

**MINUTES**  
**RED BANK ZONING BOARD OF ADJUSTMENT**  
**January 18, 2018**

The Red Bank Zoning Board held its regularly scheduled meeting on Thursday, January 18, 2018 in the Municipal building, first floor Council Chambers, 90 Monmouth Street, Red Bank, New Jersey.

A workshop meeting was held at 6:00pm. The following members were in attendance: Lauren Nicosia, Ray Mass, Eileen Hogan, Sean Murphy, Anne Torre, Richard Angowski, Kellen Murphy, Sharon Lee and Kate Triggiano (arrived at 6:25). Also present were Glenn Carter, PP, Director of Planning/Zoning, Ed Herrman PE, T & M Associates, Kevin Kennedy, Esq., Board Attorney and Dina Anastasio, Board Secretary. At the workshop meeting the Board discussed the evening's agenda.

Board Chair Lauren Nicosia called the meeting to order at 6:40pm. She announced that notice of the meeting was mailed to the Asbury Park Press, Two River Times, and the Star Ledger; was filed with the Borough Clerk; and posted on the Municipal Bulletin board. A roll call showed the same members in attendance.

The Board saluted the flag and opened the meeting to the public for non-agenda items of which there were none.

**Administrative Matters:**

Board members Lauren Nicosia, Richard Angowski, Kellen Murphy, Sharon Lee and Kate Triggiano recited their Oaths of Office.

Ray Mass nominated Lauren Nicosia as Board Chair, Sharon Lee seconded. A voice vote confirmed all in favor.

Lauren Nicosia nominated Ray Mass for Vice- Chair, Sean Murphy seconded. A voice vote confirmed all in favor.

Lauren Nicosia nominated Dina Anastasio for Board Secretary, Ray mass seconded. A voice vote confirmed all in favor.

Lauren Nicosia nominated Kevin Kennedy, Esq. Board Attorney, seconded by Sharon Lee. A voice vote confirmed all in favor.

Ray Mass nominated Ed Herrman of T&M Associates as Board Engineer, Eileen Hogan seconded. A voice vote confirmed all in favor.

Ed Herrman thanked the Board for the honor and complimented the members and the staff.

Anne Torre motioned to approve as the official newspapers the Two River Times and the Asbury Park Press, Ray Mass seconded. A voice vote confirmed all in favor.

Anne Torre motioned to approve the Zoning Board By-laws, Eileen Hogan seconded. A voice vote confirmed all in favor.

Lauren Nicosia motioned to approve the Zoning Board site committee consisting of Sean Murphy, Anne Torre and Eileen Hogan; Anne Torre seconded. A voice vote confirmed all in favor.

Sharon Lee motioned to approve Mark Leckstein as the Conflict Attorney, Sean Murphy seconded. A voice vote confirmed all in favor.

Anne Torre motioned to approve the minutes of the November 2, 2017 meeting; Sean Murphy seconded. Ayes: Lauren Nicosia, Ray Mass, Richard Angowski, Kellen Murphy and Sharon Lee. Nays: none.

A motion to approve the Resolution for the denial of Herb Ruth was made by Ray Mass, seconded by Sean Murphy. Ayes: Lauren Nicosia, Anne Torre and Sharon Lee. Nays: none.

A motion to approve the Resolution for Kevin Kennedy, Esq. to represent the Board for the lawsuit regarding the David Popkin application for 170 Monmouth Street was made by Sean Murphy, seconded by Ray Mass. Ayes: Lauren Nicosia, Eileen Hogan, Richard Angowski, Anne Torre and Kellen Murphy. Nays: none.  
Kevin Kennedy explained the lawsuit will probably be settled.

**Public Hearings:**

**John Jackson, 133 Bergen Place, Block 115, Lot 6. Z12502**

The following exhibits were entered: A-1; Denial of Application: A-2; DPA: A-3; Photos (4): A-4; Survey of Property dated 5/9/17.

Mr. Jackson was sworn. Glenn Carter was sworn.

