

## MEMORADUM OF STAFF COMMENTS

TO: Zoning Board of Appeals  
FROM: Maureen K. Giusti, AICP, Acting Town Planner/ZEO  
DATE: October 21, 2020  
RE: REMAND of Appeal to Superior Court of ZBA #2019-01-01  
Denied Appeal of the Cease and Desist Order of the Zoning Enforcement Officer for  
1005 Kensington Road for an unauthorized basement apartment

### Status:

The Zoning Board of Appeals upheld the cease and desist order issued by Maureen Giusti, Assistant Town Planner/ZEO at the meeting held on February 26, 2019. The applicant appealed the decision to the Superior Court, Judicial Branch of New Britain.

The court has sent the matter back for consideration by the ZBA.

Please be reminded that as an appeal, I, as ZEO at the time, continue to defend the order. Corporation Counsel will be advising on your charge for the remand.

It is my understanding that opposing counsel may be providing evidence that there was occupancy of the basement at 1005 Kensington Road & claim that shows an existing nonconforming rental apartment.

While I maintain the evidence I previously presented, with short summary in this report, that installation of amenities that resulted in the configuration of a separate dwelling in the basement of a single family house were installed without knowledge of the town; And further that installation of said amenities would have required approval by issuance of trade building permits and/or zoning approvals and approval for additional fixtures by the health department/health district. I have also done additional research to support any claimed apartment was not in accordance with the Zoning Regulations nor with Zoning approval.

### Property History and Documentation:

The supporting documents, as previously distributed, will be copied from the original ZBA file #2019-01-01 to this record.

Key elements of research used to determine that the house was built as a single family with no approved conversion that included a separate dwelling unit:

- The original house was permitted, built and obtained a Certificate of Occupancy as a 6-room house described on the permit as One Housekeeping Unit as shown on documents dating 1954-1956 in the then Farm Zone.
- The house was demolished, and a new house built on the property in 1968-1960. The CO indicates house as a "single-family dwelling". The zone was amended to R-43 (Single-family residential 43,000 sq.ft. lots) in 1965.
- 1969 Building Department record for sewage disposal system, indicates there are no basement fixtures.

- 1966 Assessor's card (which would have been updated after the new build in 1970) indicates single occupancy with a 1-room basement with rough plumbing.
- 1976 Assessor's card indicates fixtures and spaced configured for a bathroom and kitchen; the occupancy is noted as 1-family. No related building permits are on file for installation of the basement amenities.
- The 2015 sales listing for the property resulted in the zoning officer issuing a letter to the then owners, copied to listing agent and Building Department file.
- The current owner (appellant) applied for building permits for renovation in 2016. The record was discussed, and permit noted that the house was a single-family. All related permits were noted that it was a single-family house as research had substantiated.

**Additional Information:**

- Dwelling units are provided official address numbers by the Engineering Division of the Department of Public Works. The Town issued a single street address for the property, 1005 Kensington Road. I verified with Engineering Technician David Thorn that no additional number has been obtained for the property. Dave has worked for the Town and assigned address numbers for several decades. Assigned address numbers are required for issuance of the single trash barrel allocated for each dwelling unit for trash services provided by the Town.
- I have spoken with former owner Ms. Regan today. A summary of her statements will be provided.