

MINUTES
REGULAR MEETING OF THE BUTLER PLANNING BOARD
JANUARY 21, 2021

Chairman Nargiso brought the regular meeting of the Butler Planning Board to order for January 21, 2021. Chairman stated this meeting is being held in conformance with the Sunshine Law Requirements having been duly advertised and posted at Borough Hall.

ROLL CALL:

Present: Donnelly, Roche, Donza, Brown, Finelli, Piccirillo, Vath, Veneziano, Nargiso
Absent: Martinez (excused), Fox (excused)
Also present: John Barbarula, Esq.
Tom Boorady, P.E.

CORRESPONDENCE: – None Presented

RESOLUTIONS: - None Presented

APPROVAL OF MINUTES: None presented

Board discussion regarding Planner Donna Holmqvist representing the applicant having at one time been the Planner for the Butler Planning Board.

Motion to accept Ms. Holmqvist as qualified Planner: Motion: Brown Seconded: Finelli All in favor

APPLICATION: 20-187V
Herjon Shaqiri
Block 40 Lot 17

Applicant Herjon Shaqiri addressed the Board. In April 2020 he bought the house which was listed as a two family. He intended to use it to accommodate his parents. He took out building permits to install a kitchen on the second floor and do much needed interior renovations. The Construction Code Official in the course of doing the inspections noticed that the second floor was turning into an separate apartment. Since there was no zoning approval for the conversion he issued a stop work order and advised the owner to contact the zoning officer for the way to proceed. Mr. Shaqiri did contact the zoning officer.

Applicant's Planner Donna Holmqvist addressed the Board. She had copies of utility bills and Zillow ads indicating that it was a two family use. She distributed floor plans to the Board. Attorney advised her of the Memo submitted to the Board by the Zoning Officer. She was given a copy of it. She summarized her planning report to the Board

Borough Planner Tom Behrans addressed the Board. He received clarification of the need for a use variance. Ms. Holmqvist listed all eleven variances requested. Mr. Behrans discussed the proposed use, the floor plan and the site requirements.

Chairman Nargiso requested the Secretary to read the Zoning Officer's Memo to the Board into the record. [Appendix A].

Open meeting to the public:

Motion: Brown Second: Veneziano All in favor

Connor Murphy, 10 Belleview Terrace addressed the Board. He had two main concerns. He believed the size of the property was too small for a single family house, let alone a two family; and the possibility of it becoming a two-family rental property in the future. He welcomed Mr. Shaqiri to Butler and hopes that they could become good neighbors.

Close public portion:

Motion: Brown Second: Veneziano All in favor

Motion to Deny the Application: Brown

- The present condition of the site, 41 Kiel Avenue, is a lot area of 6,123.7 sq. ft. on which is constructed a single family, 2 story dwelling and a separate automobile garage. The property and dwelling pre-date the existing Borough of Butler Ordinance.
- The location of the structures on the site provides a multitude of non-conforming bulk conditions, all of which predate the current ordinance.
- The dwelling is currently identified as a single family dwelling. The development Zone is 5 which allows both single family and 2 family dwellings. The required lot size of a single family dwelling is 6,250 sq ft and 9,375 sq ft for a two family dwelling. Therefore, the dwelling is non-conforming in either case. Presently the property is 126.3 sq ft or 2% under the required lot area. The requested approved cause the property to be 3,251.3 sq feet or 33% under the required lot size.
- Whenever a new ordinance is adopted there is the inevitability that there will be use that are newly prohibited and structures that no longer conform to the new bulk conditions. Both the structures and the uses are to remain until there is a change in the use or the structure.
- There is a judicial tendency to strictly limit the scope of the nonconforming use and to reduce it “to conformity as quickly as is compatible with justice”.
- Allowing a 2 family use in in Zone 5 that is compatible with the current ordinance does support the Master Plan goals. Allowing a use which caused a property to expand the current nonconformance does not support those goals.

Second: Donnelly

Roll Call: Donnelly – Yes, Roche – Yes, Veneziano – Yes, Finelli – Yes, Vath – Yes, Nargiso – Yes, Brown - Yes

VOUCHERS – Approved

Motion: Donza Second: Donnelly All in favor

Motion to Adjourn: 9:30 PM

Motion: Brown Second: Veneziano All in favor

Next Meeting: February 18, 2021, 7:30 PM

James Nogues
Chairman

ADOPTED: March_____, 2021

Butler Zoning Office

*William Budesheim
Zoning Officer*



MEMORANDUM

To: Butler Planning Board

Re: 41 Kiel Avenue

Date: November 4, 2020

I wish to take this opportunity to present to the Board the history of 41 Kiel Avenue.

In December 2013 Joshua & Krista Hascup purchased this property.

In May 2015 Mr. Hascup obtained building permits to demo walls and remove the kitchen on the second floor. Previously to that he had contacted me regarding the necessity of permits. I advised him that it is currently a two family and if he were to convert it to a single family, he may not be able to go back to a two family. His lot size doesn't meet the lot size for a single family use (6,250 square feet), let alone a two family use. Once the use is abandoned a use variance would be required to restore it. He wasn't concerned about that.

In April 2020 the property was purchased by Herjon Shaqiri. The CCO was issued for a single family. When properties are listed I get calls from real estate agents and from appraisers inquiring about the allowable uses. I answer generally and advise that only until I get an Application for a Zoning Permit would I be able to certify a proposed use.

Thank you,
Wm. Budesheim
Zoning Officer