

Town of Dover Board of Adjustment

- ☐ William Cook - Chairman
- ☐ Charles Franco - Vice-Chairman
- ☐ Cephas Bowles
- ☐ William Bisset
- ☐ Patrick Donaghy
- ☐ Michael Scarneo

COUNTY OF MORRIS
37 NORTH SUSSEX STREET
DOVER, NEW JERSEY 07801

Telephone: 973-366-2200 (Ext. 115)
Fax: 973-366-0039

- ☐ John R. Frister
- ☐ William Hann (Alternate I)
- ☐ Joan Bocchino (Alternate II)
- ☐ Kurt Senesky - Board Attorney
- ☐ Michael Hantson - Town Engineer/Planner
- ☐ Regina Nee - Clerk/Secretary

REGULAR MEETING OF THE BOARD OF ADJUSTMENT

August 13, 2008

CALL TO ORDER

Chairman Cook called the meeting to order at 7:32 PM.

ROLL CALL:

PRESENT: Commissioner Bowles, Frister, Bisset, Alternate Hann, Alternate Bocchino, Vice-Chairman Franco, Chairman Cook

ABSENT: Commissioner Scarneo, Commissioner Donaghy

ALSO PRESENT: Board Attorney Kurt Senesky and Town Engineer/Planner Michael Hantson

PLEDGE OF ALLEGIANCE: was recited by all

ADEQUATE NOTICE OF MEETING was read by Clerk/Secretary Nee

APPROVAL OF MINUTES:

A motion to approve the meeting minutes of June 11, 2008 was made by Commissioner Frister, seconded by Commissioner Bowles, and followed with a Roll Call vote.

Ayes: Commissioner Bowles, Frister, Bisset, Hann, Bocchino, Vice-Chairman Franco, Chairman Cook

Nays: None

A motion to approve the special meeting minutes of June 17, 2008 was made by Commissioner Bissett, seconded by Commissioner Bocchino, and followed with a Roll Call vote.

Ayes: Commissioner Bowles, Frister, Bisset, Hann, Bocchino, Vice-Chairman Franco, Chairman Cook

Nays: None

A motion to approve the meeting minutes of July 9, 2008 was made by Commissioner Frister, seconded by Commissioner Bowles, and followed with a Roll Call vote.

Ayes: Commissioner Bowles, Frister, Bisset, Bocchino, Vice-Chairman
Franco, Chairman Cook
Nays: None

RESOLUTIONS: None

CASES:

06-08- Edward Bartek; Block 606, Lot 9, also known as 122 W. Clinton Street located in the R-3 Zone. The application is an appeal of the decision of the Zoning Officer regarding the use of the property as a two-family residence and rooming house. **Carried From June 11, 2008.**

Seth Levine Attorney for the applicant goes over the application and zoning ordinance of 1929. Seth Levine asked the Board to be carried to the September Meeting.

Michael Hantson on behalf of the Town has evidence to proceed with the application showing abandonment of the zone.

Town of Dover Attorney David Pennella goes over the procedural history of the application. Charges dated February 2007 heard by the Dover Municipal Court finding the applicant guilty, and the applicant took an appeal to the Superior Court. Judge Otto heard the case and remanded the appeal for a new hearing due to recording malfunction. The new hearing took place with a finding of guilty in the Dover Municipal Court, and again an appeal was taken to Judge Otto. Seth Levine announced he would be representing the applicant. Seth Levine argued the case should be presented to the Board of Adjustment based on a case he cited which the court distinguished but still allowed Mr. Levine to adjourn the matter before the Superior Court, and come to the Board to test Mr. Hantson's opinion as Zoning Officer. Judge Otto reserved Mr. Pennella's objection with regards to time limitations within which Mr. Levine must make an objection to Mr. Hantson's decision.

Town Attorney David Pennella explained to the board they are going back before Judge Otto on August 15 and feels they should precede with the case.

Kurt Senesky explained that Mike Hantson Town Engineer may present his witnesses.

Mr. Hantson goes over the fact that Attorney Seth Levine amended his description to the application to seek determination of prior non-conforming use of property as a two family residence. The Superior Court is awaiting the decision of the Board. Mr. Hantson understands that the applicant no longer wishes the appeal on the 40- 505-72 because the twenty days have expired.

Senior Code Enforcement Officer Joseph Regelski was sworn in testified on behalf of the Town of Dover. Mr. Regelski 1994 had his first inspection at 122 W. Clinton Street with John Bartek. When Mr. Regelski inspected the property, the property was a single family house John lived downstairs, and the rooming house upstairs. Mr. Regelski had inspected at least a dozen times from 1995 thru

1996. In 2008 property had changed from single family and rooming house to a two family. The second floor consisted of three bedrooms, kitchen, and bathroom.

