

**Resolution No.: 10 – 18**

**RESOLUTION OF THE BOROUGH OF CLAYTON PLANNING BOARD  
GRANTING A USE VARIANCE APPROVAL  
FOR BLOCK 807, LOT 8.07  
(255 West Chestnut Street)  
APPLICANT – JBS LEASING, LLC**

**WHEREAS**, the Applicant, JBS Leasing, LLC of 100 South Broad Street, Clayton, New Jersey, submitted an application seeking use variance relief; and

**WHEREAS**, John Booras, a principal in JBS Leasing, LLC, appeared before the Board on July 16, 2018 and was represented by Dale T. Taylor, Esquire; and

**WHEREAS**, the Board constituted itself as a Zoning Board of Adjustment since the requested relief is use variance relief to permit a non-conforming use; and

**WHEREAS**, the Applicant, JBS Leasing, LLC is presently headquartered in Clayton and operates a commercial construction company that, among other things, constructs and rehabilitates residential dwellings; and

**WHEREAS**, the Applicant is enjoying good success in the construction/rehabilitation business and has identified Block 807, Lot 8.07 worthy of development in the form of a proposed duplex; and

**WHEREAS**, the subject property is located in the R-B Zoning District that does not permit the construction of the proposed duplex or twin home; and

**WHEREAS**, in support of the application JBS Leasing offered, in addition to John Booras, the testimony of Tiffany CuvIELLO-Morrissey, P.P. and Gregory Simonds, P.E.; and

**WHEREAS**, in further support of this application, the Applicant has submitted a Variance Plan consisting of one (1) sheet dated June 18, 2018 and signed and sealed by Gregory Simonds, P.E.; and

**WHEREAS**, Block 807, Lot 8.07 is 12,812 square feet and was created by Nicholas Andreacchio in 2009 as part of a minor subdivision memorialized at Resolution 20 – 09 and this subdivision resolution and its requirements shall remain in full force and effect unless specifically amended herein; and

**WHEREAS**, no development has taken place at the subject location since the 2009 subdivision, JBS Leasing has identified this location as suitable for in-fill development to provide a rental option in the form of a duplex or twin home which is not permitted in the R-B Zoning District; and

**WHEREAS**, the Applicant is proposing to construct a Victorian style twin home with approximately 1,400 square feet of living space in each unit with four (4) parking spaces in the rear (two for each unit) and as A-1 introduced three (3) pictures of homes rehabilitated by JBS Leasing and an elevation of the proposed duplex; and

**WHEREAS**, from a planning perspective there was testimony from Ms. CuvIELlo-Morrissey that the subject site lends itself to the proposed development in that: **1.** The proposed duplex will assist in providing a variety of housing stock, **2.** This is an area particularly suited for residential development as the area is already residential in nature and this “in-fill” development will add another housing option, **3.** Housing diversity appears an appropriate consideration in that 83% of Clayton homes are single family dwellings with only 2% being duplexes, **4.** The proposed use will have adequate light and open space and provide a conforming residential appearance with parking in the rear blending in with the existing neighborhood development, **6.** The proposed duplex will have only 15% coverage where 30% is permitted and the lot is oversized for the R-B Zoning District which only requires 9,000 square foot lots, and **7.** This lot has not been developed since the 2009 subdivision approval and may be due to its location hard up against existing railroad tracks further supporting the need for use variance relief to permit a duplex which makes development of the subject property more attractive; and

**WHEREAS**, the Board, in light of the foregoing testimony and in consultation with the Board's planner, agreed that the Applicant has addressed the special reasons and promotion of the general welfare of the community as the basis for the grant of a use variance; and

**WHEREAS**, the grant of the requested use variance does not adversely impact the zone and zone plan and further results in a superior utilization of a parcel in an existing residential area with a net benefit to the community; and

**WHEREAS**, the Board in reviewing the application and submissions and questioning the Applicant and their representatives and as a result the Applicant has adduced and/or agreed to the following: **1.** The Applicant shall work with the Board professionals of develop a buffer plan along the railroad tracks, **2.** Even though the application meets RSIS standards for parking, the Applicant has agreed to work with the Board professionals to see if additional parking spaces may be added. Presently, the proposed parking spaces are 10' by 20' and any additional parking spaces must be balanced with the increase in impervious coverage, **3.** The Applicant has acknowledged the Board Planner's and Engineer's review letters and shall comply with the comments contained therein, **4.** The Applicant shall provide to the Board solicitor, planner and engineer a copy of the deed and title report along with a survey of the property as a condition of this approval, **5.** The Applicant shall prepare and submit a grading plan for this lot when applying for a building permit for this lot, **6.** The Applicant shall utilize public water and sewer upon development, **7.** The Applicant has further agreed to work with the Board professionals in an attempt to manage impervious while seeking to provide space for an accessory building and in developing a landscaping plan for the site, **8.** The Applicant shall provide shade trees along with sidewalk and curb for the subject site upon development of the site, **9.** The Applicant has agreed as a "Condition of Use" that impervious coverage shall not exceed forty (40%) per cent for this lot when developed and deviation above this maximum may result in the Borough of Clayton seeking enforcement through the courts or otherwise, **10.** The Applicant shall demonstrate as a condition of this approval that there will be no stormwater runoff to any neighboring properties and a note shall be added to the plan reflecting this, **11.** The Applicant shall work with the Board professionals that any proposed development will permit individuals to circulate around the dwelling without being blocked, and **12.** Any other issues that develop