Kevin Kennedy confirmed with Mr. Jackson the gazebo was on the property when he purchased it.

The vinyl gazebo measures 12 X 12, sits on a pad and does have electric.

The public portion was closed.

Sean Murphy confirmed there are no problems with any neighbors and that Mr. Jackson is just making it legal, as there was never a permit when originally installed.

He motioned to approve the application, seconded by Eileen Hogan. Ayes: Lauren Nicosia, Ray Mass, Richard Angowski, Anne Torre and Kellen Murphy. Nays: none.

**Tudor Village Apartments, LLC, Block 103, Lot 13.20, 182-192 Broad Street. Z11571**

Applicant was represented by Ben Nadell, Esq. He explained the applicant's request for a twelve-month extension, which is needed as the result of some unforeseen setbacks with the Monmouth County Planning Board and ADA compliance issues. These issues are being resolved and the applicant will be able to proceed.

Sean Murphy confirmed there have been no change in the plans that were originally approved.

The public portion was closed.

A motion was made by Ray Mass, seconded by Anne Torre to approve the extension. Ayes: Lauren Nicosia, Eileen Hogan, Richard Angowski, Sean Murphy and Kellen Murphy. Nays: none.

**Family Resource Associates, 210 Newman Springs Road, Block 97.02, Lot 9.01. Z12541**

The applicant was represented by John Anderson, Esq. Glenn Carter was sworn.

The current property owners were disclosed as Dr. Thomas Trotter and Dr. Anthony DeCarlo. There were no conflicts.

The following exhibits were entered: A-1; DPA; A-2; Denial Letter: A-3; Intent to Proceed: A-4; Architectural Plans prepared by Gannett Fleming Architects, revised to 12/20/17 (3 sheets): A-5; Survey prepared by William Fiore dated 11/15/17: A-5; Denial Letter dated 10/17/17: A-6; Disclosure of Ownership: A-7; Applicants Narrative dated 10/11/17: A-8; Applicants Statement of Variances/Waiver dated 11/16/17: A-9; Applicants Appeal Letter dated 11/2/17: A-10; Review Letter by Glenn Carter dated 1/11/18: A-11; Resolution Z4431 dated 11/5/98: A-12; Zoning Board Resolution dated 10/19/89: A-13; Planning Board Resolution dated 1/26/81: A-14; Zoning Board Resolution dated 7/19/90: A-15; Zoning Board Resolution dated 4/4/1991: A-16; Site Plan (4 sheets) dated 11/17/89: A-17; Site Plan (7 sheets) dated 12/1/90: A-18; Power Point Presentation (29 sheets): A-19 Revised Parking Calculation dated 1/17/18: A-20; Parking Calculation dated 12/20/17: A-21; Photos.

Kevin Kennedy explained the application being 2 parts; the appeal of Glenn Carter's denial and a use application. The board must decide first if they agree with the denial and if so, they will decide on the approval of a use application. There is also the possibility if they agree with Glenn's decision, the applicant would have to go to the Planning Board for site plan approval.

Mr. Anderson explained the application. The applicant is a tax-exempt entity providing therapy using licensed therapists to patients with learning disabilities. They are the contract purchasers of the property. They go to the patients' home or by appointments at their existing facility.

Nancy Phalanukorn, Executive Director, was sworn. She supplied her credentials and explained the services provided, which include physical and speech therapy, therapeutic dance and karate. They also have a Tech Connect service to loan out computers, which are adapted for patients with disabilities. She explained the need for this service in the county and the Red Bank area. There are (2) other facilities located in Brick and Eatontown. They see about 200 infants and up to 190 adults per week. The hours of operation are Monday thru Friday 10am – 3pm. There are dance/karate classes on Mondays and Wednesdays at 4:30pm, 5:45pm and 7pm. Yoga class is 9-10am. Occasionally there will be a meeting on a Thursday or a weekend. There are approximately 6-10 participants per class, never more than 11. They keep the attendance low. The patients are usually dropped off or take public transportation. They are regulated by the state and one of the requirements is to be located within ¾ mile of public transportation stops.

