

**RESOLUTION
BOROUGH OF BUTLER
PLANNING BOARD
IN THE MATTER OF LOGAN W. DEAN,
ADMINISTRATOR OF THE ESTATE OF RICHARD L. DEAN
APPLICATION NO. NC25-70
DECIDED ON FEBRUARY 12, 2026
MEMORIALIZED ON MARCH 19, 2026
APPROVAL OF ISSUANCE OF
CERTIFICATE OF NON-CONFORMITY**

WHEREAS, Logan W. Dean, Administrator of the Estate of Richard L. Dean, (hereinafter the “Applicant”) has 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 53, Lot 8, as shown on the Tax Map of the Borough of Butler, and located at 174 Kiel Avenue, Butler, New Jersey 07405 in the R-3 Residential Zone District (hereinafter “R-3 Zone”); and

WHEREAS, a public hearing was held on February 12, 2026, after the Board determined it had jurisdiction; and

WHEREAS, the Applicant was represented by, Blagoja Petreski, Esq.; 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.

1. 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 53, Lot 8 on the Tax Assessment Map of the Borough of Butler and located at 174 Kiel Avenue, Butler, New Jersey in the R-3 Zone.

2. Counsel for the Applicant, Blagoja Petreski, Esq., represented that the Applicant was seeking certification of an existing non-conforming use. Mr. Petreski identified the subject

Property as Block 53, Lot 8, as shown on the Tax Map of the Borough of Butler, and located at 174 Kiel Avenue, Butler, New Jersey 07405 in the R-3 Zone. Mr. Petreski represented that the subject Property contained two (2) residential units, which is a non-conformity which pre-existed the municipal ordinance. Mr. Petreski asserted that the Board recently adopted a resolution finding the date of adoption of the municipal ordinances was in 1969.

3. Mr. Petreski referenced two (2) tax record cards with inspection reports dated May 19, 1969, one (1) for each residential unit. He represented that the tax record cards identified the front residential dwelling as being constructed in 1952 and the rear residential dwelling as being constructed in 1948.

4. Mr. Petreski introduced the 1955 Master Plan as Exhibit A-1. Mr. Petreski represented that the 1955 Master Plan identified the subject Property, as well as another lot within the block as two-family lots.

5. Testimony was taken by the Applicant, Logan W. Dean. Mr. Dean testified that the only changes to the dwellings have been renovations. Mr. Dean also testified that the front dwelling had an attached garage underneath the first floor. He stated that the rear dwelling did not have a garage and only contained one (1) bedroom. Mr. Dean represented that the tenant of the rear dwelling had vacated the premises only within the past few months.

6. 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.

Logan W. Dean, Administrator of the Estate of Richard L. Dean has filed an application with the Borough of Butler Planning Board seeking a certificate of non-conformity in regard to

the pre-existing two (2) residential units for real property known and designated as Block 53, Lot 8, as shown on the Tax Map of the Borough of Butler, and located at 174 Kiel Avenue, Butler, New Jersey 07405 in the R-3 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 non-conforming 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 tax records, the testimony given and the application submitted, the Board determines that the Applicant has 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 174 Kiel Avenue is improved with two (2) residential dwellings. The property record card also reflects that the dwellings were constructed in 1952 and 1948, respectively.

The Board also accepts the representations of the Applicant that the rear dwelling has been used as a second residential unit and has been occupied by a tenant separate from the primary residential unit. The Board finds that the present vacancy of the second residential unit is within the normal course of residential tenancy. The Board is therefore satisfied that the subject Property has been improved with two (2) residential units since the 1950s.

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

Thus, the Board therefore concludes that the residential use and the structures of the two-residential units commenced prior to the adoption of the zoning ordinance which made the use and structures non-conforming. The Board further finds that the residential use of the property as two-residential units has been continuous since on or about 1952. 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-residential units may be continued. The Board concludes that a certificate of non-conformity shall be granted to the Applicant 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 Applicant's 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 Logan W. Dean, Administrator of the Estate of Richard L. Dean in regard to property designated as Block 53, Lot 8, as shown on the Tax Map of the Borough of Butler, and located at 174 Kiel Avenue, Butler, New Jersey 07405 in the R-3 Zone and bearing application no. NC25-70 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 dwellings as two (2) residential units.

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 Applicant represents that all representations and stipulations made either by or on behalf of the Applicant 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 February 12, 2026.

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 structures as two (2) residential units 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 Applicant 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 February 12, 2026 by a vote of 6 to 0 in favor of approval.

VOTE TO APPROVE APPLICATION
FEBRUARY 12, 2026

Motion Introduced By:

Motion Seconded By:

In Favor:

Opposed: None

VOTE TO APPROVE RESOLUTION
MARCH 19, 2026

Motion Introduced By:

Motion Seconded By:

In Favor:

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 February 12, 2026 and memorialized herein pursuant to N.J.S.A 40:55D-10(g) on March 19, 2026.

William Budesheim, Board Secretary

(5655316.1) BUTPB-024E Logan W. Dean, Administrator Of The Estate Of Richard L. Dean 3.19.26