

**RESOLUTION
Borough of Butler
Planning Board**

**In the Matter of Estate of Helen Ebers
Application Number NC21-65**

**Decided on July 15, 2021
Memorialized on August 19, 2021**

**Certificate Certifying Nonconforming Use
Pursuant to N.J.S.A. 40:55D-68**

WHEREAS, Estate of Helen Ebers (hereinafter referred to as the "Applicant") has made an Application to the Borough of Butler, Planning Board (hereinafter referred to as the "Board") for the issuance of a certificate certifying that the subject property contained a legal two-family use, prior to the adoption of the ordinance which rendered the use and/or structures nonconforming; and

WHEREAS, the subject property is known as Lot 14.01, Block 33 as shown on the Tax Map of the Borough of Butler, also known as 140 Boonton Avenue, in the Single-Family Zone District; and

WHEREAS, a public hearing was conducted on July 15, 2021, after the Board determined it had jurisdiction; and

WHEREAS, the Board has heard comments and testimony from the Applicant, and with the public having had an opportunity to be heard; and

WHEREAS, a complete application has been filed, the fees as required by Borough Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised.

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

1. The Application before the Board involves a request by the Applicant to allow the continuation of a two-family use on the subject property, which is now located in a Single-Family Residential Zone. The property is Lot 14.01, Block 33 and is more commonly known as 140 Boonton Avenue.

2. On the basis of the testimony presented to the Board and confirmed by the Applicant at this hearing, it is a fact that the property, was in two-family use prior to the adoption of the Single-Family Residential zone in this area of the Borough of Butler and has remained in two-family use continuously since then.

Therefore, the subject property shall be considered as a pre-existing nonconforming use and/or structure for the purposes of this application.

3. The Board reviewed the submissions of the Applicant as to the zoning history of the Borough of Butler. The Board took testimony of Mr. Donald Tintle, who testified that his aunt and uncle owned the home prior to the Estate of Helen Ebers and that as long as he could remember, the property had a full second floor apartment. He is currently 83 years of age and when questioned, he placed the existence to the late 1920's.

The Board also heard from Frederick Ebers as to his knowledge, which began in the 1970's.

The following exhibits were submitted:

A1. Photograph of the premises;

A2. Meter documentation; and

A3. Property record card (from 1969 or 1979).

4. In that the proceedings in this matter were voice recorded, the recital of facts in this Resolution is not intended to be all inclusive, but a summary and highlight of the complete record made before the Board.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment that the Application of the Estate of Helen Ebers for Lot 14.01, Block 33 as shown on the Tax Map of the Borough of Butler, requesting that the subject property be certified as a pre-existing nonconforming three family use, is hereby approved.

The undersigned certifies that the within action was taken by this Board on July 15, 2021, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on August 19, 2021.

FOR:

AGAINST:

ABSTAIN: