

**RESOLUTION OF APPROVAL FOR OF A NON-CONFORMING USE PURSUANT  
TO NJSA 40:55d-68 TO DETERMINE A PROPERTY TO  
BE A LAWFUL, NON-CONFORMING, 2-FAMILY HOME**

**APPLICANT:** NANCY WEINBERG ALVAREZ

**PREMISES:** 33 LARCH AVENUE, DUMONT  
BLOCK 507; LOT 6 (the "Property")

WHEREAS, the within Application was brought before the Board by Nancy Weinberg Alvarez (hereinafter, "Alvarez" or the "Applicant") for finding that the existing 2-Family use on the Property is a lawful, pre-existing, non-conforming 2-Family use that pre-dates any change in the Zoning Ordinance which made such uses "non-permitted"; and

WHEREAS, the Property contains an older, 2-family home that was constructed approximately 1846 and, at the time of construction such uses were permitted; and

WHEREAS, in 2007, the Borough adopted Ordinance 1352 eliminating 2 family uses as permitted uses in the zone and rendering them as non-conforming; and

WHEREAS, pursuant to NJSA 40:55D-68, the owners of non-conforming uses may obtain a non-conforming use certificate from the Zoning Officer for a brief period and thereafter must obtain such a Certificate from the Board; and

WHEREAS, public hearing was held on February 25, 2020; and

WHEREAS, the Applicant and the Board introduced the following Exhibits into evidence:

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| <b>Exhibit A-1</b> | Deed, dated December, 1998 by which Nancy Alvarez took title to the Property;  |
| <b>Exhibit A-2</b> | Real Estate Listing Agreement at time of Applicant's purchase indicating the Property was being sold as a "2-Family";                                    |
| <b>Exhibit A-3</b> | 1945 Survey;   |
| <b>Exhibit A-4</b> | Slothus Appraisal done in 1962 upon the death of the owner who purchased the Property in 1917 indicating that in 1962, the Property was a 3 Family Home; |
| <b>Exhibit A-5</b> | 1998 Appraisal indicating that, at the time the Property was a 2 Family;   |
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Exhibit A-6	Freudel Appraisal done in 2002 indicating that, at the time, the Property was a 2 Family;
Exhibit A-7	Photographs of Family Member on Property, pre-dating Ordinance;
Exhibit A-8	Borough Ordinance 1352 (2007);
Exhibit A-9	Site Plan, prepared by Hubschman Engineering, PA, dated December 9, 2019;
Exhibit A-10	Tax Map of Dumont Park (1905) showing the Property and House in present configuration.

**WHEREAS**, Planning Board Engineers, Boswell McClave Engineering, Dennis Harrington, PE, submitted a Letter Reports, dated February 20, 2020 which report was accepted into evidence and designated **Exhibit B-1**, respectively; and

**WHEREAS**, at Public Hearings, the following relevant testimony was adduced through Applicant's counsel, Allen Bell, Esq., ("Bell"), utilizing the following witnesses: 1) Nancy Alvarez ("Alvarez") and 2) Robert Muller, LS ("Muller"). Additional testimony was provided by Dennis Harrington, PE of Boswell Engineering ("Harrington"); and

The proceedings in this matter were voice recorded. The Testimony, Statements of Fact and Findings of this Resolution are not intended to be all inclusive but merely a summary and highlight of the complete record made before the Board.

1. Bell set forth the issues to be presented during the Application. In short, he advised he was seeking a Non-Conforming Use Certificate to continue the existing 2 family use in a Zone that, since a 2007 Ordinance revision, only permits 1 family homes.
2. Muller testified as to the Site Plan and the present configuration of the home, and the configuration of the home prior to the 2007 Ordinance.
3. Alvarez testified as to documents and facts in her knowledge due to her current ownership of the Property. She testified that she purchased the home in 1998 and that at that time, the home was a 2 family. This is prior to the 2007 Ordinance revision. She also testified as to virtually all documents introduced into evidence including her Deed; various Appraisals of the Property which indicate a 2 family use; historical documents; etc., that confirms the Property has been utilized as a 2 family

for many years prior to the adoption of the 2007 Ordinance and that it has been utilized as a 2 family since that date.

**CONCLUSIONS AND DETERMINATIONS**

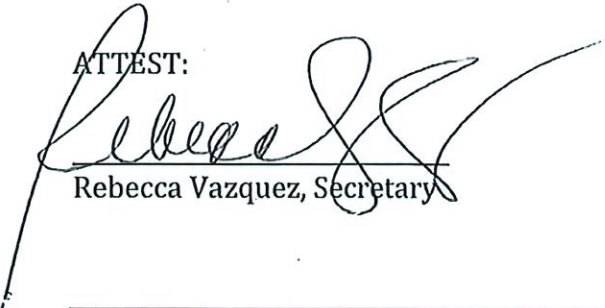
4. The Applicant seeks a Non-Conforming Use Certificate to confirm that the use of the Property is a lawful 2-family use and that said use was in effect at the time of the 2007 Ordinance change that eliminated 2 family homes as a permitted use.
5. The Applicant testified that she purchased the Property in 1998 and utilized it as a 2 family home since that time.
6. The Applicant has demonstrated by virtually every document marked into evidence that the Property was either a 2 or 3 family home since 1962 (and likely well before) and that 2 family use continued through the Applicant's purchase of the Property in 1998 as demonstrated, most specifically, by various appraisal reports.
7. The Board finds that the Property was used as a 2 family home at the time of passage of the 2007 Ordinance making such uses "non-permitted" and that it has been used as a 2-family home since that time.
8. The Board directs the appropriate Borough Official to issue a "Non-Conforming Use Certificate" pursuant to NJSA 40:55D-68 confirming that the Property is a lawful 2 family home. In the alternative, the Property Owner may rely upon this Resolution for all purposes of demonstrating that as of the present date, the Property is a lawful 2-family home.

**This is to certify that the above and foregoing Resolution was duly adopted by the Joint Land Use Board of the Borough of Dumont on the 26<sup>th</sup> day of May, 2020**

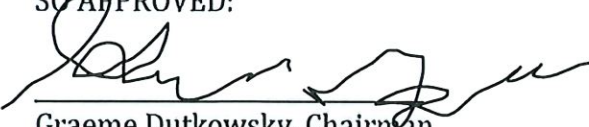
A copy of this Resolution shall be given to the Tax Assessor, Applicants (through counsel),

Borough Clerk, Building Department, Zoning Officer and Borough Engineer.

ATTEST:

  
Rebecca Vazquez, Secretary

SO APPROVED:

  
Graeme Dutkowsky, Chairman

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