There are no exterior changes proposed for this application. This site doubles the space they currently operate with. They will not be increasing their services. This facility will enable them to have storage space and use the second floor for administrative offices. The trash will be placed in the dumpster and picked up by a private hauler.

Glenn Carter provided the definition for a professional office and explained the denial decision was based on the proposed use is a “hyper-use” and not specifically named as permitted, therefore per the land use laws, the application had to be denied. Also, the previous use of a veterinary hospital received approval from the Zoning Board.

Jane Kleiman, 168 Wallace Street, was sworn. She explained her success with Family Resource for her son and it being a crucial organization for her him. She also noted, there are never more than 10 cars on the site.

Kelly Wilder-Willis, 51 Harrison Street, was sworn. She stated the company to be an asset to the community and her son’s ability to flourish as a result of their services.

Dean Ross, a business owner, who resides in Lincroft, was sworn. He stated his involvement in many different charities and this one is at the top.

The public portion was closed.

Andrew Janiw, PP, was sworn and accepted as an expert witness.

He explained the exemption for the intensity of the use. The veterinary use currently approved for the site requires more parking than the proposed use. They were providing 31 on-site and 3 leased parking spaces.

The applicant provides a beneficial use to the community, provides less noise, traffic and trash. They also operate fewer hours.

This use is also a less intense use than what is permitted in the zone. The “c” variances are already existing.

The positive criteria outweigh the negative.

The public portion was closed.

Kevin Kennedy explained the board could affirm Glenn Carter's decision and if they wanted to vote on the application based on it being an inherently beneficial use to grant the variance. Glenn Carter recommended the applicant remove 1 of the signs proposed to eliminate that variance and for the applicant to repair the parking lot by resealing/restriping.

A motion was made by Sean Murphy, seconded by Richard Angowski to approve the application. Ayes: Lauren Nicosia, Ray Mass, Eileen Hogan, Anne Torre and Kellen Murphy. Nays: none.

**14 West Front Street, LLC., 14 West Front Street, Block 9.01, Lot 11. Z12553**

The applicant was represented by Richard Pepsny, Esq. Glenn Carter was sworn. The property owners were disclosed and there were no conflicts.

The following exhibits were entered: A-1; DPA and Denial Letter dated 10/23/17: A-2; Intent to Proceed: A-3; Disclosure of Ownership: A-4; Architectural Plans prepared by SOME Architects dated 10/19/17 (3 sheets): A-5; Review Letter from Glenn Carter dated 1/5/18: A-6; Photos dated 1/11/18.

Mr. Pepsny explained the application to reconfigure the 2<sup>nd</sup> and 3<sup>rd</sup> floors of the building. The 2<sup>nd</sup> floor currently has offices, which they will convert to two (1) bedroom apartments. The 3<sup>rd</sup> floor currently has apartments and they will change those also. The 1<sup>st</sup> floor will remain as is. The current tenant is Playa Bowls.

The proposed apartments are less than the 900 square feet required; however, they are consistent with what is currently in the surrounding area. There will be rooftop decks/balconies for some of the units. These areas are not included in the FAR calculation.

Mike Simpson, PP and Architect, was sworn and accepted as an expert witness. He explained the offices currently on the 2<sup>nd</sup> floor have been used nominally. The proposed 4 (1) bedroom apartments have less of a parking requirement than what currently exists. The current apartments are also smaller than the required size, measuring 630 and 852 sq. feet.

The exterior renovations include a painted, steel deck. It is noted the building sits directly on the property line and the fire stairs come into the ROW. There are several ideas to deal with the existing brick. It depends what happens when they begin working on the project. There is an existing electrical meter closet, which they would renovate; however, the electric company does not usually approve of the meters in an enclosed area. They will have to abide by the rules provided. There will be private hauling for the trash from the apartment tenants. That trash will be taken out by a property manager. There is no space to put a trash enclosure.

Glenn Carter confirmed his review focused on the rear of the property when stating the need to clean it up. There was discussion regarding the Right of Way, as no one can confirm who actually owns the property, thus, who would be responsible for maintaining it. Mr. Simpson stated he has researched this and learned the when K Hovnanian received approvals in the past, they were to pave an area for a parking lot, which he believed to be this ROW. That applicant never pursued the project. It was also noted there is a 99-year lease, which included 9 spaces (most likely on this ROW) for that project.

Mr. Pepsny said the survey they have for the property shows that ROW is not part of his clients' property, and would be hesitant to do work on it, if it is not in their legal rights. He agreed to pursue researching the ownership.

Glenn Carter stated if a prior applicant was required to pave the property, there would be no sense to have this applicant be required also.

Anne Torre confirmed the apartments will be rentals and there were no COAH units proposed. Mr. Pepsny stated there was no requirement for this application. Kevin Kennedy noted if the application required any COAH contributions, that applicant would be responsible.

The public portion was closed.

Mr. Simpson reviewed the positive criteria for the application stating the consistency with the Master Plan by providing more housing in a commercial area, adequate open space, population density and a desired visual improvement. The site is suitable for this proposal. There is no substantial detriment to the public good. The bulk variances are pre-existing.

A motion was made by Kellen Murphy, seconded by Richard Angowski to approve the application. Ayes: Lauren Nicosia, Ray Mass, Eileen Hogan, Sean Murphy and Anne Torre. Nays: none.

Kevin Kennedy stated some of the conditions, one of which is to indemnify the Borough of Red Bank and the Board and hold them harmless.

**Home and Land Development Corp., 251 Drs. James Parker Blvd. Block 84.01, Lot 74 P12586**

The applicant was represented by Dave Shaheen, Esq.

Glenn Carter was sworn. The ownership was disclosed and there were no conflicts.

The following exhibits were entered: A-1; DPA: A-2; Denial Letter; A-3; Disclosure of Ownership: A-4; Intent to Proceed; A-5; Survey by William DeMarzo dated 10/23/17: A-6; Plans prepared by Grasso Design Group, revised 11/13/17 (1 sheet): A-7; Review Letter by Glenn Carter: A-8; Photos: A-9; Plot Plan dated 10/24/17: A-10; Letter from

Applicant to Cleverly, LLC dated 1/8/18: A-11; Letter to Bey, S &M, Sanchez.... Dated 1/8/18: A-12; Photo of existing home taken by applicant dated 1/18/18.

Mr. Shaheen explained the application, also noting they have received inquiries, but no interest from the two neighbor regarding the letter they sent to purchase this property or sell their properties.

Charlie Farkouh was sworn. He described his application to demolish the existing house and construct a new one. This will be similar to the other houses he has recently built. The façade will be similar, blue stone porch, paver driveway, sod and vinyl fencing.

The existing house has 2 bedrooms/1 bath and is 1 ½ stories. It was noted there was no sewer system in the current house. The lot is 32 ½ feet wide.

The proposed house will have 4 bedrooms/3 baths. The height will be 30 feet 4 inches, which is in compliance. The basement will not have any bathrooms and there is no garage proposed.

There was some discussion regarding the driveway and placement of the house. It was finally decided to locate the house about 25 feet back, which will keep it consistent with the neighboring houses, but would require the variance. This will enable the driveway to be extended to the rear, allow parking in the back and placement of a fence without any issues.

Ben Forrest, 16 Locust Avenue was sworn. He commented on the disturbing knowledge of the poverty in our area.

A motion was made by Eileen Hogan, seconded by Richard Angowski to approve the application with the amended location. Ayes: Lauren Nicosia, Ray Mass, Sean Murphy, Anne Torre and Kellen Murphy. Nays: none.

On a motion made by Ray Mass and seconded by Anne Torre, the meeting was adjourned at 9:15pm

Respectfully Submitted,  
Dina Anastasio  
Secretary, Red Bank Zoning Board of Adjustment