may be addressed between the Applicant and the Board professionals that are of an administrative or minor nature; and

**WHEREAS**, members of the public were permitted to speak on the application at the regularly scheduled Planning Board Meeting held on July 16, 2018 and **1.** Linda Labinski of 230 West Chestnut Street appeared and thought the proposed Victorian style dwelling was not in keeping with existing neighborhood dwellings though she did not suggest another style. She also believed more off-street parking would have to be provided as most houses in the neighborhood have four (4) off-street parking spaces. Ms. Labinski introduced ten (10) photographs of ostensibly properties owned or maintained by the Applicant, but after consultation with the Applicant were not his properties except one, **2.** James Miller of 262 Chestnut Street expressed concern regarding the buffer to the railroad tracks and enforcement of the conditions of approval. He advised the Board that he leases property and is considering filing an application to convert his home into a duplex, **3.** Tanya Johnanson of 248 Chestnut Street bought her home in 2009 and was aware of the railroad tracks and the Andreacchio subdivision approval. She is concerned about increased traffic when school is in session as there is already too much traffic from the school, and **4.** Richard Labinski of 230 Chestnut Street was generally not in favor of an approval but acknowledged that the lots were subdivided in 2009 and no one thus far has expressed an interest in developing the property; and

**WHEREAS**, the Board has considered the report dated July 11, 2018 from Federici & Akin as prepared by Douglas E. Akin, P.P., the Board's professional planner, said professional review letter is incorporated and made a part herein; and

**WHEREAS**, the Board has considered the report dated July 11, 2018 from Federici & Akin as prepared by Stan M. Bitgood, the Board's professional engineer, said professional review letter is incorporated and made a part herein; and

**WHEREAS**, the Board has carefully considered all the documents submitted and the testimony of the witnesses and members of the public;



**WHEREAS**, the application for Use Variance relief was granted by the Borough of Clayton Combined Planning and Zoning Board of Adjustment, by a 7 yes to 0 no vote.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough of Clayton Planning Board constituted as a Zoning Board of Adjustment, that it does hereby **Approve** the grant of Use Variance relief to permit the hereinbefore detailed improvements in the form of a duplex dwelling together with related site improvements with all necessary and requested variances and waivers, and grants this Use Variance approval as set forth herein, subject to and contingent upon the following:

1. Compliance with the Planner's and Engineer's reports dated July 11, 2018, all of which is incorporated herein by reference; and
2. The Applicant shall abide by all requirements of the Resolution 20-09 unless expressly amended herein.
3. Applicant shall meet any and all COAH and/or Fair Share Growth Obligations.
4. The Applicant agrees to comply with and perform all obligations as stated above herein in the body of this Resolution.
5. The Applicant obtaining all required approvals/waivers from all outside agencies.


**BE IT FURTHER RESOLVED**, that certified copies of this Resolution shall be forwarded to the applicant, Borough Clerk, Borough Construction Official, Borough Tax Assessor, and the Borough Zoning Officer.

**THIS RESOLUTION DULY ADOPTED** at a regular meeting of the Borough of Clayton Planning Board held on Monday, August 20, 2018.

**Borough of Clayton Combined Planning Board  
And Zoning Board of Adjustment**

  
By: Joseph Abate, Chairman

Attest:

  
Debbie A. Schlosser, Secretary

ROLL CALL VOTE

THOSE IN FAVOR	<u>5</u>
THOSE OPPOSED	<u>0</u>
THOSE ABSTAINED	<u>1</u>

**CERTIFICATION**

I hereby certify that the foregoing Resolution is a true copy of a Resolution adopted by the Borough of Clayton Combined Planning Board and Zoning Board of Adjustment at a regularly scheduled meeting of the Board held on August 20, 2018 at the Borough of Clayton Municipal Building, 125 Delsea Drive, Clayton, New Jersey 08312 at 7:30 p.m. and memorializes the decision reached by said Board on the herein application at the Board's July 16, 2018 meeting and public hearing.

  
Debbie A. Schlosser, Secretary