

**RESOLUTION
BOROUGH OF BUTLER
PLANNING BOARD
IN THE MATTER OF KENNETH & DAWN ZAREMBA
APPLICATION NO. NC25-070
DECIDED ON APRIL 17, 2025
MEMORIALIZED ON MAY 15, 2025
APPROVAL OF ISSUANCE OF
CERTIFICATE OF NON-CONFORMITY**

WHEREAS, Kenneth & Dawn Zaremba, (hereinafter the “Applicants”) have filed an application with the Borough of Butler Planning Board (hereinafter “Planning Board”) seeking a certificate of non-conformity for property known and designated as Tax Block 204, Lot 5.06, as shown on the Tax Map of the Borough of Butler, and located at 116 Maple Lake Road, Butler, New Jersey 07405 in the R-6 Residential Zone District (hereinafter “R-6 Zone”); and

WHEREAS, a public hearing was held on April 17, 2025, after the Board determined it had jurisdiction; and

WHEREAS, the Applicants were not represented by legal counsel; and

NOW, THEREFORE, the Planning Board makes the following findings of fact based on evidence presented at its public hearing, at which time a record was made.

The application before the Board is a request for a certificate of non-conformity under the Municipal Land Use Law (“MLUL”) pursuant to N.J.S.A. 40:55D-68 and in accordance with the Borough of Butler Ordinance §143-152 in regard to property known and designated as Block 204, Lot 5.06 on the Tax Assessment Map of the Borough of Butler and located at 116 Maple Lake Road, Butler, New Jersey in the R-6 Zone.

Testifying on behalf of the Applicants was Kenneth Zaremba. Mr. Zaremba testified that his wife’s father purchased the dwelling in 2001 to provide a separate apartment for his daughter. He also stated that his wife’s father renovated the existing two-family home in 2001. Records were submitted as part of the application confirming that taxes, electric, water and sewer bills are

all paid current. In addition, a property record card was provided which indicates that the dwelling is a two-family dwelling which was constructed in 1950. The Board also received a document from the Borough of Butler utility account dated March 3, 2025 which confirms a second electric meter was installed March 1, 1956. Also, submitted was a Certificate of Approval from the Borough of Butler Building Department dated October 8, 2021 confirming permits were issued for the renovation/remodeling of an existing two-family home.

Mr. Zaremba stated that the dwelling has been used as a two-family home since the 1950s. He also confirmed that the dwelling had an oil tank for heating purposes and that the dwelling has two (2) water meters and two (2) electric meters.

The Applicant therefore seeks a certificate of non-conformity since two-family dwellings are not a permitted use in the R-6 Zone.

Public Portion

There were no members of the public present expressing an interest in this application.

NOW, THEREFORE, the Planning Board hereby makes the following conclusions of law, based upon the foregoing findings of fact.

Kenneth & Dawn Zaremba have filed an application with the Borough of Butler Planning Board seeking a certificate of non-conformity in regard to an existing two-family dwelling for real property known and designated as Block 204, Lot 5.06 on the Tax Assessment Map of the Borough of Butler, and located at 116 Maple Lake Road, Butler, New Jersey in the R-6 Zone.

This matter is governed by the MLUL pursuant to N.J.S.A. 40:55D-68. This statute provides in relevant part: "that any non-conforming use or structure existing at the time of passage of the ordinance may be continued upon the lot or in the structure so occupied and any

such structure may be restored or repaired in the event of partial destruction thereof.”

Furthermore, the Borough of Butler Code under §143-152 provides as follows:

“any nonconforming use or structure existing at the time of the passage of an ordinance may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of partial destruction thereof. All non-conforming uses and structures shall be subject to the provisions of N.J.S.A. 40:55D-68 and other applicable provisions of law.”

The MLUL pursuant to N.J.S.A. 40:55D-5 defines a non-conforming use. Under the MLUL, a non-conforming use means “a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.” The Butler Code under §143-5 defines a non-conforming use. Under the Butler Code, a non-conforming use means “a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.”

Upon consideration of the plans, the testimony given and the application submitted, the Board determines that the Applicants have submitted sufficient information so as to enable the Board to render an informed decision. The Board finds that taxes, electrical bills and water and sewer bills are all paid current. The Board also finds that there is in existence a property record card which reflects that the property at 116 Maple Lake Road is a two-family dwelling. The property record card also reflects that the dwelling was constructed in 1950. The Board also finds that records from the Borough of Butler utility account reflect that a second electric meter was installed on March 1, 1956. The Board also finds that building permits were obtained and a certificate of approval was issued by the construction official on October 8, 2001 confirming the renovation and remodeling of an existing two-family home.

