

**TOWNSHIP OF MIDDLETOWN**  
**Zoning Board of Adjustment and Appeals**  
1 Kings Highway  
Middletown, NJ 07748-2594

**JAMES HINCKLEY**  
*Chairman*



**AMY H. CITRANO, P.P., A.I.C.P.**  
*Director of Planning*

**ERIN URIARTE**  
*Zoning Board Secretary*

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**TECHNICAL MEMORANDUM**

DATE: February 11, 2022  
BOARD: Zoning Board of Adjustment and Appeals  
APPLICATION: Almost Home Market, Inc. (#2021-013)  
276 Sunnyside Road  
Block 1049, Lot 1  
Residential (R-130) Zone  
Request for Certificate of Pre-Existing Non-Conforming Use

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**PROJECT DESCRIPTION**

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The applicant seeks certification of a pre-existing non-conforming use of a 2-story building located at 276 Sunnyside Road for a deli on the first floor and apartment on the second floor in the Residential R-130 Zone.

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**PROPERTY DESCRIPTION**

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The subject property is located on Crawfords Corner-Everett Road and Sunnyside Road, and presently contains a 2-story building, with Almost Home General on the first floor and residential apartment on the second floor; 12-stall parking lot, front porch patio, side patio, detached shed and walk-in refrigerated cooler and refuse enclosure located in the rear yard. Fencing extends along the eastern and southern perimeter. Additional fencing encloses the rear yard. The building is oriented towards Sunnyside Road, and site ingress/egress is from both Crawfords Corner Road and Sunnyside Road.

The subject property is located in the Residential (R-130) Zone. Residential uses in the R-130 Zone are located to the east and south of the site. Vacant land in the R-130 Zone is located to the north of the site across Sunnyside Road, and residential and farm uses in Holmdel Township are located to the west of the site across Crawfords Corner-Everett Road.

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**PLANNING COMMENTS**

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1. Certification of Pre-Existing Non-Conforming Use

In accordance with 40:55D-68, the Zoning Board may consider the issuance of a certificate of pre-existing non-conforming use for the deli and apartment as long as the following conditions are met by the applicant:

- Provide testimony as to what the pre-existing non-conforming use and operation is, as well as the extent of same.
- Provide a description of the use as it currently exists including
  - Character, extent, intensity;
  - Services rendered;
  - Hours of operation including peak times;

- Number of employees;
- Capacity;
- Number of seating (indoor and outdoor);
- Employee and patron parking; Upon a site visit conducted on February 11, 2021 by this office, it appeared that on-street parking from the subject property occurs on the shoulder of Sunnyside Road (eastbound). The applicant shall address in testimony the parking demand from patrons and employees for the subject property.
- Demonstrate that the use existed before the adoption of the ordinance which rendered the structure non-conforming.
- Trace the non-conforming history of the property back to the zoning ordinance in existence at the time the use in question commenced.

We offer the following Middletown Township zoning history as of 1968. Our office does not have zoning maps on file older than 1968.

- In 1968-1982 the subject property was within the R-45 Zone. Commercial uses were not a permitted use.
- 1984-1992, the subject property was within the R-90 Zone. Commercial uses were not a permitted use.
- 1994-current, the subject property is in the R-130 Zone. Commercial uses are not a permitted use.

## 2. Code Enforcement Activity (Documentation enclosed)

In 2021, the subject property has been cited for code violations. The applicant shall address in testimony the code enforcement activity for the subject property and how these items will be addressed. The applicant shall address in testimony the nature of the pre-existing use and how it compares to the recent improvements made by the owner or tenant. The applicant shall verify that the survey submitted reflects existing conditions.

The recent code enforcement activity is detailed below, documentation is enclosed:

**April 2021**-The subject property owner and tenants received summons for conducting outdoor construction including but not limited to canopies, patio, and fence, without proper permits or inspections; and indoor construction including the installation and electrical connections for a walk-in freezer without proper permits or inspections. *This office conducted a site visit on 2/11/22 and the canopy over the side patio has been removed.*

**June 2021**-Code Enforcement Officer conducted an inspection on June 15, 2021 and issued a summons for converting the approved deli offering food as a take-away product to a restaurant with an on premises dining without proper approvals or inspections.

On 6/18/21 a building permit was issued for the walk-in cooler. *This office conducted a zoning review for the walk in cooler, and the cooler violates the rear- and side- yard setbacks where 50' is required for rear yard and 10' exists; and 50' is required for side yard and 20' exists.*

**July 2021**-Code Enforcement inspection conducted on July 21, 2021 and issued a summons that the subject property continues to operate as a restaurant with an on premises dining without proper approvals or inspections.

