

# Franklin Township

Somerset County, New Jersey

Municipal Building  
475 DeMott Lane  
Somerset, NJ 08873  
732.873.2500  
Fax: 732.873.0844  
www.franklintwpnj.org

## Township Technical Review Committee (TRC)

### MEMORANDUM

To: Zoning Board of Adjustment

From: Technical Review Committee (TRC)

Date: November 30, 2021

Re: Malgorzata Serafin – Certification of Pre-Existing Non-Conforming Use (ZBA-21-00025)  
18 Home Street (Block 181, Lots 24 & 25)

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#### Site and Project Description

The subject of the hearing is an application for Certification of Pre-Existing, Non-Conforming Use for a 5,000 square foot property located in the R-7 residential district. The subject site contains a main home and a detached building behind the house.

In the application form the applicant contends that the property contains a “two (2)-family main home and a detached single-family dwelling to the rear of the rear of the property.”

In support of their application the applicant has submitted:

- Property Survey prepared by Professional Land Services, Inc. dated 7/21/21
- Report entitled “Type and Time of Occupancy for the Property at 18 Home Street, Somerset, NJ, 08873” prepared by DM Bekus Construction Services, Inc. and dated 9/30/21
- First floor plan – *detached structure*
- Certification of Edward J. Rzeszowski dated 8/9/21<sup>1</sup>

Note: The R-7 zone permits “two-family dwellings” such dwellings must by definition exist in the form of a duplex (i.e., attached) and must be located on a lot of at least 15,000 square feet. Two separate dwellings on a property is not a permitted use in the R-7 zone, nor are three dwelling units on a property. At 5,000 square feet the lot is undersized for a two-family dwelling.

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<sup>1</sup> Note: The “Certification” is not notarized.

## Review Comments

1. By applying for a Certification of Pre-Existing Non-Conforming Use, the applicant is contending that these situations existed prior to the adoption of the applicable zoning ordinance. In order for the Board to grant Certification of Pre-Existing Non-Conforming Use the applicant must prove that:
  - the uses existing prior to enactment of the zoning ordinance; and
  - the uses have remained in uninterrupted existence since that time.
2. It is noted that the construction report prepared by DM Bekus Construction Services, Inc. (which offers an opinion on the age of construction) only addresses the detached structure. Is there a reason that such a report was not prepared for the main home (the two-family nature of which is part of the non-conforming use existing on the lot)?
3. Mr. Rzeszowski should testify to his “Certification” at the hearing and be available for cross-examination. Otherwise, it is our understanding, that the “Certification” would be of little or no value.
4. As a multi-family property the site would have to be registered with the State. The applicant should provide proof of such registration.

Figure 1: Site Location

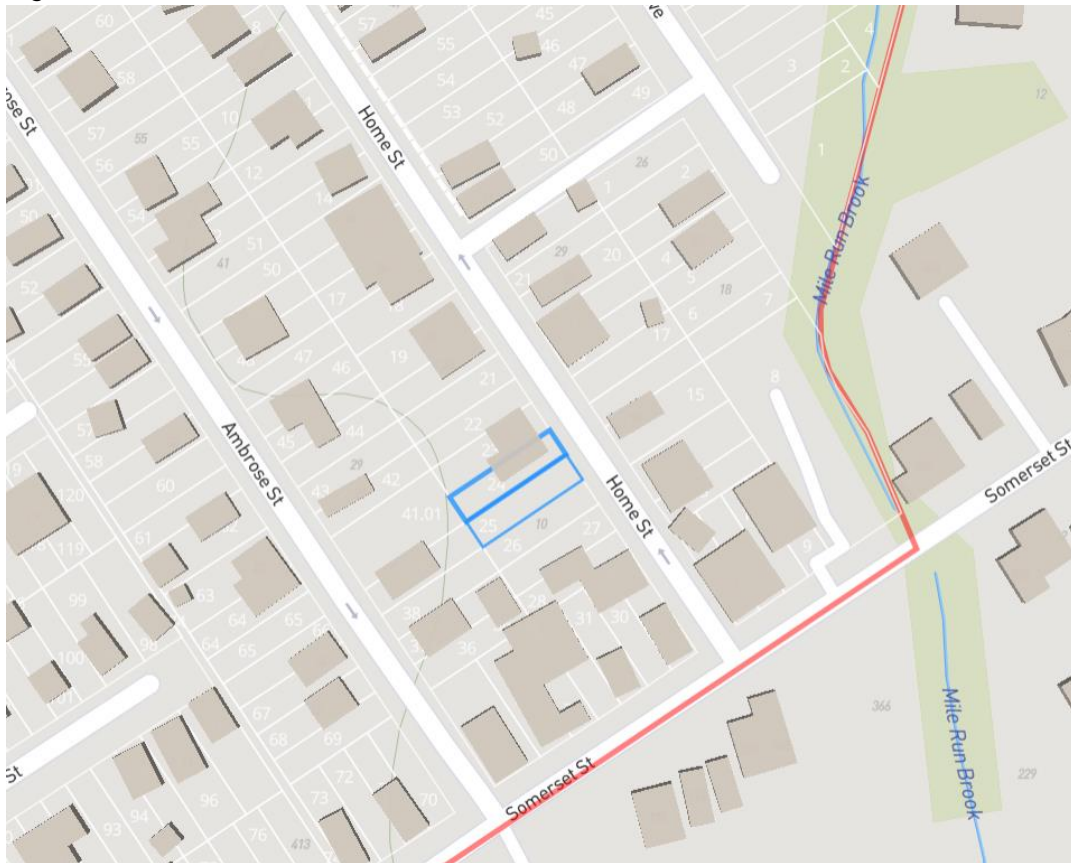




Figure 2: Site



Figure 3: Site Survey