The Board also accepts the representations of the Applicants that the dwelling is served by oil heat and that there are two (2) water meters and two (2) electric meters on the property. The Board also accepts the representations of the Applicants that the house was purchased by a family member in 2001 with a separate apartment existing therein to be occupied by a family member. The Board is therefore satisfied that the dwelling has been used as a two-family home since the 1950s.

Based on the proofs presented, the Board is satisfied that the Applicants are entitled to the issuance of a certificate of non-conformity relative to the use and structure of the residential dwelling.

Thus, the Board therefore concludes that the residential use and the structure of the two-family dwelling commenced prior to the adoption of the zoning ordinance which made the use and structure non-conforming. The Board further finds that the residential use of the property as a two-family dwelling has been continuous since on or about 1956. The Board therefore determines that in accordance with the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-68, the non-conforming two-family residential dwelling may be continued. The Board concludes that a certificate of non-conformity shall be granted to the Applicants pursuant to the MLUL under N.J.S.A. 40:55D-68.

Upon consideration of the plans, testimony and application, the Planning Board determines that the Applicants' proofs meet the minimum requirements in the Municipal Land Use Law, case law and Borough Ordinances to a sufficient degree so as to enable the Board to grant the relief being requested.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Butler that the application of Kenneth & Dawn Zaremba in regard to property designated as Block 204, Lot 5.06 on the Tax Map of the Borough of Butler and located at 116 Maple Lake

Road, Butler, New Jersey 07405 in the R-6 Zone and bearing application no. NC25-070 requesting land use relief as determined as follows:

1. A certificate of non-conformity is granted under the MLUL pursuant to N.J.S.A. 40:55D-68 to continue the use of the existing dwelling as a two-family dwelling.

IT IS FURTHER RESOLVED that the application is granted subject to the following terms and conditions:

1. The development of this site shall take place in strict conformance with the testimony, plans and drawings which have been submitted to the Board with this application.
2. The Applicants represent that all representations and stipulations made either by or on behalf of the Applicants to the Borough of Butler Planning Board are true and accurate and acknowledges that the Planning Board specifically relied upon said stipulations in the Board's granting of approval. If any representation or stipulation is false, this approval is subject to revocation.
3. This approval is granted strictly in accordance with any recommendations set forth on the record of the Planning Board at the time of the public hearing on April 17, 2025.
4. The granting of this application is subject to and conditioned upon the Zoning Officer issuing a Certificate of Non-Conformity for the use and structure as a two-family dwelling in accordance with the approval granted by the Planning Board.

5. Payment of all fees, costs and escrows due or to become due. Any moneys are to be paid by the Applicants within twenty days (20) of said request by the Board Secretary.
6. Certification that taxes are paid to date of approval.
7. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Butler, County of Morris, State of New Jersey, or any other agency or entity having jurisdiction thereunder.

The application was approved by the Borough of Butler Planning Board at a duly constituted public meeting held on April 17, 2025 by a vote of 7 to 0 in favor of approval.

APPROVAL OF APPLICATION
APRIL 17, 2025

Motion Introduced By: Reger

Motion Seconded By: Hough

In Favor: Chairman Veneziano, Vice-Chairman Brown, Reger, Hough, Roche, Vath and Finelli

Opposed: None

MEMORIALIZATION OF RESOLUTION
MAY 15, 2025


Motion Introduced By: *BROWN*

Motion Seconded By: *FINELLI*


In Favor: *BROWN, VATH, REGER, HAMMAKER, FINELLI*
VENEZIANO

Opposed:

Butler Planning Board




William Budesheim, Board Secretary



Sal Veneziano, Chairman

The undersigned secretary certifies that the within Resolution was adopted by the Butler Planning Board on April 17, 2025 and memorialized herein pursuant to N.J.S.A 40:55D-10(g) on May 15, 2025.



William Budesheim, Board Secretary

(5302332.1) BUTPB-019E Kenneth & Dawn Zaremba Resolution Granting Certificate Of Non-Conformity (NC25-070) 5.15.25 RB