

**MINUTES**  
**MT. EPHRAIM LAND USE BOARD MEETING**

Borough Hall Court Office  
121 S Black Horse Pike, Mt. Ephraim, NJ 08031  
Monday, February 13, 2023, 7:30pm

1. **CALL TO ORDER.** Robert Carter called the meeting to order and stated the meeting was advertised and notices posted in accordance with the “Open Public Records Act.”
2. **PLEDGE OF ALLEGIANCE.** All persons present, stood for the pledge of allegiance.
3. **ROLL CALL** – Mayor Tovinsky, Kim Beebe, Commissioner Gies, Michael Schiavo, Steve Eggert, Robert Carter, Douglas Morgan, Jason Kerns, present. Thomas Maxwell, Anthony Stagliano, Michael Marrone, Rocco Vespe, absent.
4. **Calendar of Old Business** – N/A
5. **CALENDAR OF NEW BUSINESS**

**Application on Berger – Use Variance – 508 W Kings Hwy., Mt. Ephraim**

Joe Nardi – as some of you may be familiar with this application and the request to the board because this was here before on a use variance at the December 2022 meeting and a resolution was passed memorializing the decision at the January 2023 meeting. The request is to use the property located at Block 88, Lot 2, 508 W Kings Hwy., Mt. Ephraim, which is formerly a daycare facility but they would like to use it as a residential property, a similar request was made at the December meeting and the board denied it or it was denied because the vote was 2-2 and 1 abstention and as we know with use variances application Mayor Tovinsky and Commissioner Gies are not permitted to vote and like last time they will need affirmative of 5 votes to have this application pass. I spoke with Mr. Kramer today after receiving the application and I understand that the testimony to be presented tonight will be a bit different and will be what’s called a hardship application. I would like to give everyone a little bit of background information because it’s a little bit unique where you have the same property, and the request seems to be the same but the reasons that we will hear shortly in the testimony may be a little different so everyone should be aware of that. Now, when there is a decision, there is going to be two parts, once the testimony is completed and its time for the board to make a decision there will be two things to consider, the first is, is this application any different then what was previously before us and if its not then you could vote to dismiss the actual application without voting on the merits, then just to give you a handle on that some of the applications, what you will need to consider when that issue comes up is whether you consider the application to be substantially similar to the first the same parties are involved, there is no substantial change in the application itself or the conditions

surrounding the property, but you will need to find out first if the applications are different, then there is a certain burden that will need to be met with reasons for granting a use variance and Mr. Kramer will be presenting the testimony with Mr. Copsetta. Mr. Kramer, do you have anything else to add?

Talbot Kramer – no, everything you have stated is accurate.

Joe Nardi – so one more question, there were notices published and Tara you received proof of mailing.

Tara Weiss – yes, that is correct.

Joe Nardi - ok, good I just wanted to get that on the record.

Talbot Kramer – so the first application we focused on the fact that this property was not very useful the way it was zoned, it was zoned commercial, and it had been owned by Mr. Berger since the summer of 2021 he had been attempting to lease it and was really not getting any traction and there was really no interest, there was some interest in possible using it as a day care. This time we want to really focus on the specifics of the property and how the nature of the property makes it impossible to use and the fact that since the last time of the application there has been some changes, including drastically dropping the price of the lease that Mr. Berger was seeking for his property hence there still are no takers and for some very similar reasons. The people who have been interested in the property and have done more of a deep dive in terms of evaluating the property and we have learned that there are very specific things about the property that make it inconsistent to use as a daycare because of the very nature of the property itself, the structure, the width, and the nature of the property. So, with that I would like to have TJ Copsetta address the board if you have any issues.

Joe Nardi – Mr. Copsetta, if you could just step up and please be sworn in again. Can we also have your address for the record again.

TJ Copsetta – 161 Dorado Avenue, Sewell NJ.

Joe Nardi – what is your position again for Mr. Berger.

TJ Copsetta – I am the property manager, and I am also his realtor.

Joe Nardi – ok, Thank you.

TJ Copsetta – so we originally have it listed to rent for \$2500.00, and that was listed for like 467 days and then we lowered the rent down to \$1350.00.

Talbot Kramer – when did you lower the rent?

