as well as the 3rd floor which is also utilized as storage space. When questioned, the applicant stated that she believes that there previously were residential units on these upper floors. She and her husband have owned this property since 1998. Officer Mercuri questioned the TC-1 zone in the new Master Plan which he believes this proposal will fit. He concluded his comments by noting the ordinance has not been updated at this time. Solicitor Garty stated the application is before the Board for a change of use to convert the 2nd and 3rd floors to residential. Planner Perry stated the C-1 zone allows commercial on the 1st floor and residential on the upper floors under our current ordinance. He feels the proposal too will fit into the new Master Plan. Councilwoman Hatala entered the meeting. The Applicant was asked by the Solicitor whether all required business licenses, permits, and any applicable registration or fees had been

obtained and paid for and whether she would agree to obtaining required licenses, registrations and permits and paying the applicable fees as a condition for approval. The Applicant stated she had paid all fees and would agree to that condition. No public comment. There being no further questions Mr. Carnivale moved to approve the application, second from Vice Chairman Richter. Roll call vote. Not Voting: Councilwoman Hatala (1). All in favor.

Application #678-13

Lisa A. Caplan

539 Rutgers Avenue (Block 193, Lots 13 & 14)

Variance – 6' fencing

Applicant Caplan was sworn in by Board Solicitor Garty. Ms. Caplan stated the reasons for her application are privacy and safety for a future pool. Location of a partial fence in the rear reviewed. Ms. Caplan stated she wants to finish off that line of fencing. She noted a large holly tree in this area was recently removed. When questioned, she stated she believes the existing fencing in the rear is 5' high. When members questioned how far the fencing will run from the front of the house, Ms. Caplan stated perhaps 3 or 4' from the front of the house as there are two mulberry trees on one side. When questioned further, Ms. Caplan stated there are utilities on the Dickinson side so she would sit the fencing back approx. 1' from the front of the house. Board Member Carnivale recommended this setback be at least 3' back. Councilwoman Hatala stated she believes the dimensions are not accurate as the trees are not shown on the survey. Planner Perry commented the owner stated this evening that the trees are on the property lines as far as she knows. Mr. Perry recommended the trees and the meter space be shown exact on the survey and noted he feels 3' from the meters is sufficient. Planner Perry feels to preserve the trees the fencing could be 3' from the base of the trees. Applicant agreed. Planner Perry stated the Board will retain the marked survey as discussed this evening for the record. Solicitor Garty asked the homeowner if she will agree to set the fencing off the ground as to allow for maintenance. Applicant agreed. No public comment. Being no further questions at this time Mr. Carnivale moved to continue the application to the next meeting as to allow the applicant time to submit an updated survey marked exact with the measurements as discussed this evening, second from Mr. Johnson. Roll call vote. All in favor.

Application #679-13

Daniel Perro and Dino Zavalucci

115 West Union Street (Block 8, Lot 10)

Certificate of Valid Nonconforming Use / alt. use variance for 2 existing units

Messrs. Perro and Zavalucci sworn in by Solicitor Garty after she outlined the proofs required for the application. She explained the proofs to permit this use need to go back before 1996 for units stacked one above the other. Solicitor Garty noted there are not enough members present this evening if a use variance is needed. Current pictures of the property were briefly reviewed. Mr. Perro stated the two-family home was built in 1954 identical to the twin home next door. Mr. Perro reviewed the separate front and rear doors into the two units. The two-family home was purchased in 1974 from the previous owner who lived on the 2nd floor and rented the 1st floor to Mrs. Poole. Mrs. Poole lived on the 1st floor until she died and then Mr. Perro's mother lived on the 1st floor to 1995 when she died. The property has been registered but vacant since March 20, 2011 due to a fire. The property owners rebuilt the entire building. When questioned, Mr. Perro stated they had and do comply with all requirements for inspections and registrations through 2013 when he decided to sell it. Mr. Perro referred to the neighboring identical built home owned by Mary Severi who is available to testify this evening. Solicitor Garty again stated they have to prove a duplex before 1996 in the R-2 zone. Mary Severi of 111 W. Union Street sworn in. Mrs. Severi testified the identical twin homes were built in 1954 and she moved in March of that year in one of the apartments. When she became pregnant with her second child, her family utilized their two-family home as a single-family home. She concluded her testimony by stating she still receives two separate electric bills for her home. When questioned, Mrs. Severi states she did know Mr. Perro's mother and other tenants who lived in the two separate units. Although there was a fire in 2011, Mr. Perro's testimony indicated that he did not abandon the use of two separate residential units. Public Comment: Joseph Ryan of Century 21 Alliance of 14 Linden Road, Burlington sworn in. Realtor Ryan stated the prospective buyers are in the audience this evening who want to purchase the two-family unit to live in and rent the other unit out. Public portion closed. Solicitor Garty summed the application and briefly reviewed several conditions of approval. Board Member Carnivale moved to approve the valid nonconforming use status for the two units, second from

Mr. Johnson. Roll call vote. Not Voting: Councilwoman Hatala and Officer Mercuri (2). All in favor.

BOARD MINUTES

Board Member Carnivale moved to accept the minutes of the July 2013 meeting, second from Vice Chairman Richter. Not Voting: Officer Mercuri (1). All in favor.

PENDING RESOLUTIONS

1). Joe Britton / 72 Wellington Place (Block 185, Lot 35) – variances to allow construction of an addition to an existing garage structure approved. 2). Andre and Ramona Davis / 18 Lynn Drive (Block 229.02, Lot 9) – approval for a 6’ fencing project. 3). Arcadis / 24 East State Highway Rt. 130 S. (Block 164, Lots 15-19) – approval for variances & sketch plan for a remediation trailer. Mr. Carnivale moved for approval, second from Mr. Johnson. Roll call vote. All in favor.

NO PUBLIC COMMENT.

BOARD BUSINESS

Solicitor Garty and Planner Perry spoke briefly on the Preliminary & Final site plan application submitted by Import Auto World / 204 Rt. 130 W. which was deemed incomplete by the Board Engineer in a review letter dated August 22, 2013. Both professionals advised the Board that they had communicated with the applicant to advise that the application is incomplete and had repeatedly explained what is required to be submitted, namely current signed drawings/plans which depict the current condition of the property are required in order for the matter to be presented to the Board for its consideration. The Applicant has failed to date to submit the required signed and current plans.

Chairwoman Conaway asked the members and professionals to set the November and December 2013 meeting dates. Board voted to hold a combined meeting date on Monday, November 25, 2013. A tentative date will be for Wednesday, December 18, 2013.

There being no further business the meeting was adjourned at 8:20 PM.

Respectfully submitted,

DIANE BURNS, Secretary to the Board