Open to the public: None

Closed to the public

Mr. Hantson presented and read articles in the 1978 Zoning Ordinance marked Exhibit B-4.

Chief Code Enforcement Officer William Isselin was sworn in testified on behalf of the Town of Dover. February 2007 a complaint to the Code Enforcement Department was given that people were living in the attic. When Mr. Isselin did the inspection he found two bedrooms in the attic which you would have to walk through one bedroom to in order to get to the next bedroom. The second bedroom created did not have proper secondary means of egress in case of the fire which is also a violation under the property maintenance code. The second floor has three bedrooms, bath, and kitchen. In order to get to the attic you would have to go thru the kitchen.

Architectural Plans by Jeffry McEntee marked B-5 dated 12-14-2001. Plan was to raise ceiling heights, and to install an egress window for the bedroom in the attic.

Copy of certificate of compliance for a single family home dated July 19, 2002 marked as exhibit B-6.

Copy of certificate of inspection issued by the Fire Prevention Bureau for a rooming house dated May 4, 1995 marked as exhibit B-7.

Letter from Department of Community Affairs dated February 29, 2008 marked as exhibit B-8. The license application date as a rooming house was received on September 1, 1982 the initial license was issued on June 26, 1984. License capacity for a rooming house at this property was 4-5 residence. The renewal date for the rooming house license was October 31, 2000.

On May 11, 2007 Mr. Isselin did an inspection, and did rough drawings of the first and second floors which he entered in as exhibit B-9.

8:56 PM the Board took a short recess, and reconvened at 9:06 PM

ROLL CALL:

PRESENT: Commissioner Bowles, Frister, Bisset, Alternate Hann, Alternate Bocchino, Vice-Chairman Franco, Chairman Cook

ABSENT: Commissioner Scarneo, Commissioner Donaghy

ALSO PRESENT: Board Attorney Kurt Senesky and Town Engineer/Planner Michael Hantson

At this time Attorney Ralph Salerno representing the Highlands Real Estate Investment Group asked the Board due to the late hour to carry his client's application to the next meeting. This is September 10, 2008.

07-08- Highlands Real Estate Investment Group; Block 202, Lot 6, also known as 91 Park Heights Ave. located in the R-1 Zone. The application is for a Use Variance, Preliminary and

Final Major Site Plan and Bulk Variances for the conversion of a factory/warehouse building to a 24 unit apartment building with associated site improvements, and any other variances and waivers that may be required. **Carried From 7/09/08.**

A motion to carry application to the September 10, 2008 due to the time, and the first case of the evening is still being heard with no further notice needed was made by Commissioner Frister, seconded by Commissioner Bisset, and followed with a Roll Call vote.

Ayes: Commissioner Bowles, Frister, Bisset, Hann, Bocchino, Vice-Chairman
Franco, Chairman Cook
Nays: None

Attorney Levine entered into evidence –

Exhibit A-2 which is a copy of a construction permit jacket and assorted forms.

Exhibit A-3 is a marked up copy of B-9 as per Attorney Levine.

Open to the public: None
Closed to the public

Ed Bartek testified that his father lived on the second floor of the rooming house with tenants, and his bedroom was on the third floor which is in the attic. Around the year 2000 Ed Bartek's father broke his hip and moved in with him in Wharton. The second floor was rented out to a third party. The first floor was always rented out to another family.

Attorney Seth Levine asked the Board for copies of Exhibits B-4, B-6, B-7, B-8, and B-9.

Attorney David Pennella and Attorney Seth Levine each gave their closing arguments.

A motion to deny the application was made by Vice Chairman Franco, seconded by Commissioner Bowles, and followed with a Roll Call vote.

Ayes: Commissioner Bowles, Frister, Bisset, Hann, Bocchino, Vice-Chairman
Franco, Chairman Cook
Nays: None

OLD BUSINESS: None

NEW BUSINESS: Discuss meeting time for 2009 in November to begin at 7:00 instead of 7:30.

The next scheduled meeting will be held on Wednesday, September 10, 2008 at 7:30 pm.

ADJOURNMENT: A motion to adjourn with all in favor, at 10:31 P.M.

**IF ANY MEMBER CANNOT ATTEND THE MEETING, PLEASE
CALL CLERK/SECRETARY NEE AT 366-2200 Ext. 115.**

Respectfully submitted,

Regina Nee

Regina Nee
Clerk/Secretary
Board of Adjustment