

Casino Reinvestment Development Authority
Land Use Regulation and Enforcement
Division

Review Memorandum

TO: Lance Landgraf, AICP,PP, Land Use Hearing Officer

FROM: Robert L. Reid, AICP, PP, Land Use Regulation Officer

COPY: Applicant, Scott Collins, Esq., File

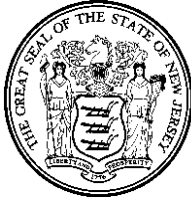
SUBJECT: Certificate of Nonconformity Request
Review Application and Support Documents
Application #2016-01-1783
Dennis A. Hewlett, Owner / Applicant
123 S. New Hampshire Avenue
Block 80, Lot 15
Atlantic City, NJ

DATE: February 9, 2016

The applicant, Dennis A. Hewlett has submitted an application requesting a Certificate of Non-Conformity for an existing single family dwelling at 123 S. New Hampshire Avenue, Lot 15 in Block 80. The Applicant seeks a Certificate of Non-Conformity pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-68) for the existing single family residential dwelling on the property where such use is no longer permitted. The Certificate of Non-Conformity would certify that the use existed lawfully prior to a zoning change that rendered the use non-conforming, and permit it to continue on the property.

The existing use as a single family dwelling does not comply with the permitted uses listed on Schedule III, 163 Attachment 8 of the Atlantic City Land Use Development Ordinance.

Schedule III, 163 Attachment 8 permits Multiple-family dwellings in the Resort Commercial District (RS-C). The purpose of the RS-C zoning is intended to apply to established resort areas in the City. Its purpose is to provide for the City's main industry, consisting predominantly of transient and tourist-oriented uses, at such intensity as is justified by the City's limited land resources, high land values and infrastructure capacity. Residential development is also encouraged for the purpose of preserving and enhancing the family-resort character of the City and integrating the specialized activities of the Resort Commercial District with the rest of the community. [163-58 A]



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The Municipal Land Use Law provides in part that 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. (NJSA 40:55D-68) The existing single family use was permitted up until March 31, 1979 when Ordinance 27 of 1979 was adopted. The owner at that time was to submit an application to the City for a Certificate of Land Use Compliance within one year of the adoption of the ordinance that rendered the use nonconforming in accordance with NJSA 40:55D-68. A nonconforming use is one which existed on the property prior to the adoption of a zoning ordinance but which the ordinance does not now permit in the particular zone. +(NJSA 40:55D-5)

Evidence List / Documents submitted to support the request for Certificate of Non-Conformity:

- Application Form for Certificate of Non-Conformity, dated 1/29/16;
- Affidavit of Ownership dated 1/29/2016;
- Request for Certified List of Property Owners Form, dated 1/22/16;
- Property Record Card indicating the brick row home constructed in 1930;
- Portion of Plate 21 depicting brick row home fronting on New Hampshire Avenue Sanborn Map Company, NY from 1952;
- Polk Directory listing property dated 1976;
- Building Record Card depicting use as single family, dated 6/6/1961;
- Property Record Card depicting assessment records from 1956 to 1982;
- Atlantic County Directory listing property dated 2006-2007
- NJ UCC Certificate # 12-1885 issued in 2012;

An Affidavit provided by the Applicant indicates the current owner purchased the property on January 29, 2016. The applicant asserts that the single family use has existed since 1930 and desires to continue the single family use.

At the hearing, the Applicant has the obligation to present evidence and testimony to explain the history of the use. Specifically, the Applicant must provided evidence and testimony that the single family residential dwelling lawfully existed prior to the adoption of the current zoning ordinance, and that such use has been continuous and was not abandoned. The Applicant must meet the burden of proof for the relief requested under the Municipal Land Use Law in order for the Hearing Officer to recommend that the application be approved by the Authority.

The documentary evidence provided by the Applicant appears to be sufficient (subject to testimony by the Applicant at the hearing) to grant the requested relief.