



TOWNSHIP OF GALLOWAY
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING AND ZONING BOARDS

300 E. JIMMIE LEEDS ROAD GALLOWAY, NJ 08205
(609) 652-3700 EXT. 218 FAX: (609) 652-5259

Pamela K. Alleyne
Planning/Zoning Board Administrator

MINUTES
GALLOWAY TOWNSHIP
ZONING BOARD OF ADJUSTMENTS
FEBRUARY 14, 2013

Present: Chris Coleman, Michael Greb, Jerry Hauslet,
Ronald Huber, Robert Mayer, Paul McColgan, Mark Sykes and
Bill Wrigley

Absent: Frank Gargione

Approval of Minutes: January 10, 2013

Approval of Resolutions: #1-13 Solicitor, #2-13 Engineer and #3-13
Conflict Engineer

Approval of Professional Contracts: Solicitor: John Rosenberger and
Engineer: Doran & Associates, Conflict Engineer: Polistina & Associates

Acceptance of 2012 Yearly Report

New Appeals:

#10-12 Marie Curry
457 S. Philadelphia Avenue
B. 94 L. 12

Zoning District: TC (Town Commercial) Zoning District
Interpretation for a Certificate of Non-Conformity

Proposed: The applicant is requesting a certificate of non-conformity, an interpretation that the single family detached dwelling and separate detached residential, rental apartment building on lot 12 are legal, pre-existing, non conforming conditions.

The applicant is represented by Tom Darcy.

The separate detached dwelling has been in existence since 1973, when it was first a barbershop and was then converted into a residential apartment. The Tax Assessor has record of the second dwelling on its property card. And they have been taxed accordingly for years. Public sewer and water was available since 1984. And according to Public Works documents the residence has been billed for a sewer lateral connection issued to the original family member Mr. Montecalvo dated May 15, 1984. Pinelands Commission, Sue Grogan has confirmed that the property was located in the Pinelands town between the years 1981-1986; therefore theoretically any use was permitted in the zone as long as public sewer and water were available. This was in fact a permitted use and before Galloway Township came into conformance with the Pinelands in 1986, Pinelands rules superseded, therefore, making it an allowable use. Once the town came into compliance the property was zoned TR (Town Residential) zone and TC (Town Commercial) zone, which did not authorize these uses. Therefore the use became preexisting, non-conforming. We ask that the board find that this condition which has existed for 40 years qualifies for a certificate of non-conformity.

Gary Merline, co-applicant states that approximately 1974-1979, his grandmother transformed the barber shop into an apartment. My grandmother died in 2001, the house was purchased by my mother, Marie Curry and her husband, he passed away and that is how I became involved. I have been unable to locate any documents verify exactly when and how the barbershop was converted into an apartment. The municipality never questioned the legality of the apartment. Over the years, many family members have lived there and it also has been rented to non-family members.

Professional Reports:

Tiffany CuvIELLO commented on her report dated December 6, 2012. None of the township zoning would have allowed for this use without board approval. In 1981-1986 the town was not in conformance with Pinelands regulations, during that time, if an applicant wanted to do something in the town that was not allowed in our ordinance and it was located in the Pinelands area, they could apply to the Pinelands directly and would have been granted approval. In 1984 when this property was connected to sewer they could have gone to the Pinelands and asked for approval for the apartment. It was not an uncommon practice, it has happened in the town before; the duplex on Pomona Road was a result of that. There was an application in 1973 for a Robert Montecalvo, we don't know if it was approved or denied, nor do we know what relief the applicant was seeking because the 1973 files are missing.

Board Questions:

Chairman Mark Sykes asks if this property is sold, would the certificate of non conformity go with the property. *Yes it will go with the property.*

Vice Chairman Ron Huber asks if it is fair to say that the applicants were never contacted by the township that this was not an allowed use. Is that a fair statement?

Board Planner, Tiffany CuvIELLO responds: *The property has been owned by the same family, therefore there was no need for the mortgage company to become involved. One the mortgage company became involved the applicant went to the township to ask for a letter to say the apartment was a permitted use. That is how the township became involved. The applicant came in. I have checked with the tax office the first revalue to recognize that there was a second structure and it existed without Board approval was 1975/1976.*

Board member Mayer: Does the property have sewer and water? *Yes. And it's been there for 40 years. The building has been there for many more years but as an apartment it has been used since 1974.*

Board member Greb: Any precedence for granting a prior non conforming use for a use that was not permitted when it was built, but later became permitted?

Board Attorney John Rosenberger responds *your point is – Can you use the Pinelands time where it was lawful to be there as the springboard to go forward? I opine that you can although there aren't any cases that do it that way.*

Board member Coleman: Asks about the 1973 Zoning Board file that was mentioned. Do we know if Mr. Montecalvo owned any other property in Galloway at that time?

Board Planner responds *there is a spreadsheet that lists the name Montecalvo as an applicant, but it does not indicate the type of application it was or what the outcome of the application was. The application is #19-73. There is a possibility, that Mr. Montecalvo owned other property in Galloway, but I do not know because that was not researched.*

Mr. Merline responds: *He did not own other property in Galloway. He owned property in Mays Landing. He was not a real estate developer.*

Board member McColgan: In 1981-1986 when Pinelands superseded our zoning ordinance would someone have had to go to Pinelands to gain approval for the apartment or would it have been grandfathered in as being approved? You mentioned a property across the street from this one that has almost fits the same description as this, does that have a certificate of non conformity?

Our tax office knows this and has not pressed them for any finalization.

Board Planner: *They would have at least had to apply to Pinelands to see if the use was approvable, then Pinelands would have requested that the town to allow the approval. I know that some of the properties are rented, but I did not research that. The tax office is not an enforcement agency. The taxes have been collected with two structures on it.*

Board member Wrigley comments that they have been paying taxes all these years for two dwelling.

Board Member Hauslet: Was the barbershop ever a permitted use? *It was.*

Board Chair Sykes: All of the questions that I have were answered. The two structures have been there longer than zoning.

No Public Comments

Rosenberger: The motion from the board to make a determination that the structure and the uses as they presently exists are preexisting non conforming uses entitled to a certificate of non-conformity.

Motion to approve application #10-12 Marie Curry, granting the Certificate of Non-Conformity was made by McColgan and Mayer 2nd the motion.

Those voting in favor: Coleman, Hauslet, Huber, Mayer, McColgan.
Wrigley and Sykes

Meeting Adjourned

7:30 pm

Pamela Alleyne, Administrator