TJ Copsetta – we lowered the rent on 12/17/22, so 59 days ago. So even at half price for the rent we are still not getting any activity on it. One of the issues for a day care is because it closed, even if it would only be for 24 hours, all the new rules that apply now would need to be addressed, and one of the things that was brought up was a ramp, if you have infants under two they have to be in some type of fire rated crib and that will need to roll down a ramp and to put a ramp there I don't even know how we would do it, unless it went zig zag through the yard or came out and when down the driveway but there are steps on the side that go up to the second floor.

Talbot Kramer – so the folks who have looked at this property for a daycare in mind, these are feasible issues that they have brought to your attention.

TJ Copsetta – Yes, they had the state out there to do an inspection for a daycare and after they came out, they pretty much did not want it and I believe the biggest issue is the ramp issues/concerns.

Talbot Kramer – comparing this property to other properties within a couple block radius, what have you observed that they have that maybe this property does not have.

TJ Copsetta – almost every property has parking and this one does not. If you look at this property looks like a house with a small driveway, with a one car garage. You could possibly put 2-3 cars in the driveway. So, I only think that the business that could go on this property would be the daycare because I believe they just dropped their kids off and parked on Kings Highway, but if you have any other business I just don't know where they would park.

Talbot Kramer – so has this property had any occupants since Mr. Berger bought it in the summer of 21.

TJ Copsetta – no, and we may have had a little bit of interest, but nothing ever panned out.

Talbot Kramer – again was the state coming out because something took place after this board did not grant the application the first time around.

TJ Copsetta – the state came out before the first application. I believe two different people have asked them to come out regarding looking to make it a daycare.

Talbot Kramer – when did you learn about this, meaning when the state said that the ramps must be there and all.

TJ Copsetta – I am not sure the exact date, but it was a while ago.

Talbot Kramer – are there any other uses that have been explored by any potential tenant.

TJ Copsetta – no.

Talbot Kramer – what is Mr. Berger’s intention with this property, specifically the first-floor unit if he cannot put a residential unit on the first floor.

TJ Copsetta – I guess it would sit there vacant; I mean at \$1350.00 I just don’t know how much lower we could go.

Jason Kerns – how many square feet.

TJ Copsetta – on the bottom it looks like its 1300 and then for the whole thing its 2400 square feet. I mean I don’t really know what could go in there but if you guys can figure out something to go in there, I mean it looks like a house, it has a kitchen, it has a bathroom, I am assuming at one point it was a house before.

Talbot Kramer – that is all I have for Mr. Copsetta.

Joe Nardi – can I just ask a question, is the second floor rented now.

TJ Copsetta – it is not.

Joe Nardi – is it made as a duplex or is it just a single-family home.

TJ Copsetta – it was a commercial, so now we did learn that we can put residential on the second floor, so that is what we were going to do. So, if we do residential upstairs then we could at least rent half of the building.

Jason Kerns – is it two meters.

TJ Copsetta – not right now its not, it’s just one meter. It was used previously as just a daycare and then I’m assuming before that it was a single-family home.

Joe Nardi – so if the board were to agree to allow it to be used as residential are you asking for it to be a single-family home or a duplex.

Talbot Kramer - in the application we had requested it for a duplex.

Tara Weiss – I can go look at the property record card to see if it were a duplex before.

Joe Nardi – does anyone know if it was a duplex. Are there separate entrances.

TJ Copsetta – yes, it does have a separate entrance, like even for the top entrance, so I would assume at one point it may have been a duplex.

Talbot Kramer – when we have been talking about the set of stairs, it's a full set of steps to get into the second floor from the outside.

Joe Nardi – is there an area on the first floor that looks like it may have been a kitchen?

TJ Copsetta – yes.

Joe Nardi – I mean like the pipes are there, the hookups, the bathroom.

TJ Copsetta – all that is already there on the first floor. The upstairs does not have a kitchen.

Joe Nardi – are there interior steps to get to the upstairs.

TJ Copsetta – yes, if you go in the back door there are steps that go right up to the second floor. There is a doorway there as well that goes into the kitchen as well, but even if that door was blocked off, there is another door in the kitchen that will take you outside from the first floor. So, they both would have two entrances and two exits.

Douglas Morgan – what was the intent, it kind of sounds like you guys are pigeonholed into we must rent this to a daycare unless we can't rent it, what was the thought when the current owner purchased it.

TJ Copsetta – I mean our thought was to get more attention to this property and obviously that is not working.

Mayor Tovinsky – will you be putting a kitchen upstairs?

TJ Copsetta – yes, I applied for permits for the plumbing.

Douglas Morgan – can I ask another question because I wasn't here for the original application, and I feel like the first thing we need to establish is that is this different then the first application.