**August 2021**-Letter issued from Construction Official citing no action from the owner to abate the violations listed above has been taken, and therefore the owner is responsible for all penalties incurred. Also, the existing rear stairs leading to the apartment were found to be non-compliant and must be corrected.

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**DOCUMENTS REVIEWED**

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- Survey of Property for Block 1049, Lot 1, consisting of one sheet, prepared by Morgan Engineering and Surveying, dated August 11, 2021;
- Floor Plan, consisting of one sheet (Sheet 5 of 13), prepared by Parallel Architectural Group, dated April 7, 2021;
- Proposed Project Narrative;
- Owner's Authorization;
- Proof of property tax payment;
- Property Tax Assessment Card;
- Code Enforcement Activity documentation;
- Building Permit for walk in cooler;
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We reserve the right to make additional comments based upon submission of additional documents or testimony presented to the Board.

Prepared by:

  
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Amy H. Citrano, P.P., A.I.C.P.  
Director of Planning

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**LOCATION MAP**

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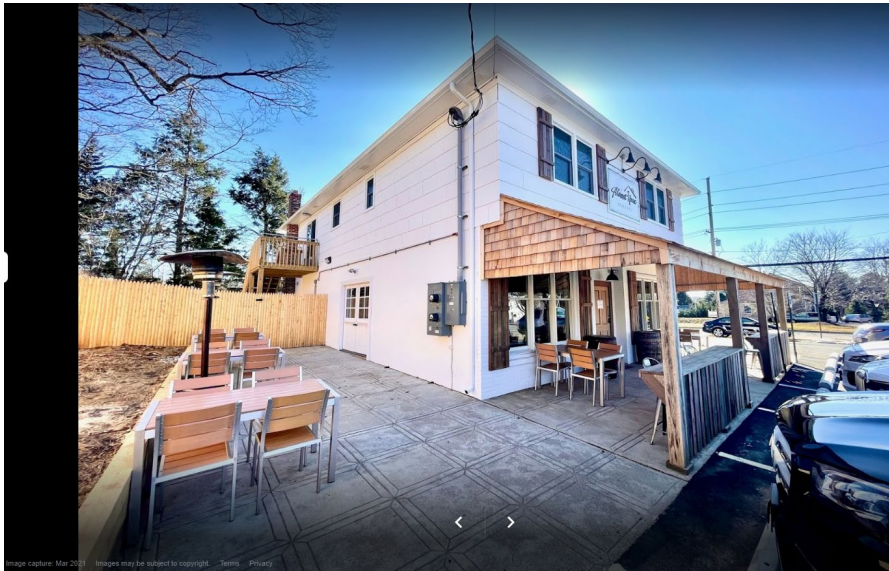


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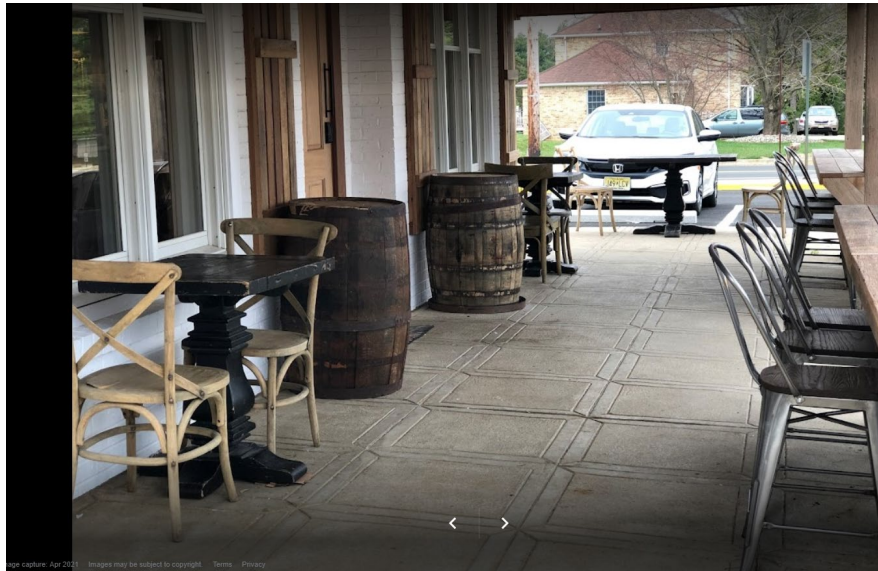


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