

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

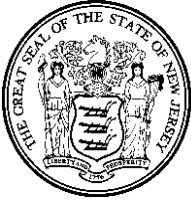
COPY: Applicant, Scott Collins, Esq., File

SUBJECT: Certificate of Nonconformity Request
Review Application and Support Documents
Application #2024-03-3619
Applicant: Marc Zarych
220 S. Seaside Avenue
Block 76, Lot 10
Atlantic City, NJ

DATE: April 5, 2024

The applicant, Marc Zarych has submitted an application to the Casino Reinvestment Development Authority "Authority" requesting a Certificate of Non-Conformity for a two residential unit building at Seaside Avenue, Lot 10 in Block 76, located in the LH-2 District. The Applicant seeks a Certificate of Non-Conformity pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-68) for the proposed two-unit residential dwelling.

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 owner can submit an application to the city for a Certificate of Land Use Compliance. A nonconforming use is one which that lawfully 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)



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

Application Form for Certificate of Non-Conformity, dated 03-19-2024;
A H Mueller Map Atlas, Plate 6, dated 1908;
Sanborn Map Company Atlas, Plate 27, dated 1921, updated 1926;
Ord. # 34 of 1929 - Building Zone Ordinance (First development ordinance for Atlantic City)
Building Zone Map, dated 01-01-1950, supplement to Building Zone Ordinance (Ord #34 of 1929);
Sanborn Map Company Atlas, Plate 27, dated 1952, updated 1964;
Property Record Card assessment records, dated 1961 to 1982;
Ord. # 23 of 1977 - Interim Development Ordinance.
Ord. # 27 of 1979 – Land Use Ordinance
Sanborn Map Company Atlas, Plate 27, dated 1997;

The documents listed above have been reviewed and the following is offered:

Plate 6 in A.H. Mueller Atlas depicts a vacant lot in 1908.

Plate 27 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1921, updated 1926, depicts a three-story frame dwelling.

This was before the Building Zone Ordinance was adopted in 1929. According to the Building Zone Map, dated 01-01-1950, the subject property was located in Residence "C" zone.

Ord. # 34 of 1929 permitted residential uses in Residence "C" zone. This included single family, two family and multifamily residential uses. The ordinance was silent on parking requirements.

Plate 27 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1952, updated 1964, depicts three-story frame dwelling.

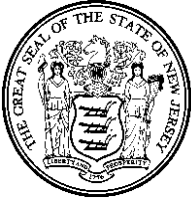
Property Record card (Building Record card reverse) dated 1961 through 1982 has single family and one apartment use box checked off. Plumbing box checked with three bathrooms and two kitchens. Room inventory indicates one kitchen on the first floor above the basement and one kitchen on the second floor.

Ord. # 23 of 1977 - Interim Development Ordinance is the first ordinance to require parking for each dwelling unit.

Ord. # 27 of 1979 – Land Use Ordinance is second ordinance to require parking for each dwelling unit.

Property Record card (Building Record card reverse) dated 09-29-1981 indicates two units.

Plate 27 in Atlas of Atlantic City prepared by the Sanborn Map Company, dated 1997, depicts three-story frame dwelling.



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It should be acknowledged that the map atlases indicating dwelling were based on exterior inspection only, and not an interior inventory of units as the common practice with tax assessment inspections.

The Applicant must meet the burden of proof for the relief requested. The Applicant has the obligation to present evidence to explain the history of the use. Specifically, the Applicant must provide evidence that the non-conforming use lawfully existed prior to the adoption of Ordinance and/or State Regulation which rendered the use nonconforming. Applicant must also provide evidence that such use has been continuous, unchanged 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 applicant asserts that the property lawfully existed as a two-unit dwelling from 1961 and desires to maintain the two-unit dwelling.

The documentary evidence provided by the Applicant appears to be sufficient to consider the granting the requested relief for two units, not three units.

The Applicant's evidence and research of the public record documents, demonstrate that the property was vacant in 1908. The building was originally a single-family dwelling from before 1921 to 1997 (over 76 years) when the Atlas references dwelling. The three-story frame building was subsequently modified into a two-unit building before 1961.

The building was a three-story frame dwelling before the first land development ordinance (Building Zone Ordinance) was adopted in 1929. The building was modified into a two-unit before parking requirements went in effect in 1977. It appears that two units existed before 1977 and at the time N.J.A.C. 19:66 was in effect on 01-02-2018, which rendered such use nonconforming.

For all of the foregoing reasons, the Land Use Regulation Enforcement Officer recommends the request for a Non-Conformity Use Certification for a two-unit residential dwelling be considered. Should the Authority grant of approval of this Application, it should be expressly conditioned upon all applicable requirements of the city of Atlantic City Code, NJAC 19:66 Land Use Regulations, and the requirements of any City agency, board or authority. Any approval granted in accordance herewith shall be further expressly conditioned upon the Applicant obtaining all other necessary governmental approvals, and compliance with all Federal, State and local laws. This includes providing architectural plans prepared by a licensed architect for the two-unit building and the requirement to secure a Certificate of Land Use Compliance.