Joe Nardi – yes, that is correct.

Douglas Morgan – well I am out of the loop on that because I was not here, so can anyone give me any insight to that.

Joe Nardi - well you can look at the resolution that was adopted in January of this year.

Commissioner Gies – the point is, is that this was a house prior, then it was purchased and made into a daycare. So now all he is asking for is to go back to the residential like it was before.

Jason Kerns – normally when a property is a duplex or was a duplex, they would normally have two meters.

TJ Copsetta – yeah, I not sure.

Jason Kerns – if they don't have a kitchen upstairs as well then, I don't believe it was a duplex.

Michael Schiavo – I have been in town for quite some time, and I believe I just always remember it being a single family.

Mayor Tovinsky – we also have residential properties right across the street as well.

Steve Eggert – it looks like a residential home, not really a commercial property.

Talbot Kramer – if I may just in terms of the difference in the applications, one is made by the owner to completely change the price to rent it out. The other thing that has changed is we are looking more at the nature of the property to the fact that it is a thin lot, and the nature of that lot makes it unusable for really any feasible commercial use.

Douglas Morgan – it's an approved use for residential up top.

Robert Carter – yes.

Douglas Morgan – so really, it's just first floor that he wants to change to residential.

Robert Carter – yes.

Mayor Tovinsky – I know we are allowed to vote, but just so you know we get complaints with vacant properties in town.

Douglas Morgan – this is my thought and my concern, we have like four blocks in town that you may be able to get some additional businesses in and that's it, you could have a walkable main street, so I am not disagreeing with what you guys are saying but I am concerned about making a commercial property into a residential because you could have a walkable main street.

Mayor Tovinsky – another thing is once it goes residential, we can always move it back to commercial if we needed too.

Douglas Morgan – right.

Jason Kerns – just from a number standpoint it's always a little easier having it residential.

Robert Carter – when we did our commercial business district, this property was one of the ones that we discussed that it was clearly a residential and the reason it got into the CBD as a commercial property because there was a viable commercial entity in there operating as a daycare, but I believe at the time if it were a vacant property at the time we did this it would have been zoned residential.

Robert Carter – any other members from the board.

Jason Kerns – well I think turning it into a duplex is a bad idea, I think it would be better if it could just be a single-family home like it used to be.

Joe Nardi – Tara did check the property record card.

Tara Weiss – it was a single-family home.

Douglas Morgan – I'm not a fan of a duplex, I think if you could find viable commercial use for it that would be better and then just rent the 2<sup>nd</sup> floor out for residential.

Steve Eggert – like he said though they been trying, and they are not getting anything.

Jason Kerns – commercial property is tough, it must meet things they are looking for, I also believe that \$1.00 a square foot is not rock bottom, so it does fall in line with the going rate.

Steve Eggert – its still set up like a house though.

TJ Copsetta – it is a house.

Talbot Kramer – we will be open to amend our application to just a single-family home and not a duplex.

The Land Use Board is taking a recess, the applicant is making a call into his boss to see if he would be opened to just converted back to a single-family home and not a duplex.

The Land Use Board is back in session.

TJ Copsetta – Mr. Berger would totally be ok with having just a single-family home to make this work.

Joe Nardi – So then for the purposes of the board.

Talbot Kramer – we are amending our application.

Joe Nardi – ok, great.

Robert Carter – I would like to open it up to members of the public. Seeing no one from the public, I will be closing the public portion.

Joe Nardi – lets deal with the first issue, if you feel that there is a substantial difference between this application and the previous one, then the issue or the motion would be to consider the application for the single-family residence and a change of use, we are not making that decision right now, but procedurally you feel that enough has been submitted that is different then what was presented before.

**Steve Eggert made a motion that enough information for a hardship to change use of property, the motion was seconded by Michael Schiavo.**

Roll Call: Kim Beebe, Michael Schiavo, Steve Eggert, Robert Carter, Douglas Morgan, Jason Kerns, all voting yes.

Steve Eggert made a motion approve the use variance to change from commercial to residential, Kim Beebe seconded the motion.

Roll Call: Kim Beebe, Michael Schiavo, Steve Eggert, Robert Carter, Douglas Morgan, Jason Kerns, all voting yes.

6. **Professionals Comments – N/A**
7. **Board Comments – N/A**
8. **Public Comment – N/A**
9. **MOTION TO ADJOURN THE MEETING, ALL VOTING IN FAVOR.**



